

**City of Port Orford
City Council Meeting Minutes
In the Gable Chambers
Thursday, September 17, 2020 at 3:30 P.M.**

Mayor and Council	Present	City Staff	Present
<i>Tim Pogwizd, Mayor</i>	X	<i>Terrie Richards, City Admin/Recorder</i>	X
<i>Gary Burns</i>	X	<i>Shala Kudlac, City Attorney</i>	X
<i>Pat Cox, President</i>	X	<i>David Johnson, Finance</i>	X
<i>Lorin Kessler</i>	X		
<i>James Garratt</i>	X		
<i>Carolyn LaRoche</i>	X		

Media Present:

Others Present: Darrin Neavoll, ODOT

1. Call to Order

Mayor Pogwizd called to order this Regular Meeting of the Common Council on Thursday, September 17, 2020 at 3:32 p.m. The meeting is held via internet connection due to COVID-19 restrictions set in place by the State of Oregon.

2. Additions to the Agenda: None.

a. Appointment of Council Seat – Lorin Kessler

Oath of Office was read by Mr. Kessler. “I, Lorin Kessler, do solemnly swear that I will support the constitution and the laws of the United States and the State of Oregon and charter bylaws, ordinances and proclamations of the City of Port Orford, perform the duties of city councilman in honesty and justice to the best of my ability and as far as possible, I will protect that office and this city from any illegal, unethical, or dishonest practices so help me God; and this I promise under the penalties of perjury.”

Councilor Burns moved to accept Lorin Kessler into the council seat with Councilor LaRoche as second. *Motion carried 3-2.*

Discussion: Councilor Garratt reiterates a previous statement that he does not feel this is the time to be making appointments. He has no issues against anyone, but he feels council should wait until the new council members come to election prior to adding people. Councilor LaRoche is advised that Mr. Kessler will be filling in the two-year position that was vacated by Travis Williams.

Councilor Burns Yes *Councilor LaRoche* Yes *Councilor Cox* No
Councilor Garratt No *Mayor Pogwizd* Yes

3. Presentations to Council/Citizens

None.

4. **Consent Calendar** – Councilor Cox moved to approve the minutes for the council meeting of August 20, 2020 with Council Burns as second. *Motion carried 4-0.*

Discussion: None.

Councilor Burns *Yes* *Councilor LaRoche* *Yes* *Councilor Cox* *Yes*
Councilor Garratt *Yes* *Councilor Kessler* *Abstained*

5. **Citizen Concerns:**

Teresa Kolibaba has commented on 7.a., ORD 2021-01, Burn Permit extending burn times (days). The exemptions for following no burning in fire pits, etc. should be prohibited during the fire season.

Doreen Ames reviewed the work Councilor Burns did on the water and sewer system and noted there was damage from storm runoff in 2019 and 2018. She inquired if the city submitted FEMA grant requests for the damage. Coos-Curry Electric filed in 2018 and 2019 and received funding. Ms. Ames also objected to the council position appointment being made prior to citizen comments.

Linda Tarr gave an update from the Watershed Council. She monitors activity on the commercially owned forest in the city watershed. She became aware there is going to be a cut on the property owned by Lone Rock adjoining the Sorenson partial owned by the city. There is no legal obligation for Lone Rock to make any allowances for the fact it is part of the watershed; however, there is a tributary stream that feeds into the north fork of Hubbard Creek. Linda reviewed regulations with Lone Rock manager and asked them to leave a buffer and refrain from herbicide spraying. Lone Rock agreed to a 20 foot buffer and herbicide spraying will be done by hand outside of the buffer. Port Orford Watershed Council has voted to give Linda the authority to pursue buffers and remediate any possible clear-cut on the Wilson parcel. Mayor Pogwizd asked Linda to share her information with Mr. Steve Lawton and expressed his appreciation for her actions

6. **Departmental Reports:**

City Administrator: Councilor Cox asked for an update on the grit system. CA Richards reported the OAWU had to postpone their attendance in Port Orford due to the wildfires. They have rescheduled for next week to look at the grit system.

