

**CITY OF YACHATS**  
**CITY COUNCIL MEETING**  
**Civic Meeting Room, Yachats Commons**  
**December 9, 2010**  
**Regular Meeting 2:00 P.M.**  
**MINUTES**

The regular meeting of the City Council was called to order by Mayor Ronald Brean at 2:00 p.m. in the Civic Meeting Room at the Yachats Commons. Council members present: Larry Nixon, Greg Scott, David Rieseck and Sandy Dunn. Staff present: City Attorney, Mike Dowsett, Director of Public Works, John McClintock, and City Recorder, Nancy Batchelder. Audience: 11.

**I. Announcements and Correspondence**

- Movie Night next Thursday.

**II. Citizen's Concerns – None.**

**III. Consent Agenda**

**A. Minutes of November 8, 2010 Regular Meeting.**

**B. Bills for Approval**

**C. Resolution from November 2010**

**2010-11-05 – Parks and Commons Commission Membership**

Motion to adopt the consent agenda, Aye – 5, No – 0 (Scott abstained on the minutes).

**IV. Reports**

**A. Auditor**

Rob Wall described the layout of the document, the process used to perform the audit and stated that that the financial statements are fairly stated in all material respects. The City has received a clean, nonqualified report; and, the City was in conformity with accounting principles generally accepted in the United States of America, except for the decision to not depreciate in the governmental funds. While the City is setting money aside to replace assets rather than just tracking depreciation, and that may be a better way of operating, he is required by law to mention that there is no depreciation in the audit report.

Wall said that there were no deficiencies that constitute a material weakness in the internal controls that would have an effect on the determination of the financial statements. Wall said that there was nothing they found that would lead them to believe the City did not comply with all provisions of the Oregon Revised Statutes and Oregon Administrative Rules.

**B. Commissions – Minutes of the meetings submitted as reports.**

Don Niskanen, Chair of the Parks and Commons Commission said that completion of the storage room should be on the Parks and Commons Commission Goal List.

**C. City Council**

1 Nixon said that the local community team voted 15 - 1 on the proposed Marine Reserve and Marine  
2 Protected Area as he described it at the November Council work session and supported by the  
3 Yachats Resolution No. 2010-11-02. The Oregon Department of Fish & Wildlife has passed those  
4 recommendations on to the State. This should make Yachats stand out in the Ecotourism Industry.

5  
6 Brean said that representatives from the City of Yachats had a lot to do with how the final proposal  
7 was drafted

8  
9 Scott said that he agrees with Nixon that Ecotourism is a good fit for Yachats because of the hiking  
10 trails and being the Gateway to Cape Perpetua. Dunn said that the Mushroom Festival fits right in  
11 with that as well.

12  
13 Rieseck said that today was most likely Councilor Nixon's last meeting and he wanted to recognize  
14 him for all of his contributions over the years.

15  
16 Brean said that today was also Mike Dowsett's last meeting as the City Attorney and thanked him for  
17 all of the contributions that he has made while serving in that capacity.

18  
19 Scott said that he has learned a lot from Nixon while serving with him these past few years.

20  
21 Nixon said that he would now be able to attend the OCZMA meetings as the City's alternate.

22  
23 Dunn said that she wanted to thank Nixon for his assistance in hanging the lights at the Yachats  
24 Ladies Club using his bucket truck. Dunn announced that Nixon has been made an auxiliary member  
25 of the Yachats Ladies Club.

26  
27 Brean said that the City has finally received the DEQ permit for the sewer plant. It has taken two  
28 years to get that permit.

29  
30 Brean said that he received an email from Philip Johnson of the Oregon Shores Conservation  
31 Coalition has applied for a grant and received it for planning efforts regarding global climate change  
32 adaptation. He is looking for a couple of cities in Lincoln County to participate in this. Brean said  
33 that he agreed to look at this to see if it would be something that would fit with the City. Brean said  
34 that he would be meeting with Johnson on Monday to discuss it further.

35  
36 Brean said that he would be attending a LOC meeting tomorrow. He has agreed to consider being on  
37 their board.

38  
39 Brean said that he met with County Counsel Wayne Belmont to discuss completing the  
40 improvements to Ocean View Drive, particularly in the area near the State Park where the caution  
41 tape has been in place for years. He anticipates that movement will be made on this in January.

