

MINUTES

CITY COUNCIL CHAMBERS, CITY HALL

29592 ELLENSBURG AVE

GOLD BEACH OR 97444

MONDAY, OCTOBER 8, 2007

REGULAR MEETING: 6:30 P.M.

EXECUTIVE SESSION TO FOLLOW REGULAR MEETING

ORS 192.660 (1)(e)

CALLED TO ORDER @ 6:30 p.m. by Mayor Popoff

THE PLEDGE OF ALLEGIANCE:

ROLL CALL:

	<u>PRESENT</u>	<u>ABSENT</u>
Mayor Karl Popoff	x	_____
Council Position #1 Sue Johnson	x	_____
Council Position #2 Don Flynn	x	_____
Council Position #3 Peter Peterson	x	_____
Council Position #4 Vacant	_____	_____
Council Position #5 David Alexander	x	_____

**NOTE: Comments and participation from the audience shall be limited to 5 minutes without redundancy.

SPECIAL ORDERS OF BUSINESS:

POPOFF STATED--> UPDATE ON UPSHUR CASE # BA-0601/GBC-0601

The City's Counsel in the Upshur case (LUBA No. 2007-036) has filed a motion to dismiss the case (City of Gold Beach GBA-0601-/GBC-0601) that is pending before the Land Use Board of Appeals.

David Pratt - Planning Director (A)

As of this afternoon, LUBA has not issued a dismissal or signed an order. This is not a problem because the applicant missed the filing date for review-advocating all rights. It is now done and over with. There is no further appeal. We're expecting the signed dismissal to come very shortly. There was a request for mediation and our first reaction was "no, not at this point". I don't think that should still be an option. The mediation would only occur if you agree to it.

CONSENT CALENDAR: (B)

Approval of Council Minutes of 9/10 & 9/20/07.
Review of bills paid in the amount of \$97,173.73.

MOTION:--> Johnson moved to approve the Consent Calendar as presented, second by Flynn. Flynn stated he would abstain

from voting on the 9/20 minutes as he was absent at that meeting. Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

CITIZEN AND/OR AGENCY REQUESTED AGENDA ITEMS:

EROSION CONTROL AND WATER RUN OFF CONCERNS (C)-Larry Cody
AESTHETIC IMPACT OF NEW CONSTRUCTION - Larry Cody

Larry Cody-94238 Caughell Street

Mr. Cody expressed his concerns as outlined in Exhibit C. They had a slide on Dean Creek, which separates their property from Buffington Park. I attended an erosion control workshop put on by the OSU Extension Service on Saturday in Brookings. David Pratt and Jodi Fritts were also there. The expert guest speaker discussed many projects in other parts of the state but his opening comments zeroed in on our development at the south end of town on the east side of 101. He pointed out that what was being done there is counter to all erosion control policies. He believes we are going to have a serious problem there this winter with run-off from that site.

I have learned that Gold Beach does not have an erosion control ordinance. There is another situation just north of that on Kerber where the mud is already coming down Kerber onto 101. I'm particularly concerned about the expansion of the parking lots at the Baptist Church up on top of Gauntlett, which will ultimately roll down into my property. It seems only prudent, being in the very wet climate that we are in, that the city should have an erosion control ordinance and should be able to enforce that with people doing construction projects so that we don't have these problems. I look at these and wonder what we are going to do this winter, or all of them, start dumping serious amounts of mud into our sewer system and/or just onto our streets in general. I think this is something the council should consider.

My business in construction has taken me all over the country. One of the said things I have observed in places I've lived and places I've visited is that in a rush to develop, everyone wants to make money and that is applaud able, there seems to be a lack of appreciation for the environment that we live in. I've been running up and down this coast since the early 70's but had to wait until I retired to be able to move here.