Councilor Burns asked if the dredging was rescheduled. CA Richards reported she had a conversation with Mr. Brown. Due to the North Bank fire and other wildfires, he was delayed. He will be giving a new proposal for the project. CA Richards confirmed this will get done before the November deadline.

Councilor Cox asked about the hiring process. CA Richards reported one applicant backed out. A second applicant is not responding to communication attempts. CA Richards moved forward on the third applicant, which is in the background check process. For another opening, a review is being organized. She foresees it will be done next week.

Councilor Garratt asked about the functionality of the radio communication device that was supposed to link the water pumping intake to the water treatment plant. CA Richards stated the booster device was to help communication between Hubbard Creek and the water plant. She will verify the functionality and return the information to council. CA Richards reports that to keep the million-gallon tank to the level it needs to be with the current usage, overtime is needed to run the plant from 9:00 a.m. to midnight. When the flow is increased to over 300,000 gallons/minute, the city will determine if the automation works. Mayor Pogwizd suggested the council discuss a four to midnight shift to end the overtime. Councilors agree to add the shift discussion to the agenda for next month's meeting.

CA Richards addressed the three questions for the planning commission.

- *Does Council have thoughts about preferred heights? We are looking at limiting heights to two stories and limiting heights in feet:* Councilor Cox likes 30 feet. Councilor Burns advised that a two-story building can be as high as a 30 feet height. Councilor Garratt does not want to micromanage the citizens. He agrees with a 30 feet height or two story, whichever applies, to accommodate vaulted ceilings, etc. Councilor LaRoche agrees with 30 feet maximum. Councilor Kessler agrees with 30 feet.
- *Are there any other specific concerns, emergency services and fire safety:* Councilor Garratt reported the fire department can handle any reasonable two-story building. He believes the fire department can access a roof that peaks at 30 feet since the access is far below 30 feet. The fire department is not equipped or certified to handle a three-story building.
- *Does Council want consistency across the zones:* Commissioners agree with consistency across all zones unanimously.

Mayor: Same as above.

Financial Director: Councilor Burns previously provided David Johnson with a name and ticket number and asked if Mr. Johnson has spoken with the judge regarding the ticket. Mr. Johnson confirmed he received the information but has not been able to speak with the judge.

Councilors: Councilor Cox reported the Port hired a project manager for the re-development this week.

7. HEARING, Outdoor Lighting Code:

Mayor Pogwizd called the hearing to order. The hearing is on the Outdoor Lighting Code that has been recommended to Council by Planning. Staff report and Planning report were provided to Council.

Public Testimony

Teresa Kolibaba, resident, reported reading the two reports by Steve and Ann Vileisis and thought they were superb. She stated they omitted nightlight significantly inhibits plant

health and growth and would like to see some graph and illustration in the ordinance explaining the lumens and lux. She stated on page 22 on streetlighting does not address how many feet onto private property a public streetlight can trespass. Page 24, B5 speaking about motion detectors, and shrubbery does activate motion detectors. Page 26, B2 does not define bollard lighting. Page 26, E does not have a definition of a major intersection. Page 27, C does not define how long seasonal lights can be lit and does not define temporary. She gave examples of light trespass at 7th and Jackson and another at Triangle Square where they project light over 200 feet away. She feels they should include something about opaque shields to stop the light from a public street going across private and/or adjacent property. She questions why there has to be streetlights at the crosswalks, because not many people are out at night. She states the lights are not only going to affect plants but will affect people's health and welfare, which will require people to cover their windows with plywood for their health.

