

City of Depoe Bay
City Council Regular Meeting
October 17, 2023 – Tuesday, 6:00 PM
Depoe Bay City Hall – 570 SE Shell Avenue

The Meeting Location is Accessible to the Public

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info@cityofdepobay.org*

AGENDA

- A. Pledge of Allegiance
- B. Call Meeting to Order and Establish a Quorum
- C. Changes and Additions to the Agenda
- D. Consent Agenda
Covers routine administrative matters. These items are not generally discussed and may all be approved as recommended in the staff reports. The mayor will provide an opportunity for a Council member or citizen to ask that an item be pulled from the consent agenda for discussion. Items pulled will receive separate action. All items not removed from the consent agenda will be approved by a single motion of the Council.
 - 1) September 19, 2023 City Council Regular Meeting Minutes (done)
 - 2) October 3, 2023 City Council Regular Meeting Minutes
 - 3) Accounts Payable – Financial ReportAction: _____
- E. Public Hearing
 - 1) 35 Cook Avenue – Order of Abatement – Resolution 549-23
Action: _____
 - 2) Second Reading & Public Hearing – Harbor Ordinance 342-23
Action: _____
- F. Guest Presentations
 - 1) Harbormaster Conference Report
- G. Commission/Committee/Group Reports
Emergency Preparedness, Harbor Restoration Steering, and Houseless Committees
Harbor, Planning, Parks, and Salmon Enhancement Commissions
- H. Public Comment
The public has the opportunity to address the Council during "Public Comment." Those attending virtually may raise their hand electronically or request to speak upon unmuting. The public may also

send written comments by email to recorder@cityofdepoebay.org. Please limit comments to one page and include your name and address. Emails received before 5:00 p.m. on the day of the meeting will be included and read into the record for comments by the Council.

- I. Unfinished Business
 - 1) Property Acquisition – Action (if needed) from Executive Session
Action:_____
 - 2) Harbor Docks 2-4 Replacement Project – Response to Bid Protest
Action:_____
 - 3) Tourism Promotions & Events Planning Committee
Action:_____
- J. New Business
 - 1) Fee Waiver Request – Community Hall – Lincoln County Fair Board
Action:_____
 - 2) Harbor Commission Application – Jack Burrigh
Action:_____
 - 3) Proposed Changes – Planning Commission (Discussion)
 - 4) Tri-County Continuum of Care - Resolution 550-23
Action:_____
 - 5) Community Hall Rules & Regulations (Discussion)
- K. City Staff Reports
 - 1) Project Updates
- L. Closing Public Comment
- M. Council Comments
- N. Adjournment

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"This institution is an equal opportunity provider."

Rules of Conduct for Public Meetings

No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting. Microphones will be muted for remote participants unless called upon to speak or during public comment period.

Persons shall not comment or testify without first receiving recognition from the presiding officer and stating their full name and city of residence.

During public hearings, no person shall present irrelevant, immaterial, or repetitious testimony or evidence.

There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting. If online participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off. If disruption continues, the participant(s) will be removed from the meeting.

Depoe Bay City Council Regular Meeting
Tuesday, September 19, 2023 – 6:00 PM
Depoe Bay City Hall

PRESENT: K. Short, J. King, R. Beasley, V. Sovern, F. Recht, A. Watson
ABSENT: L. Bedingfield
STAFF: Public Works Director B. Weidner; City Recorder Kimberly Wollenburg
GUEST(S): North Lincoln Sanitary District Executive Director Tina French

- A. PLEDGE OF ALLIEGENCE
- B. CALL MEETING TO ORDER AND ESTABLISH A QUORUM
Mayor Short called the meeting to order and established a quorum at 6:03 PM.
- C. CHANGES AND ADDITIONS TO THE AGENDA
None.
- D. CONSENT AGENDA

Motion to approve the Consent Agenda made by Councilor King; seconded by Councilor Watson.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

- E. GUEST PRESENTATIONS
North Lincoln Sanitary District, Tina French, provided a “state of garbage” update over the last year. She noted that they gave an employee CPI increase a half percent over CPI saying that last year was almost a 9% CPI and they only provided a 5% increase. She spoke about additional drivers to illustrate increases; however, she said that there is no increase to Depoe Bay due to a lot of revenue coming in from Depoe Bay drop boxes.
- F. COMMISSION / COMMITTEE / GROUP REPORTS
Planning Commission – Ruth Moreland provided a quick update regarding the recent approval of the City parking lot, a short discussion of a tree ordinance, and shared her concerns regarding decreasing the number of members.

Emergency Preparedness – Councilor King shared that it was a short meeting but a lot was covered. She said that Patrick Ganz from Depoe Bay Fire Department and Kyle Kennedy from WorldMark. There is a training scheduled for the 25th of September for part 1 of the training for the radios. The Committee will be working on an event on October 21 with the Lincoln County Emergency Management department and a spring event in 2024 focusing on donations for the cache storage. Councilor King asked City Recorder Wollenburg to talk about the Tsunami Quest idea that the Committee is interested in working for next year. Councilor Beasley noted he'd like to see solid progress about getting the caches ready for emergency events as soon as possible. He suggests that rather than pursuing grants, the City needs to get this situation including the emergency

warning system and would like to see a law requiring our short-term rentals to have go bags for everybody. Councilor King shared that they have a list of items to put in the cache and the new one is being worked on.

Harbor Commission – Liz Martin shared that there is a meeting scheduled for the next meeting. She asked if City Recorder Wollenburg addressed the non-motorized free increase recommendation. City Recorder Wollenburg said it would be at the next meeting.

Harbor Restoration Steering Committee – Liz Martin said lucky enough to open bids last week and being able to have a recommendation presented later in this meeting.

Parks Commission – None.

Houseless Committee – Mayor Short that the Committee hasn't met but will be soon to finish work on the ordinance. She shared that the County's Homeless Advisory Board have finished their five-year plan and a representative will be attending a Council meeting to provide information regarding the strategic plan and ask for a resolution to accept.

G. PUBLIC COMMENT

Liz Martin, Depoe Bay, spoke about the Council voting about the crab pot storage issue and hopes the Council will give a vote of confidence to keep the crab pots on the

Terry Thompson, Depoe Bay, spoke about the grant at the Lincoln County Emergency Management to help us with caches.

H. UNFINISHED BUSINESS

1) Park Commission Application – Todd Monday

The Council interviewed the applicant, Mr. Monday, regarding his interest in serving on the Parks Commission. He said he wanted to participate as much as he can. Councilor Watson asked where he came from and he said various places but the last time was from California. Councilor Beasley thanked Mr. Monday for applying and asked if he'd been on a parks tour. Mr. Monday said he had a little bit. Councilor Beasley suggested a park tour of Mr. Monday and the committee regarding the need for park maintenance that has been deferred. He said that adult exercise equipment is one thing for the Parks Commission to address.

Motion to appoint Todd Monday to the Parks Commission made by Councilor King, seconded by Councilor Watson.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

2) Crab Pot Storage on the Harbor Docks Decision & Direction

Mayor Short introduced the item then she made a motion.

Motion: Move to continue the crab pot storage on the old (current) docks until October 15, 2024 with the stipulation that every effort is made to find storage for the crab pots for when we have new docks made by Mayor Short; seconded by Councilor King.

Councilor Recht said she personally didn't think it was the City's responsibility to find alternatives. She heard a lot of good ideas from the discussion last time and would rather have a date certain to be before the construction of the new docks. She said certainty was needed rather than leaving it up in the air with the thought that maybe the Council will consider allowing for the new docks. She thinks there are alternatives and would rather give a date certain that there are no crab pots on the docks anymore after that date. Mayor Short agreed to add a date of October 15, 2024 to her motion.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

I. NEW BUSINESS

1) Request to Dedicate the Community Hall

Mayor Short mentioned the request to dedicate the Community Hall to Pogo Robison. After a brief discussion, City Recorder Wollenburg reminded the Council that allowing this would open the City to other requests to dedicate City property. Councilor Recht said this is a special case and she understands; however, she believes this is a fitting tribute for someone who really cared about the Community Hall and would often spend his off hours working on the Community Hall and the grounds.

Councilor Beasley said Robison absolutely deserves recognition but feels we are moving too fast and recalls when there was a move to dedicate the City Park to Betty Taunton and that it caused disconcertion. He thinks there should be a way to recognize long term founders in a way that is fair to everyone. He suggests the wording of the plaque to be "dedicated to the memory of ..." He said a better place to place a memorial is the flagpole at City Hall as he believes Robison was instrumental in having the flagpole installed.

After discussion, Council concurred with City Recorder Wollenburg is to visit the proposed change in wording for the plaque to say "...in memory of Pogo Robison..." then the date.

2) Flavored Tobacco Restriction Support – Resolution 545-23

Mayor Short addressed the resolution noting a draft was provided by the State and this comes out of a previous meeting where this item was presented.

Motion to approve Resolution 545-23 supporting a flavored tobacco restriction made by Councilor Watson, seconded by Councilor Recht.

Councilor Beasley said he's mostly in favor of this resolution; however, he is bothered by minty-menthol noting this issue is cultural addressing the past where these were provided to military men in the past and spoke about the

large percentage of African American's spoke menthol. He'd like to eliminate the menthol portion. Councilor Watson said she didn't have any concern with removing it. Councilor Recht said she doesn't think the last sentence is needed. The council concurred with striking it.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

3) Code Enforcement – Set Public Hearing on Order of Abatement – 35 Cook Avenue

City Recorder Wollenburg explained the request to have the property on the rights-of-way addressed through an Order of Abatement after a public hearing. She noted that the Lincoln County Sheriff's Office has been unable to make much of a headway and after discussions with the City Attorney, their recommendation is for the City to move forward with an order of abatement then a lien against the property. Councilor Recht suggested using the support from the abandoned grant through the County to have them remove the vehicles. City Recorder Wollenburg noted that the program was for abandoned RVs on public property which is what the Council had decided to focus on. It does not include personal vehicles such as cars. Councilor Recht said her idea is to soften the blow for the homeowner that the Council will do what it can to minimize the cost of the abatement. City Recorder Wollenburg will confirm the parameters of the County program. The Council concurred with setting the date for the public hearing to happen during the next meeting on October 3 at 5:30 PM.

4) Designating Code Enforcement Officers – Resolution 546-23

Mayor Short introduced the resolution to update the code enforcement provision to update the current enforcement officers.

Motion to approve Resolution 546-23 designating code enforcement officers made by Councilor Watson, seconded by Councilor Recht.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

5) Docks 2-4 Replacement Project – Approval of Recommendation for Bid Award

Motion to approve the recommendation by PND Engineers to award the Docks 2-4 replacement project to Advanced American made by Councilor Recht, seconded by Councilor Watson.

Vote: Motion Passed 6/0

Ayes: Beasley, King, Recht, Short, Sovern, Watson

K. CITY STAFF REPORTS

Councilor Recht asked about the dock leases. City Recorder Wollenburg explained that she spoke to the City Attorney who said he doesn't set lease amounts, that it's up to the City to determine the rates. Councilor Recht believes

that the request she made previously was to have the rates updated to match the City of Newport. After discussion, it was agreed that the update didn't specifically mention Newport but mentioned matching market rates.

City Recorder Wollenburg will provide material for discussion during the next work session. Councilor Recht requested having plot maps showing the City property, versus other ownership, and pull old Newell leases for that property.

City Recorder Wollenburg briefed the Council regarding updates to the public meetings law around training, clarification of serial meetings, new process to file violations, and personal liability.

After a brief discussion regarding the recent information coming out of the Housing (HPAC) regarding tree regulations, Councilor Recht mentioned at least addressing a big loophole in the zoning code that was discovered recently that people could take down trees for pre-development as long as not removing the roots. She recommends fixing the ordinance.

L. CLOSING PUBLIC COMMENTS

Liz Martin, Depoe Bay, reminded staff to remove the sign on the docks that says no crab pots allowed and update the ordinance to reflect the decision.

M. COUNCIL COMMENTS

Recht – None.

Short – Shared that \$11,113.36 was raised for Love to Lahaina.

Sovern – None.

Beasley – None.

King – Asked about the solar eclipse glasses for the past eclipse. Public Works Director Weidner confirmed that there are still some left that she will come and get. Councilor Recht asked if he remembered the controversy noting that some of the glasses were not rated and dangerous. He said that what's left is the later batch that was fine.

Watson – Asked if we have any white/blue Depoe Bay mugs. Public Works Director Weidner said there isn't but there are some ceramic mugs.

N. ADJOURNMENT. Meeting adjourned by Short at 7:43 PM.

Submitted by:

Reviewed by:

Kimberly Wollenburg
City Recorder

Kathy Short
Mayor

Depoe Bay City Council Regular Meeting
Tuesday, October 3, 2023 – 6:00 PM
Depoe Bay City Hall

PRESENT: K. Short, J. King, R. Beasley, L. Bedingfield, V. Sovern, F. Recht
ABSENT: A. Watson
STAFF: Public Works Director B. Weidner; City Recorder Kimberly Wollenburg
GUEST(S): None

- A. PLEDGE OF ALLIEGIENCE
- B. CALL MEETING TO ORDER AND ESTABLISH A QUORUM
Mayor Short called the meeting to order and established a quorum at 6:03 PM.
- C. CHANGES AND ADDITIONS TO THE AGENDA
None.
- D. PROCLAMATION CONSIDERATION – DOMESTIC VIOLENCE AWARENESS MONTH
City Recorder Wollenburg read the proposed proclamation.

Move to accept Proclamation as read made by Councilor King; seconded by Recht.

Councilor Beasley said that everyone has an interest, and he has a genuine interest and some direct knowledge based on five decades of experience, in the issues around domestic violence. He suggested that some of the language obscures the truth about domestic violence and that "burdens of oppression" implies slavery with little hope and didn't think that was the message the City wants to give.

Move to amend motion to adopt with change to second paragraph to stop at crosses all social groups and remove everything else. Amendment accepted by Councilor King; seconded by Recht.

Vote: Motion Passed 6/0

Ayes: Beasley, Bedingfield, King, Recht, Short, Sovern

- E. CONSENT AGENDA
August 15, 2023 City Council Regular Meeting Minutes
September 5, 2023 City Council Regular Meeting Minutes
September 12, 2023 City Council Work Session Minutes
September 14, 2023 City Council Special Meeting Minutes
Accounts Payable Report

Councilor Recht noted that a motion on September 5 is stated as from being from her; however, she was not present at the time.

Motion to approve the Consent Agenda with correction made on the September 5 minutes made by Councilor Bedingfield; seconded by Councilor King.

Vote: Motion Passed 6/0

Ayes: Beasley, Bedingfield, King, Recht, Short, Sovern

F. GUEST PRESENTATIONS

- 1) Status Update on Lincoln County Housing Authority Board
County Administrator, Timothy Johnson, provided a presentation regarding the status of the efforts of the Lincoln County Housing Authority.

Councilor Beasley said he is in favor of what is going on and being done but doesn't think the problems can be solved without enforcement and dealing with drugs, violations, getting into treatment and so on. Mr. Johnson said he's heard a lot of similar comments from other cities and that to his point, this must go into the work plan and be addressed. Councilor Recht asked if there was a work statement that she could see, and it was shared that the Council was provided previously when the Council approved the intergovernmental agreement for this effort. Councilor Recht asked further questions regarding housing plans.

Mr. Johnson said the County is heading in the right way, but he doesn't believe it will happen without all the cities continuing to work together and showing that Lincoln County has more of amenable environment for development. Mayor Short said transportation is going to be Depoe Bay's biggest issue, noting there is a lot to work on. Mr. Johnson spoke about the transit situation, dial-a-ride specifically, and the services that could be enhanced.

