



# City of Lyons

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## **MINUTES LYONS CITY COUNCIL MEETING/HEARING SEPTEMBER 25, 2012**

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

The Lyons City Council Meeting was called to order by Mayor Doug Morgan. Present were City Councilors Mike Lucas, Dan Burroughs and Troy Donohue. Councilor Lon Conner attended the meeting via telephone and Skype. City Staff in attendance were City Manager Mary Mitchell, Assistant City Manager Audrey Mc Nerney and Administrative Support Tami Owen.

### **Guests**

Steve Baldwin, Greg Klein (Linn County Sheriff's Office) Brian Barker (Linn County Sheriff's Office), Byron Brown (People for Lyons Rural Fire), George L. Geddes, Denise Ruttan (Stayton Mail), Mark Orr, Theresa Donohue, Mike Wagner, Brenda Harris and Barbara Orr. Attendees whose names were illegible on the sign in sheet may be misspelled or not included.

Mayor Morgan 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. Morgan stated that he would be abstaining from a vote on the Consent Agenda because of a line item payment in the bills paid report. Burroughs stated that because the bill he had submitted for services rendered was on the bills paid report he would also abstain from voting on the Consent Agenda.

**Sgt. Gregg Klein & Deputy Brian Barker, Linn County Sherriff's Office.** Klein reported that in response to Mitchell's inquiry regarding the necessity for permits for a security alarm system, he had researched the matter and determined that the City was not required to have a permit. He stated that he would provide this information in writing via e-mail for the City's records.

Klein also reported on a burglary in Lyons on 7<sup>th</sup> Street covered by he and Deputy Gregg Amo on September 5, 2012. The burglar was detained by the owner of the property and Deputy Barker (who happens to be a neighbor) until Klein and Amo arrived on scene and arrested him for burglary. The burglar is still in custody and due to various charges should be in custody for some time.

Deputy Barker gave a quick rundown on the accident which occurred on Sunday, September 2, 2012. An automobile hit a power pole taking out power lines and also ran over a natural gas distribution box which resulted in a significant gas leak. The Fire Department responded immediately and evacuated residents from the area. The driver, who had a 3 year old child with him, was arrested for DUI, reckless endangerment and reckless driving. Barker commented that the Fire Department did a very good job in evacuating the area. Lyons Fire Hall was opened evacuated residents with nowhere else to go. Northwest Natural Gas Company, Wave Cable Company and Pacific Power Company promptly responded.

Councilor Lucas asked if there were any lessons learned from the incident. Barker said that there is a command system in place and that the Fire Department and Sheriff's Office work well together to take care of incidents such as this. Barker said that he was impressed by how quickly the area was evacuated, contained and the power shut off.

Mayor Morgan asked if there were any further questions for Sgt. Klein and Deputy Barker. There were none. Mayor Morgan thanked them and Sgt. Klein and Deputy Barker left the meeting.

**Byron Brown-LRFPD Presentation.** Brown stated that he was present on behalf of the Political Action Committee of the Lyons Rural Fire Protection District (LRFPD) and also as Volunteer Association President to discuss the pending General Obligation Bond measure which is being presented to the voters in the upcoming election. He distributed copies of his presentation to members of the audience. Copies of the presentation had previously been provided to Council. A copy of this presentation is available upon request. He stated that after discussion with the truck manufacturer it was determined that it was more cost effective to purchase new trucks than to attempt to bring the 30 year old trucks up to code. There was discussion regarding the cost per month to each homeowner should the bond measure pass; the fact that if the bond measure passes the fire district would receive no money for extras; that the purpose of the bond measure is to replace the 3 oldest fire trucks that the district operates; and that if there is money left over after the purchase of the trucks any extra money would go toward payment of the debt. He mentioned that calls have increased by 46% since 2003 and that the annual cost of maintenance of the new equipment would be significantly less than the cost of maintaining the older equipment. He also commented that with the newer equipment there would be a reduction in response time. He stated that the increased water capacity of the new equipment would enable them to better handle larger fires.

Lucas commended Brown for doing a good job in putting together the information regarding the need for and the benefits of passing the bond measure. Morgan asked what the reasoning was behind the 10 year bond. Brown responded that the reasoning was to incur lower interest costs. He made additional comments regarding increased costs, the need for additional staffing and the choices which need to be made to ensure the safety of and service to the citizens of Lyons.

