



City of Lyons

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MINUTES LYONS CITY COUNCIL MEETING December 18, 2012

OPEN MEETING 6:00 P.M.

The Lyons City Council Meeting was called to order by Mayor Pro Tem Lon Conner. Present were City Councilors Mike Lucas, Troy Donohue and Dan Burroughs. City Staff in attendance were City Manager Mary Mitchell and Assistant City Manager Audrey McNerney.

GUESTS. Barbara Orr, Mark Orr, George L. Geddes, Richard Lindemann, Gary Alkire and Steve Baldwin. Attendees whose names were illegible on the sign in sheet may be misspelled or not included.

Conner 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.

Michelle Gates – North Santiam Chamber of Commerce. Ms. Gates was unable to attend the meeting but provided a handout from the North Santiam Chamber of Commerce for Council and for attendees at the meeting.

Rich Lindemann – Insurance Agent. Lindemann stated that Mayor Morgan had, at the September 25, 2012 Council meeting indicated that the RFP for insurance services for the City submitted by Madison & Davis was incomplete but did not indicate in what manner it was incomplete. Conner stated that he did not know what Morgan was referring to nor did Mitchell. Donohue asked how long Madison & Davis had been providing this service to the City and whether there had been a problem in their fulfilling the City's needs. Lindemann responded that they had been servicing the City for 25 – 30 years. None of the Council members responded that they had experienced any problems with their service. Donohue commented that Madison and Davis were local and that the other providers referred to in the information provided in McNerney's memo were located either in Portland or Eugene and questioned whether that was a positive because in the event an agent was needed Lindemann would be available more quickly than one from Portland or Eugene. Donohue said that he had reviewed the Madison and Davis RFP and

was also curious as to Morgan's objection. Conner stated that he had no knowledge of Morgan's objection but commented that it was common business practice to change service providers such as auditors and insurance agents periodically. Donohue asked Lindemann how Madison & Davis determined the City's coverage needs. Lindemann said that the City normally has relied on Madison & Davis to bring forward any problems that they observe. He also said that he does a "walk through" about 2 or 3 times per year regarding the City parks and once per year they do a total risk management review which outlines everything they provide. If they see an issue which is a risk concern that falls within the CIS coverage program they will bring it to the City's attention. He said that the last issue he reviewed was regarding the bridge railings in Freres Park. He also said that at that time he visited the City shop and was quite impressed by the fact that it was very well maintained. He went on to say that for the size of the City the City and the insurance carriers have been very fortunate in that there have been no major problems. He advised that the CIS program is designed to meet Oregon Tort Requirements. For example there is a statute that gives the City statutory immunity with regard to any issues that may arise with regard to the ponds.

Conner asked what makes Madison & Davis the best agent for the City. Lindemann responded that this was covered under the "Service Provided by Agent" in the RFP. With the CIS program they have good management techniques in place; they are close by so that if there is a claim they can work closely with the adjusters and contractors in the event of a problem such as they had in Mill City. He said that he was not aware of any company that provides the free services provided by Madison & Davis. Every 5 years they do a replacement cost appraisal on all City properties to be sure that values are current so the City does not run the risk of being underinsured.

Lucas asked whether the nearest agents other than Madison & Davis were located primarily in the Portland and Eugene area. McNerney referred to her Insurance Review Memo which set forth the location of agents providing services to other local cities and those recommended by CIS. Lindemann said that there no providers that could match the services provided by CIS but that there were a number of agents in the area authorized by the state to do business with CIS.

Donohue asked how many other agents had, since the end of September or October, responded to the RFP. Mitchell responded that the RFP had been closed since August and the City had not been seeking any additional responses. She went on to state that at the last Council meeting Council had directed staff to check with other cities to find out who they were using for their insurance needs and that has been the only direction staff has taken.

Brenda Harris – Passport Program. Mrs. Harris was unable to attend the meeting due to a family emergency.

Tami Owen – Employee Reinstatement. Conner stated that this was merely to ratify the verbal consensus taken at the end of October to reinstate Owen's employment and is a formal acknowledgement of that reinstatement. Donohue asked if all the same rules as when she was originally hired would apply. Conner responded that there were no adjustments to the conditions of her employment. Donohue then asked if she would be working less than 600 hours per year. Mitchell responded that Owen was authorized to work 12 hours per week. Lucas asked what her probationary period was. Mitchell stated

that the reinstatement acknowledgement states that City will recognize her past employment but that she would return to probationary status for the first six months of her reinstatement. Mitchell explained that there were certain criteria that Owen needed to fulfill with regard to some of her clerical skills. Since she had not previously completed the upgrade of those skills her probationary period was reinstated effective as of November 1, 2013.