42  
43 **D. Public Works Director** – John McClintock reported:

- 44 • The pre-construction meeting was held before the City Council work session because he  
45 thought it would give the Council and the audience a chance to understand everything that  
46 will be done and who is responsible for what.
- 47 • The annual flushing of the water system has been completed. As part of that, they conducted  
48 test on the level of disinfection in the lines, as required by the State. The level is appropriate  
49 in all areas of the City.
- 50 • Should get the river monitoring report soon.

- When the DEQ permit was issued, the levels were set at 20/20 in the summer and 30/30 in the winter – so there is room for increased capacity and growth.
- The sewer plant continues to run using only one of the two basins, so there is plenty of room for growth.
- He is in the process of negotiating the new contract with the USFS. The FS is building a new treatment plant at Cape Perpetua, but they are still interested in installing a sewer line from the Job Corps to the City.
- Went to the ORWARN conference in October. The topic was what the member cities inland will be able to do to assist the member cities on the coast. There was a presentation and a tabletop exercise. From that exercise, he learned that there would be lot of manpower, equipment and machinery available for use in the aftermath of an emergency.
- Contractor's estimate for the South Gateway was around 12 – 14,000.
- Representatives from DEQ were in town last month to do the final inspection on the plant and they gave the City a glowing report.

The meeting was recessed briefly and reconvened at 3:40 p.m.

**E. Written Reports:** City Recorder, Marketing Director, and Code Enforcement Officer

Scott said that he wanted to state that he is very proud of the work done by the Code Enforcement Officer.

Niskanen said that the Judge has found in the City's favor on 63 of the 65 citations issued regarding the transient rentals on Spruce Street.

**V. New Business**

**A. Ordinance 294 – An Ordinance Amending Yachats Municipal Code Section 1.12.110 City Attorney Involvement**

Brann explained that the current Code states that the City Attorney can only be present at a hearing if the defendant has an attorney. That is for any hearing – including any appeal that may take place in the Circuit Court. He believes the City Council should have the option of having the City Attorney represent the City in some cases, if directed by the Council, as so he asked Batchelder to draft an Ordinance to amend the Code for Council consideration.

Motion to adopt at this meeting, Aye – 5, No – 0.

**B. Resolution No. 2010-12-01 – Canvass of Votes**

Motion to adopt Resolution No. 2010-12-01 – Canvass of Votes, Aye – 5, No – 0.

**C. Resolution No. 2010-12-02 – Establishing the Inspection Fee for Transient Rentals**

Motion to adopt Resolution No. 2010-12-02 – Establishing the Inspection Fee for Transient Rentals, Aye – 5, No – 0.

**D. Resolution No. 2010-12-03 – DLCD Grant for Planning Assistance**

Motion to adopt Resolution No. 2010-12-03 – DLCD Grant for Planning Assistance, Aye – 5, No – 0.

1  
2 **E. Library Commission Recommendation: Membership**  
3

4 The Library Commission has recommended that Nancy Lamvik and Nick Lammerman be appointed.  
5

6 Motion to appoint Nancy Lamvik and Nick Lammerman to the Library Commission, Aye – 5, No –  
7 0.  
8

9 **F. Resolution from November 2010 - 2010-11-04 – South Gateway Project**  
10

11 Brean said that this item was removed from the consent agenda at the work session on Monday  
12 because the Council had been discussing the shortfall and ways to cut expenses. Since Monday, the  
13 Public Works Director has gotten a quote for the project that is a little more than half of what is  
14 budgeted.  
15

16 Scott said that he anticipates that only about half of the money set aside for the new Municipal Code  
17 database will be spent this year so about \$10,000 can be pushed forward to the next budget year.  
18

19 Discussion followed about the cost for the project and options for reducing the overall costs.  
20

21 Motion to adopt Resolution from November 2010 - 2010-11-04 – South Gateway Project, amending  
22 the budget not to exceed \$14,000, Aye – 5, No – 0.  
23

24 **G. Chicken Pilot Project**  
25

26 Brean said that nearly two years ago Chicks for Hens approached the City Council with a request to  
27 change the current Municipal Code to allow people to have up to three chickens.  
28

29 One of the questions asked at time was which neighborhoods had C C & Rs that would prohibit  
30 chickens. Brean said that he believes it was about one half, and for whatever reason, the discussion  
31 languished around that time and a final decision was never made.  
32

33 Dunn said that she understood that Chicks for Hens did not bring back the final draft of a pilot  
34 project.  
35

36 Rieseck said that he had agreed to help draft the pilot project and he met with Yves Nakahama. He  
37 spent hours with him trying to understand the specifics. The proposal they had in the packet for this  
38 meeting still does not address some very important issues.  
39

40 It was noted that the copy of the proposal that was in the packet for this meeting was a copy of the  
41 original correspondence from the group two years ago, and not the complete plan City Council had  
42 requested be developed to address those concerns.  
43

44 Rieseck said that he also does not like the tone in the last letter from Nakahama in which he states  
45 that if the City does not move forward then he would argue that it (City Council) is not a fair  
46 arbitrator of the community's basic needs.  
47

48 Rieseck said that there are places in town that were built before the current code and so he thinks the  
49 City really needs to determine the number of homes that could potentially be involved.  
50

1 Brean said that he believes that it would be possible to reduce the required 100 feet as long as the  
2 feed storage issue is addressed.

