



CITY OF YACHATS

CITY COUNCIL WORK SESSION & REGULAR MEETING

September 4, 2019

Draft Minutes

I. Meeting Call to Order

Mayor W. John Moore called the September 4, 2019 work session and regular meeting of the City Council to order at 9:30 am in the Multipurpose Room 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, Clerk Kimmie Jackson. Water Treatment Plant Lead Rick McClung, and Facilities Manager Heather Home. Audience: 22.

II. Work Session Discussion Topics

A. Vacation Rental Discussion

Mayor Moore summarized what was discussed at the previous work sessions:

- a. Continue ordinance in basic form with modifications.
- b. Use software from Civic Plus for tracking.
- c. Using Sheriff's Department in conjunction with Newport and Waldport with City Manager exploring seasonal temp during summer months.
- d. Keep 4-bedroom limit for new licensees.
- e. Keep licensing non-transferrable upon death or sale of property.
- f. Purchasers not entitled to renew licenses unless next on waiting list.
- g. Continue allowing licenses with no rental activity.
- h. Continue to allow current rentals with more than four bedrooms while under current ownership.
- i. Require new licenses in residential zones to get conditional use permit.
- j. Inspect rentals every two years.
- k. Set fees at \$150 for first inspection, \$100 for follow-up inspections, and \$100 for subsequent inspections.

1. Home Shares: Mayor Moore explained this issue addressed whether the City allow the rental of one room within a home. Councilor Kerti noted this issue was not addressed in the Code and asked what the current practice was. Mayor Moore stated a home share is defined as renting one room in an owner-occupied home for short term purposes. Councilor Vaaler reminded Council of the definition of an R-1 zone that is supposed to be for single family dwellings. She did not want to allow a continued short-term use in the R-1 zone, but would consider allowing long-term rental in that zone to a person who was working in the City. Councilor Glenn asked if the people

1 currently engaging in this practice were paying taxes or had been approved. Mayor Moore
2 indicated they were not being regulated, approved or paying taxes. Glenn leaned toward
3 Vaaler's stance on the R-1 zone but allowing for long-term workers. Glenn asked if there was a
4 way to assess who was renting out rooms.

5
6 Councilor Tooke noted Airbnb began with renting a room in one's home where they lived.
7 Tooke asked for clarification between a vacation rental and a Bed and Breakfast. Vaaler clarified
8 that Bed and Breakfasts require conditional use permits. Kerti noted that Bed and Breakfasts
9 homes must serve breakfast. Kerti did not support exemptions for home shares.

10
11 Mayor Moore summarized there was consensus to not allow for exceptions for home shares.

12
13 2. Events: Kerti did not support exemptions for events, especially in terms of parking. He noted
14 the issue of trying to monitor parking during an event or monitoring head counts. Tooke
15 clarified that events in this context meant any occurrence at the home that would require more
16 parking than allowed for the vacation rental. Mayor Moore noted this topic only applied to
17 vacation rental homes. Tooke noted that a family reunion would not be able to have extra people
18 at their home. Vaaler noted the City's vacation rentals have different occupancy limits. Vaaler
19 did not have concern over having a home with an occupancy limit of four having four additional
20 people over for dinner. However, she objected to larger vacation rentals have even more guests
21 to their home. She suggested something along the lines of allowing four extra people. Glenn
22 was aware of families renting several units at the same time with the expectation that they could
23 gather at one of the homes for meals and activities. Glenn was hesitant to start making
24 allowances or exceptions.

25
26 Mayor Moore agreed it was difficult to track people at an event. He noted they already have a
27 limit on maximum cars and asked if they should have a limit on daytime parking. Kerti noted in
28 Section 4.08.030.F limits daytime parking to surface parking on the property. Vaaler suggested
29 there be something further as renters could ferry people to the property. Mayor Moore noted the
30 code does not currently restrict the number of daytime guests.

31
32 Council agreed to leave the language for parking as it currently exists in the code.