Ann Vileisis, resident and president of Kalmiopsis Audubon Society, which has many members living in the City of Port Orford and have been members for two decades through many planning processes, urges council to adopt the updated lighting code recommended by the planning commission after more than a year of work. She reported submitting substantial testimony to the packet and a letter. She reported three important elements of the code; 1) Having full cutoff fixtures that point light down where it is needed. 2) Having a height cap on lights to reduce light trespassing onto neighbors' properties. 3) Specifying a warm color temperature of 2700 kelvins. Currently Port Orford has warm colored sodium vapor lights, but since streetlights will be replaced with LED lights it is critically important to specify a colored temperature. Otherwise, the city may well end up with lights that are unpleasantly cool, or blue lights. This is not only a matter of aesthetics, but also public health. The AMA recommends cities should avoid bluish-tinged lights to the extent possible and recommends a maximum of 3000 kelvins. Ms. Vileisis addressed the closely related issue of lighting on Highway 101, a main street in the city. With the pending pavement process ODOT wants six new tall bright lights at each crosswalk. She is concerned that ODOT is presuming the same standards used in Eugene, Coos Bay, or other cities. She feels that six new tall bright lights will forever change things, putting Port Orford on track to becoming more like a Walmart parking lot. She feels this ordinance will put the city in a stronger position to negotiate with ODOT. She suggested asking ODOT to maintain the status quo with streetlights until a better lighting plan is figured out. She suggested an extended project timeline to give the city time to figure out a better lighting plan. She suggested ODOT proceed with just one new lighted crosswalk at the school compliant with ordinance goals.

Greg Thelen, resident, agrees with everything Ms. Vileisis commented on. He reported he has attended planning commission meetings and feels they have done a great job. He supports the ordinance.

Steve Lawton, resident, previously submitted his testimony but wants to reiterate that the city needs to understand where lighting technology is moving. It is moving to 2700 kelvins. It is

moving away from blue light. Every major manufacturer of televisions, cell phones and other types of electronics are spending millions of dollars on removing blue light due to health concerns. Other larger cities have changed their lights from 3000 to 2700 kelvins at the cost of millions of dollars. Citizens are speaking loudly about their dislike of the bright white LED lights. They are intrusive of the night sky and also shines on the neighborhoods. He would like the City Council to consider 2700 kelvins for a more livable community.

Karen Auburn, resident, agrees with Ms. Vileisis on highway 101 lighting. She likes the idea of looking at incremental ideas, such as a bright light at the crossing by the school and maybe some solar lights compliant with the ordinance installed one at a time.

Tim Palmer, long time resident, reported a strong interest in the appearance, safety and health of the community. He spoke on public cost of lighting and the effects on the nighttime sky. He has seen very little traffic on the mile-long reach of Hwy 101 at night. He stated the Planning Commission has done a remarkable job analyzing the lighting problems and recommending solutions. He urges City Council to accept the Planning Commission's recommendation and pass the updated outdoor lighting ordinance. He understands potential conflict of the new ordinance and ODOT's Hwy 101 project. Mr. Palmer urged council members to follow the planning commission's recommendation to pass this ordinance and then negotiate a better outcome with ODOT that complies with the ordinance. He feels that excessive lighting is unnecessary, annoying, ugly and costly. If there are safety issues, he would like to see the data. He emphasizes that unnecessarily taller and stronger lights would change the appearance and character of Port Orford negatively. The dark sky quality of Port Orford is what makes the town special. He sees no urgency installing new lighting along Highway 101 and the work of the planning commission should be accepted today. If it is not, then any changes in city lighting should wait until the issues of the ordinance are resolved.

Doreen Ames would like a developed reporting method for ordinance violations that allows anonymity to preserve good relationships among neighbors.

Dana Gurnee, resident, supports the ordinance in all regards and urges council to pass the ordinance. He also urges council to find a way to enforce the new ordinance and bring businesses like Gold Beach Lumbar into compliance.

Penny Sues, resident, supports the Outdoor Lighting Code. She feels it is a great step forward for the city and hopes the council will accept and pass the new ordinance. She feels the dark sky will increase the livability for the residents and make visitor's experience more enjoyable. She feels drivers passing through town will see that Port Orford is a village.