G. COMMISSION / COMMITTEE / GROUP REPORTS

Emergency Preparedness – Councilor Bedingfield shared that the Committee had to cancel the radio training session and there is the next meeting on October 9. Councilor Beasley said he read previous minutes and noted that the setting of the next cache at North Point by the wastewater plant is concerning and that it would be better to have it closer and at City Hall. Mayor Short said the Committee is just exploring options. Councilor King shared that the idea is to get a cache on both sides of the bridge and the only spot that might work on the north side of the bridge is near the Water Treatment Plant (not the Wastewater Treatment Plant). Councilor Bedingfield said the current year project is the cache at City Hall, but the Committee is exploring other potential sites for the future.

Harbor Commission – Commissioner Liz Martin said that new life rings with throw bags and new rope are on order for the harbor and that there is an open position on the Harbor Commission after the resignation of a member. She also said the new time for meetings during the winter is 3:30 from October through March. Councilor Sovern said the docks are looking so much better. Commissioner Martin said a few things were hauled off and the Commission is working with moorage holders to address anything remaining.

Parks Commission – None.

Houseless Committee – Mayor Short that that the Committee is meeting Monday at 2 PM to finalize the last draft of the ordinance.

Planning Commission – Nothing new to add after submitted report.

Salmon Enhancement Commission – Councilor King shared that there is a meeting scheduled for the 12th.

H. PUBLIC COMMENT

Patty Thornton of Depoe Bay said that the group from her school has been putting on an annual school event/reunion and at the latest one, the group was discussing the past. They discussed Pogo Robison and how much he cared from the Community Hall. She knows there are plaques along the seawall but thinks that his situation is different for recognition. She said he was so passionate about Depoe Bay. The group talked about the memorial being brushed stainless steel with it needing to be outside. Council concurred with a plaque noting "In Memory of Pogo Robison" be placed on the Community Hall.

I. UNFINISHED BUSINESS:

1) Harbor Ordinance Amendment – Ordinance 342-23

The Council discussed the motion from the previous meeting from Councilor Recht that noted that indicated the storage of crab pots was supposed to stop as of October 15, 2024, and her intent that date be placed into the Ordinance.

Councilor Beasley said he agreed with Councilor Recht and that he thought there were some proposals that were possible, specifically that the north side be developed. City Recorder Wollenburg reminded the Council that the Harbor project permit would not allow any additional overwater storage to be allowed.

Motion to read Ordinance by title only with the revision to clarify the date of October 15, 2024 for the removal of crab pots from the docks made by Councilor Recht; seconded by Councilor Bedingfield.

Vote: Motion Passed 6/0

Ayes: Beasley, Bedingfield, King, Recht, Short, Sovern

J. NEW BUSINESS

1) Application for Planning Commission – Stan Zitnik

Applicant not present.

2) Local Government Grant Authorization – Resolution 547-23

Councilor Recht noted that there are two different grants that will be applied for which the first one is for the Land and Water Conservation Fund and asked for the materials to be corrected to make sure that is the specific grant fund being applied for. City Recorder Wollenburg confirmed the updates would be made to the final resolution.

Motion to adopt Resolution 547-23 made by Councilor Beasley; seconded by Councilor Recht.

Vote: Motion Passed 6/0

Ayes: Beasley, Bedingfield, King, Recht, Short, Sovern

- 3) Non-Motorized Vessel Fee Adjustment – Resolution 548-23
Mayor Short introduced the resolution.

Motion to adopt Resolution 548-23 made by Councilor Beasley; seconded by Councilor King.

Vote: Motion Passed 6/0

Ayes: Beasley, Bedingfield, King, Recht, Short, Sovern

- 4) Moorage Fees – Other Government Agencies
City Recorder Wollenburg spoke about the item from the staff report. The Council consensus was to send the item to the Harbor Commission for a recommendation.
- 5) Land Conservation – North Depoe Bay Creek Watershed
Councilor Recht said that at a previous meeting, the Council expressed interest in acquiring the North Depoe Bay Creek watershed and shared the information from the meeting Councilor Recht, City Recorder Wollenburg, and Public Works Director Weidner met with the Department of Environmental Quality (DEQ) to discuss options. Council concurred with having a workshop before the Council meeting on November 7 and at 5:00 PM to hear from the representatives from DEQ.
- 6) Work Session Date in October
City Recorder Wollenburg addressed the confusion around work session dates noting there remains a need to review the salary survey and recommendations with the Council. In addition, another item needed for discussion is the dock leases. Council concurred with October 24 at 5:00 PM for a work session.

Councilor Beasley said that a food & beverage tax is a huge and controversial measure, a gigantic fight, and he hopes the Council considers that. Councilor Recht said that a larger discussion is revenue generation overall like food/beverage tax or a head tax. Councilor Sovern said there have been lots of concerns expressed about putting everything on the shoulders of the harbor and the need to “spread the wealth” among all of Depoe Bay.

- 7) Tourism Promotions Committee
City Recorder Wollenburg reviewed the staff report addressing the formation of a Tourism Promotions and Events Planning Committee with the initial focus being on the Salmon Bake but can also move into planning other events for the City. She shared that there is a large group of people willing to be on the Committee. Mayor Short said she thinks this is a wonderful idea and is fully supportive.

Councilor Recht shared that she had mixed feelings and about staff being involved with this not being the City's focus and that she doesn't see that as a

City contribution. She asked about a past presentation by the Friends of Depoe Bay who expressed an interest in taking over the Salmon Bake.

Councilor Beasley agrees with Councilor Recht and noted that other cities who have tourism committees don't run events. He said that he doesn't feel that the Facebook posts represent the bulk of the City and agrees that we have a score of more complex projects that need more attention than working with a new committee. He said the Council needs to do a better job of oversight with the City's current committees.

Loretta Myles shared her thoughts about having an event planning committee that focuses on community noting that the recent spaghetti fundraiser was eye-opening for her to see how much the residents enjoyed getting together and thinks there needs to be more community events.

Sule Wisniewski, Depoe Bay resident, said that a lot of people would like to form a new organization that is commerce or community-based noting that the community should be commerce based because of the things the City funds. She said the group needs a bit more time for form. Ms. Myles and Ms. Wisniewski appear to be working toward the same goal and suggests a meeting at the Community Hall to focus on the community but that doesn't put on more burden on the City.

Councilor Recht said she doesn't understand the relationship and she doesn't under the deliberate effort to keep Chamber off the group and businesses off the group and doesn't understand the whole framework of Committee and doesn't understand how it would lead to success with the animosity that has been perpetrated by some of the same people in the room. Mayor Short said it's one step at a time and relationships needs to be built.

Councilor Recht said she would like to know more as to how the structure is going to meet the goals and a volunteer committee under the City and doesn't know how those two things merge. She just sees the City being sucked down into something bad.

K. CITY STAFF REPORTS

Mayor Short when Spectrum would be done. Public Works Director Weidner said they still have all winter to finish, and that the restoration work will continue as the work finishes.

City Recorder Wollenburg shared some recent updates first addressing the land use appeal on the Inn at Arch Rock sign and that an appeal has been filed. She also shared that the confidential information was shared, and we don't know where this will go and will need to wait until something is provided to our attorney or filed with court. She also said that today was the end of the 7-day protest for the harbor project and that a protest was received.

L. CLOSING PUBLIC COMMENTS

- 1) Tim Johnson of South Beach said he is worried about the effect the merger of Kroger and Safeway would have on Lincoln County residents, noting that it would take away places for residents to shop. He said that if there is any indication, no one has learned how to address the issues of these mergers, and this scares him as individual as to what we have left with. Residents will be left with very small up-price grocery stores. He hopes the Council will consider this.
- 2) Liz Martin, Depoe Bay, said she's been listening to the conversations tonight and urges the Council to being to think about how to make things happen instead of how to stop them and focusing on all the reasons why something can't work.

M. COUNCIL COMMENTS

Recht – Requests an update on projects that sort of got dropped that she would like to revive such as the Ellingson rights-of-way issue and the Winchell path.

Bedingfield – None.

Short – Expressed concerns about keeping track of meetings and the calendar were discussed. Councilor Sovern requested frequent updates to the calendar.

Sovern – She said that October is also breast cancer awareness month, and as a survivor, she wants to make sure people are aware of how important early detection is.

Beasley – He said he's known Councilor Sovern for over 40 years and is glad she's still around.

King – None.

N. ADJOURNMENT. Meeting adjourned by Mayor Short at 8:07 PM.

Submitted by:

Reviewed by:

Kimberly Wollenburg, City Recorder

Kathy Short, Mayor

RESOLUTION NO. 544-23

**A RESOLUTION ORDERING THE ABATEMENT
OF THE CITY'S RIGHTS-OF-WAY AT
35 SE COOK AVENUE, DEPOE BAY**

WHEREAS the City Council adopted Ordinance No. 164 prohibiting the deposit or storage of garbage, refuse, rubbish, or junk upon any property within the City of Depoe Bay; and

WHEREAS the City has received numerous complaints regarding the property at 35 SE Cook Avenue and the violations of abandoned vehicles, junk and various trash and debris on the property and the City's rights-of-way on Cook Avenue; and

WHEREAS the City Council of the City Depoe Bay held a public hearing on October 4, 2022, at which time the Council declared the property at 35 SE Cook Avenue a public nuisance and ordered the removal of the owner's vehicles by December 4, 2022; and,

WHEREAS while the owner at 35 SE Cook Avenue has removed some vehicles and debris, additional vehicles have been stored on City's rights-of-ways and the debris and junk at 35 SE Cook Avenue remains unabated; and

WHEREAS despite the attempts of the Public Works Director and City Recorder as well as officers from the Lincoln County Sheriff's Office, the violations continue; and,

WHEREAS the City Council of the City of Depoe Bay did hold a public hearing to order an abatement of said violations on Tuesday, October 17, 2023; and

WHEREAS the owner of 35 SE Cook Avenue was sent notice of the public hearing via certified mail and postal mail to owner's post office box and notice was published to the City's website; and,

WHEREAS the City Council did hear and consider all reports, recommendations, complaints, and testimony.

NOW THEREFORE, BE IT RESOLVED that the City of Depoe Bay declares that the junk and vehicles on the City's rights-of-way on Cook Avenue that belong to the owner at 35 SE Cook Avenue is in violation of the City of Depoe Bay's Municipal Code and orders the abatement of the violation by the immediate removal of the junk and vehicles placed illegally on Cook Avenue by the owner at 35 SE Cook Avenue; and,

FURTHERMORE the City Council orders the City Recorder to file a lien for the costs of the abatement of the violations against the property at 35 SE Cook Avenue.

Adopted and approved by the City Council and signed by the Mayor this ____ day of October 2023.

Kathy Short, Mayor

ATTEST

Kimberly Wollenburg, City Recorder

**ORDINANCE NO. 342-23
CITY OF DEPOE BAY**

**AN ORDINANCE AMENDING CHAPTER 92, THE CITY OF
DEPOE BAY HARBOR ORDINANCE**

WHEREAS, the City of Depoe Bay has adopted rules for the control and management of the harbor properties and facilities of the City of Depoe Bay (Ordinance No. 252) (Harbor Ordinance); and

WHEREAS, since adoption, the Harbor Ordinance was amended from time to time.

NOW, THEREFORE, the City Council of the City of Depoe Bay hereby ordains that:

1. Section 1. Storage of crab pots is allowed on docks until October 15, 2024.
2. Section 2. The adoption of this ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council of the City of Depoe Bay and approval by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay, Oregon, on this 3rd day of October, 2023.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay, Oregon, on this ____ day of October, 2023.

Approved by the Mayor of the City of Depoe Bay, Oregon, this ____ day of October, 2023.

Kathy Short, Mayor

ATTEST

Kimberly Wollenburg, City Recorder

EXHIBIT “A”

CHAPTER 92: HARBOR REGULATIONS

Section

Rules and Regulations

- 92.01 General provisions
- 92.02 Definitions
- 92.03 Use of harbor facilities
- 92.04 Sanitation
- 92.05 Wheeled vehicles or devices and aircraft operation
- 92.06 Fire, safety, hazardous substances, and operations
- 92.07 Electrical systems
- 92.08 Moorage license agreements
- 92.09 Business at harbor facilities
- 92.10 Vessel categories
- 92.11 Enforcement

Fees, Rates, and Charges

- 92.25 Moorage fees
- 92.26 Waiting list
- 92.27 Utilities
- 92.28 Fuel facility
- 92.29 Launch facility

RULES AND REGULATIONS

§ 92.01 GENERAL PROVISIONS.

- (A) Reference. This chapter shall be referred to as the Harbor Ordinance.
- (B) Purpose. The purpose of these rules and regulations is to secure the most effective control and management of the harbor properties and facilities of the City.
- (C) Application. These rules and regulations are applicable to all harbor properties and facilities of and in the City. All vessel owner/operators and persons entering or using the facilities shall be subject to the policies herein defined.
- (D) Availability of Chapter. Anyone may inspect a copy of these rules at City Hall or the City website, and printed copies may be obtained upon request.
- (E) Construction. Unless otherwise required by the context or any particular provision, the words or phrases defined in § 92.05 of this subchapter shall have the meanings as set forth therein. The use of any gender shall include all genders; the singular shall include the plural, and the plural shall include the singular. When used throughout this chapter, the terms “shall” is mandatory and “may” is permissive, and the provisions of this chapter shall apply to individuals, partnerships, associations, and corporations alike.

(Ord. 292, passed 12-18-2012)

§ 92.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED. A vessel or other personal property shall be deemed abandoned if:

- (1) It is left on or in the harbor facilities either without identification or evidence of ownership and without notification to the City of ownership and:
 - (a) Without notification to the City of intent to leave for more than five days; or
 - (b) Notification to the City of intent to leave, but failure to return within five days of date stated to the City for date of return.
- (2) It is not removed from the harbor facilities within 15 days from date of mailing notice to vacate by the City by regular mail to registered owner at last known address, according to records of the U.S. Coast Guard for federally documented vessels, the Oregon State Marine Board for state licensed vessels, or to owner or person in control as registered with City; or
- (3) The vessel is not registered with the City within 12 hours of commencement of use of the harbor.

EMERGENCY. A state of imminent danger to life, property. or navigation in which time is of the essence.

ENVIRONMENTAL LAW. Any federal, state, or local law, statute, ordinance, or regulation pertaining to hazardous substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, being 42 U.S.C. 9601 et seq., as amended, and the Resource Conservation and Recovery Act of 1976, being 42 U.S.C. 6901 et seq., as amended.

GOOD CAUSE. Exists when it is established by satisfactory evidence that an action, circumstance, or omission was beyond the reasonable control of the person and, under similar circumstances, would be beyond the reasonable control of a reasonable and prudent person exercising ordinary common sense.

HARBOR FACILITIES. All facilities and equipment owned, leased, or operated by the City for the purpose of providing or facilitating usage of the City harbor by vessels and the public, including but not limited to moorage facilities, boat launch facility, vessel fueling facility/dock, fish plant facility, and parking areas.

HARBORMASTER. The person appointed by the City to serve as harbormaster and any assistant harbormaster or other employee authorized or designated by the City to enforce the provisions of this chapter.

HAZARDOUS SUBSTANCE. Any hazardous, dangerous, toxic, infectious, or radioactive substance, waste, or material, as defined or listed by any environmental law and shall include, without limitation, petroleum oil, and its fractions.

INDUSTRIAL WASTE. Any liquid, gaseous, or solid waste substance or combination thereof resulting from any process of industry, manufacturing, trade, agricultural, or agricultural operation or business, or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the harbor property or the waters controlled by the City.

LICENSEE. Any business, organization, or individual that has been granted legal permission by another entity to engage in an activity or rent equipment.

LITTER. Any and all types of debris and substances, whether liquid, gaseous, or solid or a combination thereof, including but not limited to garbage, refuse, rubbish, glass, cans, bottles, paper, and paper products, wrappings, decayed wood, sawdust, shavings, bark, cement, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, dead animals or parts thereof, manure, human or animal wastes, putrid, decaying or deleterious substances or matter, petroleum wastes or any machinery, appliances, or automobiles or parts thereof, or any other substances which may render the harbor property or waters controlled by the City unsightly, noxious, or otherwise unwholesome or to the detriment of the public health and welfare.

