

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: December 5, 2022
SUBJECT: City Council Meeting Minutes	ITEM NO: 6.1.1

BACKGROUND:

Meeting Minutes of the City Council as submitted by Richard Taylor, Minutes Clerk.

- November 7, 2022 – Regular Meeting
- November 14, 2022 – Special Meeting and Work Session

FISCAL IMPACT:

None

RECOMMENDATION:

MOTION: to approve City Council meeting minutes from November 7 and November 14, 2022

SUBMITTED BY:



June Hinojosa, City Recorder

**City Council Regular Meeting
at Bandon City Hall and via Zoom
November 7, 2022**

CITY COUNCIL AND MAYOR:

- Mary Schamehorn, Mayor
- Peter Braun, Councilor
- Chris Powell, Councilor
- Geri Procetto, Councilor
- Madeline Seymour, Council President
- Geoff Smith, Councilor
- Brian Vick, Councilor

STAFF:

- Dan Chandler, City Manager
- Shala Kudlac, City Attorney
- Paula Burris, Finance Director
- June Hinojosa, City Recorder
- Dana Nichols, Planning Manager
- Sgt. Larry Lynch, Bandon Police
- Denise Russell, Utilities Office Manager

1.0 CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Schamehorn called the meeting to order at 7:00 p.m. and Roll Call was taken as indicated above. Seymour led the Pledge of Allegiance.

2.0 PUBLIC REQUESTS (none)

3.0 PRESENTATIONS

3.2 Volunteer of the Month – Harv Schubothe

This item was not originally on the agenda. The Executive Director of the Greater Bandon Association (GBA), Schubothe mentioned that the October Volunteer of the Month Award had been given to Myra Lawson, who could not be present at the October City Council meeting. He and Braun had presented the award to Lawson in person, and Schubothe reported she was thrilled to have received it.

The recipient of the award for November was honored for volunteering for Bandon’s city government. Christine Hall first served on the Parks and Recreation Commission in 2018 when Schubothe chaired the Commission. More recently, Hall had held the Chair seat herself until her term ended earlier in 2022. She championed projects such as upgrading the playground equipment in City Park, planting trees in City Park and on the City’s Johnson Creek property, and obtaining a grant to develop a new master plan for City Park.

Schubothe noted that there was only a small budget for Parks and Recreation programs, so Hall had formed Friends of the Bandon Parks, a nonprofit organization that helped raise money for the City’s parks and applied for grant funding for parks-related projects such as bike racks. He commented that Hall’s efforts had helped the entire community become involved in supporting Parks and Recreation activities in Bandon.

Hall announced that shrubs and trees were being planted on the two days following Thanksgiving Day. She thanked Steve Friedland and other members of the Parks and Recreation Commission, along with Planning Manager Dana Nichols and the Friends of Bandon Parks for their work in helping make the award possible.

3.1 Proclamation – November 11, 2022, Veterans Remembrance Day

Schamehorn read aloud the following proclamation:

WHEREAS, on Veterans Day, we pay tribute to the men and women who have risked their lives to preserve the liberty of our nation, the families who support them, and the heroes no longer with us. It is not weapons or technology that develops the most advanced military in the world; it is the unparalleled spirit, skill, and devotion of our troops; and

WHEREAS, in an unbroken line of valor stretching across more than two centuries, our veterans have charged into harm's way, sometimes making the ultimate sacrifice, to protect the freedoms that have blessed American. Whether Active Duty, Reserve, or National Guard, they are our Nation's finest citizens, and they have shown the heights to which Americans can rise when asked and inspired to do so. Our courageous troops in Iraq, Afghanistan, and around the globe have earned their place alongside previous generations of great Americans, serving selflessly, tour after tour, in conflicts spanning nearly a decade; and

WHEREAS, long after leaving the uniform behind, many veterans continue to serve our country as public servants and mentors, parents, and community leaders. They have added proud chapters to the story of America, not only on the battlefield, but also in communities from coast to coast. They have built and shaped our Nation, and it is our promise to support our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen as they return to their homes and families; and

WHEREAS, with respect for and in recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, November 11 was set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, I, Mary Schamehorn, Mayor of the City of Bandon, do hereby proclaim November 11, 2022, as

VETERANS REMEMBRANCE DAY

and encourage all Americans to recognize and remember the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers.

Several veterans who were present at the meeting gathered for a photograph in front of the dais. They informed everyone that a motor parade would happen on the morning of Veterans Day, November 11, beginning at 10:15 a.m., which would conclude at the Veterans Memorial in City Park with a short presentation there, followed by a barbecue at the VFW (Veterans of Foreign Wars) Hall, which would be offered free to all veterans, with a nominal fee for everyone else.

