



City of Lyons

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## **LYONS CITY COUNCIL MEETING**

**November 26, 2013**

### **OPEN MEETING 6:30 P.M.**

Mayor Dan Burroughs called the Lyons City Council Meeting to order at 6:30 P.M. Present were Councilors Gary Alkire, Jesse O'Dell and Mark Orr. City Manager Mary Mitchell and Assistant City Manager Audrey McNeerney attended as staff.

**GUESTS.** Steven Baldwin, Steve Tuchscherer, Tammy McKim, Brenda Harris, Candi Hampton, Doug Hampton, Troy Donohue, Barbara Orr, Linn County Sheriff's Deputy Brian Barker and Jim Purvis.

Burroughs inquired as to whether there were any declarations of conflict of interest or ex-parte contact regarding the agenda items. Burroughs declared a conflict of interest due to the fact that he had submitted a bill for services rendered which was reflected on the Paid Bills Report.

**Steve Tuchscherer – Audit Presentation.** Tuchscherer stated that they had done a review rather than an audit and explained that the reason they were able to do that was because the total amount of expenditures of all of the funds of the City were less than the threshold of \$500,000. Expenditures in excess of \$500,000 would have prompted a requirement for a full audit. He then explained the documentation required to perform a review and the process by which they review the financial position of the City. The report issued states that they have found no material misstatements. He stated that in doing the City's review they did not find anything that would require any material adjustments. He discussed the Statement of Net Position which captures all of the assets and liabilities of the City including infrastructure (streets, buildings, etc.) and the Statement of Activities. He commented that the change in net position is miniscule. He explained the Statement of Assets, Liabilities, and Fund Balances and the Statement of Receipts, Expenditures, and Changes in Fund Balances. He referred to the statement regarding Financial Management made in his letter to the Mayor and Councilors, a copy of which is available upon request. He said that the total revenue for the General Fund was \$325,000 and the ending fund balance was \$125,000 which is about 30% of the total revenues. This means that the City could go approximately 4 months into the year before depleting these funds provided that no other revenues were received and the City continued to pay its bills in the normal manner.

Orr thanked Tuchscherer for making the drive from Roseburg and asked whether the audit is a state format. Tuchscherer responded that the format dictated by the standards set forth by GASB, a nationwide accounting group. Orr then asked whether there were different levels of audit. Tuchscherer said there were 3 levels of financial presentations and assertion levels that they perform as CPAs. The first level is a compilation in which no assurances are made; the second level is a review and the third level is an audit. He then described the different levels of audit.

Orr then said that his last question was "an audit is only as good as the material you are provided with, correct?" Tuchscherer responded "yes, and what material we seek from outside." He went on to say that an audit requires them to obtain confirmations from outside entities. From an auditor's standpoint they have to have "professional skepticism." They rely on what they are told and what they are given, but they are also required to get confirmations from banks and from other agencies stating that the dollars were received and that the reports that are provided agree with the reports

that were provided from staff. There is outside confirmation of the information provided and, although it is information that is provided to them, it comes from multiple outside sources. Orr asked if the documentation was written or verbal. Tuchscherer said that the trial balance and the basic numbers come from the QuickBooks file that is provided electronically. They receive a printed copy of the budget; copies of bank statements to reconcile with the numbers on the financial statements; and the banks provide a written confirmation of the balances as of June 30<sup>th</sup>. There are multiple formats of information provided.

Tuchscherer asked if there were any other questions with regard to balances, income or expenditures. There were none. He went over the Management Letter and pointed out that the City complied with Oregon Budget law in every respect and applauded the City's efforts in this area. He then discussed internal controls and stated that the best internal control is monitoring which City Council does well by reviewing monthly fiscal reports. He said there is no right or wrong, there is just balance, understanding and communication and cautioned against micro-managing.

Alkire asked if Tuchscherer felt the City's reserve was adequate. Tuchscherer said that it depended on what events might transpire and after discussion stated that the City was within the recommended reserve range. Alkire asked if the City's reports were fairly transparent and Tuchscherer said they were and that if Council wanted to get a copy of the QuickBooks program it could easily be done by copying it to a flash drive. Alkire asked if Tuchscherer kept staff informed of governmental changes in auditing. Tuchscherer referred to Item 4 of his Management letter regarding upcoming changes in auditing and governmental financial reporting. He discussed a new venture that he has started called Government Resource Management that is designed to find pockets of underutilized resources that governments have and mentioned that they will be designing a website to present information useful for small local governments.