MOORAGE. Any place where a vessel is moored in an assigned berth made fast (secured) to a dock or finger pier.

(1) **RESERVED MOORAGE.** A designated moorage as defined above which is specifically assigned to the licensee on an annual basis, reserved for use by the licensee, and which is paid for on an annual basis.

(2) **TRANSIENT MOORAGE.** An undesignated moorage in which the period of occupancy is not established by a reserved moorage license agreement, and the charges for transient moorage are based upon the period occupied, daily or for one month.

MOORAGE FACILITIES. Those facilities of the City where vessels may moor to docks and finger piers.

MOORAGE LICENSE AGREEMENTS. The two types, being:

(1) **Reserved MOORAGE LICENSE AGREEMENT** is an agreement between the boat owner or operator and the City for the use of a reserved moorage space;

(2) **Transient MOORAGE LICENSE AGREEMENT** is an agreement between the owner/operator and the City for daily or monthly moorage for any vessel to use the harbor moorage facility and which belongs to an owner/operator who does not have a reserved MOORAGE LICENSE AGREEMENT in effect. Transient vessels or guest boats include, but are not limited to vessels seeking a harbor of refuge, day(s) use, or overnight(s) use of a moorage facility on a space-as-available basis.

OVERALL LENGTH. The distance from the foremost part of the bow (including the bowsprit or other protruding portion of the vessel) to the aftermost part of the stern including any protruding portion of the vessel except outboard engines or stern drives, regardless of keel length and regardless of registered length.

OVERALL WIDTH. The distance between the outermost part of each side of the hull of the vessel including any protruding portion, regardless of registered width.

OWNER/OPERATOR. Any person who claims lawful care, custody, or control of a vessel by virtue of legal title or equitable interest therein which entitles him or her to possession or has authority over the operation of the vessel pursuant to authority of the legal or equitable owner and has so stated on the moorage license agreement that he or she is the operator of the vessel.

PUBLIC WORKS DIRECTOR. The person appointed by the City Council to serve as the Public Works Director and acting under its direction.

SEWAGE. Water, chemical, or other liquid carried human or animal wastes from vessels, motor vehicles, trailers, residences, buildings, industrial or commercial establishments, or other places with such ground water infiltration and surface water as may be present.

UNDERWAY. The condition of a vessel, not at anchor, without moorings, and not made fast to the shore or ground.

VESSEL. Every description of watercraft in the water used or capable of being used.

VESSEL; COMMERCIAL. Any vessel used or engaged for any type of commercial venture, including but not limited to the display of advertising, commercial fishing, or the carrying of passengers or cargo for hire. Commercial fishing boat is defined as one that holds a valid resident or non-resident commercial fishing boat license and a valid commercial fishing license which authorizes the activity of selling his or her own catch directly from the vessel from which the catch was made and only to the ultimate consumer.

VESSEL; HAZARDOUS. A vessel which is determined by the City to be unseaworthy or in a state of disability which if unduly prolonged could endanger the marine environment or life or property or become a hazard to navigation.

VESSEL; STRAY.

- (1) An abandoned vessel;
- (2) A vessel, the owner/operator of which is unknown;
- (3) A vessel moored without permission; or
- (4) A vessel underway without a competent person in command.

VESSEL; VIOLATION. Any vessel entering and remaining at the harbor without authorization; or remaining at the harbor after moorage license agreement has been terminated; or in violation of any ordinance pertaining to the harbor of the City.

(Ord. 292, passed 12-18-2012)

§ 92.03 USE OF HARBOR FACILITIES.

- (A) Animals. Animals shall not be allowed on the harbor facilities unless securely restrained by a leash, chain, or other device which restricts their freedom and under the control of a responsible person. No person shall leash or tie any animal on any harbor facility in such a manner that would create a danger to any other person using the walkway or other facility or that would obstruct normal traffic on the facility.
- (B) Boat launch. Persons may launch vessels or retrieve vessels from the waters of the harbor of the City from the designated boat launch facility. The use of the boat launch shall be at the vessel owner's or operator's risk. All persons launching or retrieving vessels using the boat launch facility shall exercise reasonable care to avoid damage to the boat launch facility or to other persons or property in or about the boat launch area. Use of the boat launch facility is subject to payment of such fee as may be determined by the City Council by resolution from time to time.
- (C) Children. Children under the age of 14 years shall not be allowed on any harbor facility unless wearing a Coast Guard approved life jacket, or unless accompanied and supervised by a parent, guardian, or other responsible adult.
- (D) Condition of vessels and other property.

(1) Every vessel and all other personal property moored at or located on harbor properties or facilities of the City shall be kept and maintained in such condition of repair, maintenance, neatness, and orderliness so as not to constitute a condition of nuisance, substantial danger or risk, or harm to persons or property, or facilities. Every vessel moored at harbor properties or facilities of the City must, at all times, be completely seaworthy, fully operational, and ready for immediate cruising in local waters under its own power. Lack of seaworthiness may result in removal of the vessel as a hazardous vessel unless:

(a) The vessel is undergoing short-term (30 days or less) repairs that render the vessel inoperable; or

(b) Authorization has been obtained from the City to effect repairs rendering the vessel inoperable for longer than 30 days.

(2) In no event shall the vessel be rendered inoperable for a period exceeding 90 days.

(E) Fish cleaning. No person shall clean or process fish or shellfish on any harbor facility or from any vessel secured thereto, except in areas so designated by the City.

(F) Fishing and crabbing. No person shall fish or crab from any harbor facility except from 30 minutes before sunrise to 30 minutes after sunset. All fishing and crabbing gear shall be removed from the harbor facilities within 30 minutes after sunset.

(G) Harbor equipment. All City-owned equipment shall be operated by City employees only. Harbor equipment includes, but is not limited, to the City's boat and hoist. Use of the City's boat or hoist is subject to payment of such fee as may be determined by the City Council by resolution from time to time.

(H) Moorage facilities. No moorage will be allowed unless designated by the harbormaster or his/her representative. The right is reserved to refuse moorage if in the best interest of the City. Prior to using the harbor facilities for moorage by any vessel, the owner/operator shall contact the City and register the vessel and obtain a moorage license agreement for the moorage of the vessel. Licensee shall inspect the moorage space and adjacent premises and accepts them in their present conditions. With the exception of transient moorage, payment for the moorage shall be made in advance prior to the mooring. A transient moorage license agreement shall be obtained and moorage fees paid prior to or within 12 hours of commencement of use of the harbor moorage facilities.

(I) Performance of maintenance.

(1) No person shall perform maintenance on any personal property except in those areas so designated by the City.

(2) No person shall perform any type of maintenance on a vessel except in a safe and workmanlike manner, and shall not create, suffer, or permit any offensive or hazardous conditions while so performing.

(3) No tools, equipment, parts, or materials shall be placed on the public dock or other public space.

(J) Storage/designated storage areas. No person shall store supplies, materials, or equipment on any harbor facility or any other public area of the harbor except in areas designated by the City and with prior consent by the City. Persons may use such storage areas as designated by the harbormaster in accordance with the following provisions:

(1) Storage boxes are not allowed to be stored on the docks.

(2) **Storage of crab pots is allowed on docks until October 15, 2024.** No other personal property will be allowed on the public docks. In the event a person who is storing personal property on harbor facilities fails to remove all items stored, the City shall have the right to move and relocate any personal property left on the harbor facilities, or to declare the property abandoned and proceed with disposition pursuant to § 92.14(B) of this subchapter. The removal and relocation of personal property by the City shall be at the risk of the owner and/or person in lawful possession who failed to remove the items of personal property and the owner and/or person in lawful possession shall pay to the City a fee set by resolution of the Council of not less than \$100 for said removal and relocation, plus the actual costs of storage incurred by the City.

(K) Structures. No buildings or structures of any nature whatsoever shall be placed or constructed on City properties or facilities without prior written approval of the City.

(L) Swimming and diving. No person shall swim or dive from any harbor facility without written authority from the City. This section shall apply to recreational swimming and diving.

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.04 SANITATION.

(A) Standard. All vessels, personal property, facilities, or equipment on or about, or used on or about City harbor properties or property or water under control of the City, shall be kept at all times in a condition of reasonable cleanliness and sanitation so as not to constitute a common nuisance or existing or potential danger or harm to public health.

(B) Animal wastes or droppings. No person having control of any animal on City facilities shall allow waste or droppings of that animal to remain on any harbor facility of the City. Animal wastes or droppings shall immediately be removed and placed in a waste receptacle.

(C) Fish carcass/fish waste. No person shall cause, suffer, permit, deposit, or dispose of fish carcass or fish waste on or about the City harbor properties, City property, or water under the control of the City, except as specifically allowed in this section.

(1) Commercial users.

- (a) Commercial users shall be responsible for disposal of fish carcass and fish waste and shall not use City refuse or waste containers or other City facilities for disposal. Commercial users are persons, businesses, concessionaires, and non-public entities performing any regular or non-incidental activity or event conducted for the purpose of selling products or providing goods or services for a profit or private financial gain.
- (b) Commercial uses include, but are not limited to, permanent or portable stores, restaurants, shops, commercial fishing vessels, ocean charter boats, fishing guide services, fish cleaning services, tour or excursion boats, shuttle services, ticket sales, and watercraft rentals.

(2) Non-commercial users. Non-commercial users may dispose of fish carcasses and fish waste:

- (a) By proper use of the City refuse or waste containers identified for disposal of fish carcasses at the public fish cleaning stations;
- (b) By transferring such carcass or waste to a person or entity that has agreed to dispose of such materials in such a way as to not violate any federal or state law or regulation applicable to the materials;
- (c) By removing of such materials from the harbor properties; or
- (d) Bait used exclusively for crabbing on harbor properties may be disposed of in the harbor waters.

(D) Industrial waste. No person shall throw, place, leave, deposit, or abandon, or cause or permit to be thrown, placed, left, deposited, or abandoned, any industrial waste, litter, or sewage on any City harbor public property, except in receptacles designed by the City for the disposal of such materials or substances.

(E) Odorous waste. No person shall cause, suffer, permit, place, leave, deposit, or abandon aboard any vessel, in any motor vehicle or trailer, or on any City harbor properties or other public property, litter in the nature of offal, garbage putrid, or decaying or deleterious substances which give off an offensive odor, except in a closed nonporous container.

(F) Off-premises waste. No person shall use City refuse or waste containers for other than wastes or litter generated on City harbor properties or waters controlled by the City and for those wastes or litter generated from a vessel's voyage. See 92.07 (C) above for disposal of fish carcasses.

(G) Toilet standards. No person on a vessel equipped with a toilet shall use or permit the use of such toilet on waters controlled by the City, unless the vessel is equipped with facilities approved by the U.S. Coast Guard, or other appropriate governmental agency, and such equipment is in good operating condition adequate to treat, hold, incinerate, or otherwise handle sewage in such a manner that is capable of preventing

water pollution. Dumping of vessel holding tanks in harbor waters is not allowed. Persons shall use the CVA pump/dump station for dumping of vessel holding tanks located on the fueling dock.

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.05 WHEELED VEHICLES OR DEVICES AND AIRCRAFT OPERATION.

- (A) Aircraft landing. No person shall land any aircraft, fixed or rotary wing, on City harbor properties or facilities except in an emergency or after receiving permission from the City.
- (B) Wheeled vehicles or devices. No person shall use any wheeled vehicles or devices on any harbor facility except if the device is necessary to accommodate a physical handicap or the device is used to transport necessary supply or maintenance items, and such devices are not used in a manner that creates a danger or hazard on the facilities. Wheeled vehicles or devices include, but are not limited to mopeds, motorcycles, motorized wheelchairs, motor assisted scooters, electric mobility devices, bicycles, non-motorized vehicles other than bicycles (skateboards, scooters), wheeled carts, and wagons.

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.06 FIRE, SAFETY, HAZARDOUS SUBSTANCES, AND OPERATIONS.

- (A) Purpose. The provisions of this section are intended to govern the general safety of vessels, harbor facilities, and properties of the City and are not intended to limit the powers of any local, state, or federal agencies.
- (B) Standards. All vessels, personal property, City property, or any items used on or about City properties shall be used in such a manner and maintained in such a condition as not to constitute a fire or safety hazard. The failure to conform to any local, state, or federal regulation or ordinance regarding fire safety or safety operations may be considered in determining violation of this section.
- (C) Combustibles. Combustible materials shall be stored in such place and manner as to prevent accidental combustion and fire, except that rags and waste materials saturated with combustible fluids must be removed from City property immediately after use and may be further limited herein below. No person shall dump, discharge, pump, or allow to be dumped, discharged, or pumped, any oil, gasoline, distillate, any petroleum products, or any other flammable materials onto City properties or into waters within the boundaries of the City. Persons shall use the waste petroleum recycling facility for disposal of oil, gasoline, distillate, and petroleum products.
- (D) Electronic equipment. No person shall knowingly use, repair, or test any electronic equipment on or about the facilities of the City or waters within the boundaries of the

City in such manner as to cause interference with other electronic equipment in the area or injury or harm to any person or property in the area.

(E) Environmental compliance; hazardous substances. Persons shall take all practicable measures to minimize the quantity and toxicity of hazardous substances brought into, used, or handled at the properties of the City or upon waters within the boundaries of the City. All persons shall notify the City immediately upon becoming aware of any spill, leak, disposal, or other release of hazardous substances on, under, or adjacent to the harbor. As allowed by law, the City may inspect a person's use of any hazardous substances at the harbor properties at any time upon reasonable notice, or without notice in the event of an immediate threat to the general safety of the harbor.

(F) Fueling. No person shall fuel or cause to be fueled, a vehicle or watercraft on properties of the City or upon waters within the boundaries of the City except at the fuel dock station (Dock five).

(G) Fuel storage. No person shall store or cause to be stored, any fuel for any vehicle or watercraft on or upon the City properties or waters within the boundaries of the City except in tanks or containers designed for that purpose, and in areas where such tanks or containers shall not come into contact with sparks or heat or other conditions which may cause it to ignite.

(H) Welding and fuel torch equipment. No person shall:

(1) Use any welding equipment on any harbor facility except in such areas as may be approved by the City;

(2) Do any welding with equipment that fails to meet state safety requirements and without having in his or her possession a fire extinguisher of the kind approved by the United States Coast Guard for use on a commercial vessel;

(3) Use any blowtorch, acetylene torch, or similar type equipment for the repair or refurbishing of any watercraft in such a manner as to cause injury, harm, or damage to any person or property at or about the area of use; or

(4) Do any welding without conducting a one-hour fire watch upon completion. A pre- and post-work wash down is required.

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.07 ELECTRICAL SYSTEMS.

(A) Damage to system. No person shall do any act which will cause damage to or destroy any part, portion, or the whole of the electrical system on the harbor facilities.

(B) Use of electrical system. No person shall change, modify, or use the existing electrical system except as specifically authorized by the City. The City does not guarantee the continuity or characteristics of electrical service or its compatibility with the boat's

electrical circuit protector, if any. Use of the electrical service is at the licensee's own risk. The City shall not be responsible for any damages caused by licensee's use of the electrical service.

- (C) Excessive use. No person shall draw more amperage from the electrical system or individual outlets or services than as designed and available from one outlet, except that one additional outlet may be used on a temporary basis to operate power tools while the worker is on site making vessel repairs.
- (D) Vehicle or vessel contact prohibited. No person shall cause any vehicle or watercraft to be placed or moored in such a manner that the vehicle or watercraft or any part or extension thereof would come into contact with the electrical system or parts thereof.
- (E) Approved connector. No person shall use other than a marine three-wire plug, 3/12 cord, approved by the City when using electricity from the City's electrical system.
- (F) Electrolysis. No person shall cause, permit, suffer, or maintain any boat that discharges electrical currents in the harbor waters which result in electrolysis in the harbor. The City shall disconnect electrical service to such vessel and deny electrical hookup until the fault is corrected.

