

MINUTES
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444
MONDAY, JANUARY 11, 2010
REGULAR MEETING: 6:30 P.M.
DRAFT MINUTES UNTIL APPROVED BY COUNCIL

CALLED TO ORDER BY MAYOR WERNICKE AT 6:30 P.M.

THE PLEDGE OF ALLEGIANCE:

ROLL CALL:

	<u>PRESENT</u>	<u>ABSENT</u>
Mayor James Wernicke	X	_____
Council Position #1 Jeff Crook	X	_____
Council Position #2 Larry Brennan	X	_____
Council Position #3 Peter Peterson	X	_____
Council Position #4 John Truesdell	X	_____
Council Position #5 David Alexander	X	_____
City Administrator Ellen Barnes	X	_____
Student Liaison Mackenna Marstall	X	_____

Alexander-Point of General Privilege regarding a Charter requirement that inadvertently got missed. The City Charter states section 19, sub 1 of the Charter states "the City Council shall appoint the Mayor Pro-Tem at the first regular council meeting in January of each calendar year to perform the duties and responsibilities in the Mayor's absence.

MOTION -> Alexander moved that the council add to tonight's meeting the selection of a Mayor Pro-Tem for calendar year 2010, second by Peterson. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

****NOTE:** If anyone wishes to address this Governing Body, please present a completed "Business from the Audience" request to the Mayor at this time. Your request will be added under the CITIZEN COMMENTS section of our agenda. Comments and participation from the audience shall be limited to 5 minutes without redundancy.

SPECIAL ORDERS OF BUSINESS:

MOTION -> Alexander moved to nominate Larry Brennan for the honor of Mayor Pro-Tem for the calendar year 2010, second by Peterson. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

MAYOR AND COUNCIL APPRECIATION AWARD - LESTER BRIDGEMAN (A)
Wernicke stated that since some people on the council have not met or know much about Mr. Bridgeman, I am going to ask Chief

Janik to bring Mr. Bridgeman up to the podium, introduce him to the council and explain the circumstances of the award.

Janik-Mr. Bridgeman has been a great supporter of the police department. He came to me shortly after I started my employment with the city and offered to help keep our police cars nice and shiny. He took it upon himself to wash and wax them, using his own elbow grease and supplies. He helped me with dealing with several challenges within the community involving some folks that needed some help. We recently commissioned Mr. Bridgeman to do three different plaques for the police department. You can see his artwork in our lobby by our staff picture.

He is one of those people that gives and gives and asks for absolutely nothing in return. We thought our city should recognize the efforts of this good civic-minded individual.

Mayor Wernicke presented the award to Mr. Bridgeman and also included a city pin for him to wear.

Bridgeman-Read the following into the record: "Thank you dear people for having me be here. It has been so nice meeting all of you. We are very blessed to have people like you working, serving and protecting our town. I would like to thank the city for hiring Police Chief Janik. He gave me a special blanket for Christmas with a badge on it. Thank you Sir. You are a very caring and honest person.

Then there is Roy Steward who is a kind and wonderful man. I got to know him last summer and I'm a much better person for knowing him.

Then there is Paul Giovannetti and Chris Kinney who both been there for me through the years. I thank them for their kindness and patience and most of all for their help and encouragement.

I'd like to thank Gail Whitmore, she is like a beacon in a storm. She holds it all together with guidance, patience and strength. Gail and her husband Ted are kind people. They had me over for Thanksgiving and we ate lots of good food. I love all of you.

I want to mention the new policeman Jeff. What a great addition to our police for he is. I now call Jeff the super cool cop.

I don't have a family, but then again I have the biggest family of all. There are a lot of nice, kind and loving people here in Gold Beach. I'm very proud to be a citizen of Gold Beach. Thank you all for your kindness and generosity.

CITIZEN COMMENTS FROM THE AUDIENCE:

Wernicke said Julian Starr wanted to address the council later in the agenda when the promo ordinance is discussed.

Linda Alexander-Member of the citizenry here in Gold Beach. First of all I would like to thank whoever was on duty January 6th at noon patrolling the school zone and crosswalks. It's the first time I have noticed such a patrol actually monitoring those crosswalks and school zone in over a year. I'm very happy to see that. Second of all I would like to thank the majority of the council for supporting and having the confidence in me to appoint me to the new budget committee. Thank you.

Jill Benson-On behalf of myself and some of my friends, I would like to present Police Chief Janik with a check for the donation fund. I understand it may be getting a little bit low. We want you to know we truly appreciate all the hard work you put into your office as police chief. We are proud of all your efforts to bring this town's police force into the 21st century. There are many differences from 30 years ago and today and the types of crimes that people target. As a senior, I truly appreciate it. This council should not only applaud you but also support you in all that you do.

CONSENT CALENDAR:

COUNCIL MINUTES OF 12/14/09 AND 12/28/09. Regarding the 12/28/09 minutes - Pencil in a correction of the date on page 10, change the date from "09" to "10". There were no objections to changing the date.

MOTION Peterson moved to approve the Consent Calendar, (12/28/09 minutes) with changes, as presented, second by Brennan. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

MOTION Peterson moved to approve the 12/14/09 minutes, second by Brennan. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

CITIZEN AND/OR AGENCY REQUESTED AGENDA ITEMS:

SUPPORT FOR OSU EXTENSION POSITION - Pete Aspinwall and Harry Hoogestager, Lower Rogue Watershed Council (B)

Pete Aspinwall-Indian Hills, Gold Beach. I am chair of the lower watershed council. I'm seeking support for Frank Burriss who is our OSU Extension Agent for watersheds. He is a very valuable guy. My purpose is to stress the importance of OSU Extension, which may be in question in the future. Frank Burriss is the agent for the City of Gold Beach and the county. I am specifically asking the council to write a letter to that effect to Oregon State University.

