

**City of Rainier**  
**Regular Council Meeting Minutes**  
**July 9, 2012**  
**7:00 PM**  
**Rainier City Hall**  
**106 West “B Street**

Mayor Cole called the meeting to order at 7:17 PM.

**Council Present:** Mayor Cole, Scott Cooper, Mike Avent, Phil Butcher, James Bradfield, William Vilardi, Phil Butcher and David Sills.

**City Staff Present:** Debra Dudley, Chief Griffith, Bobby Jo Harding, Dan Foultnr, and Wayne Smith.

**City Attorney Present:** Stephen D. Petersen

**Flag Salute**

**Agenda Additions/Deletions:**

Avent stated he and Mayor Cole had met in the morning regarding EDU issues and Avent stated Curt Lahti and his partner were going to address the issue during visitor’s comments. Mayor Cole stated they had met and Mayor Cole suggested adding it to agenda since it was in depth. Avent moved, Cooper 2<sup>nd</sup>, to add EDU issue to the agenda as new business item g – **motion passed unanimously.**

Mayor Cole read a request from Mike Kreger on behalf of the Rainier Chamber of Commerce to use a portion of the park for the city wide garage sale. Avent moved, Nelson 2<sup>nd</sup>, to add the Chamber’s request to the agenda as item h – **motion passed unanimously.**

Mayor Cole announced item d under unfinished business will be discussed in executive session.

**Mayor’s Address:** Mayor Cole read the names of 17 fallen service personnel since the last council meeting and a moment of silence was observed.

Mayor Cole distributed a copy of a flyer to Council that was posted at the Post Office. The information on the flyer stated “alert” there was going to be a 17% increase in water and sewer rates and encouraged citizens to “show up or pay up.” Mayor Cole stated he hadn’t seen a 17% number in the budget and the budget document reflects a 4.7% increase and is very transparent. Mayor Cole said additionally the 4.7% increase hasn’t been approved. Mayor Cole said the 17% increase flyers are incorrect and he is always available for questions. Mayor Cole encouraged the person who put up the 17% flyer to give him a call if they had questions, there are no hidden agendas, and the utility rate discussion is on the agenda for tonight.

Mayor Cole thanked Councilor Vilardi for donating his time for the electrical work for Days In the Park.

**Visitors Comments:**

Connie Budge, Rainier, stated the US Navy ship, Rainier, will be in Portland for refitting in September and she thinks it would be nice if it could salute Rainier and would be part of the committee to see if the ship would visit Rainier. Mayor Cole said maybe they would stop and blow the horn.

Tina Edwards, Rainier, asked how to get a volleyball court in the City park. Edwards had attended previous council meetings regarding this matter, she has a net that would be donated and she doesn't feel it would be that expensive. Edwards referenced the park plans done in the past and she thinks a volleyball court would be good by the tennis court but could come up with another location. Avent suggested a group present the Council with various proposals regarding space, location, seating, growth, etc. then he would be able to make an informative decision. Mayor Cole suggested Edwards present the Council with Avent's suggested information.

Jan Moon, 29874 Riverview Drive, Rainier, Oregon asked if the Mayor had access to the park plans and Mayor Cole said they are probably in City Hall and what he remembers of the plans they were fluid and proposals. Moon said the plans included the riverfront walk and "A" Street plaza and she finds it really irresponsible the City doesn't have access to the plans. Nelson said he thought there were three different designs for the plaza and he doesn't think it was ever decided what particular plan to use. Mayor Cole said he thinks it was a Redco project regarding the "A" Street Square.

**Unfinished Business:**

- a. **Approve June 18, 2012 Regular Meeting Minutes** – Avent moved, Cooper 2<sup>nd</sup>, to approve the minutes – **motion passed unanimously.**
- b. **View Street Update** – Foultnier reported they will start in August.
- c. **Training Update** – Dudley said she received information from the Council as to the requested training and she would like to incorporate some of the NIMS training. She would contact the other cities to see what available dates and subjects they are interested in and then she will report to Council at the next meeting.
- d. **Park and Ride Update** – **moved to executive session.**
- e. **Judicial Services** – Dudley, as directed by the Council at the last meeting, contacted likely candidates, including Judge Wardle, and ran an ad in the paper, the position will close on July 18<sup>th</sup>. Avent asked if the City currently had a judge and Dudley said she would have to defer to the court clerk since she doesn't know of the conversation between the current judge and the court clerk. Mayor Cole said the current judge told him that he was going to stay on until it all got worked out. Judge Wardle clarified for new council members Bradfield and Sills that in March Dudley asked him to come up with a