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.08 MOORAGE LICENSE AGREEMENTS.

- (A) General. It is the policy of the City that the moorages in the harbor are to be used for the purpose of accommodating vessels operating in conformance with the rules and regulations of the City and full and timely payment of moorage fees and charges.
- (B) Moorage license agreement required. No person shall moor a vessel at harbor facilities without having first entered into a written moorage license agreement with the City in the form and in the manner required by the City.

WAIVER OF RESPONSIBILITY. The liability and obligations of the City are limited to furnishing that portion of a slip or premises reasonably necessary for licensee's moorage use. The City does not accept the boat for storage, and shall not be responsible for or liable in any manner for the safekeeping or condition of the same. The City shall not be responsible or liable for any damage or loss to, or theft of, the vessel, its equipment, gear, contents or other property either upon the vessel or upon the premises of the harbor, from any cause whatsoever, or for injury to licensee, his employees, agents, or invitees upon harbor premises or adjacent thereto. Licensee shall indemnify and hold harmless the City from any loss, damage or injury resulting from the acts or omissions of licensee, his employees, agents or invitees.

All moorage license agreements with corporate owners or operators must be personally guaranteed by one or more controlling principal(s) of the corporate owner/operator. Any and all guarantor(s) signing the agreement acknowledge that they are personally benefitted by the agreement, and that they unconditionally

guarantee the timely performance of all of the licensee's obligations hereunder, including indemnities. The liability of each licensee is continuing, joint and several, and continues until all of licensee's obligations hereunder have been fully satisfied. Licensee(s) shall not be released by or because of the taking, or failure to take, any action that might in any manner or to any extent vary the risks of licensee under the license or that, but for this paragraph, might discharge or otherwise reduce, limit, or modify licensee's obligations under this license. Licensee waives and surrenders to the fullest extent allowed by law any defense to any liability under this license based upon any such action by or on behalf of the City. It is the express intent of licensee that licensee's obligations under this licensee are and shall be absolute, unconditional, and irrevocable. Licensee agrees to pay all reasonable attorneys' fees and all other costs and expenses that may be incurred by the City in the enforcement of the licensee or in the preservation, protection, or enforcement of any rights of the City in any case commenced by or against licensee under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute.

- (C) Vessel must be licensed or documented. As required by state or federal law, all vessels shall be licensed or documented at all times during the period of a moorage license agreement.
- (D) Period of validity and renewal of moorage license agreement.
 - (1) A reserved moorage license agreement shall be issued for one year. Upon expiration of the period stated therein, the moorage license agreement and all rights of the licensee thereunder shall automatically terminate. No reserved moorage license agreement shall be renewed unless the conditions of issuance are met and all fees and charges due and payable have been paid.
 - (2) A transient vessel moorage license agreement may be issued for any period of time at the daily rate, or for a period of 30 days at the monthly rate, as provided by the then current resolution of the City Council.
- (E) Uses permitted. The moorage license agreement shall allow the use of the boat launch and of the moorage facilities for moorage purposes only and shall grant no further right privilege or use. Additional or varying uses shall not be allowed, except as provided in the following divisions in this section.
- (F) Live-aboard. Live-aboard shall mean any person sleeping overnight or any other activity normally connected with temporary lodging. Residing aboard a moored vessel for more than 18 days during any consecutive 30-day period is prohibited.
- (G) Non-transferability of moorage license agreements. Reserved moorage berths may not be sublet or in any other way beneficially assigned. Reserved moorage license agreements are non-transferable, except when authorized by the harbormaster under the following conditions:
 - (1) If a vessel is sold as the result of the death or disability or illness of the licensee, the moorage license agreement may be transferred with the vessel when sold.

Only one transfer under this provision per part-owner or owner/operator shall be allowed;

- (2) If two or more vessels are being traded between boat owners so the net result does not change the moorage configuration within the harbor;
 - (3) If a vessel owner sells a vessel and replaces it with another vessel that may, in the judgment of the harbormaster, be safely moored in the same berth or in a suitable, available berth on the public docks when no one is on the waiting list for such berth;
 - (4) If a vessel owner transfers title to a corporation in which the vessel owner owns and maintains ownership of not less than 51% of the issued and outstanding stock;
 - (5) Upon the sale of a working charter boat with a valid City business license to an individual who shall continue working in the harbor as an active licensed charter boat, the purchaser of said vessel shall have the first right of refusal on said vessel's existing moorage space at the time of the sale;
 - (6) Upon the sale of a licensed actively working commercial fishing boat to an individual who shall continue working in the harbor as a licensed active commercial fishing boat, the purchaser of said vessel shall have the first right of refusal on said vessel's existing moorage space at the time of the sale. For the purposes of this exception, "commercial fishing boat" is defined as one that holds a valid resident or non-resident commercial fishing boat license and a valid commercial fishing license which authorizes the activity of selling his or her own catch directly from the vessel from which the catch was made and only to the ultimate consumer; or
 - (7) If a vessel owner/moorage licensee of a reserved moorage space removes the licensed vessel from the assigned moorage space to conduct repairs on said vessel, the vessel owner/moorage licensee may use the assigned moorage space for a same class size, or smaller class size, vessel owned or controlled by the vessel owner/moorage licensee until the licensed vessel is repaired. Prior to mooring the alternate vessel, the vessel owner/licensee shall obtain and maintain a valid moorage license agreement for the alternate vessel pursuant to division (I) below.
- (H) Grace period. In the event the licensee of a reserved moorage space sells or involuntarily loses the vessel, except by foreclosure by the City, the reserved moorage license agreement shall remain with the original licensee, providing that the licensee has purchased or purchases within one year of the date of the sale or loss, another vessel that is compatible to the size of the berth previously occupied and pays the reserved moorage fees at time of renewal. Prior to mooring the new vessel, licensee shall obtain a valid moorage license agreement for the new vessel pursuant to the requirements of this chapter.
- (I) Acquisition of moorage.

- (1) All reserved moorages will be assigned by the harbor master at such time as appropriate moorage space is available. Except as provided by division (G) above, reserved moorage license agreements will be granted to the applicant who is the highest on priority (determined by time) on the waiting list and who owns a vessel that is compatible to the berth that is available. Any person refusing to accept an assigned reserved moorage berth without good cause as determined by the harbor master may be dropped from the waiting list.
 - (2) All transient moorage license agreements for a period exceeding three days shall be granted upon proof of insurance and payment of charges provided there is no violation of any City ordinance and there is sufficient transient moorage space available, on a first come basis. There is no waiting list for transient moorage.
 - (3) Applicants for the waiting list for a reserved moorage license agreement shall certify the following information: true dimensions (overall length and overall width); applicant's name, address, telephone number, document, or certificate number and name or proposed name of vessel. At the time of assignment of reserved moorage, a reserved moorage license agreement shall be granted upon proof of insurance and payment of charges provided there is no violation of any City ordinance. Signatures of both the licensee and the City employee will be required for a valid moorage license agreement on all new and yearly renewals of moorage.
 - (4) All licensees for new or renewed reserved and transient moorage use for a period exceeding three days shall have in force and effect watercraft liability-protection and indemnity insurance and pollution liability insurance in an amount not less than \$500,000 for the term of the moorage license agreement. All such insurance policies required under this section shall name the City as additional insured and shall include a provision governing notifying the City prior to any early cancellation of the policy. Proof of all such insurance policies required under this section shall be provided to the City as a condition of issuance of a moorage license agreement. The certificate of insurance provided as proof shall clearly identify the insurance coverage and name the City as "additional insured" on the policy. Non-motorized vessels are excluded from the requirement to carry pollution liability insurance, all other requirements of this section shall apply.
 - (5) All transient moorage license agreements for a period of three days or less shall be granted upon receipt by the City of licensee's signed indemnification and hold harmless agreement and payment of charges provided there is no violation of any City ordinance and there is sufficient transient moorage space available, on a first come basis. There is no waiting list for transient moorage.
- (J) Additional rights not implied. The issuance of a transient moorage license agreement does not grant any rights or privileges to a licensee with regard to consideration for the granting of an annual moorage license agreement. Transient licensee must apply for a position on the waiting list for reserved moorage in the same manner as those not having a transient moorage license agreement.

- (K) Waiting list. The City shall maintain a waiting list of applications for reserved moorage license agreements. The waiting list shall be divided into categories determined by the City, based upon the various sizes of berths or moorages available in the harbor.
- (L) Applicability of moorage license agreements.
- (1) Reserved moorage license agreements shall be issued to a named owner/operator of a vessel and shall be valid only for a specific vessel in a designated moorage.
 - (2) Transient moorage license agreements shall be issued to the owner/operator and are valid only for a specific vessel.
- (M) Reassignment. Any moorage space may be reassigned at the option of the harbormaster if the orderly administration of the moorage facility so requires, notwithstanding the prior designation of a specific moorage berth in the moorage license agreement. Licensee may apply for reassignment, however granting reassignment is at the option of the harbormaster. A reassignment determination by the harbormaster may be appealed to the Harbor Commission. A written appeal shall be filed with the City no later than within five business days of the date of reassignment determination. An appeal, timely filed, will be presented to the Harbor Commission at the first regular Harbor Commission meeting following filing of the appeal. Appeals are de-novo. Moorage reassignment may also be made by the harbormaster if a vessel's size in relationship to the size of the assigned berth does not permit maximum and efficient public utilization of harbor facilities or if a reassignment will in any other manner increase the efficient public utilization of moorage facilities.
- (N) Temporary assignment and reassignment. Licensee may be temporarily assigned or reassigned to other berths or spaces to accommodate repairs, improvements, maintenance, construction, emergencies, or special events.
- (O) Licensee's mailing address. The licensee shall at all times keep the City informed of his or her current mailing address and telephone number, and an alternate telephone number. Licensee shall notify the City at least five business days prior to any sale of the vessel and prior to any transfer of title to the vessel. The vessel must be removed, or the new owner accepted as a licensee by the harbormaster in writing. Licensee shall notify the City immediately upon vacating the moorage assigned by the City. Failure to keep the City informed is a breach of covenant of the moorage license agreement and moorage license agreement will be terminated. All billings will be deemed delivered when mailed to the address of the record supplied by licensee.
- (P) Cancellation of the moorage license agreement for berth repair or elimination. The City may deny issuance or the reissuance of a reserved moorage license agreement when a berth is unusable, modified, eliminated, or in need of repairs.
- (Q) Termination of moorage license agreement. If after notice, the licensee fails to remedy any breach of the duties, covenants, or conditions of the moorage license agreement or to cease and desist from violating or permitting the violation of these rules and

regulations, the City may terminate the licensee's moorage license agreement and take appropriate enforcement procedures. In addition to the foregoing, the City may terminate a moorage license agreement for a deliberate misstatement or willful failure to disclose any material fact in a moorage license agreement.

(Ord. 292, passed 12-18-2012; Ord. 298, passed 9-20-2013) Penalty, see § 11.99

§ 92.09 BUSINESS AT HARBOR FACILITIES.

No business or commercial enterprise shall be conducted on or from any harbor facilities except as specifically authorized and permitted by the provisions hereof and on the conditions stated as follows.

- (A) The licensee of a valid moorage license agreement may, upon the conditions set forth herein, load and unload passengers from charter boats on the City's docks and may sell fish directly from commercial fishing vessels to the public on the City's docks.
- (B) No fish shall be sold directly from vessels to the public on the public docks nor shall passengers be allowed to board or depart from charter vessels unless the vessel from which the fish are being sold or passengers boarding or departing is secured directly to the City's docks in accordance with the vessel's moorage license agreement.
- (C) No business shall be conducted on or from the harbor facilities pursuant to this section until the owner/operator of the moorage license agreement for the vessel from which the business shall be conducted has applied for and received a City business license authorizing the type of business to be conducted. No business license shall be issued until the applicant has provided to the City written verification that:
 - (1) All applicants who use or employ shore-based workers which, if injured, come within the provisions of the federal Longshore and Harbor Workers' Compensation Act, being 33 U.S.C. § 901 et seq., shall obtain and maintain during such time as the workers are used or employed or for such time as a claim may be brought, insurance for coverage under the Longshore and Harbor Workers' Compensation Act in an amount not less than \$500,000. All such insurance policies required under this section shall name the City as an additional insured and shall include a provision governing notifying the City prior to any early cancellation of the policy; and

(Ord. 292, passed 12-18-2012) Penalty, see § 11.99

§ 92.10 VESSEL CATEGORIES.

Vessel categories shall be established by the resolution of the City Council.

§ 92.11 ENFORCEMENT.

NON-WAIVER AND JURISDICTION: The failure of the City to enforce all or any part of a moorage license agreement shall not constitute a waiver of any rights, including that which may have failed to enforce, under a moorage license agreement. The agreement shall be construed under the laws of the State of Oregon.

(A) Manner of enforcement. This chapter may be enforced in the manner provided by Chapter 11 of this Code of Ordinances, or as such ordinance may be hereafter amended, providing for general enforcement of ordinances of the City. Upon determination that a violation of this chapter exists, the City shall provide a written notice by personal delivery, or by placing in the U.S. mail a letter to the person in violation at the last known address provided to the City. If mailed, the notice shall be sent by certified mail, return receipt requested. The notice will include a statement that the violation must be corrected within 15 calendar days from the date of the notice.

(B) Removing or securing vessels or property. The City may, at its sole option, employ the following procedures in cases of abandonment; or when an owner/operator fails to maintain their vessel in a manner sufficient to not be hazardous; or when an owner/operator fails to obtain or maintain a valid moorage license agreement by failure to register with the City, pay moorage, storage, or electric fees causing them to be delinquent, or provide proof of insurance.

(1) At least 30 calendar days prior to securing or removal of a vessel or personal property, the City shall provide notice to the owner/operator of the vessel or personal property setting forth the statement of violation and that the City may seize the vessel and other property if the violation is not corrected within 30 calendar days of the date of the notice. The notice shall be delivered by posting the notice on the vessel or other personal property, and by personal delivery to the owner/operator, or by certified mail, return receipt requested, to the last known address provided to the City by the owner/operator. In the case of abandoned vessels or property, or where no address was furnished by the owner/operator, the City is not required to give the notice prior to securing or removing the vessel or personal property.

(2) The City may take reasonable measures including, but not limited to, the use of chains, ropes, and locks, removal from the water, or removal to storage areas to secure vessels and other personal property so that the same are in the possession and control of the City. At the time of securing a vessel or other personal property, an authorized City employee shall attach to such vessel or property a notice which shall contain the following information:

- The date and time the notice was attached;
- A statement that if the account, together with all expenses incurred in securing the vessel and the City's collection costs, is not paid in full and/or any ordinance violation is not resolved within 60 days of the date of the notice, the vessel or personal property may be sold at public auction with proceeds applied to satisfy the City charges and costs; and

- The address and telephone number where additional information may be obtained concerning release of the vessel or personal property.
- (3) Notice of securing a vessel or personal property shall be sent to the owner/operator by certified mail, return receipt requested, at the last known address provided to the City by the owner/operator.
- (4) The owner/operator of a vessel or personal property secured by the City may regain possession as follows:
- Establishing good cause for any ordinance violation where that is the issue;
 - Correcting and resolving the violation to the satisfaction of the City; or
 - Making payment to the City of all City charges.
- (5) If a vessel or other personal property has been secured and the owner/operator does not regain possession by the above methods, the City may, at its sole option, elect to sell the vessel or personal property at public sale.
- (6) For all sales of vessels and other personal property under this section, the City shall proceed with foreclosure and sale in the manner provided by O.R.S. 87.152 to 87.212 or 783.010 to 783.170. The City may bid all or part of charges and expenses at the sale and may become a purchaser at the sale. Sale proceeds shall first be applied to the costs of sale, including attorney's fees, then to discharge of moorage and other charges owed by the owner/operator, and the balance, if any, shall be paid as provided by state statute.