Alkire thanked him for making the trip and Tuchscherer said that he would be happy to help whenever he can. He thanked Council for volunteering their services and left the meeting.

**Mark Orr – Apology.** Orr stated “I would like to apologize to all of the citizens of Lyons for the comment I made. After a City Council meeting in July I made a comment after the meeting adjourned. My comment was made as a citizen. I have since been informed that as a councilman I no longer have any personal opinions or comments. My comments must be that of the majority of Council. Again, I apologize to everyone for the comment I made.”

After discussion Alkire made a motion to accept Councilman Orr's apology. O'Dell seconded the motion. Voice vote. Motion carries.

**Audit Acceptance.** Alkire made a motion to adopt the audit as presented. Orr seconded the motion. Voice vote. Motion carries.

**Tammy McKim & Candice Henry-Hampton - Library Board Applicants.** Orr thanked the applicants for volunteering to serve on the Library Board. After discussion Alkire made a motion to appoint Tammy McKim and Candice Henry-Hampton to the Lyons Library Board. Orr seconded the motion. Voice vote. Motion carries.

**Brenda Harris – Librarian Report.** Harris presented the Library statistical reports for October and November. She stated that she had met with the United Way and the Salvation Army who would like to do a program this summer called Tools for Schools. They will have entertainment, food and backpacks with school supplies for the kids who attend. Harris stated that she is trying to get bike helmets for the kids as well. This will cost the City nothing; we just have to provide the location and the publicity.

She said that the website hosted by the State Library will no longer be available. Harris said the state is looking for other options but she will have to look for a new resource.

The program “Food for Fines” will be ongoing for three weeks. Donation of a can or box of food will result in the waiving of \$1.00 up to \$10.00 in fines. The food will be going back into the community and will be distributed by Joseph’s Storehouse. Joseph’s Storehouse served over 200 households last week which indicates a lot of need. Harris said that there are a number of programs at this time looking for donations of toys and she said that the Auxiliary is collecting donations for items for the Dalles Veteran’s Home that can be put into their gift shop where it helps the veterans that can’t get out to shop for their families.

**Linn County Sheriff’s Office – Update.** Deputy Barker said that Sgt. Greg Klein who has all of the statistical information has come down with the flu and Barker was filling in for him at the last minute. He said that just from working in the area he can report that burglaries in the area are down, possibly because of the weather. He had nothing further to report.

**Steve Baldwin – NSSD Liaison.** Baldwin stated that he had been unable to go the School Board meeting last month.

#### **CONSENT AGENDA.**

With regard to the Minutes of the August 27, 2013 meeting Orr asked if, as a representative of the City, we are representatives of the City 24/7. He asked if we can separate ourselves at any time. Burroughs said that we are not going to go into that issue at this time.

Orr asked if the e-mail [cityoflyons@wavecable.com](mailto:cityoflyons@wavecable.com) was a personal or city e-mail. Mitchell responded that it was a City e-mail. He questioned who had access to the e-mail and McNerney stated that the e-mail accounts have passwords and are accessible if necessary.

Orr said that McNerney had made a statement previously that she took minutes so that she could accurately write the minutes, but in looking at the video for the first hour there was no one taking minutes at the meeting of September 24, 2013. McNerney said that she takes notes continuously from the beginning of a meeting and she would be happy to provide Orr with a copy of those notes.

Orr asked if there was an executive session at the September 24<sup>th</sup> meeting. McNerney advised him that there had been an executive session scheduled but that he had stated that he would like to remain in open session rather than going into executive session. She referred Orr to page 9 of the minutes. He asked if they were going to discuss the executive session or if it was a “done deal.” Burroughs advised him that it was done. Orr said that he had no further questions with regard to the minutes of September 24, 2013.

Burroughs asked if there was any comment with regard to the October 15, 2013 minutes. O’Dell said that he had no concern as to the minutes but he did have some comments with regard to what was done at that meeting which he will bring up at a later point.