budget decrease of 10%, 20% and then we got together with Cooper and Vilardi was going to be Avent and Cooper, it wasn't about the budget it was about reducing the court days. Wardle added that on June 4<sup>th</sup> Dudley sent him a notice of the contract signed by a Nicholas Wood in Scappoose and also an IGA from Scappoose and St. Helens. Wardle said he still doesn't have a contract. Wardle met with Avent and Mayor Cole and told them he was concerned he not let the City down because he has been the Judge for 27 years, a pro-tem for 3 years and told them to let him take care of this until they find somebody. Mayor Cole said that was fine, they were not going to make a decision on the 4<sup>th</sup> and they will do something on the 18<sup>th</sup> and Wardle said nobody told him about the 18<sup>th</sup> Mayor Cole said that when they met on the 31<sup>st</sup>, and Mayor Cole said he would postpone the judicial discussion until the 18<sup>th</sup> and Wardle agreed, Mayor Cole said he assumed Wardle would know that if they were going to make a decision about him (Wardle) on the 18<sup>th</sup> he would know to be present. Wardle said Mayor Cole was putting that off for discussion much like tonight which he was also not informed about so he thought he better attend. Wardle said he had been contacted by Scappoose and Vernonia who stated they heard he was not the Rainier Judge anymore. Dudley said the City is going out for proposals per the Council's direction and Wardle was repeatedly asked and invited to submit a proposal and the City is hoping that Wardle as well as a number of other people will submit a proposal. Wardle said Dudley told him they would offer him a contract. Dudley said the proposal sent to Wardle is what is similar to Scappoose and St. Helens agreements, and Wardle was sent an email and hard copy and it is an agreement. Wardle asked Dudley why she sent it to him since she knows he can't meet the requirements. Dudley said the proposal that was sent to him was specifically changed so Wardle could meet the requirements. Mayor Cole agreed with Dudley's statement. Dudley said the numerous references in the proposal to the Oregon State bar were eliminated and if they were not they should have been. Wardle asked about the E & O Insurance and Dudley said that should be covered through the City's coverage. Dudley reiterated proposals have been asked of the candidates and if Wardle wants to include something in his proposal he can. Dudley said it is a request for a proposal per the Council. Mayor Cole asked what it cost for the current judge and Dudley said around \$24000.00. Mayor Cole said the bottom line is cost. Dudley said Rainier is paying for 20 hours a week; Scappoose is paying for 8 hours a week, and are paying about \$320 per court date. Dudley said Scappoose's 8 hours vs. our 20 hours per week was a consideration. Dudley said that in the discussion with Wardle, Vilardi and Cooper, Wardle agreed court could be done once a month. Dudley added the court clerk also agreed court could be done once a month. Dudley clarified Wardle previously did not have a contract with the City and Wardle said that was right, he was an employee. Mayor Cole clarified that the reason Vilardi attended the meeting with Wardle and Cooper instead of Avent was because Avent didn't have time for the committee. Cooper told Wardle the agreement was an example of what to submit as a proposal. Avent moved, Cooper 2<sup>nd</sup>, to put Chuck Wardle on month to month as the judge until the official decision can be made. Dudley said proposals are due to be in July 18<sup>th</sup> and the proposals will be discussed at the first meeting in August. Mayor Cole added a 30 day notice. Wardle said the Scappoose Judge gets \$375 per court date

and Dudley said it was a little less because the Scappoose fee is \$1400/month. Nelson asked Wardle if he was willing to be the Judge for \$375.00 per court date per month and Wardle said he would. Dudley said trials are separate as indicated the copies of the proposals that Wardle received. **Motion passed unanimously.**

