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Citizens Find Voice In Battle to Save Roasting Company

The parking lot was full at City Hall on Tuesday night. For weeks Ashland had been bubbling with the news that the City Attorney had ruled that the Rogue Valley Roasting Company, an East Main Ashland landmark with a broad clientele, was operating without required City permits. Coming hot on the heels of the Chief Bianca dust-up, the flap over The Roasting Company seemed ill-timed, publicity-wise. The fact that the anti-coffee-house action had been instigated at the direct request of City Councilwoman Cate Hartzell, whose home lies across from the popular shop, seemed to have especially raised hackles. Adding to this the fact that The Roasting Company had strong local support, the heavy turnout was not unexpected.

In what struck many of the waiting citizens as a ploy to delay their involvement, two other matters consumed the first two hours of the Commission meeting. It was around nine o'clock and still standing room only in the Ashland City Council Chamber when the Planning Commission took up Planning Action 2005-01313, “An Appeal to the Planning Commission of a Staff Advisor

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Bianca, The People's Chief *Jeff Golden: “We are not the fringe.”*

Chief Bianca's Shadowy Enemy

On the last Friday in July, APD Chief Mike Bianca's supporters not only rallied in support of their Chief, they leveled harsh criticism at the secretive group of APD “sworn and unsworn officers” who have targeted Bianca for removal. Oregon law doesn't recognize the authority of an “unsworn peace officer,” but that is how some members are described. This paper has been unable to obtain additional information on which of the dissidents are actually APD employees, and which are “hobby cops,” because the dissidents hold secret meetings and refuse to disclose their names, claiming fear of retaliation.

Passing the \$35,000 Buck

Despite their cloaked identities, the anonymous complainers have been granted credibility by City officials, who have agreed that the cost of passing this buck is going to be \$35,000 – the amount of money allocated to hire “outside consultants” to help Chief Bianca communicate with the secretive sworn and unsworn officers. Among other resolutions reached by the crowd at the most recent rally was to present a

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Roasting Company Wins Support

Determination that the current use of the subject property at 917 E. Main Street as a coffee shop is an illegal, non-conforming use in violation of Ashland Municipal Code 18.68.090.” Appellant Jerry Quast, the proprietor of The Roasting Company, was represented by Alan Harper, seeking to overturn the verdict of illegality that Asst. City Attorney Mike Reeder had imposed on the Ashland landmark.

Jerry and Deborah Quast’s business life hung in the balance. The bad news had arrived in a letter dated April 5, 2005, signed by John McLaughlin, Ashland’s Director of Community Development. McLaughlin’s letter told Jerry and Deborah that “the City of Ashland ... has determined that ... your occupancy of the site as a coffee shop is considered illegal [therefore you] are required to apply for a Conditional Use Permit [and] failure to apply for a permit will result in the City being required to take enforcement action.”

What had brought this meteorite crashing down upon their heads, the Quasts asked themselves? The answers would come in good time. On March 17, 2005, Cate Hartzell had sent a letter to City Manager Gino Grimaldi that accused The Roasting Company of a serious offense: “The Rogue Valley Roasting Company has become successful; unfortunately, the neighbors pay the cost and the City stepped away from its role.” Success often leads to a fall, but for The Roasting Company, it seemed too ironic. The booming trade at the coffeehouse, that seems to funnel hundreds of people of every age and description through on a good day, is a symbol of the city’s vitality. Equally important, and perhaps equally offensive to its detractors, over the years The Roasting Company became a public forum where people could meet away from the homogenized coffee ambiance that saturates the town. The Roasting Company, its scores of supporters made clear, provides a welcome antidote to the corporate blandness that has invaded Ashland insidiously over the last thirty years. For Councilwoman Hartzell to attack The Roasting Company seemed surprisingly insensitive, a bureaucratic faux pas that attracted notice from supporters and opponents alike.

Passing beyond the touchy-feely realm, the sudden appearance of a real threat to the existence of The Roasting Company touched a nerve of self-protectiveness in the Ashland core. Heavens, thought many, where will I get coffee and a bagel? Plus, many

old timers have bought food and drinks at that location for four decades, and the very idea that the place could be shut down for a zoning violation seemed ludicrous. For their part, the Quasts have always been squeaky clean. After they bought the property in 1994, City planning employee Bill Molnar told them they didn’t need a Conditional Use Permit to operate a coffee shop because of its historic uses. In other words, the property was “grandfathered” as a grocery store deli/coffeeshop. When the Quasts made indoor improvements and added a deck to the coffeehouse in July, 1998, City planning employees Mark Knox signed off on building and zoning permits with full knowledge of current use as a coffeehouse. Internal City memoranda acknowledged that the Quast’s property had been grandfathered for the coffeehouse use. What could be more secure?

