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LYONS CITY COUNCIL MEETING January 22, 2009

OPEN MEETING 6:00 P.M.

The Lyons City Council Meeting was called to order by Mayor Mike Rolow. Present were City Councilors Dan Burroughs, Mike Lucas and Pat Bowe. Councilor Jeff Branch was excused. City Staff in attendance were City Manager Mary Mitchell and Assistant City Manager Audrey McNerney.

MAYOR PRO-TEM SELECTION. Mayor Rolow announced that the City Charter states: “At its first meeting after this Charter takes effect and thereafter at its first meeting of each odd-numbered year, the Council by ballot shall elect a Mayor pro tem from its membership...” In accordance with this requirement ballots were provided to all Councilors. Councilor Jeff Branch cast his ballot prior to leaving on his vacation. Ballots were completed and tallied and Dan Burroughs was elected as Mayor Pro Tem.

Mayor Rolow asked that all stand for the Pledge of Allegiance. He then inquired as to whether there were any declarations of conflict of interest or ex-parte contact regarding the agenda items. There being none, the meeting continued.

GUESTS – Randy Kinzer, Sgt. Flint LeBard, Linn County Sheriff’s Office, Sam Suitt, C.J. Willett, Bill Grimes, Supervisor Lyons-Mehama Water District and Dennis Gray.

SAM SUITT – DRIVEWAY FLOODING COMPLAINT. Mr Suitt stated that the reason he was before Council was that since the 25th Street paving project, which included an extension of the culvert beside 25th Street and the enlargement of the drainage area that previously did not drain where it does now, he has experienced three episodes of flooding that have destroyed his driveway. He went on to say that in the previous thirty years since the house was built this had never happened before (with the exception of the ’96 flood which was, obviously, an extraordinary event). He said that he has come to realize that this will be a recurring event for which he not only cannot afford the expense for but his health and age will not allow him to do the work necessary to rebuild the driveway each time. When the last rain storm occurred the water covered the road within a few hours and he thought that a water main had broken. He called Grimes who checked for leaks and found none. He said that Grimes then checked all of the culverts and found all culverts flowing and full. Suitt said that Grimes was the only person he was aware of who had seen the situation at a peak flow. Suitt presented photographs taken after the night of the New Year’s Day storm. He stated that you can clearly see the flow patterns even though the water

had pretty much receded by then. He said that Grimes had seen the area at the peak time and had stated to him that it was not a water main, it was the runoff. The second time he experienced this problem Mr. Suitt stated that he made his case to the City and was advised that since the area was outside of the City limits, the City was not responsible for the damages and did not make any commitment to enlarge the culvert under River Loop (which was the crux of the problem.) Since that time he said that four different people had stated to him that they were at the meeting regarding the 25th Street Project and that they witnessed the City commit to enlarging that culvert. He said that in his opinion the additional runoff added to the system by the 25th Street project, without any additional capacity to drain it, has caused him a repeated and continuous problem. For that reason he is presenting the City with a claim for damages to his driveway. He went on to say that he will do so every time this happens because he can't handle the runoff coming down on his property caused, in his opinion, by the City. He presented two diagrams, one showing his immediate property. He explained how the water flow that occurs during a peak flood event comes across through the lots (as set forth on the diagram); two homes get cut off from their driveways and vehicles during the event, and travels about 200 feet down River Loop Road onto his driveway and washes it out. It forms a big lake and in this event it came very close to getting into his garage. He went on to say that he had only seen this lake once before and that was in the '96 flood. He then referred to the second diagram. This diagram shows "Basin B" the additional runoff that was directed by the culvert into "Basin A". He said that previously it didn't run that way; this is the additional runoff that was now "dumped" into the system. The culvert historically had been adequate and in peak rain events it runs at capacity. Suitt referred to the diagrams he had prepared and the pictures which he had taken and explained how the water flowed and where it drained. Some of the pictures reflected the damage to his driveway. He mentioned that emergency vehicles were unable to utilize his driveway during this time and had to use another neighbor's driveway which was not as convenient. Burroughs commented that Kinzer had checked out the area and confirmed that the water would flow as depicted on the diagrams. There was discussion regarding the debris in and around the culvert but Suitt stated that the debris was not in front of the culvert and the water could flow over and around the debris. Burroughs stated that the culvert needed to be replaced but that the agent for Linn County stated that the county would not take any action because the road is a public access road.

