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LYONS CITY COUNCIL MEETING May 6, 2009

OPEN MEETING 6:00 P.M.

The Lyons City Council Meeting was called to order by Mayor Pro Tem Dan Burroughs. Present were City Councilors Mike Lucas and Pat Bowe. Councilor Jeff Branch was excused as was Mayor Mike Rolow. City Staff in attendance were City Manager Mary Mitchell, Assistant City Manager Audrey McNerney and Public Works & Maintenance Supervisor Randy Kinzer .

GUESTS – Roy Kent, Brian Stinnett, Ed Jones, Dick Voltin, Trudy Schrader, Gary Schrader, Dan Keillor and Carol Keillor.

Mayor Pro-Tem Burroughs 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.

SITE PLAN REVIEW – BRIAN STINNETT – 2180 APPLE LOOP (Lot 7, PI Subdivision)

McNerney presented the Staff Report and the Addendum to the Staff Report, copies of which are attached hereto and made a part by reference. Mr. Stinnett commented that there is no wood or bark debris on the road. He said that there is gravel which comes out from the driveway and onto the roadway. The material which will be stored in the new building is now stored in the area which is designated for parking. When that material is moved, the employees will park in that area rather than on the street. With regard to the commercial vehicles parked on Apple Loop, Mr. Stinnett stated that Apple Loop is wide enough to accommodate them since this is an industrial subdivision. While it is not a common occurrence for large commercial vehicles to be parked on Apple Loop there will be a time when that is necessary. He further stated that he did not agree with the necessity for the asphalt apron on the driveway approach. An asphalt driveway approach will not stop the movement of gravel to the street. Mitchell commented that the City does have a requirement that all new developments are required to have a driveway approach permit. Lucas commented that when the original driveway was installed there was no requirement for a driveway approach permit. McNerney stated that the two buildings presently on the property were erected prior to the adoption of LMC Chapter 12.05. The rule was changed after the driveway was established. McNerney pointed out to Council that a new building permit was to be issued and according to the City's

rules a driveway approach permit should be obtained. She also stated that Linn County Planning & Building will not approve the finalization of the building permit until the City signs off that the driveway is adequate. Lucas said that the only reason it would not be adequate is that the rule changed after he built it. McNerney stated that the rules were changed to meet the driveway standards that the City has adopted for other new construction. The City has instructed Linn County not to approve any building permit within the City limits until the City signs off on whether or not the driveway approach meets our standards. Lucas stated that this is only adding another building to the property and inquired as to what the provisions would be for a waiver of this requirement. McNerney responded that Council could waive the requirement. Linn County can be informed of whatever conditions are imposed or waived in connection with the issuance of the building permit for the new structure. Lucas asked McNerney what she saw as a benefit to anyone to require that the driveway approach be asphalted to meet our current standards. McNerney responded that there will be other construction in the subdivision which will be required to meet the City's standards. There is another building in the subdivision which has a completely asphalted parking area. In addition, Mr. Philippi is in the process of constructing a large warehouse in the subdivision upon which this requirement will be imposed. Lucas commented that Mr. Philippi's building is a new building and a new driveway. McNerney responded that when the site plan was approved for Philippi's building the requirement was for the entire parking area to be asphalted. That requirement has now been amended to allow for a graveled parking area. Mitchell stated that the reason behind the adoption of the standards regarding the paved approach is because the City does not have a storm drainage system and we rely on the catch basins. When there is gravel and debris coming out of driveways it then gets into the catch basins and the drainage doesn't work properly and costs are incurred in having the catch basins cleared. The ordinance was adopted to keep the catch basins clear of debris and to facilitate proper drainage. There was discussion regarding the reason for adopting the new standards and Mitchell explained that approximately a year ago when the City adopted the Total Maximum Daily Load Plan (TMDL) DEQ asked for a new rule and we were no longer allowed to install catch basins. The City has to find an alternative. Mitchell stated that it was her opinion that since the City can't have catch basins and there is ground that the water won't percolate down through then paving the area would be more of a problem than if the area was left graveled. Basically the reason is to satisfy DEQ. We can't put in any more catch basins and if we pave then something has to be put in for drainage. The reason the new rule regarding a driveway approach permit is being imposed is because Mr. Stinnett is erecting a new building. The driveway approach for any currently developed property would be grandfathered in. Bowe questioned whether the rule would be effective since the new building is on the same piece of property. Mitchell responded that Council has the latitude to decide not to impose that requirement. There was additional discussion regarding whether or not the paved driveway approach would alleviate the problem of debris in the road and drainage way. Burroughs commented that 30 feet of asphalt will not stop gravel from getting into the roadway. Lucas commented that up to now the driveway approach has been adequate. He questioned whether building a 2800 square foot shed would increase the debris onto the road. Stinnett responded that it would not. Lucas stated that it was his opinion that a waiver of the requirement for a driveway approach permit in this case was appropriate. Any new building permits would fall under the new ordinance requiring a paved driveway approach. McNerney asked if Council wished to impose any of the conditions of approval set forth in the Staff Report. She read Condition No. 1 which states "A satisfactory plan providing for adequate off road parking for commercial vehicles delivering product to the site." Stinnett stated that he could not provide such a plan because he could not put a number of trucks on the property. He said that Apple Loop is as wide as any of the main streets in the City. Any street in an industrial development will have large commercial trucks parked from time to time. McNerney said that the condition need not be imposed if Council doesn't want it imposed. Lucas

