



August 2, 2018

City Council Regular Session
Willamette Activity Center, Rm 8
47674 School Street
7:00 p.m.

MINUTES

1.0 CALL MEETING TO ORDER / PLEDGE OF ALLEGIANCE

Council Present: Judy Rowland, Mayor
Gary Carl, Council President
Josh McMillin
Paul Forcum
Kathy Holston
Kevin Gobelman

Staff Present: Louis Gomez, City Administrator
Mike Hansen, Fire Chief
Jackie Taylor, Assistant City Rec/Assistant Planner
Susie LaDuke, Finance Director/City Recorder
Kevin Martin, Police Chief
Rick Zylstra, Community Services Coordinator

Mayor Rowland announced an executive session.

Executive Session: Executive Session: ORS 192.660 (2) (f) to consider information or records that are exempt from disclosure by law including written advice from your attorney.

Regular Session resumed at 7:12 P.M

2.0 PUBLIC COMMENT

Dawn Kinyon 76113 Fish Hatchery Road- She is giving the council only, a formal complaint against the City Administrator for failure to properly vet a DUII conviction.

Stephan Ball 76482 Cedar Street-He wanted to thank some city staff who he saw doing a great job this week, Rick Zylstra, Officer Clevenger and Leah Brewer.

James Affa 76340 Garden Road- He is concerned with the city councils lack of knowledge of operating instructions that the law requires you use Roberts Rules of Order. Better or worse the State of Oregon says you have to use a parliamentary procedure you don't have to use Roberts, but the city voted to install this. He is amazed and appalled that people lack, not all of you, but most of you don't know how to make a proper motion. These are your operating instructions, this book also relates to your order of business and how you handle things. He would ask that man there (motioned toward Louis) to buy you a copy. There are even little cheater books that cover even the simple things you people will use.

Jerry Shorey 48192 McFarland Road- He is appalled at the things that are taking place in the city, he has a long history in this city and he has invested a lot of time and he hates to see it trashed. He was on the council when the city melted down in 2011-2012, some of the reasons for that was failure of council oversight, too many employees that were laid off at the time, lack of transparencies, lack of community support, financial mismanagement and that plays into pretty much what we are doing now. The current situation is lack of community support, loss of credibility from the city council and the city administrator, people working outside of their job descriptions, loss of credibility, citizen trust, lack of administrator oversight, failure to follow the city charter. When we were going through our meltdown we held our meetings in the high school auditorium to give people more room. He wants to see less confrontation from both sides of the coin.

Jim Coey PO Box 122-In regards to the minutes from the last meeting, on page two and the top of page three, it says "Susan said in the matter of the independent contractor's contract, it was sent to Brenda Wilson of LCOG by the former Mayor in January and asked her to comment on it and she too agreed that MVHC, (Mr. Coey said which he assuming is Michael V Hansen Consultants) was an independent consultant, she said this was not done by our attorney and Susan said this was done without the council's knowledge and without the staff's knowledge, although it is staff's knowledge now". So how is it the staff's knowledge now? "So, obviously you have looked at my private emails that I neglected to close out of on my desktop on my (city) computer when I was the mayor. Brenda Wilson is a personal friend of mine and this isn't something that was done underhandedly, it was something that I was asking an opinion of a friend who happens to be an attorney, but also the director of LCOG. I just find it, it might not be illegal to look at my personal emails, but I find it highly unethical. The only time I ever discussed things with Brenda Wilson was on my personal email because again, we are friends. I understand that everything I do on the mayor email is open, but when you start attacking my personal email I have a problem with that. She offered an opinion, she did not make a decision, and she is not a judge. She wasn't asked by the city, she was asked by a friend to offer an opinion, which she did."

Dennis Patterson 47871 W 1st Street-That address in and of itself is unimportant, the fact that it is one block from the high school is however. He noticed on the agenda tonight is water quality testing, he assumes it's going to be testing water at the well head. He suggests a more accurate test of what people are getting out of their faucets be tested. He would hope they would test the water at the schools.

