

MINUTES
SPECIAL MEETING

CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444
THURSDAY, DECEMBER 14, 2006
12:15 P.M.

CALLED TO ORDER BY MAYOR POPOFF AT 12:15 P.M.:

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 Mark Coltrane	X	
Council Position #4 Michele Martin	X	
Council Position #5 David Alexander	X	
City Administrator Bob Bare	X	

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

SPECIAL ORDERS OF BUSINESS:

DISCUSSION re EXPENDITURE OF GRANT FUNDS (A)

Popoff-This special meeting concerns the expenditures of grant funds that were recently received by the police department. The meeting was called by Johnson and Flynn per council rules.

Johnson-The reason I asked for this meeting is because at the regular meeting on 12/11/06, I completely forgot to make a motion I had intended to make regarding the expenditure of the remaining funds. I figured it would be a short meeting so I could make my motion and we could vote.

I was going to move, and will move, that after our talk and the letters I have seen from other councilors and budget committee members, and Frank Roberts (B), about changing the use of the remaining funds that have not been spent and putting those funds towards a police car. According to Mr. Roberts' letter (A) he has talked to the grantor, who has said that is fine with them. I am wondering if we could set it aside and put other funds with it, to buy a police car instead of a 4-wheeler. I am not here to discuss the need for a 4-

wheeler but if anyone wants to talk about that, it is fine with me. We would need a motion to authorize Mr. Roberts to go ahead and negotiate with the grantor, like he has already done somewhat. That's what my motion was going to be about.

Alexander-Reading Resolution R0607-7 (C), I'd like clarification from you sir (Mayor). My reading of this resolution, the resolution accepting \$24,935 in grant funds from the John G. Atkins Foundation Inc and authorizing the appropriations in the same amount-my understanding of that resolution and the attending documentation designating the appropriations as put forth by the police chief-if we're going to make it, then we would need to repeal this resolution, in order to make any changes. My understanding of this resolution, using the term "the appropriations (couldn't hear)".

Popoff-That was my understanding as well. My understanding was when we passed that resolution it was so the chief could get what he deemed on his grant. That will stand. If there is going to be a change, then we will have to "undo"...

Martin-Should we vote on a change first? Because I'm not in favor of changing that. I want to keep it the way it was for the chief of police to disburse the funds as it was lined out in the grant agreement to begin with.

Johnson-We can certainly do a motion for that and see if it flies, if it doesn't, it doesn't. Most of the information that has been given to me is it would be better used for a police vehicle because our fleet is not going to last because we've got so many cars now. I thought it would be better use of the funds, and my understanding was so would other people, so we can vote, that's the way we do things around here.

MOTION: Johnson moved to repeal Resolution R0607-7, which was passed by this council on December 11, 2006, second by Flynn. Johnson, Flynn and Coltrane voted "AYE", Martin and Alexander voted "NAY". VOTE 3 AYES 2 NAYS

Popoff-Before we get into anything further, we have an awful lot of people that want to speak. I will open up the floor to those that have signed up (D). Whether you agree or disagree with anybody here or anybody in the audience, keep those comments to yourself. I expect courtesy by each and every person towards the other. Many times we are not going to agree with one another and that's OK, as long as we do it

in a civil fashion. Each person will be allowed 3 minutes. I asked that there be a minimum of repetition. That way we will be able to get everybody in. Come up to the podium and state your name and address before speaking. Because this deals directly with our police department, I am going to let Chief Merkley speak first.

Russ Merkley-Chief of Gold Beach-It has been my pleasure to serve as chief of police since March, 04. It continues to be my pleasure to serve. Having said that, there are a few items I would like to address. I believe this action now being considered (couldn't hear) this action of dictating how a line item of a department is spent, after the fact, is not within the realm of the council. I would be pleased if someone could show me, in the last 5-6 years where the council has done this, or attempted to do this to any other department. I believe this is (couldn't hear) and baseless. The list of items to be purchased was authorized by my boss, the city administrator. The city has a duty and an obligation to provide the basic needs and requirements necessary to operate a police department. That includes but is not limited to: uniforms, office supplies, office, flashlights, perhaps even guns and certainly police cars. It is the duty of a city to supply those basic needs. It is not the duty of the police department or any member of the police department or the public individually, to make such a donation and have that donation diverted to a basic obligation of the city. On a more personal note, I would like to know, who among you, and that includes the audience, suggested that I would have or did deposit the gifted monies in an official bank account of the police department, used exclusively for evidence and found monies.