Burroughs made a motion to reinstate Tami Owen to her position of Administrative Support effective November 1, 2012. Lucas seconded the motion. Voice vote. Motion carries.

CONSENT AGENDA (Decision by Motion).

Conner asked for a motion to approve the Consent Agenda.

Donohue questioned the fact that the Bills Paid Report from October 16th to November 30th did not reflect any payments from October 16th to November 1st. Mitchell responded that there were no bills paid during that period.

Burroughs questioned the mileage paid to Brenda Harris. Mitchell explained that Harris attended various meetings required by CCRLS or PYM and the City reimburses her mileage at the IRS rate of 50 cents per mile.

Donohue then asked about the 2 payments made to Valley Fire Control. Mitchell explained that those payments were for inspection of fire extinguisher systems at the Library and at City Hall.

Burroughs asked why there were two library transfers (Resolutions #473 & #474). Mitchell explained that because there was no meeting in November Conner had approved the transfer made November 30, 2012 subject to formal approval at the next City Council Meeting to be held this date. Another transfer was required for December.

Donohue requested a copy of the resolution authorizing the entering into of the Law Enforcement Contract. Mitchell advised that the contract was approved by motion. Mitchell told Donohue that she could provide him with a copy of the contract. Donohue said that would be acceptable.

Burroughs made a motion to accept the Consent Agenda which contained:

- ❖ Minutes – September 25, 2012 City Council Meeting/Hearing
October 16, 2012 City Council Meeting
- ❖ Resolutions #473 and #474 – Library Transfers
- ❖ Bills Paid – November & December, 2012
- ❖ Resignation Acceptance – Mayor Morgan

Lucas seconded the motion. Voice vote. Motion carries.

PUBLIC COMMENTS TO COUNCIL. There were no submitted Testimony Request Forms.

DISCUSSION ITEMS.

McNerney – Insurance Review. McNerney read the Memorandum entitled RFP- Agent of Record to Provide Insurance Services - Liability provided to Council in their Council Notebooks. A copy of this Memorandum is available upon request. There was discussion regarding the option of dealing directly with CIS with regard to risk management issues.

Mitchell – Safety Award, Insurance Audit Report, Furniture and Equipment, Security Concerns & Thermostat Installation. Mitchell referred to her Memorandum entitled “Miscellaneous Agenda Items” provided to Council in their Council Notebooks. A copy of this Memorandum is available upon request.

She reported that the City had received a Gold Safety Award from the League of Oregon Cities Annual Safety Award Contest for calendar year 2012 for, again, having no lime loss days or claims for accidents. She then referred to the CIS annual audit which reflected that the City had had no insurance or accident claims for the last 12 years and that we had scored very well on the Best Practice Compliance. The Auditor, Dunny Sorensen, commended the City for all that we have accomplished in the years he had been working with us and that he had no operational changes or risk management recommendations to make.

Mitchell then reported that she had had an opportunity to obtain office chairs in good condition and 19 17” flat screen monitors free of charge, which enabled us to have additional meeting chairs at the library and to provide the library with flat screen monitors. This also enabled the installation of a second monitor at each work station in City Hall as well as providing back up monitors in the event of an equipment failure.

Mitchell directed Council’s attention to the above referenced Memorandum under “Security Concerns” and requested some direction from Council as to whether they are satisfied that the City Hall Building and the documentation contained therein are secure due to the measures taken or whether some changes need to be made. After discussion staff was directed to determine the cost of installation of security cameras at City Hall.

Mitchell informed Council that the replacements of the thermostat control system at the Library which was discussed at the September 25th City Council meeting had not received formal approval by Council. After discussion Donohue made a motion to authorize the recommended change to the thermostat system at the Library. Burroughs seconded the motion. Voice vote. Motion carries.

Baldwin Re-Appointment to Planning Commission. Conner announced that the City had received a letter from Steven Baldwin indicating that he would consider it an honor to continue to serve on the Planning Commission and as liaison to the North Santiam School District. Burroughs made a motion to appoint Steven Baldwin to the Lyons Planning Commission and liaison the North Santiam School District. Lucas seconded the motion. Voice vote. Motion carries.