Mr. Aspinwall stated several examples of the accomplishments Mr. Burriss has made.

A brief discussion followed along with the council's request for clarification.

Harry Hoogestager-There are about five areas where our extension agent provides help for the economy for Gold Beach and Curry County.

1. Estuaries
2. Water Quality
3. Important link to the university with it's power for research & technical knowledge and resources
4. It's good to have professional people with a wide range of skills, knowledge, background and professional degrees.
5. He answers questions re noxious weeds, he is a pilot so he answers questions regarding runways, weather conditions, etc.

We would encourage a letter of support (Prior to Jan 30) to retain his position.

Consensus of council was to support a general letter of support to retain Mr. Burriss in his current position and the importance of OSU's presence in Gold Beach.

MOTION-Alexander moved to have the city council ask the city administrator to generate a letter, on behalf of the council, in support of OSU Extension Position, specifically naming Frank Burriss' retention in that position, second by Brennan. Crook Brennan, Peterson, Truesdell and Alexander voted "AYE".
VOTE 5 AYES

Odor - Ellensburg - Middle of town - Jim Freedman

Jim Freedman-Gold Beach. I will begin by reading a, excerpt from the 12/23/09 Curry County Reporter-letter to the editor, written by the President of the Skate Park entitled "Bull Frog Skate Park Is Now Open For Business". It states "First let me

clarify that contrary to the paper last week, the Bull Frog Skate Park is now very open to the public". And I would like to add that it is open to the public WITHOUT the required ADA compliance handicapped access. It is also not compliant in the fact that there are no city-required rest rooms at the skate park.

Mr. Wood met with the lower rogue watershed council at the last meeting. The council was trying to get compliance in the set back and the damage that was done to the riparian set back on Dean Creek. The President and the skate park association had agreed to, in their easement with the city this last June - the easement, in paragraph 2 states that the grantee (skate park) agrees to construct and maintain over the easement, a pedestrian, and ADA compliant wheel chair accessible pathway to provide access to Colvin Street to the skate park for pedestrians and emergency vehicles.

There is also a requirement that the skate park is to protect the Dean Creek watershed follows the watershed council and the Oregon Department of Fish and Wildlife recommendations. Those requirements, I believe, have been pretty much ignored.

Freedman handed out pictures (C) of the handicapped ramp at the skate park he took just yesterday. The coordinator of the lower water shed council worked long and hard with Gary Fletcher to make the handicapped access compliant and as soon as it was compliant and inspected, or agreed upon by Maggie McCue of the watershed council that the skate park went back in a removed a good portion of the fill and used it for something else. I have no idea "for what".

When Mr. Wood appeared before the lower watershed council, I found him to be fairly recalcitrant and he refused lower watershed council help, Frank Burris was the person that offered to help him make the riparian area compliant and he pretty much refused to accept help from the watershed council to mitigate the damage that was done. Title 2 of the Americans with Disability Act, Section 504, rehabilitation act 1973, discrimination complaint form.

The justice department wants complaints filed with them. I came before you at the Dec 14th meeting and stated that when you are filing for grants, the grantors want the applicants to have dialog with the community at large. On page 2 of the complaint form, the question is asked "have efforts been made

to resolve this complaint through the organization or institution".

I want to let you know that I am in the process of filing a complaint with the United States Department of Justice, naming the city as the complantee and asking the US Department of Justice to have the city enforce the ADA requirements as set forth in the disabilities act section 504.

I'm kind of concerned about the fact that you guys don't want to hear this kind of stuff and there are things going on between you guys and I was going to make a statement about the fact that I think you are in a urinating contest amongst each other in this agust body. Maybe it is a testosterone contest and maybe you guys are into showing how much testosterone you still have-whatever.....I also have more snaps that I took of the skate park that I hope you're not going to like. This last one I have shows that the silt fence, which is supposed to protect the riparian creek area is down as you can see from the rest of the photographs. Also the construction fence is down. There are kids playing in the construction area and I think you may have some liability there. Possibly some vicarious liability. I believe the skate park has now become an attractive nuisance.

As far as the odious aroma that is coming from the skate park - I often come in front of you guys to tell you what I am not, however I will tell you I have some experience with the pathology of large animals, equine as well as bovine organism and I think the odious aroma that is coming from that area in the 29000 400 block of Ellensburg comes from part of the material that has been fed to you guys by the skate park people in their statement to you or in the number of statements to you - first started last year when they made the statement that they would not have access to the skate park unless you guys gave them the easement over our, the tax payer's property to the skate park.

Yet if you look on Ellensburg-the skate park told you the Oregon Department of Transportation would not allow any more cuts from Ellensburg into the property. Almost directly across the street, Duane Rath has recently received a permit to cut the pavement and has put in access. You were also told that the access would be ADA compliant and would allow for access of emergency vehicles. I think you were troubled by the fact that you were giving away city property.

At the lower watershed council meeting, Mr. Wood stated that the access was never supposed to be for emergency vehicles. He now wants to reduce the size of the access from 10' minimum to 3' and still, I guess, allow for emergency vehicles. The bottom line is you can't put the facility he wants to put in in the area that he has so now he is cutting back on his obligation, under the easement agreement. I believe the source of the odious aroma on Ellensburg comes from all of the false information you have been fed. I call it equine fecal material. I strongly suggest you make this skate park ADA compliant. The folks I have been talking to in the last couple of weeks want to move and resolve this thing. I would rather go through the federal government than through some of the persons that are a little more active.