Johnson-You want to know who of us said that? (YES) Well, certainly not me. I don't do the books here.

Merkley-I have been asked by several people in the city.

Martin-Not me.

Merkley-Anyone in the audience? Accused me of depositing this money in an established account of the police department used exclusively for evidence and found money.

Johnson-Not I.

Merkley-I was accused of that. No one has told me who initiated that question. Somebody did. Shirley asked me about it, the mayor asked me about it and the city administrator asked me about it, and Don asked me about it. Where the money was deposited.

Johnson-I would say that is something they should certainly have the right to know, especially the office.

Merkley-But they assumed wrongly that I placed that money in an already established account for evidence and found property. That is categorically untrue. I didn't think anyone would step forward and take credit for that.

Bare-I just wanted to say that when I talked to you about it, it was because I heard the same thing. Just to clarify, I knew that you didn't but I wanted to make sure of it.

Coltrane-Let me get something straight. You didn't think anybody would step forward and take credit for that? (Merkley-No, I did not) Is that some kind of an overall opinion of the people that sit here on this council?

Merkley-No, I was hoping somebody would step forward and admit to me, face to face, whether it is on this council, or in the audience, that I would do such a thing. I may be getting old and I am overweight and going bald but I am not stupid.

Coltrane-What the heck has that got to do with it?

Popoff-I don't want to get into anymore of this. What I want to get into is basically chief, as far as I am concerned, your integrity is unquestioned by me-it's as simple as that. I would never ever believe you would do anything that was not ethical and up front. I don't know where that came from, I have no idea. I'm sorry it came out because it definitely casts a bad light on your character, which is the last thing in the world that needs to be done, nor is it appropriate in the least. I'm sorry about that. Your integrity is not in question here at all.

Merkley-I'm asking this council, on behalf of the police department, on behalf of the citizens of Gold Beach and it's many thousands of visitors every year-please do more for the police department that just give us lip service, and do the right thing.

Jennifer Dukek-Principal of the Gold Beach High School-29516 Avenue, Gold Beach. I'm here to speak on behalf of Chief Merkley, in support of him making decisions to purchase equipment that would be necessary for him to do his job adequately. Primarily because my focus is to make sure that our kids and our school are safe and because we are located adjacent to the beach. We have a huge concern about the public safety of our children when they are here 8 hours a day. The access that public people have to the school is certainly a concern and also criminal activity that could be taking place down there that could directly affect our kids. My purpose for being here is just to ask the council to consider this carefully when making this decision about this equipment that Chief Merkley is attempting to use funds to purchase, because I think it is much needed equipment, especially given the environment we live in here in Gold Beach.

O.C. Webb Bowen-29134 Ellensburg Ave # 21-I'm here to support the chief on the vehicle he wants. We front right on the beach. Between us and the ocean is a bunch of dry grass, bushes and what have you. Every once in awhile we look out there and see this huge bonfire right up against the grass and we feel the machine he wants will be a great help down there. Any time we've called them they have gotten down there-I don't know how they got there but they did. We feel it is not out of line to ask for this piece of machinery.

Chery Keyser-Stated she is in support of what they are saying.

Melinda McVay-94275 Seaview Lane-Gold Beach. I too am in support of the chief and where he spends the money. I think next to fishing and the jet boats, our third most popular thing with the summer visitors is going on the beach. I feel the equipment the chief feels we need would be an added value with all of we have heard of people being lost or in trouble or they think they can drive on the beach or whatever the summer visitors believe in. I feel if the chief feels we need certain equipment for that, I think he knows better than anybody what is needed in this town in the way of police equipment. We should definitely listen very carefully to what he has to say.

