



CITY OF YACHATS

CITY COUNCIL MEETING

December 18, 2019, 2019

Draft Minutes

Meeting Call to Order

Mayor W. John Moore called the December 18, 2019 regular meeting of the City Council to order at 2:00 pm in Room 1 of the Yachats Commons. Council members present: W. John Moore, Max Glenn, James Kerti and Leslie Vaaler. Absent: Jim Tooke. Staff present: City Manager Shannon Beaucaire, Clerk Kimmie Jackson, and Water Treatment Plant Lead Rick McClung. Audience: 18.

I. Announcements, Correspondence, and Proclamations

Mayor Moore read a proclamation in appreciation of those who helped set up the City's holiday tree.

Mayor Moore announced the Winter Solstice Bonfire is at 4:30 pm on Saturday, December 21, 2019 at the Pavilion.

II. Public Comment

1. Candy Neville (Eugene, Aha Lodge) asked the Council to be diligent in monitoring themselves and to be more transparent.

III. Consent Agenda

A. November 7 and 20, 2019 Minutes

Councilor Vaaler moved to approve the consent agenda: Aye – 5; No – 0.

IV. New Business

A. Ocean View Drive

Lincoln County Counsel, Wayne Belmont, summarized that the properties on Marine Drive and Aqua Vista Loop were purchased with 804 settlement monies in 2003 to establish a continuation of the 804 Trail. He highlighted the properties could be sold as long as the easements for the Trail remained and the proceeds from the sale went back to the settlement fund. The properties were purchased for \$62,000 (now valued at \$61,500) and \$50,000 (now valued at \$51,300). Vaaler clarified that the State only provided resources for the purchase process and was not a party to the settlement agreement now. Belmont indicated the County has created the easements on the properties. Vaaler clarified that the properties could be used for open space and the values Belmont quotes took into account the easements.

1 Belmont stated the balance in the 804 Mitigation Fund was approximately \$120,000 and they
2 were looking for ways to spend the monies. Vaaler asked if these monies could be applied to the
3 proposed boardwalk for the 804 Trail in the area closer to Highway 101. Belmont indicated
4 there might be disagreement as to whether this money could be used for that purpose. He stated
5 the County, the City, and some interest groups were the parties who must approve the
6 expenditures. Belmont indicated Fran Beck, from Friends of the 804, was the local contact who
7 oversaw the local interest groups. He indicated Oregon Shores and the other local interest
8 groups deferred their power to the Friends.

9
10 Vaaler reported the Ocean Shores Permit Coordinator from OPRD had concern about who would
11 bear the cost of repairing the damage to the rip rap. Belmont stated he spoke with Roy Kinion
12 for Lincoln County Planning about the matter and Kinion indicated there was no work that
13 needed to be done.

14
15 Councilor Glenn clarified that the County would be willing to conduct the sale of the properties.

16
17 Councilor Kerti asked about the qualifications for projects to use the 804 mitigation funds.
18 Belmont explained oceanfront property was, in general, too expensive to purchase and indicated
19 he would contact the local interest groups to ascertain whether they would support the boardwalk
20 project.

21
22 Belmont asked for clarification from as to whether they wanted to sell the properties now.
23 Mayor Moore added that the City purchasing the properties at this time would not be the most
24 prudent use of resources.

25
26 Vaaler asked what the wide of the easement was. Belmont indicated he would need to look at
27 setback requirements in the City code.

28
29 Glenn moved to request the County to sell the lots on Marine Drive and Aqua Vista Loop with
30 the Trail easements maintained and to put the proceeds into the 804 Mitigation Fund: Aye – 4;
31 No – 0.

32 33 **B. PERS Employer Incentive Fund Update**

34 Martha Jirovec, OCWCOG Financial Manager, reported they submitted the application one hour
35 after the submission opened and Yachats was 22nd on the waiting list. Due to not getting the
36 funding, she was pushing the date for adding to the fund to July 31, 2020. She noted the City
37 could still put monies into the fund without the match. Jirovec indicated they put in a request for
38 \$100,000 knowing that they did not have to put up that maximum amount. Manager Beaucaire
39 clarified if they put in the money in 2020, they would receive the PERS reduction in 2022.
40 Belmont stated only the Police Force were PERS employees, they were 29th on the wait list, and
41 they applied for \$300,000. He indicated they were going to go ahead and put up the money now.
42 He was optimistic that additional funding would be made available, in part from the changes in
43 organized gambling laws with sports.

