

City of Mt. Angel
City Council Meeting Minutes

CITY COUNCIL

7:00 PM

February 7, 2011

The City of Mt. Angel's City Council met in a regular session Monday, January 18, 2011 at the Community Meeting Room, 290 E. Charles Street, Mt. Angel, Oregon.

1. **CALL TO ORDER:** The regular meeting of the Mt. Angel City Council was called to order at 7:05 pm by Mayor Rick Schiedler.
2. **FLAG SALUTE:**
Mayor Schiedler led the salute to the flag.
3. **ROLL CALL:**

<u>COUNCIL</u> Rick Schiedler, Mayor Ray Eder, Council President Darren Beyer, Councilor Andrew Otte, Councilor Kelly Grassman, Councilor Teresa Kintz, Councilor Karl Bischoff, Councilor	<u>STAFF</u> Susan Muir, City Administrator Tracy Grambusch, Finance Director Dan Bernt, Public Works Superintendent Kelsey Lewis, Assistant to the City Administrator Jeff Charpillouz, Police Officer Mark Amberg, City Attorney
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4. **GUESTS, PRESENTATIONS, AND ANNOUNCEMENTS:**
None.
5. **APPEARANCE OF INTERESTED CITIZENS:**
None.
6. **CONSENT AGENDA:**
 - a. Approve City Council Meeting minutes for December 6, 2010
 - b. Approve City Council Meeting minutes for January 18, 2011Councilor Grassman moved to pull Item b from the consent agenda. Councilor Eder seconded.

Councilor Grassman stated that she thought staff did a great job on the minutes but requested some corrections to the January council minutes. Under Unfinished Business, she wanted the record to note that Pete Beyer was a previous applicant for the Park/Tree Board and that the Council did not randomly appoint people to the Board. Councilor Grassman also wanted the minutes to state that the Council did previously recruit for the Park/Tree Board position but did not recruit for that position in January. City Administrator Muir stated that staff would make the corrections.

Councilor Beyer asked how much the City collects in the \$3 water bill late fees per the conversation Council had in the January meeting. Administrator Muir answered that those fees bring in about \$500 per month. Specifically the \$3 late fees added up to about \$477 in November 2010 and the 1.5% fees added up to about \$6 in the same time frame.

Councilor Grassman moved to approve Item 6(b) with the aforementioned corrections. Councilor Otte seconded.

AYES: 6

NAYS: 0

c. **Approve annual renewals for all businesses with an OLCC license**
Councilor Otte moved to approve Items 6(a) and (c). Councilor Eder seconded.

AYES: 6

NAYS: 0

7. **REVIEW OF ACCOUNTS PAYABLE:**

Councilor Eder asked about the double entries for PGE in the Street Fund on page 3 of 14. Administrator Muir answered that the cost was split across funds and commented that staff has begun to note split entries on the Accounts Payable report.

8. **COMMUNICATIONS/CORRESPONDENCE:**

None.

9. **UNFINISHED BUSINESS:**

a. **Sewer & Water Ordinances: Second Reading**

Administrator Muir reviewed with councilors that the original intent in amending these ordinances was to change from door hangers to mailing a bill for water bill shut-off notices. Staff sent out the old and new language so that the Council could see the changes side by side. She explained that there was a change in the proposed language from the December packet to the January packet that was not discovered until shortly before the February packet. Much of the language that was needed to update the ordinances was missing. The version that appeared in the February packet attempted to add back the language but did not get back to the original language proposed in December. Staff discussed the issue with the city attorney and was informed that there was no problem with changing the language between the first and second readings of the ordinance if desired.

S. Muir explained that there were a couple of options for moving forward at that point. The Council could proceed with the second reading and pass the ordinances as they were intended in December, or have a reading and continue the decision to March, or direct staff to go back and re-notice the public hearings and start over again. S. Muir noted that legally there was no problem with adopting the ordinances that night because there was flexibility for making changes between a first and second reading according to the city attorney. The decision was more about the Council's comfort level.

Councilor Otte asked if staff could correct the adoption dates in the ordinance language.

Councilor Grassman wanted to confirm that the Council could change due-dates by resolutions, not by amending the ordinances.

S. Muir answered yes to both questions.

Councilor Kintz asked if the handout the Council had just been given was the same as the side-by-side language that they had read before; S. Muir confirmed that it was.

Councilors Otte and Grassman stated that they had no problem with adopting the ordinances at that point.

Mayor Schiedler commented that he considered the language in front of the Council to be the same as they had already discussed so he was ready to go ahead.