(Ord. 292, passed 12-18-2012)

Fees, Rates, and Charges

§ 92.25 MOORAGE FEES:

- (A) All moorage rates (daily, monthly, and annual) shall be effective each July 1 and thereafter, and adjusted annually to reflect inflation costs by applying the U.S. city average consumer price index for all urban consumers percent of change from the previous year. This annual adjustment shall not be less than five percent each fiscal year.
- (B) In addition to this annual adjustment, all moorage rates may be revised from time to time by resolution of the City Council.
- (C) Due dates for moorage use fees.
- (1) Reserved moorage license agreement fees shall be paid in advance by a new licensee before a berth is occupied. The moorage period for the first year or

moorage shall be the first day such use is permitted through June 30 (end of the fiscal year).

- (2) Reserved moorage licensees will be billed by the City on or about June 1 for a renewal period of one year starting July 1. This annual fee is due on July 1 for the annual period for which the renewal is issued, together with any delinquent charges owed to the City. If all charges and fees are not paid on or before July 10 (or the next regular business day if July 10 of the particular year is a Saturday, Sunday, or legal holiday), such failure shall subject the licensee to a late payment charge of 10%. Failure to pay monies by July 20 (or the next regular business day if July 20 falls on a Saturday, Sunday, or legal holiday) shall result in termination of a licensee's moorage license agreement, unless a petition for hardship has been filed with the City Council on or prior to July 1 (or the next regular business day if July 1 is on a Saturday, Sunday, or legal holiday), and in such event termination of the licensee's moorage license agreement shall be stayed until the petition for hardship has been either granted or denied. In no case shall payments be allowed to be delayed more than 45 days. If billing is not done on or about June 1, the dates shall be adjusted accordingly so payment is due one (1) month following the bill's issuance. All bills will reflect charges for the year starting July 1 no matter when the bill is received.
- (3) The one-year annual moorage period shall begin on July 1 (beginning of the fiscal year) and end June 30 (end of the fiscal year), except for the first year of reserved moorage. For purposes of the first year of reserved moorage, the beginning date shall be the first day such use is permitted and ends June 30 (end of the fiscal year). In the event the licensee wishes to terminate the moorage license agreement and seek a refund of a portion of moorage paid, the determination of a refund, if any, shall be as follows: the difference between the annual moorage amount paid and the transient daily rate multiplied by the number of days from the prior renewal date to the date of termination. If the moorage amount paid by licensee exceeds the calculated figure, the City shall refund the difference.
- (4) Transient moorage fees shall be made in advance or within 12 hours of commencement of use of harbor moorage, the owner/operator shall obtain a moorage license agreement and pay the moorage fees.
- (5) If monies due the City are not paid when due, the City may take such enforcement or collection action as it deems appropriate against the delinquent licensee at any time thereafter. If charges and fees are not paid when due, such failure shall subject the licensee to a 10% late service charge and result in termination of the moorage license agreement.

§ 92.26 WAITING LIST

All new and renewing waiting list applications shall be subject to payment of such fee as may be determined by the City Council by resolution from time to time.

§ 92.27 UTILITIES

ELECTRICITY

Electricity rates and charges shall be established and amended by the resolution of the City Council.

WATER

Included in the moorage rate. All water hoses must be fitted with a shut off nozzle. Any water hose found running shall be subject to a fine as set by resolution of the City Council.

Water rates and charges shall be established and amended by resolution of the City Council.

TRASH

Included in the moorage rate.

Trash rates and charges shall be established and amended by resolution of the City Council.

§ 92.28 FUEL FACILITY

Fuel rates and charges for the harbor fueling facility shall be established and amended by the resolution of the City Council.

In the event that a vessel owner/operator requests fuel at a time outside of regularly scheduled work hours that would involve a call-out (overtime) for the harbormaster or other City staff, in addition to the cost of the fuel the vessel owner/operator shall pay an after-hours surcharge.

§ 92.29 LAUNCH FACILITY

The continued use of the launch-facility will require either the purchase of an annual pass or the daily launch fee. Rates and charges for the launch facility shall be established and amended by the resolution of the City Council.



October 12, 2023

Kimberly Wollenburg, City Recorder
City of Depoe Bay
P.O. Box 8
Depoe Bay, OR 97341
Recorder@CityofDepoebay.org

SUBJECT: Depoe Bay Harbor Docks 2-4 Replacement – Response to Legacy Contracting Bid Protest

Dear Kim,

The intent of this letter is to provide our factual response to the bid protest filed by Legacy Contracting, Inc. The opinion in this response is made, given the specific language in the contract general terms and conditions which provides authority and latitude for the City to make decisions affecting project award.

Our view is that this opinion from PND should be reviewed by the City's legal counsel, given the contractual latitude that may be exercised by the City. The latitude exists in order for the City (at their sole discretion) to steer clear of potential harm that may arise, given the contingency pricing for foundation pile drilling submitted by Legacy Contracting.

The primary basis for rejection of Legacy's bid is made in accordance with the specific contract language in paragraphs 11.2 and 15.1.A of Section 00100 of the bidding documents. Section 00100 – Instructions to Bidders, Paragraph 11.2, states:

- 11.2 When, in the opinion of the OWNER, any of the unit prices are excessively unbalanced (either above or below the amount of a reasonable bid) to the potential detriment of the OWNER, such bid may be rejected.

The bid items in question are Site Condition Contingency items C13, C14, and C15. As argued in the Bid Evaluation Recommendation letter dated September 18, 2023, the unit costs for these items are non-elective, and paramount to the success of the project. Viewed in another manner, to award the project to Legacy will expose the City of Depoe Bay to financial harm that may arise given the high unit cost for supplemental drilling, compared to other competent bidders.

The evaluation of bids consisted of all components of the bid form, but primarily the non-elective items. Non-elective items include the base bid total and the contingency unit price bid items, as all of these items are required to successfully complete the project work. These items are not additive alternate items which the City can choose to accept or reject. Contingency items are predicated by site conditions (in this case the potential uncertainty in the actual geotechnical condition for the foundation) and are not elective.

In evaluation of the bids, the cost for contingency work is considered part of the non-elective work. Actual site conditions encountered during construction of the float foundation will dictate the quantities of contingency drilling effort. As such, the lowest responsive and responsible bidder is the respondent whose non-elective costs resulted in the lowest overall project cost and risk.

The Site Condition Contingency bid item submitted by Legacy for item C13 (additional drilling) is 283% of the average of the unit prices from the other four bidders. The average C13 unit price for the other four bidders is \$2,327.50 per foot of drilling, compared to Legacy's price of \$6,598.00 per foot. This substantial discrepancy will create a detriment of the City of Depoe Bay if the potential quantity of drilling is consistent with available geotechnical information for the site.

In our opinion, the bid from Legacy Contracting establishes an unreasonable cost for the drilling. The City of Depoe Bay is under no obligation to award a contract to a bidder that may result in projected final costs that exceed the available budget. Protection from this potential harm is provided in Section 00100 – Instructions to Bidders, Paragraph 15.1.A, which states:

15.1.A OWNER intends to make the award to a single BIDDER submitting the lowest responsive, responsible Bid. The award will be made by the OWNER on the basis of that Bid, which in the OWNER'S sole and absolute judgement, will best serve the interest of the OWNER.

Geotechnical background information was furnished as part of the bidding documents, which provides substantial evidence that drilling of piles will be required as part of the contract work. A review of the geotechnical data made available to the bidders as part of the bidding documents clearly indicates the presence of siltstone at depths where some pile drilling will be required. Review of this geotechnical information suggests the possibility that between 100 and 200 feet of drilling may be needed to install the piles to their design embedment. While the quantity of drilling was not explicitly stated in the bidding documents, a reasonable evaluation of the furnished data indicates that a pile drilling effort will be required.

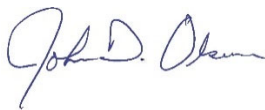
The attached figure of Bid Schedule Analysis provides the total project cost for each bidder including the effect of contingency item C13 with varying quantity of drilling. Given that the drilling item is non-elective and required for project success, a rather unflinching evaluation of drilling unit price (on the overall project cost) can be determined from the figure.

In light of the effect of this Bid Schedule Analysis, and given the contract language that provides the means to evaluate of lowest responsive and responsible bidder to serve the City's interest, PND recommends rejection of the bid submitted by Legacy Contracting, inc. for the Depoe Bay Harbor Docks 2-4 Replacement project.

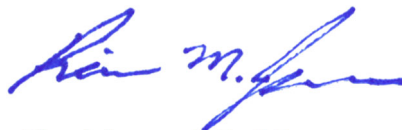
Feel free to reach out to us should you have any questions.

Sincerely,

PND Engineers, Inc. | Seattle Office

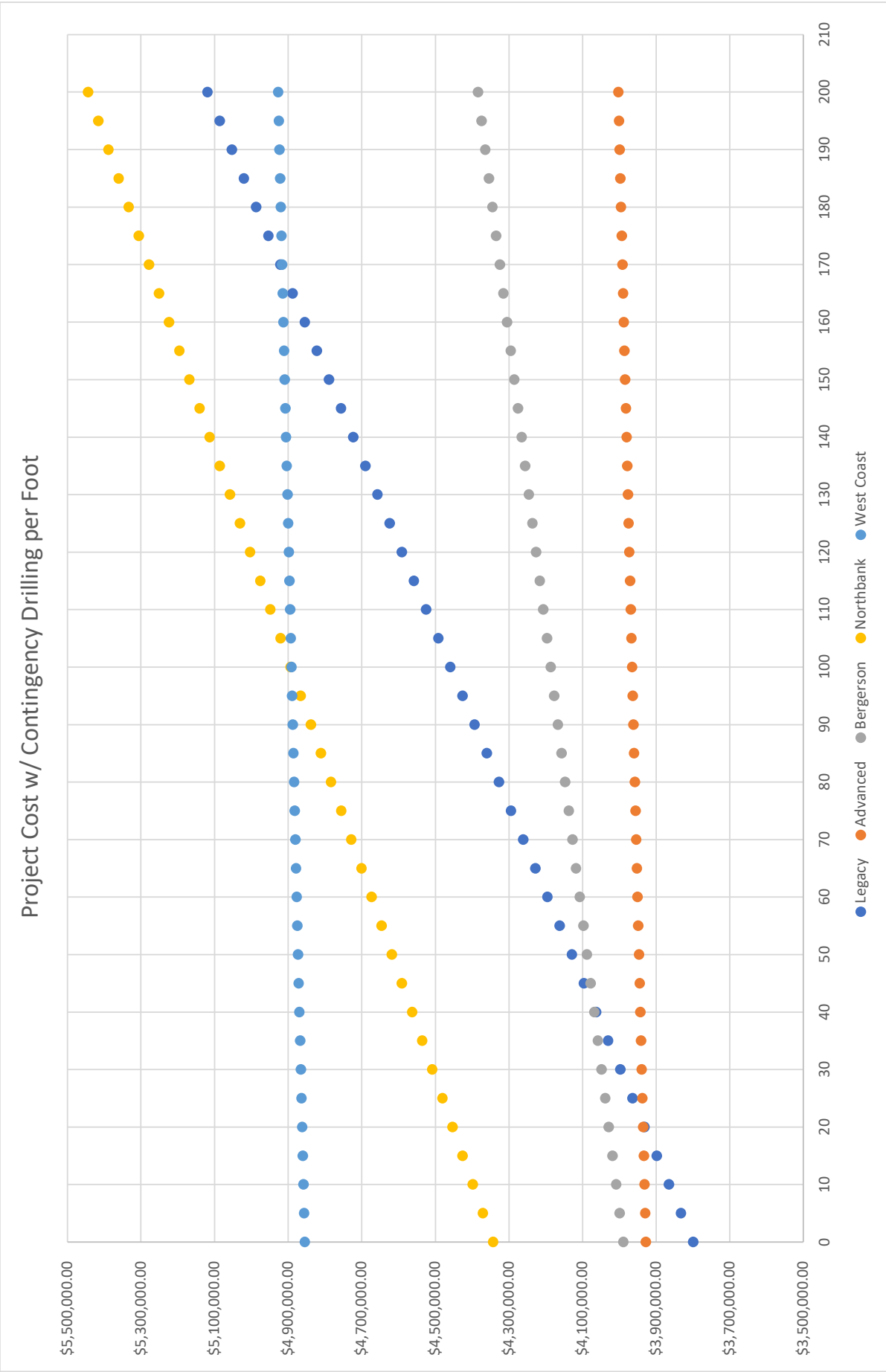


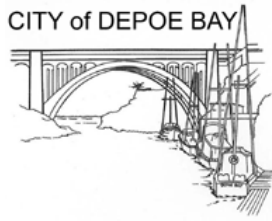
John Olson, P.E.
Project Manager



Rian Johnson, P.E., S.E.
Principal-in-Charge

Depoe Bay Harbor Docks 2-4 Replacement
Bidder Project Cost Comparison
Non-Elective Project Costs





TO: Depoe Bay City Council
FROM: Kimberly Wollenburg, City Recorder
DATE: September 29, 2023, for October 3, 2023, City Council Meeting
SUBJECT: Tourism Promotions & Events Planning Committee

Action Requested: Council consideration of the formation of Tourism Promotions & Events Planning Committee.

Discussion: Initially, the primary purpose of the Tourism Promotions & Events Planning Committee is to plan and organize the Salmon Bake for 2024. Once that is done, and depending on the group, the group could work with the City and the Council to plan other events as desired for the community and to support tourism. While this a group of volunteers, City staff would provide oversight of the Committee per the regular process with City Commission and Committees.

It is proposed that the Committee consist of a minimum of seven (7), made up of primarily Depoe Bay citizens with one member being either the Executive Director of the Depoe Bay Chamber of Commerce or a Board member. It is also suggested that at least one Council member be appointed as liaison from the Council.

Other cities who have similar committees:

Wilsonville - <https://www.ci.wilsonville.or.us/bc-tp>

Silverton - <https://silverton.or.us/bc-tourism-promotion>

Seaside - <https://www.cityofseaside.us/tourism-advisory-committee>

The main reason behind this committee is to fulfill the requirements of having a TRT tax and that at least seventy (70%) of the net revenue is to be used to fund "tourism promotion" or "tourism-related" and thirty (30%) is for city services.

In the past, the City used to provide funds to the Depoe Bay Chamber of Commerce as part of meeting requirements. This has not been funded since June of 2021. Amount was usually just under \$5,000, which was not 70% of the received funds from TRT.

A review of the past five years of TRT shows that only a small percentage was used for "tourism promotion" or a "tourist-related facility." The majority was for city services such as law enforcement and public safety (including the siren and maintenance on a speed control trailer) and transfers to harbor, streets and parks. While a case can be made for parks and harbor as "tourist-related facility" the rest was not.

In order for the City to become more compliant with TRT requirements, the City needs to spend more funds on "tourism promotion" which includes special events & festivals designed to attract tourists. The Salmon Bake is one of the biggest the City is known for.

Budget Impact: Advertising, marketing, & supply costs for the Salmon Bake – a budget would be crafted and provided for approval prior to any expenditures.

Recommendation: Council consideration and decision on moving forward with the creation of a Tourism Promotions & Events Planning Committee for Council approval and appointment of members at the next Council meeting.