44
45 Jirovec explained the Financial Reports and noted they had yet to make transfers to/from reserve
46 accounts and they would be adding the numbers from the auditors. She highlighted:

- 47 1. Wages and benefits were apportioned to the relevant funds

2. Wages and benefits were slightly lower than expected (5-10%)
3. Contract labor was slightly high (5-8%)
4. Marijuana Tax from OLCC was higher than expected

She indicated they will be working with the URD audit to get the appropriate numbers included. She would be reviewing about 20 accounts that seemed slightly high. She anticipated everything would be complete by the next meeting.

Vaaler clarified that these adjustments would not impact the audit for the next year. Jirovec explained some of the adjustments were over issues like whether a drill bit is applied to tools or parts and whether it is applied to both the sewer and water plants or just one. Manager Beaucaire stated they were trying to make charges more transparent. Manager Beaucaire noted the mowing and grounds line was high due to the inclusion of the summer months. She also indicated there were more trees that needed removal and she had asked the Public Works and Streets Commission to draft a policy for tree removal.

C. Discussion of Nonprofit Request for Exception from YMC 4.08 on Vacation Rental Licenses

Mayor Moore summarized that the Apostolic Christian Churches was asking to be exempted from needing a vacation rental license. He reported City Attorney had advised that the use pattern of the cabin made it a vacation rental regardless of whether they charged money for a stay. Glenn reported that the minimum fee they were suggesting was \$150 and that they were advertising the cabin to all of its national members, which makes it a public group, albeit restricted. He noted the cabin started with two members, then opened to the Oregon membership, and now to the national membership. Kerti indicated he heard from two citizens who did not support this exception.

Kerti asked if the software solutions Manager Beaucaire had previously proposed for monitoring vacation rentals would address these types of rentals not advertised through the major rental organizations. Manager Beaucaire indicated the software would not find this type of rental.

Vaaler noted the survey on the Church's website indicated they were looking at renovations upwards of \$400,000, which implies the plans were for much more than maintenance.

Glenn moved to decline the request from the Apostolic Christian Church to make an exemption for Restless Surf property, to resolve use of the property makes it a vacation rental according to City code, to require that a vacation rental license be obtained for the property, to cancel current reservations, and to not allow future reservations until a vacation rental license has been obtained: Aye – 4; No – 0.

D. Vacation Rental Waiting List

Mayor Moore recalled that Council was divided on when to start the vacation rental list. Mayor Moore suggested the Council look at the matter in February 2020 when they have a firm number on the number of existing vacation rentals. Manager Beaucaire asked the Website Manager, Helen Anderson, if there was a technological way to take applications. Anderson explained the website has the ability to create forms that could serve as an application. She noted the information is stored until it is manually deleted and can easily be exported to a spreadsheet.

1
2 Vaaler suggested delaying this discussion until Councilor Tooke was present as he had a strong
3 opinion on the matter. Vaaler wanted to ensure that potential licensees get ample notice of the
4 process and start of receiving applications. Vaaler and Kerti agreed to address this matter at the
5 first February meeting in 2020.
6

7 **IV. Public Hearing**

8 **A. Yachats Municipal Code Section 4.08 Vacation Rental Licenses**

9 Mayor Moore opened the public hearing on section 4.08 on vacation rental licenses at 3:00 pm.
10

11 Mayor Moore recalled Council had previously agreed to remove the cap on vacation rentals in
12 zones R-4 and C-1 but the City Attorney had legal concerns about that action. He stated
13 Ordinance 364 presents all of the changes except from the cap changes and the conditional use
14 requirement in residential zones.
15

16 Manager Beaucaire indicated Council needed to decide on the penalty levels for various
17 infractions for section 4.08.060. Vaaler noted that citations involve a court and wanted to know
18 the cost of a court, highlighting that they did not want to assess a \$100 fine for a court that cost
19 \$200 to conduct. Manager Beaucaire explained there was a cost for the judge (\$125 per hour)
20 and recording the matter. Manager Beaucaire also noted the fine must be related to the cost of
21 the infraction, such as a \$600 fine for a Class B infraction corresponded to the cost of a license.
22 Vaaler clarified that the current language stipulates the fine is applied to each day of infraction.
23

