

MINUTES
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444
MONDAY, 1/28/08

SPECIAL MEETING: 2:00 P.M.

CALLED TO ORDER BY MAYOR POPOFF AT 2:00 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 Peter Peterson	X	
Council Position #4 Vacant		
Council Position #5 David Alexander	X	
City Administrator Eric Frederickson	X	
Planning Director David Pratt	X	
City Planner Jodi Fritts	X	

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

PUBLIC HEARINGS: (A)

CITY'S BEACHES & DUNES CONSERVATION ZONE (8-CN)

POPOFF STATED:-> The purpose of this public hearing is to obtain information and allow discussion regarding possible revisions to the City's Beaches & Dunes Conservation (8-CN) zone based on a recommendation from the planning commission and other data.

POPOFF STATED:-> I WILL NOW OPEN THE PUBLIC HEARING AT 2:01 P.M.

David Pratt, Planning Director and Jodi Fritts. City Planner will give their report and then we will have audience comments followed by a question and answer period.

POPOFF STATED:-> PER DON SWAN'S REQUEST, I WILL READ THE 8 CHOICES HE HAS LISTED INTO THE RECORD

****THE MINUTES OF THE PUBLIC HEARING ARE ATTACHED TO THESE MINUTES AND MADE AN OFFICIAL PART OF THE RECORD.**

POPOFF STATED:-> I WILL NOW CLOSE THE PUBLIC HEARING AT 3:31 P.M.

Ten Minute Break

DECISION, IF ANY, ON REVISIONS TO THE CITY'S BEACHES & DUNES CONSERVATION (8-CN) ZONE

MOTION:-> Alexander moved that the existing conservation line boundary established in 1984, known as the 1988 line, be considered permanent with no exceptions, second by Peterson.

Planning Director, Dave Pratt cautioned the Council, for the record, that by statute the Council could not bind a future Council to the decision.

WITHDRAW MOTION:-> Alexander withdrew his motion and Peterson withdrew his second.

REVISED MOTION:-> Alexander moved that the city retain the existing conservation line boundary, known as the 1988 line, second by Peterson.

Flynn stated he would like to personally do some more research on this of his own. He appreciates everyone's comments today and values that input but he has some personal questions he would like to look int. maybe get some clarification on, before voting one way or another.

VOTE:-> Johnson, Alexander and Peterson voted "AYE". Flynn voted "NAY". VOTE 3 AYES 1 NAY

ORDINANCES AND RESOLUTIONS:

RESOLUTION R0708-11 (B)

A RESOLUTION THAT THE BUILDING LOCATED AT 29729 ELLENSBURG AVENUE IS DANGEROUS AND ORDERING THAT IT BE DEMOLISHED

POPOFF STATED:->A public hearing was held on Monday, January 14, 2008 regarding the building located at 29729 Ellensburg Avenue. This resolution is the result of that hearing and meeting.

MOTION:-> Johnson moved to approve Resolution R0708-11, second by Flynn . Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES.

RESOLUTION R0708-12 (C)

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR ADMINISTRATIVE ASSISTANT TO SIGN ALL DOCUMENTS RELATED TO THE FUNDING OF THE PROPOSED WASTEWATER TREATMENT PLANT FACILITY

MOTION:-> Alexander moved to approve Resolution R0708-12, second by Peters. Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES.

MISCELLANEOUS ITEMS: Includes policy discussion & determination

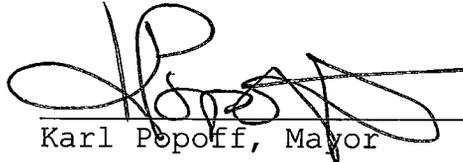
WAVER OF SECTION 2.12 Residence Requirement of Resolution R0708-3

POPOFF STATED:-> A motion is required to wave the policy residency requirements of our new City Administrator.

MOTION:-> Peters moved to wave Section 2.12 of Resolution R0708-3, exempting our new City Administrator from residing within fifteen minutes travel time of City Hall, second by Johnson. Johnson, Flynn, Peterson and Alexander voted "AYE". VOTE 4 AYES

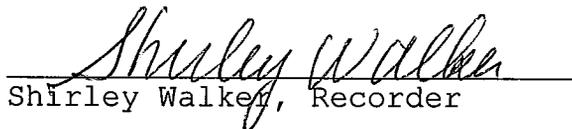
ADJOURNED at 4:00 p.m. :

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
Approved by the Gold Beach City Council on 2/11/08.



