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LYONS CITY COUNCIL MEETING
February 19, 2009

OPEN MEETING 6:00 P.M.

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

GUESTS – Randy Kinzer, Duane Gentry, Glenda J. Kinzer, Darron Cross, Linn County Deputy S.R. Church.

Mayor Rolow asked that all stand for the Pledge of Allegiance. He then inquired as to whether there were any declarations of conflict of interest or ex-parte contact regarding the agenda items. Councilor Burroughs stated that he had a conflict of interest in connection with the Bills to Pay Report since his bill for services rendered in connection with the Freres Park cleanup was included.

CONSENT AGENDA.

Rolow inquired if the Councilors had any questions regarding the Minutes of the January 22, 2009 meeting. He then asked the Councilors to signify their approval of the January 22, 2009 Minutes by voice vote. The minutes were approved by unanimous voice vote. He then referred to the Bills to Pay Report and noted that Councilor Burroughs' statement was reflected on page 2 at line 3B. He explained that Councilor Burroughs had provided backhoe services for the cleanup and removal of the storm debris at Freres Park. Bowe asked if there was a conflict of interest since Burroughs is a member of the City Council. Rolow explained that the City had contacted two other backhoe services and inquired as to their rates for comparable services. The first one quoted a charge of \$80 per hour plus a \$100 mobilization fee. The other quoted \$75 per hour for similar services. Councilor Burroughs' charge was \$65 per hour. Councilor Lucas asked who inspected the work and how many hours were expended. Rolow responded that Kinzer worked with Mr. Burroughs on the project. Mitchell stated that she had been at the site today and Rolow stated that he had walked a portion of the area today as well. Mitchell commented that Councilor Bowe had had a question with regard to a portion of the pathway near Juniper Street which appeared to have been torn up by a backhoe. Mitchell said that she had walked the area to which he referred and found that it was all county property. Lucas commented that Mitchell had advocated that Burroughs be paid for the three hours expended in moving sand from the sand shed. Lucas asked if that

charge was included in the current statement. Burroughs responded that it was not. Mitchell explained that the charge for that service was only \$45 and had been paid last month. Lucas asked if competitive bids were necessary for the work that was done at Freres Park. Mitchell explained that due to the dollar amount involved it was not necessary. Lucas then asked why we had made inquiry to other backhoe services. Mitchell explained that it was to avoid the appearance of favoritism. Lucas asked if it would appear to be a conflict because Burroughs had inside knowledge that this work would be required. Rollow commented that a similar situation had arisen several years ago when the City Hall was re-roofed and gutters were installed. One of the Councilors at that time had a gutter business and installed the gutters. There was a complaint that he had an inside track because he was on Council. However, he had submitted the first bid and the lowest bid. This is a similar situation in that Burroughs hourly rate is the lowest of the three and is the rate that he has charged the City in the past. Lucas said that he did not want it to appear that there was any impropriety and thanked Burroughs for moving the sand. Burroughs commented that he did it as a favor and only accepted payment because Mitchell had insisted. Lucas then stated that Burroughs had agreed to clean the culvert on 25th Street and inquired as to how payment for those services would be handled. Burroughs responded that the residents in the area had agreed to pay him for his services in connection with the project which is located outside of the City limits. Burroughs commented that he had been doing work for the City for about 8 to 10 years and was always paid for his services. Bowe made a motion to approve the Bills to Pay Report. Lucas seconded the motion. Voice vote. Burroughs abstained from the vote. Motion carries.