Loren Hogue 48319 E 1st Street- On August 11th they are having the Keg and Cask festival uptown and it is a primary supporter of the food bank for the city. They will go on from 3:00 p.m. until 11:00 p.m. this year

he would like to ask for volunteers to help clear the street. Water testing at what is called point of use the National Primary Endowment Act does say water will be tested at point of use, too many times point of use proves false negatives.

3.0 MAYOR AND COUNCIL COMMENTS

Councilor Carl wanted to follow up with Mr. Coey, he said had an opinion from a friend with regard to something, but he didn't specify what. What was the opinion if you feel like you can share it?

Jim Coey said he asked the question as far as the definition from what he was hearing from people is that there is a real fine line of what is determined as an employee and what is determined as a contractor. There are several cities in the state that are being sued by the government because they have done this to avoid paying PERS, workman's comp and benefits. He was being assured by Louis that we were fine, so he asked a friend of his who just happened to be the lead attorney for PERS before she became the director of LCOG what her opinion was. She determined that it sounded like he was definitely a contractor and not an employee. That was one opinion, the other is, and that was based on the definitions that the state requires or puts forth. Out of that he took it back to Louis and said this is very gray here, we are going to get into trouble here because we are liable for all of that back comp and all that back PERS, any back expenses, he is very concerned about that. That is why he went to her and asked for her opinion and she supplied that to him.

Mayor Rowland told Mr. Coey that no one hacked his private email.

Jim Coey said "that is the only way you could have gotten that information That is the only way that comes through, she and I only converse via my personal email, not the city email, so that is the only way."

Councilor Forcum wanted discussion about the city's contract with Michael V Hansen, LLC put on the agenda.

Mayor Rowland said she's not sure if we can do that.

Councilor Holston said she is not sure everybody heard what that was, he would like to discuss the contract. Councilor Holston said she seconds that.

Louis said we will put this as 6.5, we don't need to vote to add it to the agenda.

Councilor Holston said she'd like to add something to the agenda also, she would like to have further discussion of an evaluation assessment of an administrative review of all of the city. We began the discussion last time and we tabled it. This isn't about one individual, it is about the processes we use and other things, so she would like to reintroduce that and discuss it.

Councilor Gobelman said he understands that there was a conversation between the administrative staff and a PERS Representative concerning the PERS liability with the city concerning the relationship with Mr. Hansen, he received that as an email some time ago. He asked Susie if she could elaborate on that.

Susie said PERS contacted the city because they had received a phone call asking about Michael V Hansen and if he was an independent contractor. The email was sent out because there was a lot of discussion

going around and as a heads up that someone contacted PERS, PERS contacted us, she answered their questions and they were satisfied with those answers.

Councilor McMillin wanted to add discussion to fill the open City Council position.

4.0 ADDITIONS, CORRECTIONS, OR ADJUSTMENTS TO THE AGENDA

Motion: Councilor Carl motioned that pursuant to executive session he respectfully requests that we impose a moratorium of 30 days before taking any action of any kind involving Mr. Gomez's employment status with the city and there be no conversation or discussion with the council outside of executive session and in conference with our attorney. Councilor Gobelman seconded the motion.

Councilor Holston asked if this needs to be a little more specific, we should make sure it just says council discussion.

K. Gobelman (aye), G. Carl (aye), Mayor Rowland (aye), P. Forcum (aye), K. Holston (nay), J. McMillin (aye).
Motion carried 5-1

Councilor Carl said because of previous instances he wants to make it clear that executive session is not to be discussed outside of executive session.

Councilor Holston wanted to reiterate that this is not to be discussed by the administration either.

5.0 CONSENT AGENDA

Motion: Councilor Holston moved to approve the consent agenda as given. Councilor Forcum seconded the motion.

