



CITY OF YACHATS

CITY COUNCIL WORK SESSION & REGULAR MEETING

January 2, 2020

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

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

3
4 Councilor Tooke was not in favor of using to a public ballot if the City had to pay for a special
5 election. Vaaler noted the Charter requires the decision to be a Council vote.

6
7 Councilor Glenn asked if they needed to repeat what was in the Charter in the Council Rules.
8 Mayor Moore indicated they did not, but noted Vaaler was trying to be more specific about
9 appointments.

10
11 Mayor Moore stated the Charter was clear and gives the Council leeway to decide how to handle
12 the process. Mayor Moore noted there had been three appointments in the last 6 years, noting
13 each procedure was similar but somewhat different. Vaaler stated one appointment was by a
14 coin toss and one was not done by a public vote, noting the Charter may have been different at
15 that time, so she wanted to ensure there was some guidance as to how to conduct the process.
16 Vaaler added that having a more precise system of appointment would encourage people to
17 apply.

18
19 Mayor Moore wanted to clarify that Vaaler's and Kerti's concerns were not due to having
20 applied for a previous vacancy and not been selected. Vaaler stated she had no problem with the
21 previous appointment.

22
23 Mayor Moore asked Vaaler and Kerti to research what other cities have done and to bring back a
24 recommendation. Vaaler and Kerti agreed. Vaaler indicated she would forward corrections of
25 typos.

26 27 2. Commission Rules

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

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

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

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

39
40 Mayor Moore closed the work session at 9:52 am.

41 42 **REGULAR MEETING**

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

44 45 **III. Announcements, Correspondence and Proclamations**

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

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

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

10 None

11
12 **V. New Business**

13 **A. Elect 2020 Council President**

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

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

27 Call for vote: Vaaler – 2 (Kerti and Vaaler); Glenn – 3 (Moore, Glenn and Tooke). Glenn is
28 appointed as Council President.
29

30 **B. Appoint FY21 Budget Officer**

31 Moved to resolution 2020-103 appointing Shannon Beaucaire as the Budget Officer: Aye – 5; No
32 - 0
33

34 **C. Appoint FY21 Budget Committee**

35 Moved to approve resolution 2020-107 appointing Lance Bloch, Don Groth, Dawn Keller, John
36 Purcell and Brad Webb to the Budget Committee: Aye 5; No – 0.
37

38 **D. FY20 Audit Services**

39 Mayor Moore stated Resolution 2020-104 was to authorize Hanford and Associates to be the
40 City’s auditor for fiscal year 2019-2020. Vaaler noted the resolutions referred to an agreement
41 and asked if costs had been negotiated. Manager Beaucaire stated she has yet to negotiate with
42 Hanford on their contract. Manager Beaucaire added that the cost for the previous year was
43 \$12,000 and they had previously indicated that, with the new financial software, the cost could
44 be lower. Tooke clarified Hanford was the only auditor to apply for contract last year.
45

46 Vaaler moved approve Resolution 2020-104 authorizing the City Manager to contract with
47 Hanford and Associates for auditing services for FY19-20 with the stipulation that the City
48

1 Manager will bring the matter back to Council if there is more than a \$2,000 increase of in the
2 anticipated cost: discussion

3
4 Manager Beaucaire stated that the audit was part of budgeting process so there would be
5 approval of the final amount as part approving the budget.

6
7 Vaaler amended her motion and moved approve Resolution 2020-104 authorizing the City
8 Manager to contract with Hanford and Associates for auditing services for FY19: Aye 5; No – 0.

9
10 **E. Rural Telecommunications Investment Act**

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

17
18 Glenn moved to support the Rural Telecommunications Investment Act: Aye – 5; No- 0.

19
20 Mayor Moore adjourned the meeting at 10:11 am

21
22 **VI. Public Hearing**

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

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

28
29 Vaaler indicated she had concerns that the City would be issuing citations that would be more
30 expensive than the cost of conducting the municipal court. She thought it was important to focus
31 on rule that three violations within a year could result in removal of the license. She suggested
32 finding a way to not issue citations but to use something like a strike to record and track
33 violations.