4.0 HEARINGS

4.1 Proposed Increase to Solid Waste Collection and Disposal Rates: Resolution 22-21 Solid Waste Collection and Disposal Rates

Schamehorn opened the Public Hearing at 7:10 p.m.

Chandler explained that the City's sanitation franchisee, Bandon Disposal & Recycling, had requested a rate increase reflecting a 5.4 percent cost-of-living adjustment, equal to 85 percent of the 2022 CPI (Consumer Price Index) West Region Average of 6.3 percent. For a basic 35-gallon residential cart service, that would mean an additional \$1.06 per month, effective December 1, 2022.

No members of the public who were present in the Council Chambers or by way of Zoom chose to offer testimony. There were no questions from the Councilors.

Braun moved to approve and adopt Resolution 22-21. Vick seconded the motion and it passed by unanimous show of hands of those who were present (5:0:1):

AYES: Braun, Powell, Procetto, Seymour, Vick
NAYS: None
ABSENT: Smith

5.0 PROCEEDINGS

5.1 ACTIONS

5.1.1 Liquor License Application for The Rolling Pin Bake & Brew

Chandler noted that OLCC (Oregon Liquor and Cannabis Commission) required the City Council to recommend approval or denial of a liquor license application. Staff recommended approval of this application.

Vick and Procetto wondered what kind of alcohol The Rolling Pin was applying to be served, because there was no indication on the copy of the application the Councilors received.

Vick moved to approve the license application. Braun and Seymour seconded the motion, which passed by unanimous show of hands by those who were present (5:0:1):

AYES: Braun, Powell, Procetto, Seymour, Vick
NAYS: None
ABSENT: Smith

5.3 RESOLUTIONS

5.3.1 Resolution 22-18 Boundary of Coquille Valley Enterprise Zone

*** Comment Attachment from Southern Coos Hospital and Health Center**

Schamehorn stated that this item had been postponed until the following month's meeting because she had contacted the County Assessor to request a comprehensive idea of what tax abatement had cost over the years. The Assessor had turned the task over to the Tax Office. Schamehorn felt that additional information would help the Council make a decision on the boundary amendment.

5.3.2 Resolution 22-22 Policy for Employee Conflict of Interest in Local Decisions

Chandler said the Council had discussed this matter in its recent Work Session. If the Council adopted the resolution, it would approve a policy for cases where employees as part of their duties would have to issue an approval, render an opinion, or review something that affected them personally.

Under the proposed policy, an employee would refer such a matter to a supervisor. In the case of the City Manager, the matter would be referred to the Mayor, or if the Mayor were unavailable, to the Council President.

Chandler thought this type of procedure may have been carried out informally in the past, but there had not been a formal policy. In an ethics training session for City Staff the previous month, he had brought this issue up to the presenter, having found himself in a situation where he did not want to sign off on his own permit.

Braun made a motion to approve Resolution 22-22 and Powell seconded the motion. By a unanimous show of hands vote by those members present, the resolution passed (5:0:1):

AYES: Braun, Powell, Procetto, Seymour, Vick
NAYS: None
ABSENT: Smith

5.3.3 Resolution 22-23 Promoting Apprenticeship Training Programs through City Construction Contracts

Chandler noted that the topic of apprenticeships had been covered briefly in the Council's recent Work Session. "Apprenticeships are really one of the best ways to build a skilled, trained workforce," he stated, adding, "It's certainly becoming evident that in America you don't have to go to college to have a good job."

The resolution encouraged employers who contracted with the City—mostly the larger construction contractors—to become apprentice trainers, but it did not require them to do so. Chandler pointed out that the City of Bandon's own Electric Department had an apprentice most of the time.

Braun offered a motion to approve Resolution 22-23. Procetto seconded the motion, and it passed by a unanimous show of hands vote by those members present (5:0:1):

AYES: Braun, Powell, Procetto, Seymour, Vick
NAYS: None
ABSENT: Smith

5.2 DISCUSSIONS

5.2.1 Old Town Parking

This item was not addressed in the order established by the agenda.

Chandler indicated that the topic of parking in Old Town might be revisited in a Work Session. He observed that the City required off-street parking for all businesses in Bandon and he wondered if that made sense in Old Town. Chandler said there were a couple of cases in which parking had been eliminated in favor of outdoor seating, and the parking requirement had not been enforced in either case.