**Mike Wagner-NSSD Presentation.** Wagner referred to the information sheet provided to Council, a copy of which is available upon request. He said that previous school bonds had been developed by the District. However, this bond was developed by about 25 members of the community who got together to create a Long Range Facilities Master Plan. They looked at about \$50M in needs and reduced it down to \$22M which represented the most essential needs in order to provide a safe environment for the students of the District. He discussed the cost of the bond to the citizens and commented that every building in the District will receive benefit. He referred specifically to Mari-Linn which will have most of the roofs replaced, new windows, new electrical, kitchen upgrades and partial parking lot repaving. All of the buildings in the District will receive a new coat of paint. With respect to Stayton High School, the 1960 auditorium will be remodeled and the roofs will be repaired. All of the buildings in the District will receive seismic upgrades. He explained additional upgrades which will be made to Stayton High School as set forth in the presentation material.

Wagner commented that the District hadn't passed a bond since the mid-90's and they feel that this is a community based, common sense approach. An engineering survey had noted that all of the buildings were well maintained for their age but that many of the systems were obsolete. They plan to upgrade the facilities that they have so they will be ready for another 30 years of use.

Donohue asked if all the funds raised would go directly to buildings. Wagner stated that this was correct and that one of the features of the bond is that there will be a citizens review committee formed to oversee how the bond funds are used. It is the opinion of the current board that if there is any extra money they will find another priority project to utilize it.

Morgan asked if the seismic upgrades will bring the buildings up to code. Wagner said that the contractor doing the upgrades believes that they will get the buildings up to a seismic level that is current.

Wagner said that the public may not realize how great the needs are because the District keeps fixing things and making them do.

Council thanked Wagner for his presentation.

**Public Comments.** Morgan stated that the time will be limited to 3 minutes per comment. He requested that comments be addressed to Council and said that this was an opportunity to present to the Council. He said that at the end of the comment period Council will have the opportunity to respond. He asked that attendees be respectful and, since it was close to election time, that there be no campaigning.

Steve Baldwin commented that he had been going to the School Board meetings and that everything Wagner said was true. They have been very diligent in making sure that what they are putting on the bond is very clearly what they are going to spend it on.

Orr asked if all three staff members were being paid to attend this City Council Meeting. Mitchell responded that they were. He then asked whether that had been approved by Council. Morgan stated that staff had been approved to attend the meeting.

### **CONSENT AGENDA**

Morgan asked for a motion to accept the Consent Agenda and noted that he and Burroughs were abstaining from the vote due to a conflict of interest. Donohue asked if July's bills had been paid. Mitchell responded that everything presented to Council on the Bills Paid Report had been paid. Donohue said that because there had been no meeting in August they had not been approved by Council. Donohue also commented that he did not see any City expenses. Mitchell said those were the bills that had been paid and asked if Donohue had a question. Donohue said that they usually received a breakdown on everything. Mitchell responded that typically there is an excel spreadsheet presented to Councilors each month. She stated that Council had received one in the materials provided to them in August. McNerney noted that when the August meeting was cancelled Staff had provided a package of material to Councilors which included all of the financial reports for the month of July. Mitchell explained that she had not had a chance to prepare those prior to this meeting. Lucas suggested that as soon as the documentation is prepared that Mitchell provide it to Donohue. Mitchell commented that the only thing not included in the documentation provided was payroll. None of the employees worked extra hours. It would have been pretty much as it has been because staff started on reduced hourly schedules in July. If anything it would have been lower.

Donohue asked "what is remote access configuration?" McNerney stated that in order to save money the computer repair person has remote access to our computers. If staff has a problem they are unable to resolve they can call him and, for a reduced fee, he can remotely access our computers and determine what the problems are. He can then correct the problem without a visit. Donohue asked if this was logged whenever he logs on. Mitchell said that staff has to approve his logging in. He doesn't have access unless it is confirmed by staff.

Harris stated that they have the remote access capability with CCRLS at the Library as well and that it does save a lot of time.

Morgan asked if there were any further questions. He again asked for a motion to accept the Consent Agenda. Lucas made a motion to accept the Consent Agenda. Conner seconded the motion. Morgan called for a voice vote. Lucas – Aye. Conner – Aye. Donohue – Nay. Morgan and Donohue abstained. Morgan stated that there were two votes for the Consent Agent and one vote against. Donohue stated that he had voted against the motion because all the bills were paid for July without Council approval and Council had agreed that the only bills that should be paid without Council approval were basic utilities.