City Account Usage. Donohue said that he had a question with regard to the Memorandum to Brenda Harris regarding Account Usage. He said that it was his understanding that the policy with regard to the use of City credit cards and charge accounts had been adopted on June 26, 2012. He wanted to know whether, prior to that date, any City employee had ever charged personal items on a City account and paid for them. Mitchell explained that it had been brought to Council's attention that the City did not have a policy with regard to this matter. Since the adoption of Resolution #468 – Policy and Procedure for Credit Card and Account Usage, this is the first instance. Burroughs asked whether any employee had been allowed to do so prior to June 26, 2012. Mitchell said that while it was a very rare occasion she felt certain that over the course of time it had occurred.

Addendum to Planning Commission Minutes of October 9, 2012. Donohue requested that the Application for Conditional Use be attached to the Minutes of the Planning Commission meeting of October 9, 2012 because he felt that he should not have been referred to as a Councilman when speaking against the Application. If the Application is available for review people can make their own assessment of his behavior. Conner stated that he did not believe that anyone who was present at that meeting felt that Donohue was acting outside of his purview. Donohue said that Miller's letter referred to him as Councilman Donohue rather than Mr. Donohue so he, Donohue, wanted to make the record clear.

Overview of Meeting with CIS Attorney Mylander and City Attorney Tabor. Lucas, at Burroughs' request, gave a brief overview of the meeting between Burroughs, Alkire, Lucas, City Attorney Steve Tabor and CIS attorney Kirk Mylander. Lucas stated that the meeting had to do with the issues of retaliation, hostile work environment, public employee law, free speech and the Oregon Tort Claims Act. Lucas reported that basically what Mylander had said at the meeting was that there are people who have come to different positions with the idea of making changes in a government agency without realizing their restrictions, their obligations and their authority. He said that Mylander talked about the fact that no one can act outside of their scope of authority and act individually at any time and move people, change policy or change work hours unilaterally without the approval of Council. He said that if anyone was to do so that they could possibly be subject to a suit individually. The insurance company comes into play in the event an employee feels that they are not properly treated, dismissed, counseled or reprimanded that issue would be investigated to some degree by CIS and a determination would be made as to whether they were going to support management or the employee. Mylander made a very clear point that today no one can be released without a great case of wrongdoing including a long period of counseling, correction and attempts to get the employee back on track. Anything less than that and current juries and judges are favoring the employee and that the company could find themselves the subject of a suit, which the insurance company would defend. Lucas went on to say that Mylander said anything that could be construed as a hostile work environment, harassment, even the tone of Council to city employees is important. The employee can make a claim or at least go to CIS and have it investigated to determine the circumstances.

Donohue asked why this was not done in front of Council as a whole and that he had not been invited to attend the meeting. He was advised that the meeting had been arranged by the City Attorney and was

originally intended to be for the benefit of the newly elected City representatives. It was suggested that he discuss the matter with Tabor.

Tabor Availability for January 3, 2013 Special Meeting. Mitchell stated that when she spoke with Tabor today he said that he would like to review the Council Rules adopted last year with Council at the swearing in a special meeting tentatively scheduled for January 2, 2013. He said that he would be available on January 3rd and asked that the meeting be scheduled for that date. After the swearing in ceremony the meeting could move directly into a training session for such review so that he can be sure that everyone understands the rules. This might be an opportunity for Tabor to also review the content of the meeting with Mylander. Conner suggested attempting to have Mylander come before the entire Council since the information he imparted at that meeting is very important. Mitchell said that she would look into whether or not Mylander would be available.

COUNCILOR REQUESTS/FUTURE AGENDA ITEMS. - None

Mitchell then asked for availability for the January 3, 2013 meeting to be held at 6 PM. She also asked if everyone would be available for the workshop tentatively scheduled for January 5, 2013 from 10:30 to Noon for the new council to discuss goals and visions for the upcoming term.

Alkire, Orr, Donohue, Burroughs and Lucas were all available for the meeting to be held on January 3, 2013 at 6 PM.

Donohue was not available for Saturday, January 5, 2013 and after discussion that workshop was scheduled for Tuesday, January 8, 2013 at 6:30 P.M.

There being no further business to come before the meeting, the meeting adjourned at 7:00 P.M.

Audrey McNerney
Assistant City Manager