

CITY OF LINCOLN CITY
CITY COUNCIL
MINUTES OF SPECIAL MEETING
June 29, 2020, 10:00 AM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: July 13, 2020

A. CALL TO ORDER

Mayor Anderson called the meeting to order at 10:00 a.m.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	10:00 AM
Judy Casper	Councilor Ward 3	Present	10:00 AM
Diana Hinton	Councilor Ward 1	Present	10:00 AM
Riley Hoagland	Councilor Ward 2	Present	10:00 AM
Diane Kusz	Councilor Ward 2	Present	10:00 AM
Rick Mark	Councilor Ward 3	Present	10:00 AM
Mitch Parsons	Councilor Ward 1	Present	10:00 AM

Staff members present: Ronald Chandler, City Manager; Richard Appicello, City Attorney; Jerry Palmer, Chief of Police; Sgt. Jeff Winn, Lincoln City Police; Lieutenant David Broderick, Lincoln City Police; Abigail Donowho, Human Resources Supervisor; Debbie Bridges, Finance Director; Lila Bradley, Public Works Director; Stephanie Reid, City Engineer; David Twigg, I.T. Support Specialist.

C. SPECIAL ORDER OF BUSINESS

1. Collective Bargaining Agreement between the Lincoln City Police Employees Association and Lincoln City

Abigail Donowho presented this item. Ms. Donowho advised that the Union had approved this agreement and asked Council to approve. Ms. Donowho advised that this was a one year agreement so new negotiations would begin next spring. Mayor Anderson reminded Council that this would usually be a 3 year contract but that a 1 year contract was decided to be best at this time. Mayor

Anderson noted that union negotiations would now take place at the same time for the Police Department and the rest of City staff.

Councilor Hinton said she would vote for this agreement but she is hoping that next spring there will be a better process that includes City Council.

Councilor Casper said she has a paper from the League of Oregon Cities attorney on the role of elected officials in Labor Negotiations. Councilor Casper would like to send the report to all Council. Mayor Anderson asked Councilor Casper to send the report to Mr. Chandler for distribution.

MOTION:	Approve the Agreement between the Lincoln City Police Employees Association and Lincoln City
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed

2. Municipal Court Discussion

Richard Appicello, City Attorney, recommends that the City restore Municipal Court to its full jurisdiction, including the prosecution of misdemeanor crimes. The District Attorney in Newport wants to keep prosecuting domestic violence cases because of the importance of victim's assistance. The City would need to budget extra funds. The City would need to provide extra training to the Court Clerk and coordinate further with the Police Department. Court staff might have to increase by at least a half-time person.

In Richard's experience, local criminal prosecution will enhance local law enforcement.

The Municipal Court is not currently a court of record. If you are convicted by the Lincoln City Municipal Court judge, you can request the whole case be completely re-tried (trial de novo) in the Circuit Court. A court of record requires an ordinance, a recording system, and an attorney judge. The City Attorney said that not having to travel to Newport would save money for the Police Department and for the defendants themselves.

Richard noted that when he started working for Lincoln City in 2013 he prosecuted property crimes, criminal trespass, shoplifting, theft. The Oregon Supreme Court made a decision that in some violation cases where the offense started as a crime, the defendant was entitled to a jury trial even if a prosecuting attorney reduced the charge from a crime to a violation. In response to this, Council re-adopted the Criminal Code and provided an option for a Police Officer to reduce the charges down to violations.

Richard said that local prosecution would take the burden off the District Attorney's office. The District Attorney could focus on higher level cases if the City takes care of the property cases, bad checks, criminal trespass cases. Richard said it's worth the investment to use Municipal Court more fully.

Councilor Hoagland asked where in the City budget does it show the prorated share of the revenue from the County's Court system? Debbie Bridges replied that it is reported under District Court Collections. The amount received went up from \$4,000 to \$17,000 in 2000. It's estimated the City will receive \$22,000 for fiscal year 2019-20; in 2018-19 the City received \$30,000.

Councilor Hoagland asked what percentage we receive from the County? Richard Appicello said that there is a formula in the statutes regarding how to dispense revenue.

Mayor Anderson asked where this revenue comes from? Richard said we receive a portion of any funds received in cases cited into Circuit Court by our Police department.

Councilor Casper discussed the 2014 ordinance that allowed officers to cite criminal charges as a violation. Councilor Casper would like more enforcement and would like to consider a municipal court to give more enforcement options.

Chief Palmer said that the Police Department has some concerns with expanding the role of the City's Municipal Court. If the City takes misdemeanor crimes and directs those to Municipal Court, it ties the City's hands. If the Police lose the ability to put frequent offenders in jail, it reduces the power of enforcement. A couple of years ago Taft was having vandalism and property crime issues. Repeat offenders were eventually lodged in jail. Once the offenders realized the Police had that ability, crimes reduced significantly. Lincoln City does not have a jail; the City has a four hour holding cell. After four hours, defendants have to be released or transported to the County jail in Newport. Chief Palmer also noted that when defendants failed to appear at Municipal Court, the Court would issue warrants. The Police would then cite the defendants when they found them with an order to appear. The defendants wouldn't appear again and this pattern continued. Chief Palmer also expressed concern with the role of Victim's Assistance and the cost of jury trials and witness fees.