Mitchell stated that there were other items on the Consent Agenda. There were two resolutions regarding inter-fund transfers and the bills were paid. She commented that she had never had this situation occur previously and she wasn't sure how to handle this. Morgan stated that the Consent Agenda was passed with a 2-1 vote.<sup>1</sup>

### **DISCUSSION ITEMS**

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<sup>1</sup> The City Charter states in Chapter IV, Section 19. Vote Required. "Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any questions before Council." Because there were two abstentions there was not the concurrence of a majority of the members of the council present at the meeting, the motion to accept the Consent Agenda did not pass.

**Librarian Harris – Activities Report & Board Renewal Recommendation.**

Harris asked that Council renew the terms of Library Board members Amy Shield and Lillian Halseth-Taylor and that their terms be extended to June 30, 2016. Harris stated that she has been working on the annual state report and it is almost finished. They are handing over the handling of the McNaughtons to another library which frees up time for library staff to do their cataloguing.

Harris reported that there had been a discussion at a PYM meeting and also at their staff meeting regarding security and the use of pepper spray. Several libraries have had issues with irate patrons. Those libraries post a sign that pepper spray is used if needed and they haven't had any issues with it. She said there was a training video available regarding its use. It was recommended that all libraries use it. She said that she and Mitchell had discussed purchasing pepper spray for the use of library personnel especially when there was only one person on duty.

Donohue stated that while he was concerned with the safety of the library personnel he was looking at what the City's liability might be if, for instance, he raised his voice and a staff member felt threatened and, as a result, he got pepper sprayed. Mitchell responded that this would have to be reviewed with the insurance company to see what the City's liability would be. Harris commented that this was why she and Mitchell had discussed this and that Mitchell was researching this issue. Donohue wanted to be sure that Harris understood that this was not a personal issue and he was concerned with their safety. Harris stated that this was an issue that was being discussed by many public entities, especially when there was only one person working.

Harris stated that she and Mitchell were working on CALM (Computer Access and Library Materials) to promote the handicapped services and the satellite library. Harris also stated that she had an article published in the Canyon Weekly and the editor has offered to give her a by-line. If there is anything going on in the community that the public needs to know about she can notify the paper of it. She said that she will use this avenue to promote the satellite library.

Mitchell stated that with regard to the satellite library, the City had submitted its documentation to OCR about a month and a half ago and had not as yet received a response from them. She said that she had submitted the proposed flyer to them but didn't want to move ahead without making sure that it met with their approval. The City has done everything required to come into compliance and the documentation was turned in prior to the deadline. Mitchell has received assurance that they (the OCR) acknowledges responsibility for the delay because they have been backed up.

Harris stated that they had 29,000 items catalogued in the library. They previously had 22,000 items and they are revising the space. There are over 600 videos and DVDs being used. This will enable the library to determine the type of material on hand and its dollar value.

**Council Commissionerships – Activities Report.**

Building Commissioner Donohue reported that Mitchell had provided him with information regarding the furnace at the library. There were prices and quotes to replace the furnace. He said that he understood putting together the information but he also was curious about the financial aspects of it. He wanted to know how long it would take to pay for this; what the cost savings would be; what the cost of natural gas is now compared to what we would be spending; what is the insulation value on the building; if we just replace the furnace and not upgrade the insulation on it (he said that the two would be better served together); and where the finances would come from. He expressed concern about where the finances would come from since just recently the hours of operation of the library were cut because of the City's financial hardship. He said that his opinion is that as a City the first thing we need to do is to try to make the library ADA compliant so that all of the library programs can take place at the library. He felt that once the building is ADA compliant we can look at making it more efficient with an updated furnace, insulation and windows.

He said that he felt that it should be a priority in our budget process, now that the last payment has been made on the building, to make it (the library) ADA compliant. He also said that he would prefer that the City's money be spent on street lights on 25<sup>th</sup> and bridge rails for the City's bridge on 13<sup>th</sup> Street.

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Donohue said that he did agree with removing the 3 thermostats for a small fee of just over \$400 and replacing them with one. The report states that the furnace is in decent shape and that they feel that replacing the three thermostats with one thermostat in the facility will help reduce the cost of operation in the winter time. It was Donohue's recommendation to Council that Council move forward with having the three thermostats in the facility replaced with one and see how that helps with the cost.

Mitchell stated that she agreed with Donohue and that was why this option had been included. The cost is \$425 and it is the most practical direction in which to proceed. Because the building is difficult to heat and the heating bills are very high she had had the energy audit performed. One of the issues the audit revealed was the windows were fine and that they didn't consider their replacement to be a priority. They also stated that there were good insulation levels in the building and that the furnace was in good shape.

