



City of Lyons

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MINUTES LYONS CITY COUNCIL MEETING December 20, 2011

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, Troy Donohue, Lon Conner and Dan Burroughs. City Staff in attendance were City Manager Mary Mitchell, Assistant City Manager Audrey McNerney and Administrative Assistant Tami Owen,.

GUESTS. George L. Geddes, Theresa Donohue, Steve Baldwin, Mark Orr, Gary Alkire and Newell Robison.

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. Dan Burroughs stated that he had submitted a bill for services rendered. There being no other conflict of interest or ex-parte contact, the meeting continued.

PUBLIC COMMENTS TO COUNCIL. Morgan announced that if anyone would like to comment or address the Council, this was the time to do so. There were no comments.

CONSENT AGENDA.

Morgan requested that item #4, Audit Report 2011, be removed from the consent agenda since the Audit Report will be discussed later in the agenda.

Conner made a motion to accept the Consent Agenda minus item #4 which consisted of:

2. Minutes – October 25, 2011 City Council Meeting
Minutes – December 1, 2011 Executive Session/Special City Council Meeting
3. Bills to Pay – November and December 2011

Burroughs seconded the motion. Voice vote. Motion carries.

DISCUSSION ITEMS.

5. City Council Commissioners – Update of Activities.

Cemetery Commissioner – Lucas reported that moles were again causing problems at the cemetery and the thought was to purchase some traps and have the public works employees attempt to deal with them which would be less costly than contracting with the exterminator again. However, Lucas commented that in the event that it appears as though the more skilled and experienced services of the exterminator are required the issue of renewing their contract will be considered. Lucas also commented that the public works employees had done a good job of installing the fence at the cemetery and it looks as though it will stand for a long time.

Street Commissioner - Burroughs reported that two beavers had been trapped in the drainage ways near 24th Street which should alleviate the flooding problem on 24th Street. The trapping effort will continue because it appears that there are more beavers in adjacent drainways.

Library Commissioner – Conner reported that the Council had previously discussed and approved facility inspections of the City's publicly owned properties for ADA compliance. These inspections have been completed and we are now awaiting submittal of those report findings. Following receipt of those reports a special City Council meeting will be convened to review the reports and determine the appropriate course of action. Morgan asked if both the Library and the City Hall had been inspected. Conner responded that they were.

Building Commissioner – Donohue asked if the City had received any information regarding those reports (ADA inspection). Mitchell stated that the reports had not yet been received.

6. Employment Update.

Morgan stated that as discussed at a prior meeting as well as during the Budget Committee Meeting earlier this year, the City has added an administrative support person to the City Hall staff. As directed by the City Council the position was advertised and 37 applications were received. From those 37 applications one in particular stood out and that was from Tami Owen who was ultimately hired to fill the position. He introduced Tami and she was welcomed by the members of City Council. Morgan stated that it appears that she will be an asset to the City and fit in very well with the existing staff.

Lucas asked that the record reflect that Council had decided to try to use the services of a temporary agency. There were only two applicants recommended by the temporary agency and neither was as well qualified as many of the other applicants who responded to the ad in the newspaper. The salary requirement for an employee from the temporary agency was much higher than originally anticipated. The utilization of a temporary agency was not feasible because of the lack of available talent and the cost involved.

Mitchell commented that there was a 42% mark up on the wages of a temporary employee hired by the temporary agency and before that person could be hired as a City employee (at a lower rate of pay) they had to work 560 hours as an agency employee.

7. Planning Commission Status and Applications.

Mitchell reported that the City had received application letters from Darren Cross and Kim Hunn, (whose terms expire at the end of December), indicating their willingness to continue as members of the Planning Commission for another term. Clastine Ritchie, whose term also expires at the end of this month, has decided not to serve another term. This leaves one opening on the Planning Commission.

Mitchell said that she has noted on the Reader Board that applications to serve on the Planning Commission will be accepted until January 6, 2012.

Mitchell requested that Council make a decision as to whether to appoint the two applicants to the vacancies on the Planning Commission. She commented that Kim Hunn has served on the Planning Commission for a number of years, except for a short period of time when she had temporarily moved out of Lyons.