John Lento-29134 Ellensburg Ave #31-I'm here to tell a story about the equipment he wants to buy. About 3-4 years ago, I think you all know there was an accident on the beach. One person drowned, the other one was saved. Where we live we can

see the visitor center parking lot. All the vehicles tore down to the parking lot, state police, sheriff, GB police, EMT's, fire department and they all stood there-they couldn't get out to the beach. It took over half an hour for someone in a private vehicle to come down with an ATV and get the medics out to that spot and bring him back on a back stretcher. Now you tell me why he can't have the ATV.

Ron Lyons-29900 Rogue View Lane-I too (can't hear) but I will say this, if you read something, you can sometimes could take it to heart and just in my short dealings of knowing Mr. Merkley and having him be police chief of Gold Beach, we're not afraid of him we're very happy he's here and I want you to know how I feel.

Luane Merkley-29134 Ellensburg Ave # 23-I wrote my statement down so I wouldn't go over or forget something. My husband took the job of chief of police for one reason and one reason only, to serve the community the best possible way that he can. He is the most honest and standup guy that I ever met. I've been in law enforcement since I was 18 and I really have a lot of respect for him. He did not take this job for his own personal gain, he took it because everyone that knew him knew that he was the right person for the right job. He has the skills and the personality to be a great chief of police. That is why he was hired. The city has attempted to break his spirit and a lesser man would have thrown up his hands a long time ago but instead, he has honored his commitment to this community. The police work isn't just going to a call and hoping that you have what you need. It is being prepared. Having the equipment and the training necessary to deal with any situation. The city budget committee did not want matching funds for an ATV, so Russ went out and found citizens and a private donation who felt it was important to have an ATV here in Gold Beach. This ATV is not for our officers to play on, as suggested by Councilman Flynn. Each officer in our department has his own ATV. So if we want to play, we can play on our own. We regularly use our own personal ATV's to patrol the beach. Russ and I go down on our time and patrol the beach to make sure people are safe. During lunch time we have sent an officer on our ATV, while we have 2 officers on duty, to patrol the school-behind the school on the beach and they've got kids doing stuff down there that they shouldn't, skipping school and what not, so it's a great asset to benefit our community and help our teenagers to avoid the pitfalls of some of the things that go on in high school. During the rest of the year, it would be to monitor who is living illegally on

our beaches and who is doing activities on our beaches that they shouldn't. I understand that OSP has jurisdiction over the beach. But if anyone can show me where OSP keeps their emergency equipment in Gold Beach so it is accessible at a moment's notice for rescue, I would be more than happy to listen to that. We should be grateful that we have a Chief of Police who cares more about community preparedness and emergencies that he does about other people who want to micro-manage his department.

Dawn Wicklander-29293 Bravo Lane-I am not only a resident but also a businesswoman. As far as I am concerned and since I have been here for 12 years now, I've only had 2 dealings with our police department. Fortunately enough, they were there for me on time. I had a break in at my business at 1:15. We do not have officers that are out there between 1 and say 7 that patrol constantly. At 1:15 I get a phone call-your business has been broken into-before I could even get out of the house and gone, they are in the business. A police officer came, he had just gotten off duty. He called another officer in to have it taken care of. Fortunately enough when the person that was on duty at the jail, came out because he heard the alarm go off. Fortunately enough, he was able to take and identify those people, which helped get these people 1-½ hours after the robbery. All morning-we were there until 6:30 - 7:00. We did recover some of the loss but not all of it. These people were sentenced and taken care of. These people need to have whatever equipment that is required. They are out 24/12 regardless if they are off to take care of our community, to take care of the people, to take care of the businesses. I really desperately feel they need this, otherwise, how are they going to protect us. It is a very very hard thing to have somebody break into either your business or your home and it's hard to go back and feel safe. Chief Merkley has done a lot more for this city, in the way of being friends with everybody, of helping everybody, understanding everybody but asking for some funds to be refunded, that he has collected on whatever and a lot of it in the town have taken it upon ourselves to take and help by having bake sales for the tasers. In today's age, and we're a little bit behind times up here, you have to admit it, we're not a huge city but that taser helps save not only the policeman but it also helps to save people. It helps that they don't have to shoot their guns. I'm more than 100% behind this. Chief Merkley has done the best job that we've had.

