



CITY OF YACHATS

CITY COUNCIL SPECIAL WORK SESSION

January 9, 2019

Approved Minutes

I. Meeting Call to Order

Mayor W. John Moore called the January 9, 2019 work session and 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, James Kerti, Jim Tooke, and Leslie Vaaler. Absent: Max Glenn. Staff present: City Manager Shannon Beaucaire, Clerk Judy Richter, and Clerk Kimmie Jackson. Audience: 5.

II. Review FY17-18 Audit; Q&A with auditors

Mayor Moore called accountants Sarah and Theresa from Hanford and Associates to establish teleconference.

Sarah highlighted:

1. Auditor's Responsibility on page 6 of the Audit Report: auditors found no errors in reporting
2. Supplementary information on page 7: auditors concluded information was reasonable
3. Internal Controls on page 85: Finding 2018-01 noted a significant deficiency in the City's outsourcing its financial statements, which was common. Sarah indicated *significant deficiencies* were less severe than *material weaknesses*. Finding 2018-02, a significant deficiency, concerned internal controls on utility billing as a result of having so few employees. Sarah asserted the auditors reviewed this area more closely during this review. Hanford recommended establishing utility billing policy and procedure including periodic review and documentation of rates, billings, and adjustments. Sarah noted not every transaction needed to be considered and suggested reviewing a few to ensure due diligence.
4. Federal program compliance on page 90: Sarah explained that the City's loan for drinking water (South Tank Project) required special consideration because it was federally funded through the state. She indicated there were no issues identified.
5. Oregon Minimum Standards on page 100: Theresa reported Oregon requires criteria in the following categories:
 - Maintaining funds and investments in approved public depository.
 - Not exceeding debt limitations
 - Following budget process noting the City improved from last year.
 - Having adequate insurance
 - Reviewing highway revenues, which the City did not receive this year.

- Reviewing outside funding sources.
- Ensuring public contracts and purchasing followed state law.
- Reviewing monies received by elected officials, which the City did not have.

Theresa indicated that overall the report stated that the City did a great job.

Councilor Vaaler had several questions:

1. Depreciation by straight-line method (page 42): Sarah stated this was the most common method chosen by the City and was the most common.
2. Actuarial assumptions (page 55): Sarah indicated these rates come directly from the state.
3. Fluctuation of City's proportion of pension (page 62): Sarah indicated those fluctuations resulted from the state agency reviews. Mayor Moore recalled the PERS fund had high returns on its investments this past year and the year before it was the opposite. Kerti clarified these variations were not unique to Yachats.

Mayor Moore noted the statement shows cash of \$3.2 million but only \$168,000 in federally insured deposits. Sarah explained there was \$2.5 million in inflow and \$1.5 million in outflow, making the \$3.2 million number inconsistent throughout the year.

Tom Lauritzen asked about the fund balance reports. Lauritzen understood the report to indicate that accounts receivable for transient rental taxes were all attributed to the general fund. He noted 39% should go to the Visitors Amenities Fund. Sarah indicated she would look into the matter. Lauritzen argued that the new accounting system as of February 2016 was an improvement from the previous system. Sarah noted their procedure focused on different areas of the financial statements in different years. She suggested Lauritzen's concern was not examined in detail in this audit. She asserted that a system control would not show them if an adjustment was reviewed. She explained they would look to see if an adjustment was performed in accordance with procedure.

Sarah thanked Clerk Richter, Manager Beaucaire, and Clerk Jackson for their hard work and for making significant improvements over last year.

III. Discussion Topics

A. Charter Revisions

Mayor Moore noted the document in packet reflected changes recommended by the last Council. Vaaler reported she looked at charters from Newport, Garibaldi, and the League of Oregon Cities Model Charter. Council agreed that Councilors could send their corrections for typos and non-substantive editorial changes to Helen Anderson.

Mayor Moore cautioned against inserting changes that would make passage of the Charter a problem. He argued that if a voter found one item to be disagreeable, they would likely vote down the ballot measure. He suggested the most important item is to incorporate was the City Manager structure. Mayor Moore recommended making the City Manager change now and including other changes in a ballot measure for the 2020 election.

