

**City of Rainier
Regular Meeting Minutes
September 6, 2011
7:00 p.m.
Rainier City Hall
106 West "B" Street**

Meeting called to order by Mayor Jerry Cole at 7:05 p.m.

Council Present: Mayor Jerry Cole, Sloan Nelson, Mike Avent, David Langford, Phil Butcher, Scott Cooper, Russ Moon and Bill Vilardi

Council Absent:

City Staff Present: Ryan Murphy, Bobby Jo Harding, Dan Foultnier, Darrel Lockard, Darlene Lavelle and Debbie Dudley

City Attorney Present: Steve Petersen

Visitors Present: Michael Carter, Connie Budge, Lois & Orville Abken, Darlene Rea, Phyllis Keller, Louise Gossey, Terri Robinson, Phyllis Cox, Jim Grimes, Lola Smith, Eugene Smith, Crystal Booth, David Qualman, Jewell Lavelle, David Devine, Joy & Scott Anderson, Peggy Wallace and Debbie Hazen, Clatskanie Chief

Flag Salute

Additions/Deletions from the Agenda:

Community Garden and Public Works Directors Contract discussion moved to next agenda.

Motion by Vilardi, 2nd by Avent to add request by Crystal Booth to review zone definitions for the Morgan Estate a private residence.

Passed Unanimously

Mayor's Address:

A moment of silence was observed for our fallen soldiers and recognition of the upcoming 10 year anniversary of September 11th.

Visitor Comments:

Michael Carter; the school district will be celebrating their 100 year anniversary, they will be providing information on the celebrations, very excited about that, working with the churches on a community garden, the proposal will go before the school board on Monday we have plenty of space up there, school starts tomorrow, please slow down in school zones. As a private citizen I would like to acknowledge sometimes when we're looking for leadership we forget our own.

“Debbie Dudley has done a great job in service to our community, and in representing our City, you might want to look at her as an interim leader. Connie Budge; where is the City at in asking LOC to assess the administrative infrastructure, I think it is really important to look at what we have and what we need before we jump into something. Butcher; will check with Jennie Messinger on that, working on other things. Cole; will look into finding an organization that can do that for us.

Orville Abken; Now that the Planning Commission approved Teevin’s land use application with conditions, who makes sure they follow the conditions?

Bobby Jo Harding; The City does not have a compliance officer.

Langford; I heard about this decision and maybe that needs to be brought up in front of the Council and let the Council review it and make a decision on it.

Cole; in order to do that somebody will need to appeal the Planning Commissions’ decision. Nelson; could the City’s nuisance ordinance help with this?

Bobby Jo Harding; this is more DEQ, an air quality control issue.

Darlene Rea; Contacted the Portland office of DEQ about the dust, they referred her to Astoria.

Langford; How do you appeal the planning decision. Harding; our planner explained the process to the audience, you have 14 days, cautioned the Council about ex-par-tay at this point. Cole; Teevin’s operation is pretty honest, if you want to see if they made the conditions, I think they would show you they met the conditions. You shouldn’t make comments about the planning commission’s decision in case of appeal, which could be considered ex- par-tay. Does every one understand that?

Moon; don’t we get copies of decisions the planning commission makes?

Butcher; not for 14 days, because of the appeal process.

Budge; the copy of the approved application will include testimony from citizens and the air quality report provided by Teevin was difficult to understand.

Terri Ramy; is proud to announce she is sponsoring a police officer for CIT training.

Motion by Moon, 2nd by Butcher to approve the August 15, 2011 regular Meeting Minutes as presented.

Passed Unanimously

“C” Street Slippage Update:

Peterson deferred to Harding to address the outstanding issues; outdated geotechnical report, additional costs associated with project and the modified contract. Harding asked for Council direction on these issues. The City’s geotechnical engineering standard states the study will be outdated in 3 years. Petersen suggested requiring the property owner to provide a hold harmless release agreement/waiver. The City will look into changing the expiration on future geotechnical reports. Nelson; I want to make sure whatever we do, we’re not doing it in a fashion that puts the City out there, we don’t want to be sued

down the road, my concern is we have two geo's. Petersen; I'm not worried about the geo's, your engineer designed the project, they've taken soil samples, they see what's happening up there, they've analysed it, they said you built it this way and there'll be no problem, and you've got to trust your engineers, that's what you hired them to do. Harding; Kynsi changed the contract which states contractor is responsible for contracted services, who is the contract going to be with? Cole; the contract is with Lucas, it's always been with Lucas. Harding; the contract is between Kynsi and the City. Cole; Petersen will do the hold harmless agreement and the contract will be between Kynsi and Lucas, the contract has always been between Lucas and Kynsi. Cooper; we're not doing a contract with Kynsi are we, it's between Lucas and Kynsi? Cole; make that part of the motion. Petersen; they got the bid from Kynsi, we approved it and we were going to be in charge of making sure it got done, pursuant to the engineers design, with Darrel overseeing. Cole; Kynsi is confused, they need a contract with Lucas.