34
35 Clerk Jackson recalled two violations in her nine years of service, with one case involving the
36 municipal court and one where the offender paid the fine without court.

37
38 Vaaler was in favor of striking the fine if there was some record of how track violations, apart
39 from issuing a citation.

40
41 Tooke asked for clarification on what was being proposed. Kerti summarized his position that it
42 did not seem reasonable to have massive fines amount for less important violations when there
43 was a means to revoke a license for continuing violations.

44
45 Manager Beaucaire had concern that the ordinance was to help ensure the quality of life in City
46 neighborhoods. She stressed how the City tries to work with neighbors to get issues resolved
47 without issuing citations. She explained the City must have staff go to the site, investigate

1 complaints, and do other office work. She wanted to ensure there would be incentive for
2 compliance. Vaaler asked Manager Beaucaire for clarification whether the costs and staff
3 resources expended was a good thing. Manager Beaucaire noted not every violation leads to a
4 citation, and some people pay the violation without going to court. Mayor Moore suggested it
5 might be best to have the teeth even if they were not used. Kerti stated if it was going to be hard
6 to track violations, then it might be best to keep the language as is.

7
8 Mayor Moore opened the floor for Public Testimony at 10:25 am.

9
10 1. Tom Lauritzen (204 Shell Street) note that the ordinance states that a complaint shall be in
11 writing on a form provided by the City and signed by the complainant and that the complainant
12 should provide evidence that they have attempted to rectify the situation with the property
13 manager.

14
15 He had concern that the City continues to place responsibility of enforcement on the citizenry
16 and not putting controls or restraints on the property managers. He noted the process indicated
17 does not make use of the new website for the intake of reports of violations. He stated that, in
18 order to be observed by staff, staff would need to be available 24/7. He argued enforcement
19 should be based on the tools available to enforce rules.

20
21 Lauritzen suggested they could use their tools to notify owners that there was a violation going
22 on at one of their properties and that if it was not resolved within two hours, there would be a
23 complaint. This process would not require a signature from the owner nor the citizen making the
24 complaint to provide evidence they tried to resolve the matter with the property manager. He
25 suggested more simple approach to take a picture, send a text to the Code Enforcement Officer,
26 start the clock, and notify property management.

27
28 Councilors and the Mayor agreed they should pursue Lauritzen's suggestion.

29
30 Vaaler asked if Council wanted to address the matter of vacation rentals operating in areas where
31 deed restrictions prohibit such use. Manager Beaucaire stated that in order for the City to check
32 deeds, a statement to that effect must be in the Yachats Municipal Code. She also noted they do
33 not know how readily available deeds are for the City to review. Glenn suggested putting a
34 question in the application indicating there were no deed restrictions on short term rentals.

35
36 Lauritzen noted there were 19 homes in Schmunk's Addition where the deed restrictions state
37 that homes must be used for residential purposed only. He reported courts have indicated a
38 vacation rental is an incidental use of home ownership and therefor would be in violation this
39 particular residential only restriction.

40
41 He suggested making a more direct statement regarding deed restrictions such as, "I have
42 reviewed my deed restrictions and my application does not violate the deed restrictions." Such a
43 statement enables other homeowners to pursue civil litigation.

44
45 Lauritzen noted in the Overleaf PUD documentation, there is statement that the properties can be
46 a vacation rental. He suggested current legislation takes away that right.

1 Manager Beaucaire indicated she would draft language for such a statement and bring that back
2 to Council.

3
4 Mayor Moore closed the public hearing at 11:38 am.

5
6 **VII. Other Business**

7 **A. From Mayor** - none

8 **B. From Council**

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

14
15 Vaaler reviewed a series of emails between herself, the City Manager, and the Mayor starting on
16 December 6, 2019 where Vaaler expressed concern about spending a lot of money on a
17 facilitator and that hiring a facilitator was a policy matter. Vaaler indicated she had good
18 exchange with the City Manager, that Manager Beaucaire contacted a facilitator at the Mayor
19 and Council President's request, and that Manager Beaucaire would do whatever Council
20 decided to do. Vaaler understood that there would be a Council decision on using a facilitator
21 where there would be a vote that would be recorded in the minutes. Vaaler stated she was unable
22 to find any record of such a vote in the minutes going back to May 2019.