OLD BUSINESS

- **FRERES PARK PATHWAY CLEANUP.** Mitchell stated that Kinzer had taken a number of pictures of the area and she felt that it would be easier for Kinzer to narrate a slide show so that Council can see what has been done. Kinzer explained what each picture represented and the work that had been done in each area. There was discussion regarding the possibility of flooding, the beaver dams and how the beaver dams keep the water in the pond. Kinzer said that they had only removed the logs necessary to keep the water from becoming stagnant. He talked about installing weirs to control the water going into the ponds. That way they can open things up or close them if need be. He commented that they had placed logs strategically throughout the pathway so that someone can take a break if they wanted or needed to. He pointed out a dangerous tree that was leaning out over the parking lot and had four dead tops in it. Because of the fact that it was a dangerous tree it was removed. Both Bowe and Lucas commented that Kinzer had done a good job. Rollow commented that Mitchell had walked the trail in the morning and that he had walked part way in the afternoon. Bowe said that he had been down the trail both before and after the cleanup and commended Kinzer for a job well done. Rollow informed Council that he had spoken to a gentleman while he was on the trail and the man commented on how good the trail looked. Darron Cross commented that he walked the trail all the time and that it really looks good now. Mitchell said that she had received several comments from the public about how good the trail looks since the cleanup. Gentry said that some of the “danger trees” which were removed were possible wildlife habitat. When asked where the trees he was referring to were located Gentry responded that they were along the creek below the bridge on 13th Street. Rollow informed Gentry that Council would address his complaint which was scheduled next on the agenda. Gentry said that this wasn’t his complaint. He said that he was making a comment that some of the trees that were removed could have been wildlife habitat trees. Rollow said that three trees were removed. One of the trees had already fallen. Kinzer asked if the trees were the

ones located behind the gravel pile. Kinzer stated that since they were old dead snags with woodpecker holes and close to falling over that the deputy in charge of the work crew decided to remove them because they were dangerous and could become a public hazard. Burroughs commented that he bumped one of the trees and it fell over. There was further discussion regarding how the determination to remove dangerous trees is made. Rolow commented that even though the trees might be a habitat for wildlife he would rather have the dangerous trees removed rather than leaving them standing and becoming a hazard to human life.

NEW BUSINESS.

- **CITIZENS CONCERN NO. 497.** Rolow stated that a complaint had been submitted by Babette and Duane Gentry alleging that Randy Kinzer had utilized gravel from the City's gravel pile on 13th Street and had the backhoe (working for the City) (being operated by Councilor Dan Burroughs) spread the gravel on his personal driveway. In addition the complaint states that Kinzer had removed firewood which had been cut by the inmate work crew and placed it on his property. Rolow referred to written statements submitted in connection with this matter from himself, Chad Namitz (who delivered the gravel), Kinzer, Burroughs and Joseph Salveggio (the deputy supervising the prisoners.) Rolow informed Council that he was present when Mr. Namitz delivered the gravel to Mr. Kinzer. He said Namitz stopped his truck on 13th Street and presented Kinzer with a bill. Rolow saw Mr. Kinzer take money out of his pocket and pay Mr. Namitz.. He saw Namitz take his truck onto Kinzer's property and dump and spread the gravel on Kinzer's driveway. McNerney read the statements submitted by Rolow, Burroughs, Namitz, Kinzer and Deputy Salveggio, copies of which are attached hereto and made a part hereof by reference. McNerney read the complaint, a copy of which is also attached hereto and made a part hereof by reference. The complaint states: "on 1-12-09 and 2-13-09 (Kinzer) took gravel from gravel pile on creek edge at 13th Street to use on his personal property with yellow backhoe equip. Also removal of wood (fire) on 2-13-09 & 2-17-09 cut by convict work crew." This complaint was signed by Babette & Duane Gentry. Rolow asked Mr. Gentry if he would like to elaborate on his complaint. Gentry said that it sounded as though the gravel was legally obtained and withdrew his complaint on the gravel. With regard to the complaint on the firewood being cut by the work crew and stored on Kinzer's property he said that he wanted an estimate of how much wood had been stored. He also requested a follow up letter be furnished to him advising him as to how the firewood is distributed. Bowe asked Kinzer approximately how much firewood there was and Kinzer responded that there was possibly a cord and one-half. Kinzer said that it is all stacked separately in a secure location. Kinzer re-iterated that it was taken and stored on his property at the suggestion of the deputy supervising the work crew. It was the deputy's concern that the wood would disappear before Council had an opportunity to determine how it was to be disposed of. Gentry commented that when the county work crew cleaned up at the grange hall they removed the wood from that property. Burroughs said that the wood from the Grange property had been sold to Freres Lumber. Gentry then said that there was another property toward the river where the inmate work crew did some cleanup and fence repair and hauled that wood off. Rolow asked Deputy Church if he was aware of that situation. Deputy Church said that the Sheriff's Office policy is to cut up the wood into small pieces and stack it along the roadway for the general public to salvage. At no time do they haul wood in their vehicles. Burroughs said that was what Deputy Salveggio had told them the policy was. Gentry then asked why the wood cut by the ponds wasn't made available to the public. Rolow said that the disposition of the wood was a decision that was

