

City of Port Orford

City Council Meeting Minutes

In the Gable Chambers

Thursday, August 15 at 3:30 P.M.

Mayor and Council	Present	City Staff	Present
<i>Gary Burns</i>	X	<i>Terrie Richards, City Admin/Recorder</i>	X
<i>Tim Pogwizd, Mayor</i>	X	<i>Shala McKenzie Kudlac, City Attorney</i>	X
<i>Pat Cox, President</i>	X	<i>David Johnson, Finance Director</i>	X
<i>Jim Campbell</i>	X	<i>Hank Hobart, Police Chief</i>	X
<i>James Garratt</i>	X		
<i>Carolyn LaRoche</i>	X		
<i>Travis Williams</i>	X		

Media Present: Port Orford News – Brice Wagner

Others Present: 17

Call to Order

Mayor Pogwizd called to order this Regular Meeting of the Common Council in the City of Port Orford Gable Chambers on Thursday, August 15, 2019 at 3:30. He asked those present to rise and join him in the Pledge of Allegiance.

1. **Additions to the Agenda** – None.
2. **Special Presentation to Citizens / Council** –
Doug Battersby is not present for presentation.

Jim Graham, US 2020 Census – Article 1, section 2, US Constitution – every person in the United States shall be counted. The decennial census controls power, justice and money for the next ten years.

Justice: The census determines social justice programs apportionment and funding, and where the social justice programs are deployed or initiated. Events in the City of Port Orford affecting the economy and community are based on census apportionment information. In a rural community OSU Extension, which is the Port and agricultural areas around Port Orford, rural housing, rural loans are all through and because of apportionment via census data.

Power: The US House of Representatives is apportioned based on census. The 435 seats are distributed among the 50 states based on the census data. School districts, fire districts, port districts are based on apportionment information. Voting precincts at a community level are based on census data. The polling booths in the precincts are placed at the center of mass of population determined by census data. Power from voter all the way to US House of Representatives and Electoral College are portion based on census.

Money: Numbers are based on 2015 numbers. The numbers will be bigger now. Of 675 billion dollars in federal money, 13-1/2 billion goes to Oregon. Most of the Federal money that comes to Oregon is matched with state funds, which gives us a 27 billion dollars that is

apportioned across all of Oregon residents. That is approximately 3,200 dollars per person each year for the next ten years.

The census is ten questions per person in the household and should take less than 20 minutes per small household. Three methods are offered. This year, an online option is offered. There is a telephone assistance line in 13 languages. The paper form is available in English and Spanish. The census is offered in 59 languages by enumerators that go door to door to those who have not responded online by telephone or paper form by about May 31 of 2020. The data that are reported are reported in aggregate only. There is no personal identifying information in the data that is reported by the census bureau. Employees are prohibited by law from divulging person identifying information to any person, organization or other government agency. That includes law enforcement at the federal, state and local levels.

Challenges to an accurate census: Persons that are hard to identify and reach. These are people who want to be invisible, the homeless, immigrants and migrants. Persons with distrust of government and those who have a reason to fear the government. Young children in a household that are not identified on a census form are the most difficult for the census bureau to identify and correct for. If the challenges are not counted, the City of Port Orford does not receive the money for the next ten years for those not counted; however, those not counted will still be drawing from state, school and city funds.

The Census Bureau are hiring people from the community to service the community that they are familiar with. The money paid to the people with a temporary census job in the community will contribute to the city economy.

Councilor Garratt moved to approve the proclamation for the US 2020 census with Councilor Williams as second. No discussion. *Motion carried 6-0*

<i>Councilor Cox</i> <u><i>Yes</i></u>	<i>Councilor LaRoche</i> <u><i>Yes</i></u>	<i>Councilor Williams</i> <u><i>Yes</i></u>
<i>Councilor Burns</i> <u><i>Yes</i></u>	<i>Councilor Garratt</i> <u><i>Yes</i></u>	<i>Councilor Campbell</i> <u><i>Yes</i></u>

David Brock Smith, Legislative Update – David Brock Smith, State Representative House District 1. The legislative session for the State of Oregon ended on June 30, 2019. Twenty of the chief sponsored bills passed

House bill 2294: Regarding chronic wasting syndrome with regards to deer population. Oregon does not have that chronic wasting syndrome; however, urine is taken from wasted deer to attract deer during hunting season. Legislature has banned the ability to use deer attractants in Oregon and allows only artificial.

