



CITY OF YACHATS

CITY COUNCIL WORK SESSION & REGULAR MEETING

January 2, 2020

Approved Minutes

I. Meeting Call to Order

Mayor W. John Moore called the January 2, 2020 work session and regular meeting of the City Council to order at 9:35 am in the Room 1 of the Yachats Commons. Council members present: W. John Moore, Max Glenn, James Kerti, Jim Tooke, and Leslie Vaaler. Absent: none. Staff present: City Manager Shannon Beaucaire and Clerk Kimmie Jackson. Audience: 10.

WORK SESSION

II. Discussion Topics

A. Council & Commission Rules

1. Council Rules

Councilor Vaaler asked to add a statement about how Council vacancies would be filled. Vaaler stated Section 32 of the City Charter had basic language for appointments, which indicated a Mayor or Councilor shall be appointed by a majority of remaining Council members, that appointment shall be from the time of appointment to the end of the term the appointee is filling, and that Council can appoint a pro tem member to fill a position due to absence or disability.

Vaaler asked to have a procedure to indicate how a vacancy is announced, how one applies, what Council does if they have multiple vacancies, whether to fill multiple vacancies sequentially or simultaneously, and how Council would vote on appointments. Mayor Moore asked Manager Beaucaire if the League of Oregon Cities had recommendations for these processes. Manager Beaucaire read a memo from the City Attorney about this issue and indicating:

- Council has the authority to provide more detail about filling vacancies in the Council Rules which can be changed later by a different Council
- Detail must comply with the Charter
- Charter does not provide much detail on appointment process noting Section 32 of the Charter.
- Section 13 of the Charter indicates that a decision is approved by a majority of a quorum of the Council except when the Charter indicates approval by a majority of the Council.
- A ranking ballot or a drawing of lots does not comply with the Charter.

1 - A vacancy will remain open until Council is able to arrive at a majority of votes on
2 a candidate.

3
4 Councilor Kerti suggested that it would be prudent for Council at least establish the
5 process for announcement and how Council is to make their decision (interview/vote).

6
7 Councilor Tooke was not in favor of using a public ballot if the City had to pay for a
8 special election. Vaaler noted the Charter requires the decision to be a Council vote.

9
10 Councilor Glenn asked if they needed to repeat what was in the Charter in the Council
11 Rules. Mayor Moore indicated they did not, but noted Vaaler was trying to be more
12 specific about appointments.

13
14 Mayor Moore stated the Charter was clear and gives the Council leeway to decide how
15 to handle the process. Mayor Moore noted there had been three appointments in the
16 last 6 years, noting each procedure was similar but somewhat different. Vaaler stated
17 one appointment was by a coin toss and one was not done by a public vote, noting the
18 Charter may have been different at that time, so she wanted to ensure there was some
19 guidance as to how to conduct the process. Vaaler added that having a more precise
20 system of appointment might encourage people to apply.

21
22 Mayor Moore wanted to clarify that Vaaler's and Kerti's concerns were not due to having
23 applied for a previous vacancy and not been selected. Vaaler stated she had no
24 problem with the previous appointment.

25
26 Mayor Moore asked Vaaler and Kerti to research what other cities have done and to
27 bring back a recommendation. Vaaler and Kerti agreed. Vaaler indicated she would
28 forward corrections of typos.

29 30 2. Commission Rules

31 Section 3.51 for Recommendations: Glenn noted committee members do not have
32 to be appointed by Council. Council agreed to remove "committee" from the
33 sentence, "The Commission, board ore committee shall..."

34 Section 5.23, Paragraph starting with, "Serve as liaison...": Vaaler asked what was
35 meant by, "804 Trail"? Council agreed to change "804 Trail" to "804 Settlement
36 Agreement"

37 Section 5.13, Paragraph 3: Vaaler asked if "advisable" was a better word than
38 "necessary" in the phrase, "plan amendments which it has determined are
39 necessary." Council agreed to keep the statement as is.

40 Section 5.13, Paragraph 3: Planning Commission Chair Helen Anderson noted the
41 Commission had asked to review the Comprehensive Plan every four years
42 instead of every two years. Council was agreeable to this change.

43
44 Mayor Moore closed the work session at 9:52 am.