Donohue stated that if this doesn't work then the furnace could be included in next year's budget. He said that he strongly feels that now that the last payment has been made on the building the City should move forward to making the library ADA compliant so that all library functions can be taken care of at the library facility.

Mitchell responded that the only difficulty is that we now have \$10,000 going out for a new law enforcement contract. Donohue disagreed. He said that we had agreed as a Council to spend \$10,000 of the City budget so that we would have enough law enforcement services to get the \$90,000 which would leave \$80,000 in the budget.

Mitchell tried to explain that the \$90,000 ... Donohue insisted that that was how it was told to Council. Mitchell explained that the \$90,000 was money that we had been receiving all along, it was not new money. Donohue said that the \$90,000 was money that we would have lost without spending \$10,000 for the law enforcement contract. Mitchell went on to state that the \$10,000 still has to come out of the money that we already have. Donohue said that was correct. Mitchell explained that this was the same money that we had been operating on all this time. An additional \$10,000 has been coming out of the budget every year to pay for the library building and the intent was that when that last payment was made we would then have an extra \$10,000 in the budget to go toward other library improvements. The \$10,000 that we have freed up is now going to be deducted from the budget just as if we were still making that \$10,000 payment on the library building. We are receiving any extra money, we are still spending exactly the same amount as we have been paying for the building, it is just going toward law enforcement.

Donohue then said that his question was where did we get the \$10,000 for law enforcement? He said that he was under the impression that Council voted to spend the \$10,000 so that the City would receive the \$90,000. He asked what the City would do if we still had payments on the library. Mitchell responded that the City would be another \$10,000 in debt. He then asked how the City would come up with that money. Mitchell said that, thankfully, we didn't have to make that decision because as it happened the last payment for the library fell off at the same time that we had to begin making a \$10,000 payment for law enforcement.

Donohue said that all he had heard for the past two years that he has been on Council was that when the library building was paid off there would be funds to improve the library. Now the City doesn't have the money because they are using it for something else. He went on to state that his concern was that all the City of Lyons has to offer its citizens is the library. According to the minutes of the Library Board the number of patrons has gone up over the last few months and the use of our library has increased.

Morgan said that the thought had been that when the money was freed up by paying off the mortgage on the library building the City was going to proceed with doing some of improvements at the library. However, when we were confronted with the loss of \$90,000 to the budget we, as a Council, had to determine how we could prevent that from happening. The one way that we could do that was to utilize the \$10,000 that was freed up for the law enforcement contract.

Donohue said that the \$10,000 was not presented that way. He said that "after the library was done that was where the money was coming from." Morgan tried to explain that in the budget the \$10,000 that was going to be saved had to go for law enforcement. Donohue then said that it was the intention all along to use this money from the library to pay the law enforcement. There was additional discussion as to whether this was true and Conner and Mitchell explained that the law enforcement issue came up during the budget season. Donohue then said that "when the issue came up that we needed to spend \$10,000 for law enforcement it had already been ...my feeling is that it

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had already been decided that guess what we are going to hold off paying them – we'll take the last payment for the church and then at that point ... now we have the \$10,000 to cover the law enforcement bond.” He went on to state that he felt that it was misrepresented when it was brought out originally.

Morgan asked him where he thought the \$10,000 was coming from. Donohue responded “general fund.” Mitchell explained that the library was funded from the general fund. Donohue again said that all he had heard was that once the library is paid off we would have that money to make improvements to the facility. Mitchell said that that was always the intention. Donohue then said “I need to do my homework better before I vote on stuff.”

Lucas commented that it was the time line that we are talking about. He said that it was exactly right except that the situation regarding the fact that we were going to lose the \$90,000 came about after that. We didn't know that we were going to be lose \$90,000. When we did, we had to figure out a way to come up with the money. The plans for what we were going to do with the library were postponed. We cut back on the library and different places so that we could come up with the money to be able to pay the additional \$10,000. Improvements at the library had to be put on the back burner because we don't have the money for it right now. Lucas went on to state that the intent continues to be that when we get the money improvements will be made to the library. However, right now we had to make cuts to pay the \$10,000 to get the \$90,000. The philosophy and the goal to spend money on the library are still there.

Conner stated that but for the issue with the law enforcement the intent had always been to put that money toward improvements at the library. However, we had to make a prudent business decision.