Grimes referred to the diagram and showed how the water would flow prior to the paving of 25th Street. He said that Oak Street wasn't developed at that time. He also said that another problem was that (in an area he referred to on the diagram) bedrock was close to the surface (they had to blast to get the water line in). He referred to the area which is undeveloped County Park and is fairly flat. He referred to a 24 inch culvert which is at least two thirds full which was installed around 1969 and is probably galvanized and may be starting to rust out on the bottom. Grimes recommended that two 24 inch culverts side by side replace the one culvert which is presently situated there. He discussed the location of utilities. He said the area across the undeveloped County Park is fairly flat which will have to be watched. The water won't flow hard enough to keep the ditch scoured out. It was his opinion that the culvert has to be kept open so that the water can flow across the undeveloped County Park.

Burroughs agreed with Grimes as to what needed to be done but his concern was how to determine who was to pay for the replacement since it is not City property. Suitt responded that the City put the additional water in the culvert and it was barely adequate (except for '96). It is the additional burden placed on the system by the diverted drainage that is causing the problem now.

Grimes referred to the diagram and explained how the water used to flow and soak into the ground. The water now can't soak into the ground.

Willett stated that he has been in the area for only 6 years. In that time the neighbors continuously point out to him that the water is collecting in his yard and want to know what he is going to do about it. He suggested that during the dry season they could have the fire department flush out the culvert with a hose. At least it would be working at full capacity rather than one-third as it is now. He said that he had, with the help of a neighbor with a tractor, cleaned out the culvert last summer. He also stated that he noticed that the mud and debris was building up in the culvert again because there was nothing to keep it from washing down from the basin. He has pictures from the last storm which shows the water gushing because the culverts couldn't handle the flow. He hired someone at his own expense to dig out the whole length of his property 6 foot deep to keep the mud from building up and flowing into the culvert. His rock bridge going across it has a 24 inch culvert which is lined up perfectly with the culvert under the road which keeps mud and debris from getting into that culvert and plugging it up. He cleans it regularly and any soil and debris which flows down the creek settles in the bottom of the 6 foot deep ditch. He feels that he has done all that he can afford to do financially. He talked about having topump water from a neighbor's property when it was being developed because the property was a swamp under the blackberry bushes. All that needs to be done is to clean out the culvert in question. If there is no one who is willing to put a new culvert in it would be simple to have the fire department flush it out with a hose or use a "roto-rooter" it to clean it out when it is accessible.

Mitchell asked Grimes whether the culvert would be able to handle the flow if it weren't crushed. Grimes responded that he didn't feel that it would. He said that it was his opinion that two culverts were needed to replace the existing one. Burroughs commented that he agreed that the best thing to do would be to dig the existing culvert out and replace it with two plastic ones. If they have a liner in them nothing sticks in them.

Suitt said that he thought that would take care of the problem. Willett stated that they could ask the neighborhood to contribute to the cost. Burroughs offered to take care of digging the existing culvert out. Suitt stated that this isn't the neighborhood's problem because the water that is causing the problem is not coming from their neighborhood. He said that it is put there by the City and he feels that it is the City's responsibility. Burroughs stated that a lot of it is coming from the County property. Willett said that he had taken pictures of the County property and saw at least 20 logs lying in the creek and there are mounds of dirt building up around them. There was discussion regarding water flow directed from Lyons-Mill City Drive by the County.

Grimes said that he didn't know whether this problem shows up on the '74 flood study or not. Mitchell stated that the City Engineer is working on getting that study updated. Grimes asked if there was a copy of the map available. Mitchell left to retrieve the map showing the direction of the water flow which was done in '74. Grimes said that part of the problem may show up on that map

Gray said that while Mitchell was retrieving the map he wanted to advise Council that he resides on Golden Leaf Street. Apparently the State Highway crew came down 3rd Street to the Post Office and graveled the neighborhood after the New Year's Day storm. They cleaned up the main road but left gravel all over the neighborhood. He wasn't sure who had actually spread the gravel. Burroughs asked if possibly someone in the neighborhood had someone come in and do it. The issue is that there is gravel

left on the streets which he would appreciate having cleaned up. Rolow said that the City would attempt to determine who had spread the gravel.