Sgt Jeff Winn has been with the Police Department since 1991. At that time the Municipal Court was prosecuting misdemeanors. Sgt Winn remembers issuing warrants for people that didn't show at court. Once the City was able to get defendants lodged in jail, the City would have to pay the County for their jail time. This was not cost effective for the Court, so the Municipal Court stopped prosecuting misdemeanors. 10 years later, the City started trying to prosecute misdemeanors again. At that time there were issues prosecuting weapon cases. It's important to get these entered in a court of record. Sgt Winn also noted problems with victim's assistance and getting a jury for jury trials. Sgt Winn also noted that the City Attorney at that time reduced misdemeanors to violations, and those reductions would lead to offenses such as weapons violations not getting on a defendant's record. Victims were also not getting an appropriate amount of Victim's Assistance. In regards to the Police Department reducing misdemeanors to violations, Sgt Winn expressed that Police Officers didn't want to decide on the spot whether to reduce a misdemeanor to a violation because of the risk of a lawsuit. Regarding saving time and money, Sgt Winn noted that officers have a 3 hour callout for overtime, so you can drive to Newport and back in that time, or go to Lincoln City Municipal Court. If the trial takes place on the officer's day off, the officer will get 3 hours of overtime pay regardless.

Lieutenant Broderick said that citing certain misdemeanor cases into Municipal Court ties the Police Department's hands. Sometimes the Police has no choice but to lodge frequent offenders in jail otherwise they would be continuously dealing with the same individual and the community would be dealing with them as well.

Chief Palmer said that the Police Department is happy to perform their duties in the manner that Council requests. Chief Palmer thinks that Richard's idea might make the Police more efficient in some ways; however, he thinks the extra complexity and cost along with the outcome of unintended issues might exacerbate some situations that the Police currently have under control.

Councilor Hinton asked if we would still take defendants to Newport for jail. Chief Palmer said that wouldn't change. However, the police's ability to lodge defendants at the county jail would change if we went to the new system. The City would have to pay for jail time for Municipal Court cases.

Richard Appicello said the judge could impose the cost of incarceration on the defendant as a condition of probation. If the defendant hasn't paid, he or she can be brought before the judge to explain why.

Councilor Hinton asked Chief Palmer to confirm major crimes would be filed in Newport. Chief Palmer said that was correct and advised that last year the Police filed 577 A misdemeanors, 201 B misdemeanors, 112 C misdemeanors and 209 unclassified misdemeanors for a total of just under 1100 misdemeanor crimes.

Councilor Hinton asked Chief Palmer why almost 1100 misdemeanors were filed last year? That seems a lot for a small town. Councilor Hinton likes the range of options and flexibility offered in Richard Appicello's proposal, including community service. As theft and property crimes are crimes against the community, Councilor Hinton sees community service as a suitable punishment.

Chief Palmer advised that Community Service can be a sentence given by the District Attorney in Newport. Chief Palmer also mentioned that you need people to monitor Community Service to ensure that it gets completed.

Councilor Hoagland asked how many citations were written in lieu of misdemeanors last year? Chief Palmer would have to review the database for those figures. Councilor Hoagland also asked how much in unpaid citations the City has? Debbie Bridges explained that the number would be inflated because the default amount is higher than the citation amount and the Lincoln City Municipal Court judge usually reduces the default amount as part of settlement terms.

Richard Appicello talked about prior case experiences and arrangements, including intergovernmental agreements for Community Service with the Humane Society and the County. Community Service could also be done with the City's Parks Department. Richard also discussed how a defendant could be placed on bench probation, allowing the judge to serve as an extra step between non-payment of fines and sending the case to a collections agency, and how community service can be used in lieu of payment of fines.

Mayor Anderson asked Richard Appicello if he had the time to handle extra work. Richard replied that he sees a need and that he's willing to take this task on.

Mayor Anderson said that with staff having to be added, it's a budgetary and revenue issue. The 2020-21 budget has staff expenses in excess of revenue for most departments and this would increase that. Mayor Anderson hears the call for law and order but he's concerned about the economics.

Councilor Hinton sees the Police Chief and City Attorney have different ideas about this topic. Could Council please ask staff to put a group together to work through their points? Councilor Hinton doesn't call this law and order, she calls it enforcement. She says that constituents report things taking place and they're not getting dealt with. Councilor Hinton wants to see if we can agree on how this could work, including money, staffing, and the City Attorney and Chief's point. Councilor Hinton said there are so many things that could be done with community service.