commented with regard to Condition No. 2 (which states “A satisfactory plan providing for adequate extra employee off road parking during peak period when there are more than eight employees working at the site.”) that the number of employees will not increase. McNerney stated that that condition could also be eliminated. Mr. Stinnett has stated that when there are more than eight employees they will park on the street. McNerney then stated that another condition set forth on the Staff Report was “A satisfactory plan to contain or remove the gravel and wood and bark debris being scattered on the road and in the drainage way bordering the site.” Stinnett said that there was little or no wood or bark debris being scattered, however he will take care of cleaning up debris scattered from his property onto the roadway periodically. McNerney stated that the one condition that needs to remain is Condition No. 4 which reads: “4. LMC 18.30.160 E. states: ‘Should the owner or occupant of a lot or building change the use of the property to a use which increases the off-street parking requirements, it shall be unlawful and a violation of this title to begin or to maintain such an altered use until the required increase in off-street parking is provided, unless otherwise approved by the City Planning Commission.’ ***Therefore, in the event of a change in use of the site or a sale of the property applicant shall be required to advise the City of such change of use or sale so that the on-site parking area can be reviewed for applicability and modified if necessary.***”

Lucas made a motion to approve the Site Plan based upon Findings of Fact set forth in the Staff Report; to eliminate Conditions of Approval 1, 2 and 3 set forth on page 7 of the Staff Report; to impose Condition of Approval No. 4 set forth on page 7 of the Staff Report and to waive Condition No. 5 set forth on the Addendum to Site Plan Review. Bowe seconded the motion. Voice vote. Motion carries.

CONSENT AGENDA.

Burroughs stated that he had some questions with regard to the Consent Agenda. He asked if Resolution No. 405 entitled “A Resolution Transferring Sewer Fund, Housing Rehabilitation Fund and Community Center & Park Fund Monies into the General Fund and Eliminating the Original Funds” meant that we were getting rid of the sewer fund. Mitchell explained that the monies will go back into the General Fund. She said that the fund was established by Resolution No. 187 on June 23, 1997 for the purpose of reserving funds for the future purchase of land for a sewer treatment plant. Any balance in a fund that is not expended or obligated by definite commitments within 12 years from the date of election or the adoption of the ordinance or resolution pursuant to which the fund was established shall revert to and become a part of the general fund and shall be transferred thereto by the treasurer or other financial officer thereof. Annual contributions to such funds shall be limited to a period not to exceed ten years. The last year for this fund was 2009. Mitchell went on to say that if Council or the Budget Committee decides that they would like to create another fund they can do that. It is dissolving and the money goes back into the General Fund. Burroughs commented that eventually the City will have to put in a sewer system. Mitchell stated that in approximately 1997 the Council decided that they need to plan either for a sewer system or not to have one. At that point in time they decided to adopt the one-half acre minimum because that was what Linn County Environmental Health determined was the amount of property needed to properly drain the septic tank and leech lines. Mitchell said that the last time she had checked on the cost of a sewer system it was about twelve million dollars and the cost to be passed on to each of the City’s property owners was astronomical. The City has tried to stay stringent on pollutants going into the ground and the water. The question was asked whether or not there was federal money available. Mitchell responded that there is a possibility but that there hasn’t been any federal money available recently. Jones commented that the citizens of Lyons had been surveyed regarding the installation of a sewer system and the response from the homeowners was that it was too costly. Voltin referred to the