The last picture is of the silt beds, which is supposed to be protecting the environmental area, which has been down a number of times. It is laying on the ground and is not going to protect the riparian area from damage. Dean Creek is a primary creek. The first creek that empties into the estuary and the silt and material that are going down - you need to go down by the boat ramp after a rain and look at what is coming down into the estuary. The president of the lower watershed council has told you the estuary is in trouble and all they are doing is exasperating the problems.

Truesdell-We have heard about this before and it has been brought to the city administrator before. I fully support the skate park. I think it is an excellent asset to have in our community. I am, and have been disturbed at the way this council was promised this project would unfold. It seems to have unfolded in a different way than what was promised. As soon as he declared it was opened, the obligations to the city should have been completed or it shouldn't be advertised as open-it should be fenced with construction fence and people should be kept out. While I support the skate park, I don't support the way in which the city has been bamboozled on this. It is my opinion, pursuant to the terms of the memorandum of understanding (MOU), that I believe was executed last May or so, it called for a 30 day notice if conditions were not met. It is my opinion that that should be triggered by this council. That the council should instruct the city administrator, if the council agrees, to begin whatever process is necessary to enforce the MOU or close the skate park until such conditions are met.

Barnes-I have some information to share with council. The question of it being declared open is a question of mine as well. I will consult with legal council. I would advise council, at this particular time, before they make any move either way, that we get legal advice. That is my recommendation. With regard to the MOU (easement agreement) which is what we have with the developer of the facility, I have been meeting with the water council representative. She has assured me the developer has been in contact with her, has been working on an erosion sediment plan. They have been communicating which is per the terms of the easement. I also know ODFW does not have any concerns as well. I am monitoring that. In terms of my authority, that is the best I can do until I have watershed council or fish and wildlife say there is a violation. There is not a lot I can enforce legally within my authority, on that particular tenant.

With regard to the ADA compliance, this is going to kind of tie back into the concept of it being open, which I need a legal opinion. In terms of ADA enforcement. We are not an enforcement agency for ADA. We don't have the authority to do so. This is not a city development and we cannot enforce those mandates on a private development. Having said that there is an ADA issue with regards to the easement which we can enforce. Up until this point-before the question of being open, this has been a development and they have to have the opportunity to develop the ADA accessible pathway. I can't enforce on that until they have developed it. It has not been developed, it is underdeveloped. That is an area I can't enforce until it is actually in place. I need to deal with the question of "open" and what our attorney will say in regard to that.

The attorney's position on the ADA language is quite different. I asked her because there was confusion in regard to a pathway that was designed for ADA access as well as emergency vehicles. When I asked her about that (she was involved in the drafting of the language) she said it was never intended to mean vehicles going down the pathway but that vehicles could stop and a gurney could go down. That was her interpretation. I'm following through on this. I'm monitoring it and I will follow up with regard to the concept of it being open because I don't know how that changes the dynamics at this particular point in time.

Alexander-I think this council should make a strong request that the principals of the skate park appear before this

council to answer these charges. I'm a major skate park supporter but I find this extremely troubling and they need to be addressed and addressed soon.

Truesdell-If the city administrator could also look into (perhaps through the building department) the requirement for rest rooms, even temporary, on a construction site on a development site-having something down there so they do contain their waste so that doesn't become an issue.

Barnes-I have followed up on that particular topic. There is some ambiguity about that because of the way our ordinances are written. Since this is a park development, not a building development, building codes don't apply. We have no certification of occupancy, no permits required, the standard provisions you would see with regard to a building project don't apply to this park development.

There is, under the utility code, mention of need for restroom facilities, but in discussing this with our attorney, it is unclear what those provisions require. The interpretation is that the utility code is actually to apply to building development. I will continue to follow up on this in regards to their need to have restroom facilities. The language in the ordinance says the developer of an area must provide adequate facilities. There is also a question of what adequate facilities are based on what the development is. Under a building code that would be easy because it would be dictated by the building code what an adequate facility is. Since we are dealing with a park development, again, the language isn't there so there is a question of what that interpretation means. That's where we're at with regard to that aspect of the issue as well. I am working with these issues but I don't have an answer for you.

Wernicke-Could we check with the attorney regarding: If in fact the kids using the skate park are relieving themselves on the ground, if perhaps, it may be a violation in our nuisance ordinance. We could close it down on that basis-that might be a possibility until such time as they can make arrangements to stop that kind of conduct. I think it would easily qualify as a nuisance.

Barnes-Possibly. It depends upon what our ordinances say, and then you would have to have documented violations of it. We need to be very cautious in proceeding with this. I am just letting you know that particular topic, because of the way our

ordinances are written, is vague. I'll look into our ordinances and follow up on that.

Truesdell-I would like to remind this body that if an ambiguity exists in our ordinances and we all acknowledge that there may be ordinances we currently have that have ambiguities in them, BUT we are a legislative body and if an ambiguity exists, it is a simple repair. That is something we could do in 30 days, 60 days and 90 days and that ambiguity would be gone.

If we recognize a public health issue, caused by an ambiguity, that's an easy solution for us. We are the body that sets law.

Alexander-In the Charter there is a provision which allows this body to actually take an ordinance and dispense with the first and second reading if this council would choose to do that.

Freedman-I was here during the deliberations on the easement agreement and it is clear and unambiguous to me that the agreement you made and the point they tried to make was the ramp you gave them the easement for was to be for handicap access AND, as it says right here-emergency response vehicles. That is clear and non ambiguous to me. This is not a real in-depth easement agreement, it is real simple.

