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## **MINUTES LYONS CITY COUNCIL MEETING** **October 26, 2010**

### **OPEN MEETING 6:00 P.M.**

The Lyons City Council Meeting was called to order by Mayor Mike Lucas. Present were City Councilors Doug Morgan, Jeff Branch and Lon Conner. Councilor Dan Burroughs' absence was excused. City Staff in attendance were Assistant City Manager Audrey Mc Nerney and Public Works Employees J.D. Burns and Doug Miller. Also present were Planning Commissioners Kim Hunn, Clastine Ritchie and Ed Jones.

**GUESTS.** Sgt. Jeff Cone, Linn County Sheriff's Office, Bill Grimes, Lyons-Mehama Water District, Sandy Landers, Linda Conner, Linda McGeath, Wayne Eggiman and Newell Robison.

Mayor Lucas 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.

**Lyons Mehama Water District – Board Members & Staff.** Mayor Lucas explained that the Agenda had been broken down into two sections since it could not be determined how long the discussion regarding the Lyons Mehama Water District (Water District) would take. Lucas referred to the letter sent to the Water District on October 1, 2010 in which Council requested that the Water Board members provide the City with information in writing as to how they planned on solving the discrepancies of the most recent Water Survey Report together with a detailed time line to remedy each discrepancy. Lucas advised Council that he had contacted Roy Pallet, the Chairman of the Water District Board of Directors, and was told that none of the Board Members intended to honor Council's request to attend tonight's meeting to detail their plans to resolve the deficiencies cited in the August 12, 2010 water survey conducted by the Department of Human Services Public Health Division, Drinking Water Program. Pallett stated that the Board is taking care of problems and that if the City Council wanted any further information they could attend a Water Board meeting. Lucas informed Pallet that Councilor Doug Morgan had attended the last Water Board meeting and although they told him that Superintendent Bill Grimes was taking care of some actions, they had not addressed all of the cited deficiencies. Lucas said that he told Pallet that he thought Pallet was making a mistake by not attending the meeting to discuss these issues and reminded him of the October 1, 2010 letter to him and board which stated in part that

their failure to provide written details of how they were going to resolve the water quality issues would show a lack of good faith to redress the problems, and that the City, to ensure that City residents were receiving quality drinking water, would be left to pursue other ways to make certain the Water District was providing safe water in compliance with all county, state and federal requirements. Morgan commented that Bill Grimes, the superintendent of the Water District was present.

Lucas went on to say that the City had been put on distribution for a letter dated October 25, 2010 from Kelly Namitz to Jay MacPherson, Department of Human Services, Public Health Division, Drinking Water Program stating "Enclosed you will find the completed Deficiency Summary which is due on October 29, 2010. Please note that Mr. Grimes has made comments as necessary. I hope this information is sufficient..." Lucas commented that there were a total of 12 discrepancies and a total of 8 recommendations in the report. What has been received is a one page deficiency summary which addresses a few things. The turbidmeter was not calibrated and it was to be corrected on September 1<sup>st</sup>. It was done on September 22, 2010. The chlorine was not measured and recorded as required. It was to be corrected immediately. It was corrected on October 6, 2010. There was inadequate means to calculate CT which is to be corrected by November 22, 2010. Grimes commented that the 100 min came from the state; HBH Consulting Engineering working on this. There are several other things due at a later date. There was no coliform sampling plan and one was to have been submitted by October 22, 2010. Grimes commented that a coliform sampling plan has been submitted.

The report done by Jay MacPherson the Drinking Water technician out of Springfield contained the comment "I think you have a low risk of public health hazard; however, because of inadequate water testing and non-compliance with important policies and procedures I cannot guarantee there is no public health hazard." The cover letter was addressed to Bill Grimes and all Water Board members and the City received a copy at Lucas' request. The letter stated that based on Oregon Administrative Rules (OAR) 333-061-0076 the water system has 45 days to respond in writing with a plan and schedule to resolve or correct deficiencies. The deadline for the plan and schedule is October 29, 2010. Lucas said that he did not see a plan or schedule to resolve the deficiencies in the submission made by Namitz.