23
24 Vaaler was expecting a discussion at the December 17, 2019 Council meeting and acknowledged
25 she did not raise the topic. She noted the day following the December 18, 2019 meeting,
26 Manager Beaucaire was instructed to move forward with hiring a facilitator for the January 9,
27 2020 goal setting session. Through additional emails with the Mayor and City Manager, Vaaler
28 understood that the Mayor believed the decision to hire a facility was not a policy decision and
29 that the Council had agreed to hire a facilitator. She did not agree the Council had made that
30 decision and there was no record of a vote. Vaaler also wanted clarification on which budget
31 line item the \$3,000 for the facilitator would come from.

32
33 Mayor Moore stated he would have preferred Vaaler to have responded to his email rather than
34 raising this issue at a Council meeting. Mayor Moore recalled the Council did agree to have a
35 retreat to discuss Council goals. Kerti and Tooke did not recall having a discussion about having
36 a facilitated meeting or retreat. Glenn recalled agreeing to have a facilitated retreat. Mayor
37 Moore apologized if his recollection was incorrect.

38
39 Mayor Moore stated the reason for moving to a Council-City Manager form of government was
40 to shift the running of day-to-day operations from the Council to the City Manager. Mayor
41 Moore believed it was a policy decision to have a retreat but it was not a policy decision to have
42 a facilitator. He recalled in January 2019, the Council had little experience and set a lot of goals.
43 He asserted it made sense to have someone with experience in working with a City Manager's
44 office to assist.

45
46 Vaaler asserted the Council does have clear sense of what is policy and what is administration
47 and noted some issue are borderline. Mayor Moore stated the facilitated session was an ideal
48

1 time to discuss this issue. Vaaler noted the previous Council had a lengthy discussion about
2 what they wanted to cover in the facilitated session. She noted they had the Mayor and Manager
3 from Newport come to explain how their system worked.

4
5 Glenn indicated he has already talked with the facilitator, Sarah Wilson. His first priority for an
6 outcome was to understand the difference between policy making and
7 management/administration. He included micromanagement in this issue. He indicated he was
8 pleased with the facilitator's work.

9
10 Vaaler had concern about possibly averting the democratic process by having a non-elected
11 person influence the Council's work to establish goals. Mayor Moore clarified that Vaaler was
12 not saying people should not give advice to the Council. Vaaler noted the Council rules state that
13 the Mayor runs the meetings and that the facilitator would be running the facilitated session.

14
15 Kerti did not recall voting on a facilitated session but believed they briefly mentioned a
16 facilitated session. He did recall the previous Council having a discussion and a vote in 2018.
17 He hoped in the future they could discuss and vote on such a decision.

18
19 Tooke believed the discussion would be good to have and stated he thought Vaaler had raised
20 some legitimate suggestions. He thought the current discussion would help improve their future
21 work.

22
23 Manager Beaucaire stated the purpose of the facilitator was to ensure that all Councilors
24 participate and to ensure Council stays focused on topic. She emphasized that facilitators are to
25 be neutral. Manager Beaucaire explained what she understood the facilitator was trying to
26 achieve with interviewing each Councilor and setting an agenda. She provided an example of a
27 facilitator helping to keep one person from dominating the agenda and outcome. Manager
28 Beaucaire stated the policy decision was included in Admin Policy #1 and Council Rules on
29 having an annual goal setting session. She indicated she also hoped to get more clarification on
30 the boundaries of Council and management.

31
32 **C. From Staff - none**

33
34 Mayor Moore adjourned the meeting at 11:02 am.

35
36 ATTEST:

37
38
39 _____
40 W. JOHN MOORE, Mayor

41
42 _____
43 Date