The other point I would like to make is would you think about the onerous burden you are going to put on Grants and the other businesses in the area if there is no place for these people to go to the restroom. They are going to seek the local merchants in town and they are going to be using their facilities for their own relief while they are at the skate park and I assume they will probably be going into the Sea Star also. I think you guys need to consider that very seriously also.

PUBLIC CONTRACTS AND PURCHASING:

APPROVING CONTRACT WITH VALUE ENGINEERING CONSULTANT (D)

Barnes-We did issue a "request for qualifications" (RFQ). There were four individual firms that received this directly. Some at the recommendation of DEQ, some at the recommendation of our engineering firm and some individuals who called in requesting copies of the RFQ. I also posted the notice for the RFQ on the League of Oregon Cities web site.

Two firms responded. Based upon Oregon Statutes, we cannot look initially at pricing for determining which one we decide to move forward with because according to Oregon Statues, if it deals with engineering or architectural services, it must be done on qualifications alone, then pricing is secondary.

Will Newdall, Public Works Supt., Jan Kerbo and myself, our consultant went through and evaluated the two RFQ's based upon the material they submitted without regard to the cost estimate. The firm we were most interested in is Project Delivery Group. Both firms were very well qualified. We would be comfortable with either one but we thought Project Delivery Group provided the best service for the specific needs we were looking for.

Here's the down side. The cost of the service was more than we were advised. Initially when I came before the council and requested approval to go our for RFQ's, I had informed you we were estimating between \$25 K and \$ 30 K for the services. That is not correct. We are looking more in the \$40 K to \$50 K range with this firm. I did negotiate and I believe we are looking at between \$41 K and \$45 K.

This is something we have to do. The whole wastewater project is "on hold" until this process is complete.

Truesdell-While I commend you and your staff of experts, not really knowing what I was reading, I picked the same group you did.

MOTION- Truesdell moved to authorize the city administrator to accept the contract with Project Delivery Group in the amount of \$41,500, second by Peterson.

Brennan-You said the range was \$41 K \$45 K?

Barnes-I was in the negotiation phase. Their initial cost came in at \$51 K. To negotiate, they are actually stepping down a position to do this. You have the resumes of the team members, one of those team members will not be included and that is the cost estimator. The principal on this has assured me that there is another individual that is still on the team that is also skilled in cost estimating.

VOTE ON MOTION-Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

ORDINANCES AND RESOLUTIONS:

ORDINANCE # 624

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE CITY OF GOLD BEACH MUNICIPAL COURT

Second Reading by Title Only

MOTION-Brennan moved to approve the second reading of Ordinance # 624 AN ORDINANCE ESTABLISHING PROCEDURES FOR THE CITY OF GOLD BEACH MUNICIPAL COURT, second by Crook. The motion and second were withdrawn.

MOTION-Alexander moved for the council to approve the second reading of Ordinance # 624 by title only, second by Brennan. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE".
VOTE 5 AYES

Mayor Wernicke read Ordinance # 624, by title only, into the record.

MOTION-Brennan moved to approve Ordinance # 624, AN ORDINANCE ESTABLISHING PROCEDURES FOR THE CITY OF GOLD BEACH MUNICIPAL COURT, second by Peterson. Crook, Brennan, Peterson, and Truesdell voted "AYE", Alexander voted "NAY". VOTE 4 AYES 1 NAY

Truesdell-Unfortunately, I find it impossible to support any of these six ordinances. These are ordinances, which we are being asked to renew, and the primary changes to them are codification, which is mostly renumbering, organizing, and putting them into an easy recognizable and findable location. I find the ordinances, most of them, or many of them, still have quite a few flaws. This is not a new objection. I raised the objection November 21, 2009 and on the December 8th special meeting, I again registered my complaints of renewing and reinstating faulty ordinances. I do support the Municipal Court Ordinance, by comparison, because in my opinion, that's the proper way, we took two-three months to go through to vet among the council, to get it the way we thought it was best, then to go ahead and give it to the attorney to make sure it was legal. I will not be supporting any of these six coming up because the same process has not been followed.

I feel if we do approve them we will be renewing many of the same mistakes, same ambiguities, the same problems that even this new council has been living with for the past twelve months.

Wernicke-It was my recollection that at the last meeting we went through this you were convinced that there was a good reason to do this and you did vote for it at that time. This is a difficult concept because there are a lot of faults with our ordinances, no question about it. BUT if we're going to continue to have that scattered all over in the winds as they are now, and not put them in a codified form, we're going to have extreme difficulty making the changes, corrections and adjustments when the time comes.

If they are in a codified form, at least all of the law you are dealing with on that subject is in one place. When you're going to change a provision, then you have related provisions right there to deal with. As it stands now, if we change a provision, we may have a related provision in another file or ordinance, and in another place, which makes it a hunt and peck situation that you can't possibly win at. This codification isn't necessarily, isn't really approval of the form of our ordinances. We know they are in trouble and we know we have to change them. It's merely a matter of putting them in a manner that we can rationally and reasonably deal with them in a codified form.

Brennan-I've discussed this with a city planner from another city. Their opinion was the same. If we take two or three months for each one of these ordinances, and we have six here then we are looking at eighteen months just to approve six. It was a suggestion and I think that's what our thought process is here is that we get them into a code and then we can study each ordinance for as long as it takes to study it and revise it and bring it into "modernization". I know we have a lot more ordinances to bring into the code. It could take us years-we'd never get them all into the code if we correct each ordinance first.

I also agree that the information may be in four different books right now but if it's in code it would have all the related information in one place.

Alexander-There are a number of other ordinances that were repealed upon adoption of these ordinances. I find that troubling. I also will not be able to support this.