Rowland Willis, resident, is pleased to see the Outdoor Lighting Code submitted to the council for final approval. He feels the ordinance has struck a sensible balance and will enable a long-term improvement to the nighttime of the town. He feels that 4000K will efface what the ordinance is trying to achieve. He stated he does not see any mechanisms to bring

attention to noncompliant lights. He suggested that some time in the future the council might find it necessary to put a team together to assess lighting complaints. He would expect the team to go out at night, gather evidence and report back to council enabling council to respond appropriately. Mr. Willis volunteered to be a part of the team if it happens. Mr. Willis would like the Outdoor Lighting Code be included in the Departmental Reports for awhile in the council meetings.

Tom Calvanese supports the ordinance and urges City Council to pass the ordinance. He agrees with what he heard previously from the citizens. He appreciates all the work put into the ordinance.

Linda Tarr, resident of the urban growth boundary, expressed appreciation of all the work of the Planning Commission and supports the previous testimony. She feels it is extraordinary to live in a town and see the stars. She would like that protected.

Letter from Jennifer Head, PhD is read to council members expressing interest in an enforceable and effective outdoor lighting code to reduce light pollution as well as trespass. She addressed light pollution that could easily be rectified if the Outdoor Lighting Code was enforceable. Ms. Head outlined enforceable perimeters regarding outdoor lighting.

With no further testimony, Mayor Pogwizd closed the public hearing.

Discussion:

Mayor Pogwizd shared information from a meeting with ODOT. The mayor supports the dark sky ordinance, and in a perfect world it can work; however, the city approved six lights on the highway at the crosswalks, because ODOT explained the lighting was needed at the crosswalks to keep people safe. For ODOT to stripe a crosswalk, it requires a light. ODOT was proposing six lights at 3000 or 3500K. The dark sky ordinance defines 2700K. ODOT informed the city if they went with 2700K and lowered the lights on the poles, the city would be responsible for the cost of moving the lights closer to the street, buying new poles, and it will cost 60 to 100 thousand dollars, which the city does not currently have. It would also require the city to double the number of lights from 6 to 12 to achieve the same type of lighting. If the ordinance is passed as written, it will burden the city with 100 thousand dollars of cost, which does not include decorative lighting. Darrin Neavoll from ODOT confirmed. ODOT is more than willing to go from 6 lights to 12 lights and reduce the kelvin and move the lights down on the pole, but the city has to come up with the extra cost. Mr. Neavoll reported they are running up against a timeline for the project. If this discussion continues much longer, ODOT will run out of time to deliver the project that they have committed to. Mr. Neavoll reported they can meet the 2700K without moving the lights down on the pole so they can meet the 8300-wattage required. Mr. Neavoll will confirm with engineers that keeping the lights at 2700K, which is on the yellow spectrum, and increasing lumens and mounting lights 25 to 30 feet will meet ODOT standards. ODOT engineers are concerned that 20 feet will deliver more glare. ODOT will re-read the proposed Outdoor

Lighting Code and confirm the least amount of height to make the project work. Mayor Pogwizd suggested a special meeting.

Councilor Burns moved for a first reading of 15.17, Outdoor Lighting Code, with Councilor LaRoche as second. ***Motion carried 5-0. Second reading will be Thursday, 09/24/2020, at 3:30.***

Discussion: Councilor Burns does not think they would have accepted six new crosswalks if they knew it would increase lighting. He feels the current lighting is adequate. Mayor Pogwizd advised that the prior council felt it was very important to have more crosswalks for pedestrian safety since a highway runs through town. Over the years there were non-engineered crosswalks added to the city. ODOT is not even aware how they all got painted. Now ODOT has to bring everything up to standards, which requires lighting. Councilor Garratt reminded councilors that this is a first reading and has to move to a second reading. A final decision can be made after the second reading.

Councilor Burns *Yes* ***Councilor LaRoche*** *Yes* ***Councilor Cox*** *Yes*
Councilor Garratt *Yes* ***Councilor Kessler*** *Yes*

8. Old Business:

A. ORD 2021-01 Burn Permit, extending the burn time (days) – second reading:

Councilor Cox moved to approve ordinance 2021-01 to a second reading with Councilor Burns as second.

