

MINUTES

**REGULAR MEETING
MONDAY, APRIL 12, 2010: 6:30 P.M.
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444**

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	<u> X </u>	<u> </u>
Council Position #1 Jeff Crook	<u> X </u>	<u> </u>
Council Position #2 Larry Brennan	<u> X </u>	<u> </u>
Council Position #3 Brice Gregory	<u> X </u>	<u> </u>
Council Position #4 Doug Brand	<u> X </u>	<u> </u>
Council Position #5 Tamie Kaufman	<u> X </u>	<u> </u>
City Administrator Ellen Barnes	<u> X </u>	<u> </u>
Student Liaison Mackenna Marstall	<u> X </u>	<u> </u>

****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:

SWEARING-IN OF NEW COUNCILOR TO POSITION # 3 (A)
Mayor Wernicke performed the swearing in of Brice Gregory to Council Position # 3

CONSENT CALENDAR:

APPROVAL OF MINUTES: 3/8/10-Regular Minutes: 3/29/10-Workshop and Special Minutes

MOTION: Kaufman moved to approve the consent calendar, second by Brennan. Crook, Brennan, Gregory, Brand and Kaufman voted "AYE". VOTE 5 AYES

ORDINANCES AND RESOLUTIONS:

ORDINANCE 634 - AN ORDINANCE ADOPTING A REVISED GOLD BEACH COMPREHENSIVE PLAN AND LAND USE CODE AND REPEALING ORDINANCE

327 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT - **SECOND READING** (B)

Wernicke read Ordinance # 634 by title into the record.

MOTION: Crook moved to approve the second reading of Ordinance # 634, second by Brennan. Crook, Brennan, Gregory, Brand and Kaufman voted "AYE". VOTE 5 AYES

BARNES read Ordinance # 634 by title into the record.

ORDINANCE 635 - AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A SIX PERCENT TRANSIENT ROOM TAX AND PROVIDING ADMINISTRATIVE PROCEDURES FOR COLLECTION AND DISBURSEMENT OF SAME, PROVIDING PENALTIES AND APPEALS PROCEDURES, AND REPEALING ORDINANCE 597 AND ANY OTHER ORDINANCES THAT MAY BE IN CONFLICT - **SECOND READING** (C)

Wernicke read Ordinance # 635 by title into the record.

MOTION: Brennan moved to approve the second reading of Ordinance # 635 by title only, second by Crook. Kaufman abstained citing a conflict of interest. Crook, Brennan, Gregory, and Brand voted "AYE". VOTE 4 AYES 1 ABSTAIN

BARNES read Ordinance # 635 by title into the record.

RESOLUTION R0910-26 - A RESOLUTION AMENDING THE VACATION ACCRUAL POLICY FOR CITY EMPLOYEES (D)

BARNES stated this is a request to council to make a change to personnel procedures. This change would amend the accrual rate for city employees. It will bring all other city employees at the same accrual rate as those that are under the union contract. This would amend section 7.2 of the Gold Beach Personnel Policies. The language would stay the same, the only change would be how employees earn their vacation accrual each month. There are some slight adjustments depending on the number of years with the city.

This will be a two-step process. We have been accruing at the rate that is established by the union. This is a housekeeping measure. This is correcting and amending the personnel policies procedures so it is in line with how the procedure is being done. A second resolution will be brought before the council at the next council meeting, which will list the accrued vacation time for all employees.

MOTION: Kaufman moved to approve Resolution R0910-26, second by Brand. Crook, Brennan, Gregory, Brand and Kaufman voted "AYE". VOTE 5 AYES

MISCELLANEOUS ITEMS (including policy discussions and determinations:

A. DISCUSSION ABOUT REVISIONS TO THE NUISANCE CODE (E)
Kaufman's comments didn't get incorporated into the draft ordinance so Barnes read them into the record. (F)

RE: 5.230 - Ice and Snow: Crook suggested leaving it in-better to have it in rather than to not have it in.

5.535 - Poisoning of animals: Change wording-"That it may be ingested by any horse, cattle, sheep, hog, dog or other domestic animal" for better clarification.