Baldwin commented that he wasn't aware that there was an opening on the Planning Commission. Mitchell confirmed that there will be an opening after December 31, 2011 and invited him to apply.

8. Steve Tuscherer – Audit Report 2011.

Morgan stated that we had received the Audit Report for 2011. The Auditor had a scheduling conflict and was unable to attend tonight's meeting, however, he will attend the January 24, 2012 meeting to give his report and answer any questions Council might have.

PUBLIC COMMENTS – LIMITED TO DISCUSSION & ACTION ITEMS.

Orr asked what agency is doing the ADA inspection report. Morgan responded that it was the agency that is in charge of ADA regulations. Orr asked what they are called. Conner responded that it was the U. S. Department of Education Office of Equal Opportunity. Orr asked if the report was expected soon. Morgan responded that it was. Orr asked if the report covered both City Hall and the Library and was informed that it will.

Orr stated that last summer the City had OSHA come in to inspect City facilities and inquired as to whether the City had received a report on what the City needed to change. He then asked if everything had been complied with. Mitchell responded that it had been taken care of within a week of receiving the report. He asked if he could have a copy of that report. Mitchell responded that there is a charge of 20¢ per page. Orr then said that he would rather not pay the City and that he would ask OSHA for a copy of the report. He said that he hated paying the City when the City spends money in ways that he does not approve of. Morgan said that this was a City policy and if he wanted to get the report from OSHA that was fine. Orr then asked how many pages the report consisted of. Mitchell said that the report had been

received months ago and she didn't recall the specific number of pages. Orr asked Mitchell if she would please let him know. He said that he wanted to see what the cost was. He went on to say that "I know some people get things paid for and some people don't. I guess I'm the guy that don't. Some people get special privileges and the City pays for things."

Lucas commented that he wanted the record to reflect very clearly the hundreds of dollars spent in man hours and publication costs (in connection with Orr's requests). He asked Mitchell how much had been spent and Mitchell responded that it had been over \$500 and that was the total a year ago.

Orr then said that he sent a second request where he had asked for yes or no answers and "you guys wrote a book." Morgan said that Orr had not been charged for that and that we didn't write a book, we explained our answers. Orr interrupted and stated that all he had asked for was yes or no answers. Morgan responded that some of the questions were not questions that could be answered with a yes or no. Morgan went on to state that the City had been very clear and that Orr was not charged for that response. Orr then said that probably would have been a better way to answer the first 10 questions he asked.

Lucas said that there was a procedure for requesting information and the City intends to employ it here. Orr said that he was just curious because he had asked for a yes or no but was given the same kind of answer when the City wanted to charge him the first time. Lucas then stated "let's get something completely clear here, you can ask questions all you want to but you can't dictate the answer You can ask for a yes or no but that doesn't mean that's what you will receive. You can ask the question but you don't dictate the answer."

Morgan said that the City does not charge per page charge for answers given. Morgan said that when a request is made, for example a copy of the OSHA report or something similar, there would be a per page charge. If you ask a question and we respond to that question we are not going to charge per page but by the time it takes to research and compile the information.

Orr then said "I sometimes have a hard time figuring out who is the Mayor because Mike likes to answer all the questions." Morgan responded that he was the Mayor and asked Orr if he had anything further for Council.

Orr then asked if the City employees had work logs tracking what they do on a daily basis. Mitchell asked who he was asking about specifically. Orr asked how many employees the City had. Mitchell responded that there were 9 employees. Orr then asked how many of them we knew what they did on a daily basis. Morgan responded "all of them." When Orr asked how we knew that, Morgan responded that we have supervisors." Orr then asked "who is supervising the crew when they are out in the field." Morgan said that Mitchell is their direct supervisor and while she is not out in the field with them all of the time, we have hired individuals who do not have to have their hands held all of the time. There are tasks identified, the "crew" attends to the task. The City has certain expectations so far as time goes. Orr asked "How do you guys judge that? Have you guys done this before?"