24 Manager Beaucaire stated 4.08.030 a through p are the standards that could be classified into
25 infraction classes. Manager Beaucaire stated the current code stipulates any violation in section
26 4.08 would fall under the \$1,000 per day fine. Vaaler suggested removing 4.08.060.D for Class
27 D infractions and rewording 4.08.060.B to incorporate all violations of Chapter 4.08.
28

29 Kerti did not see the advantage of creating a civil penalty when a license could be revoked if
30 there were three citations within 12 months. Manager Beaucaire stated the Attorney was
31 suggesting that fines for infractions be consistent with Chapter 1.12 which identifies four classes.
32 He had concern that the existing code had a fine that was excessive. Manager Beaucaire
33 understood the Attorney to be suggesting one level of fine for operating without a license and all
34 other violations of 4.08 be subject to a lesser fine amount. Kerti thought amassing large fines for
35 minor infractions was too aggressive. Kerti clarified there had been no fines assessed within the
36 last two years, but there was one three years ago.
37

38 Glenn clarified that there was language for a fine for not providing the name of a local contact
39 person.
40

41 Vaaler asked if there was an issue with selective enforcement if they had the fine but did not
42 enforce it. Manager Beaucaire stated unequal application of the rules always presented an issue
43 with selective enforcement. Vaaler indicated she was not ready to proceed with her previous
44 suggestion. Kerti indicated having this level of penalty could contribute to the perception that
45 the City was unreasonably punitive. Manager Beaucaire noted section 1.12.090 allows a judge to
46 adjust the fines.
47

1 Vaaler suggested that they address the violations criteria. Manager Beaucaire noted that
2 violation was not defined in the ordinance. Vaaler and Kerti wanted to incorporate clearer
3 language for a violation.

4
5 Mayor Moore suggested Council revisit the violation issue at the January 2, 2020 meeting.

6
7 Edits:

- 8 1. Council previously had indicated a change to 4.08.030.D (last line) to indicate a list of
9 violations may be requested, not must be provided.
- 10 2. Kerti recalled that Council had discussed what constitutes a parking spot, and
11 4.08.030.H did not reflect that discussion.
- 12 3. Vaaler noted the parking space size was 18 feet, not 20 feet. She also noted Dahl did
13 not have bear-proof garbage cans available and the 9.08.0303.I required a bear-proof
14 mechanism.
- 15 4. Council agreed to change the language to read, "...garbage receptables shall be
16 provided and must have a bear-proof mechanism if available."
- 17 5. 4.08.040: Currently indicates, "The license may be renewed annually if all standards
18 are met." 6. Vaaler asked if this statement required the City to renew the license.
19 Manager Beaucaire indicated that any change to the standards or cap in the future
20 would need to go through the hearing process. Vaaler asked about grandfathering,
21 and Manager Beaucaire indicated that would be up to the Council.
- 22 7. Change "goyachats.com" to "access through the City website."

23
24 Glenn suggested they keep the cap at 125 and not distinguish between the zones because of the
25 complexity. Kerti suggested that this approach might be prudent for now but wanted to consider
26 the option open to further discussion. Vaaler agreed to keep the current cap.

27
28 1. Wayne Belmont indicated the County is having similar issues with vacation rentals.

29
30 2. Susie Kelly (Koho) did not believe an unlimited cap for R-4, which includes Koho, was
31 appropriate for their residential setting.

32
33 3. Jamie Michelle (Sweet Homes) reported she was seeing reports of cases being won in is
34 appeals courts, noting specifically that courts were in disfavor of regulations that had greater
35 restrictions for one class relative to what was already covered in regulations elsewhere in the
36 code. She suggested that a violation would be when a property manager or owner does not
37 respond to a request. She was disheartened to hear that Council might not want to take up an
38 issue because it was too complicated. Mayor Moore stated the Council's concern was
39 minimizing

40
41 4. Steven LaSky (2040 and 2080 Overleaf Loop) asserted that the City was over-governing and
42 wanted to know what the problem was that led to the restrictions. He asked if any studies were
43 done. He elaborated on problems with the cap and the positive aspects of vacation rentals.