The letter from the City that went to the Water Board stated "the Council, mindful of their responsibility to insure that the services provided the citizens of Lyons conform to all requirements, policies and procedures as directed by federal, state and county oversight organizations, formally requests the attendance of the Lyons-Mehama Water District Board members and Mr. William Grimes at the City Council meeting on October 26, at 6pm at the Lyons City Hall. The purpose is for you to provide specific, written actions to resolve the discrepancies in the most recent Water Survey Report and a detailed timeline to remedy each discrepancy. Should your response(s) be deemed inadequate to demonstrate good faith efforts to comply with the cited deficiencies, the Lyons City Council will consider options of redress suggested by various entities including the Lyons city Attorney, the Oregon Association of Water Utilities and the Public Health Division of the Oregon Department of Human Services. The goal of the Lyons City Council is to ensure that the services provided Lyons Citizens are of the highest caliber. Your immediate resolution to correct current water quality issues will make certain that residents have the high quality drinking water to which they are entitled. We look forward to meeting with you on October 26<sup>th</sup>, at 6pm."

This is the meeting which Pallet declined to attend. However, Mr. Grimes is here. Lucas welcomed Grimes and commented that he had asked Namitz, in a telephone conversation, whether there was anything more that they planned to generate to address the issues cited in the survey. She responded "not to my knowledge." Lucas asked Grimes if there would be anything further going to the drinking water people. Grimes responded that there would be more going to them. Lucas asked if he had anything for Council this evening. Grimes responded that he had nothing more for them this evening.

Lucas then stated that the Council has received no response to its request unless Grimes had anything he would like to say. There is no plan, no timeline nor anything else that has been requested in the letter and verbally with Roy Pallet. Lucas said that he would like to record to reflect anything that Grimes may wish to add at this time in response to the City's letter requesting specific, written actions to resolve the discrepancies in the most recent Water Survey Report and a detailed timeline to remedy each discrepancy. Grimes responded "I would prefer not to make a response at this time."

Lucas went on to state that the Council members are left to decide what they would like to do. Lucas said that after receiving the letter addressed to MacPherson he called MacPherson to see what he thought of this response but MacPherson did not return Lucas' call. Council had decided earlier that whatever action the Drinking Water Program personnel decided to take would have no bearing on what action Council needed to take. Lucas asked for suggestions as to what Council's next course of action should be. Morgan asked Grimes what his plans were for improvement of the issues that have been cited. Grimes stated that they will work toward addressing all the issues that were brought up at the time of the inspection. Morgan then asked if there was a timeline. Grimes responded that he could not give a time line now because it involves other people and some of this will take time. Morgan expressed his concern regarding a time line since many of the issues have been raised on previous surveys.

Lucas distributed a "Point Paper re: Cited Deficiencies of the Lyons-Mehama Water District OR 4100493" to Council members, a copy of which is attached hereto and incorporated herein by reference. Lucas stated that he would like the record to reflect that this started when he went on-line to the Oregon Department of Human Services Water Program and looked up the number for the Water District which we all get our water from. He found that there were several non-reporting and late reporting issues such as chemical analyses, insufficient coliform sampling and lack of approved drinking water protection plan. This is what prompted him to contact the Oregon Department of Human Services Drinking Water Program people in Springfield. At that time they advised that there was going to be a Survey coming to (every three years) the Lyons Mehama Water District. This survey was performed on August 12, 2010. The report was written on August 27, 2010 and is the one referred to at this meeting. Lucas reiterated that Councilor Morgan has attended several Water Board meetings; that about 2 months ago Council had invited all of the Water Board Members and Bill Grimes to come to a Council meeting where these issues could be discussed (before writing the letter of October 1, 2010) and none of them elected to attend. This sets forth a chronological sequence of Council's inability to get any specific information as to how they are going to take care of the problems. Specificity is Council's issue. What and when things will be done because of MacPherson's quote that he cannot guarantee that there is not a problem with the drinking water because of the lack of compliance issues over a period of time. It is not just the survey that was done in August. There were previous reports that go back at least 10 – 12 years where the same issues are raised and apparently never addressed. Lucas asked Grimes to correct him if he was wrong. Grimes did not respond.