The code did allow a business to contract with someone for a parking space within 500 feet, and it was still incumbent upon that business to provide a parking space if it no longer had that leased space. Chandler acknowledged that this provision in the code was unlikely to ever be enforced. He knew of instances where the business that had granted a parking lease to another business had either gone out of business itself or was in the process of being sold, causing the leased parking space to go away.

One question for the Council to consider would be whether to make City-owned spaces available on a leased basis for designated off-street parking. Chandler said Staff did not recommend doing that.

Chandler maintained that changes to parking should take place slowly, to see how they developed. The purpose of the discussion at this meeting was to find out if the Councilors were amenable to considering a code amendment that would eliminate the parking requirement in the C-1 (Old Town Commercial) Zone.

Schamehorn favored eliminating regulations that could not be enforced. She pointed out that there was a finite amount of parking in Old Town, and she commented, "If we were to have required parking twenty, thirty years ago when they began to develop down there, half of those businesses wouldn't be there. They'd be parking lots, and that is not at all what we would want."

Braun asserted that most of the required parking spaces of those businesses that actually had them were usually taken up by the employees who worked there or the owners of the business.

Vick said a local citizen had contacted him about the "parklet" in front of Alloro Wine Bar & Restaurant. He wondered if that was appropriate use of parking spots as the winter weather approached.

As a member of the Greater Bandon Association, which put the parklet together, Braun assured Vick that the benches and planters there were about to be removed for the season.

Chandler said a code amendment would be brought forward through the Planning Commission.

5.4 ORDINANCES (none)

6.0 CONSENT AGENDA

The Council considered the following items on the Consent Agenda:

6.1 APPROVAL OF COUNCIL MINUTES

6.1.1 City Council Meetings

- September 19, 2022 – Joint Work Session with Planning Commission
- October 3, 2022 – Regular Meeting

6.2 REVIEWING OF COMMISSION AND COMMITTEE MINUTES

6.2.1 Planning Commission Meetings

- September 22, 2022 – Regular Meeting

6.3 INFORMATION ONLY: DEPARTMENT REPORTS

6.3.1 Accounts Payable Report for September 2022

6.3.2 Library Report for September 2022

6.3.3 Public Works Report for October 2022

6.3.4 Community Center and Sprague Theater Report for October and November 2022

6.3.5 Planning Department Report for October 2022

6.3.6 Police Department Report for October 2022

6.3.7 Finance Department Report for September 2022

6.3.8 Consolidated Municipal Utility Report

6.3.9 Municipal Court Report for October 2022

6.4 INFORMATION ONLY: OTHER ITEMS

6.4.1 Appointment to Parks and Recreation Commission

Laura Brownfield – partial term replacing Shannon Hartlep

6.5 EASEMENTS AND RIGHTS-OF-WAY (none)

6.6 COMMITTEE/COMMISSION DIRECTION AND REPORTS (none)

Seymour expressed how pleased she was with the Bandon Police, saying, “I think they’re doing a fabulous job.”

Schamehorn agreed, noting that the Police had been making a lot of traffic stops. She thought there were many local citizens who had not witnessed much traffic enforcement in recent years who were surprised to see the change. Schamehorn advised everyone to slow down in the Bandon city limits if they did not want to get a ticket.

Seymour was pleased to see the amount of revenue brought in by traffic court.

Chandler responded that the revenue was likely to be over what was budgeted.

Braun moved to approve the Consent Agenda and Vick seconded the motion. By unanimous show of hands, the motion was passed by those members who were present (5:0:1):

AYES: Braun, Powell, Procetto, Seymour, Vick
NAYS: None
ABSENT: Smith

7.0 PUBLIC COMMENT (none)

8.0 OTHER: COUNCIL/MAYOR/STAFF REMARKS

Chandler reported that the City would have a conversation with Moody’s Investors Service in a few weeks, and it looked like there would be some positive development on the City’s bond rating, as a result of the City developing reserves, in addition to the changes that the City had been able to make in its fiscal policies.

Vick observed that electric vehicle charging stations had been installed in the City’s new parking lot, and there would be two more outside City Hall. Since Chandler had previously stated that the chargers would pay for themselves, he asked if the City was charging people to charge their vehicles, and if so, how much.

Chandler replied that the charge was \$0.29 per kilowatt hour, based on what other facilities were charging on the Oregon coast. He thought people would be paying with a credit card or through a mobile phone application. Chandler said the charging stations came from Canada, with tech support from Quebec, posing some language challenges. The City was also waiting for circuit breakers necessary to complete the installation.

Procetto introduced two new neighbors who had moved to Bandon three weeks earlier and were in attendance at the Council meeting.

Seymour wished everyone a happy Thanksgiving and she mentioned there was one more day for anyone who needed Thanksgiving dinner to reserve theirs from the Barn. She was going to be preparing potatoes for the meal.