Burroughs asked if there was any comment on the Bills Paid Report. Orr said that he didn’t see a bill for the mediator and asked if she had been paid. Mitchell referred to page 2 of the report which sets forth that on November 4, 2013 the City paid Mardac Consultants’ invoice. There was discussion as to what services the invoice covered.

Orr then asked if Mayor Burroughs had a bill reflected in the Bills Paid Report. Mitchell stated that the bill had been paid and reflected in the Bills Paid Report presented at the last City Council Meeting on September 24, 2013.

O'Dell questioned the Debt Collection Fee from Chemeketa Community College. Harris explained that member libraries of CCRLS contract with a collection agency. If items over a certain amount are not returned they will automatically go to the collection agency. If they don't get results we don't pay anything but if the material is returned or paid for we are billed a \$10 collection fee which is paid to Chemeketa for their services as a collector.

Alkire made a motion to accept the Consent Agenda. O'Dell seconded the motion. Voice vote. Motion carries.

### **REPORTS AND DISCUSSION ITEMS.**

**Minutes – August 15, 2013 Executive Session Meeting.** Orr said that at this time he was still investigating but that he would like to request a complete copy of the recording of the meeting and that he would supply a flash drive for this purpose. Orr said that he has reached out for another opinion but it was difficult to get an opinion based on the minutes because they are inaccurate. Mitchell asked when he would be picking that up. Orr asked if it would be available by Monday and that he could get a flash drive to staff between now and then so they could make a copy of the recording for him. He was advised that it would be available.

O'Dell said that McNerney had answered his questions and he was satisfied.

Orr asked if, when he had elected to go into open session regarding executive session issues at the September 24<sup>th</sup> meeting, those executive session minutes were now public information. Mitchell responded that anything discussed in an open meeting that had been an issue previously discussed in an executive session becomes public record.

**Planning Commissioner Requests for Renewal.** The terms of Planning Commissioners Michelle Keirse-Coulibaly and Herb Bastuscheck will expire on December 31, 2013. They both have indicated by letter that they would like to continue as Planning Commissioners for another term. After discussion Orr made a motion to appoint Michelle Keirse-Coulibaly and Herb Bastuscheck to the Lyons City Council for an additional term. Alkire seconded the motion. Voice vote. Motion carries.

**Holiday Gift Certificates.** Burroughs referred to Mitchell's memo regarding \$50 holiday gift certificates which in the past have been given to each of the City's employees during the holiday season. Orr said that since Harris has indicated that there are many needy families in town he wondered if the staff would be opposed to donating their gift for the purpose of feeding hungry citizens. Alkire said that it would be their choice; however, the City could make such a donation. Burroughs said that he would rather do that than take the gift away from staff members. Orr said that the last thing he would want to do is take away from anyone who needs it, but since we have seen the need what better way to show that we care. He suggested polling staff to see who would feel better donating the funds to someone needy. Burroughs said that he was uncomfortable putting staff in that position. He said that he would rather see the City make a donation than ask staff to give their gift up. O'Dell said that he was against giving out bonuses. Alkire said that he works with all of the City staff and feels that they put in a lot of time that is not reflected in their paychecks. He would like to see them receive a gift certificate. However, he said that he felt that Councilman Orr had a good idea and that it would be good for the City to show support for these programs. Orr cautioned that employees must be paid for all of their time.

Alkire made a motion to authorize the purchase of \$50 holiday gift certificates for each City employee. O'Dell seconded the motion. Voice vote. Motion carries.

There was discussion regarding the City making a donation for needy families. Troy Donohue stated that in Mill City they work closely with the schools since the teachers know best which children are without. They have a program in Mill City to work with the School District to determine which children are the neediest. He suggested that the City work with the teachers at Mari-Linn to determine 10 or 15 such children. Donohue said that this would be a wonderful gesture for the City to make. Mitchell asked Donohue for his recommendation since the City would have to do some research quickly. He suggested talking to the principal at Mari-Linn. He said it wouldn't require a lot of money, perhaps \$15 and a meal per child. Orr suggested that Baldwin talk to the principal at Mari-Linn on behalf of the City. Orr also suggested that this should be an annual program for the City.

