

City of Rainier
Regular Council Meeting Minutes
May 7, 2012
7:00 PM
Rainier City Hall
106 West “B” Street

Mayor Cole called the meeting to order at 7:15 PM.

Council Present: Mayor Cole, Sloan Nelson, Bill Vilardi, Phil Butcher, Scott Cooper and Mike Avent.

Council Absent: James Bradfield.

City Staff Present: Debbie Dudley and Chief Gregg Griffith.

City Attorney Present: Stephen D. Petersen

Flag Salute:

Agenda Additions/Deletions:

Addition – Avent moved, Sills 2nd, to add REDCO/USG discussion. **The motion passed unanimously.** The item was added as item “e”, New Business.

Mayor’s Address: Mayor Cole read the names of 23 fallen service personnel since the last council meeting and a moment of silence was observed.

Mayor Cole recognized the city wide cleanup held on May 5th and thanked the staff and volunteers. Nelson reported the yardage amount of items taken in.

Dudley publicly acknowledged and thanked Melody and Alan Harrison from the Deli Store for their donations of lunch for the workers and Dudley also thanked the community, the business owners, city staff and the county for all the help making the cleanup day a successful event.

Visitors Comments: Tina Edwards, 304 West “D” Street, Rainier, Oregon stated she hoped the clean-up day would continue. Edwards stated she was on the parks committee years ago and requested the City implement a sand volleyball court at the park. She has organized volunteers to put together the park equipment and she would spear-head volunteer efforts. Edwards said Hector at El Tapatio would donate the court and her family would buy cement and poles. Mayor Cole said horse shoe pits never got replaced at the park and Edwards said that would be good for seniors. Edwards said these were promises made years ago and need to be followed through. Cooper said he had a big interest in what Edwards was proposing. Nelson asked if the original park plan called for volleyball courts and Mayor Cole said it did not and the things that were spelled out in the original plan that weren’t there was a community gazebo, a stage area and then the Little League people came in. Edwards added that was supposed to be a removal fence. Mayor Cole said a volleyball area would not be a huge foot print and advised Edwards to bring a

proposal to Council on where it would be located. Avent said he remembers the volleyball court and horse shoe conversations and Cooper said he would meet with Edwards and Sills suggested putting in horse shoe pits. Avent mentioned the City removed a sign regarding dogs and Dudley said it has been replaced and dog mitts also added. Dudley one was added at the marina also.

Mayor Cole said Ron Lucas was here to talk about the parking area and his concerns and was the last visitor comment and it would also be considered unfinished business as well. Ron Lucas, 323 West "B" Street, Rainier, Oregon. Lucas said in 1992 when the residence was built the City required him to put in a blacktop driveway in the city right of way only for the residence to use and it had to be a separate driveway from the mini storage and it only had to be wide enough for a car since it was a driveway access to a garage and it was approved by Pete LeSollen, the City's Public Works Director at the time. Lucas said he put in landscaping all the way from his property line to the nearest street curb which was Highway 30. Lucas said a couple of years after that he put in some bark dust path for the public to use to get to the park and he didn't know that would upset anybody and he was asked to come in and was told it was a liability and the City could get sued because of crossing the railroad tracks so he moved the footpath. Lucas said also during that time they put in a new sign for the mini storage facility and that is also in the city right of way area, they got permission from the city via a sign permit and ODOT and the City told them where to put the sign in the right of way which they spent \$5,000 on the sign. Lucas said that sometime after that he received a letter from City Attorney, Steve Petersen, stating the City was upset demanding action and for Lucas to remove his items off the property. Lucas said he ignored the letter and didn't hear anything of it until recently when he received another letter. Lucas said the theme boat is on his property. Lucas said he was told the City was planning on putting a parking lot on the area and he stated it is a dedicated public street right of way and law is clear what the City can use that for and it cannot be used for a parking lot, a city shop or that type of matter and can only be used for street purposes and the use for travel. Lucas stated the railroad does not want people walking across the track and that is what would happen if there was a parking lot in that area. Lucas said parking is allowed on the side of the street but a parking lot would not be allowed. Lucas asked what the items were he was requested to move and what the City's plan for the area is and he would like to cooperate rather than file an injunction. Mayor Cole said he invited Lucas to attend the council meeting when Lucas asked him if he had to move the stuff right away. Nelson said the original idea was to have some kind of park-n-ride site available and asked Petersen to provide them the statute that prohibits that. Petersen said the bottom line is it's the City's property. Nelson said he read the file and there has been dialogue back and forth and appreciates the fact that Lucas wants to cooperate and the City was interested in moving forward to do some kind of park-n-ride so Lucas' stuff on the city property was requested to be moved. Lucas said the fencing is on his property, not the City's property. Lucas suggested the City look at the area one block over because it is a better location. Cooper stated the concern wasn't a better location but that it was the City's property, not Lucas' property. Avent said he didn't think this issue came up as an idea of revenge regarding "C" Street as Lucas had referred to earlier. Avent suggested exploring to see what the City could and could not do and Nelson said he thought it had been explored and was told they were able to do it and that's is what they were told. Lucas said the Oregon Supreme Court ruled that the abutting

owner is also the owner of the soil of the street in front of his lot to the center of the street subject to the right of the City to right of the City to improve the same for the purpose of the same. Lucas said that was a case in Portland where the City tried to use the street right of way that it had for non-street purposes. Avent asked Lucas if he would give the information to Petersen. Mayor Cole said Lucas has a valid concern because it is a change to his way of living. Cooper suggested getting it on the agenda for a work session so Petersen can review the documents Lucas referred to. Mayor Cole told Lucas that in the meantime is flower pot can stay where it is. Mayor Cole said he wants to do what is right. Lucas said if there is something down there they want moved to let him know. Lucas said if he has to go through the appeal process he will and there are other places for a park-n-ride.

