



April 5, 2012
City Council Regular Session
City Hall Council Chambers
48318 E. 1st St.
7:00 p.m.



MINUTES

1.0 CALL MEETING TO ORDER / PLEDGE OF ALLEGIANCE

Council Present: Don Hampton, Mayor
Gerald Shorey, Council President
Daniel Barclay
Ernest Baszler
Rayetta Clark
Amy Kordosky
Glenn Fortune

Staff Present: Robert DeLong, Interim City Administrator
Tim Demers, Fire Chief
Louis Gomez, Police Chief
Ruthann Plumlee, City Recorder

Mayor Hampton called the meeting to order at 7:00 p.m. The Pledge of Allegiance was said.

2.0 PUBLIC COMMENT

Rustie Ackland – PO Box 233 - Rusty wanted to publicly thank the Fire Department for their help with the fire at the bank. She wanted to remind people how important it is to volunteer in the community. Dexter and Lowell came to help and they all did an awesome job. They really appreciate them.

James Affa - 76340 Garden Rd. – He would like a training session or at least a read through of the budget books at the next Budget Committee Meeting. He is open anytime if they can schedule such a session.

3.0 MAYOR AND COUNCIL COMMENTS

Councilor Fortune said he thinks that James Affa's idea would be beneficial.

Mayor Hampton said our first meeting is April 24th. This is just a presentation of the budget; they could do training after the presentation. Everyone agreed that this is what they will do.

Councilor Barclay will not be at the next City Council Meeting.

4.0 ADDITIONS, CORRECTIONS, OR ADJUSTMENTS TO THE AGENDA

Add - 6.3 GASB 51 Intangible Assets
Add - 6.4 GASB 54 Fund Balance Implementation Policy
Add - 7.3 Noise Permit – WAC Concert May 5, 2012
Add – 7.4 Corner Bar and Grill Beer Garden Permit May 5, 2012
Add – 7.5 Striping Contract with Lane County

Councilor Shorey said they talked about an Audit Committee and they recommended having one but then it disappeared in to the wood work.

Mayor Hampton said it was his understanding that it was going to be two Councilors and a citizen.

Councilor Shorey said that is correct.

Bob DeLong said it is his recollection that they did establish a committee. The next step would be to appoint people to the committee. Given the extraordinary circumstances regarding our audits if you want to have the work for this up coming audit to be presented to the entire Council rather than through a committee.

Councilor Shorey's thought is that they get the people appointed and then after the audit and budget then they can start fresh, maybe in June. It would be nice to know who is on the committee.

Mayor Hampton is in charge of appointing people to committees so the Councilors can let him know if they are interested in serving on this committee. The third person is a Budget Committee Member. They will email out to the Committee Members and see who is interested in the Audit Committee.

Councilor Barclay has a suggestion on the RTMP distribution, they want to go ahead and add that and to put it before the Council and basically take it off the plate.

Mayor Hampton said his understanding is that they are going to present their proposal at the next meeting.

Councilor Shorey talked about the DMV status. He has had inquiries from people who have not heard anything. He asked if the DMV has responded to our offer of the other room at the WAC.

Councilor Kordosky heard they might be going in to the old Laundromat.

Ruthann said we have not received any response from the DMV.

St. Vincent DePaul has offered a room to them free of charge in their building.

Bob DeLong has been in contact with a property owner who has been in discussions with the DMV. Those discussions seem to be going well; he has asked the individual if he could release this information and he asked him not to until an agreement has been signed. That is all he is at liberty to say without violating that confidence.

Councilor Shorey wanted to discuss the performance bond on the previous City Administrator. He has done some research on this; trying to find out what kind of bond we had on him. At this point he wants

to see what the feeling of the council is moving forward to get an investigation by the bond company and see if they are willing to pay for it. It is his understanding there is a \$150,000 performance bond. They will want a copy of the Charter, a copy of the contract and any other written information that we can send to them and they make the decision if there was any wrong doing.

Councilor Fortune said that somehow that information has already been sent to them.

Councilor Shorey said the bond company representative didn't say anything about that when he talked to her and we weren't trying to take over for the Council and he didn't represent himself as the Council, he just said he was looking for information for the Council.

Councilor Shorey said at some point they need to sit down and talk about bonds for the City Recorder and City Administrator. Both should have bonds.

Councilor Shorey has been researching various statutes for the last couple of months and he is looking to see if there are any other potential statutory violations that will have to go to the attorney or somebody else.

Councilor Fortune asked Councilor Shorey who he talked to; he talked to Ginger Barnes.