Karl Popoff, Mayor

ATTEST:



Shirley Walker, Recorder

Gold Beach City Council
CON Zone
Hearing Minutes, January 28, 2008

Mayor Karl Popoff opened Public Hearings at 2:01 pm.

David Pratt Planning Director explained the reason for the hearing was to review a recommendation by the Planning Commission to revise the City's current Beaches & Dunes Conservation Zone line. Pratt read a written request for postponement, from Zak Mittge, attorney for David and Robert Snazuk. Mittge requested the postponement due to the snowy weather since he was traveling from Eugene. The letter stated the Snazuk's positions on the proposed zone line should the council decline the postponement request.

Mayor Popoff stated that there would be no postponement and the hearing would continue.

Jodi Fritts, City Planner, summarized background information. In 2002, the Department of Land Conservation and Development (DLCD) came to the city and offered grant funding to perform an in-depth study our beaches and dunes conservation line. The current Conservation (CON) line zone was adopted in approximately 1984.

The reason for the proposed study was due, in part, to a lengthy appeal case that had gone to the Land Use Board of Appeals (LUBA) in the late 1990's. The City and DLCD were a party to that appeal and it was based largely around the poor zoning maps that were used to determine the location of the CON line. DLCD felt that until the City had a more definitive map based on scientific data that appeals by other property owners could occur. DLCD wanted to help the city determine the line by assisting in funding a study.

The study was contracted in 2002, and the report completed in 2003, by two local geologists (Chuck Nordstrom and Ron Sonnevil of Terra Firma). The report was brought to the planning commission in 2004 for their review and recommendation to the Council. The Planning Commission held several hearing and made a recommendation to the Council that was a combination of two of the lines identified in the study. The matter was not brought before the Council in 2004 due to the decision of the, then, City Administrator.

Fritts further explained that in 2006, Ron Sonnevil, one of the original geologists, contacted her said he wanted to compare data and update the report after winter storm events. The 2006 revised report was presented to the Planning Commission in November 2006.

In the spring of 2007, the Planning Commission again directed staff to present their recommendation to the Council. In April 2007 the matter was brought before the City Council. One of the landowners who did not own their property during the original 2004 hearings protested and the Council requested that the matter be re-reviewed by the Planning Commission.

Several hearings were held in 2007 and the Planning Commission made the same recommendation to the Council that they had made in 2004.

Late last year DLCD again contacted the City and wanted to know the status of the adoption of the 2003 report. The hearing today is a result of trying to finish the process that had been started years earlier. Fritts read the three options recommended to the City Council in a memo dated November 21, 2007 and are as follows:

1. Adopt the recommendations of the Planning Commission and vote to amend the Conservation Zone line.
2. Make a different determination based on the technical data and testimony received at the Council hearing(s) and vote to amend the Conservation Zone line.
3. Nothing, keep the current zone line.

Mayor Popoff asked the council if they had questions for Fritts.

Councilor Sue Johnson asked what was the difference between the original line and the proposed line (2003 study) and the line proposed in the 2006 report. Johnson also wanted to know who funded the 2006 report.

Fritts said the proposed lines are undulated and the original line is just a straight line drawn on the map. The updated 2006 study line is significantly further east and the study was paid for by the city. Fritts was asked to point out the lines on the map to the council.

Fritts then explained that Jodi explained that in addition to the City's zoning line, the State of Oregon also has a beach line that identifies all areas along the Pacific Ocean that are in public ownership. This line is commonly referred to as the state vegetation line. No development is permitted by the State west of this line. This line is different and in addition to our CON line.

Mayor Popoff reminded the audience about acceptable hearing etiquette. He asked council members if there were any more questions.

Dave Pratt, Curry County Planning Director, came forward wanting to make sure that the council had received all recent correspondence regarding the change in conservation zone line proposed ordinance 6006 and 6007. He listed the most recent correspondence.

Mayor Popoff said they had received all the additional material. The Mayor read a letter written by Don and Cindy Swan's written January 23, 2008.

Mayor Popoff opened public hearings, He explained the rules and limited discussion to 5 minutes per person; accepting donated minutes for a maximum of 15 minutes.

Johnson asked for procedure clarification regarding the council "making a decision" for a boundary change adoption at this hearing. Mayor Popoff clarified that they will not be making a decision for a boundary line at this meeting. This is just public hearing.

Dave Pratt explained to the council that they could make a decision today but that they would have to prepare an ordinance to the first and second reading. He clarified that they could in fact vote their decision but there would not be an ordinance today.