As the elected representatives of the City the Council has a due diligence responsibility to move to some course of action. Lucas named several courses of action which had been recommended, such as going to the newspapers or contacting our congressman to let them know that we are not sure about the quality of our drinking water. He said that we could also go through the process that the people from the department of drinking water who wrote the report have. This is very interesting in that they don't, by their own admission, have any "teeth" to enforce anything. They expect compliance from the water districts. Lucas said that he had been told that most districts, when they get the report of deficiencies, address them. However, the Lyons-Mehama Water District has not corrected the deficiencies over a period of at least 9 years. Lucas went on to say that the piece we don't have is what the Drinking Water people in Springfield have to say regarding what the next step is now that they have received, what apparently is all they are going to receive. The Council can come up with some plan of action today or Council can wait for MacPherson, (who didn't answer Lucas' telephone calls today) to call back and let Council know what they plan to do as a result of this. He then said that Karen Kelley (MacPherson's supervisor) had been invited to tonight's Council meeting but she said that she had other things to attend to and that she wanted to wait until the deadline, to see what the Water District was going to supply. The Drinking Water people have said that about all they can do is to come back and do a re-inspection to validate that things are being done. However, what they have asked for is the same thing the City has asked for, a *plan* to tell us what is going to be done and how they are going to do it.

Conner pointed out that Grimes is and has been the Superintendent of the Water District for many years and asked Grimes if no one knows the timelines better than he does, why aren't they available? Grimes responded that the contact time for the chlorine through the clear well- how long is the contact with the water before the first user – that particular part is done by a firm that is hired by the State Health Department, Drinking Water Section. They have already been out and have to write up a methodology as to how it will be run and then get approval from the State to do it. Grimes then said "how can I set a time when I don't know how long it is going to take them people to write it up and get it to them, back to us, and set up a schedule to run this." Grimes then stated "then for your backflow, ordinance have to be written and then they have to go out with a survey...throughout the whole district. That will take time. So will it be two months, three months, I can't tell you. So that is why I say that I can't tell you." Conner then stated that that covered two issues and that Grimes had received the Survey back from the people in Springfield 2-1/2 months ago. What was the hold up that prevented you (Grimes) from addressing these issues immediately. Conner said that in his opinion there should have been some action prior to today in order to address their requirements. Based on past performance it seems that this sort of stuff is going to go on for the next 10 years. In the interim what is going on with the water! As MacPherson has previously said, he cannot guarantee that the water is absolutely safe. He then asked Grimes if he could guarantee that the water is absolutely safe right now. Grimes responded that he drinks the water every day. Conner said that was not the question. Grimes said "yes it's safe." When asked how he knows that Grimes stated "based on my knowledge of the system. I send reports to the state.-2 samples per month-we know that it's good on that particular day (the day that I take the sample to the state)."

Lucas called on Sandra Landers (from the audience) who stated that she had lived in the area all her life and worked for Morse Brothers and would take turbidity checks on the water. She said that there is no system that can be guaranteed safe any day, any time. Once that test has been taken more water is coming down there is no guarantee anywhere. She said that she knows that the City of Salem checks the water at

the bridge frequently. They are the watchdog for the whole system. She said that she was curious to see what's going on up here and why. What is the major concern about all of the timelines?

Lucas asked if she had seen the August 27, 2010 from the Drinking Water people in Springfield. She responded "apparently not." Lucas said that this was only one item of about 12. He asked her if she was familiar with the cross control system, the coliform sampling plan or the distribution pressure need for 20psi. She was not. Lucas then said that she had addressed the turbidmeter as one item she was familiar with. He went on to state that Council is also unfamiliar with a lot of this information which is why they have to rely on someone with a PhD behind their name who comes out and surveys all of these things to provide the specific information. The City has reports from 2002, 2008 and the current report which raise these same issues, including inspection schedules for the tanks themselves. The cross flow meter, the chlorine distribution not recorded as it should be etc. He said that he had talked to the Fire Department and discovered that the City has hydrants that do not meet the requirement for water pressure. He asked Morgan why they still do not have that. Morgan stated that Grimes had stated at the last meeting that the Water District was formed as a residential water delivery system and that their concern is not with the hydrants. The Fire Department said that they have all the equipment to do the testing and do the flushing, etc. but that over time their relationship with the Water District had deteriorated to the point that they didn't feel that they could do that any longer. That they broke something on a particular hydrant and the Water District was very upset with them for doing that so they stopped doing the testing and the flushing altogether. They do not have as many hydrants as they would like. For instance the City Library on 7<sup>th</sup> Street doesn't have any fire hydrants near them.