Councilor Otte moved to adopt Ordinances 727 amending Ordinance 578 and repealing Ordinances 581 and 587 regarding fees, interest rates, and due dates of sewer bills as amended. Councilor Beyer seconded.

AYES: 5 NAYS: 1 ABSTAINED: 0

Councilor Kintz opposed the motion.

Councilor Otte moved to adopt 728 amending Ordinance 604 and repealing Ordinance 671 regarding fees, interest rates, and due dates of water bills and assessing a lien for unpaid water bills as amended.

Councilor Beyer seconded.

AYES: 5 NAYS: 1 ABSTAINED: 0

Councilor Kintz opposed the motion.

10. NEW BUSINESS:

a. Communications Plan

Councilor Otte presented the Communications Plan on behalf of the Communication Committee. He stated that that the project was a lot of work and commended the members of the committee. Kenny Wilson served as a specialist on newsletter and print production services. Sister Dorothy Jean Beyer's contribution was invaluable and her knowledge as a teacher was priceless. Maureen Ernst contributed to creating the layout and content of the city newsletter and brought a wealth of experience and knowledge to the Committee.

Councilor Otte explained that committee began its work with the "Get to Know You" section of the city newsletter for introducing councilors. He said that the newsletter had been successful and they had received positive feedback. The Committee utilized the newsletter for informational items as well as events. Then the committee shifted gears and decided to move toward making a plan. The Committee did research and borrowed many ideas from other plans. The Committee spent many hours working on it and Councilor Otte was proud to report that the Committee made a timeline for completing the plan and finished a few months early. He stated that the Plan touches on all the communication channels that the City could utilize, set goals, and created an action plan. At that point, the Committee agreed to go on hiatus and asked to come back for a progress report in one year.

Mayor Schiedler thanked Councilor Otte for his work on the Communication Committee.

Communication Committee member Maureen Ernst commented that the planning process was fun. She stated that the members were diverse and came up with lots of avenues for communicating with citizens. M. Ernst praised the work of former Assistant to the City Administrator Michele Hall, former City Administrator Pete Wall and the other Communication Committee members.

Councilor Bischoff suggested to Councilor Otte that the council may not want the committee to go on hiatus. Councilor Otte replied that the actions called for in the communication plan are not really for the committee to do but to be done by the City in general.

Councilor Grassman commented that she thought that the plan was great, accomplished a lot and exceeded her expectations.

Councilor Bischoff asked if the City is on Twitter. Administrator Muir confirmed that the City is on Twitter, though staff does not tweet often, but that she was happy to report that the City has recently gained three new followers on Twitter. Councilor Grassman commented that interest in the City on Twitter will grow, if slowly.

City Administrator Muir confirmed that the Council did not need to make any motion to accept the Communication Plan. This was mostly an opportunity to review the plan and thank the Committee.

Councilor Grassman commented that she would like to have thank-you letters sent to the Communication Committee members. S. Muir confirmed that staff will do that.

11. **CITY ADMINISTRATOR REPORT:**

Administrator Muir reviewed current events in the City. She announced that there had been reports of raccoons with distemper in the City; the Police Department has been handling the situation and a press release was posted on the website with further information.

Councilor Eder and Administrator Muir attended a Council of Governments dinner the week before and she commented that the best part was when awards were given to the responders to the recent tornado in Aumsville. S. Muir said that she and Finance Director Tracy Grambusch would be attending CIS training soon to find ways to save the City money.

S. Muir wanted to inform the Council that she would be bringing information to them about updating bank authorizations and changing some bank account forms to comply with a previous resolution. She stated that she would bring more information to the Council shortly.

S. Muir also announced that a citizen reported that he wanted to recognize Officer Jeff Charpiloz for particularly good treatment of a situation up at the Towers recently in the course of performing his duties. The citizen noted that although it was not typical police work, Officer Charpiloz demonstrated excellent negotiation, communication, and calming skills to negotiate a patient into an ambulance.

S. Muir stated that the Council's next check-in on their Council goals was scheduled for March, but that she wanted to give a quick update. Although the Communication Plan as one of their goals was five months early, the strategic plan goal had listed February 1st as the date to have a work plan done. That will be done and the next step is to do a prioritization of the Council goals and that will be done in April. She stated that she would give them a full update in the next meeting packet.

S. Muir also wanted the Council to know that she would be emailing out information about worker's compensation classifications per the Council's request instead of spending time on it in that meeting.

12. **REVIEW OF STAFF REPORTS:**

a. **Police Department**

A written report by Interim Chief Mike Healy was included in the council packet. Police Officer Charpiloz was present to answer questions in Chief Healy's absence.