Attachment(s):

- Draft Resolution XXX-23 & Exhibit “A”

Resolution XXX-23

**APPROVING THE CREATION OF A TOURISM PROMOTIONS
& EVENTS PLANNING COMMITTEE**

WHEREAS in March of 1976, the Depoe Bay City Council adopted Ordinance No. 22, which established a Transient Room Tax in the City of Depoe Bay; and

WHEREAS per Oregon Revised Statutes, seventy percent (70%) of the net revenue from the Transient Room Tax is to be used to fund “tourism promotion” or “tourism-related” efforts such as events; and,

WHEREAS to fulfil the requirements for “tourism promotion” or “tourism-related” efforts, there is a need for a City of Depoe Bay committee to run the Salmon Bake, which is important to tourism in Depoe Bay, and other city-wide events; and,

WHEREAS the Depoe Bay City Council desires to create the committee to plan and organize events such as the city-wide Salmon Bake as well as other events for the benefit of the City and its residents and business.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEPOE BAY AS FOLLOWS: a Tourism Promotions & Events Planning Committee shall be established to plan and organize events for the City of Depoe Bay such as the annual Salmon Bake and organized as shown in Exhibit “A.”

Effective Date. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this _____ day of _____, 2023.

Kathy Short, Mayor

ATTEST:

Kimberly Wollenburg, City Recorder

TOURISM PROMOTIONS & EVENT PLANNING COMMITTEE

ESTABLISHMENT.

A Tourism Promotions and Event Planning Committee is hereby established to advise the City Recorder, Public Works Director, and the City Council concerning issues related to the tourism promotion of the City and coordinate and run City events, such as the annual Salmon Bake. The City Recorder shall be the staff liaison to the Committee.

MEMBERSHIP.

The Committee shall be appointed by the City Council. Appointment shall be for a three-year term. Any portion of a term exceeding one-half the period of the term shall be considered a term.

The Committee shall consist of seven (7) members, none of whom are employees of the City of Depoe Bay. One member must be a representative from the Depoe Bay Chamber of Commerce with the remaining members being volunteers who are residents, owners, or employees of businesses within the Depoe Bay City limits. Nominees shall be recommended to the Council for appointment.

A vacancy shall occur from the resignation, inability to serve, removal, or death of any member. Resignation, when made, shall be addressed to and accepted by the Council. The City Council may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

The members shall serve without salary or compensation of any nature.

TERMS OF OFFICE.

The Committee's term of office shall commence on November 1 of the first year of his/her appointment. Original appointments shall be as follows: three appointees for three years; two appointees for two years; and two appointees for one year. Thereafter, appointments shall be for a three-year period or until an incumbent's successor is appointed and qualified. Any portion of a term exceeding one-half the period of the term shall be considered a full term.

MEETINGS AND REMOVAL OF MEMBERS.

The Committee shall hold a regular meeting at least once each month of the calendar year. The Committee may at any regular or special meeting cancel one of the monthly meetings, and/or may change the location site. The Committee Chair, or Vice Chair in the Chair's absence, may cancel one of the monthly meetings in the event of lack of City business, or in case of an emergency. The meetings shall be open to the public.

Any person appointed by the City Council to serve on this Committee who misses three or more regularly scheduled meetings during a calendar year shall be notified by letter that the position is vacated. The individual may appeal the decision to the City Council.

APPOINTMENT OF OFFICERS.

Each year, at the first meeting of the Committee, the members shall appoint one of their

members to serve as Secretary. Minutes of all meetings will be filed with the City Council.

POWERS AND DUTIES.

The Tourism Promotions and Events Planning Committee shall plan, coordinate, and volunteer for the annual Salmon Bake as a primary purpose. In addition, the Committee shall provide regular reports to the City Council on items relating to the marketing, promotion, and tourism of Depoe Bay.

RULES AND PROCEDURES.

Except as otherwise established by the City Council, the Tourism Promotions and Events Planning Committee may adopt rules governing the conduct of its business.

DRAFT



Subject: Letter of Intent – Transfer of Salmon Bake and Collaboration on Promotions and Events

Dear City Council,

We, the Depoe Bay Chamber of Commerce, are writing this letter to express our enthusiasm and willingness to collaborate with the City of Depoe Bay on promoting and organizing events that showcase the beauty and charm of our beloved community. We believe that by working together, we can create a stronger and more vibrant Depoe Bay, attracting visitors from near and far.

As an integral part of the local business community, the Depoe Bay Chamber of Commerce has taken great pride in organizing the highly successful annual Salmon Bake event. However, we recognize that the City of Depoe Bay has the potential to enhance and expand the reach of this event and other promotions. With this in mind, we intend to transfer all equipment, supplies, and rights associated with the Salmon Bake to the city if a committee dedicated to event promotions and planning is established.

By handing over these resources to the city, we aim to facilitate the growth and development of the Salmon Bake, allowing it to become a signature event that captures the essence of Depoe Bay. Our goal is to collaborate closely with the city and be actively involved in the planning, execution, and promotion of the event. We believe that our combined efforts will result in a more memorable and impactful experience for both residents and visitors.

Furthermore, we envision this collaboration as the beginning of a long-term partnership between the Depoe Bay Chamber of Commerce and the City of Depoe Bay. We are eager to explore additional opportunities for joint events and promotions that showcase the unique beauty, natural wonders, and rich heritage of Depoe Bay. By pooling our resources, knowledge, and expertise, we can attract a wider audience and foster sustainable economic growth for our community.

We kindly request that the City of Depoe Bay seriously consider the proposal and establish a committee dedicated to event promotions and planning. We believe that such a committee, consisting of representatives from the community, city and the Depoe Bay Chamber, will ensure the smooth and successful execution of events, including the Salmon Bake.

In conclusion, we are excited about the possibilities that lie ahead and sincerely hope that the City of Depoe Bay shares our vision for a dynamic and thriving community

Sincerely,

Mellissa Sumner
Executive Director
Depoe Bay Chamber of Commerce



Oct 11, 2023

To: City of Depoe Bay Council and Mayor
From: Lincoln County Fair Board

Subject: Rental of Depoe Bay Community Center

Mayor and Council Members,

My name is Daniel Helfrich, and I am the current sitting Chair for the Lincoln County Fair Board.

I would like to request to use the Community Center for monthly meetings of one of our Fair Board Committees.

I understand that as a government entity (as the fair board is appointed by the County BOC) that there is normally a fee of \$28.75 plus \$115 deposit. I would like to request that we only have to pay the \$115 deposit for the meetings. This would show support for the Lincoln County Fair by the City of Depoe Bay. Forging a relationship between county and city entities is mutually beneficial as we can support one another throughout the year, and continue to incorporate the entirety of Lincoln County into the Annual Fair Event.

If this is possible, please let me know as we would like to hold the first of many meetings on the 23rd of Oct 2023. If we have to still pay the fee, please also let me know that as well.

I would like to thank you for the time and energy you all put into this.

R/s,

Daniel Helfrich
Lincoln County Fair Board Chair
Fair Military Liaison
(757) 615-8485
Daniel.helfrich@outlook.com

CITY OF DEPOE BAY
P.O. Box 8, Depoe Bay, OR 97341
541-765-2361

"This institution is an equal opportunity provider"

Application for use of:

Depoe Bay Community Hall (Includes Tables & Chairs) X

Number of Table(s) (Off Premises) _____

Number of Chair(s) (Off Premises) _____

Barbecue _____

1. Organization requesting use LINCOLN COUNTY FAIR BOARD

2. Person requesting use DANIEL HELFRICH

3. When will the Facility and/or Property be used?

A. Date(s) 2023 - 10-23

B. Hours (include set up and take down) From 5 PM To 7 PM

4. Will liquor be served? Yes _____ No X

If yes, will there be a charge or request for donation? Yes _____ No _____

If yes, proof of having a liquor serving permit and that all servers have permits issued by O.L.C.C. must be filed with the Depoe Bay City Recorder prior to occupying the facility.

5. What is the specific nature of the usage? COMMITTEE MEETING

6. Estimate number attending: 10

Note: Per the Office of the State Fire Marshal

Maximum Occupancy - 78 People (Tables and Chairs Set-Up)

Maximum Occupancy - 167 People (Chairs Only and Standing)

If youth activity, name of adult supervising: _____

7. Requirements:

- A. City sponsored events will have priority for a facility until 48 hours prior to any other scheduled event.
- B. Facilities will be scheduled on a first-come, first-served basis.
- C. Applicants must be 21 years of age or older. A security officer or other responsible person at least 21 years of age, registered at City Hall must be in charge at all times.
- D. All organizations are responsible for their setup and clean up.
- E. All deposits and charges shall be paid at the time of application.
- F. The City will not be responsible for lost items.
- G. Refunds of deposits and other charges will be made if the written cancellation notice is received by the Depoe Bay City Hall at least 48 hours prior to the scheduled event.
- H. Keys for the facility must be obtained at Depoe Bay City Hall during regular working hours (8:00 am to 5:00 pm) Monday through Friday (excluding holidays). If City staff must check out keys after hours, the requesting party shall pay the actual overtime cost. Keys must be returned to City Hall. If the keys cannot be returned during regular office hours, a drop box is located on the right side of the City Hall front door.
- I. In addition to facility rental charges there is a cleaning deposit that is refundable if the facility is left clean, in good order with no breakage. There is also a deposit required for the rental of off premise chairs or tables.
- J. Rental begins at 4:01 a.m. and ends at 4:00 a.m. unless otherwise specified in Section 3.
- K. A facility may be rented for not more 16 calendar days per year (not more than two days per week or more than 8 weeks in any calendar year).
- L. No music between the hours of 10:00 p.m. and 7:00 a.m. (Noise Control – Ordinance #294, Sections 6.E. and 6.G.)

8. Failure to comply with these requirements may jeopardize applicant's current or future use of facility and property.

(over)

MAKE CHECKS PAYABLE TO: CITY OF DEPOE BAY
Please remit **TWO checks: 1 for deposit, 2nd for rental fee**

9. FACILITY RENTAL FEE SCHEDULE

Residents of the City of Depoe Bay _____ \$ 86.25 per day plus \$115.00 deposit
(Must demonstrate proof of Residency)

* Non-profit or Governmental Organizations _____ \$ 28.75 per day plus \$115.00 deposit

All other Individuals or Private Groups _____ \$172.50 per day plus \$115.00 deposit

10. OFF PREMISES - TABLE AND CHAIR RENTAL FEE SCHEDULE

Table _____ \$ 5.75 per day plus \$ 57.50 deposit

Chair _____ \$ 0.58 per day plus \$ 57.50 deposit

11. BARBEQUE _____ \$ 28.75 per day plus \$ 57.50 deposit

Applicant is responsible for pickup and return to City Hall.

12. INDEMNIFICATION AND HOLD HARMLESS

The applicant shall indemnify, defend and hold the City of Depoe Bay, (hereafter known as "City"), its employees and agents harmless from any claim, loss or liability arising out of or related to the applicant's use of the premises and property, or from any condition of the used premises or property, including any such claim, loss of liability which may be caused by or contributed to in whole or in part by the City, its employees and agents. The applicant shall indemnify the City, (1) for any damage to the City's property occurring during the use thereof, whether or not the applicant directly caused and (2) for expenses and costs, including attorney's fees, incurred by the City or its employees and agents, in enforcing the terms of this application or defending against any claims or demands for losses or liability arising from or related to the applicant's use of the premises or property.

Applicant's Name: DANIEL HELFRICH
Signature: *[Signature]*
Address: 23 N. ECHO MTN RD
OTIS OR 97368
Telephone Numbers: 757-615-8485

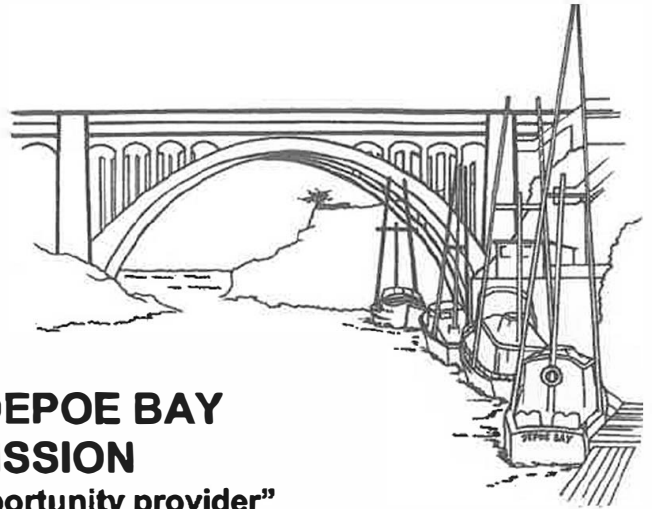
The following is to be completed by City staff:

Approved _____	Disapproved _____
Fee \$ _____	Rec. # _____
Deposit \$ _____	Rec. # _____
Date _____	
Comments: _____	
Signature: _____	
Date: _____	

Revised 10/25/21

CITY of DEPOE BAY

Post Office Box 8 + Depoe Bay, Oregon 97341
Phone (541) 765-2361 + Fax (541) 765-2129
TDD# 1-800-735-2900



APPLICATION FOR DEPOE BAY HARBOR COMMISSION

"This institution is an equal opportunity provider"

I, JACK SUPERBUT, am requesting to be considered as a member of the Depoe Bay Harbor Commission, for Position Number _____, for a 4-year term; or, to fill the vacancy which now exists, for Position Number _____, which expires _____.

Please Identify the Following:

↓
Should one open

☒ Non-Resident (no more than two members)

☐ Resident

SO forcat Resident N/ALAN, SO, Depoe Bay

I understand there is at least one regular meeting each month to conduct the necessary business of the Commission.

Ordinance No. 292 "No member shall miss more than two consecutive meetings. Should a member miss three consecutive meetings a report shall be provided to the City Council. The member may be removed from the Commission unless the City Council deems the absences as excused."

I also understand there could be special meetings called for various purposes.

I am willing to give of my time and knowledge to attend all meetings of the Commission, unless good cause prevents such attendance. I will notify the Commission Chairperson or the City Recorder of such cause prior to meeting time.

Respectfully,

Name Jack BURRELL Date 4-7-23
Mailing Address [REDACTED] NW ALANY OR 9732
Residence Address [REDACTED] Bky, SAME
How Long 31 y 50 percent of time
Business/Occupation Address Self Employed / Semi Retired
How Long 30 year
Telephone Numbers [REDACTED]
E-mail Address CounterStrikes@Hotmail.com
WWW.CounterStrikes.ORG
Background Information/Brief History: _____

Special Expertise/Experience with Harbor Operations: _____

My Contributions to this Commission will Include: _____

You will be notified as to the date of the City Council meeting at which the Council will conduct interviews and consider appointment to fill the vacancy on the commission. If you are unable to attend the Council Meeting, please notify city staff at your earliest convenience. Thank You!

Background Information: My dad, who passed away in 2018, fished out of Depoe Bay from the late fifties until 2018, when I took him out for the last time. He and his WWII friends had property in Depoe Bay in the late sixties. My dad purchased 15 Hour Lane in Depoe Bay in the 1970s. I started going out in the ocean with him when I was 3 years of age. We spent most summers at Depoe Bay fishing. After he passed away in 2018, my brother and I purchased his place in Depoe Bay.

Special Expertise: I was blessed with growing up in a family of fishermen. My dad and older brothers all fished in the ocean, lakes and rivers. Bill Monroe wrote several articles about my family fishing out of Depoe in the 1970s. I would be happy to provide copies upon request. We mainly sport fished, however, around 1978 or so, a very nice man named Fred Robinson who owned the Jimco Docks asked if I would be willing to be a deckhand on occasion. I absolutely loved the Jimco II, one of the boats he owned and chartered. I have some awesome pictures of that old boat, some of which I gave to his son Lars years later. Fred and I maintained a friendship. He eventually became mayor, owned the local grocery store, and then moved to Hawaii with his boat. I was sad to hear that the Jimco II sank and, of course, Fred's passing.

I bought my first boat in 1985 and started fishing out of Depoe Bay. I entered the law enforcement field in 1988. In 1992 I became a police officer in Cannon Beach. I was blessed to work with the USCG on many occasions, including on their large cutter the Resolute. What a boat. I also launched and fished Buoy 18 in Astoria. In 1993 I became a deputy in Benton County, Corvallis, my home town and worked Marine Patrol, which covered the Willamette and Santiam Rivers. We did, however, work with other agencies when needed, including Lincoln County. While mostly a patrol deputy, I spent a fair amount of time in a boat and later became an instructor with OSMB, teaching at Camp Rilea in Astoria.