Councilor Holston said she has some concerns with the minutes, for example when Mr. Barclay stood to make a public statement, he took exception to being called "you people." There is also a lot left out when Genia Baines spoke and she knows she didn't identify herself. She knows there is a lot going on, but she'd like the minutes to reflect more accurately what happened.

Councilor Carl with respect to the minutes, it stated that Louis believes that the points that the city attorney made as far as what his review was as he reviewed the allegations, the bullet points are sufficient to present. He is not clear on if Louis thought that the city attorney instructed you that bullet points from executive session could be presented or exactly what you felt you are authorized to disclose out of executive discussion pursuant to advice from our city attorney.

Louis said what he heard was it could be, however, we have received additional information since and he is saying that nothing, initially he said you could release findings, and now he is saying not to release any findings.

Councilor Carl asked when Louis was told not to disclose information.

Louis said when the Mayor did her response earlier this week to the media. The statement that she did in her media response was what was the final outcome that he stated could come out.

Councilor Carl asked if anyone on the council was informed on the Mayors media response.

Councilor Gobelman said not prior to the release.

Councilor Carl requested a copy of what Mayor Rowland responded to the media.

Mayor Rowland said it was what was exactly what she said to the reporter in the newspaper.

Councilor Carl wants to see her response.

Audy Spliethof 47587 Teller Road, he hears all the time that the lawyers said this and the lawyers said that, is it in writing anywhere?

P. Forcum (aye), J. McMillin (aye), Mayor Rowland (aye), G. Carl (aye), K. Gobelman (aye), K. Holston (nay).
Motion carried 5-1

Motion: Councilor Holston moved to rescind the vote on the consent agenda. Councilor Carl seconded the motion.

J. McMillin (aye), P. Forcum (aye), K. Holston (aye), K. Gobelman (aye), G. Carl (aye), Mayor Rowland (aye).
Motion carried 6-0

Motion: Councilor Holston moved to not accept the consent agenda as given and to ask for a revision of the minutes to correct omissions in public comment and more accurately reflect the conversation of our meeting.

P. Forcum (aye), K. Holston (aye), K. Gobelman (aye), Mayor Rowland (nay), J. McMillin (aye), G. Carl (aye).
Motion carried 5-1

6.0 ADMINISTRATIVE SERVICES

6.1 City Administrators Report

Million Gallon Reservoir-Well-Transmission lines-

The drillers have completed their bore for the water project under Salmon Creek. Transmission lines are ready to connect to the pump station that fills the Million Gallon Reservoir.

Inflow and Infiltration-

The City Engineer spoke with USDA and it looks like there is possibility of getting a million dollar loan at \$50,000 a year per million, which is pretty good. At this time, it does not appear we will have to raise the rates on the sewer, do not hold him to this.

Renovation of the OIP Office Building-

The project is complete, we have about six offices left to rent out, if anybody needs office space we are renting out there.

The Repair of the Amphitheater and Gazebo Population-

We got the gazebo done at the rest area.

TRT Block Grants-

The Block Grants are available for FY 18-19. We will put this on the website.

City Staging and Campground-

This project has been pitched to the National Parks Service which has awarded the City a planning grant for a trail around the OIP Log Ponds.

Transportation Systems Plan-

That was about \$150,000 that we received, that will be an important part in regards to repair of streets and prioritizing streets. There will be some citizen positions required when we start this.

We are working on System Development Charges that will be one way the city will be able to do capital outlay projects.

Still working with PM 2.5, we will be talking about the Woodsmoke mitigation program. Kudos to Mr. Coey for helping us get the funding that we got to hire a Woodsmoke coordinator.

Sediment testing of the fire pond and log ponds at the OIP, we got approval of funding today.

The School District is going for Seismic Grant, a pretty big one and they are just asking for a letter of support from the city.

The County asked if the City will indemnify them if there are any crashes or anything like that out on the county roads. We checked with the insurance company and our insurance company will not indemnify the county.

Councilor Holston asked if when they asked us to indemnify the county streets it was just a limited area?

Councilor Carl wanted the Police Chiefs thoughts on this.