Rolow stated that he had checked with a supply house and determined that the cost of 30 feet of 18 inch culvert would be about \$450.

Grimes looked at the map retrieved by Mitchell and commented that the bedrock is so close to the surface that water can't soak in and has to run off somewhere. There was discussion regarding the water flow to and over Matthew Edwards' property and the historical use of the ditch that goes to the river. Grimes stated that if the culverts are installed someone would have to talk to County Parks to get them to clean up that area. Burroughs stated that the County does not want to do any work in that area because it is a deeded access road. Grimes said that the park is in Linn County's Park system as an undeveloped park. They could get an inmate crew in there to clean it up.

Lucas asked Suitt about his comment that at a meeting where the City supposedly said they would be responsible for the culvert under discussion. Suitt said there was a meeting regarding the 25th Street Project on that subject which was very well attended; however, he was out of the state at the time and did not attend the meeting. Suitt said that the commitment is not reflected in the City documentation of that meeting but several people who were at the meeting told him independently that they heard the City make that commitment at the meeting. Lucas commented that the meeting took place 9 years ago and that none of the people that are on the council now were there then. Rolow stated that all that Council has to go by are the notes of that meeting. Suitt reiterated that there was no reference to the commitment in the City's notes but that eye witnesses said that the City did make that commitment. Lucas asked when the people had told Suitt about the commitment. Suitt responded that it was about 2 years ago. Lucas asked who the people were. Suitt said that he couldn't recall. Lucas said the City has a list of the people who were present at the meeting in 2000. Burroughs said that he was present at the meeting but did not recall whether or not the City made the commitment. Suitt said that it would have been a commitment in recognition of the additional water drainage that the 25th Street Project would dump into drainage under River Loop Road.

Lucas asked Grimes whether in his opinion the City was at least partly culpable for the water that is washing out the road. Grimes responded that it was. Lucas asked Suitt if, based upon what he knew, he agreed. He responded in the affirmative. Lucas then asked Burroughs if he agreed. Burroughs responded that it was the culvert that was causing the problem. The water gets there faster than before. Grimes said that it comes faster and higher. Kinzer stated that the County agent had informed him that the County would not do anything. The issue would have to come before the County Commissioners and would have to do a study on the drainage before the County would allow a pipe to be placed in the culvert.

Lucas asked if it was the consensus of opinion that two 24 inch pipes would alleviate the problem. Grimes and Suitt both said that they believed that would. Lucas asked what would keep the City from scheduling this replacement when the timing is appropriate. Rolow stated that the problem is that the area is not within the City limits. Grimes said that that he believed that there was a law passed several years ago allowing the City to spend money outside the City limits for storm water drainage. The road is definitely considered a public road which means that all of the rules and regulations of the highway apply to it. No public agency has accepted responsibility for maintenance of the road. Lucas asked who had installed the culvert. Grimes said that it had been installed by the developer in 1969.

Lucas said that, in accordance with what Grimes said, there is nothing that prevents the City from taking care of the problem. Grimes again stated that in his opinion there was nothing legally that prevented the City from doing it, but the City might want to ask the opinion of the City Attorney. Apparently the City spent money crossing Oak Street and putting a culvert in where it dumps over the first bank. Rollow commented that Oak Street was within the City limits. Grimes responded that the City limits were not North of Oak. Rollow comment that that had been done by private funds. Burroughs stated that that was paid for with money raised from residents in the area.

Mitchell stated that what she had been operating from are copies of minutes where there is significant discussion regarding drainage. The records reflect that when the project was being considered because all of the residents wanted the road paved, it was recommended that for the project to proceed the City would require that it be held harmless with regard to possible drainage problems or the City would not move forward with the project. This issue was discussed again at a later date partially because the City Engineer John Erwin said that ODOT would fund drainage improvements to go with the paving but that as funding stood at that point there would be no additional money for drainage purposes. The agreement was that the City would proceed with the paving under the condition that the City would not be held liable for the drainage that came with it.