In looking at some of the things that are going on here that are impacting the beauty of the area, what mother nature has given us-I look at what is happening on the north bank of the

Rogue, right at the beginning of the turnoff where it's being cleared for a big development. I was sad to see the property on the north bank of Hunter Creek has been virtually clear-cut. I realize these are all private property issues and everyone has rights. But when you think about it, what draws people in here for tourism or to live here, to a large degree, is their first impression is what they see. If we allow this to happen where we're just striping away and building these big developments in the scenic areas-let's face it-how many thousands of pictures are taken every year of the bridge because of its scenic beauty but as soon as we wipe all the trees and put in big developments, that all goes away. These are all draws. I've watched places that are near and dear to my heart develop to the point where they are no longer desirable places to live. I would just like to put in "my two cents" on that with the council.

Johnson-Did you get the problem solved that you were having with Dean Creek?

Cody-No, it is not fully resolved. It looks like we are going to have to hold our breath through the winter and hope we don't have a problem. What occurred is the property set virtually idle for 30 some years in the later part of Fromm's life. When we acquired the place and started working on it, our goal was to not change it but just to enhance it because it is a historic home that was built in 1932. The whole back end of the property was chocked with blackberries and ivy and all the other wonderful things that grow so well here. We really didn't know what we were dealing with. This spring, when we were out of town, neighbors and friends called and said "your myrtlewood tree in the back yard took a walk". We had a big myrtlewood tree that was on the edge of the bank. The first pictures we saw, it had moved outward about 10 feet and dropped two - three feet. A few weeks later, it was down five-six feet and had moved out probably 20 feet. So what we're faced with is the idea that instead of the bank being 25-30 feet from our foundation, it is now 10 feet.

We found out very early on that Dean Creek is an officially recognized creek and that just about every agency in Oregon has a say in what we can and can't do. We have tried to work with each of the agencies. In general, everyone has been very helpful. We ended up dealing with the Lower Rogue Water Management District and they have granted us a small grant to rehab the creek. It doesn't have anything to do with us stabilizing the bank for our house. We've worked with Jeff

Denney and Shirley Walker from the city. They have been very helpful with the caveat as long as money wasn't involved, and that is understandable. The problem, as we see it, is the area where the ball field was a slew, and is still listed as such on the assessor's map and consequently, instead of the stream being able to flow out across that area as it did for eons, it has been channeled up against our property. So if you walk through the park, the bed is maybe a foot, in some places, maybe 2 feet deep. On our property, it is more like 10-12 feet deep. You can see where the erosion has taken place and where it is and cut a deeper narrow channel, to a point to where not only are we going to lose trees that we would like to keep but the park is going to lose trees because their root structure is completely exposed. One of the things I have to be concerned about is we've had two engineers in, through the Watershed Council, to look at the property. At the bridge, entering the park, off of Caughell, you can see where all of a sudden where water flow is dramatically greater and that is because the water comes rolling down Turner and bypasses all the drainage ditches and everything and cuts across into the creek on the west side of the bridge that is there for the entry to the park. I'm concerned about the Catholic and Baptist Churches with large parking lots, we have all of the development up above us that I'm sure wasn't there in 1932-we have all of that channeled down our way. In heavy rain events, Caughell looks like a river. I think it is prudent for the city to look at these type of issues when new developments, new streets, whatever, are contemplated, look at the impact on the residents that own properties below all these new developments.

Alexander-The new library building-is that going to have an impact?

Cody-I've been watching that and of course they have cut the bank again. I was real concerned that it was going to be an issue and I found today, that they have put rock on the bank. Whether that is acceptable or not, or whether it will just all wash off is another issue. Putting loose straw (as they have done at the south end of town) and cloth barriers is not enough. As was explained to us at the workshop I attended, that is not enough. You have to deal with what is up on top-of course they cut that whole hillside. The worry is that it will all come rolling down this winter. The fabric fences, since they are only at the bottom, instead of being in rows going all the way up the hill, along with other materials to stabilize it, they're not going to hold it. They'll just

create a pocket there for a short while, then they are going to blow out. I'm not an expert but I have been in the construction industry all of my life and that's why I have brought these concerns to the council.

Alexander-Thank you very much for your civic responsibility for bringing this to the attention of the council. I also share concerns about erosion and livability issues and I agree it is something the council needs to address.

Johnson-I see where staff has contacted League of Oregon Cities (LOC) to get copies of erosion control ordinances in other cities for the council and you to consider. We also have a copy of the county erosion control ordinance.