Agenda which referred to Resolution #404 which would transfer \$5,000 from the General Fund to the Community/Civic Center Fund. Mitchell explained that the Budget Committee who makes those decisions decided that was what they wanted to do. The Resolution must be passed because the Budget Committee made that decision. Kent stated that the current federal government is really in favor of infrastructure projects right now and he wondered why the City would get rid of something like the sewer fund. He went on to say that it will only take one call from Salem to get DEQ to compel the City to put in a sewer system. Mitchell said that she has looked for funds and has been unable to find any available. Kent said that the money in the sewer fund would be enough to get an engineer started on a study rather than putting it back in General Fund. Mitchell stated that when the money is to be put back into the General Fund. The Budget Committee or City Council can decide to activate a new Sewer fund but the current fund has expired. Jones stated that the money will go back into the General Fund and the Budget Committee will make a decision as to whether another fund is started. Kent stated that the Council makes the final decision. Mitchell said that City Council is half of the Budget Committee and it is all done via motion during the Budget Hearing. This is not a budget hearing tonight. Council can make some decisions but they have a little latitude after the Budget Committee has made those decisions. Mitchell went on to say that there can be a new resolution that establishes a sewer fund that has an initial amount put back into it equal to that which is being taken out of it now. The fund can then resume having contributions made to it and it will be good for another ten to twelve years. Technically the fund is to be dissolved but the City can, at the same time, budget a newly established fund via a resolution which the Council can sign off on. Lucas stated that this is a paperwork change and if the City is mandated to do something about a sewer system we will have to find the funds. He didn't feel that the fact that the City has an \$8,000 fund will tell anyone that we are seriously looking at establishing a sewer system. Kent said that he didn't agree and felt that if someone looked at us and saw that we at least had something established it would give the City some credibility. Lucas said that the point he is trying to make is that whether we have \$8,000 or \$80,000 we haven't spent it, the money has been set aside. There is a line item that has a number beside it. He was not sure that would tell anybody anything. Lucas said that this issue should be brought before the Budget Committee. Mitchell explained that the reason this Resolution is on the Agenda tonight is because she has to have the budget prepared by the end of the month and she doesn't know what to do with the funds that either are not legitimate funds or we don't have a need for them. Budget Committee has to make a decision. The resolution that Council has states that these funds are going to be dissolved at the end of the fiscal year which is June 30th. If Council decides that they would like to have another Sewer Fund it can start right up again after the end of the fiscal year. Also, the Budget Committee could decide to adopt this during the budget process and effective July 1st the City could have a new Sewer Fund. She would just have to draft a new resolution stating that this is what we want to do. In any event we have to take care of the expired fund. Burroughs asked why Resolution 404 transferring general Fund monies to the Community/Civic Center and Park Fund was necessary. Mitchell explained that when the budget is set for the fiscal year which runs from July 1st to June 30th of the following year the Budget Committee makes decisions as to how much money they want to put into the various funds. This is called a budgeted transfer and before the end of the fiscal year that transfer must be made. Kent asked what Council intended to do about the Sewer Fund issue. Mitchell responded that the Budget Committee will decide what to do.

Lucas made a motion to accept the Consent Agenda Items 1 through 7 including Bills to Pay with the provision that re-establishment of the Sewer Fund be considered by the Budget Committee at the May 28, 2009 Budget Committee Hearing. Bowe seconded the motion. Voice vote. Motion carries.