Suitt said that he was not present at that meeting so he was not part of any agreement. Also he said that he didn't believe that there was any legal authority anywhere in the country that would say that it's alright for one entity, be it city, county or state or private individual to take their runoff and dump it on another entity and hold them harmless. Mitchell stated that she was only reading from the notes she had available because that is all she had to go by. Suitt said that he is just the messenger when he reports that four people, independently, told him that they heard otherwise.

Bowe asked Suitt what, in his opinion, the City had done to cause this runoff. Suitt referred to the diagram and explained why he felt that by diverting the runoff the City had caused the problem. When asked how the City had diverted the runoff, Suitt again referred to the diagram and explained how the water flow had been diverted.

Bowe said that Council is trying to work with Suitt and if it can be shown that the City is responsible, it is his opinion that to be a good neighbor and in good faith the City can work something out. Bowe went on to say that while he could not to speak for the whole Council without taking the matter under advisement and discussing it, he was sure something could be worked out to eliminate the problem. If the City is not responsible Suitt said that he would like to hear an explanation as to why this problem has occurred almost yearly since 25th Street was paved and had never happened in the preceding 30 years. Burroughs commented that this culvert was an issue even when the original discussions took place. The Engineer stated that "this is an engineered design and drainage will follow the historical flow.

Bowe asked if the Council decided to help with this issue would the affected residents be willing to assist in getting the project accomplished. Willett stated that there are people in the neighborhood who have the expertise and the equipment to do the job who would be willing to contribute time and effort. Suitt said that while he can't speak for any of his neighbors but his feeling was that if the City provided the materials the equipment and manpower to install it could be found in the neighborhood.

Mitchell asked Grimes if there was any property which would be impacted if more water was coming through the culvert. Grimes said that County Parks needed to do some maintenance on the ditch through their property but this a natural waterway and the County Parks should be responsible for that. He referred to the minutes of the previous meetings which discussed "hold harmless" and asked if the City had all of the property owners signed something to that effect. Suitt said that he had never signed such a document. Grimes said that it was doubtful that the City had taken that step so that "hold harmless" would have no effect on the current situation. Mitchell commented that that may very well be true. Grimes went on to state that for \$1,000 or less two 24 inch culverts could be installed where necessary. He said that would really affect the problems in that area.

Bowe said that if the culverts are installed how can the City be assured that there won't be another claim as a result of the water going through the culvert. There was discussion regarding this issue and the historical flood plain and it was determined that more volume could be put through a smaller ditch. Mitchell asked who would maintain the culvert if the City partnered in its installation. Willett said that he would personally clean them out every summer.

Mitchell stated that it appears that if the City were to work something out it would there would need to be legal documentation with regard to responsibility.

Burroughs said that the water would eventually go to the Matthew Edwards' property. Bowe expressed concern that we might be creating another problem. Burroughs said that according to Edwards that the next part of the ditch where the drainage crosses River Loop Road works fine. Edwards worked on it with Burroughs' backhoe. There was discussion regarding the County requirements. Grimes said that as the presumed owner of the undeveloped County Park they have a legal obligation to keep the drainage free. Willett said that because it will take time to do the necessary research why couldn't they just "roto roter" the culvert and make it last until something can be done. Suitt said that he is almost compelled to be in favor of whatever is expedient because he is just one rainstorm away from having his driveway destroyed.

Lucas asked Burroughs what it would take to clean out the existing drain. Burroughs responded that it could possibly be done with a fire hose. Grimes said that a vacuum truck would be the best way. He said that the County had utilized a vacuum truck on Main Street last summer.

Grimes said that he would put in two 24 inch culverts right now. He went on to say that the County would issue a permit without any argument. The County just doesn't want to pay for it and since it is a public road they issue the necessary permits for anything that is in the right of way. It will be necessary to call for "locates Mitchell said that since the cost would be under \$5,000 a it would not be necessary to go out for bids. Grimes said that since there is someone who is willing to do the digging, get rid of the old one and drop in two 24 inch ones. He recommended waiting until summer when the weather is dry to put the culverts in.