44
45 5. Mayor Moore clarified with an audience member that the Council consensus was to keep the
46 cap at 125 for all zones and to not have vacation rentals be a conditional use.

1 Glenn moved to leave the city-wide vacation rental cap at 125, to not distinguish caps between
2 zones, and to not establish a conditional use in residential zones: Aye – 4; No – 0.
3

4 Kerti asked for clarification on what this motion applied to. Mayor Moore indicated it was for
5 the language in the draft Ordinance 364.
6

7 Mayor Moore closed the public hearing at 3:54 pm.
8

9 **VI. Reports**

10 **A. Financial Report** – addressed earlier 11

12 **B. Council Reports**

13 Mayor Moore reported:

- 14 - Attended League of Oregon Cities Small Cities meeting in Toledo on November 21
- 15 - Attended Oregon Coastal Zone Management Association meeting in Florence on
16 December 3
- 17 - Gave a State of the City presentation to the Rotary Club of Florence on December 3
- 18 - Became a member of the Emergency Preparedness Committee
- 19 - Led the countdown to light the holiday tree on December 5
- 20 - Judged the Mayor's Show at the Visual Arts Center in Newport on December 11
- 21 - Opened the winter celebration at the Little Log Church
- 22 - Hosted the appreciation party for staff and volunteers
23

24 Glenn reported he attended the board meeting of Oregon Cascades West Council of
25 Governments. He noted OCWCOG was considering merging with the Community Services
26 Coalition.
27

28 Kerti reported he will be attending the Parks and Commons Commission meeting as the Council
29 liaison. He reported the Commission was feeling frustrated with communications. He indicated
30 the Commission wants clearer identification of their responsibilities. Mayor Moore indicated he
31 met with the Chair of the Parks and Commons Commission twice this past month.
32

33 Vaaler reported she attended the Public Works and Streets Commission meeting as the Council
34 liaison and reported that Ann Stott resigned from the Commission. She highlighted Public
35 Works found a major leak on E 2nd Street and learned how to better use their equipment from the
36 professional leak detector. She noted the Commission spent considerable time going through the
37 new financial reports and would be drafting a policy on tree removals.
38

39 **C. City Manager Report**

40 Manager Beaucaire highlighted:

- 41 - The City received a letter from ODOT indicating the projects the City was interested in did
42 not fit the eligibility requirements of the Quick Response Program and were more suited
43 to a Transportation Safety Plan (TSP). She will be pursuing the grant to support
44 conducting a TSP.
- 45 - The City received plans for City Hall located in the 501 Building, and she will be sending
46 those plans to the USDA for their review as part of the granting process.
- 47 - The City received \$1,000 from DLCD for planning projects.

- 1 - Her Manager's Report had photos of root clumps found in the sewer lines.
2 - Matt Phillips has been doing an excellent job at Code Enforcement. She noted the
3 temporary position was advertised at 20 hours per week but she hired Phillips for 40 so
4 he could cover his rent. She reported Phillips indicated that outside of the major tasks he
5 was catching up on, the work was seasonal and he had only received 20 complaints. She
6 is talking to other cities about shared services and exploring creative in-house solutions.
7
8

9 **VI. Other Business**

10 **A. From Mayor** – none
11

12 **B. From Council**

13 Kerti asked that Council get input from the attorney before they discuss significant possible
14 changes to the code so as to not set expectations that cannot be met.
15

16 Kerti clarified that the public hearing on vacation rentals would be continued on January 2, 2020.
17

18 **C. From Staff** - none
19

20 Linda Johnson (Koho) asked why the USDA was providing a grant to move City Hall. Manager
21 Beaucaire indicated the USDA has a program to help development in rural communities.
22

23 Jamie Michelle clarified Ordinance 364 was still in process.
24

25 Duke Tracy asked if the attorney's comments on vacation rentals was posted. Manager
26 Beaucaire indicated the memo would be posted as part of the meeting packet.
27

28 Mayor Moore adjourned the meeting at 4:10 pm.
29

30 ATTEST:
31
32
33

34 _____
35 W. JOHN MOORE, Mayor
36
37

Shannon Beaucaire, City Manager

Date: _____