33
34 The majority of Council did not want to add language that restricted the number of guests that
35 could come to a rental home. Kerti noted the code already has regulations around noise and that
36 noise would be a matter for code enforcement.

37
38 3. Liability Insurance: Manager Beaucaire stated she spoke to the City Attorney about requiring
39 liability insurance. The attorney noted some cities do require this insurance but cautioned about
40 priority placed on staff time for monitoring insurance. He noted that if they required insurance,
41 they absolutely have to enforce it or the City could be liable for not enforcing it. Tooke asked
42 what the City's liability was for a vacation rental for just issuing the license. Manager Beaucaire
43 indicated the liability would be on the part of the homeowner. Manager Beaucaire noted that it
44 would require special certification for a code enforcer to enforce building codes.

45
46 Mayor Moore suggested the safest course of action would be to leave liability insurance
47 decisions to the property owner. Vaaler cautioned against assuming the City would not be liable
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1 just because they did not require liability insurance. The majority of Council agreed to not
2 require liability insurance.

3
4 Vaaler noted she learned from the League of Oregon Cities conference that the League will offer
5 up to 10 hours of free legal advice to small cities. Manager Beaucaire noted that the League's
6 advice should not override the advice of the City Attorney. Vaaler referred to the League of
7 Oregon Cities draft of code for vacation rentals in section 5.14. She stated they require license
8 renewals every year that do require liability insurance. Vaaler asked if there would be a way to
9 declare the license null and void if the owner does not maintain liability insurance.

10
11 Three Councilors asked for a second opinion from an attorney on this liability insurance
12 requirement.

13
14 4. Cap Number: Kerti recalled at the August meeting they discussed how to handle inactive
15 licenses and possibly lowering the cap if inactive rentals were allowed.

16
17 The majority of Council agreed to keep the cap at 125 rental licenses.

18
19 5. Waiting List:

20 Mayor Moore noted that if they were to increase the license fee, some of the inactive users might
21 not renew. Mayor Moore suggested they consider starting a waiting list on February 1st, when
22 licenses renewals are due. Moore indicated that having a license application process open for a
23 limited time would preclude people overwhelming the office staff. Vaaler suggested compiling a
24 list over a lengthy period of time and then set some procedure for ordering the list. After this
25 ordering procedure, a new applicant would go to the bottom of the list. Vaaler suggested having
26 a fee for applying for the waiting list to encourage only people seriously considering this option.

27
28 Kerti and Vaaler wanted to start the waiting list now. Glenn and Tooke wanted to wait until
29 February. Moore favored waiting until February. Glenn clarified he was not in favor of starting
30 the waiting list on February 1 but on making a decision on that date.

31
32 6. License Fee Structure:

33 Mayor Moore handed out a potential license fee structure with information on number of licenses
34 for each bedroom level. He suggested the total of these fees should cover code enforcement,
35 overhead, and staff time to manage the licenses. Manager Beaucaire indicated there could be a
36 cost of software if the City were to use a third party for monitor rentals. Mayor Moore's
37 proposal would generate \$77,000. He noted these fees were less than what the homes pay for
38 internet and cable.

39
40 Glenn concurred that the license fee should pay for itself and that tax dollars should not be used
41 to underwrite certain industries. Vaaler noted Gearhart, OR requires \$750 regardless of number
42 of rooms and offers a \$100 refund if the rental furnished emergency "go bags."

43
44 Councilors favored Mayor Moore's proposed fees.

45
46 Vaaler raised the issue of what was required for inspections and who should conduct the
47 inspections. Vaaler favored having very thorough inspections, especially since the City was
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1 concerned about the health and safety of the homes. Mayor Moore suggested that the State does
2 not currently allow third-party building inspections.

3
4 Tooke asked that inspections include instructions on what can and cannot go into the recycling
5 bins. Tooke also noted that the requirement for bear proof trash receptacles was something Dahl
6 Disposal wanted to eliminate. He also noted that a fire extinguisher was not required but only
7 recommended.