5.590 - Curfew: Chief Janik said that it was important that the county, Brookings and Port Orford all have the same curfew hours. Will be left open until Barnes checks with the county, Brookings and Port Orford.

Mackenna Marstall-stated if you have your license, for the first six months, you can't drive after midnight and before 5 am unless you are coming home from a sporting event or school event.

There is no requirement that pet owners have to clean up domestic animal feces and remove it. (consensus was to include this in the parks section and provide something to deposit the "bags")

2.c - Concealed weapons permit - will they be allowed to carry a firearm in the park? (It will be checked to see if you can put a restriction of no concealed weapons on any city property) Brennan said if there isn't any conflict with any laws he would like to see ALL weapons (excluding police officers) banned from all city property. Barnes will investigate and formulate the language.

Wernicke stated that question always comes up. If I have a concealed weapons permit, I can carry my gun anywhere. If you specify that even if you have a permit you can't be there with it, you eliminate that confusion.

Kaufman would like to know what the rules are regarding concealed weapons on public (city) property.

MODEL NOISE ORDINANCE FOR OREGON CITIES (G)

A model ordinance from the League of Oregon Cities is attached as (G). It is extremely comprehensive and has already been reviewed by their legal department.

Section 5.510 - unnecessary noise - was discussed at length.

Barnes-stated that in this case we should keep it simple. We don't have a lot of enforcement capabilities. When you start to fine very stringent standards, it becomes more difficult to enforce. For instance-noise levels-you would have to have a decibel reader before you can take them to court. So the reasonable standard is one I (couldn't hear). I do agree with the permitting process. The problem you are going to have with the permitting process is often times - if it is an on-going event it is usually not as problematic, if it is a single even, often times they don't even think of getting a permit and we have to deal with it after the fact. Then all of a sudden we're in the midst of an event and they're not going to be able to get the permit when they've already got the complaint filed against them. I'm not sure where that's going to help out in single cases all the time.

Brennan-suggested having a permit that outlined what we're permitting - time or restriction on an activity, or ? and it was issued by staff-it would tell you what you can do and what you can't do. Then if there is a violation it can be enforced.

Wernicke-stated you could have a "catalog" of conditions. There are too many variables to put it in writing.

Crook-The authority is for the council to approve the permit. That gives the public a chance to give their opinion either for or against it before the permit is granted.

Brennan-We don't want to hold a council meeting every time someone wants a permit. I don't think the council should be the one issuing the permit.

Wernicke-Under the draft language here, a person has a right to appeal the denial to the city administrator. You can't operate any device for sound reproduction, amplification, etc., so loudly as to disturb persons of normal sensitivity in

the vicinity thereof. That means you can't do that under any circumstances unless you go the chief and get a permit that if you can demonstrate that the compliance with that limitation would produce unnecessary hardship to you without equal or greater benefit to the public, then the purpose of the noise disturbance provisions can be served without a strict application thereof. The fact of the matter is, it is couched in those kind of terms so there is some ability for whoever is looking at this to make some reasonable limitations or to overlook some harsher language and maybe say "OK, you may disturb some people slightly, if it gets out of hand, we'll have to close you down even with your permit". At least you've made the right step in the right direction and that's all it is.

If you look at the case law you are looking at the First Amendment Right-Freedom of Speech-so be very cautious about what kind of limitations you put on them.

Barnes-Recommended tying this into the business license process and the special events permitting process. If it is a family having a family BBQ, they're not even going to think they need a permit. We really can't regulate that. Unfortunately the police are going to have to deal with that on a case-by-case basis. We do have some control over business operations, which would be bars and restaurants in town. We can also have a little control over special events like the Party at the Port. So we could build into our regular processes another layer of noise permitting. Like add to the application "are you going to have a particular type of activity that will generate noise"? We have to educate the applicants when they apply that if you are going to have an activity that will generate noise, this is what is required.

I don't think we can enforce "Ad Hoc" activities through a permitting process.

