

THESE ARE DRAFT MINUTES UNTIL APPROVED BY THE COUNCIL

MINUTES

CITY COUNCIL CHAMBERS, CITY HALL

29592 ELLENSBURG AVE

GOLD BEACH OR 97444

MONDAY, APRIL 13, 2009

REGULAR MEETING: 6:30 P.M.

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 Sue Johnson	<u> </u>	<u> X </u>
Council Position #2 Larry Brennan	<u> X </u>	<u> </u>
Council Position #3 Peter Peterson	<u> X </u>	<u> </u>
Council Position #4 John Truesdell	<u> X </u>	<u> </u>
Council Position #5 David Alexander	<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

MAYOR'S PROCLAMATIONS: (A)

Early Childhood Awareness Month

Alcohol Awareness Month

Mayor Wernicke read his two proclamations into the record.

CITIZEN COMMENTS FROM THE AUDIENCE:

Linda Alexander-Announced the project she is spearheading called "Neighbors Care". Her efforts will be to encourage agencies and citizens to be aware of a possible tsunami danger. The evacuation routes are in need of improvements and people are put at risk trying to access them to get to safety. When a tsunami hits, it could take 30-70 days for help to reach our citizens. The airport would be gone. There are no plans to insure the safety of our citizens. Alexander would like to institute a program whereby citizens can and will become involved. Her email address is projectneighborscare@hotmail.com.

Robert DeGross, grandson of Jessie Ritchey-Commented on the firing of Don Flynn. He is not here to critique any of the councilors, however, it is connected to his critique of local law enforcement. He and his grandmother have had a lot of

problems with trespassers. He has seen many people there and to make a long story short, Officer Kelly refused to even put this on record or do anything about it. He said it is my responsibility to put up "No Trespassing" signs every 30 feet.

To connect this to law enforcement and the firing of Don Flynn with the chief that was fired in the summer, he asked what kind of chief of police would you describe someone who suggests how to solve a domestic dispute by paying the neighbor off?

(Wernicke responded that is not acceptable) DeGross agreed that it isn't acceptable.

If his mother and grandmother were present and there is an easement that had been in the deed for 50- years...his solution was to pay the woman off. He stated he feels the same thing has gone on with Officer Kelly. Don Flynn has no.....I do not know him but...he was the only person who would look me in the eye and shake my hand with a warm handshake and say to me that if we are not getting help from the city he would look into it.

I traced mismatched plates with no registration on the vehicle that was in a ditch in our yard that I ended up towing out. Officer Kelly came out and didn't even write anything up, then left because he knew these people.

He is trying to finish his bachelor degree and is at Southwestern. He asked that the next time a city administrator or law enforcement is hired, please remember that a democracy is something we all have in common.

He loves the city and his grandmother. He is not a criminal, he has no record. He just wants the council to know that Don Flynn is a 100 percent quality individual. He wants to keep his grandmother safe.

Wernicke said we are in the process of changing things and within a few months that change will be noticeable.

CONSENT CALENDAR (B)

- A. Approval of Council Minutes of March 9, 16, 27 and 30, 2009.
- B. Review of bills paid in the amount of \$76,328.35.

MOTION-> Alexander moved to approve the Consent Calendar as presented, second by Brennan. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

CITIZEN AND/OR AGENCY REQUESTED AGENDA ITEMS:

COMMUNITY EMERGENCY RESPONSE TEAM AND 72-HOUR EMERGENCY READINESS KIT - Pete Peters

Peters handed out cards and said that when he was on the council, we had our own emergency coordinator and he hopes the present council will go back to that position.

John Woodard spoke as Secretary of Citizens for Emergency Preparedness, as well as several other agencies. (Could not hear well enough to transcribe his comments)

Peters said for the benefit of those that didn't know what was done in the past, Peters recapped the training he had taken.

Some systems are in place but nothing is done with it. There needs to be more training in these areas, we need to get hooked up with FEMA.

There are many things that would work for us. We need trained volunteers. He showed the council where the Citizen's Emergency Responders (CE) program is and mentioned several trainings that are available. We need more support and more money.

He would like to have the council donate their next month's stipends. He believes that would help the community more than it would the councilors.

Wernicke said the city does have a responsibility to keep people informed and to be prepared. He asked Peters if there was a way to constantly remind people to be ready.

Peters would like to see all five of the councilors at the next training, along with their neighbors. There is a class coming up in May, which isn't full, and he is always available.