Mayor Popoff invited the following audience members to the podium in order:

Mark Rasmussen – 97137 N. Bank Rogue River Rd.

Mr. Rasmussen confessed his confusion about the ordinance and the City's reaction to developers who previously asked for changes in the ordinance. He asked if city officials looked at proposed development projects to make certain the area was viable. Mayor Popoff said they did and explained that all proposed projects go to the planning department for review.

Mayor Popoff asked Pratt to explain.

Pratt explained that the state initiated the study because the existing line is not fixed. It is open to interpretation and we don't know where that line really is. The study delineates a definite discrete line that we can use in the planning process.

Rasmussen asked the planners about core samples taken behind Chives Restaurant before development. Fritts told him that there were no core samples. Representatives from DLCD and the Oregon Parks and Recreation Department (OPRD) came down, made a site visit on that property in 2003, and said this is where the line is on this property. Core samples are not a requirement. Rasmussen continued discussion regarding core samples and his expressed issues regarding beach health. He asked about the planners guessing where the line is and their ability to approve planning matters and what came out of the study in 2006. Fritts explained that the reports were based on GPS coordinates and the coordinates could be located by any surveyor for future reference regarding new development.

Martha Jane Stuart – 97137 N Bank Rogue River Rd.

Ms. Stuart asked the council to consider the most stringent choice to retain the natural beauty of the coast.

Councilor David Alexander asked Fritts which line is furthest east of the ocean. Fritts said she believed that line to be the current CON line.

Jim Freedman – 94253 Gauntlet

He began by thanking the council for their proactive stand involving the safety of the community regarding Tsunami hazards and hopes the council will make the right decision. He shared some history and pictures of Bay Ocean near Tillamook, in 1947, which showed beach erosion over a period from the 1900's. He shared information regarding elevation differences of the coast past to present. He encouraged the council to make the right decision. He referred them to Goal 7 and 18 of the statewide planning goals.

Alexander explained, to Mr. Freedman, his understanding regarding Goal 18 that if a structure was built after 1977 no beachfront protective structures are permitted if erosion occurs. Mr. Freedman responded by adding that if the land is over-washed by the ocean, that owner could not get a permit to preserve the structure. Discussion ensued regarding beach stabilization and erosion.

Mayor Popoff asked about beach accretion along the stretch behind and north of City Hall. Fritts agreed that the beach has accreted over the last 30 years, but she wasn't sure how much.

Cindy Swan – 29346 Ellensburg Avenue (Gold Beach Inn and Irelands Rustic Lodges & RV)

Ms. Swan conveyed her belief that there is no reason to get rid of the 1988 conservation zone line and that the line should be made permanent without exceptions. She asked council to please leave the 1988 zone line where it is. She requested that the council consider landowners who want to keep their property in its natural state. Landowners should have the same rights as developers and shared information about property owner's ability to apply for a Conditional Use permits. Adjacent landowners are notified and she shared her experiences regarding surrounding property development. She read the Notice of Decision findings for a proposed project of the Sand and Sea Motel that was denied. Further discussion and 2006 photos were shown, regarding the areas of Sand and Sea Motel. She referred to the 2003 report regarding Hunter Creek. She restated her plea to retain the current line.

Don Swan – 29346 Ellensburg Avenue (Gold Beach Inn and Irelands Rustic Lodges & RV)

Mr. Swan spoke about the failing sewage system and what more development would do to that failing system. He accused Fritts and Pratt of encouraging the *Council* to believe that the State of Oregon wants the city to destroy or bulldoze the shoreline as they did with Sebastian Shores or Chives. He felt the State study and funding was only about the protection of the conservation line-not to get rid of it, and believes we should take the most protective line. Mr. Swan continued to discuss his complaints about the planning department procedures and staff. Mayor Popoff reminded Mr. Swan about the nature of the hearing today and offered to speak with Mr. Swan, regarding other matters, later.

Gene Pranger – 29362 Ellensburg Avenue (Sand and Sea Motel)

He spoke about his prior proposal for development and explained his support for the proposed conservation line, which is based on a scientific data. He shared his goals for his property, keeping preservation in mind, patterning it after the Sundance Property developed by Robert Redford in Utah. He showed an artist rendition of what the shoreline 45 years ago and acknowledged the accretion and buildup of sand along the beach. He requested the adoption and endorsement of the 2003 (study) proposed conservation zone

Barrett Edgar – 37144 Chantrelle Lane

Commended Gold Beach for maintaining such beautiful beaches. He wants to preserve the beaches and dunes by combining the 1988 line with any other line further to the east. Suggests a survey that makes permanent boundaries so future property owners will know where the line is.