Discussion: Councilor Garratt missed the previous meeting, so the fire department inspections were not included. Councilor Garratt stated that the fire department has several volunteers that are willing to inspect the burns. Councilor Garratt outlined the following items he would like to see in the ordinance: 1) Trash in fireplaces is not addressed in the ordinance. It is a current fire hazard concern the fire department has and would like a statement forbidding people from burning trash in their fireplaces. 2) An exception should be written for larger burns that can be monitored by the fire department, which the fire department has volunteered to do in the past. 3) A current limitation on the amount of burn permits issued to a citizen is one per month per property with a fire size limit of 4 feet x 4 feet. He feels there should be an exception for the larger burns monitored by the fire department. 4) The Coos Forest Protective Association rules are not stated in the ordinance and should be added with any exception expressly stated.

Legal Council Kudlac advised changes can be added now to follow Coos Forest Protective and Port Orford Rural Fire before the second reading. Following Coos Forest Protective rules will be added as section 8.08.015 reading, all Coos Forest Protective Association public use restriction implementation plan shall be adhered to except as outlined in 8.08.030. A note could be added, see Coosfpa.net for details. CA Richards will add coosfpa.net to the Port Orford website.

Councilor Cox retracted his motion and Councilor Burns retracted his second.

Councilor Garratt moved to approve ordinance 2021-01 to a second reading with the amendment adding 8.08.015, Coos Forest Protective Association Public Use Restriction Implementation Plan shall be adhered to except as outlined in 8.08.030 (see Coosfpa.net) with Councilor Burns as second. **Motion carried 4-1.**

Discussion: As above.

Councilor Burns Yes **Councilor LaRoche** Yes **Councilor Cox** No
Councilor Garratt Yes **Councilor Kessler** Yes

B. Contact Tank Bid Approval:

Councilor Burns moved to accept the contact tank recommendation by Dyer Engineers with Councilor Garratt as second. **Motion carried 4-1.**

Discussion: Councilor Cox stated it was a lump-sum bid. He is concerned they missed something and there will be more cost later. CA Richards reported Dyer purchased a bid packet that included the plans, everything that is required to build the project, contract documents that list the materials and requirements. She and Duane reviewed the bid, and Dyer and Duane agreed on the project requirements.

Councilor Burns Yes **Councilor LaRoche** Yes **Councilor Cox** No
Councilor Garratt Yes **Councilor Kessler** Yes

C. ODOT Speed Signs – cost share

David Johnson stated the signs are not in the budget and he does not feel there is room in the budget for them. It does not fall under exceptions for budget adjustment. They can be approved and put into next year's budget or ODOT paving project in 2022.

Councilor Cox moved to approve the two speed signs and have money appropriated with next year's budget cycle with Councilor Burns as second. **Motion carried 5-0.**

Discussion: As above.

Councilor Burns Yes **Councilor LaRoche** Yes **Councilor Cox** Yes
Councilor Garratt Yes **Councilor Kessler** Yes

D. Right of Way Request to Revisit Planters on 16th Street

Councilor Garratt moved to defer this to next meeting in order to seek counsel with the city's insurance carrier and with applicable agencies. Motion dies for lack of a second.

Councilor Cox moved for the city to take back the right of way on 16th Street with Councilor LaRoche as second. **Motion carried 4-1.**

Discussion: Councilor Garratt confirms the motion is a complete retraction of the right of way permit and not a modification for compromise. Mayor Pogwizd confirmed.

Councilor Burns Yes **Councilor LaRoche** Yes **Councilor Cox** Yes
Councilor Garratt No **Councilor Kessler** Yes

9. New Business

A. Appointment of Council Seat – Lorin Kessler

See above.

B. Right of Way Request – Tina Beresford

Councilor Burns moved to approve the right of way request for Tina Beresford with Councilor Garratt as second. *Motion carried 3-2.*

Discussion: Councilor Burns stated he is the only neighbor that will be affected by the right of way request and his family has no issues with what she needs to do. Councilor Cox reported on a neighbor who was not allowed to close their meter at the fence and does not like the inconsistency. This right of way request has a stipulation that the gate is always accessible, and the fence is see-through netting to inhibit deer. There is fire access via the loop-around drive.