Barnes-May I clarify that? That is a procedure because when you put it into code, you have to repeal the ordinance because you are putting it into a new structure. The law still exists, it is just formatted differently. It is not repealing

any of the existing ordinances, which are local laws. It is just putting a new numbering system in place and to do that you have to repeal the old numbering system.

Truesdell-The work that has been done so far is phenomenal. Certainly the city attorney and city administrator and anyone else that has been involved deserve a lot of credit. So that that effort doesn't go to waste, it is for example the nuisance ordinance that we're looking at as one of the six-if that were to be presented, not all of the old ordinance but that one document, I submit that we could probably get through one to two ordinances a month with the work that has been presented so far. I'm not suggesting that we trash that work and just say "no, we're going to get rid of that we're going to start over and reinvent the wheel. The wheel has been reinvented by virtue of the work you have already completed. I don't think it would take us as long, since you've done that work, if we wanted to go through each one-I don't see any reason why we couldn't do one to two a month and then what we're passing we feel good about for the present. Meaning in a year things may change but we can make a lot of corrections. I'm just suggesting we not throw out the work that has been completed but to use that-that would make our job a lot easier.

Barnes-If that approach were taken I recommend you do it by chapters. The business code, the administration code, the nuisance code, etc. That would make it a lot easier verses doing independent ordinance.

Truesdell-I'm sorry, that's what I tried to say. In other words, we would take what we're calling new ordinance # 632 by example, and the work that you've done and use that as our first draft to go through problems that are existing, as opposed to having to go through all of the old ordinances that are now supported by the new ordinance #632.

Wernicke-If we do it that way, when we complete, for example, one ordinance using what has been prepared here, then it would take 90 days (yes) so the other ordinances wouldn't be touched or put on the schedule for at least 90 days and then we would to the next ordinance.

Barnes-Unless council chooses additional meetings or you can do these concurrently.

Alexander-There is a provision in the Charter, which allows the council (chapter 9 section 33 adoption subsection 2). "Except as subsection 3 allows, both readings by title only, an ordinance may be enacted as a single council meeting by unanimous vote of all councilors present after being first read in full and then by title". So, as per the Charter, we can bypass that 60-day provision simply by reading the ordinance in full then by title and by unanimous vote of council, passing it, it then takes effect in 30 days, so the Charter does provide a way to effectively bypass that particular provision.

Barnes-That is correct. To read in full means to read in full. That would be 40 pages.

Alexander-Worst case scenario, it would take an hour or so as opposed to 60 days. So it can be done.

Wernicke-Maybe we could get a professional reader. I just pulled out the administrative code-it has 40 pages. As long as one person wouldn't have to read the entire thing, we could each read 10 pages and we'll get plenty of tapes. (Alexander said he would be happy to participate in that)

I get the feeling there is no real support for the first readings of the ordinances. When we get down to the portion of the agenda when we discuss scheduling meetings for purposes of revising our ordinances and getting them in the proper format, one code at a time and hope to get it done in a reasonable period of time..

Barnes-Does council have a recommendation as to which ordinance they want to start with?

Alexander-I think the first and most appropriate one would be #632 the nuisance code, since we have a situation at the skate park.

Truesdell-We contacted League of Oregon Cities and received a "sample" nuisance ordinance that we looked at last summer.

Wernicke-It's also going to be important to deal with it because some of the enforcement issues, at least those sent to Muni Court will no longer be council projects.

Barnes-I will try and target a draft to council on February 8th meeting. If council will get their comments to me regarding

the existing one, I will do research into model ordinances-I will draft up a draft to present to council for consideration.

The following ordinances were tabled-no first reading was done.

ORDINANCE # 628

AN ORDINANCE ADOPTING A REVISED GOLD BEACH ADMINISTRATIVE CODE AND REPEALING ORDINANCES #572, #614 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

ORDINANCE # 629

AN ORDINANCE ADOPTING A REVISED GOLD BEACH LOCAL IMPROVEMENT CODE AND REPEALING ORDINANCE #590 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

ORDINANCE # 631

AN ORDINANCE ADOPTING A REVISED GOLD BEACH UTILITY CODE, REPEALING ORDINANCE #578, #625 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

ORDINANCE # 633

AN ORDINANCE ADOPTING THE GOLD BEACH BUSINESS CODE AND REPEALING ORDINANCES #526, #577, #597, #612, #562 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

ORDINANCE # 632

AN ORDINANCE ADOPTING A REVISED GOLD BEACH NUISANCE AND OFFENSE CODE AND REPEALING ORDINANCE #560 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

ORDINANCE # 630

AN ORDINANCE ADOPTING A REVISED GOLD BEACH TRAFFIC CODE AND REPEALING ORDINANCES #571, #574 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT

Five-Minute Break

RESOLUTION R0910-10 (E)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A FUEL EXCHANGE AGREEMENT WITH ODOT

This would also include the fire department if they would like to use the facility.

MOTION-Alexander moved to approve Resolution R0910-10, a resolution authorizing the mayor to enter into a fuel exchange

agreement with ODOT, second by Brennan. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 ayes

RESOLUTION R0910-14 (F)

A RESOLUTION AUTHORIZING ACCEPTANCE OF THE DEQ LOAN, AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE LOAN AGREEMENT AND AUTHORIZING CREATION OF A LOAN RESERVE ACCOUNT

Truesdell (page 12) in regards to insurance. Do we have flood insurance now or are we currently self-insured? (Barnes will confirm and report back)

MOTION-Alexander moved to approve Resolution R0910-14, a resolution authorizing acceptance of the DEQ loan, authorizing the city administrator to sign the loan agreement and authorizing creation of a loan reserve account, second by Brennan, Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 ayes

RESOLUTION R0910-15 (G)

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT FOR A SEWER RATE STUDY

Barnes-This is a requirement as a condition of receiving funding from USDA, the city must complete a sewer rate study before we can go out for bid for the construction contract because different entities pay different rate levels. so it would be taking a look at the disparity in rate levels, what was needed for the particular project and making a recommendation as to what the rate level should be whether it is uniform or different for residential vs. commercial.