1 Councilors Kerti and Vaaler indicated they wanted to discuss their more substantive suggestions
2 and questions.

3
4 Section 13 Vote Required: Vaaler noted Newport had a contingency clause for emergencies.
5 Council agreed to include the following language from Newport:

6 In the event of a major emergency such as a natural disaster that limits the ability of
7 Council members to meet, the Council may act by a majority of those who are able to
8 participate in a meeting in person or by electronic or other means. Any such emergency
9 action shall be reviewed at the first opportunity to have a quorum consider the action.

10
11 Section 16d, 19c, 22c: Vaaler suggested the wording implies that the recording of votes would
12 only be required for affirmed motions. Vaaler indicated she and Anderson could draft language
13 to resolve the issue.

14
15 Section 24 Councilors. Vaaler did not want to change Councilor terms to two years. Councilors
16 agreed to keep Councilor terms at four (4) years.

17
18 Section 31 Vacancies. Vaaler noted several items in Newport's charter. She stated Newport
19 allows for the Council to make a "discretionary decision" if a Councilor has a "conviction of a
20 public offense punishable by loss of liberty." She also noted Newport allows for removal for
21 coercing the City Manager. Vaaler suggested the policy was clear as to procedure if there was
22 one vacancy but not if there were multiple vacancies. She indicated they could fill multiple
23 vacancies together or sequentially, and the Model Charter stated they could do it either way.

24
25 Vaaler also noted if the City lost the entire council, they do not have a method for replacing it.
26 She noted two scenarios where this situation might arise: a recall or some sort of natural disaster.
27 She asked if Council wanted to add a provision for a special election or to assume this event not
28 going to happen. Mayor Moore asked Vaaler if she could prepare some examples from other
29 cities, and Vaaler noted there were not many examples out there. Tooke noted in event of
30 emergency that wiped out the council, the City would be unable to have a general election.
31 Vaaler stated Manager Beaucaire had expressed the opinion to "get it right" rather than just make
32 changes for the City Manager situation. Kerti and Tooke agreed to have Vaaler draft some
33 language for this situation.

34
35 Kerti suggested there was nothing about the how the process of filling a vacancy would work.
36 Moore recalled a coin flip was used in the past to break a tie. Tooke recalled last council
37 interviewed and voted on candidates. Mayor Moore asked if this issue was addressed in the
38 Model Ordinance.

39
40 Vaaler asserted that if there was a vacancy early in a term, the position could be put to public
41 vote at the next general election. She suggested the choice was to have an appointee be
42 Councilor for 3-4 years or for 1-2 years. Mayor Moore noted Yachats has always made Council
43 appointments to complete the term. Kerti and Vaaler agreed to draft language to address these
44 issues.

1 Vaaler noted if disability prevents councilor from carrying out their duties, Council would
2 appoint pro-tem Councilor. She suggested they use “inability” instead of “disability.” She noted
3 there was not uniformity on how to handle this matter. Tooke suggested “inability” seemed too
4 broad. Moore noted if a Council member was unable to attend on a regular basis, they would
5 likely resign. Vaaler indicated they could stipulate a period of time when this appointment would
6 apply.

7
8 Section 27c: Kerti noted some items seem misplaced under the elections section, such as 27c.
9 Kerti suggested vacancies were not inherently part of elections. He added that the verbiage
10 would not preclude for a Councilor from being employed by the City after they were elected.
11 Kerti noted the phrase, “employed by the city was vague” as it could include contracted persons
12 and volunteers. Kerti suggested they add language to include volunteer and contracted positions.
13 Mayor Moore noted contracted persons and volunteers do not have authority over staff. Tooke
14 asserted, “Neither the mayor nor a councilor may be employed by the city” was clear in its
15 application.

16
17 Section VIII: Mayor Moore noted what appears as Section VIII in the draft document should be
18 Chapter VII. Anderson noted the entire section of what appears as Section VIII needed to be
19 reformatted and numbered to be consistent with the document.

20
21 Kerti argued there was overlap between b and d under the City Manager section.

22
23 Kerti asked if they should include language for reviewing the City Manager. Mayor Moore
24 recalled reviews as a topic at the League of Oregon Cities meeting and asked Councilors to
25 attend the League of Oregon Cities meeting in Bend in September 2019. Vaaler speculated they
26 might be putting too much in the charter under City Manager. Vaaler questioned whether they
27 were limiting themselves in whom they could appoint.