Senate bill 256: Repealed the sunset moratorium on oil and gas and sulfur leasing in the territorial sea in Oregon’s waters. A law was made in Oregon, that if any oil and gas exploration occurs, and there is oil and gas derived from the exploration outside of Oregon’s three-mile waters, there will not be an ability for them to transvers over Oregon’s waters to bring it to the coast of Oregon for export. This is for the protection of the fishing industry.

House bill 2020: A result of the Cap and Trade program legislation, which ultimately failed in the legislature. HB 2020 made a lot of promises in essence but did not articulate in legislation how resources would come to rural Oregon to support the industries that would be impacted. Oregon ranks 6th in the nation with regards to emissions per capita. Our forests

providing oxygen contribute regardless of carbon emissions from wildfires. Data for replanting in the fire areas is being collected. The Cap and Trade bill will be brought back in the 2020 legislative session.

House bill 2007: Statewide ban on older diesel trucks, which would not be allowed to register after 2020. An older diesel engine would not be considered for a state contract.

Paid Family Leave passed: The bill passed with a 60/40 split.

Federal tax code changes: Opportunity Fund in Opportunity Zones is a tax shelter for investment in low-income communities. Port Orford census tract was chosen for the federal opportunity zones for investment.

House bill 2437: Removal fill law, regarding farmers and ranchers: Removal-fill law was written for developers with regards to wetlands and not being able to fill in wetlands.

3. Citizens' Concerns

Teresa Kolibaba: 7b – Ms. Kolibaba reports the area they want to put it in is a mixed-use area. She feels it is contradictory to have an arts district sign in a mixed-use area with more restaurants and bars in the area than art establishments. Ms. Kolibaba questions if you can designate a neighborhood as a district when it is mixed use and there is more than one type of business in that neighborhood.

4. Consent Calendar

Minutes of July 18, 2019

Councilor Williams moved to approve the Consent Calendar as presented with Councilor Campbell as second. No Discussion. *Motion carried 6-0*

<i>Councilor Cox</i> <u>Yes</u>	<i>Councilor LaRoche</i> <u>Yes</u>	<i>Councilor Williams</i> <u>Yes</u>
<i>Councilor Burns</i> <u>Yes</u>	<i>Councilor Garratt</i> <u>Yes</u>	<i>Councilor Campbell</i> <u>Yes</u>

5. Department Reports –

Administration – The water loss report is missing the percentage number. CA Richards advises it is 39.2 prior to the leak detection test. It was reported to CA Richards that somebody is cleaning out their closet and filling the dumpster at the Visitor Center with clothing and furniture. The dumpster at the Visitor Center is designed for the garbage that Public Works removes from the garbage cans. The dumpster will now be locked. The signs for the dog park are installed. CA Richards will get the addresses for the two new applications for single-family dwellings. CA Richards attended a listening session with Councilor Burns and Councilor Garratt. The water situation was discussed. CA Richards answered the questions and referred to the master plan.

Police Department – President Cox reported on an incident at the Senior Center where citizens were frightened of recreational drug users at the location. Chief Hobart advised to call 911.

Public Works – Duane Eckhoff reported regarding water; Councilors Garratt and Burns visited the water plant for a tour. Dyer Engineer was on site for contact tank issues and the PLC issue. The repeater radio has been ordered. Mr. Eckhoff feels it is necessary to do the leak detection. Mr. Eckhoff reported 13 leaks in the last two months. One was a 4-inch

mainline on Jackson Street. Approximately 38 thousand gallons of water was lost in the time it took to isolate the leak. The Coast Guard hill pump skid is in disrepair. Mr. Eckhoff suggests an engineer from Dyer look at it. Jeff Brown from Billeter Marine looked at a possible dredging of 25 yards per the limits of the permit. Quarterly, monthly and yearly testing is done at the cost of \$2,300. These are mandatory tests by the Oregon Health Authority. A pump motor burned up in the chem room on the Poly pump. The new raw water master meter has been received, there is a difference of 50 gallons a minute between this and the treated water meter now. That is a difference of 42,000 gallons a day between raw water coming in and treated water going out. Two new water and sewer services are hooked up.

Wastewater: The light burned out on the camera, going in for repair. There is ongoing operational maintenance at lift stations. A new grinder pump at the visitor's center. The grit system went down in June due to an electrical storm, which caused four or five items at the wastewater plant to need repair/replacement. Reese Electric is assisting with a relay and a switch. An irrigation pump was replaced due to the storm. The wiring was fried. A sump pump is not working but has good voltage and might have to be replaced also. Coos Curry Electric has been notified. Grease removal program is continuing with local businesses. Jacob hosted a tour for council members Burns, Garratt, Cox and Mayor Pogwizd. Jacob attended a half-day school on NetDMR; follow-up training is required. The water heater at the wastewater plant has been replaced. A new pump to be installed in the Flake Street lift station.