Chief Martin said he does not believe we should indemnify the county.

Motion: Councilor Holston moved that the city not indemnify the county roads for the purpose of side by side liability. Councilor Gobelman seconded the motion.

G. Carl (aye), K. Gobelman (aye), Mayor Rowland (aye), P. Forcum (aye), K. Holston (aye), J. McMillin (aye).
Motion carried 6-0

Councilor Holston said at the last session we approved the handicapped spot on behalf of George Custer and that has been completed, we were supposed to get a cost for that because there was bantering back and forth about who was going to do it and who was going to pay for it. Louis said we have done it, he thought we came to an agreement about that.

Councilor Holston said well then she apologizes. You are happy with it and DHS is happy with it?

Louis said yes.

Councilor Carl said he wanted to remind everyone that they have been trying to get signage for Crater Lake on I5. This has been going on for two-two and half years. Travelers coming from the north will have an indication that they can get to Crater Lake by taking Highway 58. That helps everybody in Oakridge, right now there is no signage.

Dennis Patterson said is it still the case that we can't put up a sign until Roseburg gives up their sign?

Councilor Carl said no, Roseburg is not going to give up their sign, Central Oregon has to give up something. Apparently it was no big deal to them, but it is the process. Louis has been doing a great job following up step by step by step. We are at the point right now that it is about to happen and when it does happen he hopes the city is willing to pony up some money to put up a substantial sign, they aren't going to give it to us for free he doesn't think.

6.2 City Recorder Finance Report- No Report

6.3 Review Admin Committee Draft Resolution-Pulled from agenda

6.4 Woodsmoke Coordinator Contract

Rick read the issue. He said there is a representative here tonight from The Good Company.

Louis wanted to add that they are the ones who assisted us with a grant application for DEQ.

Motion: Councilor Holston moved we select Good Company as the City of Oakridge Woodsmoke Coordinator and direct City Staff to create and finalize a contract between the City of Oakridge and Good Company. Councilor Carl seconded the motion.

K. Gobelman (aye), J. McMillin (aye), P. Forcum (aye), G. Carl (aye), Mayor Rowland (aye), K. Holston (aye). Motion carried 6-0

6.5 Michael V Hansen LLC

Motion: Councilor Forcum wanted to make a motion that we (inaudible)

Louis called point of order. Number one he would consult the city attorney, the city attorney gave you an opinion that said Louis lawfully signed that contract. He recommends that before we get into any kind of breach, because it is a contract. It is up to council though.

Councilor Holston said she seconds the motion so we can discuss this.

Councilor Gobelman pointed out that point of order was made.

Councilor Holston said does that mean that it is tabled.

Louis said Mayor the point of order is up to you.

Mayor Rowland said she accepts the point of order and it is done.

Louis said his office is open if you want to come talk.

Councilor Carl said that is violation of open meeting laws.

Louis said not if you want to come talk to me singularly.

Councilor Holston said Paul has brought forward a concern, as given cited where in the contract he can ask him to be terminated. As council how do we discuss this if we can't discuss this here?

Councilor Gobelman said the contract is legally binding between the City Administrator and Michael V Hansen, LLC. The correct way to approach this is we can create a motion that further review of the violation of a section of the contract, we can't terminate the contract, but we can recommend a review of the parts of the contract that have been noted as a violation and then make a recommendation on where to go from there.

Councilor Carl said he doesn't agree with that. The City Administrator entered into a binding agreement with the Fire Chief on our behalf, for the city. If we don't like the agreement that he struck, then this is the forum to talk about it.

Councilor Gobelman said we can discuss it in executive session and reach an agreement and come back in the public.

Louis said he doesn't know that we can take it into executive session. One of the issues at hand is we may or may not like the attorneys opinion, so that is something you need to work through with the attorney before we go towards this contract.