to be made by Council. Mitchell said that she had intended to discuss this matter with Council this evening. She suggested that the wood be donated to the school so that it could be raffled off as a fund raiser. McNerney commented that when she spoke with Deputy Salveggio he acknowledged that the wood was moved at his suggestion because he felt that if the City wanted to donate the wood it would not be safe left on the side of the road. Mitchell commented that there was no room available in the sand shed to store the wood because all of the pews from the church were stored there. Bowe asked what had been done in the past. Mitchell advised him that the City has never done anything like this before. Gentry said that City employees shouldn't be able to benefit from convict labor. Bowe stated that this was not the case. No employee has or will benefit since the wood will probably be donated for a worthy cause. Bowe went on to say that this issue has just been presented tonight and that Council will take it under advisement and determine the best manner in which to dispose of the wood. Rollow commented that there had been a fairly large tree on City property behind Gentry's property. This tree was leaning toward Gentry's property and the City had hired a contractor to cut the tree down. The felled tree was left on Mr. Gentry's property for his use at no cost to him. Gentry commented that according to the Minutes of the last City Council Meeting this issue had not been addressed. Rollow stated that this had happened after the last meeting and asked Mr. Gentry if he wanted to have the contract signed by Gentry and the Contractor hired by the City to fell the tree read into the minutes. Gentry said that he had made his statement that a City employee "should not benefit from the convict work crew" and Bowe had responded with a satisfactory answer. Rollow then commented that Gentry's complaint was not valid. Gentry said that his complaint was that the wood should go to the benefit of the community or senior citizens. It shouldn't end up in a City employee's hands. Rollow responded that it has been satisfactorily proven that the wood is not in a City employee's hands but merely stored on his property for safekeeping.. Lucas read from Gentry's complaint about the gravel which alleged that on 2-12-09 and on 2-13-09 Kinzer took gravel...and asked Kinzer if he had personally observed Kinzer removing the gravel. Gentry said that on he 12th there was gravel delivered to Kinzer's driveway and on the 13th there was the backhoe being moved around the gravel and they assumed that it had been taken from the gravel pile and delivered to Kinzer by the backhoe. Gentry said that the complaint didn't say that he **saw anything**. He said that he was just stating "took gravel from gravel pile on creek edge on 13th Street" and that gravel was transferred to 13th Street and used along the road and it **appeared** that the backhoe was going to Kinzer's. Burroughs stated that he at no time was he on Kinzer's property with the backhoe and that the gravel did not go near the road. Lucas asked Mr. Gentry (for clarification) whether he saw the yellow backhoe on Mr. Kinzer's property. Gentry responded that he did not see the backhoe on Mr. Kinzer's property. He just saw the backhoe going from the pile up 13th Street and there was new gravel on Kinzer's driveway. Lucas then commented that it was a circumstantial thing that Gentry put together which, based upon the statements of the people involved, turned out not to be accurate. Gentry said that he stood corrected. Lucas then asked Gentry if he stood corrected on the issue of the firewood in that it is not being used by Kinzer; that it is being stored on Kinzer's property for safekeeping until Council can make a determination as to its disposition. Gentry said that he was satisfied with that. Lucas stated that he wanted to be sure that both issues, the gravel and the firewood, are explained to Gentry's satisfaction. He also invited Gentry to come to a future Council meeting so that he can see for himself what the disposition is regarding the firewood. Lucas reiterated that Gentry was not to go to Mr. Kinzer in that regard, but to come to a Council meeting. Gentry said that both issues were explained to his satisfaction and that he appreciated the manner in which Council handled the matter. Mitchell asked Mr. Gentry if Council should