Mitchell commented that she and Harris had both worked on fund raising for the library on their personal time and had tried to decide what to do with the approximately \$3,000 raised. She said this has nothing to do with the City; it has to do with our trying to raise funds to make improvements at the library. She went on to state that she and Harris had met numerous times to try to determine what was most important. The biggest problem that Harris has had with the building has been the regulation of the heating and air conditioning. The question is how to get that regulated so that we are not wasting money because right now, with the three thermostats (which were there when the building was purchased) it is not efficient. That was the reason Mitchell had asked for the efficiency reports on the building to tell us what was most important. She went on to say that she and Harris were trying to work on ways to utilize money, not from City coffers, but from the fund raising that Mitchell and Harris had done. Mitchell commented that it was not fair to say that we are not looking at improvements at the library because we have been and will continue to do so.

Lucas said that what the question should be is that had we not had to spend \$10,000 on the law enforcement contract to get the \$90,000 what would we have done with that money? Mitchell responded that it would have gone, at least partially, toward the library. That was what had been discussed since the City bought the building. Lucas said that we had to do what we had to do to retain the \$90,000. The goal has not changed. Mitchell said that the only alternative to that was, because we were going to lose \$90,000 if we hadn't found a way to come up with \$10,000 we would have lost the \$90,000 and we wouldn't have been doing any improvements anywhere.

Donohue asked, since the City knows that we need the Sheriff's Department, why didn't the City try to get the voters to pay for it? Mitchell stated that we could do that but it is a Council decision to make. Morgan stated that his feeling was that the voters had made their decision and that for Council to bring something back quickly that the citizens had already voted against would be like saying that we don't care what the voters say, we are going to keep bringing it back until they say yes. Mitchell said that the decision that had to be made was made within a small window of time. She went on to say that if Council wants to look at taking a tax levy to the voters in an upcoming election it is an option.

Lucas said that if a committee from a citizens group in Lyons wants to develop a fund raising process that might be a good idea. He went on to state that as we just heard levies for the School District and the Fire District are going to be on the November ballot. He said that he felt that it was extremely unlikely that a levy for library improvements would be successful at this time. He suggested that Donohue work with Mitchell to come up with a levy proposal

for law enforcement. Mitchell said that a levy for funds going directly to the library had already been a topic of discussion.

Donohue asked where the money for the 5% increase in PERS was going to come from. Morgan responded that that was considered as part of the budgetary process and one of the reasons that the City had to make the cuts that we did. Morgan said that if we could drop PERS we would do it. Mitchell said that she had been informed that once you are in PERS you can't drop out. Donohue said that he had read an article that said the cities were dropping out of PERS because it was bankrupting them. There was additional discussion regarding PERS and the various levels of PERS. Lucas said that it was a staff job to determine what the City's options are right now. Mitchell said that the last time she had contacted PERS she was told that the City cannot simply remove itself from PERS. Mitchell said that she would check with PERS again. There was discussion regarding the fact that administrative costs keep increasing because of health insurance and PERS.

Morgan, as Parks Commissioner, distributed pictures of new handrails that had been installed on the Frères Park bridge. He said that Doug Miller did a great job on building and installing the rails. The City is continuing to work on other bridges. He said that there is one bridge on County property and we are looking into what can be done there as well. Morgan commented that the City had considered doing the handrails in metal but the cost was prohibitive. Morgan said that we had received quotes from one place for \$7,208 and another for \$9,540.

Morgan asked if there were any further reports. There were none.

#### **RFP Review – Insurance Agent.**

Morgan reported that the City had published an RFP (Request for Proposal) for Services Provided by Agent for the City of Lyons and had only one response which was from our present insurance agent. Morgan said that he felt that the RFP they submitted was incomplete. "They didn't review what we already have or make any adjustments." Mitchell said that she had published the RFP in the same manner as in the past. The RFP was also available on our web site. She said that as a courtesy she had notified our current insurance agent via e-mail. Lucas said that there were probably insurance agents who didn't know about it. Morgan said that we have an option to accept the proposal or to publish another RFP. Mitchell said that she would prefer not to republish because it is expensive. She said that typically we get good responses when we publish RFPs. Lucas suggested that we could solicit individual companies. Conner suggested that we contact neighboring communities to find out who they use for their insurance agent. There was a suggestion to contact the League of Oregon Cities. Mitchell said that she would make inquiries.

#### **Owen – LED Lighting Report.**

Owen said that she had researched the process of converting the City's 151 street light lamps to L.E.D. to lower the City's Pacific Power monthly cost. She reported that the L.E.D lights are in the trial stage and that the City would be charged to change each light. The City would be charged for whatever value balance is left on each light. L.E.D. lights are charged on a flat monthly rate not on a monthly meter reading and it would be huge cost to the City. At this time there is no information on cost vs. savings. The only information available is on cost.