Lucas then quoted from the report "some laboratory analyses of system water samples have not been conducted according to the schedule prescribed in OAR 333-061-0036 and are overdue. Monitoring is not current for at least 5 analyses..." Grimes said that he thought there was only one that was overdue on that list. He said that he had the copies of the lab reports and that he had sent them to Springfield. There is a VOC that he had to check on to see what happened to it. Some of them are not due until the end of this year that were on the list that he had. Lucas said that this is what MacPherson found at the time. The Council is looking for some sort of response to this. Lucas went on to state "this is what is overdue: nitrate, arsenic, VOCs, uranium, and asbestos." These are all things that were overdue. These analyses are required per OAR 333-061-0025(1).

Lucas went on to state that the point is that without Grimes or the Board Members present, who could understand what all of this means, there is no way for Council to determine the significance unless they talk to someone who is a specialist and the specialist said that he cannot guarantee that we have safe drinking water. He said that we probably do, but without these things being done there is no guarantee. That is why the ball is now in our court. It is a shame that the professional (Karen Kelley) is not here to discuss some of the specifics, but it was never Council's intent to get into a technical discussion. All that was ever asked for was a timeline with a detailed plan as to what they (the Water District) were going to do to remedy all of these issues. Then Council could determine whether or not that seemed to be sufficient. He said that Council probably would have had to get outside help to validate the plan.

A member of the audience asked Grimes why, despite the fact they had received reports for a number of years of things that needed to be taken care of, they were never done. She said that she couldn't

understand why things from as far back as 2002 had never been corrected. Grimes made no response to this question.

Morgan said that one of the biggest concerns is that you can see a pattern of things not being done correctly; that the surveys have pointed out certain things and 3 years later the same things are shown on the reports. That is why, as a City Council, we are at the point of saying that we do need timelines. Council does understand that there are other people and entities involved and that it can take some time to coordinate but Council does need to see when these things are going to be accomplished; when you are trying to get them accomplished; when do we expect to see things happening because things can't go on the way they have been going on. Morgan said that he felt that this was the consensus of Council. Lucas stated that Council is speaking on behalf of the people in the City, as well as all of us who drink out of the tap.

Branch said that we are paying for our water, and we expect good water and we expect everybody to do their job. Do their testing; do their job.

Someone from the audience noted that 12 years was a long time to be seeing the same comments. Lucas stated that he had been told that some of the cross connection issues go back to 1988. He went on to state that there was a concern about the fire hydrant issue because that potentially affects every insurance rate in town if they do not meet certain criteria. Currently, the Fire Department, because of the issue with the fire hydrants being inadequate in psi they have a water truck that they bring around for a supplement. Morgan stated when he asked the Fire Chief (at the last Board meeting) what they have to do because the hydrant situation is what it is, he (the Fire Chief) said that they have to bring out a water truck and additional equipment in certain areas.

Lucas then asked what the next steps should be. Should Council wait a few days to see what the response of the Drinking Water people will be, but regardless of what the Water District said to them, they had to satisfy Council. Lucas said he is not satisfied that this is an adequate response to Council's letter. Should Council go to our Congressman, the newspaper or explore other avenues. Lucas commented that he not asked Karen Kelley about her superiors who are located in Portland and are in charge of all Drinking Water issues. She had told Lucas that when there is a chronic issue with a water district, when it reaches a certain level they will start action of a prosecutorial nature from that level down. However, she said that she could not determine what the "trip wire" is to have that action taken. Lucas said that he could follow up on this avenue. There is also an option for the City to take over the Water District. This has to be done by a vote of the citizenry and the City would have to determine whether that is something the City wants to take on and whether it has the ability to do so. They (the Water District) has a budget and resources which would be absorbed if the people decide that the City should absorb the Water District. Lucas said that he could guarantee that the City has a fairly rigorous personnel evaluation system and that if a City employee were to be neglectful of their job or not comply with requirements there would be action that would encourage them to do so and if not done there would be consequences. That is only an option. Lucas said that he had spoken with the City Attorney and he said that he could put us in contact with an attorney who could tell us how we would begin the process of doing that. Before we could do that we have to let everybody know what is going on. The question was asked if it was the City's responsibility to let everybody know. Lucas responded that it is the City's responsibility to let everyone know. Lucas said that it was his opinion that it was the responsibility of the Fire Department to let people

know that they knew that there was insufficient psi in their water hydrants. Morgan stated that, in defense of the Fire Department, they did contact their attorney to see if there was any pressure that they could bring on the Water District to make the changes and their attorney told them they did not have any power to do anything. It was then that they stopped trying to do anything about the issue.