After additional discussion Orr stated that the City should reserve the right to go to the Gleaners to see if they can provide food for 20 meals and if so, that the money saved (on food) should go toward additional gifts. O'Dell requested clarification that all of the funds donated must be spent. Alkire made a motion that the City make a donation of \$500 to be used toward providing meals and Christmas gifts to needy families within the Lyons City limits. Orr seconded the motion. Voice vote. Motion carries.

Mitchell stated that she and McNerney would donate their personal \$50 gift certificates from the City to go with the donation to be made by the City.

#### **Commissioner and Liaison Reports.**

- **Alkire – Library, Lyons-Mehama Water District, Safety**
  - **Library Window Screens.** Alkire received a quote of \$50 for the aluminum window screens and plans to get a quote for the less expensive extruded metal ones. He stated that he had a price quote for the extruded metal screens but it would leave them with sharp corners. He has not received a quote to do a finished trim. He said that he would like to postpone the finalization of this issue until after the holidays. There was discussion regarding sealing the area where the bolts are installed to avoid leakage.
  - **Surveillance Cameras & Exterior Lighting.** The cameras are installed and the systems are up. Alkire said that he needed to give Harris instruction on how they work. He said that he is still trying to get cords to adapt the existing cameras on the inside to utilize the system. He is expecting an estimate by the end of the week to put two recessed lights on the entranceway (LED low current) and a recessed light on the west side, the ramp area which will be a dusk to dawn light. There will also be power available to install a motion sensor flood light for the ramp.
  - **Danger Branch (es).** Hanging branches over the power lines in the park adjacent to City Hall were taken down by Steve Winn at a cost of \$90 to the City.
  - **Fire Siren.** Alkire stated that he had attended the last Fire District meeting and the issue of the siren was raised. He said that he had suggested to them that a representative of the Fire District attend a City Council meeting to discuss the type of signal needed to signify a City emergency. They said they would have a representative present a proposal to the City Council. They also raised the issue of possible cost sharing for the wiring, etc. to make the siren functional; approximately \$3,000. Alkire advised that this was an issue for Council to discuss. Burroughs commented that it was his opinion that the City should pay at least half of it because the City would be using the siren for emergency warnings.

Orr stated that he felt that everyone in the City would benefit from the siren but that the exact dollar amount should be a Council decision. He went on to say that it was his personal opinion that because everyone in the City would benefit this issue should be placed on an agenda for a future meeting.

O'Dell asked if Council could get something in writing showing the amount expended. Alkire said that was why he had suggested that a representative attend a meeting. He also suggested a workshop since there are other issues to discuss such as the strategic plan and so forth.

Orr asked if all of the lights outside of the library would be motion lights. Alkire said that there were two functioning motion lights, the lights on the ramp will be motion lights, and the ones under cover will be dusk to dawn.

➤ **Burroughs – Building Improvements, Transportation, Law Enforcement.**

- **Surveillance Cameras.** Burroughs requested that Alkire advise Council of the status of the surveillance cameras on the City Hall building since he was handling the installation. Alkire reported that there are 5 cameras up on the outside of the building. He said he has not installed any cameras on the inside because he was waiting for input as to their location. Orr said that for safety reasons he felt it would be beneficial to have cameras on the inside because if a thief wanted to break in he would just break an exterior camera. He also discussed signage and the placement of interior cameras covering each entry door. Alkire said that he would be unable to do anything with the interior cameras until after the New Year. Orr thanked Councilor Alkire for all of the hard work he has volunteered.
- **Bridge Handrails.** Burroughs said that the handrails had been installed by Burroughs, Alkire and Doug Miller (Public Works).
- **Crack Sealing.** This will be put off until spring because it has to be dry when they crack seal. The bid will still be honored.
- **Law Enforcement Levy.** Burroughs stated that the Law Enforcement Levy had failed.

➤ **O'Dell – Cemetery.** O'Dell stated that because of his work load he had fallen behind on all of his duties.

- **Cemetery Sign Repair /Replacement.** O'Dell stated that had contacted two companies regarding making new foundations and both of them had responded that they did not want to deal with the City of Lyons. They requested that their names not be disclosed. He asked Mitchell to see what she could come up with. He also said that he was supposed to check with Councilor Orr to find out about the cylinders that can be filled with cement.