Truesdell-the cost of our plant has escalated (which is normal) by 30-50% over the last four years since we started this. Is this something that anticipates and will the rate study be fairly accurate at the end unless we get delayed several years or will this be something we are paying for and in the end sewer rates may end up considerably different than what the study says?

Barnes-this would be based upon the project as of now. The most current cost estimates is what it would be based upon.

TRUESDELL-and based upon the loans, the payback on the loans? (correct)

MOTION-Peterson moved to approve Resolution R0910-15, a resolution authorizing the city administrator to contract for

a sewer rate study, second by Alexander. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

DISCUSSION ABOUT REVISIONS TO ORDINANCE 597 - TRANSIENT ROOM TAX ORDINANCE

Wernicke-I think this is our third visit to this particular ordinance.

Truesdell-I'm not sure how to do this, should I go through page by page? What do you recommend? (page by page)
Page 2 (j) It's a minor item but it's not a complete sentence and the gender should be corrected. (Barnes will do)
Page 5 section 7. The consistency with all other sub sections. The consistency is we're using letters and not numbers-1,2,3,4 should be A,B,C,D. (Barnes will correct)
Page 6-Fraud - What was the attorney's recommendation?

Barnes-Yes, I did get an attorney's opinion on this. There is no usury language within the Oregon State Statutes. She said this particular language was modeled after Eugene's. She has no concern how the language is stated although it is up to council if you choose to change it.

Truesdell-

Page 7 section 11-second sentence first word-I can't read it (Barnes will correct)
Page 10 (top) section 14-Refunds - I believe (a) was struck out but I think it needs to be re-instated (Barnes will correct)
Page 11 section 15 a & b states the purpose but under "c" there is no purpose. It needs to be compatible with the other two. Perhaps it just needs to reference Oregon Revised Statutes as it did on the definitions on page 3. In other words the heading is Purpose and Distribution but yet (c) doesn't state the purpose. For consistency, if it could reference pretty much the same thing I believe the definitions do on page 3. (Barnes will correct)
Page 12 sub paragraph 3-there is some obliteration of words. (Barnes will correct)
Page 12 section 17 The title is inconsistent with page 3 definitions. Example-Section 17 talks about "a transient lodging tax review and expenditure committee". I believe it is supposed to be "the transient lodging tax review and promotional expenditure committee" if that's what we're referring to, just add "promotional" between "and" and "expenditure" for consistency? (Barnes will correct) Right below that, in subsection a - once again, you refer to the

"Wedderburn Chamber" it was struck out but was added back in. It should just read the Gold Beach Chamber. (Barnes will correct)

Page 12 section 17 b There are no more representative groups (Barnes will correct) The same thing holds true with the "hotel owners". There is no group, so that needs to be re-worded.

Discussion ensued regarding the wording in "c". Alexander suggested wording it so the promo committee could remove a member for cause with confirmation by the council.

Brennan-Section 6 - I don't think we have any input from representatives of the RV Parks in the city but to strike that as an exemption-I think we need to discuss that issue.

Julian Starr-Turtle Rock Resort-We're not really for a tax on RV Parks. We're already paying around \$14 K a year in transient room tax. I know that Ireland's pays a lot. When it comes to any kind of benefit that we get from promo that the city does, it is almost nil. We do our own marketing. We spend about \$40 K per year marketing our Park. We spend a lot of money to get what we've got. The last couple of years have been very tenuous economically for not just us but for a lot of businesses. The other challenge I have is you have three or four parks in the city and a whole bunch of parks in the river. Competition is pretty fierce. If we have to pay extra on a tax, then that makes us a little less competitive, it's almost self-defeating in the end.

If the city decided to create a tax on RV Parks-I think the city would need to see who gets the benefits from the advertising marketing done by the promo committee. The city gets 25%-30% of the tax that goes into the general fund. You would have to look at the restaurants as being a recipient of bed tax. You would also have to look at the jet boats. So if you're going to go after RV Parks, my suggestion would be you would probably want to do restaurants and the jet boats. You would probably double the benefit that would come into the city coffers and at the same time you would be able to support, without doubt, a full time representative, a director of the promo. There is a huge difference in spending a quarter of a million dollars for marketing this community and spending half a million or more a year.

Alexander-If RV Parks were taxed, the visitor would pay the tax if they stayed in the city but if they stayed outside the

city they would pay no tax. That would be placing an unfair disadvantage to those RV Parks located within the city limits that would not be imposed on RV Parks outside the city. The visitor would also be more inclined to drive a mile or two to a restaurant as opposed to staying outside the city limits and driving more miles to a restaurant.

Starr expressed concern regarding vacation rentals. You may want to consider an ordinance stating what conditions you want to put on a vacation rental in a residential area. There are also vacation rentals that are not paying into the tax.