Cody-Yes, Walker gave me a copy of the county ordinance today and also told me she had contacted LOC.

Dave Pratt-Sounds like you have 2 issues here. One dealing with erosion and prevention sediment control during construction of a site. The other is storm water and management standards, which the city has neither one on the books right now.

March 6, 2006, the county adopted an erosion prevention and sediment control ordinance as well as a storm water management standards. We've been successfully enforcing this for about a year and a half. In the development of this we worked with the Rogue Valley Council of Governments. This ordinance is used by a number of cities in the Rogue Valley, including the city of Ashland, which has some deep slopes. What triggers it, is anytime there is 800 square feet of surface, soil, disturbed, or more than 2,000 square feet of impervious surface, or 25% of a construction site, that is covered with impervious surface-that triggers the erosion. There are certain exemptions to it, like ½ acre for a garden.

In areas where there may be a geological hazard or slopes over 15%, we require a geologist prepare a control plan. The advantages of adopting very similar to the county's ordinance, or even adopting the county's ordinance, is I have two planners that have experience in enforcing the provisions of the erosion prevention and all the ground work has been done.

Popoff-It seems to be that this should first go through our planning commission.

Pratt-Absolutely. Your ordinance requires that the planning commission hold a public hearing to formulate recommendations to the city council. So that would be the first stage. The council, can, under the code, initiate it. Then if you direct us, we'll take it to the planning commission, notify DLCD of a proposed text amendment change to the city's zoning ordinance to include draft language based on the county's code. If other codes come up during that review period, the planning commission can weigh those as well.

Alexander-For example, Gold Beach is much smaller than Ashland. Conversely, our developments may be much smaller, yet have a deleterious affect on erosion-I'm wondering of those are cut in concrete or if they can be amended to reflect the size of our community.

Pratt-They can be but I might point out to you that Port Orford adopted the county's ordinance some time last year. Nothing is set in concrete. DLCD requires a 45 day notice before the first evidentiary hearing-that would be the planning commission hearing. So we're about 2 months out. So you are looking at about 3-4 months.

Alexander-You said the council could initiate the process-if we do that tonight, to get the ball rolling, and in our review of what other cities are doing, if there are additional changes, would that interfere with the process we would be initiating tonight? (NO)

MOTION:->Alexander moved to have unanimous consent to add a decision on erosion control to tonight's agenda, second by Peterson. Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

MOTION:->Alexander moved to direct the planning commission to initiate the process to incorporate the county's planning code regarding erosion and storm and surface water management standards as city code.

Johnson-I would like to talk to Jeff Denney (Public Works Supt). I would hate to lock ourselves into something we can't handle right now. I don't know how much of a change we are talking about.

Pratt-The notice to DLCD is just that. It's notice of a proposed text amendment change. A lot of times, the text changes a lot. We can also notify them, if you decide not to

adopt them, we can drop it and notify them it will not be adopted. We can do one or the other. The erosion prevention sediment control is more of "temporary" during construction phase. It is not a long term. The storm and surface water management standards are more of a long term solution.

Popoff called for the vote. Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

ORDINANCES AND RESOLUTIONS:

ORDINANCE # 611 (D)

AN ORDINANCE AMENDING THE GOLD BEACH CODE (ORDINANCE # 572, PREVIOUSLY AMENDED BY ORDINANCE # 593) RELATING TO PROCEDURES FOR PUBLIC CONTRACTING

Second Reading by Title with the additions read into the record

POPOFF STATED->There has been an addition to this ordinance since the first reading. Our engineers have sub-contracted with an architect for the city shop building. If the city takes care of receiving and paying the bills to the architect, it will save us 10%. Because there has been an addition since the first reading, I will now read those changes into the record.

Short Break.