Lucas asked Suitt what this concept sounded like to him. Suitt responded "like a blessing." Lucas said that this would provide temporary relief and a more permanent fix could be done later. Willett said that he had already eliminated any more silt or anything building up inside the pipe. Everything to the east of his property is all grass land and gravel so it gets filtered all the way to his property. Anything that comes into his property would drop down to the bottom of the 6 foot trench.

Lucas then asked what the City's liability for doing this would be if someone later says they have the runoff water and the City caused the problem. Burroughs commented that this is the problem that Mitchell had expressed concern about. Suitt said they would probably come to Council like he did. Willett asked that if the City did nothing more than pay for the pipe and the community installed it would the City's responsibility be eliminated. There was some discussion regarding this issue and Lucas commented that this would be an issue to discuss with the City Attorney to determine how the City can be held harmless from any liability in connection with any further responsibility.

Willett said he appreciated the City's good neighbor policy. Grimes said that there was nothing further he could add and left the meeting.

Rolow asked Council what their consensus was. Lucas said that he liked Grimes' solution; a temporary fix with the vacuum truck which we would pay for and have done correctly and then put up the money for the pipes after the attorney has determined the best way for the City to be held harmless from any further liability. The community would have the responsibility for the installation. Willett said that he has accessed everything he has needed through people in his neighborhood at a reasonable cost and he knows how to make things happen. Burroughs said that the only property that would be affected by the additional flow would be Matthew Edwards' property unless it plugs up at the other culvert on River Loop. The water will be on part of his property where there is a bottleneck.

Suitt said that the neighborhood generally is unhappy about the drainage problem. He went on to say that he is the only one that is suffering direct financial and physical harm at the moment. He said that he felt certain if some other house had been the low spot in the runoff we would be hearing from those property owners. He just felt that he had no other recourse but to come to Council since he had had to replace his driveway three times which placed a physical and financial burden on him.

Bowe said that Council would take the matter under advisement and would get back to them. If nothing else Council will get the vacuum truck out as a temporary measure. Lucas made a motion that the City hire a vacuum truck from the least expensive source to clean out the culvert and evaluate other options for partnering with the River Loop residents to install new culverts. Bowe seconded the motion. Rolow also proposed, as an amendment to the motion, that the residents be required to obtain whatever permits may be necessary to install the culverts from Linn County. Voice vote. Motion carries.

Rolow stated that, without making a firm commitment, the City will look at purchasing the materials and that the residents will take care of installing the culverts.

CONSENT AGENDA.

After discussion Lucas made a motion to approve (a) the Minutes of the 12/18/08 City Council Meeting; (b) the Minutes of the 12/12/08 City Council Executive Session meeting; (c) the Minutes of the 1/6/09 Special meeting; (d) the Minutes of the 1/9/09 Telephonic Approval; and (e) the January 2009 Bills to Pay Report. Bowe seconded the motion. Voice Vote. Motion carries.