Councilor Holston said she disagrees, the attorney's opinion is an attorney's opinion it is not a yay or nay. We as the council hold the authority to create law, regulations, and statutes for our city. We can choose to follow his recommendations or not. We have an obligation to review contracts and she understands that it is your obligation to create contracts, but you do it on behalf of the council, so if we see something that we want to review we should be able to review it.

Councilor Gobelman said that is not the point he is making, this is a contract between two companies, and the termination of that said contract needs to be based on non-delivery of service stated in the contract.

Councilor Forcum read aloud the portion of the contract that he was speaking about. (Most of this was inaudible)

Councilor Holston said that is pretty clean cut.

Councilor Gobelman said we could make a direction to the City Administrator to end the contract.

Louis said if you do this that's fine, but however in regards to appointment of the replacement that is still under him and he will decide who will fill the position. That is under the charter, he selects all employees and supervises, so he would recommend talking to the city attorney at least once.

Jim Coey said if the City Administrator has the signing authority of \$10,000 without the approval of council, how do you get to sign a \$90,000 contract?

Louis said the opinion stated that he will be the appointee of the city administrator, because he is the person supervising him. There was an opinion given and in the opinion it stated that he couldn't sign bonds, capital outlay projects, and big stuff like the water project. However he did say that there was nothing in the charter or anywhere that stated what method he uses to appoint his appointees.

Kristy Ball 76482 Cedar Street- You (Louis) said earlier that you got advice from the lawyer that turned out to be the wrong advice that he came to you later and said his advice about the bullet points was wrong. What is if he is wrong about this?

Mayor Rowland said he didn't say he was wrong, the lawyer never answered his questions.

Kristy Ball said no he said earlier that the lawyer gave the advice that you could release bullet points, after the Mayors comments in the Register Guard, the lawyer then contacted Louis and said that was not true.

Louis said no, he contacted the Mayor.

Councilor Gobelman said something we need to recognize is that if the Mayor did make a mistake, we followed the attorney's advice and we are still protected, because he is the one who made the mistake. Regardless who is right or wrong, we followed advice from the legal authority to the city, so we are still protected and he is on the hook.

Stephan Ball 76482 Cedar Street – According to the charter the city council can sever this contract by majority vote and you can do that or you can direct the City Administrator to sever that contract, it is in the city charter.

Jerry Shorey 48192 McFarland Road- You are all on the fringes of having to have an executive meeting to resolve this, which would probably be a more appropriate forum. You need to get the opinions from the lawyer in writing.

Audy Spliethof 47587 Teller Road- He sits back and he hears the lawyers said this and the lawyers said that, is it in writing anywhere?

Louis said yes, he has that in writing regarding the opinion on the contract.

Councilor Holston said she wants to point out that this isn't a discussion about what the opinion was, as to whether or not our city administrator had the right to do this contract or not. The discussion is the contract exists with the existing language that allows him to be terminated. The question here is do we direct the city administrator to terminate that contract. She agrees that we are moving into an area that

we need to move to executive session, but however, we have been reminded repeatedly that Hansen Consulting is not an employee. Executive sessions are reserved for employees. This is not a discussion on whether or not he can or cannot sign the contract, which is for another discussion when we revise the charter which we have to do.

Chief Martin wanted to clarify some confusion, we have two sets of attorneys, we have our city attorney's and we have our insurance company attorney's. If you do not follow what the insurance company attorneys say they cannot indemnify you and say they are not covering you for any lawsuit or anything like that.

Councilor Holston said that is a good point and she does understand that.

Motion: Councilor Gobelman made a motion to meet in Executive session with the Insurance Company Attorney and the City Attorney to determine a path forward that indemnifies liability of the city to review the Hansen contract. Councilor McMillin seconded the motion.

Don Sivard 76330 Rock Road- If he is hearing this right Louis is saying he entered into this contract with Hansen, he has the authority to do that without consulting with the council at all and now we are going through this quagmire whether or not you agree with that. Shouldn't common sense say you should let them know what you want to do, that you want to make this guy your fire chief.