Streets: Public Works has been trimming and working on potholes. Repaired drainage issue at the bottom of Hensley Hill. Tree down on Hensley Hill Road - removed. Four loads of rock put on Hubbard Creek Road to the impoundment. Public Works helped Main Street Assoc. and the Highway 101 project by placing a rock by the bench at the Kar Kare Clinic and moving the bus stop in Rays parking lot over.

Parks: The dog park signs are up. Mowing and trimming done in the park with sand around the horse arena. Ready for the dedication this weekend.

Mr. Eckhoff reports 36 locates and over 60 service calls in the last few months. President Cox gave report on the sanitary survey. The DHS/OHA representative suggested considering a settling tank to mechanically fix the problem. Mr. Eckhoff saw that as a temporary fix. President Cox requested why that is not an option as a permanent fix. It had been discussed in the past and removed from the table.

Port: Port has had to put meetings off until the end of the month due to staff problems. Port is working on breakwater.

Advertising/TLT – Main Street had an extensive meeting regarding workforce housing. They are attempting to find other ways to mitigate the issues that are preventing the increase in the workforce housing. Water conservation methods being built into the building is suggested to prevent workforce housing delay. A meeting with Julie Miller from Bandon is planned for advertising.

Fire Board – Fire board was going to make modifications to their board but found out they were unable to. The new tender has arrived.

Parks – Councilor Williams was not able to attend the parks meeting. Commissioner Thompson relayed to Councilor Williams he was appointed to work on sign verbiage for Battle Rock and research the sign sizes.

Watershed – Councilor LaRoche reported the watershed meeting is next week.

Health – Mayor Pogwizd met with Felix on Coast Community Health. They are working on a grant. They want to go through CDBG through the city; however, the city cannot have two CDBG grants open. The city will be using CDBG for water and sewer issues.

Emergency Management – Councilor Campbell was not informed of any meetings.

6. Old Business

- a. Council Rules – Councilor Cox read a prepared statement declaring that in June of 2019 the council voted to change the councilor rules. Councilor Cox does not feel the new rules are in compliance with what the council is about. Section 2.3 empowers the mayor and the administrator to prepare the agenda and the order of the business. Councilor Cox asks why these meeting guidelines are absent. Section 2.7, states everyone must be recognized by the chair should be put into the new rules. In section 3.4 of the new rules, we are taking away the ability of the mayor to warn someone that they are going to be removed from the chambers and putting that onto the sergeant of arms. Councilor Cox is concerned the new rules impede the mayor that administrates this functionality and to stop promoting public comment. Councilman Cox requests the council to consider going back to the last council rules with the implementation of the three-minute rule. He feels that citizens of Port Orford are the best resource for making the right decisions. Previous council rules promoted public interaction, and Councilor Cox personally cannot accept changing that in any way.

Councilor Cox makes a motion to go back to the previous council rules with the three-minute time restriction with Councilor LaRoche as second.

Discussion: Councilor Garratt feels he has not had an appropriate amount of time to research or address this and feels there are serious errors in the presentation given by Council Cox; however, there could be remissions made in the changes. The proposal was not intended to include as much elimination as just mentioned. There were several workshops addressing this, and this presentation has not been made. Councilor Garratt suggests not approving the motion and readdress this at next meeting. Councilor Cox reported having one workshop regarding this subject. These points were brought up. The letter at last meeting was written, because Mr. Cox felt like it was not addressed. Councilor Cox was under the impression there would be two readings where this could have been brought up.

Councilor Williams reports having an issue with the three-minute time restraint, and that the general purpose with the council rules was to fix the time. The other changes are not of interest to Councilor Williams. He would like to see that the time is changed.

CA Richards reports the last two pages of the council rules were sent to her to make the changes.

Councilor LaRoche would like to make sure that the time is correct on all of the rules. She would like the audience to be able to speak even if it takes longer than three minutes. Otherwise, she did not see challenges with the old rules.

Shala Kudlac reported not being at the workshops; however, advises that the only person who has the authority to remove somebody from a public meeting is a law enforcement officer. The rules need to reflect that, as they did in the previous rules prior to change.

Chief Hobart advised the council that the police cannot determine disorderly unless it is egregious. Law enforcement will need input from council as to how much behavior is disorderly during the meeting. Ms. Kudlac reports that ultimately what the city can do in such a situation, is to simply shut down the meeting. Councilor Cox suggests 3.4.1: Before the sergeant of arms removes any person from the meeting room for conduct described in 3.3.2, that person shall be given a warning by the Chair to cease his or her conduct, should stay in the council rules. Councilor Garratt reports that is addressed in the new rules 3.3.2.