My expertise would be through my many years of experience fishing out of Depoe Bay in a variety of boats and facing the unforeseen weather conditions. I am now on my third boat and hope to keep this one a while. I spend fifty percent of my time in Depoe Bay. My boxers love the evening walks and my wife loves the quiet to write, as she is an author. I understand laws and procedures. As a kid, I remember having a decent sized commercial fleet in the harbor. Times have changed with more sportfishing boats using the port, not to mention the current kayak debacle. Through the years, I have seen the growth and changes at the harbor.

Contributions to this commission: I would certainly hope my vast amount of experience in many different facets would be a welcome addition to the committee, along with the desire to make this port safe and effective for everyone to use and enjoy.

JACK D. BURRIGHT

OVERVIEW

- ... 25 years of criminal justice experience.
- ... Instructor for ACCJT (American Council Criminal Justice Training).
- ... Instructor for Code 4 Public Safety Education.
- ... Trainer on use of force/counter-terrorism to the 2000 international law enforcement officers at the 1996 Olympic games, Atlanta, Georgia.

EDUCATION

B.S., Criminal Justice, Southwest University, Kenner, Louisiana
Police Academy Department of Public Safety Standards and Training, Monmouth, Oregon
Oregon State Sheriff's Association Command College, Bend, Oregon

WORK HISTORY

Counter Strikes International, Albany, Oregon [1991-Present]

President

Selected Accomplishments:

- Received Award of Honor, Outstanding Achievement in Martial Arts, Kukiwon, Korea.
- 6th Degree Black Belt with 34 years of mixed martial arts experience.
- Conducted more than 100 seminars promoting personal protection and workplace safety.
- Experienced in conducting both civil, criminal and background investigations.
- Presenter for law enforcement and civilian training courses.

Linn-Benton Community College, Albany, Oregon [1998-2010]

Adjunct Professor

Selected Accomplishments:

- Taught college level classes for more than ten years in use of force and personal defense tactics.
- Created new lesson plans and course curriculums for criminal justice and personal defense classes.

CASA, Albany, Oregon [2008 – 2010]

Volunteer Coordinator

Selected Accomplishments

- Recruited, trained, and conducted background investigations for potential advocates.
- Supervised and mentored advocates, conducted training, and presented public information.

Benton County Sheriff's Office, Corvallis, Oregon [1993-2006]

Patrol Sergeant/Shift Operations/Payroll/Personnel Assignments/Internal Investigations/Marine Patrol

Selected Accomplishments:

- Planned, coordinated and executed over 200 successful SWAT missions as commander/operator of the Linn-Benton Multi-Agency Special Weapons and Tactics Team.
- Investigator, Major Crimes Team, reached conclusion of investigations in high profile cases.

REFERENCES

Mark Crawford
37062 Soap Creek Rd.
Corvallis, OR 97330
541-745-7191

Mike Downing
Former Detective Sgt.
541-929-5503

John Chilcote
Criminal Division Cmdr. (Retired)
DA Special Investigator
541-602-0425

Proposed Temporary Changes to the Planning Commission

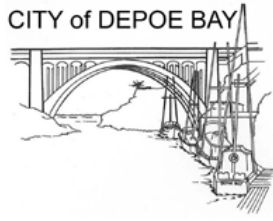
BACKGROUND: The Planning Commission currently has five commissioners and two vacancies. The terms of two commissioners, both of whom have indicated that they will not re-apply for their positions, end this year. We have not had much success recruiting members, although we have been advised that someone has recently expressed interest.

At our August meeting, one commissioner was absent but we still had a quorum. On one of the applications requiring a hearing, another commissioner recused himself because of a conflict of interest. With that, we no longer had a quorum. We had to rely on the Rule of Necessity to get a quorum. That rule allows a conflicted commissioner to vote, but not participate in the discussion, if needed to establish a quorum.

REQUEST: The work of the Planning Commission is critical to the city and is time-sensitive (an application not dealt with within 120 days of being deemed complete is assumed to be approved, including any variances or exceptions requested). To assure that the Commission will be able to meet and deal with applications on a timely basis, we are asking the City Council to consider the following temporary changes to the Planning Commission:

1. Reduce the number of commissioners from seven to five. This will allow the Commission to meet with only three members.
2. Allow for alternate commissioners (Oregon cities which currently allow this include Junction City and Lebanon). The alternate commissioners would be asked to attend if a commissioner is unable to attend a meeting or is conflicted on a specific application, and there would not be a quorum. Alternates would not be required to attend other meetings of the Planning Commission, other than training sessions. There could be up to two alternates, who would apply to City Council just like any other commissioner. To be an alternate, one must have been on the Planning Commission for at least four years during the last ten years. Both of the retiring commissioners have indicated a willingness to apply to be an alternate.
3. Require Planning Commissioners to attend City Council meetings only upon request of the City Council or when the Commission has something to present. The City Planner provides a very complete report monthly to the City Council that includes all Planning actions and activities and is typically available to answer questions regarding that report. Given the limited availability of the current commissioners, it may not be feasible for someone to be at each meeting (one teaches a class on Tuesdays during the school year, one lives in the Portland suburbs and the third is a nurse who can have schedule changes or emergencies).

Thank you for your consideration of these changes.



TO: Depoe Bay City Council

FROM: Kim Wollenburg, City Recorder

DATE: October 13, 2023, for October 17, 2023, City Council Meeting

SUBJECT: Support of Establishing a Continuum of Care

Action Requested: Council approval of the attached resolution supporting the establishment of Continuum of Care.

Discussion: On September 5, 2023, Pegge McGuire, Executive Director from the Community Services Consortium, addressed the Council regarding forming a Tri-County Continuum of Care and spoke about asking for Council support of a resolution establishing the Continuum of Care. Attached is the proposed resolution for that support.

Budget Impact: None.

Recommendation: Council approval of a resolution supporting the establishment of a Continuum of Care for the Linn, Benton and Lincoln Counties region.

Sample Motion: I motion to approve Resolution 550-23 in support of the establishment of continuum of care for the Linn, Benton, and Lincoln Counties region and registering with the US Department of Housing and Urban Development in 2024.

Attachment(s):

- Resolution in support of establishing a Continuum of Care for the Linn, Benton, and Lincoln Counties region and registering with the United States Department of Housing and Urban Development in 2024 - Resolution 550-23

RESOLUTION NO. 550-23

**A RESOLUTION IN SUPPORT OF ESTABLISHING A CONTINUUM
OF CARE FOR THE LINN, BENTON, AND LINCOLN COUNTIES REGION
AND REGISTERING WITH THE UNITED STATES DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT IN 2024**

WHEREAS homelessness is a critical issue in the tri-county region of Linn, Benton, and Lincoln Counties; in Oregon; and across the nation; and

WHEREAS children, families, veterans, and chronically homeless individuals experiencing mental illness and addictions comprise a large portion of the region's homeless population; and

WHEREAS, the United States Department of Housing and Urban Development created the Continuum of Care program in 1994 as a means for communities across the nation to "engage in multi-year strategic planning for homeless programs and services that are well integrated with planning for mainstream services"; mainstream services denoting public housing, Section 8 housing choice vouchers, and services for runaway and homeless youth, victims of domestic violence, veterans, seniors, and people experiencing addictions and/or mental illness; and

WHEREAS Linn, Benton, and Lincoln Counties are part of a "balance of state" Rural Oregon Continuum of Care; and

WHEREAS the City of Depoe Bay carefully considered relevant factors and determined that the region could benefit from creating its own Continuum of Care, with enhanced service coordination, local autonomy, and alignment of goals to reduce homelessness more effectively in the region.

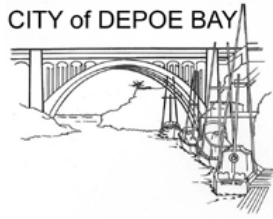
NOW-THEREFORE, BE IT RESOLVED that the City of Depoe Bay supports establishing a Continuum of Care for the Linn, Benton, and Lincoln County region and supports the new Continuum of Care registering with the United States Department of Housing and Urban Development in 2024.

Adopted and approved by the City Council and signed by the Mayor this _____ day of October 2023.

Kathy Short, Mayor

ATTEST

Kimberly Wollenburg, City Recorder



TO: Depoe Bay City Council

FROM: Kim Wollenburg, City Recorder

DATE: October 14, 2023, for October 17, 2023, City Council Meeting

SUBJECT Community Hall – Rules & Noise

Action Requested: Council direction regarding rules and regulations around noise at the Community Hall.

Discussion: A complaint was filed recently, and has been filed in the past, regarding violations of the noise ordinance at the Community Hall after 10:00 PM. A question was asked about holding back the current deposit for violations. In addition, mention was made of charging a deposit for noise violations.

Staff reviewed the rental form, noise ordinance, and spoke with City Attorney. First, the deposit collected is only a cleaning deposit and isn't intended to address anything besides cleaning so staff is unable to refuse to return the deposit for any other violations besides cleaning issues.

Currently, the rental form indicates "no music between the hours of 10:00 p.m. and 7:00 a.m." and references Ordinance 294, sections 6.E. and 6.G. as support. However, since the form only refers "no music" only and doesn't refer specifically to other sounds of noise such as radios, televisions, yelling, shouting and doesn't even, in the references, include loudspeakers, amplifiers, and public address systems, the City is unable to consider anything except for music as a violation.

In addition to the conflict on "noise" noted above, the form says no music after 10:00 p.m. which works for part of the ordinance, but if following the ordinance, section F which talks about loudspeakers, amplifiers & public address systems allow noise until 11:00 p.m.

The complaints have also mentioned recourse for people complaining about noise after hours that the Community Hall. The recourse is for residents to contact the Lincoln County Sheriff's Office non-emergency number as the primary code enforcers for the City after hours.

Finally, while the City can charge a noise deposit, the City would have to set specific violations with measurable ways to identify and verify the violation. For example, at what decibel and at what distance from the Community Hall constitutes a violation? The City cannot simply take a complaint and enforce without the ability to verify the claims and staff are not on duty during the times these issues are likely to happen.

At this time, staff is making up signs to place in the Community Hall to further remind renters of the noise regulations.

Budget Impact: No impact.

Options:

- Charge a noise deposit with specific and measurable ways to allow the City to keep a deposit.
- Create a noise permit that requires Community Hall renters to share with the City what they plan to use and do and staff can then set specific requirements and ensure renters understand the requirements.

Attachment(s):

- Community Hall Rental Application
- Noise Ordinance #294
- Two Sample Noise Permits

CITY OF DEPOE BAY

P.O. Box 8, Depoe Bay, OR 97341

541-765-2361

"This institution is an equal opportunity provider"

Application for use of:

Depoe Bay Community Hall (Includes Tables & Chairs) _____
Number of Table(s) (Off Premises) _____
Number of Chair(s) (Off Premises) _____
Barbecue _____

1. Organization requesting use _____

2. Person requesting use _____

3. When will the Facility and/or Property be used?

A. Date(s) _____

B. Hours (include set up and take down) From _____ To _____

4. Will liquor be served? Yes _____ No _____

If yes, will there be a charge or request for donation? Yes _____ No _____

If yes, proof of having a liquor serving permit and that all servers have permits issued by O.L.C.C. must be filed with the Depoe Bay City Recorder prior to occupying the facility.

5. What is the specific nature of the usage? _____

6. Estimate number attending: _____

Note: Per the Office of the State Fire Marshal

Maximum Occupancy - 78 People (Tables and Chairs Set-Up)

Maximum Occupancy - 167 People (Chairs Only and Standing)

If youth activity, name of adult supervising: _____

7. Requirements:

A. City sponsored events will have priority for a facility until 48 hours prior to any other scheduled event.

B. Facilities will be scheduled on a first-come, first-served basis.

C. Applicants must be 21 years of age or older. A security officer or other responsible person at least 21 years of age, registered at City Hall must be in charge at all times.

D. All organizations are responsible for their setup and clean up.

E. All deposits and charges shall be paid at the time of application.

F. The City will not be responsible for lost items.

G. Refunds of deposits and other charges will be made if the written cancellation notice is received by the Depoe Bay City Hall at least 48 hours prior to the scheduled event.

H. Keys for the facility must be obtained at Depoe Bay City Hall during regular working hours (8:00 am to 5:00 pm) Monday through Friday (excluding holidays). If City staff must check out keys after hours, the requesting party shall pay the actual overtime cost. Keys must be returned to City Hall. If the keys cannot be returned during regular office hours, a drop box is located on the right side of the City Hall front door.

I. In addition to facility rental charges there is a cleaning deposit that is refundable if the facility is left clean, in good order with no breakage. There is also a deposit required for the rental of off premise chairs or tables.

J. Rental begins at 4:01 a.m. and ends at 4:00 a.m. unless otherwise specified in Section 3.

K. A facility may be rented for not more 16 calendar days per year (not more than two days per week or more than 8 weeks in any calendar year).

L. No music between the hours of 10:00 p.m. and 7:00 a.m. (Noise Control – Ordinance #294, Sections 6.E. and 6.G.)

8. Failure to comply with these requirements may jeopardize applicant's current or future use of facility and property.

MAKE CHECKS PAYABLE TO: CITY OF DEPOE BAY
Please remit **TWO checks: 1 for deposit, 2nd for rental fee**

9. FACILITY RENTAL FEE SCHEDULE

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(Must demonstrate proof of Residency)
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Chair _____ \$ 0.58 per day plus \$ 57.50 deposit

11. BARBEQUE _____ \$ 28.75 per day plus \$ 57.50 deposit
Applicant is responsible for pickup and return to City Hall.

12. INDEMNIFICATION AND HOLD HARMLESS

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Applicant's Name: _____

Signature: _____

Address: _____

Telephone Numbers: _____

The following is to be completed by City staff:

Approved _____ Disapproved _____

Fee \$ _____ Rec. # _____ Deposit \$ _____ Rec. # _____ Date _____

Comments: _____

Signature: _____ Date: _____

CITY OF DEPOE BAY

ORDINANCE NO. 294

AN ORDINANCE ESTABLISHING REGULATIONS FOR NOISE CONTROL; AND DECLARING AN EMERGENCY

WHEREAS, the City Council of the City of Depoe Bay has determined it necessary to provide regulations for noise control within the City of Depoe Bay;

NOW, THEREFORE, the City Council of the City of Depoe Bay hereby ordains as follows:

Sections	1	Purpose	7	Exemptions
	2	Findings	8	Enforcement
	3	Scope	9	Penalties
	4	Definitions	10	Severability
	5	General Prohibition	11	Savings Clause
	6	Noises Prohibited	12	Effective Date

Section 1. Purpose. This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of Depoe Bay through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety; or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity.

Section 2. Findings. The City Council of the City of Depoe Bay finds:

- A. Loud and raucous noise degrades the environment of the City to a degree that:
 - (1) is harmful to the health, welfare, and safety of its inhabitants and visitors;
 - (2) interferes with the comfortable enjoyment of life and property;
 - (3) interferes with the well being, tranquility, and privacy of the home; and
 - (4) both causes and aggravates health problems.
- B. Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the City's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
- C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the City.
- D. Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the City.
- E. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article I, section 8, of the Oregon Constitution and the First Amendment of the United States Constitution. This ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

Section 3. Scope. This Ordinance applies to the control of all sound originating within the jurisdictional limits of the City.

Section 4. Definitions.

City means the City of Depoe Bay.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency Work means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Noise Sensitive Area includes, but is not limited to, real property normally used for sleeping, or normally used as a school, church, hospital or public library.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Plainly audible means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

Public space means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Residential area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City's zoning ordinance.

Section 5. General Prohibition.