Mitchell reported that there is an Oregon Historic Preservation Grant that will be taking applications after January 1st and that she hoped to write a grant to see if she could get this fully funded. She said that she had all of the specs and details and she just needed to go over all of the details with O'Dell prior to submitting the grant application.

- **Cemetery Property Purchase.** O'Dell reported that Mitchell was doing research on any potential contaminated soil issues. The question is whether you are allowed to put remains in soil if the soil was contaminated or if it would have to be cleaned first. Mitchell stated that she had been advised today by the Oregon Mortuary and Cemetery Board that it was up to the City to make that determination. If the County approves they will sign off on it. Mitchell has contacted Jan Heron of Linn County Environmental Health but has not yet received a response

from her. Mitchell received a response today from the DEQ agency in Eugene and was advised that DEQ will not impose any requirements. Orr stated his concern regarding “clean water” issues because the Clean Water Act might apply. O’Dell stated that they were still in the process of doing research on this issue.

- **Cemetery Awareness Project.** O’Dell said the report should come from the people who did the work, Alkire and Mitchell. Alkire reported that they (Mitchell, Alkire and Miller) had utilized the new tool purchased to lift and level gravestones. He said that it worked pretty well except on the larger stones. They did get some moved and levelled before the kids from Mari-Linn School came to the cemetery for their cleanup project. The kids had fun and Councilman O’Dell provided tickets to the Haunted House to the kids who volunteered.

O’Dell asked if, when we leveled the headstones, we had contacted the owners of the headstones. Mitchell responded that we had not contacted the owners of the headstones because the ones that were worked on were the oldest and that the City has no records as to who to contact. However, it is written into our rules and regulations that we can perform repairs and/or modifications as we deem appropriate. Alkire commented that they had worked primarily on stones that were safety issues. Mitchell made clear that the work on the gravestones was done prior to the arrival of the kids from the school.

Orr asked if the Public Works employee was qualified to do this kind of work and Mitchell responded that she and Alkire were out there all day with him.

Mitchell stated that she and the Mari-Linn School principal had determined that this was the 14<sup>th</sup> or 15<sup>th</sup> year (except for last year) that they had been doing this project together. October is Cemetery Awareness Month and a group of the RADS (Responsible and Dedicated Students) Kids (anywhere from 10 to 30 kids) participate. The projects change every year. In the past they have pulled weeds; reset concrete borders; helped haul concrete from old borders that had disintegrated; and helped clean the area. They worked very hard and, as Councilor Alkire stated, all of the kids who participated were provided with tickets to get into the Haunted House free of charge. Mitchell said that she took pictures and provided the school principal with appreciation certificates for each of the kids with their name and their picture on them as an acknowledgement of their services.

Orr suggested that volunteers be acknowledged on the City’s website.

## **OPEN HEARING.**

Mitchell referred Council to the proposed amendment the Fox Valley Cemetery Municipal Code regulations. She explained how the amendments were reflected in the proposal and explained that the changes to the Code were primarily housekeeping in nature and, in addition, reflect changes in Oregon Administrative Rules and Oregon Revised statutes. The majority of the changes are clarification of certain terms and the addition of information required on the forms and documentation that is kept in the cemetery records. There are no substantive changes.

Orr asked if these rule changes are accessible to anyone who has a plot in the cemetery if they need them. Mitchell said that copies of these rules are sent out to the mortuaries who actually conduct the funerals. She stated that the new forms had been implemented and sent off to the mortuaries. Rules just need to be changed so that they are in line with the

forms in use and the information we collect. She explained that the Mortuary and Cemetery Board adopts the rules which revise the statutes and then it is passed on.

Harris asked if there was a map showing where plots were located and who they belonged to. Mitchell said there was. Harris asked if it was easy for the public to see because the American Legion and Auxiliary conduct ceremonies on holidays such as Memorial Day and Veteran's Day and the people attending are interested in knowing where their family members are buried. Mitchell said that she had wanted to speak to O'Dell before discussing this because she would like to place a kiosk at the cemetery that she plans to include in the grant application. She has been working with Linn County GIS (Geographical Information Services) to have the records digitized so that a map will be available to be mounted.