Councilor Gobelman said it was brought up in the Budget Committee Meetings.

Dawn Kinyon said she disagrees 138%.

Amended motion; Councilor Gobelman moved that the Council enter into an Executive Session at such time as schedules allow both sets of attorneys to be present, those from the Insurance Company and those that are the legal entity for the City to review the appropriate path forward that limits the city's incurrent liability with ending the contract with Michael V Hansen, LLC. Councilor McMillin seconded the motion.

P. Forcum (nay), K. Holston (aye), G. Carl (aye), K. Gobelman (aye), Mayor Rowland (aye), J. McMillin (aye).
Motion carried 5-1

6.6 Further Discussion on Evaluation of Administrative Review

Motion: Councilor Holston moves that the motion to direct staff to secure an independent agency to perform an internal management audit of all city departments be taken off the table and back into consideration. Councilor Gobelman seconded the motion.

Mayor Rowland asked why do we want an audit of the books?

Councilor Holston said this isn't an audit of the financial books because we had an audit and we did very well and we had good feedback from it. This is an audit of the management of the city in itself. Does the management work right with the city charter, is the structure working properly, do we have enough checks and balances? An auditor comes in and looks at that and gives you an assessment on how you are managing the city. This will lead ultimately to some changes in our charter and procedures.

Councilor Gobelman said what needs to happen is all of our policies and procedures need to be put together and see if the process is continuous from start to finish.
Mayor Rowland asked who is going to pay for this?

Councilor Gobelman said the city needs to. We can put out an RFP for this.

Councilor Holston said LCOG is willing to come and talk to us about what this means, what we are asking for, what is the impact to our city. This is a good time to do this, we know we are all not happy campers right now.

Chief Martin said one of the cities he used to work for used to do this and it was about \$180,000.

K. Holston (aye), J. McMillin (aye), K. Gobelman (aye), G. Carl (aye), Mayor Rowland (aye), P. Forcum (aye).
Motion carried 6-0

6.4 City Council Vacancy

Motion: Councilor Gobelman moved that this council instruct the city administrator to advertise a vacancy on City Council with appropriate public notice and appropriate time to solicit applications and they can stand before us. Councilor Carl seconded the motion.

G. Carl (aye), J. McMillin (aye), K. Gobelman (aye), P. Forcum (aye), K. Holston (aye), Mayor Rowland (aye).
Motion carried 6-0

7.0 COMMUNITY SERVICES

7.1 Small Cities Allotment Grant

Rick read the issue.

Motion: Councilor Holston moved we adopt Resolution 8-2018, a Special City Allotment Grant for the use of reconstructing a portion of Garden Street. Councilor McMillin seconded the motion.

Rick said this is just requesting permission to apply for the grant.

Mayor Rowland (aye), P. Forcum (aye), G. Carl (aye), J. McMillin (aye), K. Gobelman (aye), K. Holston (aye). Motion carried 6-0

7.2 Water System Testing Schedule

Rick read the issue.

Councilor Holston thanked Rick for putting this together, when will the each well be tested next for Tetrachloroethylene?

Rick said that will be the VOC test which is on page 28 and our last VOC test was in August 18, 2017 and there was no detect.

Councilor Holston asked how frequently we test for this?

Rick said testing occurs at point of entry every three years.

Councilor Holston said since we found this in our new well, which we have shut down and are not using the new well, since we found it in that well should we now make sure that it is not in the point of entry of the others. How expensive would that be to do it now?

Rick doesn't have that cost right now.

8.0 POLICE SERVICES

Chief Martin said if anyone has any questions on his report to just get a hold of him.

9.0 EMERGENCY SERVICES

Chief Hansen handed out his report earlier.

10.0 REPORTS FROM BOARDS AND COMMITTEES

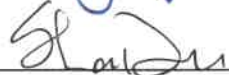
None

Meeting Adjourned 9:05 P.M.

Signed: _____


Judy Rowland, Mayor

Signed: _____


Susan LaDuke, City Recorder