8
9 Mayor Moore summarized that the only remaining matter for additional information was to get a
10 second opinion on the liability insurance.

11
12 Vaaler reported she looked at code for other cities and wanted to share a few ideas:

- 13 1. Upon renewal of licenses, a property manager include a log of all complaints and how
14 they were handled. Councilors agreed this requirement was a good idea.
- 15 2. Require a list of all rentals on the property with booking agents and the number of
16 occupants. Vaaler read a letter that Gearhart sent to their licensees asking for this log
17 of usage. Manager Beaucaire could not find any provision that the City has a right to
18 audit the books. Kerti thought such a list was a really good idea and would help to
19 remedy some of the issues around transparency. He believed this information would
20 be very helpful going forward. Glenn asked if such a request could lead to asking
21 restaurants to provide information on their food service. Tooke clarified that
22 businesses only need to report their cash register income.
- 23 3. Other cities differ in how occupancy is counted. Yachats counts occupancy at 4 years
24 and up while other jurisdictions use 2 years and up. The Council did not see a reason
25 to change this criterion.

26 27 **B. Transportation System Study**

28 Manager Beaucaire explained the memorandum from the Council of Governments (COG) and
29 the preapplication packet. She noted Council did not make any decisions on the
30 recommendations from COG. Glenn believed this study was an excellent opportunity to do a
31 community survey and to include a vision study. He did not see a need for the Town Hall.

32
33 Vaaler did not support any of the Council of Governments recommendations for the
34 transportation study due to their expense and the idea that they could be done better by
35 volunteers in the City. Vaaler recalled the binders the City Manager gave the Councilors at the
36 beginning of their terms. She noted in that binder reference to a Village Circulation Plan, which
37 she speculated was a transportation plan.

38
39 Vaaler noted in the documentation there was an option for a Quick Response Plan. She noted the
40 City appeared to satisfy the requirements for this program, especially around supporting state
41 assets such as the State Highway and the State Park.

42
43 Mayor Moore wanted the proposed plan to address Ocean View Drive, the intersections along
44 101 to be returned to their widths prior to the sidewalk construction, and a proposed crosswalk at
45 Fisterra Drive. Manager Beaucaire was not familiar the Quick Response Plan and noted the City
46 Engineer and City Planner did recommend the full transportation plan. Kerti favored the Quick

1 Response Plan and to not engage in the survey/studies COG was proposing, noting there has
2 already been considerable amount of input from the public.

3
4 Manager Beaucaire asked Council what their overall goal for the transportation plan was. She
5 recalled such a plan could help with getting future grant funding. Glenn recalled Council went
6 through a detailed process to get to the point Council was at today. Glenn wanted to stay with
7 the original decision. Manager Beaucaire noted the Village Circulation Plan did not meet the
8 current requirements for meeting state requirements.

9
10 Tooke asked for clarification on the current paving projects. Rick McClung reported estimated
11 costs for street work for Driftwood (behind the 501 Building) was \$100,000, and for E 2nd it was
12 \$250,000. He noted simple overlays were no longer performed because the city now had to
13 factor in storm drainage. McClung indicated the City can get a grant every two years from
14 ODOT. He also noted ODOT was changing its grant applications to coincide with information
15 within the transportation plans.

16
17 Kerti did not support using COG services for this project. Tooke wanted to pursue the larger plan
18 but was not prepared to commit to the COG studies. Glenn wanted to pursue the plan but wanted
19 the City manager to see if COG could estimate the likelihood of their getting funding for their
20 work.

21 22 **REGULAR MEETING**

23 24 **III. Announcements, Correspondence and Proclamations**

25 Mayor Moore read a proclamation proclaiming September 2019 as “National Preparedness
26 Month” in Yachats, Oregon.

27
28 Kerti announced that two members of the Parks and Commons Commission went to Newport to
29 get a bench for the bus stop by the Little Log Church.