OLD BUSINESS

- **Maintenance Contract.** Rolow referred to Mitchell's memorandum with regard to the Maintenance Contract with Thompson. He stated that Council had approved the Contract as modified by Mr. Thompson at the last meeting. It was signed by Rolow and Mitchell and forwarded to Thompson for his signature. Thompson has refused to sign the Contract without some additional changes. He also requested that he be paid on the 15th of the month. However, City bills are not paid until after Council approves the Bills to Pay Report at the Council Meeting. At this time he is working without a contract. Mitchell referred to the Memorandum which contains the City Attorney's recommendation in handling this matter and read "The City is not operating under a binding contract with Thompson; BUT, since he is still performing the work regularly under the anticipation of payment there still exists an "understood agreement" between parties." Mitchell went on to say that even though we don't have a binding contract we have an acknowledged agreement. Bowe commented that what that it refers to basically is that if he did any work we are obligated to pay him. Rolow read from the Memorandum that "this agreement may be terminated by either party for any reason upon 30 days written notice to the other party." Mitchell explained that because there is no binding contract the City does not have to give a 30 day written notice. Rolow commented that if he were terminated immediately the City would be responsible to pay him for any unpaid services rendered. Bowe inquired about the written changes on the contract which had been made by Thompson after Council's approval of the contract. Mitchell said that he did not agree with pressure washing the cemetery headstones annually and he didn't want to clear storm debris. He did not want to update the cemetery book with burials and cemetery activities and did not want to track and document the monthly pressure washing of headstones. Rolow reported that after the New Years' Day Storm Thompson stated that he did not have time to clean up all the debris and that it might take him months. Rolow and Mitchell discussed the possibility of hiring some to clean up the storm debris in the park so that it would be operational and Rolow asked Thompson if he would just take his chain saw and cut the larger branches into smaller pieces so that they could be picked up. Thompson refused and stated that he would do nothing further. Rolow stated that he did not pursue the conversation. Rolow said that he didn't know whether it was his place to voice his opinion but that he was ready to terminate Thompson's services at any time. He referred the rest of the discussion of this matter to Mitchell. Mitchell stated that in the event it is Council's decision to terminate Thompson's services there are two parties who are available to fill the position. Both of them have done work for the City. One of the parties, Randy Kinzer, has been doing, for lack of a better term, Public Works for the City for several months installing street signs and doing anything that the City has asked him to do such as replacing the bridge railings on 13th Street and doing a lot of the remodeling work over at the new library building. The other party, Billy Arndt, who cleaned up the park and did the work that Thompson had refused to do. Both parties are ready, willing and able to start immediately. The first thing that will need to be determined is how Council wants to deal with Thompson and then more detailed discussion can be had with regard to the employment of a replacement. Lucas asked what Thompson's last bill reflected. Mitchell stated that he had worked 24 hours for the month and actually owed us another 8 hours. Thompson said that he would not work any extra hours to clean up storm debris even though he was 8 hours short for the month because he took a week off for vacation. When the bill is calculated at \$880 for 24 hours the rate would be close to the increased rate he had requested. So basically he gave himself a raise. Bowe asked why he didn't sign the contract. Mitchell responded that he didn't like the way it was written. Lucas said that at the last meeting it had been determined that he *did* like the way it was written. Mitchell explained that at Thompson's request she had e-mailed a copy of the contract to his wife. When Mitchell

asked about the Contract so that she could finalize it Thompson said that it was fine. It then went back to Council and signed off by the City. When she gave the signed copy to Thompson for his signature he made the changes and refused to sign it. Mitchell stated that Thompson had been operating under a year to year contract which had expired. He is not operating under contract at the present time. Rolow asked what Council's pleasure was in this regard. Bowe made a motion to terminate Thompson's services immediately. Lucas seconded the motion. Lucas asked if Thompson should be advised of the reason for his dismissal. Mitchell explained that she had been advised by the City Attorney that the City should not get into any discussion regarding deficiencies and that Thompson should be advised only that Council had made a determination to terminate his services immediately. Lucas asked if Thompson owed the City any time. Mitchell said that he actually has to do the work before he gets paid. If he were to get paid in the middle of the month he would have been paid before he actually did the work. Mitchell said that the City Attorney had stated that he only needed to be paid for the work he had actually done. Voice vote. Motion carries. Rolow commented that there were two people who were willing to start immediately. Rolow made a proposal to Council that the City purchase the equipment necessary to take care of the city and cemetery grounds. He felt the cost should not exceed a few thousand dollars. The equipment could be stored at the sand shed which has room available. There is also a tandem trailer available which could cost about \$500. Lucas said that in that event the City would be purchasing the equipment as opposed to hiring someone who had the equipment. (Thompson had the equipment) Mitchell and Rolow both commented that in the long run this would be cheaper way to go. Rolow then proposed that the City hire Randy Kinzer as a City employee to perform the maintenance and upkeep of the City's facilities plus the grounds maintenance for the City facilities and the cemetery for \$15 per hour. Bowe asked if this job had to be opened to the public. Mitchell stated that it did not. Lucas asked what the cost would be if Kinzer worked the same number of hours that Thompson had. Mitchell responded that at \$15 per hour it would be \$480 as opposed to the \$880 that the City was paying Thompson. In addition to those hours, Mitchell stated, he would be adding on the time required to maintain the 8th Street property and ongoing City maintenance. Rolow identified some of the chores Kinzer would be taking care of in connection with such ongoing maintenance. Lucas asked what hiring Kinzer as a City Employee would cost the City including payroll taxes, social security, etc. Rolow explained that as a part time Employee Kinzer would not be eligible for fringe benefits such as health insurance or paid time off. Rolow commented that to qualify as a "part time employee" Kinzer could work either a maximum of 25 hours per week or 100 hours per month. Lucas asked Kinzer if \$15 per hour for the contemplated work would be satisfactory to him. Kinzer responded that it would. Lucas asked Kinzer how many hours, in his opinion, it would take Kinzer to do the necessary work. Lucas stated that he wanted to clarify that Kinzer would be doing the work he has presently been doing (which has been doing very well) and every thing that Thompson has been doing. Rolow commented that Thompson had not been taking care of the 8th Street property which would be included in the scope of his duties. Mitchell stated that the City's expense would work out to be exactly 8% of Kinzer's total pay. That would include FICA which is calculated at 6.2% of his gross income, Social Security which is 1.45%, SDI is .028% and Unemployment Insurance is .001%. He is already covered under Worker's Compensation which is calculated by category. It would entail adding another person on to the coverage we already have on volunteers. Lucas asked if it appeared that Kinzer's duties would require more that the 25 hours per week or 100 hours per month. Mitchell responded that Thompson was putting in 8 hours per week. At the present time Kinzer is putting in more hours than he would normally be doing since he has been