45 46 **REGULAR MEETING**

47 Mayor Moore opened the regular meeting of the City Council at 9:52 am.

1
2 **III. Announcements, Correspondence and Proclamations**

3 Mayor Moore announced that the Oregon Mayor's Association publishes a quarterly
4 newsletter and he wrote an article about Yachats which is the cover story for the edition
5 released this month. He indicated the newsletter can be viewed at
6 oregonmayorsassociation.org.
7

8 Kerti announced he attended the New Year's Peace Hike ceremony and the event was
9 excellent despite the changes in plans due to weather. Vaaler added there was a
10 beautiful ceremony in honor of Barbara Frye.
11

12 **IV. Public Comment (topics not on the agenda)**

13 None
14

15 **V. New Business**

16 **A. Elect 2020 Council President**

17 Mayor Moore stated that Glenn has been President since Greg Scott resigned. Kerti
18 thanked Glenn for his service and leadership. Glenn offered to serve again. Kerti
19 nominated Councilor Vaaler for the position noting her work on the Gimlet Lane history,
20 her work with the Mayor on Council and Commission Rules, her willingness to offer a
21 different perspective, her attention to detail, and her offer to work over the 4th of July
22 weekend to remedy a water bill situation.
23

24 Mayor Moore nominated Max Glenn to be Council President noting his work beyond the
25 duties of a Councilor such as serving as the City's representative on the COG board,
26 being involved in the county housing plan, and being involved a lot in other activities
27 outside of Council. Mayor Moore highlighted Glenn's attendance at the Coastal Caucus
28 meeting, noting the importance of the Coastal Caucus in setting state legislative
29 priorities. Mayor Moore indicated he was sorry Kerti and Vaaler could not be present at
30 this meeting.
31

32 Call for vote: Vaaler – 2 (Kerti and Vaaler); Glenn – 3 (Moore, Glenn and Tooke). Glenn
33 is appointed as Council President.
34

35 **B. Appoint FY21 Budget Officer**

36 Moved to resolution 2020-103 appointing Shannon Beaucaire as the Budget Officer:
37 Aye – 5; No - 0
38

39 **C. Appoint FY21 Budget Committee**

40 Moved to approve resolution 2020-107 appointing Lance Bloch, Don Groth, Dawn
41 Keller, John Purcell and Brad Webb to the Budget Committee: Aye 5; No – 0.
42

43 **D. FY20 Audit Services**

44 Mayor Moore stated Resolution 2020-104 was to authorize Hanford and Associates to
45 be the City's auditor for fiscal year 2019-2020. Vaaler noted the resolutions referred to
46 an agreement and asked if costs had been negotiated. Manager Beaucaire stated she
47 has yet to negotiate with Hanford on their contract. Manager Beaucaire added that the

1 cost for the previous year was \$12,000 and they had previously indicated that, with the
2 new financial software, the cost could be lower. Tooke clarified Hanford was the only
3 auditor to apply for contract last year.

4
5 Vaaler moved approve Resolution 2020-104 authorizing the City Manager to contract
6 with Hanford and Associates for auditing services for FY19-20 with the stipulation that
7 the City Manager will bring the matter back to Council if there is more than a \$2,000
8 increase of in the anticipated cost: discussion

9
10 Manager Beaucaire stated that the audit was part of budgeting process so there would
11 be approval of the final amount as part of approving the budget.

12
13 Vaaler amended her motion and moved approve Resolution 2020-104 authorizing the
14 City Manager to contract with Hanford and Associates for auditing services for FY19:
15 Aye 5; No – 0.

16 17 **E. Rural Telecommunications Investment Act**

18 Manager Beaucaire referred to her memo in the meeting packet about a request to
19 support the Rural Telecommunications Investment Act and to add to the City's
20 letterhead a statement of the City's support to bring broadband to rural communities.
21 Glenn stated that broadband was only available if one had Pioneer telephone service.
22 He stated schools the area only have internet where Pioneer is available. Glenn
23 strongly supported this legislation. Vaaler noted HB 2184 passed in the House along
24 party lines and was not voted on in the Senate.

25
26 Glenn moved to support the Rural Telecommunications Investment Act: Aye – 5; No- 0.

27
28 Mayor Moore adjourned the meeting at 10:11 am

29 30 **VI. Public Hearing**

31 **C. Continuation of YMC 4.08 Vacation Rental Licenses**

32 Mayor Moore opened public hearing on YMC 4.08 on vacation rental licenses. Kerti
33 suggested they do not use 4.08.040.B stating all other infractions be classified as Class
34 B infractions. Manager Beaucaire stated the City Attorney had stated that a violation
35 must be observed by staff in order to issue a citation.