Morgan then asked Orr what his point was. Orr responded that he was just curious because he knew of employers who required that a daily work log setting forth what was done, how long it took etc. He said

that since he was the guy footing the bill he wanted to be sure that the City was getting the most for their dollar. Mitchell asked Orr if he knew what our employees do. Orr responded "I don't know. Do you know what they do every day?" Mitchell responded that the public works employees checked in with her every day. There are specific tasks for the day or for the week that is given to them. She said "I know exactly when they work and where they are at a given time." She went on to state that she does not leave the office more than once a week to go on site but she does follow up to be sure that things which are supposed to be done are done in a timely manner. The employees check in with her periodically and in a typical day she talks to whoever is working at least twice per day.

Morgan asked if Orr had specific concerns that we have employees who are not doing their job. Orr said that he was just curious because *his* boss likes to know what he is doing. Morgan then asked Orr if he had anything else for Council.

Orr then asked when the public will get a copy of the ADA inspection report. He said that he had brought this issue up some time ago and had been told by Conner that the City had been advised by Linn County that the City was ADA compliant with the applicable requirements. Mitchell stated that the City had that fact documented. Orr then asked if "this agency" had been shown that report. Mitchell said that she had provided them with a copy. Morgan then stated that when a copy of the report is received it will be a public record. Mitchell addressed Orr and said that it was her understanding that if there were any issues he wanted them to be addressed. Orr then said "I want the City to be compliant, everybody else is...."

Orr then stated that he had "gotten on" to Council for months and months about the "mud puddle" on 5th Street. Morgan responded that this was an issue that the City had been working on for months and months. Orr said that he could show from City minutes from when Lucas was Mayor that it didn't happen. He asked "Why are we just now getting around to doing it?" Morgan stated that we have been working on that particular issue for quite some time. Morgan went on to state that he and Orr had been talking about this particular issue and that Orr knew that the City has to work with ODOT because 5th Street is a state highway. The City is continuing to deal with this issue and has the expectation that the work will be completed on that particular issue within the next few weeks. Orr stated that he had worked with ODOT enough to know that if there is a safety concern they do not drag their feet for two or three years. Morgan said that was Orr's opinion. Orr then said "just so you know I am helping you guys out. There are going to be some newspaper guys down here..." Morgan asked if he (Orr) was helping himself out and Orr responded that "I am helping the kids to walk down the street. Is that not a concern to any of you guys?" Morgan told him that of course it was a concern and that was why the City had been working on this issue for so long to get it resolved properly.

Conner said that he had a question for Mr. Geddes. He said that the Water District had three employees and asked if anyone followed them around during the day to be sure that they got their job done. Geddes responded that that was why they had a supervisor. Conner then asked "who follows the supervisor?" Geddes said that Kelly does and that he checks on them every once in a while. Conner then said "but you are not out there checking on them every day following them around." Geddes said that it was hard to miss Grimes (the supervisor) because he's around. Conner then stated "as are our City people."

Conner referred to the Safety Meeting that Orr had requested be held at City Hall that he had chaired and told Orr that he was curious as to where Orr was on plans that had been discussed at that meeting. He said that Orr had stated that since there was no written plan for an escape route he (Orr) was going to prepare one. Conner inquired as to where Orr was with that project. Conner went on to state that after the fire hydrant issues Orr had stated that he was very close friends with Mr. Geddes and Mr. Grimes and the Fire Chief and that he (Orr) was going to take care of the issue of the fire hydrant inspections and get that issue resolved. Conner said that he would like to know where, (after eight months), Orr was on those issues. Orr said that there were e-mails between he and Mitchell. (Note: Mitchell states that there has never been an e-mail exchange with Orr on these topics.) Conner said that he would like to see those e-mails and that he would also like to see the written escape plan that Orr had stated he would prepare.

Orr then said that he could not get Mr. Morgan to get back to him. Morgan responded that he and Orr have had multiple conversations during the week. For Orr to say that he (Morgan) does not get back to him (Orr) is a fallacy. Orr asked Mitchell if Morgan had access to her e-mails. Mitchell said that he did not. Orr asked if Mitchell had forwarded the e-mail sent this date stating that he was upset that Morgan had not gotten back to him. Morgan said that he had responded to that e-mail and that he had a copy of his response in his possession tonight. There was discussion regarding the timing of the response. Morgan said that for Orr to say that he (Morgan) did not get back to him (Orr) is disingenuous.