He shared his hopes to refrain from building on our beaches like so many other coastal communities.

Robert Snazuk – 28555 Emerald Drive

Mr. Snazuk owns property between Sebastian Shores and South City Park. He remarked that he is happy with the current zone line but doesn't mind a change of the line. He shared information regarding the new Visitor Center in Brookings at "Crissey Field". He felt the revised 2006 report has flaws about the reported ground dropping six feet. Mr. Snazuk has done studies for his properties and shared information regarding active, inactive and stable dune movement. He asked the council if they had the copy of the state Crissey Field report for comparisons. The council said they did.

Kelly Ryan – 28315 Mateer Road

Ms. Ryan shared that she is a new resident and hopes that the council will have the wisdom to make the right choice. She shared her experiences living on the coast in California, beliefs about development on the Rogue River and the power and force of *Mother Nature*.

END OF PUBLIC TESTIMONY

Fritts asked the Mayor who they met with down by South Beach Park in 2004. Mayor Popoff responded Lane Shetterly, Director of DLCD. Fritts explained the reason for the meeting, by reading portions of an ordinance adopted in July 2004. City Ordinance 586 (attached) amending the comprehensive plan to provide for an amendment to the comprehensive plan zoning map; referring to the Sebastian Shores property. She pointed out the Council that Gold Beach is unique from any other Oregon Coastal town in that fully ½ of the beachfront property is in public ownership: the port, the city, the school district, and the fairgrounds. The only areas that are in private ownership that can be further developed are between the Fairgrounds to Sebastian Shores which is roughly 10 parcels. Everything north is publicly owned.

Fritts briefly explained Snazuk's reference to the state Crissey Field study. The study was conducted by the state Department of Geology and Mineral Industries (DOGAMI) on behalf of OPRD. DOGAMI is the agency that developed the state's tsunami hazard maps. In the Crissey Field study the location chosen for the Visitor Center is located within the identified High Hazard zone. The Planning Commission's recommendation was the east side of the moderate hazard zone identified in the 2003 study.

Mayor Popoff asked if anyone else wished to speak.

Don Buffington- Used to own the Sand and Sea Motel

Spoke about beach erosion and storm events. He hopes the line will be kept easterly. He urged the council to limit construction too far to the west.

Mayor Popoff asks council if they have any questions. Johnson asked Fritts the difference between the current line (1988) and the proposed line (2003). Specifically, if the Council decided

to keep the old line, how would the planners figure out where the line is? Fritts said it is scaled off the map with a measure of 1-inch equals 800-ft.

Johnson asks for clarification about making a motion today. Mayor Popoff said that they could take vote today but there would be no ordinance today.

Mayor Popoff closed Public Hearings at 3:31 PM. Thanking the audience for its cooperation, Mayor Popoff adjourned for a 10-minute break.

Mayor Popoff re-opened the Meeting at 3:43 PM and asked council if they were prepared to make a motion.

Motion: Councilor David Alexander made the following motion:

“I move that the existing conservation line boundary established in 1984, known as the 1988 line, be considered permanent with no exceptions.”

Councilor Pete Peterson seconded the motion.

Mayor Popoff stated a motion had been made and seconded and asked for any discussion. Planning Director, Dave Pratt cautioned the Council, for the record, that by statute the Council could not bind a future Council to the decision.

Councilor David Alexander withdrew his motion and Councilor Pete Peterson withdrew his second.

Revised Motion:

Councilor David Alexander made the following motion:

“I move that the city retain the existing conservation line boundary, known as the 1988 line.”

Councilor Pete Peterson seconded the motion.

Mayor Popoff stated that a motion had been made and seconded and asked for discussion.

Councilor Don Flynn responded – “I would like to personally do some more research on this of my own, I appreciate everyone’s comments today and value that input, but I have some personal questions that I would like to look into, and maybe get some clarification on, before I vote one way or another.”

Mayor Popoff thanked Flynn and asked for further discussion.

Councilor Sue Johnson initiated the vote.

**Vote: Ayes – Sue Johnson, David Alexander and Pete Peterson
Nays – Don Flynn**

**Mayor Popoff stated for the record that the motion passed 3 to 1 and
concluded the hearing on the CON zone.**

Respectfully Submitted,
Diana DeLong, Clerk