But trouble sneaks up when you rarely expect it, and it turned out that having a City Councilperson across the street from the business was not a good thing. And having obliging lawyers in the City Attorney’s office who work at the behest of the City Council ready to field complaints for City insiders may be the type of problem that just plain folks have a nose for. Assistant City Attorney Mike Reeder told the Commissioners that after investigating Councilwoman Hartzell’s complaints, he had found no grounds for taking action against The Roasting Company’s operation, but that after a searching review of the file, he had discovered that City planners had made errors that had to be corrected by having The Roasting Company’s owners file for a Conditional Use Permit. Reeder explained that “the rule of law” demanded that The Roasting Company’s operation be brought into compliance, or face enforcement proceedings. Without apologies, he urged the Commission to uphold his finding that a “change in use” which occurred during a rather vague time period in the nineties, rendered the presence of the coffeehouse illegal. Reeder counseled the Commissioners to disregard any arguments about the untimeliness of the City’s negative land use action, because the landowner “has the burden” of remaining in compliance with local laws, regardless of whatever reassurances they might receive from City officers. Thus, without saying it, Reeder seemed to be articulating a new rule – the citizen must pay when the City discover its own “errors” years after the fact. Alan Harper argued that the delay was all-important and barred any action by the City against the existing grandfathered use, because the 1998 permit signoff by Mark Knox was a “final land use action” to which objections had to be filed within a very short time frame, and they were now nearly seven years too late. *(Continue on page 3)*

Roasting Company, cont'd

Reeder's five-page, single-spaced decision convicted The Roasting Company of illegal operation only after awkwardly attempting to explain away the problem of untimeliness, but the verbose legal essay came off as a sophomoric piece of pettifoggery, if the three retired attorneys who testified at the hearing were any sort of jury. Certainly the crowd were having none of Reeder's lawyerly fancy steps, as he learned when he harvested catcalls from the crowd after inadvertently disclosing his view that the opinions of citizens were "not relevant." But still, on any ordinary night, the paper-pushers would have won. But this was a different night. The crowd did not disperse, and one sensed they would not leave quietly without being given their due.

Chair John Fields managed the proceedings sensitively, and the Commissioners, after initially seeming somewhat alarmed at the extraordinarily large turnout, gamely extended the time for the hearing until 11 o'clock. The citizen speakers were notably concise, clocking in, on average, at no more than 40 seconds beyond the 3-minute limit. Several speakers commented on the tardiness of the City's action, and the fact that the City's ruling of illegality was based on the City's admission that it had erred twice in permitting the coffeehouse to operate without requiring a Conditional Use Permit. It did appear, as John Gaffey observed, that the City Attorney's office had made a mess and dumped it in the Planning Commission's lap. Several speakers echoed this opinion, noting that the City should not penalize a landowner for "errors" that had been "found" by Asst. City Attorney Reeder after looking for some grounds to satisfy Councilwoman Hartzell's demand for "City involvement" in her neighborhood relations. Several citizens complained that the proceedings were "a travesty," speculating that real estate interests might be attempting to oust a successful business in order to convert the location to multi-unit housing, and one The Roasting Company supporter bluntly stated that "Something stinks. Something stinks and everyone here in this room can smell it." No one disagreed with him, and I for one did not smell coffee.

After the testimony of the citizens, Cate Hartzell, who entered and left the Chamber as if on cue, gave her testimony in the sincere voice we have come to recognize as her hallmark. However, she spoke so softly that it almost seemed as if she wished to speak privately with the Commissioners, and displayed only one photograph to the Commission that she said was representative of many more that she had back at her home. One wag in the audience wondered whether this

was an invitation for all of the citizens, or just the Commissioners, to stop by and flip through her album of The Roasting Company surveillance photos.