MOTION:-> Johnson moved to approve the Second Reading of Ordinance # 611, as read by title into the record by Mayor Popoff, with the new additions also being read into the record, second by Flynn, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

MOTION:-> Johnson moved to approve the First and Second readings of Ordinance # 612 and Ordinance # 613 by title only, second by Flynn, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

ORDINANCE # 612 (E)

AN ORDINANCE REGULATING SIGNS, DEFINING TERMS, PROVIDING FOR THE COLLECTION OF FEES, PROVIDING PENALTIES, REPEALING ORDINANCE 585; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH AND ALL AMENDMENTS THERETO

First Reading by Title-Second Reading will be 11/19/07

POPOFF STATED--> This ordinance reduces the size of a temporary sign from 32 square feet to 18 square feet and eliminates # 1 of section 26.030 for better clarification.

MOTION:--> Alexander moved to approve the First Reading of Ordinance # 612 as read by title into the record by Mayor Popoff, second by Peterson, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

ORDINANCE # 613 (F)
AN ORDINANCE ANNEXING CERTAIN PROPERTY INTO THE CITY OF GOLD BEACH (ANTUNES) AND DECLARING AN EMERGENCY
First and Second Reading by Title

POPOFF STATED:--> This is a "housekeeping" matter that more clearly defines the written property description of the Antunes property to be annexed.

First Reading

MOTION:-->Johnson moved to approve the First Reading of Ordinance # 613 as read by title into the record by Mayor Popoff, second by Flynn, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

Second Reading

MOTION:--> Peterson moved to approve the Second Reading of Ordinance # 613 as read by title into the record by Mayor Popoff, second by Alexander, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

RESOLUTION R0708-1 (G)
A RESOLUTION ACCEPTING \$30,811.00 IN EQUIPMENT FROM THE JOHN G. ATKINS FOUNDATION, INC., AND AUTHORIZING THE APPROPRIATIONS IN THE SAME AMOUNT TO BE USED IN THE POLICE DEPARTMENT

MOTION:--> Johnson moved to approve Resolution R0708-1, second by Flynn, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

RESOLUTION R0708-5 (H)
A RESOLUTION AUTHORIZING THE CITY RECORDER TO DESTROY CERTAIN RECORDS

MOTION:--> Johnson moved to approve Resolution R0708-5, second by Flynn, Councilors Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

MAYOR AND COUNCIL COMMENTS:

MAYOR - Karl Popoff:

COUNCILORS:

Don Flynn-Congratulate Gold Beach Football Team for their outstanding performance Friday night. Both teams played very well and did honor to themselves. It was an exciting game. All agreed.
Brief discussion followed.

David Alexander-Saw a letter written by a citizen with several questions and I noted that in the response that Shirley was able to answer it clearly and concisely and provided good information. It got me thinking of the importance of citizen involvement within our government.

CITIZEN COMMENTS:

Mayor-if anyone wishes to add an item for Council consideration to the agenda, you may present it but the request requires a majority concurrence of the members present to be so added. Decisions on added agenda items that were not advertised on the agenda could be challenged.

ANNOUNCEMENTS:

The next regular meeting for the Gold Beach City Council is scheduled for Monday evening, November 19, 2007 in the Council Chambers of City Hall, 29592 Ellensburg Ave., at 6:30 P.M.

EXECUTIVE SESSION PER ORS 192.660 (1) (e) 7:10 pm (I)

POPOFF STATED:->We will now go into Executive Session PER ORS 192.660 (1) (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions. The Council will reconvene into regular session following the executive session.

The Council discussed real property transactions with the city attorney, Charlie Zennache' attending by phone conference.

RECONVENED INTO REGULAR SESSION AT 7:47 P.M.

MOTION:-> Alexander moved that the council designate Councilor Peterson to make contact with the school board preferably in executive session, to present a final request from the City of Gold Beach, for consideration on the cost of the property regarding the sewer project, second by Johnson.

Peterson-Yes, I have accepted the position and will follow through with the negotiations only with the help offered that we sit down and go over all the information PRIOR to the meeting.

Alexander-The reason I worded the motion as I did is I think Councilor Peterson needs to be our spokesperson. I plan on being in attendance but I will keep quiet. A brief explanation of my coming vote: I plan to provide all the assistance I possibly can to Councilor Peterson and I plan to completely support the majority vote of the council. However, the only protest that I've got to what I see as a fabrication of responsibility on the district's part is to vote nay on this motion and that is why I intend to do so.