Having recently seen a discussion on the subject on Facebook, Schamehorn stated that the Ninth Circuit Court of Appeals’ *Martin v. Boise* ruling meant that Bandon—and all cities in the Ninth Circuit’ jurisdiction—would have to establish an alternative location by July of 2023 where homeless people could shelter. Cities were no longer allowed to cite or fine people for sleeping on public property, and the homeless could not be asked to move unless the City had some place for them to go.

Apparently someone was spreading a story on Facebook that there was a property off Rosa Road to be designated for the homeless. Schamehorn had been contacted by a person who had read some of those posts and she asked if there would be any public discussion on the matter. Schamehorn thought the issue would be a good subject for a town hall meeting that the Committee for Community Involvement could organize.

“We have to do what’s best for everybody and still comply with the law,” Schamehorn said, “which is not going to be a simple task.”

Schamehorn added that the Oregon state legislature had passed a law requiring a City that moved homeless people out of a location to protect their belongings for 30 days. Schamehorn noted that the city of Portland conducted a sweep of a homeless encampment, using a backhoe to clean up the needles and debris, but that made it difficult to sort out the belongings of individuals. As a result of the state law, people could sue whatever entity picked up their belongings and did not take control of them for 30 days so they could get them back. Schamehorn said the City was faced with this type of unfunded mandate, even if it was not something it wanted to do. She anticipated the issue would be brought back up in the coming spring.

Braun thanked the Volunteer of the Month, Christine Hall.

Vick had heard from a local building contractor that it had become extremely difficult to go through the permitting process since the State Building Codes Division had turned over the local enforcement to Coos County. He asked for the Planning Department to look into this and report back to the Council. “We’re supposed to be trying to help lower income housing,” Vick remarked, “and it sounds to me like the County is going to really make it much tougher to do.”

“We’ll see what we hear from other contractors,” Chandler offered. “I know the County has just taken over. It’s been a month or less,” he said.

9.0 ADJOURN TO EXECUTIVE SESSION OF THE CITY COUNCIL

ORS 192.660 (2)(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed

Schamehorn adjourned the City Council’s Regular Meeting at 7:29 p.m. and the Executive Session convened after a five-minute break.

10.0 ADJOURN THE EXECUTIVE SESSION

The Council did not return to its Regular Meeting. The City Council’s Executive Session was adjourned at 7:48 p.m.

City Council Regular Meeting Minutes
Submitted by Richard Taylor, Minutes Clerk

**City Council Special Meeting and Work Session
at Bandon City Hall and via Zoom
November 14, 2022**

CITY COUNCIL AND MAYOR:

- Mary Schamehorn, Mayor
- Peter Braun, Councilor
- Chris Powell, Councilor
- Geri Procetto, Councilor
- Madeline Seymour, Council President
- Geoff Smith, Councilor
- Brian Vick, Councilor

STAFF:

- Dan Chandler, City Manager
- Shala Kudlac, City Attorney
- Paula Burris, Finance Director
- June Hinojosa, City Recorder
- Dana Nichols, Planning Manager
- Denise Russell, Utilities Office Manager
- Andrea McMahon, Assistant to City Manager

Special Meeting

1.0 CALL TO ORDER / ROLL CALL

The Mayor, all members of the Council, and City Staff were present in the Council Chambers. Schamehorn called the Special Meeting to order at 1:30 p.m. Roll Call was taken as indicated above. Seymour joined the meeting at 1:34 p.m.

2.0 ACTIONS

2.1 Award Bid and Approve Contract for 2022 Wastewater Plant Headworks Improvements

Chandler told the Mayor and Council that this was the last of the projects funded by the 2019 General Obligation Bond, except for the clarifier replacement, which was on hold pending discussions with the state. Three proposals had been received and the selection committee recommended awarding the contract to Boede Construction, Inc, which bid \$494,900.

Vick moved to accept all proposals and Braun seconded the motion. It passed by unanimous show of hands of those present (5:0:1):

AYES: Braun, Powell, Procetto, Smith, Vick
NAYS: None
ABSENT: Seymour

Braun made a motion to award the contract to Boede Construction, Inc. Vick seconded the motion, which passed unanimously by show of hands of those present (5:0:1):

AYES: Braun, Powell, Procetto, Smith, Vick
NAYS: None
ABSENT: Seymour

3.0 ADJOURN TO WORK SESSION

Schamehorn adjourned the Special Meeting at 1:32 p.m. and immediately convened the Work Session.