Donohue asked if the City flagged the graves of the veterans buried at the cemetery. Mitchell said that the City does not but she works in coordination with the Boy Scouts to flag the graves on Memorial Day and Veterans Day. She provides them with a list of the names and locations of the veterans and the Boy Scouts put flags on all of the graves. After the holiday they collect the flags and return them to the City.

O'Dell said that he had been advised by a member of the community that the Boy Scouts only do one holiday, and asked if we have confirmation that they do all of the holidays. Mitchell responded that it is dependent upon the group leaders and it is within their discretion. It is her understanding that they do at least the two holidays. O'Dell asked if we had backup and was advised that we do not. Orr asked if s the Public Works employee could place the flags. Mitchell said that the only problem with that was that he would have to work on a holiday to put the flags out and then take them down afterwards which would require us to pay the employee time and half for working on a holiday.

Burroughs asked if there were any further comments regarding LMC Chapter 2.25. There were no further questions or comments.

#### **HEARING CLOSED.**

Burroughs read LMC Chapter 2.25 by title. Orr made a motion to accept the changes to Chapter 2.25. Alkire seconded the motion. Voice vote. Motion carries.

#### **Complaints/Investigations/Information.**

Mayor Burroughs asked Councilor Alkire to read his (Burroughs) letter to Council, a copy of which is attached hereto and made a part hereof by reference which states that in the last year Council has spent more time on complaints and investigations than ever before and requests that Council finish up the complaints, make decisions, apologies and amends and move on to conducting the business of the City.

- **a.) Donohue Complaint – Mayor Burroughs.** Mayor Burroughs turned the meeting over to Mayor Pro Tem Alkire since the complaint concerned him. Alkire referred to item 6 of Mitchell's memo summarizing the issues. A copy of this memo is attached hereto and made a part hereof by reference. Item 6 states that a poll needs to be taken of Council members as to whether or not the language used by Burroughs constitutes a substantial violation of Council Rules. If it is determined that it is, disciplinary action will follow; if it is determined that it is not, this will constitute finalization of the issue which will be closed. The memo also states that individual councilors have the right to follow up on this matter on their own if they so desire



Mitchell explained that although the matter was discussed at the last meeting final determination had never been made. Mayor Burroughs read his apology letter without there having been a determination as to whether or not a violation existed. Councilor Orr declined to accept the letter and a vote of the other councilors was never taken. Council now needs to take a poll or a vote on whether or not the issues constituted a “substantial violation” of Council’s Rules. The two issues were (1) the language used at the meeting, and (2) whether or not it was appropriate to distribute certain materials the night of the meeting.

There was discussion as to when Orr was to finish his investigation of the issue and after much discussion Alkire stated that Orr’s investigation had no bearing on whether or not a poll could be taken by Council at this time to determine if, in Council’s opinion, Burroughs’ actions constituted a “substantial violation” of Council rules. McNerney clarified that the poll is to determine whether the fact that Burroughs used language that was inappropriate during the Executive Session meeting and whether placing documentation on the table constituted a substantial violation of the Council Rules. Mitchell said that in her report presented at the last Council meeting, Council was advised that there were no rules governing the placement of documents on the table. Mitchell said that according to Robert’s Rules of Order the extent of the disciplinary action that Council can take is “up to and including public reprimand.” Burroughs had already provided a letter of apology at the last Council meeting. Orr asked if there was a policy allowing any citizen to request that a letter be read at an executive session. Mitchell said that this had never happened before and there was no policy in this regard that she was aware of.

Alkire polled Council and the responses were as follows:

Orr talked about the length of the August 15, 2013 meeting and stated it should never have been allowed to go on for as long as it did. Alkire again asked him whether or not, in his opinion, there was a substantial violation of the Council Rules. Orr said that he felt there was.

O’Dell asked if the question was with regard to the language and the materials distributed at the meeting. Alkire said that was correct. O’Dell said that he did not consider the language to be a substantial violation. The distribution of the material was, for him, a grey area because he knew how he took them versus how they were intended. He went on to say that hopefully we have learned from this and can move forward. Burroughs has apologized and therefore he (O’Dell) would not consider it to be a substantial violation.

Alkire said that in his opinion the letters should not have been distributed and the language issue has been taken care of. After discussion with regard to the distributed material he said that he did not consider it to be a substantial violation.