There are monthly meetings and Peters would love to see a councilor involved, along with a policeman and fireman. He would like to see everybody in the city take a CPR class. The city should sign up for surplus foods and water to be used in an emergency.

PORT HIGH DOCK (C) - Councilor Truesdell

Truesdell said that on March 18, 2009, he read a legal notice that said the City of Gold Beach certifies to HUD that Donald Flynn consented to accept the jurisdiction of federal codes. This is in relationship of the grant funding to replace the port's high dock.

Truesdell said he fully supports the port grant to maintain their infrastructure and he supports a "good neighbor policy" but was concerned there may be some express liability in the city's underwriting of the port's projects.

Truesdell thinks it would be prudent, if the council agrees, to have the city request the port to prepare a Memorandum of Understanding (MOU) detailing the project and the city's obligation and oversight. The port would agree to indemnify defendant and hold harmless the city in any actions brought as a result of the project and to add the city as an additional insured on the port's general liability policy throughout the term of the project. Truesdell doesn't believe there will be any cost to the city. (Alexander agreed-don't do anything to prevent it, but any risk should be removed from the city)

Milt Walker, President of the Port of Gold Beach asked the mayor for permission to speak. Walker said this session should take place between a representative from the city and the port manager. It should not be hashed out here. He suggested the city appoint someone to meet with Mr. Roberts and hash out the details.

Alexander agreed and nominated Truesdell to be the council's representative in the negotiations. **Truesdell** accepted and said that he will meet with the port manager and report back at the next council meeting. **Walker** said the port meets this Thursday night at 7:00 pm and it might be a good idea to meet with the port manager prior to the port's monthly meeting.

REQUEST EASEMENT FOR SKATEPARK (D) - **Brad Wood - President**

WERNICKE-> On behalf of the Gold Beach Skate Park Organization, Brad Wood is requesting a permanent ingress/egress easement across city property for a pedestrian/handicap walk access. A facility permit for the construction of the access has been submitted and is pending approval of the requested easement. Mr. Wood is also requesting permission to post their address plate at the entrance to their park property by virtue of a city-endowed easement. Mr. Wood also states that the requested letters of recommendation from the Lower Rogue Watershed Council and the Oregon Department of Fish and Wildlife have been received and the Gold Beach Skate Park will comply fully with all recommended conditions set forth in those letters.

Mr. Wood has had a certified engineering surveyor give his stamp of approval. A certified engineering geologist has stamped the one that is currently in your packet, which is not acceptable. Mr. Wood has brought the correct one to the meeting this evening.

Just as a clarification, the Gold Beach Skate Park's address is 94210 Harlow Street, not Colvin Street and their correct name is Gold Beach Skate Park. They were incorrectly referred to in Margaret McHugh's letter.

Brad Wood-The stamped description by the surveyor (city requested) should be in the packets. The easement is on a leftover piece of property from when Harlow Street was put in. It is the hill that drops down into the skate park property. He doesn't think it is of much worth to the city. They want ingress so they can use their property without going across someone else's. The property is surrounded by private properties and there is no access other than Highway 101 and ODOT isn't going to give any easements on 101.

Truesdell asked if their request was for an exclusive easement or non-exclusive easement. (Woods said he wasn't sure) Truesdell said he was pleased to see them move forward but is concerned as to concepts of "attractive nuisance" and is looking for a way to cover the city if it has any liability in the future due to failure of maintenance on any egress or ingress.

If you were to chain off the ingress, it would be an exclusive easement, just for the skate park, as opposed to anyone just walking down and not reaching your property, but walking on the city property. The overall concern is if the city agrees to this, there has to be a way to somehow mitigate or lessen whatever liability the city may have, by granting the easement.

Wood said there will be a park in there as well as a skate park. When the Crook family donated the land, there was an informal understanding that we were going to get rid of the blackberries and landscape the entire parcel. The north side of Dean Creek will be a public setting. We are not planning on installing a gate, but we could if necessary.

Wernicke stated that if someone trips, even though the skate park owns the sidewalk, the city still owns the property and that is why the city would want to become one of the insured.

(Wood wondered if that wouldn't be on the city's insurance company)

Alexander asked what liability policy they have. (Wood said \$2,000,000). Alexander thought they could just buy a rider on their own policy to cover the city for that easement property. At this time the property is an eyesore and the plan the Skate park has for the area would be a tremendous improvement.