Orr said that he thought Conner had taken care of the fire hydrant issue. Conner responded that all he wanted to know was whether Orr had spoken to Geddes or Grimes or the Fire Chief about getting the fire hydrants inspected. Conner said that a yes or no answer would be sufficient. Orr said that Council wanted to explain their answers and he wanted to explain his. Orr referred to his allegations about the theft of water from the fire hydrants. Morgan asked him if he had any further issues to bring before Council.

Orr then asked if Morgan was going to give him the name of the agency that had done the ADA inspection. Morgan stated that Council had given Orr the agency name. He asked Orr if he had anything further. Orr asked Morgan if he would work with him on preparing a plan for the emergency evacuation of the City Hall building. Conner said that there was a plan in place for the escape route of the City Hall building that Mitchell had prepared and implemented. Conner explained that what he was referring to was the issue that Orr addressed on April 7th regarding the fact that the school had no emergency evacuation plan, the City had no emergency evacuation plan and he (Orr) was going to take care of that. Orr said that he wasn't at that meeting. Conner responded that Orr had chaired that meeting.

Morgan asked Orr if he had anything further for the Council. Orr said that he was just helping the Council. Morgan asked Conner if he would recite the name of the agency one more time for Mr. Orr and Conner did so. Orr asked if they would give Council a yes/no answer. Conner responded that there isn't necessarily a yes or no with the federal government. They are going to give us a response... Orr interrupted and stated that he could guarantee that he could make two calls tomorrow and get more results than you (Conner) get and quicker. Conner told Orr to do it.

Morgan stated that when Orr had been talking about Council not taking care of the "mud puddle" issue Orr told Morgan that Orr had connections with ODOT that he was going to get in touch with and Orr was

going to try to work on his end just like Council was working on their end. When Orr and Morgan had their last conversation Orr told Morgan that he hadn't contacted them because he didn't want to bother them and that he didn't think it was his job to volunteer his time to that issue. Morgan then told Orr to please do not come to Council and say that he (Orr) had been addressing this issue forever and that Council has had deaf ears to his complaints.

Orr then asked how much of the Councilors jobs they wanted him to do. Morgan told him that they did not want Orr to do any of their jobs. Orr responded "you guys need some serious help."

Morgan asked if anyone else wanted to address the Council.

ACTION ITEMS.

Conner made a motion to accept the Audit Report for the fiscal year 2010-2011 as presented. Lucas said that, knowing the report had to be filed with the Secretary of State by the end of the month, and knowing that the Auditor will be at the January Council Meeting to answer any questions Council may have, he seconded the motion.

Donohue referred to the section of the Audit Report which reflected that the City's net assets had decreased by almost \$96,000 and that our cash investments had decreased by \$61,000 and asked how that will affect the City's operations. Mitchell pointed out that the Auditor states that with the amount of money the City has set aside in the money market account there should be no effect. She went on to state that many of the expenditures, such as the Storm Water Drainage Plan, were one time expenditures and will not be recurring. Mitchell offered to go over any of the financial records with Donohue if he wished. Donohue said that he was just trying to understand because the \$95,000 decrease to the building assets is a huge amount. Mitchell explained that it was depreciation. Mitchell suggested that that would be a good question for the Auditor when they make their presentation at the January meeting. Donohue commented that the City's income actually increased by 4.4% over last year's income. Lucas asked that we have the Auditor explain the difference between expense and depreciation. Mitchell said that she would pass these questions along to the Auditor.

Voice vote. Motion carries.

Lucas made a motion to reappoint Kimberly Hunn and Darren Cross to the Lyons Planning Commission. Conner seconded the motion.

Lucas asked how the length of each term was determined. Baldwin responded that the terms were determined by a drawing. After a question from Donohue regarding the length of each term, Mitchell explained that each position is assigned a term and the length of the term is determined by the position drawn for. Baldwin commented that he will apply for the open Planning Commission position. He was advised that he should make application no later than January 6, 2011.

Voice vote. Motion carries.

COUNCIL AVAILABILITY.

All Councilors and Mayor Morgan stated that they would be available for the January 24, 2012 City Council Meeting.

There being no further business to come before Council Lucas made a motion to adjourn the meeting. Morgan seconded the motion. Voice vote. The meeting adjourned at 6:35 pm.

Audrey McNeerney
Assistant City Manager