Mr. Chandler said there are things to consider. There are 5 groups involved in this process. Defendant; Police; Attorney; Court / Judge / Jury; Follow up staff. Council should ask: What is broken? What are we trying to fix? What's the source of the problem? How do you fix it? Where is the problem originating? Can that be fixed within the existing operations? Or do we need to move forward in a different way? Mr. Chandler also mentioned cost. In 2018 it was estimated that this process would cost \$200,000, and that estimate did not include the cost of any personnel needed for follow up work. Mr. Chandler said that we might bring in up to \$100,000 in revenue.

Mr. Chandler offered to facilitate the follow up group and work on answers to questions that have arisen during this discussion.

Debbie Bridges stated that she has financial concerns about expanding the role of Municipal Court. Debbie has reviewed the financial situation from 1995 and when the City stopped prosecuting misdemeanors at that time, it did not lose revenue. However, costs decreased significantly. Debbie also pointed out that for at least 13 years the Lincoln City Municipal Court hasn't operated with a vigorous enforcement policy. The Court emphasizes compliance, not fines.

Councilor Hinton said that the Judge will follow the direction of the City Council. Councilor Hinton moved to direct the City Manager to gather the appropriate people to help Council get a better handle on this topic, with more information, statistics, and data. Mayor Anderson asked the City Manager to make sure the Court of Record discussion is part of the future presentation on this topic.

MOTION:	To direct the City Manager to gather the appropriate people to help Council get a better handle on Municipal Court, with more information, statistics, and data.
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed

3. Use of the Public Right-of-way for Parking

Richard Appicello advised Council of their authority to regulate the right-of-way. Right-of-way is used for public purposes, not for private use. Last year an ordinance was passed to prohibit storage of items in the right-of-way. On NW 8th Court there have been problems with people storing signs, vehicles, and gravel in the right-of-way. The City can issue a revocable license to allow people to privately use the right-of-way provided they hold the City harmless. Sometimes there is a fee associated with these licenses.

Richard advised that Mr. Chandler, as City Manager, can create traffic and parking zones. Council can also create these through resolution.

What's being proposed is a no parking order on one side or both sides of NW 8th Court. Council will confirm this through resolution. Also, a parking permit program will be created which allows members of the public to buy a revocable license (parking permit) to safely park in the right-of-way.

Mr. Chandler used Google maps to travel down NW 8th Court. It's a narrow, gravel road. There are areas where you can park and areas where you can't park. Cars parked in the right-of-way on NW 8th Court can infringe upon the road itself. Mr. Chandler advised there are several similar streets to NW 8th Court in Lincoln City.

Mr. Chandler reported that NW 8th Court was surveyed. The driveable area right now is 10 to 12 feet. With right-of-way, there's 20 feet available. The estimated cost to widen the road is \$1,350,000. This would include storm drains, retaining walls, and paving the road.

Mr. Chandler wants Council approval to not only place no parking signs on NW 8th Court but to look at other roads in the City with similar issues.

Councilor Hoagland thinks this is a great idea. Councilor Hoagland would like to see trimming back of overgrown vegetation in the right-of-way. There are many areas where grass, bushes and trees have overgrown into the sidewalk.

Councilor Hinton thinks this is a good idea. She likes the approach and presentation of the information. Councilor Hinton asked if Logan Road could be reviewed for permitted parking for owners? Logan Road has been crowded with parking, including roads off of Logan Road. Councilor Hinton would like to survey Logan Road to see where the right-of-way is and begin a conversation on permitting there. Councilor Hinton also wants to make sure the City talks with owners on NW 8th Ct and in the Logan Road areas.

Mr. Chandler said he would develop a policy for when he should issue parking permits for parking in the right-of-way. Mayor Anderson approved.

Councilor Hoagland would like to know how enforceable "No Parking" signs are on Logan Road and in other areas. These are as much of an issue as people parking in the right-of-way.

Mayor Anderson asked Mr. Chandler to confirm the NW 8th Ct improvements could be accomplished via a Local Improvement District (LID). Mr. Chandler confirmed that they could.

MOTION:	To have the City Manager and staff pursue right-of-way infringement
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Diane Kusz, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed

D. ACTIONS, IF ANY, BASED ON WORK SESSION, EXECUTIVE SESSION, OR CITIZEN COMMENT

None.

E. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Mayor Anderson wanted to remind the public that they could pick up masks on Tuesday June 30 from 3 to 7 p.m. at the Taft St. Clair fire station. A safe place to pick up face coverings.

Councilor Hoagland asked Chief Palmer when they could tour the new Police building. Chief Palmer said a tour could take place at any time. Chief Palmer can accommodate a group or an individual tour. Councilor Hoagland said the new Police building looks great. Mayor Anderson said that groups of no more than 3 should tour the building to avoid a quorum.

Councilor Hinton asked if the City could make Lincoln City face coverings with the City logo on and distribute them to businesses. Councilor Hinton also reminded the public that we are in the process of collecting ideas for renaming the Villages at Cascade Head and, possibly, the Knoll. The