Motion by Avent, 2nd by Cooper to authorize the Mayor work with Petersen to negotiate a contract for a hold harmless agreement with Lucas and that the contract for the project is between Lucas and the contractor, the City has no ownership in that contract.

Passed Unanimously

Update on the Process to Proceed with an Ordinance Prohibiting Smoking within 25 Feet of Any Front Building Entrance.

Dudley; a copy of the survey that went out to business and property owner's in the CBD zone was included in your packet. We will provide the results at the September 19th meeting.

Consider a \$33,660 Bid from The Automation Group Inc. for the Water Treatment Pump Upgrades.

Lockard; we contacted three companies, one didn't want to do it, the other one didn't contact me back. There's not a lot of companies that can do the work. I recommend that we accept that bid. Vilardi; are we using only one bid?

Motion by Langford, 2nd by Moon to accept the bid from the Automation Group. Langford; this came up about 6 weeks ago, we asked him to get more bids. Moon; the money can come from the Timber Fund. Avent; what about money to fix Fox Creek. Lockard; fixing Fox Creek will cost about \$500,000. Avent; Darrel, your saying to fix Fox Creek you got bids of \$500,000. Lockard; no, we got a scope of work from Gibbs and Olsen, they sent back 2 or 3 estimates to replace that line, the line is wore out, that whole line needs replaced. Moon; call for the question.

Aye: Moon, Langford, Butcher

Nay: Avent, Cooper, Nelson, Vilardi

Failed

Langford; Jerry, do you have your letter for boiling water available

Cole; what do the nays want to see to move forward? Cooper; I have a concern about our ability to get bids. Vilardi; why don't companies want to bid on this, I want to see more bids. Cole; Will any of the nays be willing to work with Darrel to review the bids? Cooper and Vilardi volunteered. Avent; is concerned the City doesn't have a back up water source. Nelson; the plant was built to do what it's been doing, is this a necessity?

Rivers Edge Mobile Home Park Discussion Summary:

Dudley, the first contact was in March of 2010, the City brought it to the Council and consensus was to move ahead. The connection is allowable under our current municipal code. Lockard; we need to make sure there is no problem with the design, there may be a gas problem. We are waiting for them to get back to us. Dudley; Rivers Edge will be responsible for all project costs, but we can give them credit for any upgrades to the system though SDC's. Lockard; I recommend we charge the rate based on the formula used for Rightline. Additional information for fees and SDC charges will be brought back for Council approval.

SCA/ARRA Grant/Allotment Discussion Summary:

Cole; How many bid do you have? Lockard; the third bid will be in tomorrow afternoon. Cole; who do you have bids from? Lockard; TFT construction, Mike George Construction and I'm waiting for a bid from Lakeside in Longview. Langford; how many bids do you have? Lockard; three, two now and one's suppose to be in tomorrow. Cole; one of the company's we wanted to get a bid from is Hoss Construction; we were given their name by ODOT.

Motion by Vilardi, 2nd by Cooper to authorize Cole, Lockard and Langford to review and accept the lowest bid for the SCA/ARRA project. This will allow the project to move ahead without having to wait for the next meeting.

Passed Unanimously

Motion by Nelson, 2nd by Vilardi to approve the amendment to the "B" Street project, adding \$500,000 to the grant funding for the project.

Nay: Moon

Aye: Langford, Vilardi, Nelson, Butcher, Cooper, Avent

Motion Passed

Motion by Moon, 2nd by Avent to clarify the residency of the Morgan Estate. It was determined the 18 month non-conforming use restriction did not apply. The residence was not considered vacate, until the death of the property owner about 12 months ago.

Passed Unanimously

Motion by Nelson, 2nd by Cooper to approve the Department of Land Conservation and Development Grant for Planning Assistance in the amount of \$1,000.

Passed Unanimously

Motion by Nelson, 2nd by Cooper to approve a 24 month Maintenance Agreement with Otis Elevator. The monthly contracted amount is \$195, with an annual CPI cap not to exceed. 4%.

Passed Unanimously

Motion by Cooper, 2nd by Moon to set an annual storm water rate for Conrad Wood Products at \$19,500.00 for one year. David Qualman, from Conrad Wood stated the Company was not prepared to pay a rate that high; they can operate their own plant for that.

Motion Failed Unanimously

Motion by Cooper, 2nd by Avent to set an annual storm water rate for Conrad Wood Products at \$14,000.00 for one year. The Company will provide testing twice per year on the storm water, and be restricted from dumping anything other than storm water and anything that could damage the waste water treatment plant.

Passed Unanimously

Motion by Nelson, 2nd by Vilardi to approve the Library Board's recommendation for new Library hours. The evening hours will coincide with day light savings time and the summer evening hours will twice per week on Monday and Tuesday.

Passed Unanimously

Motion by Moon, no second to hire the individual currently working through a employee services company as a City employee. The position would be eligible for all City benefits. Discussion; including hiring two employees to work under 20 hours per week to eliminate the payment of health benefits.