Johnson-I agree with you but I don't see where we have any other option.

Johnson, Flynn and Peterson voted "AYE". Alexander voted "NAY". VOTE 3 AYES 1 NAY 1 VACANT

Popoff suggested getting together with Walker around 10:00 am on Wednesday morning to go over everything and get completely up to speed.

MOTION:-> Alexander moved for an "unanimous" consent request to add an item to tonight's agenda regarding the city administrator advertisements, second Johnson. Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

Alexander-It has been brought to my attention by staff that we have advertised extensively for the position of city administrator. Unfortunately, the respondents have really not been a good fit for our city, primarily due to a lack of professional credentials and experience. In my opinion, I believe the only way we're going to actually get qualified applicants is to increase the amount of compensation we offer. I think the hours are fine as we have them. I would like to see us put the wage of \$25 per hour. I think that will draw good qualified experienced applicants. I think our city is worth it.

Johnson-We did get some very good sounding ones but because we have a person on our council that knows a lot of people in a lot of different cities, in the whole United States, he was able to get information that we would not have been privy to. I'm only saying this is it's not that we didn't get good applicants, if you look at what they sent us, and we got a lot of them. It's just we were in the position to find out about these people. Let me tell you something from my years experience with the city. I've learned not to go by what they

tell you. You have to have connections to get at the whole truth. It's just a hard job to find someone without making a bad mistake.

Brief discussion followed regarding responsibilities and oversight and providing direction.

MOTION:->Johnson moved to re-advertise and we raise the hourly rate for an administrator to \$25 per hour and leave everything else the same, second by Alexander. Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES 1 VACANT

REGARDING MERKLEY'S 30-DAY EXTENSION REQUEST FOR COMPLYING WITH CITY POLICIES (VEHICLE LOG)

Johnson-We asked 8 weeks ago for all these different things (I have a list of them here) and we have not received any of them. He did turn in something to Shirley that has to be redacted if copies are to be made so we can't look at it. I don't think it is her job (it's like 92 pages) to get that into the form that we can look at. I think it should be presented to her in the form that can be looked at. It would have covered some of these policy requirements, not all of them. I think he thinks we want way more on this than we really want regarding the mileage. We did not ask for the mileage when they filled up. So I'm not sure he is understanding what we really want.

Alexander->The reason is, the council set a policy. Obviously, built within that, and it was very carefully crafted, was that the council can amend, delete or add to the policy. However, if we do this, I think it should be very clear that we do this, not as a "we will set a policy but our policy that we set really doesn't matter, so just go ahead and ignore it, and ignore any future policy". I find that real troubling. We, as a council, set a policy. It is done seriously because the city has a policy-that is how we operate before our constituents-the residents of the city. If we set a policy and ignore it, then what we have said is "it doesn't matter what we set for policy, it can be ignored with impunity", that, I found very troubling.

Johnson-Merkley asked for a written response, I think a person could respond much like David just said-"yes, you can have the extra time but-we make a policy with reasons and consideration.

Peterson-He wants a written response.

MOTION:-> Peterson moved to have a written response to Chief Merkley's extension that we will grant the extension with reservation and the reservation of why and we will expect it to be done, along with the other things as policy demands, second by Johnson. Johnson, Flynn and Peterson voted "AYE". Alexander voted "NAY". VOTE 3 AYES 1 NAY 1 VACANT

The unanimous consent of the council was that reports given to Walker need to be in a form that can be copied and distributed to the council. (All personal information redacted) This will also be included in the memo to Merkley.

Make sure all employees listed on the "I have read the policy sheet" have signed their names. When they sign their name, they are making a declaration that they have read it. The signature sheet needs to be completed.

ADJOURNED at 8:12 P.M.

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call (541) 247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of Discrimination should be sent to: USDA, Director, Office of Civil Rights, Washington, D.C. 20250-9419

Approved by the Gold Beach City Council on November 19, 2007.



Karl Popoff, Mayor

ATTEST:



Shirley Walker, Recorder