Orr requested that it be clarified that even though there was a majority vote of the Council that there was no substantial violation, it had no effect on his ability to continue his investigation.

- **b.) Burroughs Investigation Request – Councilor Orr.** Alkire referred to Burroughs letter to Council dated September 19, 2013 which dealt with the issue of Orr’s distribution of his (Burroughs) personal notes to Council. A copy of this letter is available upon request. Burroughs said there was an ongoing investigation in connection with this matter. Alkire asked Orr to give his explanation on this matter. Orr questioned the inclusion of this letter on the agenda at this time. McNerney commented that it was

her understanding that Burroughs wanted the letter read and then be put in abeyance until he has had the opportunity to do further investigation. That is why it was placed on the agenda. Burroughs was asked if he intended to continue with this matter and he responded that he was. Mitchell said that this situation was similar to that of Councilor Orr's in that if Burroughs wanted to follow up on this matter independently he had the right to do so. Mitchell asked Alkire if he still wanted an explanation of Orr's actions. Alkire referred to Burroughs' letter read at the beginning of the meeting regarding being finished with the complaints, etc. and asked Burroughs and Orr if we could start now rather than waiting till the first of the year. Orr asked that this letter be read again because he wanted to go on record as stating "I think there's things we don't want brought out. We do not need to put any more mud on the face of anybody." At Orr's request Alkire read Burroughs' letter again. Alkire asked Orr if he was ready to do this now. Orr said that "for the sake of what's best for the City I think we should." Burroughs said that he wanted a yes or no answer from Orr as to what he said in the telephone conversation. Orr said that the only thing he remembered saying was "Dan, when I was being taken into executive session because of a comment as a private citizen...I went through all my records because..." Burroughs interrupted and said this was a simple yes or no question. Orr said "parts of it yes – not the parts you added – I don't remember that – I didn't say that." There was additional conversation between Burroughs and Orr and Alkire asked if the matter was settled. Burroughs said it was. Alkire then asked if they were ready to continue on as a City Council. Burroughs said he was as did Orr. O'Dell said yes but gave his opinion as to how he viewed the matter. Alkire also said yes and went on to say "next year – fresh start." Alkire said that he would like to close this chapter right now and relinquished the chair back to Mayor Burroughs.

Orr then said that the investigation as to the language is "water under the bridge."

- **c.) Mitchell – Burroughs Notes Distributed by Orr.** McNeerney stated that at the last Council meeting Councilman Orr and Councilman O'Dell stated that they were satisfied with the results of the investigation but they wanted confirmation from the City Attorney. She referred to the letter from City Attorney Tabor, a copy of which is attached hereto and made a part hereof by reference.

It was the consensus of Council that the letter from the attorney is acceptable and this matter is closed.

- **d.) Mitchell – Donohue Email Response.** Mitchell stated that she had received an email from Donohue asking a number of questions. He didn't ask for the email to be on the agenda but requested that it be distributed to Council and have his questions answered. If Council is satisfied that the questions had been answered there is nothing further that needs to be done. Orr said that he wasn't aware that any work had been proposed for Apple Loop. Burroughs responded that it had been started last year, was rained out and completed this year. Mitchell said that this work was done pursuant to a contract previously entered into but because of the weather, wasn't completed at that time. She cited the effective contracting rules stating that the contract fell within the appropriate limits.

O'Dell said that he had an opinion about one sentence in the response which he will discuss with Mitchell at a later time. With regard to Item 5 of the response O'Dell stated that he had offered to help the City staff with the photocopying of information to assist in the education of Council Members. His office got busy and he was unable to finish the photocopying. Due to his inability to finish the photocopying, the information cannot be presented to Councilors at this meeting. He stated that this was not the fault of City staff and took responsibility for the failure to have the information available tonight.

Orr asked if the City Attorney had sent the City a letter regarding the Stayton Mail article which stated that the City had not passed a budget. Mitchell responded that that issue had been reported on and finalized at the last City Council meeting.