working on the renovations at the 8th Street property getting it ready for the transition to the new library quarters. He has also been putting up some street signs that were down and storm cleanup on the 13th Street walking paths. Rolow felt that Kinzer would normally be working about 10 to 12 hours per week. Kinzer estimated that the high would be about 50 hours per month. Some months it may be less. Lucas asked Kinzer what his availability was. Kinzer responded that he would be available for the hours necessary to do the job. Rolow stated that the equipment he was requesting authorization to purchase would be to enable Kinzer to maintain the grounds at the city facilities and at the cemetery. There was discussion regarding what equipment would be necessary to accomplish the job. Rolow commented that after the purchase of the equipment and operating costs, the cost for the grounds maintenance would be less than what was being paid to Thompson. Rolow stated that he would like to propose that the City hire Randy Kinzer as a part time City Employee at an hourly salary of \$15 per hour to take care of City maintenance and to purchase the necessary equipment to enable him to do the job. Mitchell stated that the City has never had anyone to do the necessary maintenance other than City Councilors who have volunteered their time and effort. While their efforts are very much appreciated the City has a need and Kinzer has the capability to do whatever the City might ask him to do. Lucas stated that he would like to have a cap placed on the number of hours that Kinzer would be authorized to work each month. Lucas said that he would like to have Council authorize any hours in excess of 100 hours per month. Lucas said that under that condition he would support hiring Kinzer as a City Employee. After discussion Lucas made a motion to hire Randy Kinzer as a part time City Employee with hours not to exceed 24 hours per week or 100 hours per month or without prior Council approval at the rate of \$15 per hour. Burroughs seconded the motion. Voice vote. Motion carries. After discussion Rolow made a motion that Council authorize the expenditure of no more than \$5,000 for the purchase of the equipment necessary, including but not limited to a riding lawn mower, a push lawn mower, a gas blower, a heavy duty gas weed eater, gas pressure washer, a 16" or 18" chain saw and a trailer, to take care of the grounds maintenance for the City and the cemetery. Bowe seconded the motion. Voice vote. Motion carries. There was discussion as to where to look into the purchase of the equipment. It was the consensus of council. LeBard expresses surprise that the City had never had a City employee to take care of the necessary maintenance. When asked how the City managed that Mitchell and Rolow both stated that the City had been very fortunate to have City Councilors who volunteered to take care of many projects as they arose. Rolow asked Kinzer to join him in pricing and purchasing the necessary equipment. Kinzer asked when his employment was to commence. Rolow said that his employment would commence the next day, January 23, 2009.