30 31 **IV. Public Comment (topics not on the agenda)**

32 1. Lawrence Musial (226 Shell Street) indicated he was the President of the Blackstone
33 Homeowners Association. He clarified that at the time of the Blackstone PUD approval process,
34 the City approved the subdivision but did not approve the streets. He indicated the City provided
35 the homeowners with a list of work that needed to be completed for the City to accept the streets.
36 Musial indicated the County never got the information on transferring the streets to the City to
37 update their records. Vaaler asked Musial if he had a copy of the check he wrote for payment of
38 services. Musial indicated McClung should have a record of Blackstone ceasing to pay for
39 mowing along the streets when they believed ownership was transferred to the City.

40
41 Manager Beaucaire recalled the issue arose when citizens wanted emergency egress at the gate
42 on Gimlet. Manager Beaucaire reported she talked to the City Attorney who noted there was a
43 document that seemed to intend that the intent was to transfer the streets but it was not signed by
44 the owners of the impacted properties.

45
46 Vaaler asked if Manager Beaucaire if she had found any financial records of payments received
47 from Musial or Blackstone. Vaaler asked who had the authority to respond to citizen requests for
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1 emergency egress. Musial noted the Homeowners Association did not put up the gates, was not
2 asked for permission to put up the gates, and was not given a key to the gates. It was his
3 understanding that the road was a City street. He indicated he has requested many times to get a
4 gate key.

5
6 2. Nathan Barnard (Farm Store) stated he wanted the City to step back to look at what they were
7 trying to accomplish, noting the map drawings on the wall of the Council Room expressing the
8 goals of the Council at that time. He sees an escalation of regulation and enforcement needs and
9 more costs and fees. He asked how any of these regulations impacted the real needs of the
10 community. He suggested Council responses were more extreme than the problems that exist.
11 He did not think the Council were helping citizens in a meaningful way. He suggested Council
12 action around vacation rentals would bring about retaliation from vacation rental owners. He
13 argued against inspecting people's private homes was way beyond the jurisdiction of the City.
14 He also was offended by statements that Council can change regulations at any time as it
15 significantly impacts people's life planning. He noted the code enforcement issues remain
16 unresolved.

17
18 3. Candy Neville (1430 King Street) recalled that at a previous meeting, citizens had compassion
19 for vacation rental owners being able to transfer licenses to their heirs. She also presented
20 arguments against water and noise issues. She did not think vacation rental owners were
21 responsible for low income housing. She believed vacation rental owners get treated very
22 disrespectfully.

23
24 4. Doug Conner (490 Lemwick Lane) reported he had a land use complaint that has been floating
25 around the front office for four years and he cannot find out the status of the complaint. He
26 wanted to know how he could secure what was promised in the Comprehensive Plan about
27 protecting scenic views. Planner Mattison stated the City has a huge problem with high bushes.
28 Conner stated there was code about having hedges limited to three feet in the front yards.

29
30 Manager Beaucaire stated the attorney had asserted the code could not be enforced as Lemwick
31 Lane was a private street.

32
33 5. Tom Lauritzen (204 Shell Street) stated he came to Council in May 2019 asking about refunds
34 for overages for water charges. He wanted to know what the City was doing to resolve the
35 overcharges. He also noted that he sent the City Manager about an illegal deck being built on a
36 neighbor's property and it has been 15 weeks and he has not heard any response.

37
38 Manager Beaucaire indicated the Council had not yet made any determination about refunds.

39
40 6. Jacqueline Danos (116 Springhill) thanked Council for working on the vacation rentals and
41 setting a cap. Danos noted the shared economy helps people afford homes, and being able to
42 rent a room can help a family get and keep a home.

