

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

February 2, 2021

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7:00 pm in the Council Chambers, 500 Central Avenue, Coos Bay, Oregon.

Those Attending

Those present were Mayor Joe Benetti and Councilors Stephanie Kilmer, Phil Marler, and Rob Miles. Councilor Carmen Matthews attended remotely via teleconference. Councilors Lucinda DiNovo and Drew Farmer were absent. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Finance Director Nichole Rutherford, Deputy Finance Director Melissa Olson, Fire Chief Mark Anderson, Police Chief Gary McCullough, Deputy Police Chief Chris Chapanar, and Police Captain Michael Shaffer. City staff attending remotely by teleconference was Library Director Sami Pierson.

Flag Salute

Mayor Benetti opened the meeting and led the council and assembly in the salute to the flag.

Presentation of Retirement Plaque for Police Captain Cal Mitts

Police Chief Gary McCullough presented Police Captain Cal Mitts with a retirement plaque honoring his twenty-five years of service to the community. On January 28, 2021, Captain Cal Mitts of the Coos Bay Police Department retired after twenty-five years of service to the City of Coos Bay.

Public Comments

Tom Bennett, Coos Bay congratulated Cal Mitts on his retirement and gave praise to the Coos Bay Public Library team for going out of their way to help patrons. Tom Shine, Coos Bay stated the Shriners Hospitals for Children key objective was burn prevention and the week of February 7-13, 2021 was National Burn Prevention Week.

Public Comment Form

No public comments forms were received.

Consent Calendar

Mayor Benetti reviewed the consent calendar which consisted of:

- 3a: Approval of January 19, 2021 Minutes
- 3b: Approval of January 26, 2021 Minutes
- 3c: Acceptance of Ready to Read Grants

The Coos Bay Public Library received \$2,225 and the Extended Services Office received \$6,185 in Ready to Read grants from the State Library of Oregon to promote early literacy projects. Both entities will use the grants to support summer reading programs, early literacy, and emerging readers.

Councilor Kilmer moved to approve the consent calendar as presented. Councilor Marler seconded the motion which carried. Ayes: Benetti, Kilmer, Marler, Matthews, Miles. Absent: DiNovo, Farmer.

Public Hearing to Consider Enactment of Ordinance for Maxwell Road Right of Way Vacation

Public Works and Community Development Director Jim Hossley stated the City received a right-of-way vacation request from Red Moon Development and Construction for the northern most portion of Maxwell Road abutting tax lot 4000 and the Coos Bay / North Bend city limit line. The application was submitted in conjunction with a subdivision land use application. On November 10, 2020, the Planning Commission recommended approval. The proposal was to vacate an area of approximately 50 x 125 feet portion of the undeveloped Maxwell Road right-of-way which would become part of the private development. The private development would be accessed by a private drive connecting to the City of North Bend's Connecticut Avenue off of Roosevelt Road, eliminating the necessity for the Maxwell Road right-of-way access. Comments were sought from all city departments and there were no objections. Comments were also solicited from local utility companies and there were no objections. It was noted a twenty-foot utility easement was required and being provided. As the vacation was within 1,000 feet of the shoreline, the city was required to seek input from the International Port of Coos Bay. On December 15, 2020, the Port Commission considered and approved of the vacation application. On January 5, 2021 City Council initiated the vacation request. Staff requested Council hold a public hearing and, after taking public testimony, consider enacting the attached vacation ordinance. The applicant has paid for the application fee and if approved the vacation would add property to the tax roll.

Mayor Benetti opened the public hearing. Linda Nicholson, Coos Bay stated she was unclear what the vacation meant specifically and asked if it would affect her property nearby. Mr. Hossley specified the vacation would not affect her property. Councilor Marler clarified the location of Ms. Nicholson's property stating there should not be interference with private property and if she had any additional concerns she could speak with Public Works or the Council again. The public hearing was closed.