36
37 Vaaler indicated she had concerns that the City would be issuing citations that would be
38 more expensive than the cost of conducting the municipal court. She thought it was
39 important to focus on rule that three violations within a year could result in removal of
40 the license. She suggested finding a way to not issue citations but to use something
41 like a strike to record and track violations.

42
43 Clerk Jackson recalled two violations in her nine years of service, with one case
44 involving the municipal court and one where the offender paid the fine without court.

45
46 Vaaler was in favor of striking the fine if there was some method to track violations,
47 apart from issuing a citation.

1
2 Tooke asked for clarification on what was being proposed. Kerti summarized his
3 position that it did not seem reasonable to have massive fines amount for less important
4 violations when there was a means to revoke a license for continuing violations.
5

6 Manager Beaucaire had concern that the ordinance was to help ensure the quality of life
7 in City neighborhoods. She stressed how the City tries to work with neighbors to get
8 issues resolved without issuing citations. She explained the City must have staff go to
9 the site, investigate complaints, and do other office work. She wanted to ensure there
10 would be incentive for compliance. Vaaler asked Manager Beaucaire for clarification
11 whether the costs and staff resources expended was a good thing. Manager Beaucaire
12 noted not every violation leads to a citation, and some people pay the violation without
13 going to court. Mayor Moore suggested it might be best to have the teeth even if they
14 were not used. Kerti stated if it was going to be hard to track violations, then it might be
15 best to keep the language as is.
16

17 Mayor Moore opened the floor for Public Testimony at 10:25 am.
18

19 1. Tom Lauritzen (204 Shell Street) note that the ordinance states that a complaint shall
20 be in writing on a form provided by the City and signed by the complainant and that the
21 complainant should provide evidence that they have attempted to rectify the situation
22 with the property manager.
23

24 He had concern that the City continues to place responsibility of enforcement on the
25 citizenry and not putting controls or restraints on the property managers. He noted the
26 process indicated does not make use of the new website for the intake of reports of
27 violations. He stated that, in order to be observed by staff, staff would need to be
28 available 24/7. He argued enforcement should be based on the tools available to
29 enforce rules.
30

31 Lauritzen suggested they could use their tools to notify owners that there was a violation
32 going on at one of their properties and that if it was not resolved within two hours, there
33 would be a complaint. This process would not require a signature from the owner nor
34 the complainant to provide evidence they tried to resolve the matter with the property
35 manager. He suggested more simple approach to take a picture, send a text to the
36 Code Enforcement Officer, start the clock, and notify property management.
37

38 Councilors and the Mayor agreed they should pursue Lauritzen's suggestion.
39

40 Vaaler asked if Council wanted to address the matter of vacation rentals operating in
41 areas where deed restrictions prohibit such use. Manager Beaucaire stated that in
42 order for the City to check deeds, a statement to that effect must be in the Yachats
43 Municipal Code. She also noted they do not know how readily available deeds are for
44 the City to review. Glenn suggested putting a question in the application asking the
45 applicant to certify there were no deed restrictions on the proposed short term rental.
46

1 Lauritzen noted there were 19 homes in Schmunk's Addition where the deed restrictions
2 state that homes must be used for residential purposed only. He reported courts have
3 indicated a vacation rental is an incidental use of home ownership and therefore would
4 be in violation of this particular residential only restriction.

5
6 He suggested making a more direct statement regarding deed restrictions such as, "I
7 have reviewed my deed restrictions and my application does not violate the deed
8 restrictions." Such a statement enables other homeowners to pursue civil litigation.

9
10 Lauritzen noted in the Overleaf PUD documentation, there is statement that the
11 properties can be a vacation rental. He suggested current legislation takes away that
12 right.

13
14 Manager Beaucaire indicated she would draft language for such a statement and bring
15 that back to Council.

16
17 Mayor Moore closed the public hearing at 11:38 am.

18 19 **VII. Other Business**

20 **A. From Mayor - none**

21 **B. From Council**

22 Vaaler stated she hoped to get greater transparency and to increase working
23 relationships by discussing a matter that has been troubling her, noting she was not
24 angry and was open to having any mistakes she has made pointed out to her. She
25 highlighted from the Charter that the majority of Council must approve Council decision,
26 that ORS requires votes to be recorded in the minutes, and Council approves the
27 minutes.