Councilor Barclay said we got an email from Mr. DeLong last week; Mr. DeLong received a phone call from Ginger Barnes and stated the bond was a performance bond. She stated that in order for the payment to be made to the City that it would need to be shown that Mr. Zimmerman did not faithfully perform his duties that he failed to do what he was supposed to do. The report from the Forensic Accountant illustrates issues that meet those criteria in his mind. If it was determined that payment was due from the bonding company to the City, the bonding company would then seek compensation from Mr. Zimmerman. As far back as December we have got recommendations that we seek outside legal advice.

5.0 CONSENT AGENDA

5.1 Minutes of Regular Meeting of March 15, 2012

Motion: Councilor Fortune moved to approve the Consent Agenda. Councilor Baszler seconded the motion. G. Shorey (Aye), E. Baszler (Aye), Mayor Hampton (Aye), G. Fortune (Aye), R. Clark (Aye), D. Barclay (Aye), A. Kordosky (Aye). Motion carried 7-0.

6.0 ADMINISTRATIVE SERVICES

6.1 Forensic Accountant Summary of Findings

Councilor Shorey said from his standpoint having read this and again, I'm probably out of line, but I needed to have a summary of her findings before we can go ahead and start doing something with the insurance and other things.

The summary she presented us is pretty detailed and to the point. Councilor Shorey called Tiffany Couch to see if they could use this to send to other people.

Councilor Barclay said he'd like to see this report posted on the web site.

Councilor Barclay said we are here because a lot of things did and did not happen. In his experience when a person is in a position of authority you can't separate responsibility and accountability. In his opinion the responsibility for the things that got us here have not been assigned. The accountability was transferred to the 12-13 people that got their lay off notices. Back in December this council got a recommendation that they get a Municipal Attorney or an Employment Attorney and it was pretty specific that it not be Speer Hoyt, granted it was just a recommendation, they pretty much did nothing with that.

Councilor Barclay said this report is disturbing and we need to do something. We should seek legal advice and if appropriate pursue that.

Councilor Barclay read statute 294.100

Mayor Hampton said he would like to see what the bonding folks say first and then perhaps if we recover some money from the bonding company then we can have some money for legal fees. He would hate to be in a position of saying do I lay off another person or two to spend money on a lawyer or do I not.

Councilor Barclay asked how much we have in our LGIP account.

Ruthann said roughly \$304,000 right now.

Councilor Barclay asked if there are any restrictions on using some of that money for legal fees to pursue this.

Ruthann said yes there is. \$122,000 is OIP property sale money and \$88,275 is the sewer bond reserve money and there is another \$36,000 or \$40,000 OIP property sale money.

Mayor Hampton said if the bonding company gives us the indication that there is a responsibility there then our case for the other things will be stronger. If the bonding company doesn't then he's not so sure why a court would decide otherwise.

Councilor Barclay said if it was determined that payment was due from the bonding company to the City then the bonding company would seek compensation from Mr. Zimmerman.

Mayor Hampton said they are talking about the next step after the bonding issue. That will be all our money for the legal fees.

Councilor Shorey said in Tiffany's report on page 17, it shows how the LGIP was managed from 6/30/2009 until 6/30/2011. It doesn't show who authorized the transfers. It doesn't show how deposits were made and how withdrawals were made.

Ruthann explained how the transfers are made.

Tiffany's report doesn't show who made the transfers but when they were made. This was handled without any knowledge of the Council.

There was discussion on how the money goes in to the LGIP fund.

Mayor Hampton asked if we have consensus to post Tiffany's report on the website.

All agreed.

6.2 Jones and Roth Letter Discussion

Councilor Shorey said he got lost trying to read the letter, it is all in accountant language.

Councilor Clark said they said a whole lot and said nothing.

Mayor Hampton said he doesn't think this is as strong a case as the bonding is.

Councilor Shorey asked how we got these people on board and when did we get these people on board in the first place. He has not seen a contract but he would like to see one.

Mayor Hampton does not view this as a strong case, they will probably produce some documents that say this is what we were told to do and since we really don't know what they told to do we can't say whether it meets the requirement or not.

Councilor Fortune said we need to go back to 2007 and see if there was a letter of engagement at that time and see if there were separate letters for each year after.

Councilor Barclay said he had asked the former City Administrator what the formal connection was between us and Jones and Roth, was there a letter of engagement, was there a contract or was there something that laid out the specific elements of what their duties were. He was told no, it was always word of mouth or email. The end goal is to have completed audits, if they had done their \$71,000 worth of work we wouldn't have just got back the 2009 audit, 2010 and the 2011 that is past due. This fiscal year we are spending sixty odd thousand dollars on audits that should have already been done, had they done their job.