Motion Failed Due to Lack of a Second

Discuss Local Government Personnel Institute Assisting with the Union Public Works/Clerical Contract:

Dudley; LGPI provides a variety of services, they can negotiate the contract, then can review the contract for legal issues, they can review the contract to see how it measures in industry standards with regard to Cities our size; we are members so the fees are at a discounted rate of \$150.00 per hour. It may benefit us to have them help us in with any compliance issues pertaining to the negotiation. Cole; lets ask them for a proposal and see what they can offer.

Motion by Langford, 2nd by Moon to approve the request by the Rainier Minister's Fellowship to use the Park on September 11th from 8:00 am to 3:00 pm for an all church barbecue.

Passed Unanimously

Police Service Area Discussion:

Motion by Moon, 2nd by Langford to approve the request by the Rainier Police Department to take life threatening calls outside the city limits, within the fire district boundary. Discussion Summary; Nelson if they were life threatening wouldn't we respond anyway? Murphy; without them being there we'll be the primary officer so we'll be responsible for the reports. Vilardi; how often does this happen? Murphy; very limited, less than 10 times a month. Cole; expressed concern about spending too much time filling out reports. Cooper; can someone attend the Sherriff's meeting before we make a decision? No one volunteered. Moon; call for the question. Nelson; wanted to wait until after the meeting so more information was available before making a decision.

Aye: Moon, Avent, Butcher, Vilardi, Langford

Nay: Nelson

Abstain: Cooper

Langford; just so you know, Roberts Rules of Order an abstention is a no vote.

Motion Passed

Motion by Avent, 2nd by Moon to extend the meeting by 15 minutes.

Passed Unanimously

Council Reports:

Moon; I have a handout, this is kind of to put a stop to some of the negative things that are being said about some of our City Officers, I took a oath in 2006 to uphold the Citizens of Rainier, main sheet in here is from 2010 and 2012 budgets, there seems to be some errors, there seems to be 758,821 in error, I think because of that I would like to have a forensic audit, I gave out information to the Councilors and the reason for this audit would be , REDCO needs to know what it's going to do, how much money's there, so does the City and if there's a cost to have this audit then half of it should be paid by REDCO and half of it should be paid by the City. I think all that does it just firms up the information and gives a little more follow the money and not have a electronic cocktail. Michael Carter, you are supposed to provide copies to the public and notification so I'm talking for the question on that. Cole; this should be public record, so I if anyone would like a copy, I didn't even get a copy. We'll provide a copy. Would you like this on a new business item? Moon; I'd like a vote of the Council to hire this Grayson Parker, he's done work for the Port, he comes highly recommended. Michael Carter; I'd like to call for the question, anything over 10 % the budget committee should have been notified this accusation is over 10%. Cole; not only that, I would have appreciated additions to the agenda, instead of just being... Moon; I asked you today about changing it the first thing and you said no you were going to run through it as quick as possible, I asked for an addition to the agenda. Cole; I honestly don't remember you asking me that, I'm not going to argue with you Russ. Moon; this is not up for discussion; put it on the next agenda for the next meeting.

Cooper; I'd like to know how many times our Finance Director is going to have to prove herself before we ... Moon; this is not pointing at the Finance Director this is getting rid of those accusations. Cooper; Russ, you have come at this from 63 direct ways in 6 months since I've been on this Council and it always ends up with the finger pointing back at finance. Cole; we'll add forensic audit discussion to the next agenda.

Langford; in looking at the check register I don't see my stipend being given to Hope. Back in December 2010, after the elections were over I asked for my stipend to be given to Hope. Cole; I thought you said to totally cancel it, the only one I remember is when you said to suspend it, when did you change it. Langford; I went to her specifically and told her. Dudley; I don't recall that.

Motion by Avent, 2nd by Moon to send the amount from David Langford's stipend to Hope from January 2011 to current. Dudley; so from January 2010 forward? Langford; "I said from 2010, I forfeited by stipend back to the City, then after the election of 2010 in December, at the very first meeting in December I said to send my money back to Hope. Good thing I read these things, we wouldn't have things going right. Nelson; what do you mean we don't have things going right? Cole; everyone stop, you can have this discussion after the meeting.

Passed Unanimously

Avent request authorization to attend the League of Oregon Cities conference in Bend, Oregon. Council agreed to pay for the registration and two nights lodging.

Motion by Langford, 2nd by Butcher to extend the meeting by 10 minutes.

Passed Unanimously

ORS 192.660(2)(h) Consult with counsel concerning legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Ors 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

Reconvened regular meeting.

Butcher; I have been working on the process for hiring a City Administrator. Cole. Cooper; what about the organizational structure? Cole; we're waiting for the 6 month payments to Lars to end before we hire someone.

Meeting Adjourned at 9:35 p.m.

Jerry Cole, Mayor

Attested: _____
Debra Dudley, Recorder