It was suggested that the city call a special meeting when Wood gets the rider. The excavator is ready to work and Wood would like the city to expedite the process. (A special meeting will be called to accommodate Wood's request)

Jim Freedman-The council is gathered here to consider a bank cut across the city's property. The skate park is still in the riparian setback area of the creek and as such, they are still in violation of the Oregon Statewide Planning Goals and Guidelines, especially Goal # 5 and # 7. Over the weekend, he heard that we in Gold Beach do not follow state law, we follow Gold Beach law.

Secondly, the location of the skate park entrance is in direct conflict with the girl's softball field entrance and a number of people park on Colvin Street. Many of them are older or sick or handicapped and they cannot get to the park and the city is planning on closing Colvin when the easement is granted. Freedman would like the council to tell people they are going to close Colvin parking and get their response to it.

Thirdly, a number of convicted perverts live within a minute or two walk from the park. The skate park attracts kids and the location of the skate park in the hollow would not be safe for the kids. I am concerned that a child could be taken back to one of the homes within a few minutes and our police department might be out of town in Nesika Beach or Lobster Creek or in California. I urge you to consider these things.

Truesdell-you mentioned several things in the very beginning, that the skate park is in violation of Oregon State Planning?

Freedman-they have entered the riparian area of Dean Creek. There is a set back and Dean Creek drains into the Rogue River and is part of the Rogue River Watershed. I believe there is a 75 ft. setback required on either side of the top of the bank of Dean Creek. It belongs to the people of the State of Oregon. It is a riparian setback. I do not believe they can enter into

a riparian area to put in a skate park. (There was a short discussion regarding that factor) The planning department is not part of the Lower Rogue River Watershed, but it is by definition. Read the statewide goals and guidelines and you will see it is. Planning doesn't believe it is because it is not fish bearing.

Peterson-Agreed with Freedman but if ODFW comes up with this, I think we are blowing in the wind, that they will go ahead and we will have the park.

Freedman-Said he understood that but he wanted to voice his concerns. He said he does plan to go further on this.

Brennan-Asked if Colvin Street would be closed.

Freedman-He was told by the public works director and the city administrator that it would be closed "to parking". All the people that park there and watch the softball games would not be able to continue doing so. They will stop the parking, just during softball games.

Gary Fletcher-The slope of the easement is 70 percent. The park will use it for handicapped access. It would only eliminate about two parking spaces. Maggie, of the lower watershed, has written off on that - no issues. The park will restore Dean Creek and plant native plants and will have kids help with the rehabilitation of the creek.

CURRY TRANSFER & RECYCLING (CTR) - Pete Smart

Annual CPI adjustment for 2009 (E)

WERNICKE-> Our agreement with CTR calls for an annual CPI inflation adjustment by April 1 of each year. Although the CPI Adjustment has been calculated from 2008-2009 to be 3.85%, CTR has once again given us all a break by going with a 2.9% CPI instead of the 3.85% that they could be using. On behalf of the City of Gold Beach, I would like to thank CTR and express our sincere appreciation in their continuing effort to keep costs down as much as possible. I believe this is self-explanatory but Mr. Smart is in the audience if you have any specific questions or would like additional information.

Mr. Smart approached the podium and received thanks from the council for his generosity and assistance to the city.

PUBLIC CONTRACTS AND PURCHASING:

CITY/COUNTY PLANNING AGREEMENT-Mayor Wernicke-Status Update

WERNICKE->The Agreement will go before the Board of Commissioners at their April 20, 2009 meeting.

ORDINANCES AND RESOLUTIONS:

ORDINANCE NO. 622 (F)

AN ORDINANCE AMENDING SECTION 1.110 (1) (d) OF THE GOLD BEACH CODE

Second Reading by title only

WERNICKE-> The first reading of this ordinance was 3/9/09. This ordinance reinstates the previous restrictions on the appointment of a city administrator.

MOTION-> Alexander moved to approve the second reading of Ordinance # 622, as read by title only into the record by Mayor Wernicke, second by Peterson. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

ORDINANCE NO. 621 (G)

AN ORDINANCE CREATING SECTION 1.118 OF THE GOLD BEACH CODE AND DECLARING AN EMERGENCY

WERNICKE->The first reading of this ordinance was April 10, 2009. This ordinance authorizes the city council to hire vacant city positions at the department head level when the city administrator becomes vacant.