Bob DeLong said he has contacted the City's Attorney and asked Ken Jones what the next legal steps would be. Ken Jones said in full pursuit of the matter his firm would not be the firm to handle that, it is not their area of expertise; he would recommend someone who is experienced in this field. He did say another option is that his firm could do a legal evaluation which would be a relatively inexpensive look at and reporting back to you on his estimation on the likely hood of prevailing. He said it would cost no more than \$2,000.

Councilor Shorey said he doesn't think this is going to go very far in litigation, his guess is we will probably settle somewhere in the middle.

Mayor Hampton said talking about an engagement letter, on page 27 in the packet it says "We are not currently in the possession of an engagement letter authorizing this work to be performed." On page 28

their response was "Jones & Roth was requested to do this work in an email from the City dated June 8, 2010. A separate engagement letter was not required." That is their opinion.

Mayor Hampton asked Bob if he has discussed the Jones & Roth letter with Tiffany.

Councilor Shorey said she has a copy of it.

Mayor Hampton said it is either vocabulary that we don't understand or bookkeeping process.

Councilor Shorey made the motion that they proceed with sending this letter to our attorneys for a Legal Evaluation. Motion seconded by Councilor Clark.

A.Kordosky (Aye), E. Baszler (Aye), D. Barclay (Aye), G. Fortune (Aye), G. Shorey (Aye), Mayor Hampton (Aye), R. Clark (Aye). Motion carried 7-0

6.3 Resolution 5-2012 Establishing an Intangible Asset Recognition Policy

Bob said 6.3 and 6.4 are stapled together and double sided. There is an addendum to 6.4 on page 9a. These documents emerged out of the site visit for the 2009-2010 audits which they just completed. These are things we need to do to be in compliance with audit requirements.

The first one is bringing us into compliance with GASB 51, essentially what this is is a requirement that intangible assets such as rights of way. It's a pretty straight forward process; Tiffany Couch assisted by Ruthann has provided both of these documents for us to bring us into compliance with both of the GASB requirements. We are recommending approval of both.

GASB 54 is the next agenda item, it is the same issue, the auditors say we need to do this; Tiffany produced a draft of this. This one is a little different, this one sets up City requirements for reserve funds and it does affect how you budget. Bob asked Tiffany and Tamara how we implement this now; we are half way through the budget preparation process. Bob asked if he should go back to the beginning and do a totally different format for the budget he is working on for the 2012-2013 fiscal year. Tiffany advised him not to do that. Tiffany was comfortable with the language that Bob inserted here saying that this would be implanted during the course of the next fiscal year. The staff recommendation is that you adopt both of these tonight with the understanding that if you adopt the GASB 54 resolution the way he has worded it, it would be implanted through the course of the next fiscal year which starts July 1st.

Councilor Fortune "I move to approve Resolution 5-2012 Establishing an Intangible Asset Recognition Policy" Seconded by Councilor Clark.

E. Baszler (Aye), D. Barclay (Aye), A. Kordosky (Aye), R. Clark (Aye), Mayor Hampton (Aye), G. Fortune (Aye), G. Shorey (Aye). Motion carried 7-0

Councilor Fortune "I move to approve Resolution 6-2012 Establishing a Fund Balance Implementation Policy" Seconded by Councilor Baszler

G. Shorey (Aye), Mayor Hampton (Aye), R. Clark (Aye), A. Kordosky (Aye), G. Fortune (Aye), E. Baszler (Aye), D. Barclay (Aye). Motion carried 7-0

COMMUNITY SERVICES

7.1 Proposed Cancellation of Junk Amnesty Program for 2012

Councilor Baszler "I move that the City Council cancel the Junk Amnesty Program for 2012." Seconded by Councilor Fortune

D. Barclay (Aye), G. Fortune (Aye), R. Clark (Aye), G. Shorey (Aye), E. Baszler (Aye), A. Kordosky (Aye), Mayor Hampton (Aye). Motion carried 7-0

7.2 Alcohol Permit Application – FAT 55 Bicycle Race Beer Garden

Councilor Kordosky "I move to approve the alcohol permit for the FAT 55 Bicycle Race Beer Garden." Seconded by Councilor Clark

Mayor Hampton (Aye), A. Kordosky (Aye), D. Barclay (Aye), E. Baszler (Aye), R. Clark (Aye), G. Shorey (Aye), G. Fortune (Aye). Motion carried 7-0

7.3 Noise Permit – WAC Concert May 5, 2012

This is a request for a live music concert at the WAC. If there are complaints about the noise the Police Department can close the event down. Chief Gomez did see the applicant going door to door to talk to people within the 500ft area, so they did do their diligence.