address the other complaint made by Mr. and Mrs. Gentry to the Department of State Lands (DSL) in connection with the City's cleanup of the hillside on 13th Street behind Mr. Gentry's property. Gentry asked if there was a recording or "what have we got on it." Mitchell stated that she had been contacted by Gloria Kiryuta of DSL. Gentry said that he was assuming that his wife had made a complaint regarding the removal of three 12 inch trees which are habitat trees. Kinzer said that the trees in question are the ones that were removed because they were "danger trees." Gentry said that once they are gone they are gone and he reiterated his comment that these trees could have been wildlife habitat. However, Gentry said "let's put human lives over feathers and fur." He said he was in agreement with Mr. Rolow in that regard. He said that his wife was upset because Officer Church had contacted her to request that their dogs be kept in the house so that the inmate work crew could work on the hillside behind their property. He said that she asked him about the trees and he said that he told her that didn't know anything about the trees or about beaver traps being in the creek. Mitchell said that since Gloria Kryuta of the Wetlands and Waterways Conservation Division of DSL had contacted her today she felt it was appropriate because of the other complaints before Council by the Gentrys, to bring this to Council's attention. Ms. Kryuta informed Mitchell earlier today that she had received a call from Babette Gentry advising her that there had been three 12 inch trees that had been cut on that hillside and that she was upset about the work. Mitchell informed Council that after she advised Kryuta of the nature of the work done Kryuta was satisfied that no violation had occurred and that DSL does not intend to take any further action in connection with the matter. Lucas said that since the complaint had been registered and evaluated by DSL and no further action is contemplated it seems that this issue, as well as the other two issues (the gravel and the firewood), is completed. Gentry agreed. Lucas said that Council appreciates the fact that they (the Gentrys) are concerned citizens and he wanted Mr. Gentry to leave the meeting as satisfied that Council could make him. Gentry commented that with regard to the "danger tree" that was felled on his property he wanted Council to know that he provided some wood to a senior citizen who is ill with cancer at no charge to her. He said that he wasn't profiting from the felled tree but that he does sell wood to supplement his income since he is unemployed. Rolow commended Gentry for assisting the senior citizen. He asked Mr. Gentry if he was satisfied with the resolution of this matter. Gentry responded that he was.

- **PROPOSED ELECTRICAL UPDATE OF CHURCH BUILDING.** Rolow reported that the City had received a proposal from Griswold Electric to update the electrical system in the new library building. Griswold has given the City a bid for rewiring the building and installing a new upgraded Square D 200 amp circuit breaker system. All of the receptacles in the building are the old two prong receptacles. Griswold said that he could pull new wires throughout the existing conduit without a great deal of trouble. He can install new wiring and receptacles throughout the building plus installing the additional circuitry for the computers. Eight new receptacles for the computer stations which will be located in the north end of the building will be required. The proposal was for \$2950 and included all permits required by Linn County. Mitchell stated that the question was whether Council wanted to move ahead with electrical work of this magnitude. . . Rolow said that he had also received a bid from Epic Sound and Security to install a low voltage system for the computer stations including a system to monitor the library with remotely mounted cameras. The proposal was to install two cameras for a total installed price of \$5942. Rolow said that he felt that the camera system was an unnecessary expense at this time. However, he did recommend that a new electrical system be installed. Burroughs commented that if the breaker boxes were included in the price submitted by Griswold it was a good deal. Mitchell stated that it

would be best to get a breakdown of exactly what was included in the Griswold bid. Kinzer said that it would be a good idea to have the breaker box wired so that a generator to be plugged into it. In the event of an emergency the lower floor of the building could be used as an emergency shelter. Bowe suggested that the City get three itemized estimates for the work to be done. Mitchell stated that she was working with Jim Howell to obtain a grant to pay for a generator, cots and other necessary items in the event the building is needed as an emergency shelter. Burroughs offered to contact Griswold to get an itemized estimate for the work and to meet with two other electrical contractors to get additional bids for the necessary electrical work.