Wernicke-The only thing that bothers me if is at some point, you have to have a "law" to enforce. If you don't, then someone can just go ahead and do it-there is nothing you can do because you don't have a law that says I can't do this.

Barnes-We still have what we would consider "unnecessary" noise. I'm talking about the permitting process. I don't think we can require individuals to come to the council or the city to request a permit for an individual event. I don't think that is realistic. We can enforce special events in

businesses. Then we still have an "unnecessary noise law", if it is in excess and people complain, the police will have to deal with those events individually. I don't think we can "permit" those type of events.

Brand-Asked Chief Janik if Oregon State, City, County, have a decibel limit for noise? In Arizona we had 100 decibels within 250 feet. (Janik didn't know for sure)

Janik-Agreed with the City Administrator's recommendation.

Wernicke-We looked into getting the equipment for measuring decibels. It was not only expensive to get the equipment; it was very expensive to have it regularly calibrated. For the little bit that we would have used it in this community it wouldn't have been cost effective.

Brennan-We could permit businesses only. We could deal with the issue at the time of license renewal. Let the businesses know that if they have a band or music, you need a permit. That would give the police department and city notice.

Barnes-We can do that. We can also send out notices as reminders. That's something we can proactively do. My problem with going with decibels is it just gets thrown out of court.

Kaufman suggested having staff compile and re-write it and let the council review it.

Barnes-It appears the council agrees that permits will only apply to commercial or special events. The language will be inserted into the ordinance.

Janik spoke but must not have been at the podium because the transcriber couldn't hear what he said.

Barnes will draft up a permitting process and see about having it initially run through the City Administrator and/or the Chief of Police. I'll see what our attorney has to say-we may fall into some legal issues.

DISCUSSION REGARDING PROCESS FOR ADOPTING CITY CODE

Wernicke-This has been before the council a couple of times. Do we adopt the codes before we modify them? Or do we modify them and then adopt them? With more recent experience with our new city attorney, would argue that we go ahead and adopt them because it is so much easier to look at a code when you're talking about amending, changing, removing or adding something. Rather than try and look at ordinances that are scattered throughout six different binders.

Brennan-We've done it with three ordinances so far and it seems to have worked very well. There are some things we need to revisit in zoning but that's gone through. I think the initial plan of putting the ordinances in the code and then going back and modify whatever we need to at a later time makes a lot of sense to me.

Brand-I'd like to echo that; I think that is the way to go.

Barnes-When you adopt an ordinance - if you do a first and second reading, you can do it by title only, otherwise you have to read the entire ordinance.

MOTION: Kaufman moved to adopt the city code and move forward with that process, second by Brennan.

Barnes-We're going to have to bring it back because there are ordinances to adopt it. You need to motion me to direct staff, at the next council meeting, to bring back to you the code. Because each section of code, if you adopt it, must be adopted by ordinance. For us to adopt an ordinance we have to have a weeks notice for public and council to review them so we cannot adopt them tonight.

MOTION WITHDRAWN: Kaufman withdrew her motion and Brennan withdrew his second.

MOTION: Brennan moved to direct the City Administrator to bring back to council the codes for codification, second by Kaufman. Crook, Brennan, Gregory, Brand and Kaufman voted "AYE". VOTE 5 AYES

REAPPOINTMENT OF COUNCIL LIAISON POSITIONS

With the changes in the council, some of the liaison positions are now vacant.

Barnes-Alexander, a previous councilor served on the Curry County Solid Waste Recycling Advisory Committee and the Household Hazard Waste Committee. These are committees external to the city. The council was Gold Beach's representation.

This was tabled until the next meeting to allow time to gather more information.

CITY ADMINISTRATOR'S REPORT: (H)

BARNES-Gave a detailed comprehensive report regarding city department activities for the month.

Police Dept-The "Take Back Prescription Drugs" campaign was a huge success. 39.4 # of prescription drugs were dropped off. There is now a prescription drop off box located in the lobby of city hall that was donated by the US Postal Service and refurbished and painted by volunteer Lester Bridgeman.