There was discussion regarding legal recourse against the Water District if the facts that are now known were brought to light. Conner stated that of course drinking water is of concern, but on a par was the ability to extinguish a fire when necessary.

Lucas commented that Karen Kelley actually climbed the water towers and one of them is a redwood water tower which has a screen where birds have attempted to penetrate. Should a bird get in there and die there is a health issue that would go throughout the system because the problem is that because of the lack of cross connection you cannot turn off areas. Grimes stated that cross connection is at the meter of each residence. He said that Kelley found a small hole in a screen at the top of the tank and she told him (Grimes) that it wasn't big enough for a bird to get into. He went on to say that all of the tanks are screened to keep birds out of them. They also run chlorine. A small amount of free chlorine would take care of the problem if one bird got into a tank. If it was overloaded it probably wouldn't. The people that would probably be affected first would be the ones closest to the reservoirs. There are three reservoirs, one in Marion County and two on the Linn County side.

Lucas said that Kelley told him that one of the requirements is to have a tank inspection. She was the one who climbed up and found the hole. She told Grimes that they didn't have a tank inspection since he (Grimes) did not find it. That is one of the write ups. That the tanks are not inspected and you don't know what is there. It is a good example of an "at risk" situation. Even a layman's look at these issues can make a case for there being potential at risk issues. That is what is being discussed – potential.

Since there will be nothing further being forwarded to Springfield, Lucas said that he could wait and have them evaluate what has been submitted. He can also ask them since now the time has come and the Water District has not responded to Council's requirements the City would like to know what the next step is. Lucas said Kelley has told him that it really is when the people have issues and bring those issues to them that is where the emphasis goes for correction. He said that he could also re-contact the City Attorney who can put the City in touch with legal counsel who are specialists in Drinking Water issues in the state. Lucas said that a letter could be sent to everyone in Lyons detailing the facts that we now have before us.

Conner said that it was his opinion that a letter to the residents of the City of Lyons is appropriate because the City has an obligation, in light of what is now know, to do that. He also said that he would be in favor of checking with legal counsel to see what we can do to get what has been asked for. It has been made very clear to the Water District, both Grimes and the Board, that if this is all they are going to provide then maybe it is a waste of time to ask for the same thing again. Kim Hunn commented that these are statutory requirements. There are administrative rules that state that you *shall* do this. It's not that you will do this when you feel like it. It is that you are required as a Water District to provide these services to the citizens. That is your responsibility. If the Water Board chooses not to do their job then it will get taken out of their hands at some point in time. Personally she would like some assurance that the water is safe. Branch commented that all Council wants if for them to do their job. Conner stated that all we are asking is that they do their job and if they are not going to do it then someone else will.

Lucas asked the gathering what their opinions were. A member of the audience stated that he agreed with Conner that if they are not going to do their job, which they have had plenty of time to do, then take the next step. Clastine Ritchie said that her grandchildren are important enough to be taken care of. Jones commented that waterborne illnesses can be deadly and that it doesn't necessarily take a bird getting into the tank to contaminate the water. All it takes is bird feces which can go through screens. That is what happened in Stayton-Sublimity several years ago. The City has a responsibility now. If for some reason someone gets sick the first place that people are going to come to is the City and they are going to want to know why.

Branch made a motion that the City send a letter to the people of Lyons to let them know what the situation is. Ritchie commented that when they get the letters from the Water District she just assumes that everything must be okay. Lucas said that that is called a Consumer Confidence Report. There are problems with that also in that it has not been provided on time and that some of the numbers on the chemicals and so on appear to be ones used from the previous time because they match up too closely. It is supposed to tell us that the water is good but how many people can tell what percentage of nitrates is good or not. He suggested that people go on line and check out the Water District for themselves. Grimes provided the ID No. for the Lyons-Mehama Water Department PWS-4100493. Lucas stated that people can check for themselves what Grimes has to do when he finds nitrate etc. He said that you will find that there are also some non-compliance areas when there is something that is found.