Councilor Marler moved to enact an ordinance providing for the vacation of an undeveloped portion of Maxwell Road, located in Section 17, Township 25, Range 13 West of the Willamette Meridian, Coos County, Oregon. Councilor Kilmer seconded the motion. Deputy Finance Director Melissa Olson read the ordinance by title only and Ordinance 536 was enacted by the following vote:

Aye: Benetti, Kilmer, Marler, Matthews, Miles.

Nay: None.

Absent: DiNovo, Farmer.

Consideration of Enactment of Ordinance Amending Coos Bay Municipal Code Chapter 9.35 Graffiti

Deputy Police Chief Chris Chapanar stated in light of the recent uptick in graffiti related incidents within the City of Coos Bay, a review of Coos Bay Municipal Code (CBMC), Chapter 9.35 Graffiti was completed to ensure it was current, met requirements, and was consistent with current Oregon Revised Statutes (ORS). City staff met and reviewed the current graffiti ordinance, discussed necessary changes, and proposed language changes gathered from other municipalities in Oregon; with final review by the City Attorney. The final recommended amendments to the graffiti chapter were presented to Council for review and enactment of the ordinance.

At the September 22, 2020 work session, the graffiti ordinance was discussed with previous concern regarding language. It was noted there were constitutional limitations as to what the City could legally include in the ordinance. Under both the First Amendment to the United States Constitution, and even more so Article 1 Section 8 of the Oregon Constitution, there exists the right of individuals to free speech and expression, which includes written speech. Any effort to try to include a provision barring certain types of speech, including hate speech would in all probability be held unconstitutional as overbroad and/or vague, and; therefore, a violation of the U.S. and Oregon constitutions.

The ordinance as proposed would meet the needs of the City in most circumstances. Graffiti occurs when a person(s) write something, possibly offensive to the majority of the public, on public or private property without the permission of the property owner. The ordinance places a burden upon the property owner to remove the graffiti within a reasonable period of time. What the ordinance does not prohibit is the owner of the property placing speech on their property, whether objectionable to some or not. This is not graffiti, but an expression of the property owners constitutional right to free speech and expression, this cannot be controlled or prohibited.

Mayor Benetti opened the public hearing. No comments were made and the hearing was closed.

Councilor Kilmer moved to enact the ordinance amending Coos Bay Municipal Code Chapter 9.35 Graffiti. Councilor Miles seconded the motion. Deputy Finance Director Melissa Olson read the ordinance by title only and Ordinance 537 was enacted by the following vote:

Aye: Benetti, Kilmer, Marler, Matthews, Miles.

Nay: None.

Absent: DiNovo, Farmer.

City Manager's Report

City Manager Rodger Craddock stated the City Council Goal Setting meeting was scheduled for March 20, 2021 and the consultant would be scheduling dates for individual meetings prior to March 20, 2021 to prepare for the collective group priorities.

Council Comments

Councilor Matthew stated he hoped everyone was doing well, taking care of themselves and staying safe, and thanked Cal Mitts for his service. Councilor Marler thanked Cal Mitts for his service and was happy someone came to ask questions during the public hearing for the street vacation request. Councilor Kilmer stated Coos Bay Downtown Association held their annual meeting and listed the awards given and board of directors elected, the first meeting of Homeless Workgroup was held on January 28, 2021 with a presentation of Homeward Bound Program success, and next Homeless Workgroup meeting was scheduled for February 26, 2021. Deputy Police Chief Chris Chapanar stated Officer Babb has been able to bridge gap with other community resources for those the Homeward Bound Program have not been able to help. Councilor Miles stated the Coos Bay Public Library was conducting a survey of their programs and services, were starting a American Sign Language Conversation Program, and was a great asset for the community. Mayor Benetti stated he was looking forward to working with the Library Board to get a new facility, thanked Cal Mitts for all the work he has done, had seen Officer Babb working in the community and was making a difference, and the Show the Love gift certificate program sold almost 1,700 gift cards on January 23, 2021.

Adjourn

There being no further business to come before the council, Mayor Benetti adjourned the meeting. The next regular council meeting was scheduled for February 16, 2021. These minutes were approved as presented by City Council on February 16, 2021.



Joe Benetti, Mayor

Attest: Nichole Rutherford
Nichole Rutherford, City Recorder