43 44 **V. Consent Agenda**

45 No items on the Consent Agenda.

46 47 **VI. New Business**

1 **A. Review of Planner Recommendations on Housing Code Changes**

2 Planner Mattison summarized his memo on housing code changes. Kerti asked for clarification
3 on the Planning Commission's input on this memo. Planning Commission Chair Helen
4 Anderson indicated the Planning Commission briefly discussed the pros and cons but had not
5 seen the resolutions presented in the document.
6

7 Glenn reviewed each of the resolutions and asked that Mattison take the questions back to the
8 Planning Commission. Vaaler was skeptical that any of the suggested changes would make a
9 difference in affordable housing and had concern that such changes could lead to negative
10 consequences. She noted the water issue impact when allowing smaller lot sizes. She favored
11 tabling these resolutions. Kerti agreed with Vaaler. He recalled from previous Planning
12 Commission activity that the Commission did not feel the regulations would help affordable
13 housing and had negative possible consequences.
14

15 The majority of the Council favored tabling the recommendations.
16

17 **B. Discussion of Council Evening Meetings**

18 Mayor Moore asked to review the need for having evening Council meetings. He noted hotels,
19 restaurants, and some merchants do not work 8-5 jobs. He noted at a recent conference, cities
20 reported the major reason for having evening meetings was that Councilors had day jobs. He
21 posited that the time of day has not impacted turnout or who comes to Council meetings. Glenn
22 favored going back to a daytime meeting. Tooke did not have an opinion. Kerti and Vaaler
23 wanted to keep the evening meeting time. Mayor Moore indicated he wanted to go back to a 2:00
24 pm meeting. Tooke changed his position to favor an afternoon meeting.
25

26 Mayor Moore indicated the Council would meet at 2:00 pm starting the third Wednesday of
27 October.
28

29 **C. Water Restrictions**

30 McClung reported flow for Reedy and Salmon Creeks was down to 278 gallons per minutes and
31 code requires a Level 1 restriction when combined flow reaches 275 gallons per minute. He
32 indicated the City Manager agreed with his recommendation to start Level 1 restrictions now.
33

34 Vaaler moved to begin Level 1 water restrictions: Aye -5; No – 0.
35

36 **VII. Public Hearing**

37 **A. Ordinance 360 on Sign Code update.**

38 Mayor Moore opened the hearing at 12:35 pm.
39

40 There was no public testimony.
41

42 Vaaler moved to adopt Ordinance 360 amending the Yachats Municipal Code Sections 9.44.010
43 through 9.44.130 on sign regulations as redlined: Aye -5; No – 0.
44

45 Mayor Moore closed the public hearing at 12:37 pm.
46

47 **VI. Other Business**

1 **A. From the Mayor**

2 Mayor Moore noted Council will need to have an executive session in October to conduct a
3 performance review of the City manager. He passed out previous forms for evaluations and a
4 new evaluation from Grants Pass. He asked Councilors for their input on the review process.
5

6 **B. From Council**

7 Kerti asked if Council could get an update on Code Enforcement. Manager Beaucaire reported
8 she already had a process engaged and she has scheduled an interview with a potential applicant
9 for Friday, September 6, 2019. Manager Beaucaire indicated the position was to supplement
10 Mattison's work and was limited to up to six months at up to 20 hours per week at a pay level in
11 accord with the City's collective bargaining agreement.
12

13 Glenn asked if more than one interview would occur before making a decision. Manager
14 Beaucaire indicated she hoped there would be more than one candidate and the temp agency was
15 only forwarding vetted candidates. She explained she had asked for two to four applicants for
16 each of two positions advertised.
17

18 Kerti asked if the position was advertised locally or whether a citizen of Yachats could apply.
19 Manager Beaucaire stated the position was advertised locally.
20

21 Vaaler noted the City Manager has come forward with a time-limited position for Code
22 Enforcement and she has heard from numerous citizens about wanting more from Code
23 Enforcement. She asked to have an agenda item at the next meeting to discuss potential policy
24 changes around Code Enforcement. Mayor Moore indicated the topic would be on the agenda.
25

26 Mayor Moore adjourned the meeting at 12:44 pm.
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28
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30

31 _____
32 W. JOHN MOORE, Mayor
33

34 ATTEST:
35
36
37

38 _____
Shannon Beaucaire, City Manager

Date