- **FRERES PARK PATHWAY CLEAN UP.** Rolow stated that the new City employee could take care of the necessary clean up. Lucas commented that it was his understanding that this was more than a one person job. Kinzer stated that some of it might be but that he would do as much as he could on his own and then determine what he might need assistance with. Burroughs said that he had a backhoe that could be utilized to pick up some of the debris. LeBard said that he would look into the availability of an inmate work crew to assist Kinzer with what needs to be accomplished. Mitchell said that she had attempted to schedule inmate work crews in the past but had been unable to schedule them when they were needed. There was some discussion regarding the cost of such a crew. Lucas stated that rather than calling on Council members or having someone who is not qualified to assist in what needs to be done, the City has the money to hire the necessary and qualified helpers. Kinzer commented that some of the work on the Freres Park trail cannot be done until the water level drops. Rolow stated that he did not believe that timing was critical on

that area. Lucas said that there were a lot of people who used the trail and it would be helpful if they could get through without having to crawl over downed logs. Kinzer said that there were probably two trees down that should be cut. Burroughs said that he could bring in some equipment to help take care of it. Lucas said that it would be good if the area could be made passable and then make it look nice later. Mitchell stated that she had asked Burroughs to do her a favor and move some sand out of the sand shed to make some room for storage in there. She said that she hadn't realized how much sand needed to be moved and it took Burroughs three hours to move all of the sand. She said the he should be compensated for his time. LeBard asked how secure the building was. Kinzer stated that he would like to change the lock that the Fire Department had placed. It was the consensus of Council to have Kinzer do whatever was necessary to make the building more secure since there would be a lot of equipment stored there. Kinzer said that the equipment could be stored on the trailer and backed into the shed. Rolow said that there was a metal "gang box" on the trailer which could be used for storage. It was also the consensus of Council to reimburse Burroughs for his time expended in moving the sand out of the sand shed and Burroughs was requested to submit a statement.

NEW BUSINESS

- **Jean Newham Resignation.** Rolow stated that Jean Newham had tendered her resignation as a member of the Library Board effective immediately due to health problems. The Library Board has already advertised for a replacement.
- **Utility Services at the 8th Street Facility.** Rolow stated that a letter had been sent to the Lyons Mehama Water District and to Pacific Sanitation requesting that they provide their services to the new Library Facility at no charge to the City. Pacific Sanitation responded that they would provide those services on the same basis as those provided to City Hall. Lyons Mehama Water District indicated that they would provide free service to the building as long as it was just the Library. At such time as the downstairs area is converted to a Community Center there may be some charge for water service.
- **Rolow Absence.** Rolow stated that in reviewing the City Charter he noted that Chapter 7, Section 30 states that anyone who is absent from a meeting for 60 days without the consent of Council cannot remain on the Council. He advised Council that he would be leaving town at the end of February and would be back in time for the June meeting. He asked for Council's thoughts in connection with his absence. Lucas asked who else would be absent. Rolow stated that he thought Branch would be back for the next meeting. McNerney stated that Branch had advised that he would be out of town for approximately 6 weeks. Bowe expressed concern that there be at least three Council members present to constitute a quorum. Burroughs stated that he had no plans to go out of town. Mitchell stated that if it becomes a problem the Council can give telephonic approval of the Bills to Pay Report which is the only thing that needs to be taken care of each month. Mitchell commented that Budget Hearings would be taking place during that time but the City has the Budget Committee as well as the Council members who can attend those hearings. Lucas asked Burroughs who, as Mayor Pro Tem would be responsible for the leading those meetings, felt about Rolow's absence. Burroughs responded that he felt that with Mitchell's assistance he would have no problem. Rolow stated that if the February Council Meeting could be changed to the third Thursday of the month (February 19th) he will be able to attend. He plans to leave on February 20th. Mitchell stated that meeting dates are flexible and if she knows that if necessary meetings can be rescheduled to a different date. In that event Rolow will miss the

March, April and May meetings. His absence must be approved by Council. It was the consensus of Council that the February Council Meeting be held on February 19, 2009 and that Rolow has Council's consent to be absent from the March, April and May Council Meetings.

There being no further business to come before the meeting the meeting adjourned at 8.05 PM.

Audrey McNerney, Assistant City Manager