MOTION-> Peterson moved to approve the second reading of Ordinance # 621, as read by title only into the record by Mayor Wernicke, second by Brennan. Brennan, Peterson and Truesdell voted "AYE", Alexander voted "NAY". VOTE 3 AYES 1 NAY and 1 ABSENT

RESOLUTION R0809-13 (H)

A RESOLUTION AUTHORIZING THE LAW ENFORCEMENT EXECUTIVE AND GOVERNMENT EXECUTIVE SIGNING AUTHORITY FOR SUBMITTAL OF THE GOLD BEACH COMMUNITY POLICING ENHANCEMENT PROGRAM COPS HIRING RECOVERY PROGRAM (CHRP)

WERNICKE->This resolution authorizes Paul Giovannetti and I the signing authority for the grant we are submitting for a police officer.

MOTION-> Truesdell moved to approve Resolution R0809-13, second by Peterson. Brennan, Peterson and Truesdell voted "AYE", Alexander voted "NAY". VOTE 3 AYES 1 NAY and 1 ABSENT

MISCELLANEOUS ITEMS:

ADOPTION OF NEW EVALUATION FORM (I)

WERNICKE->At the last meeting, the council indicated they liked the sample administrator's evaluation form that Newburg uses. The evaluation form in your packets is the Newburg evaluation adapted to the City of Gold Beach. Manager has been changed to Administrator and Council President has been changed to Mayor Pro-Tem. The word "if any" has been added after contract extension because we don't offer an administrator a contract.

MOTION-> Alexander moved to adopt the Newburg sample evaluation form for the city administrator as adapted to the City of Gold Beach, second by Brennan. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

The department heads would like to stay with the current evaluation form (I) that has been used in the past.

Alexander stated he thought the department heads should be able to use what they like best.

Truesdell-Doesn't like the idea of having different evaluations. He doesn't know if it is progressive or if they are just comfortable. He noted that "cheerfulness" is listed on the form and he has a problem with that. He doesn't think it is a good evaluation form.

Peterson-Agrees. It is time we move on. It is not an answer that it is just because it is something they like. We should move up with something we can use and make a better program.

Brennan agrees with Truesdell.

MOTION-> Alexander moved to adopt the Newburg evaluation (J) form as modified for Gold Beach, for the City Administrator, second by Brennan. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

MOTION->Truesdell moved to adopt the Yachats evaluation form (K) for the department heads and employees, second by Peterson. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

ADDING CIVIL, CRIMINAL BACKGROUND AND CREDIT CHECKS TO CITY APPLICATION FORMS

MOTION-> Alexander moved to approve adding civil, criminal background, and credit checks to city employment application forms, second by Peterson. Truesdell wondered if there will be a standard for the evaluation. Wernicke said having the information would be valuable. Brennan, Peterson, Truesdell and Alexander voted "AYE". VOTE 4 AYES 1 ABSENT

TERMS AND POTENTIAL OFFER FOR A DEPARTMENT HEAD (L)

WERNICKE->Outlined what would be offered to the finalist in the police chief applicants. A two-year contract will be offered. This will be sent to legal counsel and to Mr. Janik for his review.

MOTION-> Peterson moved to approve the terms as read for the police chief with the changes (attached L)that were made during this discussion of the contract, second by Brennan.

Alexander said he would not belabor it, but for the reasons he has stated at the last meeting, he will not support this. Brennan, Peterson, Truesdell voted "AYE", Alexander voted "NAY". VOTE 3 AYES, 1 NAY, 1 ABSENT

DISCUSSION REGARDING ADMINISTRATOR POSITION

Truesdell stated he is the one who advocated for this to be a full-time position. We need full-time to do the work necessary as was discussed earlier. We need a good top visionary although we can't afford to pay as much as some cities. The fact that a councilor was quoted in the paper as saying the administrator's job was mainly PR, maybe that is the way it has been in the past but it is not acceptable for the future.

Alexander said he has advocated this for quite awhile. Honor is a tricky thing and honor demands that he vote for what he would otherwise do. He will not support this for that reason, however, he wants to go on record as saying that he supports the concept of a full time administrator.

Brennan-Was involved in contacting a possible list of interim administrators. He thinks we need a full time administrator to be in charge and he should be paid accordingly.

Peterson-Thinks the city needs a full time administrator and should be paid accordingly.

Truesdell came up with a salary amount of \$58,000 and for budgetary purposes, which would put an overall employee cost at about \$84,000, including benefits. About 44% benefits.

Wernicke-Brennan and I have met with a "head hunter" to find someone. They have offered to help at virtually no expense. We need to decide what to take to the budget committee tomorrow night.