Chris Kinney-Police officer here at Gold Beach. The person that this gentleman here is talking about that took his personal ATV, you're looking at him. I was off duty. If the officer that was on duty had access to an ATV, there could have been a chance that that person would have survived. I was up jerry's Flat Road-it was probably 10-15 minutes before I could get into town, get my ATV unloaded out of the back of my truck and get down on the beach. The sheriff's department had a vehicle there. The sheriff's department vehicle was stuck in the sand, at least 2 times that I know of. When I got there, they were stuck. I personally, on my day off, on my personal time, with my personal ATV, went down there and took this person off the beach. Unfortunately that person died on the way to the hospital. I'm here to tell you I support my chief 100%. I don't think we should have to bring in our personal equipment to help the citizens of Gold Beach. I'll do it any time, I don't have a problem doing that, that's what I get paid to do, I'm a cop 24/7. A lot of times I don't claim OT to help the citizens of Gold Beach. I just wanted to say that I support my chief.

Kelly Sevey-Police officer for the City of Gold Beach. I have spent part of my career here, left and came back. This past summer when I came back to work here at the City of Gold Beach, especially during the fair time, we spent a multitude of hours responding to a wide variety of calls, down on the beach dealing with fires, people lighting fireworks into the grass, and so on. Most of these fires we could not respond to because they were too far down the beach, it's so far away from our patrol cars we can't return safely and quickly. While I'm geared up in my uniform, I weigh about 22 pounds more than what I weigh right now. Try walking around in the sand with that. It's very very difficult. Chief Merkley has done a phenomenal job of obtaining necessary funds to get us equipment that is necessary to do our job down on that job. As Officer Kinney has stated-I support my chief 100%. Everything Chief Merkley has done, he has done for selfless reasons-it is for the City of Gold Beach and community and visitors and so on and so forth.

Paul Giovanetti-I work for the Gold Beach Police Department. I know I've been here longer than anybody, as far as members of the department. In those years, I've seen many many times that we could use a rescue vehicle down there. I think that when we're getting free money to purchase something like that, I think it would be a bad decision not to acquire that vehicle. We've had homicides on the beach, we've had sex

abuses on the beach, we've had people with guns on the beach and there's a lot of stuff that we can't access in our patrol cars or even the new SUV that we have. There are certain times you wouldn't even want to take that SUV down there just because of the fact where the tide is and so on and so on. But I can guarantee you that if we end up with this rescue vehicle down there, it is going to save lives. And you, not only us, our job as police officers, but your guys job I think you need to take that into consideration that we will be saving lives with that vehicle. I don't think it would be a good decision not to allow us to have that. I can't talk about it enough just because you guys aren't the ones that have to go and tell a family member somebody is dead. I've done it and it's not fun. It sucks and I don't want to have to do that anymore. So please, allow us to have that equipment that we need to do our jobs and protect the citizens of Gold Beach.

Popoff-That is everybody that has signed up. I have a question. Mr. Administrator-this is something that has been bothering me for awhile now and it was brought up from the audience as well too. This, to me, strikes as an administrative matter, it is not a policy matter. You are the boss of the chief. I don't know that this council really has the authority to do that without, in essence, stepping upon your area. I'd like to have an answer on that if I could.

Bare-I think you're right. We can get a legal opinion if you'd like but that's pretty much what the Charter says.

Johnson-What does the Charter say about something like this?

Popoff-He is the chief financial officer and the personnel director.

Johnson-He is and we are his boss.