- **e.) Lucas Letter and Request to ask Questions.** Burroughs stated that Lucas had written a letter to him dated October 14, 2013. In that letter he requested that Burroughs ask Councilor Orr the following two questions: “Did Mark Orr contact Dee Moore or anyone else at the Stayton Mail and provide input to the article dated July 31, 2013 titled Council Minutes Subject of Lyons Meeting?” When asked, Orr responded that he had not and asked whether any citizen could make requests such as this. Burroughs responded that they could. The second question was: “If Councilman Orr denies that he contacted the Stayton Mail regarding this issue, does he know who did and if so the identity of that person?” Orr responded that he did not.

Orr then asked if anyone knew how Lucas had gotten the information so quickly regarding the complaint he filed with the Ethics Commission. There were only four people at the meeting in question. Did the staff know? Mitchell responded that there were four people who were aware of that information; McNerney, me, and Attorney Steve Tabor and Mayor Pro Tem Alkire via e-mail. Alkire claimed that he had not received that e-mail. McNerney said that she knew what Councilman Orr was getting at. She stated “I would like to say unequivocally, in front of the camera, in front of the Mayor and in front of City Council, neither Mary nor I had anything to do with the information that got to Lucas. I do not know how he received that information but I do know that it did not come from our office.” Orr said “thank you that is all I needed to know.” Mitchell then stated that she would also like to go on record stating that she did not know how Lucas got the information but that it didn’t come from staff.

- **f.) Conner Letter & Request to ask Questions.** McNerney read the letter dated October 31, 2013 addressed to Mayor Dan Burroughs from Lon Conner and, as requested in the letter, posed the following questions to Council:

1. Have you ever heard Mr. Orr either before his election to the City Council or since indicate that his intention is to remove current City Hall Staff and replace them with persons of his choosing?

O’Dell – No.

Burroughs – Yes, but not recently.

Alkire – Not from Mark Orr.

2. Has Mr. Orr ever threatened or suggested he would use documents, recordings, verbal statements or other means in his possession to expose alleged wrongdoing on your part in regards to City or any other business should any attempt be made by the Council to reprimand, or severely discipline him, up to potential removal from Council.

O’Dell – No.

Burroughs – Yes.

Alkire – Don’t remember.

Baldwin stated that he did not support Conner's position as stated in this letter.

Orr asked if Council had voted whether or not his actions had been deemed a substantial violation. McNerney responded that Council found they were not a substantial violation. Orr then stated that question 1. had been addressed at the last Council meeting.

O'Dell asked (with regard to the questions posed by Lucas and Conner) if there is a point where you can say enough is enough. Burroughs responded that since these letters have been adequately responded to, these issues are closed. O'Dell said that he knew that everyone has the right to submit letters but he wanted to know if we keep getting the same things over and over do we keep addressing them. Burroughs responded that this is the end of the matter.

### **PUBLIC COMMENTS.**

Baldwin stated that he was glad that Council could put these issues behind them and go on and take care of their jobs which, in his opinion, were to maintain streets; maintain lights; maintain the library; maintain safety; and maintain the cemetery.

Mitchell stated that a decision needed to be made regarding the December meeting which would normally fall on Christmas Eve. Councilman Alkire will be unavailable until after December 17<sup>th</sup>. Mitchell said that typically December is a quiet month and since we don't have anything pressing at this time we could forego the December meeting.

O'Dell asked that at the next meeting he would like to have discussion regarding the mediation meeting. It was decided to have this discussion now. O'Dell commented that it had been mentioned that the mediator would like to come back and possibly have additional training sessions. He felt that this was a total waste of City money and he will not be involved if she comes back. If there are other training sessions such as this he said he would not attend. Burroughs said that that the reason for consulting the mediator had been an attempt to assist Council in getting along better. Orr said that since it has now been decided to start over it would be best if we use City money in other places. He suggested that (if there were differences) Council try to work things out as a team and asked to go on record as stating that the biggest problem is communication; when someone gets left out of the loop they think they are being singled out for some reason. One of the goals for the coming year should be to determine how to communicate better with each other.

It was the consensus of council that the next Council meeting will be January 28, 2014 unless there is an emergency which would require a special meeting before that date.

Orr asked how soon we would be filling the vacant council position. Burroughs said that this would be discussed at the January meeting.

There being no further business to come before Council, the meeting adjourned at 10:00 P.M.

Audrey McNerney  
Assistant City Manager