MOTION-> Truesdell moved to advise the budget committee to put into the budget's general fund for the city administrators position an amount of \$58,000 per year plus appropriate benefits and to remove the limitation of part time, second by Peterson. Brennan, Peterson, and Truesdell voted "AYE", Alexander voted "NAY". VOTE 3 AYES 1 NAY 1 ABSENT

MAYOR AND COUNCIL COMMENTS:

MAYOR - JAMES WERNICKE:

MAYOR'S "WIN A LAPTOP COMPUTER" CONTEST (M)

Wernicke said he was sponsoring a contest for school students to write an essay about "If I were Mayor". The posters and applications have been delivered to the schools. When they come in, they will be evaluated, the city will give a U.S. Savings Bond and the winners sent to Salem for a possibility of winning a laptop computer. We are hoping to have more students apply. At this time only one essay has been turned in.

COUNCILORS:

Peterson-Been fortunate and in business situations from coast to coast and has interviewed many employees. It is not uncommon to take people he has hired or not hired out to dinner after an interview. It is not illegal and not wrong.

Truesdell-New police car (2009 Dodge Charger should be here by the end of the month. The new lettering looks very sharp. The new police vehicle will arrive by the end of the month.

Alexander-Received the appointment to the county's waste management/recycling board. The Web Site has just a couple of little things to do. The projected launch is next week. The address is www.cityofgoldbeach.us.

CITIZEN COMMENTS:

Mindy Baines said she understands that two councilors took a potential department head (chief of police) to dinner-is that

correct? (Wernicke responded that they took him to dinner after the interviews were completed)

Baines-So you took a potential hire out to dinner. I have concerns that you are (couldn't hear) yourself now of hiring this person. Are you going to make a habit of taking prospective employees to dinner? Are you going to take all of your applicants to dinner? I think that is a conflict of interest and certainly inappropriate. It is unethical. You do not take potential employees out to dinner afterwards, but now that you are planning to change a city ordinance to make you the hirer and firer of people.....

Wernicke-It has always been his understanding that after the interview process you can jolly well do as you wish.....take them to dinner or give them a ticket out of town, it makes no mind, but you have to make sure the process is completed and it was completed.

Baines-Had you all determined that is who you were going to hire afterwards. (Wernicke said that determination had not been made) So you do not think that is unethical? (Wernicke said (No it is not). Baines said she does and she is concerned that you are up there now changing an ordinance to make it that you are going to be the ones hiring and firing and you have chosen people to take to dinner when you are basically their employer and I think that is unethical.

Wernicke-That would have no bearing because the mayor has no vote. (Baines asked if a council member was there also) Wernicke responded that one councilor was, but it take more than one.

Truesdell said he has never met any of the applicants and he didn't go out to dinner and he didn't take anyone out to dinner.

Baines-Also wants it in the record that she opposes someone from the audience video taping all of the meetings, such as the budget committee meeting that she sat on. She does not want it put on the internet and she doesn't think you have addressed it and it should be.

Brennan-We broadcast these meetings on cable TV.

Baines-That's OK but the one she is speaking of has the potential of being put over the internet. She just wants it put into the record that she is opposed.

Truesdell-Doesn't believe it would be legal for us to stop or prevent any type of use of what we are doing up here, whether it be over the internet, television or broadcast.

Baines-I repeat that I am opposed to it and I want it in the record.

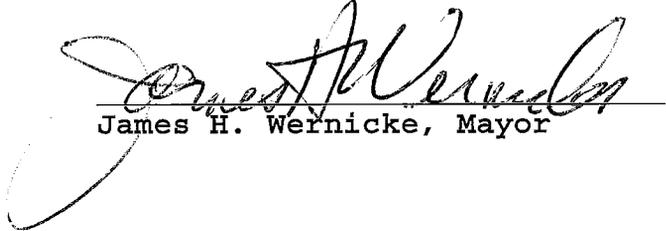
ANNOUNCEMENTS

The next regular meeting for the Gold Beach City Council is scheduled for Monday evening, MAY 11, 2009 in the Council Chambers of City Hall, 29592 Ellensburg Ave., at 6:30 P.M.

ADJOURNED at 9:00 p.m.

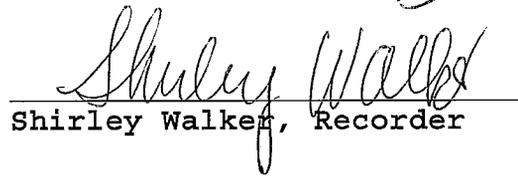
The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call (541) 247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act 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 May 11, 2009.



James H. Wernicke, Mayor

ATTEST:



Shirley Walker, Recorder