Popoff-Exactly but once again, his area is administrative, if for some reason we don't like what he is doing administratively, 3 councilors can indeed fire him for no cause whatsoever. But the point is-this is basically an administrative thing. This money, as we've all said ourselves, and I mentioned it Monday night as well too, I had forgotten about this rule that we had. I, under no circumstances, believed that the chief acted with anything other than with integrity than when he applied for it. Nor do I think he put it in a special bank account to try to hide it

or doing anything along those lines. Once this council and that decision has been overturned, voted to accept that grant, then it was voted to accept the grant as it was written, (couldn't hear). It is as simple as that. It couldn't be any more simpler than that. What we're dealing with here, that quite frankly is leaving a bad taste in my mouth. I do not want to do anything where we infringe upon the city administrator's area of authority.

Johnson-I hate the idea of seeing this turned into something personal against or for our chief of police. This has nothing to do-I'm thankful we have him too, we all are. We all recognize his good points. This is not about that. We're talking about, I thought, according to our agenda, the best use of money, not what a good guy Russ is or not whether we said something that he heard about in town that was demeaning to him, that's not what this is about. My opinion was we were talking about how we were going to spend the money. Nobody is asking that we not accept it, it's already been spent. It was not done correctly, we, as you see, by the legal opinion, could be held responsible out of our own pocketbooks for that money being obtained and spent the way it was done-if we did not pass that resolution. We passed it. We qualified our vote very well I think. Michele, of course didn't have to. She knew what she was voting for and believed in what she was voting for. But that's not what this is about today. It's not supposed to be anyway. I have no criticism of our chief of police. I don't like the way this was all handled but that's not what we're here for. I hear people saying we're obligated to give adequate and necessary (I wrote the words down) required equipment. We work very hard every year to do that very thing. If we can't have good police vehicles, they won't be able to get wherever the 4-wheeler is to get to the beach. To me, it's just a matter of priorities. We've got to have good police vehicles. And we've got, what, 5 of them right now?

Merkley-We've just purchased a used vehicle that will replace the almost 11 year old police car.

Johnson-Yes, we have 5 right now and we need to get those replaced as we can. We're not going to have the money in budget. I'm sorry this has turned personal. We've worked very hard to provide necessary and required equipment.

Popoff-Just so everyone here, including the media understands- there is not a member of this council sitting up that I

question their integrity either. Not a member. If they hold a different view, it is not for any vindictive reasons whatsoever. It is because they sincerely believe in what they believe for the best of the city. I hope everybody understands that-I support these people. I truly do. We can, up here, have differences of opinion and we will have. You can't get 6 people up here without having it. But when it's all said and done, whatever the decision is, rest assured that I will support my council.

Martin-Can I make a motion to accept the grant for the usage of the Yamaha?

Merkley-The acquisition of this money was brought to my attention, I made the proper contacts, I made the proper proposal, I had permission to do that, I had the acknowledgement to do that. My opinion was and is, this was a donation of funds. A clear donation of funds from someone who cared and had the means to do that. In that request that I made, in the list of equipment-that person, for whatever reason had that opportunity, to either strike that entire list, or strike any one item off of that list. That was not done. The person who gave that money, at that time, knew, and believed what that money was going to go for. I state again, categorically that it was a donation and to circumvent the wishes of that person flies in the face of what is right. Again, 2 points. I do not believe the council, I believe the actions the council is doing at this time is incorrect. I'm not a council person and I'm not an attorney but that money is now in a line item in my budget. Once that budget is set, I, and the city administrator, are the only ones, normally council people can have opinions, but once that budget is set, I spend the money. At the time that I put that list together, and that money was approved, it was approved for what it was listed for. If you want to spend money on something that I honestly and sincerely believe is the duty of a city to provide-we can't go out and buy new cars, there's not money in the budget to buy a new police car, so I found a source to buy used police cars but they are good adequate cars. But again, that donation was given for the listed items. To circumvent the wishes of that donator is wrong.