#### **Morgan – Garage Sale Permitting.**

Morgan talked about the City's Garage Sale Permitting process and the fact that there is a \$3.00 charge. The reason for this policy is to discourage continuous garage sales at any particular address. After discussion Morgan stated that this should be a discussion item for Council as to whether to at least discontinue the fee. Burroughs said that it was his opinion that we should just drop the fee and continue to keep track of the garage sales by requiring that the paperwork for a permit be filed. He said that we should be sure that signs are removed after the garage sale is over. Mitchell said that since the Garage Sale Permit is in ordinance form it would have to go to hearing for modification. It would not be complicated to make a few modifications to the existing ordinance. Mitchell said that she could prepare this modified ordinance for an upcoming meeting. Mitchell said that the existing ordinance does set forth a limit on how long the garage sale can last and the fact that a citizen can only have 2 garage sales per year. Donohue stated that he felt it was important to continue the registration process so that the City can be aware of garage sales going on in town. There was discussion as to whether charge a minimal fee. After discussion Morgan said that it

appeared the Council was leaning toward modifying the existing ordinance by eliminating the fee and advised Mitchell that she should move forward with preparing it for hearing.

**Staff – Elections Documentation and Reports.**

Mitchell, McNerney and Owen stood before Council. Mitchell stated that the three of them had drafted a report to Council out of concern and frustration with the nature of the continued interaction with Mark Orr. This was set forth in a memorandum to Council read by Mitchell and documents the two years of conflict between staff and City Council with Orr. A copy of this memorandum is available upon request.

This memorandum also states that Mitchell and staff felt that this had now become a matter that needs to be formally addressed and documented due to the nature of and potential repercussions from Mr. Orr's conduct and allegations. Council was provided with a compilation of the most recent documentation as it related to the upcoming election, including Mr. Orr's communication with staff members. The memorandum stated that as reflected in those documents, City staff has, on multiple occasions, made available or provided the requested election materials in a more than timely manner and directly pertains to the most recent, highly inflammatory, false allegations made by Mr. Orr intimating that staff, collectively, is either incompetent and/or dishonest.

The memorandum goes on to reflect that Mr. Orr has stated that the election materials he requested were in fact, not provided for him and that he possessed proof via videotape. He stated in a voice message that this election documentation was not provided as requested and insisted on an explanation. He followed this with an announcement of his intent to submit a complaint to Linn County Elections, the Mayor and the City Council. The accusation that staff was interfering with the elections process by withholding necessary filing documents is an actionable offense that staff does not take lightly. They have requested several times to be given the opportunity to view the video tape which Mr. Orr states reflects his arrival at City Hall, his walk up the ramp and shows that the requested documentation was not attached to the bulletin board (as he had requested) and that staff's failure to provide the documentation resulted in it being impossible for a candidate to file within the designated time period to run in the upcoming election. As of the date of the memorandum Mr. Orr had failed to schedule any such viewing despite the fact that staff had offered to meet with him after working hours at a time convenient to him. Because of Mr. Orr's status as a citizen of Lyons staff has tolerated his frequently disrespectful and hostile behavior but given the fact that he is now seeking election to serve on the Lyons City Council, should he be elected, such behavior as a Council member could have the potential to impact their working environment.

The memorandum set forth the basic facts of the matter as follows:

“Mr. Orr requested that Tami place an election packet on the bulletin board at 4 pm on August 20<sup>th</sup> with “Orr” to be written on the face of the envelope. Tami placed the packet on the board at 4pm. At this time Councilor Burroughs and I (Mitchell) were seated at my desk discussing City business. When I left, I double checked the board for the documents. At that time the documents were on the board, exactly as requested.

Mr. Orr left a message early the following morning on August 21<sup>st</sup> that he had come to retrieve the documents at 7pm the prior evening and had videotaped himself getting out of his vehicle, coming up the ramp, and focusing on the message board. He said that the envelope was not on the board and that the videotape would reflect that fact. He insisted upon an explanation as to why the documents weren't on the board as agreed upon and stated that either someone forgot to place them or intentionally failed to place them. He alleged that this failure on our part interfered with the potential candidate's ability to run in the election.

It should be noted that, despite that fact that election paperwork had been available for the three months prior to this date, his request wasn't made until the day before the deadline for submittal.