Work Session

1.0 DISCUSSION

1.1 Hazards Zone Clear and Objective Standards

At a recent conference of Oregon planners, Nichols learned that Bandon and other cities that complied with legislation requiring clear and objective standards regarding housing construction had overlooked how to enforce those standards in natural resource zones. With this in mind, Planning Staff would be examining the City's code to determine which components of the Hazard Overlay Zone and other natural resource areas would be unenforceable.

Nichols said Bandon was one of the first cities on the coast to adopt a hazard overlay, working with DLCDC (Department of Land Conservation and Development), which had not taken clear and objective housing standards into consideration. She noted that there was already one appeal of a decision in Bandon's Hazard Overlay that involved a related issue.

Braun understood that the intention was to clear up some of the ambiguous language in the code.

Nichols observed that natural resources were inherently not clear and objective. She remarked, "There's no line drawn in the sand that says, 'This is where a natural hazard occurs and this is where it doesn't.'" Nichols said DLCDC and other agencies working with natural resources at the statewide level were grappling with this dilemma.

Chandler added that the state legislation that required clear and objective standards also stated that housing that had been allowed as a conditional use in commercial or industrial zones had to be outright permitted, not allowed at all, or allowed subject to some objective measure. He said this was another area in which the City would have to amend its code.

Schamehorn thought these changes might have an opposite impact from what the state was planning, by causing the City to put more limits on where it would allow housing.

"It's just one of those unreasonable laws," Chandler commented, "that...begs people to try and come up with some ways around it."

1.2 VRD Update

Nichols stated that the Planning Commission would be looking at some recommended changes to the Vacation Rental Dwelling (VRD) code later in the week, as had been discussed in its Joint Work Session with the Council on September 19.

When the VRD code was updated in 2018, a provision was included that a VRD permit would become invalid if the ownership of the property changed. However, Staff came to realize that vacation rentals approved prior to 2018 were considered nonconforming uses and under the previous code language their permits could be transferred to new owners. So, Staff proposed new language that would help solve problems in the existing code.

Nichols said the proposed VRD code would be organized into two sections: approval criteria for new VRDs and general health and life safety regulations that would apply to all VRDs. She indicated that vacation rentals permitted before the 2018 update would continue to operate under the code as it was when they were approved, unless they were inactive for a year.

Braun asked what percentage of existing VRDs fell into the latter category.

“Probably most of them,” Nichols replied. She estimated that 20 or so new VRDs had been approved since 2018, out of a total of at least 50.

Chandler interjected that that there had been an assumption that some number of VRDs would cease to operate over time when they changed hands, but that assumption was not likely to play out. He acknowledged that the assumption might not have been realistic due to the fact that people would try to find a way around the restriction by setting up an LLC (Limited Liability Corporation) or other entity. Chandler added that the existing nonconforming VRDs were going to be added to the density calculation and he said the operational standards such as minimum garbage service would apply to conforming and nonconforming alike.

Procetto wondered what was missing in the 2018 update that kept it from restricting the transfer of VRD permits from one owner to the next.

Nichols explained that it had been thought in 2018 that the code would apply to all VRDs, but it had been pointed out that it would only apply to properties approved after 2018.

“So, in other words, it couldn’t be retroactive,” Schamehorn clarified.

Seymour thought there were about 20 VRDs that could remain VRDs forever.

Nichols and Schamehorn told her the number was higher, probably 30 to 35.

“Unless they stop being used as vacation rentals,” Chandler noted.

“Or violate the terms of their approval in some way,” Nichols added.

Chandler made clear that the 2018 update was not a mistake. It just did not apply to VRDs that were already operating and had been approved under different rules. He stated, “It’s not any different than if we approve someone to operate a florist shop, a gas station, a restaurant, or anything else, and then later decide that we don’t like florist shops, gas stations, or restaurants...they’ve got the right to continue to operate, based on the rules in effect at the time they applied.”

Chandler continued, “And in some cases—the case that actually came to our attention—the unit was built specifically as a vacation rental. So, the folks invested their money based on the City approval as a vacation rental. The law is, we really can’t yank the rug out from under them just because they sell it.”

Braun sought further clarification. He asked, “They’re grandfathered in, but you can apply any adopted code” to a property that operated prior to that adoption?

“You can apply a code,” Chandler responded, “but you can’t preclude the use.” He said, “Nonconforming use law typically means the use runs with the land, so we’re regulating the use and not the person.” Chandler described the 2018 code as “almost more like a license than a land use approval.”

Braun wondered what would happen if the Council decided next year to adopt a regulation requiring VRDs to renew their permit every five years.