**New Business:**

- a. **Consider Resolution 12-07-01 Adopting the Records Request Policy.** Cooper moved, Vilardi 2<sup>nd</sup> – **motion passed unanimously.**
- b. **Consider Resolution 12-07-02 Approval of the Increase in Garbage Rates.** Nelson moved, Vilardi 2<sup>nd</sup>. Dudley said the county commissioners have already passed it - **motion passed unanimously.**
- c. **Consider Resolution 12-07-03 Approval of the IGA with REDCO.** Nelson moved, Cooper 2<sup>nd</sup>, with Petersen to correct date. – **motion passed unanimously**
- d. **Consider Authorizing Agreement for Water Right Survey - Dudley** explained the City has to have the water permit renewed in order to take water from the Columbia River. The first phase of the permit process is done but a water surveyor needs to be hired. She contacted over five companies and she got a response from two, with the estimate anywhere from \$7500 to \$10,000 which is why Dudley brought it to Council. It is a critical issue, it has to be done and done by an engineer. The variance in the amount is contingent on the work that is already done. The company will move forward and will be working directly with Ann Reese of the water resource department. The deadline is October 31, 2013. Dudley said once the City receives the permit it won't have to be done again. Cooper moved, Bradfield 2<sup>nd</sup> to authorize an agreement for the water rights survey – **motion passed unanimously.**
- d. **Utility Rate Discussion** – Dudley stated utility rates have always been a hot topic. Staff has gone back and looked at the EDUs and discrepancies were found where some merchants were being overcharged. Dudley said the preference would be to credit the individual accounts and that information will be brought back to council once the numbers are verified. Dudley added that she is not proposing anything at this point, but inequities in the system need to be considered, for example the City charges EDUs for residential multiple dwelling units, but does not address multiple commercial or retail business. Dudley added the resolution that was passed was specific to residential multi-dwellings. Dudley said she personally doesn't think retailers should be charged EDUs, they don't have the demand on the system that residential customers do. Dudley added it was discovered there are a couple of retailers that have had EDUs applied to them and we will be crediting them. Staff has gone through the old EDU schedule that was provided by the former public works director to make sure our system is in compliance. Dudley said staff will be in the process of confirming the individual units per EDU customer, originally there were

some changes made by former staff and Dudley wants to confirm that everything is correct and someone is not being charged more or less than what they should be. Dudley said the entire EDU system should be reviewed for inequities to all users. Dudley said an issue to consider is should the retail customers be charged a different rate because they are not putting the same demand on the system. Dudley said she will be checking with other agencies to see what works for them. Mark Cooksey, co-owner of properties in Rainier, stated in talking with other business owners in Rainier there are some concerns regarding the EDUs. Curt Lahit, resident of Rainier, did a comparative survey and distributed the information to Council, expressing concern about billing inequities. Lahti asked for a moratorium on any rate increases until the issues can be researched and asked a committee be formed independent of Council. Mayor Cole proposed Lahti, Bradfield, Sills and Dudley be on the committee. Dudley said she had questions when the system was developed by the committee which consisted of two councilors that are no longer councilors and the prior public works director. Mayor Cole asked the committee to report to Council an update, not a final at the August 6<sup>th</sup> meeting. Avent said he was always against EDUs. Avent and Lahti said there are discrepancies in the EDU billings and the resolutions. Dudley said that one of the properties on Lahti's information was one of the properties that she specifically addressed as being overcharged.

- e. **Remonstrance Agreement Discussion** – Paul Rice, PO Box 481, Rainier, OR 97048 is developing property on Lewis Road and gave Council an overview of his development, the process he has gone through and he does not feel he should be required to sign the non-remonstrance agreement that was a condition of the August 25, 2011 preliminary land partition plat staff report and decision by Don Mathison, City Planner. Mayor Cole suggested giving Rice another appeal window. Avent moved, Cooper 2<sup>nd</sup>, to approve a ten day re-appeal period for Rice to the Planning Commission – **motion passed with Bradfield voting nay.**
  
- f. **Chamber's Request to Use the City Park for the City-wide Garage Sale** – Nelson moved, Avent 2<sup>nd</sup> – **motion passed unanimously.**

#### **No Council or Staff Reports.**

Avent moved, Butcher 2<sup>nd</sup>, to extend the meeting 15 minutes – **motion passed unanimously.**

#### **Executive Session:**

**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.**

Regular meeting reconvened.

Regular meeting adjourned at 9:35 p.m.

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Mayor Jerry Cole

Attested: \_\_\_\_\_  
Debra Dudley, City Administrator/Recorder/  
Finance Director