Lucas asked the audience if they felt what had been summarized here today would be appropriate to put into a letter for their neighbors. Morgan commented that the letter should include the fact that Council has held off from taking that step to this point because they had hoped that by simply having a dialogue with the Water District that these issues would be taken care of in the manner which had been requested and that Council would not have to have a letter go out and have people getting upset. Our preference would have been to take care of this district to district. Obviously we are past that point.

Lucas said that there is a motion on the table. He asked what the letter should say, other than the factual data. He asked what kind of response we would like to receive. He asked if some homework regarding absorbing the Water District or some other option should be done. Branch said that he didn't want to absorb the Water District. He said that he wanted the Water District to do their job. What would be the result of the people in town finding out what the people in the audience found out today? A member of the audience stated that she would like to know what the Board intends to do about it. Lucas said that so far the Water Board has refused to discuss the matter with Council and have declined to come to the Council meetings. Hunn said that it would be very informative to receive such a letter to let people know what the City is doing and why the City is doing it. If nothing else it is an informational communication that lets the people of the City know what the situation is. Lucas commented that what Council is trying to do is move people to action. Hunn suggested that Council let people know to go to the Water Board meetings. Lucas said that there is a monthly Water Board meeting. Conner stated that in addition to getting people to go to the Water Board meetings we could state that they have a right to go to the Water Board meeting and ask questions of the Board and Grimes. Hopefully they will receive a response that is not antagonistic. He also suggested including in the letter that in the event things are not addressed by the Board some of the options available to Council as representatives of the citizens of Lyons.



Branch stated that if the letter is sent out and if the citizens of Lyons find out that the Water Board is not doing their job, pressure could be brought to bear by the citizens and something will happen and the Council will get a response. Morgan stated that it has been a fear of the Water District that the City wants to take them over. They have made that clear at their meetings. Morgan said that he wanted to state for the record that this is not nor has it been the agenda. All Council is trying to do is get this situation resolved and everything Council has done to date has been toward that goal. If for some reason down the road that would be the only option then it could be something that the City could think about but that the ultimate goal is to get these issues resolved. Conner said that he agreed with what Morgan has stated but that it has to be done in a timely manner. It is his opinion that Grimes and the Water Board owe the people of this City a timely response to each and every one of the discrepancies and it shouldn't take 6 months to do that. He went on to say that Grimes and the Board are professionals and that they should be able to address the issues in some format that satisfies the issues in a timely manner.

Lucas asked how many of the people in the audience today would go to the Water Board meeting which will be held on the second Wednesday of the month and take up the Chairman on his comment that if you want to know more about what is going on come to one of our Board meetings. The response was in the affirmative and the comment was that obviously they were not going to get any answers this evening. Then if the people are not satisfied, a decision as to what the next step should be would need to be made. All that has ever been asked is that they do the job that is required. Ritchie asked Grimes if there was something that the City could do to help the Water District.

Grimes said that they would be taking care of the discrepancies that showed up on the report and that it was his belief that in 6 months they would be back for another inspection. He said that the fire hydrant situation was completely different. That may take quite a bit longer to do that. He said that as they have improved the system in Lyons (Main Street) they have added hydrants as that line has been replaced. From the Corner Market to Apple Loop, that has all been done within the last several years. He also said that they have added hydrants and replaced hydrants from 4 ½ to 5 ¼ \_\_\_?\_\_\_ to increase the flow. There are a few areas in Lyons where part of the system which was built in 1957 has small lines so there will be limited flow if there is a fire hydrant connected to them. That is why the Fire District, who knows where these areas are, sends out a tanker truck to take care of that. It's not only whether there is a hydrant there but how aggressively they fight the fire. All the new subdivisions have hydrants. There were provisions when the line was put in in 1974 on Juniper Street and they connected a hydrant on that line. Grimes said "So it's not as if nothing has been done in connection with the fire hydrants."

Morgan asked if the Grimes would be opposed to the Fire Department doing more testing and flushing. Grimes said that the only time he gets upset with the Fire Department is on a hot summer day when they decide to go out there and "play" with the hydrants or if one of them is broken and they don't say anything.

There was a comment from the audience that if they received such a letter from Council it might sound as if Council is washing their hands of the problem. It was suggested that the letter state what has been done to this point; whether Council is going to continue to do follow up and also the response that has been received from the Water Board so far. There was also a recommendation that people should be advised to go to the Water Board meeting if they want more specific information. Lucas said that is the way it would be written. It has to be chronological, contain background information, and be a stand alone

document with factual data based on the reports that we have. Lucas noted that the letter can state that two invitations have been issued to the Water Board to come to Council meeting discuss this and none of the Board members have accepted. Grimes is of course here tonight.