“You’d be plowing new ground,” Chandler answered. He explained that counties had a specific statute that regulated nonconforming uses (ORS 215.130), but cities did not. That meant cities had a little more leeway, Chandler suggested, “but the courts in Oregon have never tested the question whether or not you can force someone to amortize their use out” by telling them,

“You’re a nonconforming use today. You’ve got five years to stop operating.” He added that the case law around the country was inconsistent on this issue.

Powell was still puzzled and posed a scenario in which a grocery store opened in a residential neighborhood. He considered that to be a nonconforming use since it was commercial in nature.

Chandler clarified that the grocery store would be termed nonconforming if it had already been there but the rules had changed at a later time regarding allowed uses. It would be permitted to continue operating after the code changed.

Schamehorn asked, “If you’ve got a nonconforming use and you’re going to make a change, don’t all the current regulations come into play?”

“But selling it’s not a change,” Chandler countered.

Schamehorn questioned the premise, saying, “So, you can sell a nonconforming use and it continues to be a nonconforming use? This just doesn’t make sense. It just seems to be so wrong.”

Chandler responded, “The theory is that somebody invested based on a set of rules...and that investment should run with the land. They should be able to sell and recoup that investment.

Schamehorn contended, “But you’re not taking away their right to utilize the land.”

Chandler continued, “Nonconforming use rules don’t differentiate between whether it’s a vacation rental or not.” He offered another example: “Let’s say that we wanted to convert Old Town all to offices. No more retail. Anyone who had a retail business there would have this nonconforming use right to continue. Let’s say they bought it a month ago and we outlawed it next month. They would have invested their life’s savings potentially in that business, and probably with the hope that they’ll be able to sell it someday.”

Schamehorn was not convinced. “We never intended people to build VRDs,” she observed. “The whole thing was they were supposed to have built a single-family home, and after a certain amount of time, then they could convert it into a VRD.”

That was what was intended in the 2018 update, Chandler pointed out, but it was not what was intended before.

Seymour wanted to know what year the first VRD came into existence.

Nichols said there was one that was still operating on the south end of Beach Loop Drive that she thought started in the 1970s or 1980s. It did not have a permit and it began operating before there was even a land use code.

Schamehorn recalled that particular VRD had begun as a bed and breakfast when she was on the Council in the 1970s. She commented that the original concept was that people would live in a home and have a bed and breakfast so they could rent out part of their house. “We’ve certainly morphed away from that,” Schamehorn remarked.

“There was a time, though, in a lot of places, where that was a great thing,” Chandler noted. “If you were a community that was recovering from mill closures or other things...”

Schamehorn agreed it was a good thing at the time, but she was opposed to what vacation rentals had become.

Nichols noted that part of the intent of the 2018 update was to bring all VRDs into compliance with health and safety requirements and things that would affect their neighbors, such as garbage. Staff's proposed update included a provision that within 120 days of the ordinance passing, every VRD would have to comply with those regulations.

The draft ordinance would also lower the maximum saturation ratio from 30 percent VRDs within 250 feet of the applicant's property to 20 percent of the dwelling units, as a means of limiting the overall number of VRDs and their density within neighborhoods. Nichols said this change might produce fewer VRD approvals and offset the low rate of turnover.

Chandler maintained that the City still had effective control over the number of VRDs four years after the code revision. "The numbers haven't blown up, and they can't," he insisted.

Braun countered that the reason there was no growth in vacation rentals was that City had restricted them to a "little sliver of an overlay zone where it's allowed."

Nichols stated that the Planning Department was hearing a desire to limit VRDs, and that was reflected in the proposed ordinance.

Braun said he had not heard a legitimate excuse for limiting the number of VRDs.

Procetto asked Braun why he objected to limiting the VRDs.

Braun answered, "Because...I think vacation rentals are a necessary component to a tourist-based economy. I think that the new model for vacationing doesn't always necessarily include a hotel stay. People don't necessarily want that."

"I don't see vacation rentals as the scourge of small-town society," Braun continued. "I don't see them as a liability to the housing market. If you pulled every single permit, the 50-some vacation rentals we have in the City of Bandon right now, it would do nothing—or very, very little—to solve the housing crisis in this town." He added, "These properties are, more often than not, million-dollar properties and up...They're not going to on the long-term rental market, anyway." Braun noted that there were over 300 vacant properties in Bandon that could not qualify to be VRDs.

Schamehorn wanted to have a survey conducted that would tell how many houses in Bandon were unoccupied or only occupied part of the year.