Councilor Fortune "I move to approve the noise permit for FM Lighting & Sound for the WAC Concert on May 5th." Seconded by Councilor Baszler

G. Fortune (Aye), R. Clark (Aye), G. Shorey (Aye), D. Barclay (Aye), A. Kordosky (Aye), E. Baszler (Aye), Mayor Hampton (Aye). Motion carried 7-0

7.4 Corner Bar and Grill Beer Garden Permit May 5, 2012

Rustie Ackland asked why the people asking for the noise permit had to go door to door to ask permission for the concert but the Corner Bar doesn't have to do the same for the alcohol permit?

Chief Gomez said because theirs was a noise permit and this is not. The Police will follow up on any complaints though just like the noise permit.

There was discussion on the blocking of the sidewalk.

Councilor Fortune asked why he needed a permit if it is on his own property.

Chief Gomez said it is because it is outside of the building and where he wants to have it is in the City right of way.

Mayor Hampton said this is an OLCC permit and we are not the final decision makers on this.

Councilor Clark “I move to approve the beer garden permit for the Corner Bar & Grill for the May 5th.”
Seconded by Councilor Shorey

Mayor Hampton (Aye), R. Clark (Aye), G. Shorey (Aye), E. Baszler (Aye), G. Fortune (Aye), D. Barclay (Aye), A. Kordosky (Nay). Motion carried 6-1

7.5 Striping Contract with Lane County

The County has done all of our City striping in the past, we have had three year agreements. Looking at the paperwork they said it would not exceed \$50,000 in a three year period. Mayor Hampton asked Bob Delong to see what they paid in the last three years. We asked the County to amend this to say it would not exceed \$20,000 in the three year period.

Councilor Baszler “I move to approve the County Striping Agreement for 2012-2015.” Seconded by Councilor Shorey

R. Clark (Aye), G. Shorey (Aye), Mayor Hampton (Aye), A. Kordosky (Aye), D. Barclay (Nay), G. Fortune (Aye), E. Baszler (Aye). Motion carried 6-1

8.0 POLICE SERVICES

Chief Gomez said they are trying to close out the Dead Mtn Grant. We have ordered all of the equipment that we will need.

The dispatch transition is coming along overall. There were a few glitches. The citizens are getting used to the after hours prompt; there have not been any complaints.

Mayor Hampton wanted to verify on the Dead Mtn Grant that we were getting reimbursed; hopefully in a timely fashion.

The reimbursement has been submitted as of today.

8.0 EMERGENCY SERVICES

None

10.0 REPORTS FROM BOARDS AND COMMITTEES

Administration – No report

Community Services – No report

Public Safety – They discussed the Community Garden access permit; the process of developing a permit. Something for the folks that use the garden have something to show people that they have authorization to go in there. They talked about a new Ambulance; it can take up to nine months to get one out.

Chamber of Commerce – By the next meeting they will have a presentation on their recommendations on the RTMP.

Watershed Council – No meeting, snowed out. It looks like we will be planting trees at Greenwaters Park and Osprey Park. The Watershed said they would take care of the supervision at Osprey Park if we can take care of Greenwaters Park.

LRAPA – There was discussion on what happens if LRAPA is not around, what cost would it be to put other municipalities or the County regarding requirements from DEQ or EPA.

Trails Committee – Finished the Salmon Creek trail.

Treeplanting Committee - We have a good group working this year, the brochures are out on the counter for anyone to take. The buttons are available. The Talent Show and Coronation are on Friday night. There is a Facebook page if you want to look at previous years Treeplanting events.

Library - Meet on Tuesday

P T & T Board – Will meet on April 12, 2012

Area Commission on Transportation – Meets next week, they will have five proposals to rate 1-5 for alternate transportation.

LEC - They identified two business clusters, food and beer. The gentleman that runs Hummingbird Foods which is an organic distributor talked about his business. A company called Coconut Bliss that makes dairy free ice cream, they distribute that to several places. The gentleman from Hummingbird Foods wants to get as much locally grown product as he can but there are supply issues because when you talk about food distribution some of the larger supermarkets want a guarantee that it going to be X number of items or X number of pounds and they can't always guarantee that.

LCOG – Fiber Optics; one gigabit is reserved for Oakridge

UBRA – The Flags will be out for Treeplanting

ADJOURNMENT: The Council adjourned at 8:57 p.m.

Respectfully submitted before the City Council April 19, 2012.

Signed: _____
Donald E. Hampton, Mayor

Signed: _____
Ruthann Plumlee, City Recorder