Lucas stated that there is a motion on the floor to send a letter of this nature to the residents of Lyons. Conner seconded the motion. Voice vote. Motion carries.

Lucas stated that no letter would be sent out until he has the concurrence of all Council members. He asked Grimes if there was anything that he would like to say. He asked Grimes how the matters discussed at this meeting would get back to Chairman Pallet and the other Board members. He said that the Minutes of this meeting as well as the previous meeting minutes at which this issue was discussed would appear on the City's website. He doesn't want to surprise anyone but with all the dialogue between Pallet and the Board members who supervise and are elected to this position Council is stymied as to what else we can do. We have been sending a representative to the meetings and Morgan stated that at the last Water Board meeting he was asked a lot of questions regarding the City's survey and why they were a part of it. They also asked questions regarding the cost of certifying the letters requesting that they come to tonight's meeting.

**Jackie Valentine – Parking Complaint.** McNerney stated that she had advised Valentine that this issue would be continued to the next City Council meeting and that it was not necessary for her to attend. Lucas stated that Valentine, while visiting the Library, parked across the street from the Library. The person residing across the street from the Library blocked her car in and refused for a period of time to allow her to leave because he thought she was on his property. She had small children in the car with her and she and they were frightened. The City has a 60 foot right of way on 8<sup>th</sup> Street and the area in which Valentine was parked was in the City's right of way. J. D. Burns said that he had measured the street and from the edge of the Library's awning which is right above the curb to his fence was 54 feet. Lucas said that apparently the resident is not aware that this is not his property. Lucas suggested that McNerney and Mitchell be authorized to do whatever is necessary or appropriate, including writing a letter or placing signs on the property, to advise the resident that this area is City right of way and not his property. Council concurred.

**Steve Baldwin-Survey.** Mr. Baldwin had a complaint regarding the Citywide Survey and requested that he be placed on the Agenda. However, he is not present. Lucas asked Hunn, the chairman of the Planning Commission, if she was aware of the problem. Hunn stated that in preparing the Survey the Planning Commission tried to cover most of the services provided throughout the City whether or not they were governmental entities. A suggestion was brought up during the workshop to include questions regarding school bus transportation services. The questions were very generic, safety, consistency, convenience, location of stops, communication and timeliness. Mr. Baldwin took offense and felt that the committee was personally attacking him. There was considerable discussion and the committee chose to include those questions in the Survey. Lucas commented that he had discussed with McNerney the fact that the City does have a complaint form to handle this type of issue so that if someone has a complaint it can be put in writing and handled appropriately. Morgan stated that a similar issue came up with the Water Board. They had a lot of questions as to why they were a part of the Survey and what was going to be done with the information. Morgan said that for the record, the Survey was put together by a committee of a number of people and it was the goal to include as much information as possible that they

thought would be relevant from the different types of districts within the City, such as the school district and the fire district, Morgan went on to state that the school district had provided a list of questions that they wanted included. Not all of those questions were included because it went before the Committee. The water district did not choose to submit any questions and the Committee prepared questions on their behalf. McNerney pointed out that the fact that the water district declined to submit any questions was included in previous minutes when the Survey was discussed. Hunn pointed out that the City's Comprehensive Plan requires that the City produce a survey every 10 years. Hunn stated that because of the volume of work required she would appreciate a few volunteers to get together at a workshop to assist with organizing, categorizing and summarizing the results of the Survey. In response to a question from the audience, Hunn stated that 612 surveys were printed, 540 were distributed and approximately 120 were returned. She stated that return postage had been included because they felt that would encourage their return. Hunn said that we had also received 8 completed surveys on line.

**J. D. Burns – 90 Day Review of Position.** Lucas stated that Council is complying with a motion made in the May 12, 2010 Minutes which reads as follows:

“After additional discussion Conner made a motion for Council to re-evaluate Burns’ performance at the end of his 90 day probationary period; to maintain his current hourly rate until the end of his probationary period; at the end of his probationary period Council to determine whether Burns’ position should be that of a lead and to determine whether to grant a pay increase and if so to determine the amount of that increase. Burroughs seconded the motion. Voice vote. Motion carries.”