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

C. Police Department eCITE Grant Approval

CA Richards advised this is a 100 percent grant with no match per Officer Brace. Councilor Burns reported it looks like the grant needs 18,750 dollars to match the 75,000. Officer Brace suggested approving with a stipulation if it is not 100 percent it will be turned down. Deadline for the grant allows for this to be heard at a later meeting.

Councilor Cox moved to table this grant request for another meeting, with councilor as second. *Motion carried 5-0.*

<i>Councilor Burns</i>	<u><i>Yes</i></u>	<i>Councilor LaRoche</i>	<u><i>Yes</i></u>	<i>Councilor Cox</i>	<u><i>Yes</i></u>
<i>Councilor Garratt</i>	<u><i>Yes</i></u>	<i>Councilor Kessler</i>	<u><i>Yes</i></u>		

10. Considerations

a. Citizen

Teresa Kolibaba thinks it is inappropriate to vote in a new councilor without public input. She thinks it is inappropriate for ODOT to basically blackmail the city into having streetlights higher than the city wants. She feels 30 feet is too high. She questions why a black car with expired tags parked by a fire hydrant has been allowed to park there without moving for two months and why a Volvo at 600 Jackson Street drove for over a month with expired license plates and then when the plates were obtained, they were backdated to May. She questions where the city police are four days a week. She requested why a volunteer fire officer is afraid of being fired when he has not been hired.

Doreen Ames asks why the city does not apply for federal grants that would offset money such as tax on the water bill. She states there is still time to apply for the 2019 grant. She stated Curry County applied for them and received them. Doreen Ames reported she submitted an email about the ROW on 16th to council asking it to be read into the minutes. She was advised it was too late. It is not in the packet. Doreen Ames feels council should notify everybody that city is sending viruses to people in their contact list. Doreen Ames does not feel it is right to appoint a city councilor without discussion from

citizens. She finds it disgusting that the original packet went out listing Ms. Ames as an appointment and then seeing it was removed the following day without explanation. She filed a complaint has been filed with Oregon AG and feels she was not appointed due to gender, race, face or that she is not a member of the Rotary.

b. Staff

CA Richards has no concerns at this time.

c. Councilor

Councilor Cox is concerned that he did not notice the address. Councilor Garratt reported a document in the packet submitted by Councilor Burns that mentioned putting screens on the roof face on the A-frame to keep the bats out should be a high priority, as it is low cost. It is effective in keeping the bats out and keeps them from getting trapped and die. Councilor Garratt suggested an auto-flushing toilet at the Visitor's Center to resolve the issue with the toilets not getting flushed and clogging up. CA Richards reported a State Parks employee is the janitor for the Visitor's Center and stated the auto flushers will not work. Mayor Pogwizd reminded council they just bought stainless toilets at a large expense a few years ago. Councilor Garratt reminded councilors that when appointing planning commissioners, the process was revised to include potential interviews. That needs addressed before it comes up again. Utilizing the process would be beneficial to appoint city council seats as well. CA Richards reported the charter states the mayor appoints a council position with council approval. A charter can be changed by the people. Councilor Kessler reported he currently lives at the corner of 12th and California in Port Orford. Councilor Cox asked if regular meetings can be considered. Mayor Pogwizd stated there can only be 10 people in the building so no public could attend but could possibly call in. CA Richards stated six people can sit at the dais, one at the podium, but the rest would have to sit in the audience chairs. Councilor Garratt welcomes Lorin Kessler to the city council and appreciates his service.

d. Mayor

Mayor Pogwizd suggested virtual meetings until guidelines are changed by the governor.

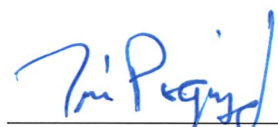
11. Future Meetings:

Thursday, October 15, 2020 Regular Meeting of the Common Council at 3:30 p.m.

12. Adjourned

There being no further business, Mayor Pogwizd adjourned the meeting at 6:24 p.m.

Attest:



Mayor Tim Pogwizd



City Recorder, Terrie Richards