28
29 Vaaler reviewed a series of emails between herself, the City Manager, and the Mayor
30 starting on December 6, 2019 where Vaaler expressed concern about spending a lot of
31 money on a facilitator and about her belief that hiring a facilitator was a policy matter.
32 Vaaler indicated she had good exchange with the City Manager, that Manager
33 Beaucaire contacted a facilitator at the Mayor and Council President's request, and that
34 Manager Beaucaire would do whatever Council decided to do. Vaaler understood that if
35 Council was to use a facilitator, there would need to be a Council vote on that decision
36 and that it would be recorded in the minutes. Vaaler stated she was unable to find any
37 record of such a vote in the minutes going back to May 2019.

38
39 Vaaler was expecting a discussion at the December 18, 2019 Council meeting and
40 acknowledged she did not raise the topic. She noted the day following the December
41 18, 2019 meeting, Manager Beaucaire was instructed to move forward with hiring a
42 facilitator for the January 9, 2020 goal setting session. Through additional emails with
43 the Mayor and City Manager, Vaaler understood that the Mayor believed the decision to
44 hire a facility was not a policy decision and that the Council had agreed to hire a
45 facilitator. She did not agree the Council had made that decision and there was no
46 record of a vote. Vaaler also wanted clarification on which budget line item the \$3,000
47 for the facilitator would come from.

1
2 Mayor Moore stated he would have preferred Vaaler to have responded to his email
3 rather than raising this issue at a Council meeting. Mayor Moore recalled the Council
4 did agree to have a retreat to discuss Council goals. Kerti and Tooke did not recall
5 having a discussion about having a facilitated meeting or retreat. Glenn recalled
6 agreeing to have a facilitated retreat. Mayor Moore apologized if his recollection was
7 incorrect.

8
9 Mayor Moore stated the reason for moving to a Council-City Manager form of
10 government was to shift the running of day-to-day operations from the Council to the
11 City Manager. Mayor Moore believed it was a policy decision to have a retreat but it
12 was not a policy decision to have a facilitator. He recalled in January 2019, the Council
13 had little experience and set a lot of goals. He asserted it made sense to have
14 someone with experience in working with a City Manager's office to assist.

15
16 Vaaler asserted the Council does not have a clear sense of what is policy and what is
17 administration and noted some issue are borderline. Mayor Moore stated the facilitated
18 session was an ideal time to discuss this issue. Vaaler noted the previous Council had
19 a lengthy discussion about what they wanted to cover in the facilitated session. She
20 noted they had the Mayor and Manager from Newport come to explain how their system
21 worked.

22
23 Glenn indicated he has already talked with the facilitator, Sarah Wilson. His first priority
24 for an outcome was to understand the difference between policy making and
25 management/administration. He included micromanagement in this issue. He indicated
26 he was pleased with the facilitator's work.

27
28 Vaaler had concern about possibly averting the democratic process by having a non-
29 elected person influence the Council's work to establish goals. Mayor Moore clarified
30 that Vaaler was not saying people should not give advice to the Council. Vaaler noted
31 the Council rules state that the Mayor runs the meetings and that the facilitator would be
32 running the facilitated session.

33
34 Kerti did not recall voting on a facilitated session but believed they briefly mentioned a
35 facilitated session. He did recall the previous Council having a discussion and a vote in
36 2018. He hoped in the future they could discuss and vote on such a decision.

37
38 Tooke believed the discussion would be good to have and stated he thought Vaaler had
39 raised some legitimate suggestions. He thought the current discussion would help
40 improve their future work.

41
42 Manager Beaucaire stated the purpose of the facilitator was to ensure that all
43 Councilors participate and to ensure Council stays focused on topic. She emphasized
44 that facilitators are to be neutral. Manager Beaucaire explained what she understood
45 the facilitator was trying to achieve with interviewing each Councilor and setting an
46 agenda. She provided an example of a facilitator helping to keep one person from
47 dominating the agenda and outcome. Manager Beaucaire stated the policy decision

1 was included in Admin Policy #1 and Council Rules on having an annual goal setting
2 session. She indicated she also hoped to get more clarification on the boundaries of
3 Council and management.

4
5 **C. From Staff - none**

6
7 Mayor Moore adjourned the meeting at 11:02 am.

8
9 ATTEST:

10
11
12
13 _____
14 W. JOHN MOORE, Mayor

15 _____
16 Shannon Beaucaire, City Manager

Date