When I arrived at work the morning of the 21<sup>st</sup> the envelope was still on the board in exactly the same location as it had been the day before. When Audrey arrived shortly thereafter, she also observed that the envelope was on the board. After listening to Mr. Orr's telephone message regarding the absence of the documents I took photographs of the board which show the envelope still firmly attached and undisturbed, exactly as it had been left. The envelope was still sealed, stapled firmly in three places and had the name “ORR” written across the face of the envelope.



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Mr. Orr stated that he was taking his complaint to the Mayor, the City Council and the Linn County Elections Department. When he called again, later the same morning, he stated that he was going to email his complaint to Linn County Elections, which he did.

Had we forgotten to comply with Mr. Orr's request, he would have received an apology and promptly been provided with an election packet. Had the envelope been missing from the board, the argument could have been made that someone else removed it. The fact that we are all CERTAIN of the documents' placement on the board, as witnessed by the notarized, signed statements before you (Council) and that the fact that the envelope was still securely attached to the board the following morning make it all but impossible for it to have been tampered with or removed. This leaves staff with no other conclusion to draw but that Mr. Orr orchestrated the event with the intent of discrediting our competence and integrity."

The memorandum concluded with the following statement:

"We are bringing this matter before Council so that Councilors are aware of our deep concern with regard to the situation. We feel there is no alternative but to file a report with City County Insurance Services outlining the situation and the preceding events. Our purpose in filing this report is to request their assistance in implementing immediate mediation services between staff and Mr. Orr in the event that he is elected to the City Council. Staff's goal is to begin laying the foundation for facilitating an avenue which will enable staff and Mr. Orr to work together."

Mitchell went to state that she did not believe there was any detail left out. She said that Council should have signed notarized statements in their packets and we are filing a complaint.

Morgan asked if there were any questions. Burroughs had a question with regard to the photographs and Mitchell explained that there had been two instances when documentation had been placed on the board for Orr. The first was in July when the material was left on the board untouched for about 3 weeks and the second the instance in question.

McNerney asked Mayor Morgan if she could ask a question. She stated that she didn't understand why Mr. Orr felt it necessary to document by videotape his coming to pick up a document that he had requested that we place on the board for him. She said that she didn't know what his purpose was and that she would like to ask Mr. Orr if that is permissible. Mayor Morgan said that it was up to Mr. Orr if he wished to respond. Orr said "At this time a lot of this is new to me so I am going to have to decline to comment and if you guys can send that to me in written form I will get back to you in a sufficiently timely manner because a lot of this is ... I mean I didn't know if any of this was going to happen." Mitchell asked if those were the facts.

Lucas said that before we get into a discussion about this Council should have an independent party review and investigate this. He suggested that at this point we do not solicit any comment from Orr or that we make any comment ourselves. He said that his question to Mitchell was whether the information that was just read is factual, backed up with documents and if so generally what kind of documentation is there to support this. Mitchell said that what was stated was backed up 100% by documentation such as copies of minutes, a copy of the e-mail that Orr sent over to Linn County Elections Office, telephone recordings....

Morgan stated that he had spoken with Mr. Druckenmiller of the Linn County Elections Department with regard to allegations which had been made prior (to this). Lucas said that we should move forward with taking statements, conducting interviews and having reports made as a result of this situation. He said that the allegations were strong and if they are supportable, someone else will take a look at it and determine the validity of the information and appropriate action will be taken as deemed necessary.

Orr said that he had one comment since he was the center of attention and he would like to see it in the minutes. He asked "what time did you leave it on the board." Lucas said that we were not going to discuss this further. Morgan said that because this is a possible legal issue we are going to go ahead with the process. Orr said "you can go ahead and say all this about me and I can't ask one question." Morgan said that we are going to go ahead with the process because it is a potential legal issue.

**Resolution #472 – Emergency Operations Plan.**

Lucas said that this Emergency Operations Plan has been many years in the making. Mitchell said that it had just been received on either the 18<sup>th</sup> or 19<sup>th</sup> of September. It is the final draft of what Council had reviewed and reflects the changes recommended by Council. Mitchell advised Council that if it agrees to adopt the Resolution there has to be a signed letter of promulgation signed by each Councilor.

At this point in the meeting Tami Owen asked if she could interrupt for a moment. Morgan said “go ahead.” She said that she would like this to be reflected in the record. She said “I resign.” She looked at Orr and said “it was 4:02” and left the meeting.