Lucas referred to Burns’ latest Performance Evaluation dated September 21, 2010 performed by Mary Mitchell, his supervisor. Lucas commented that this evaluation is the same one performed in connection with each employee annually. The evaluation covers, among other things, job knowledge, quality of work, productivity, and adaptability. With 5 being the highest, the points are mostly 4s, with one 5 and one 3 (which is acceptable). Lucas stated that he had discussed this with Burns and requested that he provide information which would support his case for a salary increase. As a background, Burns was hired on 3/16/2010 for \$12 per hour. Shortly thereafter he was granted a \$0.97 cost of living salary increase. The Oregon State cost of living index was used. Doug Miller was hired in June at the rate of \$12.97 per hour. Burns was asked for additional information to make a case for a salary increase.

Burns stated that he doesn’t feel that he is being paid for the knowledge of the job that he has. He said that he does extra things that are not required of him. On the days he doesn’t work and Miller does he usually checks on him once or twice a day to see how things are going and what needs to be done. He said that there were other issues he could quote but he was not feeling well and it was difficult for him to talk.

Miller stated that he would like to add something. He said that he doesn’t live in Lyons but Burns does. Since he is in residence here he probably deserves a little more money because he and he can cover emergencies in town in the event they arise. Miller said that he had to drive from Albany and it could take him an hour to get here. Miller said that Burns does have seniority and that he does check on Miller occasionally to ask him if he needs help on anything.

Lucas said that there are really two aspects. One is to make him a lead, not a supervisor. A lead is someone between other employees and a supervisor. It was originally planned that there would be two independent people covering this position. Lucas went on to say that every year Council determines whether or not to give a cost of living increase which is technically not a raise but a mechanism to keep you level with price increases. Morgan stated that based on his performance review and evaluation, the fact that he has not only done a good job, but considering his availability and the fact that he goes above and beyond the scope of his job description, he (Morgan) would not be opposed to making a motion to offer the lead position to him and increase his salary. Conner said that he would support Morgan in that he has found Burns to do above and beyond what the norm is for that position.

Lucas said Burns has been asked to do some computer research and prepare some cost analyses which are separate from his job description. Branch said that he had no problem with giving Burns more money. Jeff asked if he was going to be a lead was there more responsibility. Lucas said that without Mitchell being present it was difficult to discuss a "lead" position. When asked, Burns said that he doesn't need a title. He and Miller work together. Burns said that he felt he knew the City's equipment better than Miller but he and Miller have different skills and Miller helps Burns at times.

Lucas said that without Mitchell being present he is reluctant to discuss the "lead" issue. After discussion it was determined to set aside the "lead" issue at the present time and just discuss the pay raise. Branch suggested a \$2 per hour raise which would be a 15% increase. After discussion Morgan made a motion to eliminate the wording regarding a lead position from his previous motion and to increase Burns' salary immediately by 15% to \$14.97 per hour. Branch seconded the motion. Voice vote. Motion carries.

**CONSENT AGENDA.** Lucas asked if there were any questions regarding the Consent Agenda which includes the following:

1. Minutes -07/27/10 Joint City Council/Planning Commission Meeting
2. Minutes – 08/06/10 Telephonic Approval of Resolutions.
3. Minutes -08/06/10 Telephonic Approval of August Bills to Pay Report
4. Minutes – 09/14/10 Special Meeting
5. Minutes – 09/24/10 Telephonic Approval of September Bills to Pay Report
6. Bills to Pay Reports – August, September & October 2010
7. Resolution No. 430 – Risk Management Incentive Program

Conner made a motion to approve the Consent Agenda. Branch seconded the motion. Voice vote. Motion carries.

Lucas commented that the City of Mill City had had their City Hall burned down. The City has locks on the doors of City Hall and no other deterrent. Lucas said that there a number of people who could install a relatively simple wireless beam with the goal of alarming this building. Mitchell has determined that there is \$457.45 available to Lyons for any approved risk management purpose that she can apply for to apply to the cost of an alarm system. After discussion Branch made a motion for the City Manager to get estimates for the cost of both a monitored or unmonitored alarm system for City Hall. Morgan seconded the motion. Voice vote. Motion carries.

Lyons City Council Meeting

October 26, 2010

Page 13 of 13

**OLD BUSINESS & UPDATES.**

**Conner – Library Ramp Update.** Conner \_