- **LILLIAN HALSETH APPLICATION TO SERVE ON THE LIBRARY BOARD.** Rolow asked if there was any opposition to her being appointed to the library board. There being none Bowe made a motion to appoint Lillian Halseth to the Library Board. Lucas seconded the motion. Voice vote. Motion carries.
- **BRIAN BARKER RESIGNATION FROM THE BUDGET COMMITTEE.** Rolow read Barker's letter of resignation addressed to Council. Barker's resignation was accepted unanimously.
- **JUNE LAUNDRY APPLICATION TO SERVE ON THE BUDGET COMMITTEE.** Rolow advised Council that Mrs. Laundry had agreed to continue to serve on the Budget Committee. There being no objection Lucas made a motion to reappoint June Laundry to serve on the Budget Committee. Bowe seconded the motion. Voice vote. Motion carries.
- **ED JONES APPLICATION TO SERVE ON THE BUDGET COMMITTEE.** Rolow stated that there was one more opening on the Budget Committee since Barker had resigned and Ed Jones had submitted a letter stating that he was willing to serve. Lucas made a motion to appoint Ed Jones to serve on the Budget Committee. Burroughs seconded the motion. Voice vote. Motion carries.
- **REAPPOINTMENT AUTHORIZATION BALDWIN.** Rolow stated that Baldwin had not had an opportunity to submit a letter but has indicated that he would be willing to continue to serve on the Budget Committee. There being no objection Burroughs made a motion to reappoint Steven Baldwin to the Budget Committee. Lucas seconded the motion. Voice vote. Motion carries.
- **APPOINTMENT OF BUDGET OFFICER.** Rolow nominated Mary Mitchell to act as Budget Officer for the fiscal year 2009-2010 budget. Burroughs made a motion to appoint Mary Mitchell as Budget Officer for the fiscal year 2009-2010 budget. Lucas seconded the motion. Voice vote. Motion carries.
- **LINN COUNTY COMMISSIONERS.** Rolow informed Council that the City had received a letter from the Linn County Board of Commissioners. They are holding meetings around the County and would like to meet with Council to discuss any interests and concerns which Council may have. Mitchell stated that they are scheduling meetings on an "as requested" basis. Rolow asked if there were any concerns the Council might wish to address with the Board. Since there were no issues indicated by Council no meeting will be scheduled at this time.
- **BOWE ABSENCE.** Councilor Bowe advised Council that he would be out of the area for approximately 6 weeks and would be unavailable for the next two City Council meetings (March and April). Lucas made a motion to approve Bowe's absence from the March and April City Council meetings,. Burroughs seconded the motion. Voice vote. Bowe abstained.
- **FRONT STREET CLEANUP.** Rolow advised Council that Mr. Mark Russell representing Rick Franklin Corporation, the new operators of the railroad system through town, had come into City Hall to let the City know that they are cleaning up and clearing their 4 acres of property on Front Street. They are also going to clean up our right of way as well and the only charge to the City

would be for the costs of disposing of the concrete which was located in the right of way. Burroughs stated that if it was “clean concrete” it can be taken to North Santiam Rock for recrushing and there would be no cost to the City. Burroughs said that he would check into this.

- **INMATE WORK CREW.** Rolow informed Council that he had authorized the use of the inmate work crew to complete the work at the cemetery and on the hillside at the south end of Freres Park for one more day. He said that there are 10 inmates working and the City is being charged for 8 at the rate of \$5.75 per person per hour. Mitchell stated that they had donated the entire day yesterday. Mitchell said that Sgt. LeBard had recommended we use this crew and we were fortunate to get them because as of the end of this month they are completely booked up for some time forward. Rolow said that he had inspected the work done at Freres Park and at the cemetery and commended the crew for an excellent job.
- **CLEAN UP OF DOG EXCREMENT.** Rolow stated that in the course of the cleanup of the hillside on 13th Street it was discovered that there was a substantial amount of dog excrement which had been disposed of over the fence of Gentry’s property. McNerney was instructed to send a letter to the Gentrys requesting that this be cleaned up.
- **DARRON CROSS.** Mr. Cross stated that he wanted to thank Council for all the work being done at Freres Park. He said that he would like to second Mitchell’s suggestion about donating the firewood to the school. He introduced himself to Council and stated that he would like to utilize the larger recycling bins that are being used in other cities in the area. He asked what he could do to persuade Council to reconsider this issue. There was discussion regarding the fact that those customers who did not utilize the recycling bins would face an increase in cost since the program was an all or nothing basis. Cross indicated that he would like to attempt to go forward with a petition and it was suggested that he contact Mitchell to work out an acceptable form of petition to circulate in the community.
- **RIVERLOOP FLOODING ISSUE.** Lucas commented that at the last City Council meeting it was decided that the City would get a vactoring machine to clean the ditch as a stopgap until the culvert could be replaced and he wondered if that had been done. Mitchell explained that she had drafted a “hold harmless” agreement to be signed by all affected parties. She didn’t want to pay for all the mobilization and cleanup charges involved with vactoring the ditch if they were ready to install the culvert. There is only one more family that has to sign the agreement and the project will be ready to be completed. Mitchell said that the Linn County Engineers have required that one forty foot 30 inch pipe needed be installed and this has been purchased at a cost of \$1861.06. Burroughs said that it is a lined pipe, black plastic with a liner in it so that it won't crush.

There being no further business to come before the meeting the meeting adjourned at 7:30 PM.

Audrey McNerney
Assistant City Manager