Braun said, "The people that are investing in those million-dollar, multi-million-dollar properties are not interested in risking that financial investment... We know there's this massive appreciation for real estate, so they're throwing the million, million-five into this property. They're going to hold onto it, but they're not going to risk the value of it by putting it on a long-term rental. And often times they're not going to risk it as a vacation rental... They don't necessarily need to make money off it."

Braun believed "somebody that buys an 800 thousand-dollar, million-dollar property out on the bluff that qualifies for a vacation rental permit is looking to help ease the mortgage, the financial burden of it."

Braun told the Mayor and Councilors he was never in favor of lifting every restriction on VRDs in Bandon, and he said he had not advocated for them and had taken "a measured approach" to them. Braun thought there should be a place for VRDs in Bandon, and he pointed out that there were legitimate businesses that operated multiple vacation rentals that deserved consideration.

Schamehorn noted that the City knew how many VRD permits were active, but she was concerned about the others she kept hearing about who were getting by with 30-day rentals in neighborhoods where VRDs were not permitted.

Braun told her there were people advertising on AirBnB and VRBO, requiring a minimum stay of 30 days but encouraging guests to split the weeks with multiple families.

“If we could even tighten up on that kind of abuse, I’d be a little happier,” Schamehorn remarked.

“They’re using it as a vacation rental,” Braun observed, “but the City is getting none of the benefit of having that.”

Schamehorn related having heard that the people who recently bought the Sweet Peas store in Old Town already owned a house on the beach, and they realized that they were making so much money renting their house as a VRD that they could not afford to move into it. So they were looking for another place to live.

Powell commented that he kept hearing about people complaining about parties and people trashing things at the vacation rentals, but he did not hear that anyone had called the police about it. “I don’t see we need to make changes on this because somebody’s not willing to do what they need to do to take care of the situation,” he said.

Braun thought those complaints were anecdotal at best. He contended that the majority of the VRDs were renting to families who wanted to come to Bandon to spend four or five days on the beach, not “frat boys” who were “renting a \$350-a-night house and having a kegger.”

Schamehorn observed that the Council had discussed the issue repeatedly without ever taking a vote. She voiced her two main concerns: She had seen how hard it was for the hospital CEO (Chief Executive Officer), making \$230,000 a year, to find a home to rent in Bandon, and she felt the City was losing tax revenue because people were avoiding paying the TOT (Transient Occupancy Tax) by listing vacation rentals with a 30-day minimum stay.

“Close that loophole!” Braun encouraged.

Schamehorn said a local realtor had told her he thought there were about 110 VRDs in town.

Braun noted that the monitoring service the City was planning to use—once it became functional in a few months—would close a lot of the loopholes.

Chandler thought it would be ready in January or February of 2023.

Nichols explained that the Host Compliance program would provide a phone number for people to call with a VRD-related complaint. Host Compliance would make sure the issue was resolved quickly. Nichols said Staff was working on warning letters to follow up any unresolved issues. She referred to a multi-part process to improving the City’s administration of vacation rentals, which involved changing the code and adding more effective compliance. Nichols emphasized that the City did not have an issue with most of the VRD operators.

Schamehorn asked if the updated code would address the issue of one couple who did not live in Bandon owning five VRDs.

Nichols answered that the proposed language would prohibit anyone who owned a VRD from obtaining a permit for another VRD.

Procetto wanted to know more about how the City would monitor the Host Compliance service.

Nichols responded that the City would be provided with a weekly digest of VRD activity. Host Compliance would utilize the County Assessor's records to identify a property operating without a permit. The City would send a warning letters to the owner of that property, indicating the procedure for obtaining a permit and stating a deadline for complying. A second letter would inform the owner that there had been a code violation and a citation was being issued. There would potentially be a fine of up to \$750 per day, per violation.

Chandler interjected that the code also required the violator—whether legal or illegal—to pay retroactive TOT owed to the City.

Seymour asked if Host Compliance would be able to determine how long someone had been operating an illegal VRD.

Nichols replied that Host Compliance would search a large number of websites where vacation rentals were listed. Software would be employed to detect a new listing and determine the period of time being rented. The company could provide the City with rental receipts to compare with the Finance Department's records.

With irony, Powell asked how many CEOs making \$250,000 a year were looking for rentals in Bandon.

Schamehorn responded that she knew of two or three people who turned down good-paying supervisory positions at the hospital because they could not find a place to live. She said the City might lose another police officer for the same reason.

Braun pointed out that this housing shortage involved "workforce housing," not million-dollar bluff properties.

Schamehorn responded that the two small houses that had recently been approved as vacation rentals on Cleveland Avenue SW could have provided workforce housing instead. She added that "junkers" were being rented for \$1,500 to \$2,000 a month, so there was a real problem in Bandon.