Promo Committee-Saturday, May 1, there will be a "May Day Mixer" at the visitor center. Everyone is invited to attend.

Emergency Management-Ongoing pre-mitigation and post-recovery planning meetings with county and other stakeholders.

Public Works-Lab building will be completed tomorrow and ready for a "walk through". The O & M building is nearing completion. Regarding the Wastewater Treatment Plant Project itself-bids will be advertised in July, opened in August and awarded in September of 2010.

Fire Department-17 volunteer firefighters responded to the fire at the Wedderburn Store. Two GB engines and one Ophir engine responded-the structure was saved. Kudos' to the responders.

Administration and Finances-Imagine scanning system for checks will begin in the front office within the next three weeks. The benefit is an immediate deposit. Direct payroll deposits and ACH payment of vendors will be implemented soon. Cost modeling will be done regarding acceptance of debit/credit cards. We will be investigating the use of pre-paid debit cards for travel.

Tentative Topics for April 27th Agenda-> Goal setting:
Accrued vacation resolution: Credit/debit card policy and use:
Discuss monthly financial statements: Liaison

appointments: Permitting process for special events-the whole nuisance issue: City codes:

June 25th was previously set for the next Townhall meeting.

Student Liaison Marstall reported that graduation is June 4th.

Discussion ensued regarding moving the Townhall meeting to an earlier date. One of the questions was if it would be an effective meeting if we didn't have our goals established. This will be discussed further at the 4/26/10 meeting.

MAYOR AND COUNCIL COMMENTS:

MAYOR - JAMES WERNICKE:

A very important part of city government function will take place this Thursday - the 10-11 budget. This is an opportunity for the public to listen to the process of finding out where the city gets their revenue and how that revenue gets spent. It is a very well prepared with excellent explanations through the entire budget document.

COUNCILORS:

Jeff Crook-Congratulated Brice Gregory for his appointment to Councilor position #3 (echoed by Mayor & Council). In regards to the CSA I have been trying to get started - we are having some real issues with insurance. Thanked the City Administrator for the tireless efforts in what she has accomplished and we really appreciate it.

Larry Brennan-The Urban Renewal District Committee met on the 9th of April. We reviewed ORS 457 which deals with Urban Renewal. The committee will bring samples of ordinances establishing Urban Renewal Agencies to the council at the 4/26 meeting for discussion. We will be asking council to establish an Urban Renewal Agency by Ordinance. That is the first step according to ORS 457. We will tour the city to consider incorporating into the District. Short term projects and longer term projects that are more expensive were discussed. Hopefully, if the District is created and the funds built up, then the longer term more expensive projects can be considered. Our next meeting is the 7th of May.

Brice Gregory-Thanked the Mayor and Councilors for approving his appointment and he is looking forward to working with everyone.

Student Liaison - Mackenna Marstall - The 18 students that traveled to Italy have said it was "life changing and very exciting". Annual read-a-thon is being worked on. Softball & baseball are in full swing with home games scheduled for tomorrow.

Mr. GBHS charity project is coming up on April 25th @ 6:30 in the old gym. The prom is May 1st.

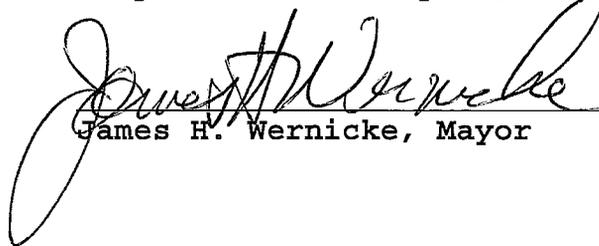
A second council meeting in April is scheduled for April 26, 2010 at 6:30 p.m.

The next regular meeting for the Gold Beach City Council is scheduled for Monday evening, May 10, 2010 in the Council Chambers of City Hall, 29592 Ellensburg Ave., at 6:30 P.M.

ADJOURNED at 8:15 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 May 10, 2010.


James H. Wernicke, Mayor

ATTEST:

Shirley Walker, Recorder