Mitchell looked at Orr and said “thank you.” Barbara Orr asked “what was that for Mary, he didn’t do anything.” Morgan said we are discussing ... Burroughs said “it’s a witch hunt.” Barbara Orr said “Excuse me. She can’t just talk and look at him and say thank you and you think its ok. You are the Mayor conducting the meeting. She shouldn’t be doing that.” Mitchell said “I apologize.” Orr asked “what were you thanking me for?” Burroughs said “she just resigned.”

Morgan said that at this point we are at #11 (on the Agenda) Resolution #472. He asked if this should be moved to an action item. Lucas said it should be moved to an action item. He said that he knew the time that had been dedicated to this and we need to move forward on it. Council concurred and Resolution #472 was move to Action Items on the Agenda.

Mitchell asked for a break to allow her to talk to Owen. Morgan said that was ok. Mitchell left the meeting briefly.

Morgan said the meeting would continue and referred to Resolution #469. Lucas read Resolution #469, A Resolution of Intent to Participate in the Great Oregon Shakeout and Work Toward Becoming a Safer Community in its entirety. Lucas made a recommendation that the City participate and to do so we need a vote. Morgan concurred with Lucas’ recommendation and with the consensus of Council moved Resolution #469 to Action Items on the Agenda.

Morgan asked if there were any other matters for Discussion Items. Donohue asked as a Council Member if he could get the information regarding the Planning Commission Meeting scheduled for October 9<sup>th</sup>. McNerney said that as soon as the staff report for that meeting is finalized she would provide Donohue with a copy.

**Public Comments – Limited to Discussion and Action Items.**

Morgan said that once again we will hold to the comments to a 3 minute maximum.

Orr addressed the Mayor and Council and requested a copy of the paper and the letters and allegations that were brought forward tonight. He said that he felt that he has a right to have that. Morgan advised him that there is a process for him to get those documents. Orr asked if he could get them tonight. Morgan said that he could submit a request for that. Orr then asked if he could get the request form now and fill it out. Morgan suggested that he obtain the form during business hours.

Orr then said that he would like to ask Mrs. Mitchell what she meant when she looked at him and said “thank you.” Morgan said that Orr was to address Council. Orr then asked Mayor Morgan what she meant by that. Morgan then stated that this was Orr’s opportunity to address Council; it was not a back and forth question and answer session. Barbara Orr asked Morgan if he was the Mayor or she (Mitchell) was the Mayor. Morgan said that he was the Mayor. Barbara Orr then asked “then why does she get to outburst to the audience...and you just sit there.” Morgan then asked if there was anything else that she would like to address Council with. She said “that was my comment.”

Morgan said that we would now move on to Action Items. Burroughs commented “that’s bull...t.” Morgan then stated that he was again going to state what the rules are. He said this is an opportunity that we give the public...not every public entity in this area does so. We give the public an opportunity to address the Council at this time. There are rules as to how we have to do that.

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Burroughs then said that “they attacked him and he doesn’t have the right to say anything back?” Morgan responded that there was no attacking whatsoever; this was submitted to us as a Council because it is a potential legal matter. We are not talking about that. What we are talking about is the opportunity to address the Council at this time. The Council Rules are that they have the opportunity to address the Council. This is not a back and forth question and answer time. They chose to ask questions and not to address Council. They did their addressing and we have the right as a Council to then either respond to that or not. We have chosen not to respond unless you (Council members) choose to respond.

Morgan then stated that “at this time there doesn’t appear to be a response so we are moving on from this time of public comment to action items which are on our agenda.”

**ACTION ITEMS**

Donohue made a motion to extend the terms of Library Board members Amy Shield and Lillian Halseth Taylor for four years ending on June 30, 2016. Burroughs seconded the motion. Voice vote. Motion carries.

Conner made a motion to adopt Resolution #472 – A Resolution Adopting the Current City of Lyons Emergency Operations Plan. Burroughs seconded the motion. Voice vote. Motion carries.

Lucas made a motion to adopt Resolution #469- A Resolution of Intent to Participate in the Great Oregon Shakeout and Work Toward Becoming a Safer Community. Donohue seconded the motion. Voice vote. Motion carries.

**COUNCILOR REQUESTS/FUTURE AGENDA ITEMS**

Mitchell asked if it would be possible to hold the next Council meeting on October 24<sup>th</sup> instead of October 23<sup>rd</sup>. Donohue stated that he would be gone from the 20<sup>th</sup> until the 30<sup>th</sup>. After discussion all Council members concurred that the next Council meeting would be scheduled for October 16, 2012 at 6 P.M.

There being no further business to come before the meeting, the meeting adjourned at 8:05 P.M.

Audrey McNerney  
Assistant City Manager