- A. No person shall make, continue, or cause to be made or continued:
- (1) any unreasonably loud or raucous noise; or
 - (2) any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City; or
 - (3) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

- B. Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
- (1) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) the land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) the time of day or night the sound occurs;
 - (4) the duration of the sound; and
 - (5) whether the sound is recurrent, intermittent, or constant.

Section 6. Noises Prohibited. The following acts are declared to be per se violations of this Ordinance. This enumeration does not constitute an exclusive list:

- A. Unreasonable Noises : The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
- B. Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City, for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
- C. Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempt from the operation of this provision.
- D. Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (1) and (2), below.
- (1) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
 - (2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Ordinance.

- E. Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 100 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.
- F. Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 11:00 p.m. and 9:00 a.m. on weekdays, and 11:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:
- (1) Within or adjacent to residential or noise-sensitive areas;
 - (2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.
- G. Yelling, Shouting, and Similar Activities: Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing or other factors not based on content.
- H. Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird.
- I. Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.
- J. Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the City may issue a permit, upon application, if the City determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the City further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than three days. The permit may be renewed once for a period of three days or less.

- K. Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Institutions: The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.
- L. Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.
- M. Commercial Establishments Adjacent to Residential Property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 11:00 p.m. and 9:00 a.m. which is plainly audible within any building used as a residence and located on a residential property.

Section 7. Exemptions. Sounds caused by the following are exempt from the prohibitions set out in Section 6 and are in addition to the exemptions specifically set forth in Section 6:

- A. Motor vehicles on traffic ways of the City, provided that the prohibition of Section 6.B continues to apply.
- B. Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
- C. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in Section 6.D continues to apply.
- D. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- E. Repairs or excavations of bridges, streets or highways by or on behalf of the City, the State, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- F. Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- G. Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

Section 8. Enforcement. The following individuals shall enforce this Ordinance: The City Enforcement Officer, as designated by the City Council, or his designee, will have primary responsibility for the enforcement of the noise regulations contained in this Ordinance. Enforcement of this Ordinance shall be conducted pursuant to the City Enforcement Ordinance and Complaint Policies in effect at the time. Nothing in this Ordinance shall prevent the City Enforcement Officer from obtaining voluntary compliance by way of warning, notice or education.

Section 9. Penalties.

- A. A violation of a provision of this Ordinance is punishable by a fine not to exceed \$500.00.
- B. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

Section 10. Severability Clause. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this Ordinance shall not affect the validity of the remaining parts to this Ordinance.

Section 11. Effective Date. WHEREAS, the adoption of this ordinance is necessary to preserve the health, safety, welfare, peace and quiet of the citizens of the City of Depoe Bay, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council and approval by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay, Oregon on this 18th day of December, 2012.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay, Oregon on this 18th day of December, 2012.

Approved by the Mayor of the City of Depoe Bay, Oregon this 19th day of December, 2012.

CITY OF DEPOE BAY

Carol Connor
Mayor

Attest: Rebecca Murray
City Recorder



Noise Permit

* Not valid as an alcohol permit*

Applicant/Organization Name:	
Address:	
Contact Name:	Contact Phone:
Contact Email:	
Contact: Day of Event:	Contact Cell: Day of Event:
Name of Event:	Event Location:
Event Date(s):	
Start Date:	End Date:
Start Time:	End Time:
Event Info:	
# of Participants:	Will there be a band? Yes No
What type of noise will be generated: Music Speeches Other:	Will there be a DJ or speaker with mic? Yes No
If music, what type will be played? Classical Country Rock Other:	Are you hiring an audio professional? Yes No Company Name:_____
How many sound speakers will be used?	How big are the speakers?

Event Layout: To assist us in understanding processing your request, please attach or draw in the provided space below a diagram of the general location, showing surrounding streets, note location of any road closures, the location of any sound equipment, and where your audience will be situation.

Permit Conditions:

- 1) Emergency vehicle access must be maintained at all times.
- 2) Any temporary directional pavement markings needed shall be made with temporary tape and not paint.
- 3) **In the sole judgment of any police officer, City Manager, or Assistant City Manager, exercised in good faith, that the sound level becomes excessive, said police officer or City Manager or Assistant City Manager shall have authority to modify this permit and require that the sound source be adjusted. This adjustment may include, but is not limited to, its immediate cessation, re-directing speaker placement, limiting volume output, or any other similar requirement.**

Other Permit Conditions:

The City of Millersburg has the right to revoke this permit at any time.

I attest that I will abide by all City, County, State, and Federal applicable ordinances, statutes, and regulations. **I further agree and accept that any police officer or the City Manager or Assistant City Manager may require immediate sound adjustments or cessation if they determine, in their sole judgment, that the sound level is excessive.**

Signature:_____

Date:_____

City:

Approved

Denied

Date

For City Use only:

Land Use Code Compliance

- ☐ Meets Requirements
☐ Does not meet requirements

Signature of Code Compliance Officer _____

Date: _____

CITY OF ASHLAND

Application for Noise Permit to Allow Amplified Music for Special Event

Pursuant to AMC 9.08.170, upon application to the City Administrator, and approval from the Chief of Police, the City Administrator may grant permits to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state or City event, public festivals or special events of a noncommercial nature. If the City Administrator disproves such a permit, the matter may be appealed to the City Council whose decision shall be final. **The broadcast or amplification shall not be audible for a distance of more than one thousand (1000) feet from the instrument, speaker, or amplifier.**

In addition, the applicant must contact residents in the immediate area that may be affected by the noise and advise them in advance of any amplification (a *NOTIFICATION TO SURROUNDING RESIDENTS OF INTENTION TO HOLD EVENT WITH AMPLIFIED MUSIC* – form is attached for your convenience). If the amplification is too loud, the applicant should be contacted directly by the affected person. In the event the Police Department has to intervene, **the permit will be voided** at the time of the event and amplification shall not be allowed to continue. Please be considerate of others in your neighborhood.

By signing this application, you are agreeing to the time allotted by the Chief of Police for the amplified music to operate and take responsibility to seeing that the information on this form is followed, including notifying surrounding residents in advance of an upcoming event.

Name of Applicant: _____ Phone: _____

Address or e-mail of Applicant: _____

Type of Event: _____

Location of Event: _____

Date of Event: _____ Time of Event: _____

Number of People Expected: _____ Time of Amplification: From _____ to _____
(Amplification: No later than 9:30 p.m. Sun - Thurs and 10:30 p.m. Fri & Sat)

When signed by both the Chief of Police and City Administrator, this application will act as your permit for this event.

- ☐ **Permit Approved**
☐ **Not Approved**

Chief of Police: _____ Date: _____

City Administrator: _____ Date: _____

Copies to File, Police Department, Fire Department.

INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR NOISE PERMIT

Fill in the details on the form and then either send it or take it to the Public Works Department, 51 Winburn Way. The completed and signed application will act as your permit and will be forwarded to you once the permit has been approved.

It is your responsibility to notify residents in the immediate area that may be affected by the amplified music prior to your event. A form entitled "*Notification to Surrounding Residents of Intention to Hold Event with Amplified Music*" is attached for your convenience and may be used if you wish. Please feel free to duplicate the form for your use. **Although it is not necessary to use the form, it is important for surrounding residents to be aware of the event and to be in possession of a telephone number so they know where to contact you if necessary.**

By notifying surrounding residents in advance of your event, it is the intention of the City of Ashland that you will have an opportunity to correct amplification levels if you are contacted directly by a resident. In the event the Police Department has to intervene, the permit will be voided at the event and amplification will not be allowed to continue.

IF YOU HAVE A CURRENT BUSINESS LICENSE FOR A COMMERCIAL FACILITY IN THE CITY OF ASHLAND, WHICH SETS FORTH THE NATURE OF YOUR BUSINESS TO INCLUDE THE PLAYING OF AMPLIFIED MUSIC, IT IS NOT NECESSARY FOR YOU TO APPLY FOR A NOISE PERMIT.

Please call (541) 488-5587 if you have any questions.

City Code 9.08.170.8. Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices.

The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound is prohibited without a permit from the City Administrator. The City Administrator may grant a permit to responsible persons or organizations for the broadcast or amplification of sound as a part of a national, state, or city event, public festival, or special events of a noncommercial nature. If the City Administrator does not grant the permit, the matter may be appealed to an outside hearings officer pursuant to AMC 2.30. This permit shall not be required for any public performance, gathering, or parade for which a permit authorizing the event has been obtained from the City.

***NOTIFICATION TO SURROUNDING RESIDENTS
OF INTENTION TO HOLD EVENT WITH AMPLIFIED MUSIC***

I, _____, of _____
(Name) (Address)

intend to hold an event on _____, between the hours of
_____ and _____. I have made an application to the City of Ashland for a **Noise Permit**
and as a requirement of the permit, residents in the immediate area that may be affected by the
noise are advised in advance there will be amplified music on the dates and times set forth above.

If the amplification is too loud, it is requested you contact me directly at _____
(Tel # at location of event)
so we may correct the situation should the need arise.

Thank you for your cooperation.

Signature: _____ Date: _____

***NOTIFICATION TO SURROUNDING RESIDENTS
OF INTENTION TO HOLD EVENT WITH AMPLIFIED MUSIC***

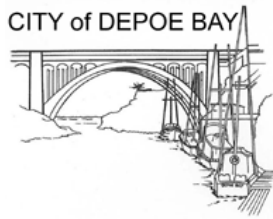
I, _____, of _____
(Name) (Address)

intend to hold an event on _____, between the hours of
_____ and _____. I have made an application to the City of Ashland for a **Noise Permit**
and as a requirement of the permit, residents in the immediate area that may be affected by the
noise are advised in advance there will be amplified music on the dates and times set forth above.

If the amplification is too loud, it is requested you contact me directly at _____
(Tel # at location of event)
so we may correct the situation should the need arise.

Thank you for your cooperation.

Signature: _____ Date: _____



TO: Depoe Bay City Council

FROM: Kimberly Wollenburg, City Recorder and Brady Weidner, Public Works Director

DATE: October 17, 2023, City Council Regular Meeting

SUBJECT: City-Wide Projects Memo

Update on Projects:

There are many tasks currently in progress within the City in addition to the daily/regular tasks of customer service and other duties.

Administration

Events: Trunk or Treat – October 31 from 5-7 PM in the harbor launch parking lot.

Code Enforcement: Pending Council decision on next steps for 35 Cook Avenue from public hearing set for October 17, 2023.

Sheriff's Office: Still pending Lincoln County's IT schedule.

Grants: Grant for the Land & Water Conservation Fund grant for the purchase of the Langston property is in process and staff is working with grant writers to develop narrative. Staff received notification that the City received the Small Cities Allotment grant for the Bay Street Sidewalk Improvement Project.

Public Records Request: Given the recent notice from Castanada's attorney, the request is on hold pending their ultimate decision on next steps.

Technology, Audio & Security Upgrade Project: Council of Governments has begun ordering materials & supplies for the upgrade of our systems. No timing yet on when they'll be on site.

City Hall breaker panel replacement: Completed. New panel provides safer connections with electricity in the basement and throughout City Hall. In addition, it was installed with an eye to any potential expansion of City Hall.

Utility Billing/Office Assistant Opening: Of the ten applications received, staff scheduled seven for interviews. One got another job, three were interviewed and two of the seven did not show up for interview, and the final one never responded to request for an interview. One of the three interviewed has withdrawn her application for another job. One later applicant is being interviewed on the 18th. Staff anticipates deciding after that.

Financial

Audit: Auditor did not finish as indicated at the end of September. Despite the auditor's claim that he would finish, he refused to work on our audit anymore until we paid the outstanding \$6,500 for the last work. This was paid and we are now waiting for further word. The total the City has expended on the 19/20 audit is

over \$40,000 with no end in sight or any idea of how much more this will cost the City.

Harbor

Harbor Restoration Project: The seven-day protest period ended October 2 with the City receiving one protest which should be resolved at this meeting. Once this is done, City can move forward with the contractor and contracting.

Dock Leases: Staff have researched other sites and harbors and has material to present at a scheduled workshop.

Water

Collins Water Line Replacement: The City Engineer is working on the creation of the drawings for a bid package.

Foundation/Filter Replacement: Delta/The Automation Group is preparing the drawings for the bid package.



Potable / Culinary Wells Project: Completed. The last step is testing the water which has to be done on Wednesday and will occur on Wednesday, October 18. The crew reports that everything is working well, and the water pressure and flow is strong.

Other: Crew continues to work with Spectrum/Charter on the project as well as doing locates throughout the City.

Sewer

Staff learned last week that the Wastewater Treatment Plant will be certified as a Level 3 plant due to the equipment and the City will have six months from November 1 to have an operator certified for a Level 3 plant. The Public Works Director and Public Works Supervisor will be working to their Level 3 certifications.

Catwalk Repairs: The City Engineer is working on drawings to go out to bid.

Crew continues to focus on Inflow & Infiltration reduction throughout the City.

Streets

Vista (Lingcod) Parking Lot: The protest period passed with no protests filed. The City Recorder and Public Works Supervisor met with residents surrounding the parking lot and in the area to discuss their concerns regarding access, stormwater, and security. Their concerns and requests will be presented to the Council later; however, the crew will begin work to finish the parking lot then open for use date to be determined.

Parks

Lincoln County crew is coming out October 10 and 11 to clip the willows at the Whale Fountain to open the view.

Doors have been ordered to replace the restroom door at the Harbor/Park restroom that was destroyed.

Because the bench continues to be placed inside a big stump on the natural trail, crew will either concrete the bench or remove it.

North Bridge Replacement: City Engineer took measurements and gathered information for a quote to get the North bridge replaced. Waiting for final plans and costs to be provided.

Winchell Lookout: Contractor is still scheduled for after the first of the year.



October 12, 2023

Kimberly Wollenburg, City Recorder
City of Depoe Bay
570 SE Shell Avenue
Depoe Bay, OR 97341

Subject: 2024 Small City Allotment Program Awards Announcement

Dear Kimberly,

In accordance with ORS 366.805 and the recommendation of the Small City Allotment Advisory Committee, I am pleased to announce that the project submitted by the City of Depoe Bay was one of 23 selected to be funded. ODOT received 69 applications requesting a total of over \$16.3 million, though available funds were limited to \$5.7 million.

The SCA award amount for your project is \$248,100.

The next steps will be for ODOT to develop the grant agreement, submit it to the Department of Justice for review and upon approval it will be presented to the City for review and signature.

It is our recommendation that you familiarize yourself with the program rules by reading the [Guidelines for Grantees](#) document.

Please be advised that only expenses incurred after Notice to Proceed has been issued will be eligible for reimbursement.

Your participation in the program is appreciated and we look forward to seeing your completed project. If you have questions regarding the SCA program, please contact me at (503) 602-0494 or deanna.edgar@odot.oregon.gov.

Sincerely,

Deanna Edgar

Deanna Edgar
Small City Allotment Program Manager
Encl: 2024 Small City Allotment Awards by City
Cc: Shelly White-Robinson, Project Manager

2024 Small City Allotment Award Recipients

City	Award
Region 1	
Wood Village	\$250,000
Region 1 Total	\$250,000
Region 2	
Aumsville	\$250,000
Bay City	\$152,903
Coburg	\$250,000
Depoe Bay	\$248,100
Harrisburg	\$250,000
Jefferson	\$250,000
Rockaway Beach	\$250,000
Tangent	\$250,000
Vernonia	\$250,000
Region 2 Total	\$2,151,003
Region 3	
Drain	\$250,000
Myrtle Creek	\$250,000
Shady Cove	\$180,000
Yoncalla	\$250,000
Region 3 Total	\$930,000
Region 4	
Culver	\$245,000
Moro	\$250,000
Mosier	\$250,000
Region 4 Total	\$745,000
Region 5	
Athena	\$250,000
Boardman	\$250,000
Canyon City	\$250,000
Joseph	\$246,000
Nyssa	\$250,000
Wallowa	\$250,000
Region 5 Total	\$1,496,000
2024 Program Total	\$5,572,003