28
29 Section VIII, item b: Regarding item b, Vaaler took exception to the clause starting with, “solely
30 on the basis of...” Mayor Moore suggested they could remove “solely” from that clause. Tooke
31 recalled the City uses a professional service for candidate searches and Council needed to be able
32 to provide specific criteria to the recruiting service. Council agreed to the following for the
33 second sentence of item b: “The appointment must be made without regard to political
34 considerations. It must be made solely on the Council’s judgment of ability to efficiently perform
35 the job of City Manager.”

36
37 Section VIII, item i: Kerti suggested moving item i to Chapter 3 as it was about what was
38 acceptable Council behavior. Council agreed to this move.

39
40 Mayor Moore noted the current version of Admin Policy 6 in their packets was not the current
41 version of that Policy. He indicated they would be sent the current version.

42
43 Vaaler asked how specific they should be on specific duties of the Manager. Mayor Moore
44 recalled that the City Attorney has often asked about what was in the Charter when deciding on
45 matters of City Manager duties and authority. Mayor Moore indicated he did not think the
46 additions would negatively impact the voters.

Councilors clarified that the City Manager need not reside within the city limits. Vaaler noted mileage requirements could be added. Mayor Moore highlighted the limitations on long-term rentals and affordable properties within the city limits. Kerti did not see a need to add a mileage requirement

Section VIII, item h: Vaaler suggested “unable” might be a better term than “disable” in item h. Council agreed to this change.

Section VIII, Attorney and Municipal Judge: Kerti noted while the City attorney was ok with adding the Municipal Judge section, it could create issues for the voters. Anderson noted a Municipal Judge was absolutely needed in the City as violations of City Code were misdemeanors and citizens should have a right to appeal.

Chapter IX Public Improvements: Vaaler noted Chapter IX Public Improvements did not make clear what “public improvements” were. Mayor Moore indicated he would clarify the matter with the City Manager.

Tooke clarified “remonstrance” was an expression of grievance.

B. Single Use Plastic Bag Ordinance

Mayor Moore reported the documents in the packet reflect what was recommended by the previous Council.

Kerti suggested there should be an exception for pet waste. Council discussed the exceptions and agreed to delete “sold in packages containing multiple bags” from the exception statement.

Kerti argued they should not ban plastic straws because of the hardship created for persons with disabilities. He was in favor of deleting straws from the ordinance. Mayor Moore noted California does not ban straws; California prohibits giving out straws unless a customer requests one. Mayor Moore noted a Newport restaurant manager reported a 75% reduction in straws when they were made available only by request. Kerti agreed to this approach as long as conditions were not added. Moore suggested adding a clause to the sentence starting with, “No retail establishment shall provide...” in Section 2 on page 3 to state, “however, plastic straws may be provided upon customer request.” Kerti worried that service providers would need extensive education. Council discussed instances where straws were given out.

Tooke pointed out that this language would impact what was stated section 4. Tooke suggested Council needed to do more work on the ordinance. Mayor Moore indicated Council could readdress the ordinance at the February 2019 work session.

Anderson suggested Councilors electronically distribute information with their suggested wording prior to meetings. Mayor Moore indicated he could collect input from each Councilor, compile that information, and then distribute to Council before the meeting.

1 Mayor Moore indicated he would ask other mayors what they do at the next Lincoln County
2 Mayor's meeting.

3
4 **C. Finance Committee Recommendation to Increase of Transient Lodging Tax**

5 Moore reported Finance Committee suggested three areas for using the additional revenue from
6 the Transient Occupancy Tax:

- 7 1. Little Log Church Repair as it was Museum
8 2. 804 Trail south end
9 3. Library

10
11 Vaaler questioned the rationale of specifying areas just to make people happy. Mayor Moore
12 clarified the matter was for justification and discussions, not for restricting how the money was
13 spent. Tooke noted this extra money would go to the Visitors Amenities Fund, which had
14 limited applicability. Mayor Moore estimated an additional \$115,000 would be generated from
15 the tax increase, \$78,000 of which would go to Visitors Amenities and the balance to the
16 Operating Fund.

17
18 Mayor Moore adjourned the meeting at 4:02 pm.

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22 _____
23 W. JOHN MOORE, Mayor

24
25 ATTEST:

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27
28 _____
29 Shannon Beaucaire, City Manager

_____ Date