Braun retorted that the problem was not just in Bandon. "It's not because of VRDs," he added.

Chandler offered a financial perspective. He noted that if an average VRD that was occupied 180 days a year, that would mean that the VRDs in Bandon would produce more revenue for the City than its property tax did.

Braun cited the potential of two new hotels being built Bandon in the next two or three years as illustrating the room for growth in the overnight stay sector. He maintained that VRDs should be part of that development.

Schamehorn saw a problem with continued growth because fewer local businesses were open in the winter months to serve the visitors, referring to restaurants.

2.0 MANAGER ISSUES AND UPDATES

Chandler was to meet with the Bandon School District Board in the evening to discuss a joint project to develop housing on City and School District properties near the ball fields along 11th Street SW. The board was to be presented with a non-binding Memorandum of Understanding (MOU) that would state the District's agreement to participate with the City in changing the

zoning of its property from Public Facilities (PF) to Residential 1 (R-1), adding uses to that property.

The MOU would also indicate that the City and the District would cooperate on issuing an RFP (Request for Proposals) to find out what might be possible in terms of workforce housing. Chandler said one option was to issue an RFP seeking developers who would offer guarantees for rents. Another would be to plat the property, plan new development, put modular housing on the property, own it, and rent it. He noted that the second option would be quicker, but the first option would probably be more productive and keep the City government from becoming a landlord and property developer.

Chandler said the MOU had been presented in August, and if it was not approved that evening, the City would pursue other options.

Schamehorn pointed out that Bandon Dunes had set up modular homes to provide housing for its employees, and she thought the City needed to do something similar, such as small apartments, rather than focus on single-family dwellings.

Chandler described a project in Reedsport that consisted of nice-looking “eightplexes” and some detached single-family dwellings. He had met with the developer several times about possible projects in Bandon. Chandler said, “There’s a tremendous amount of interest right now in Bandon from the development community. Folks recognize the workforce housing issue. They want to come and provide it.” He added, “I think two years from now the landscape will look very, very different than it does today for having workforce housing available.”

Regarding the 17-acre parcel recently annexed and targeted for housing, Chandler reported that the City and the property owner were still waiting for a wetlands report. He described “the three-legged stool of the housing strategy: work with the School District to create workforce housing in the central area by the ballfields; a traditional affordable housing project on the 17-acre property, marketed to mostly serve people from the Bandon area or who wanted to work in the area, within the limits of the Fair Housing Act; and a shared-equity model or housing trust, where the trust would own the land, but a house could be purchased at an affordable price and sold back to the trust after it had appreciated, giving families an opportunity to build equity and get into home ownership in the community.

Additionally, a 48-unity project on Seabird Drive was in the works, aimed toward the upper-end of workforce housing, such as two-income professionals and skilled workers. Chandler told the Councilors there was also a lot of interest in a property south of the Harvard Street Apartments. He noted that there was tremendous demand for subdivisions—in a 30-acre parcel south of City Park as well as in the Donut Hole. Development in those areas would be dependent on a solution for the City’s seasonal water concerns, which Chandler contended would require the City regaining some measure of rate-setting authority. That would enable the City to at least be able to enter into bond covenants and obtain loans and grants from the state that the City would guarantee it could pay back.

Schamehorn felt Chandler’s newsletters were the best way to let the public know that Bandon was losing the ability to get grants it should be getting and other communities were able to get. She voiced her appreciation for what Chandler was doing for the City.

Vick pointed out the Coos County jail bond ballot measure had failed and he thought it should have passed.

Schamehorn commented that the measure had been poorly worded and confusing. She thought there should have been more publicity and public discussion.

Powell interjected that there should have been town halls.

To Braun, it seemed like the measure had been put together at the last minute.

Schamehorn countered that there had been a committee formed in January 2022 to work on the matter, but little effort had been made in support of the measure.

Vick wanted more information about Coos County taking over the State Building Codes Division's responsibilities in the area.

Nichols responded that the County had changed its Planning Department to the Community Development Department, which conducted both planning and building permit services.

In a conversation prior to the Work Session, Schamehorn had learned from County Commissioner John Sweet that the county had retained all the state Building Codes personnel and kept the state's fee schedule. She also mentioned a friend who was upset that county planners had found deficiencies in a plan that had previously been found acceptable by the state, and she said Sweet was going to look into the building permit situation.

Vick remarked, "The last thing we need is more impediments. We're trying to build houses."

3.0 ADJOURN

Schamehorn adjourned the Work Session at 2:17 p.m.

City Council Special Meeting and Work Session Minutes
Submitted by Richard Taylor, Minutes Clerk