MOTION: Martin moved to use the grant money for the list #1 Yahama Rino Side by Side ATV beach rescue and patrol vehicle at \$12,430: #2 Prefabricated arrow storage building for ATV and rescue equipment, \$3,950: #3 Wells Fargo, 7x12 cargo

trailer for the range and emergency equipment for \$4,900: #4 Honda EB3800 generator, storage shelves and containers for trailer at \$2,800: #5 Portable pop-up becon targets for reality based firearms training at \$855. Totaling \$24,935, second by Coltrane.

Johnson-I don't know if this is the time to mention it but do we have to do a new resolution?

Alexander-We already repealed the other one, so we do have to do a new resolution.

Johnson-I'm wondering if we could have just changed the wording in the other resolution and then we would still have a resolution in place. So at some point we're going to have to accept a new resolution.

Martin-Could we get a number right now so I can include it? (Bare left to get a new number)

Popoff-Thanked everyone for attending and stated it was good to see community involvement, one-way or the other.

Martin-Resolution #R0607-10.

Brief discussion on how to handle the motion and resolution.

Martin-Rescinded the motion she previously made without the resolution number (Coltrane withdrew his second).

MOTION: Martin moved to accept Resolution R0607-10, to use the grant money for the list below #1 Yamaha side by side ATV beach rescue patrol vehicle, \$12,430: #2 Prefabricated arrow storage building for ATV and rescue equipment, \$3,950: #3 Wells Fargo 7x12 trailer for range and emergency equipment, \$4,900: #4 Honda EB3800 Generator, storage shelves and containers for trailer, \$2,800: #5 Portable pop-up becon targets for reality based firearms training at \$855, a total of \$24,935, second by Coltrane.

Flynn-Initially upon hearing of this, I want all of the PD guys especially to know, as I've talked to Mr. Bare and I've talked to the chief. Due to my background in law enforcement of many years, you will not find anyone on this council or in this room more supportive of law enforcement, period. I have some problems with the way this situation was initiated, personal issues with it, that go to the very core of me. I am

going to vote "AYE" on this simply because I don't want to be personally liable for retaining it if we should vote it down. I disagree with my own vote on this thing. Not because of all of the equipment, aside from one item, I am behind you guys all the way. I've been up there in the canyon shooting with you, I know what we can do. I know what we need to do. I know what needs are there for the PD and I'm behind that 100%, but again, I have a problem with the way this was initiated and it goes just beyond whether anybody knew there was a rule that it had to go before the council. That's where I stand on this issue, thank you. And thank you people for supporting our PD also.

Johnson-I think we're mixing something up here. We need 2 motions. One to accept the money under that resolution, we've got to do that. If we don't, then we become personally responsible. The motion that is on the floor is whether or not to use the money to buy the equipment. We have to accept the resolution in order to spend the money.

MOTION: Alexander moved to table R0607-10 pending a motion and a vote to accept.

Johnson-We've already got a motion on the floor.

Brief discussion:

Martin rescinded her motion for a second time and Coltrane rescinded his second.

MOTION: Alexander moved to accept Resolution # R0607-10 (E), second by Johnson. Johnson, Flynn, Coltrane, Martin and Alexander voted "AYE". VOTE 5 AYES

MOTION: Martin moved to accept R0607-10 to use the following requested list of equipment for emergency and disasters that may occur in Gold Beach the listed items below would be; #1 Yamaha side by side ATV beach rescue patrol vehicle, \$12,430; #2 Prefabricated arrow storage building for ATV and rescue equipment, \$3,950; #3 Wells Fargo 7x12 trailer for range and emergency equipment, \$4,900; #4 Honda EB3800 generator, storage shelves and containers for trailer, \$2,800; #5 portable pop-up beacon targets for reality based firearms training at \$855, a total of \$24,935, second by Coltrane. Flynn, Coltrane, Martin and Alexander voted "AYE", Johnson voted "NAY". VOTE 4 AYES 1 NAY

ADJOURNED AT 1:15 p.m.:

Approved by Gold Beach City Council on January 8, 2007.


Karl Popoff, Mayor

ATTEST:



Robert Bare, City Administrator

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