Mayor called for a vote. Motion tied.

<i>Councilor Cox</i> <u>Yes</u>	<i>Councilor LaRoche</i> <u>Yes</u>	<i>Councilor Williams</i> <u>Yes</u>
<i>Councilor Burns</i> <u>No</u>	<i>Councilor Garratt</i> <u>No</u>	<i>Councilor Campbell</i> <u>No</u>

Resulting in tie, Mayor Pogwizd voted yes, to go back to the old council rules, but this definitely needs to be revisited at a workshop. Ms. Kudlac has pointed out problems with the new rules as well as the old rules.

b. Right-Of-Way Request – Main Street Arts District Sign:

Councilor Campbell moves to approve the main street sign proposal with Councilor Burns as second.

Discussion: Councilor Garratt agrees with the right-of-way, as Port Orford is declared as an arts town. Councilor Campbell feels the sign is too large for the location it is going to be placed. Councilor Williams asks Beverly for the letter they were to receive from the property owner. Beverly reports the letter was sent to the two property owners, and no reply has been received; however, they will come to the Main Street mailbox, which is not mail that Beverly has access to. Councilor Williams addresses location and sign size. Documents presented do not indicate size. The sign will be primarily be facing northeast due to the curve of the highway at the location. The actual sign has not been determined. There is not a final design yet. The proposal has three possible sizes, the first two being six feet, either 12x6 or 10x6. The third could be 8x8. A site study, text and art will determine the shape and size of the sign. The sign will be within the 75 square foot ordinance. Council will have approval of the final design. Beverly advises that approval by adjacent landowners is not in the city ordinance. It is a rule that planning has been using. This only appears in the ROW request that previously went to planning, which planning set rules for.

Councilor LaRoche advises of a previous letter from an adjoining property owner not approving of the sign. Beverly agreed with receiving the letter; however, there were no reasons in the letter explaining his disagreements. Councilor LaRoche would like to see something from the property owner in agreement. Councilor LaRoche feels the sign will

only be visible northbound and southbound will have to look back to see the sign. Beverly reminded that this is on public property and the adjacent property owner did not give a reason to work with for his veto. The property owner does not live in Port Orford and his adjoining property is empty and not developed.

Councilor Cox asked for Ms. Kudlac's input on results of moving forward without permission from adjoining properties. Ms. Kudlac reported this is a process adopted by resolution, thus it does not have to be an ordinance. Ms. Kudlac advises that the person applying for the right-of-way usage license must prove they are the owner of the property adjacent to the city's right-of-way, which is not applicable in this situation. If the adjacent property owner objects, this can be brought back to the council and the council can make a decision about removing the sign. The license can be pulled at any point in time.

Councilor Garratt feels that the project is beneficial to the community and the adjacent landowner that vetoed permission has property on a hillside above, which will not be impacted. The adjacent property owner is an absentee owner.

Mayor called for a vote. Motion carried 4-2.

<i>Councilor Cox</i> <u>Yes</u>	<i>Councilor LaRoche</i> <u>No</u>	<i>Councilor Williams</i> <u>Yes</u>
<i>Councilor Burns</i> <u>Yes</u>	<i>Councilor Garratt</i> <u>Yes</u>	<i>Councilor Campbell</i> <u>No</u>

7. New Business

- a. Municipal Judge Contract Renewal: The judge is requesting 300 dollars a month pay rather than 200 a month. The judge reduced his continuing education from 2000 dollar to 1000 dollars. The judge increased annual dues to 50 dollars.

Councilor Cox moved to approve the contract renewal for the municipal judge as presented with Councilor LaRoche as second. *Motion carried 6-0.*

<i>Councilor Cox</i> <u>Yes</u>	<i>Councilor LaRoche</i> <u>Yes</u>	<i>Councilor Williams</i> <u>Yes</u>
<i>Councilor Burns</i> <u>Yes</u>	<i>Councilor Garratt</i> <u>Yes</u>	<i>Councilor Campbell</i> <u>Yes</u>

8. Continuing Action Items:

- a. Rural Fire Department,
- b. Website in December
- c. Council rules
- d. Vacation rentals. Gary has a group working on ADUs currently
- e. Water and sewer
- f. Planning procedures. 10-MU zone and commercial zone needs reviewed by council members.