Unfinished Business:

- a. Approve April 16, 2012 Regular Meeting Minutes – Vilardi moved, Sills 2nd, to approve the minutes, **motion passed with Avent abstaining.**
- b. View Street Update – Dudley said it is on the work order, the supplies are here and they are waiting for the dry weather to get it done.
- c. “B” Street Agreement Approval – Butcher moved, Avent 2nd, to proceed on the resolution for the right of way services, **motion passed with Sills abstaining.** Butcher moved, Nelson 2nd, to approve Amendment 1218960 – **motion passed with Sills abstaining.**
- d. “C” Street Slippage Update – Dudley spoke with Mark Kynsi who is going to speak with both property owners because he is would like to get to the site between their residences for an easier spray. Dudley added that Kynsi said he will be filling the section underneath the sidewalk Council was concerned about providing seed and the seeding will be done within the next couple of weeks.
- e. Pocket Park Update – Nelson reported that June 2nd is the date for the project, the City installed water service to the site, the excavation will be done by Ken Neal who is donating his time in the next week or so, the group handed out flyers to the adjacent property owners letting them know about the project and they are still in need of money, they have gotten a little more money but are still a little short and if anyone is interested in the project they are in need.
- f. Training Update – Dudley stated she needs the information back from the Councilors on specific areas for training, there are three other cities that are interested in jointing with us for training. Dudley said that training will be scheduled after budget, it is now peak budget time and everyone is focused on budget. Avent suggested a generic overall training program since other cities will be involved. Dudley said she would like Rainier to set the training topics, with impute form the other Cities. Mayor Cole suggested the rules and responsibilities of Councilors for discussion.

New Business:

- a. Appoint Budget Committee – Dudley reported that there are two applicants; Nancy Norman and Al Guist who have both had budget experience as past employees and their term would expire 2015. Avent moved, Sills 2nd, to appoint Norman and Guist to the budget committee – **motion passed unanimously.**

- b. Approve Budget Format – Dudley presented the budget format that is the same format used by the State. Nelson moved, Vilardi 2nd, to adopt the budget format as published in the Local Budgeting Manual provided by the Oregon Department of Revenue – **motion passed unanimously.**

- c. Approve Bergerson Construction Bid – Mayor Cole said the low bid was \$15,187 to replace and repair 300 LF of bull rails on the marina dock. Cooper asked if the City has had legal discussions with Bergerson over the issues at the marina. Mayor Cole said he has been working with Bergerson and they have looked at the issues. Cooper said he was concerned regarding Bergerson’s lack of repair and Dudley said that part of the problem was the design. Dudley said she checked with the Oregon Marine Board who gave Bergerson a good reference. Butcher expressed concern stating the bid submitted from Marine Service Specialties, Inc. for 820 LF is for \$18,450.00 and Dudley said their bid was not consistent with the scope provided. The specifications they were given was for 300 LF, which included materials, fabrication, and installation, under the specifications from the Marine Board. Nelson said there is no way 820 LF could be repaired and replaced for \$18,450.00. Nelson moved, Sills 2nd, to accept the bid from Bergerson Construction for \$15,187 – Mayor Cole asked if the Bergerson bid was accepted did they give a time they would start construction and Dudley replied they were told the City needed it done by June 30th and Bergerson indicated that would not be a problem - **motion passed with Butcher voting nay.**

- d. Budget Discussion – **MOVED TO EXEC SESSION**

Staff Reports:

Chief Griffith – May 15th is National Police Officers Day and looking forward to the City clean-up day.

Public Works – Dudley reported things are going well and moving forward.

Dudley - clean-up day was a huge success as a result of staff cooperation, the deli store providing food, and the community volunteers.

Council Reports:

Sills – nothing.

Vilardi – clean-up day was a great success and everyone teamed together, will get together with Foultnier regarding power for Days In The Park, Mayor Cole said there will be a Days In The Park on Thursday, 6:00 PM at the Masonic Lodge, the meetings are the 1st and 3rd Wednesdays of every month at 6:00 PM.

Nelson – clean-up day was a success.

Cooper – nothing.

Avent – thanked Dudley and the public works crew for their efforts in the clean-up day, would like to see the volleyball court go forward.

Vilardi added that he spoke with the corrections crew supervisor and they could be a work source for the Days In The Park. Dudley added they were a great resource and the supervisor will be sending a contract to her for review.

Butcher – nothing.

City Calendar/Announcements:

Mayor Cole announced the city budget committee meeting will be May 21st at 6:00 PM and the Regular Meeting at 7:00 PM.

New Business Addition as item “e”:

Redco/USG – Avent stated Redco authorized to pay \$1,000,000.00 and they need to get authorization from the City to reimburse Redco for \$305,000.00 which is the City’s portion of the settlement. Nelson asked why they should not do it now rather than in July and Dudley stated there is no reason other than if they did it now there would have to be a supplemental budget hearing. Avent moved, Nelson 2nd, to direct the budget officer to appropriate \$305,000.00 in next year’s budget for USG to reimburse Redco – **motion passed unanimously.**

Executive Session at 8:23 PM:

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.

ORS 192.660 (2)(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

Convened Regular Meeting and adjourned at 9:37 pm.

Mayor Jerry Cole

Attested: _____
Debra Dudley, City Administrator, Finance
Director and City Recorder