3  
4 It might be best to do this on an exception basis. That way if someone could show that their  
5 neighbors do not care, the City Council could give them a permit. There should be minimum coop  
6 requirements and a complaint process.

7  
8 Scott said that this is a small component of the sustainability issue, but it is a part of it. Factors that  
9 need to be considered are health and safety, but he thinks that there should be a way to work out a  
10 compromise. He believes the City should go forward with a pilot project. It should be only within  
11 those neighborhoods that do not restrict it in the C C & Rs. There should be somewhere on the  
12 application for neighbors within 100' to sign giving their approval.

13  
14 Brean said that he believes the pilot program guidelines should be drafted by the City and asked how  
15 that could be done.

16  
17 Niskanen said that the current Code does allow for the keeping of chickens, and it does not restrict it  
18 to hens. When Nakahama was asked to move his chickens to a location on his property that would be  
19 in compliance with the current Code he refused.

20  
21 Rieseck said that if Nakahama kept the notes from their meetings then they could be used to draft the  
22 more specific guidelines to address the ambiguities in the Chicks for Hens proposal that was  
23 submitted in February 2008 and again for this meeting.

24  
25 Nixon said that he is still very concerned about how this could put neighbors in harms way. There are  
26 also a lot of tourists that come to this town and do not know about bears; they could also be in danger  
27 if bears are roaming the town.

28  
29 Dunn said that she thinks the City Council is being pushed into making a decision just because  
30 someone has violated the Code and his friends are pressuring the Council to legitimize his actions.  
31 Dunn said that she thinks the issue should be set aside for six months and then it could be discussed  
32 again.

33  
34 Brean said that this thing has been around for two years now and he thinks it is time to make a final  
35 decision on the matter.

36  
37 Niskanen said that he needs direction from the City Council because Nakahama is still in violation  
38 and he needs to know if he should be issuing citations. This could mean a citation for each day he is  
39 out of compliance.

40  
41 Brean said that he is not concerned about the citation issue because people that choose civil  
42 disobedience know that they must face the consequences for their actions. If it takes the City several  
43 months to make a decision then Niskanen will need to give Nakahama a deadline to come into  
44 compliance or face further citations.

45  
46 Discussion followed about how this issue is the City reasonability to solve.

47  
48 Rieseck said that he would redline the Chicks for Hens proposal to indicate what items need to be  
49 addressed.

1 Motion to authorize the Mayor to develop and present pilot project guidelines that address food  
2 storage, neighbors approval, C C & Rs, minimum coop design, waste management, term of the trial  
3 period, and a complaint process, at the January 2011 meeting, Aye – 4, No – 1 (Nixon).  
4

5 There was consensus to give Nakahama one month to come into compliance or face more citations.  
6

7 **VI. Other Business**

8 **A. From the Council**  
9

10 Scott said that he would like to talk about the union negotiations. Dowsett said that as instructed he  
11 contacted the new City Attorney to discuss this, and he has been given a copy of the letter from the  
12 union and the current contract.  
13

14 Scott said that at \$175 an hour he does not think that it wise to spend that kind of money at a time  
15 when the City is looking at a shortfall. He also thinks it is not a legal issue and that it is not really  
16 appropriate for the attorney to represent the City at the table.  
17

18 There was consensus that until the Council has had more time to discuss the matter, the Mayor would  
19 be appointed to be the City's representative in Union negotiations.  
20

21 **B. From the Staff – None.**  
22  
23

24 There being no further business before the City Council, the meeting was adjourned at 5:13 PM.  
25

26 Brean called an Executive Session under ORS 192.660 (2) (d) to conduct deliberations with persons  
27 designated by the governing body to carry on labor negotiations.  
28  
29  
30

31 \_\_\_\_\_  
32 Ronald L. Brean, Mayor

33 Attest:  
34  
35  
36

37 \_\_\_\_\_  
Nancy Batchelder, City Recorder