9. Considerations

- a. **Staff –**

Shala Kudlac: Ms. Kudlac reviews the role as councilors and role as employers. Councilors are all employers of the city staff. Due to that, citizens will come to council with praise and complaints. Councilors individually do not play any role in dealing with

city employees or lower level administrative employees. Complaints need to come back to the city and go through proper channels of administration, which are in the employee handbook, Oregon Revised Statutes, and insurance carrier. This can be technical, complicated and slow. Councilor Cox asked if these should start at the mayor. Ms. Kudlac stated these should generally not start with the mayor. Mayor Pogwizd reported a lot of negative commentary over the last several months. Mayor Pogwizd reported the city could end up in a lawsuit if the city does not protect staff. Negative comments will not be entertained at Citizens Considerations from this day forward. These will be shut down immediately in a council meeting. The citizens can file a written complaint with the city administrator.

b. **Citizen –**

Teresa Kolibaba: Ms. Kolibaba feels that councilors rationalized violating the state sign law and does not agree with that.

Rowland Willis: Mr. Willis reported that the Port Orford dark sky ordinance was important in making a decision to live in Port Orford. Mr. Willis reports there are no nearby cities, thus Port Orford creates their own light pollution. Mr. Willis suggests developing a mechanism to enforce compliance or consider getting rid of the ordinance. Mr. Willis reports this is his last submission to council; however, he will continue attending the planning meetings related to the dark sky ordinance.

David Brock-Smith: Representative for house District 1. District 1 has the 1.7 million dollars for south county sediment containment and 452,000 dollars to move forward with the Rogue sediment study. Aggregate buildup of sediment in the Rogue River impacts the salmon population. 2 million dollars was approved for Curry Health Network to expand their emergency department in Brookings. Money invested in Curry Health Network will generate revenue that will affect Curry Health Family Medical. Curry Health Family Medical is currently operating at a loss. Legislation also secured 1.6 million dollars to assist Port Orford in moving forward and finishing the redevelopment project on the dock. Legislation expanded the Farm to School program from a little over 3 million dollars to 15 million dollars.

Jim Hajek: Read from a prepared statement, that at the July 18 city council meeting a discussion was had regarding the elimination of the various websites of their invitations to climb Battle Rock. Mr. Hajek volunteered to obtain the website addresses and asked if the city council recommended any verbiage. None recommended, Mr. Hajek used the verbiage “We, the City of Port Orford Oregon, respectfully request that you remove from your website all referenced to the public climbing the Battle Rock located at Battle Rock Park. This request has become necessary due to the continued desecration of the graves, worsening erosion, proliferation of poison oak and the ever-present danger of serious bodily injury from falls. Thank you for this most important cooperation. Terrie Richards, etc.” CA Richards copied the verbiage and forwarded it for comments to 15 others including Parks Commissioners, City Councilors, Mayor, and the city attorney. One suggested the term “promoting” in the first sentence. One other wanted to delete all

reasons with the exception of erosion, as it is unknown who else might have access to the information in our request. Mr. Hajek feels the city must make the strongest case possible to get the desired results or removal. He does not feel that erosion alone is going to get a rocket-like response, if any. He does not understand what is incorrect about the other reasons, and by leaving them off the request the city is greatly reducing the chances of a speedy compliance. Mr. Hajek requests the city reconsider and authorize the City Administrator to forward the original message. Councilor Garratt asked CA Richards what her intensions were with the letter. Ms. Kudlac reports the changes were made on her advice. She does not have a concern about the poison oak. She is concerned that the reason of desecration of graves will point out there are graves and possibly serve as an invitation. Ms. Kudlac reminds council that the letter is a public document and can be accessed by anybody. Including the bodily harm clause might give the public ideas adverse to the city from a legal point of view. Mayor Pogwizd is concerned about the last sentence discussing bodily harm and is in agreement with Ms. Kudlac. Mr. Hajek inquired about recreational immunity on injury for climbing the rock. Ms. Kudlac states there is recreational immunity, though she is reluctant to get involved with it. Mr. Hajek reported that the graves are already on the web.

c. **Council –**

Councilor Williams asks council to maybe consider removing the 10-MU zone and review the difference between R1, R2 and 4C.

Mayor Pogwizd asks for confirmation from Dyer on whether the option for a settling tank is still an option.

10. Future Meetings:

City Council Meeting > Thursday, September 19, 2019 > 3:30 > City Hall Council Chambers.

City Council Workshop > Thursday, September 19, 2019 > 2:00 > City Hall Council Chambers.

11. Adjourned

There being no further business, Mayor Pogwizd adjourned the meeting at 5:41 p.m.



Mayor Tim Pogwizd

Attest:



City Recorder, Terrie Richards