After the testimony of the complaining Councilor, the issue was brought to a vote on the motion of Commissioner Ken Kairn, after the motion of Commissioner John Stromberg to allow time for discussion failed for lack of a second. The vote was 5-to-2 in favor of overturning the City's finding of illegality. One opposing vote was cast by Olena Black, who sought to stretch the Commission's jurisdiction to encompass considerations of whether The Roasting Company's provision of free wireless Internet had "changed the use" of the coffeeshop. The second dissenting vote was from John Stromberg, whose motion for further discussion and delay had gone unseconded.

The Quasts had been cut down from the gallows, and none too soon. Afterward, Jerry Quast clearly seemed emotionally drained, and when I asked him for a comment, he almost seemed not to be believing how things had gone, and he several times repeated, "We never thought we had done anything wrong." Indeed, he had not, and as one former City employee said in his testimony, the event was an embarrassment to the City, for which the Quasts should receive an apology and compensation for their legal fees. With land use lawyers running about \$300/hour, the Quasts are going to have to sell a lot of coffee to get back to where they were before their powerful neighbor, with the help of a lot of free legal work from the City Attorney's office, declared war on their business. But that's politics, and when you are fighting City Hall, sometimes just surviving to fight another day is a big win.

For the community, the win could not be clearer. The Planning Commission has been informed that they are not to be used as an ad hoc grievance council for liveability issues, and that "success" is not a reason to close a local business, regardless of who lives across the street from it. (L.F.N.)

Mayor Passes Big Buck (Cont'd from 1)

request to the City Council to not spend that money, and instead simply lend their support to the Chief by affirming his authority over the dissidents.

A Bizarre Complaint Reveals An Alien Psychology

In the eyes of Bianca's supporters, the complaints of the dissidents became absurd when they claimed that the Chief's skillful resolution of a confrontation with a knife-wielding youth without resort to homicide was

actually a tactical error that would put future officers in danger. Why? Because, as Officer Teresa Selby stated, the suspect should have been “drilled,” failing to note that “drilling” tends to be lethal, and the person that Chief Bianca saved from drilling was a very intelligent local man whose parents are longtime SOU faculty members. This tunnel-visioned focus on “officer safety” to the exclusion of all other concerns was commented upon by many of the speakers, who noted that aside from the Chief and one Sergeant, none of the APD officers are Ashland residents. As more speakers were heard, especially the young people who apparently get the brunt of the APD’s acting out, it became apparent that many of them felt that APD cops view Ashlanders as aliens because they do not share their generally liberal political and cultural views.

Cut From Different Wood

Unlike the secret critics who have drawn a bead on Chief Bianca, he is a longtime Ashland resident who worked his way into the job through security in Lithia Park. Once at Garfield Park, the stories about the Chief began flowing from the microphone, making it clear that this cop is cut from a different type of wood than your average Taser-toter. Bianca is gifted with empathy, not usually a characteristic prized by patrol officers, and respects the emotions of bereavement, fear and loss that arise in connection with the traumatic events that life inevitably deals us, and that peace officers are supposed to help us deal with. Unlike many cops, Bianca clearly doesn’t crave “action” any more than citizens want trouble with the police. According to



Bianca’s supporters, he’s the right cop for the job, and they actually fear that without his influence, the cops in this town could get rougher, more arbitrary, and even start doing a little drilling.

Lightweight Gear, Plenty of Speakers

Approximately thirty-seven people spoke at the rally once the marchers arrived at Garfield Park, where the Instant Runoff Voting supporters had already set up a table in the shade. The two groups joined forces and agendas, and fired up some amplification when one of the rally organizers, former Deputy DA Charles Carreon, arrived in a bright red, jury-rigged sound truck, flying a hybrid US/Peace flag, plastered with pictures of Bianca. During the march, Carreon’s wife Tara piloted the outlandish vehicle up and down the main streets, while Carreon serenaded and peptalked marchers, citizens and anyone who would listen to his impromptu political verses. Some folks look great with a microphone in hand, and all of these people had one thing in mind – getting the City’s leaders off the fence and squarely in Chief Bianca’s corner. Looking at their faces reminded some folks of 1968.

“Not The Fringe”

NPR Radio host Jeff Golden concluded the rally by responding to one speaker’s fear that those present were not important enough to influence the debate: “We are not the fringe, but a true cross-section of Ashland, and all of America.” And he should know. (L.F.N. & C.T.)