Truesdell-I agree that if someone comes up with their own rig and wishes to stay in nothing but just a piece of dirt, it's their own rig, it's their own structure by definition of the ordinance, that that should be an exemption. However, I am aware of several places in the city limits that rent a permanent RV-the RV is sitting there and it is rented out as a vacation rental. I don't know how you would delineate that in the ordinance. In other words, if the Inn Keeper is not renting a structure because structure is defined very well, then I see no reason to collect a tax. But we do have, for example, several YURTS down at the port-I don't know how they are handled but a YURT, by definition is not a permanent structure, they are canvas. But it is a structure in which someone comes in, gets out and lives inside of something that is owned or operated by the operator; I believe they should pay the tax. This ordinance, so far, under A-Lodging Establishment doesn't define the two areas I just mentioned.

Brennan-For less than 10 spaces in three parks, it almost seems kind of simple to be discussing. If you have a park it is a park for exemption purposes. Unless it was totally constructed with permanent structure, it is an RV Park.
(Peterson agreed)

Truesdell-Add another definition under DEFINITIONS OF LODGING ESTABLISHMENT to say YURKS or operator provided structures and then exempt the "spaces" from the tax. Is that reasonable?
(Starr said yes)

Starr-There are also (couldn't hear) tents. Starr was apparently speaking from the audience so I couldn't hear all of what he said.

Crook-You could delineate it by saying it has a roof, it is a room and therefore should be taxed if it is operator provided.

Wernicke-An operator provided structure with a roof-OK, let's give that some thought as to what might also be included. What was here before hand looked to be pretty comprehensive on the type of things that you probably don't want to impose a tax on. What we're discussing now should probably go into another portion of the ordinance.

Truesdell-That's a good point But what we struck just refers to spaces and I think that's what we are agreeing to. If it is a space being provided it should not be taxed.

Consensus was to re-instate the RV exemption and find a place to put the "operator provided structure" under "A"-Lodging Establishment Definition.

Barnes-Let me make the corrections, and talk to legal counsel. There are a couple of ways we can approach this. We can approve this ordinance (couldn't hear) as an ordinance considering this will not be part of the nuisance code changes that you will be considering. The ordinance would be moving forward as you are starting to adopt the code process. I do need to revise this, discuss it with our attorney and then I will need to meet with Jot's per our contract agreement, then I will bring it back to you for your review.

MISCELLANEOUS ITEMS:

INCREASE VISITOR CENTER DIRECTOR TO FULL -TIME

Kuljis resigned from her part time position. We have granted that position on an interim basis to Jeff Ferguson. What he was tasked to do was evaluate the duties and responsibilities of that position in addition to keeping promotions running and working with the visitor center.

One of the recommendations he has come back with is the need to increase that position to full time and I agree with him. Given the increasing importance of tourism to this community, given the amount of work that position requires. He has also come up with ideas on improving efficiencies of operations and potential cost savings. My recommendation, and I would like council approval, would be to increase this to a full time position. The salary and benefits for this position are paid from the promo fund. The salary (per hour) would remain the same except it would go from a part time position to a full time position. The largest impact would be in the benefits aspect-increased benefits were not added to the budget.

Truesdell-Would like to have a cost analysis to see how this would fit into the budget. During the budget process this position was discussed and money was put in the budget to increase the position to full time but I don't know how the figure was arrived at. Could you assure us that whatever you are proposing that it does indeed fit into the personnel services and then by the next meeting, just for confirmation after the fact, a cost analysis.

Barnes-I can do that and if there is a difficulty, then obviously it becomes a larger question. Also this would become an issue for budget process. This would not be impacting the general fund.

Consensus of the council was this position needs to be a full time.

Truesdell-Does the committee approve of increasing this from a part time to a full time position? I can't see why they wouldn't approve but if they would recommend it, I would lend my support to their recommendation.

Barnes-I will have to bring it to the committee. My one caution is being very careful with the role of the promotion committee with regards to this position. The promo committee does not oversee this position, does not direct the duties of this position. The promo committee is an advisory committee to the position and to the council in terms of promotional programs, campaigns. I actually talked to our attorney on this matter. I don't think you want to get into a position of the promo committee dictating what this position is.

Truesdell-I stand corrected-that is a good point. That person's supervisor is you (Barnes) not the committee. I support making the position full time.

MOTION-Peterson moved to increase the visitor center director to full time with benefits, second by Alexander. Crook, Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 5 AYES

UPDATE CITY POLICIES

Wernicke-We are supposed to review the city policies every six months and sign off that we have done so. It is now time to review the policies again. I suggest that when we review it and sign off that we review it with a close eye on revising city policies, adding city policies and putting them into a

logical format. It is not going to be an easy process but I think there are a lot of policies this council needs to develop on a number of different fronts. There are policies in the book that need to be clarified. I think that is going to be one of the projects we're going to have to undertake at the same time we're setting goals and revamping ordinances. Take notes of what you might want to keep, or revise, or delete or add. A good policy to add would be to develop protocol between individual councilors and the city administrator. Protocol for individual councilors and staff.

I've looked through the League of Oregon Cities and some of the policies from other communities they have listed. There are a whole lot of things, policy wise, that we don't have that we might want to consider. If we do it right, we are talking about policies that could be in effect for a very long time in the future.

SCHEDULING MEETINGS

Barnes-This is more of a clarification on the part of staff to make life easier for council. When we schedule these meetings, they are council's meetings and staff supports them. We would like direction to know what preference council has whether or not you would like us, as a general rule of thumb, to schedule separate meetings or to try and stack as much into one meeting because it is a matter of preference and it cause a little bit of consternation and confusion with regard to the interview process of the latest committee appointments.

Do you want multiple meetings or do you want to schedule a lot into one meeting? Staff just needs some guidance as to what council prefers.

Wernicke-My suggestion is to schedule the 2nd and 4th Monday of the month for meetings and try and fit everything we can into those two meetings. You may want to have a variable meeting somewhere in between-an afternoon or something.