OLD BUSINESS

- **City Wide Clean Up.** Mitchell reminded Council that the City Wide Clean Up event is scheduled for Saturday, May 16th from 9 AM to 3 PM at Freres Park. She stated that she is looking for assistance from Councilors. Lucas and Bowe volunteered to help from Noon to 2 PM.
- **Law Enforcement and Wage Budgeting.** After discussion Lucas made a motion to approve the Agreement for Law Enforcement Services as submitted. Bowe seconded the motion. Voice vote. Motion carries.
- **Library Update.** Mitchell stated that everyone has been working very hard on getting the new library up and going. She displayed some pictures showing the work done and in progress. She said that Brenda would like to do a Grand Opening sometime in June and she will provide a Memo with particulars later. There have been some concerns about the windows in the old sanctuary. The computers for the library are being delivered today. Randy has secured the windows but they can't be opened and closed. They need to stay shut. Ultimately the windows need to be replaced. Kinzer explained that he has secured the windows and all of the cranks are gone. Randy showed pictures of the windows. He suggested that because of the poor condition of the windows the windows should remain shut until they are replaced. Mitchell said that this came up because the library board wanted to have the windows shut so they were secure. She has been approached by Pastor Barton, Pastor of the Canyon Baptist Church, who advised her that the church members want to do a community project under the "I Serve" program. Mitchell suggested that they work on having the library building painted. When they started taking pictures to see what this would entail the issue of the windows came up. Since the windows can't be painted over it seemed logical to change to an entirely different project. Mitchell stated that she felt that the City should wait to replace the windows until the operational costs are determined. However, they do need to be replaced. Lucas asked if the City had a cost estimate to replace the windows. Mitchell said that she did not have recent estimate. There was a question raised as to what was planned for handicapped access. Mitchell explained that pursuant to ADA regulations renovations didn't need to be made at this time. There was a discussion regarding the issue of the changes that needed to be made to the access ramp and the bathrooms and Lucas commented that the City will assume and accept any potential for liability or concerns until such time as those changes can be made. It was the decision of the Library Board to move the library at this time rather than waiting until the City could afford to make the necessary changes. Lucas said that some of the first things that the City would like to do is take care of the bathrooms, the security of the building and appropriate ramps. Lucas suggested adopting a policy with regard to assistance for handicapped persons. Lucas suggested that we need to get an estimate on a security system and an estimate for the cost of new windows. He commented that a security alarm system might be more important than the windows and a discussion ensued regarding various security systems. Mitchell advised Council that Weyerhauser Wave Project where employees do volunteer work for community projects will be discontinued when Weyerhauser is sold. Ms. Cruson who works for Weyerhauser and is involved in the Wave Project asked if before the program is abandoned they could build fences around the library property. The City would purchase the material and they would provide the labor. The neighbor to the west had also stated that he would build a fence between his property and the library property if we purchased the materials. There was a discussion regarding the fencing issue and the amount of fencing which would be required. Mitchell asked Council

what their thoughts were on the City purchasing chain link fencing and having volunteer labor construct the fence. After discussion it was decided that Mitchell would price the cost of installing security, windows and fencing and Council would decide on priority at the next Council meeting.

Dan and Carol K Keillor advised Council that they would provide the sandwiches for the volunteers at the City Wide Cleanup at no charge to the City. Council expressed their thanks to the Keillors. They then left the meeting.

NEW BUSINESS.

- **Approval of Planning Commission Applications.** After discussion Lucas made a motion to appoint Ed Jones and Lon Conner to the Planning Commission. Bowe seconded the motion. Voice vote. Motion carries.
- **I Serve.** Mitchell stated that the original idea for painting the library building was not feasible at this time due to the condition of the windows. Since there are no pressing projects we might consider a city beautification project such as picking up garbage, pulling weeds, marking parking lots, etc. In the alternative we could advise Pastor Barton that the City does not have a need and refer him to the school since the school always has needs. After discussion Lucas stated that he would advise Pastor Barton that the City is still evaluating potential projects.
- **Donation for Library Windows.** Lucas suggested that if the window installation was donated the City could put up a plaque commemorating the donation; we would make the donation known to the public with a presentation by the Mayor which could be publicized in the local papers.
- **Availability of Council for May 28th Meeting.** Mitchell asked Council who would be available for the May 28th Meeting. Lucas advised that he would not be available. Bowe and Burroughs said that they would be available.

There being no further business to come before the meeting Bowe made a motion to adjourn. Lucas seconded the motion. The meeting adjourned at 8.05 PM.

Audrey McNeerney
Assistant City Manager