CONSENSUS was to schedule the 2nd and 4th Monday of each month. If it is necessary to meet for interviews, try and tag them onto the beginning of the general meeting instead of calling a special meeting.

CITY ADMINISTRATOR'S REPORT:

Barnes gave the council a very detailed comprehensive update and report on several issues. Police services: Promotion and

Visitor's Center: Planning: Public Works: Municipal Court; Administration and Finance. Details attached as (H). Barnes also reported on the excellent budget workshop, a goal setting session and federal appropriations meeting she attended. Barnes asked council for approval to apply for funds and also for ideas of projects to submit for funding.

MAYOR AND COUNCIL COMMENTS:

Larry Brennan-Great report from our city administrator. The budget workshop training session I attended was excellent. Thanked the council for his appointment as Mayor Pro-Tem.

Peter Peterson-Stated he thought that Janik was a little unhappy or dissatisfied with the council. Peterson read the following statement into the record:
"It seems to me that the chief, P.J. has been a little unhappy or dissatisfied with the council - in his report on the 18th, he came out with and I hope it was a joke-told us that the combination on his door hadn't been changed and that his name was still on his desk,, at least for the time being and I read that hoping that it was in jest, but then it did concern me that on the 23rd on a front page article of the Reporter he was - to me - complaining to the public that he was being micromanaged - and that did very little to humor me. Then the following week, Joel picked up and suggested that council was micromanaging the chief. Then the Pilot ran a letter from the chief on the 26th. And I'm starting to feel that the chief seems to have some problem either with part of us or all of us and so.....

I would like to request a meeting under ORS192.660 section (b) an executive meeting on Wednesday, January 13th at 10:00 am to further discuss and evaluate the situation with the chief.

Then since we haven't had one at all up until this point, I would request an executive meeting under ORS 192.660 section (b) Wednesday the 13th at 1:30 p.m. to discuss and evaluate with city administrator and take care of everything at both of those meetings. After the executive meetings we would want a brief special meeting and I'm requesting those meetings".

Council said they could attend and Janik said he could and requested his meeting to be public.

John Truesdell-Remind everyone that the "Stay in Gold Beach and win \$10 K in gold" sub committee is furiously scuttling

around the community. We've been making up buttons for people that come in contact (restaurants, etc) with tourists that say "ask me about the gold". We're trying to generate a lot of buzz with tourists just passing through town that maybe doesn't have any intent on staying in town. We're looking at putting signs up at both ends of town on our "welcome to Gold Beach signs", as well as the visitor center. If you do have a business in town and would like any of this material, please contact the visitor center.

David Alexander-I think it is important that we do hold those meetings at 10 and 1:30 primarily because there are concerns that need to be aired so they don't sit and fester. That's not productive for anyone.

I strongly support the proclamation request the Mayor received regarding "date violence" for February.

Jeff Crook-Congratulations to Councilor Brennan for his Pro-Tem appointment. I have had an interesting start to my appointment here and I think everyone for making that possible and supporting me.

MAYOR JAMES WERNICKE-The Region 4 portion of the League of Oregon Cities will be meeting here on February 12, 2010 at 11:00 a.m. We will attend a "no host" lunch at noon. The City Administrator and I will be attending. They recommend that only two councilors attend from any particular community. The council may want to get together and see who may want to attend, draw straws or whatever. A lot of times city business comes up and this eliminates the possibility of a quorum.

I personally want to thank the chief of police for the incredible job that he has done. I think that is evident by the people that were here tonight and their explanation of what they've seen and how much they appreciate what he has done. I also know the contribution of the computers from Freeman Marine were in large measure due to the actions of our chief of police.

I very much appreciate what our city administrator has done for us. It is now 9:45 p.m. She has been going through one thing after another since we started at 6:30 this evening. She has provided us with a wealth of information. She has obviously been working very hard. We are very lucky to have both of them. They are the most dedicated and responsible

people that I have ever dealt with. This city is quite fortunate to have both of them.

STUDENT LIAISON-Mackenna Marstall-Tomorrow night we have a home game in basketball against Myrtle Point, all four teams would really appreciate your support by coming and watching them.

Our leadership class is beginning our service project unit, so you'll probably be seeing us doing good things, not only at the high school, but hopefully in the community as well.

The end of the semester is next Thursday so we're getting really close to the middle of year.

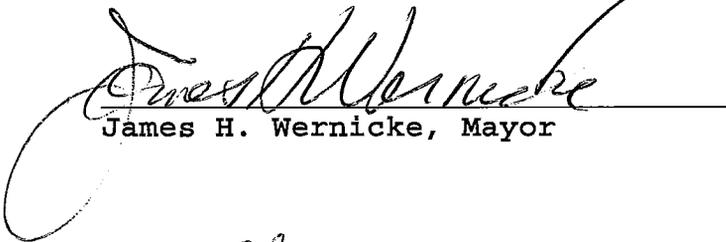
ANNOUNCEMENTS

The next regular meeting for the Gold Beach City Council is scheduled for Monday evening, January 25, 2010 in the Council Chambers of City Hall, 29592 Ellensburg Ave., at 6:30 P.M.

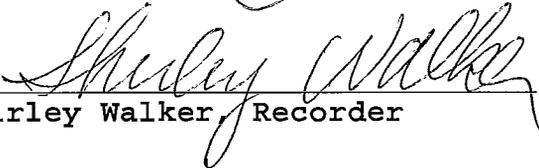
ADJOURNED AT 10:00 p.m.:

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

Passed by the Gold Beach City Council on February 8, 2010.


James H. Wernicke, Mayor

ATTEST:


Shirley Walker, Recorder