Councilor Otte asked how police officers are debriefed after being involved in a fatality. Officer Charpiloz stated that if officers are directly involved then they are usually contacted directly by the

chaplain. Officer Puente was contacted directly by the chaplain after his involvement in the recent car crash that killed two boys outside of Mt. Angel.

There were no further questions.

b. Public Works

A written report by Dan Bernt, Public Works Superintendent was included in the council packet. There were no questions.

c. Finance Department Susan Muir – written report

A written report by Susan Muir was included the packet.

Councilor Otte asked if the City was paying West Coast Bank \$35 a month for online banking. He felt that that was expensive. Administrator Muir confirmed that it was the monthly charge for “EBiz” online banking services, which was a little bit more than the usual online banking. S. Muir said that from her recent training on EBiz, she felt that the City’s account was more customizable than she believed that free online banking would be for a regular personal account. S. Muir stated that she could send direct financial reports to herself, get notifications based on the account balance, etc. S. Muir explained that the City was also looking into options of going paperless and pursuing the possibility of check-signers being able to authorize checks online instead of coming down to City Hall to sign checks.

Councilor Otte felt that the City should ask the bank to waive the fee or the City should cancel the service. He felt that \$35 was expensive.

Administrator Muir said that she did not think that the bank would lower their price, but that perhaps an alternative would be for the City staff to shop around for different rates at banks.

Councilor Grassman commented that she thought it was good to be able to look at the accounts online.

S. Muir mentioned that the City would look into this when they get more information about the treasury resolution related to the US Bank account.

Councilor Kintz asked when the resolution about cancelling accounts at US Bank was adopted.

Staff was not sure of the date but S. Muir confirmed that she would get the information to councilors. She stated that the bank account at US Bank was still open and is used to pay payroll taxes. She said that the City is still working on why the action called for in that resolution did not take place.

13. CITY COUNCILOR’S / COMMITTEE REPORT:

Councilor Grassman stated that she reviewed the December 2010 minutes and did not find anywhere during their discussion that the Council gave Administrator Muir direction to research the sewer lateral issue.

S. Muir answered that she was given direction in the January meeting to look into creating a financial assistance program for repairing sewer laterals as a new budget goal in the new budget.

Mayor Schiedler stated that there will be future discussion about this during the budget discussion.

Councilor Grassman asked for ideas and suggestions for the upcoming League of Oregon Cities conference. The conference was to take place two weekends after Oktoberfest in Bend.

Councilor Eder commented that at the COG dinner he sat next to the mayor and a councilor from Gervais and he was impressed that they are going to be putting up a new city hall building and they will be doing the building debt free because they've been setting away money in their budget for the last ten years, \$100,000 at a time.

Mayor Schiedler commented that in Aumsville, the Mayor had made a serious effort to set money aside for new city buildings. He stated that this kind of savings shows them what can be done.

14. **MAYOR'S REPORT:**

Mayor Schiedler attended the Oktoberfest board meeting on January 27th when they choose new board members. He also stated that he has been talking with Councilor Eder about changing the Council's approach for reviewing Accounts Payable. The Mayor asked for suggestions and ideas from the Council.

Mayor Schiedler reported that would be attending a meeting with Councilor Grassman that Wednesday to talk with Oktoberfest and the Community Foundation representatives about Cleveland Street and other things. He said he would let the Council know what came out of the meeting.

15. **PUBLIC MEETING LAW TRAINING:**

City Attorney Mark Amberg explained to the Council that the reason this training came up is that there was a court decision in Lane County a couple weeks ago that was important in terms of public meetings law and changed a lot of perception about what constitutes a public meeting. This change was regarding meetings of less than four members of a public body. The conventional wisdom used to be that if there was less than a quorum, or less than four councilors in case of Mt. Angel, then it was ok to discuss council policy votes. He stated that now that is not so.

City Attorney Amberg stated that in Lane County, the judge concluded that the commissioners had one-on-one meetings about giving individual commissioners extra staff members and personal assistants and inserting that into the county budget. The commissioners lined up the votes for the decision outside of a public meeting process and then voted 3 to 2 to add them into the budget. In the decision it was determined that there was a violation of the public meetings law because the commissioners were deliberating to move to a decision outside of a public meeting and deliberately trying to avoid the terms of public meetings law. If there is a determination under public records law that there was a willful violation of public meetings law, there can be personal liability penalties. The judge in this case ordered the commissioners to pay the claimants' attorney fees and costs which the newspaper said was over \$100,000.

Councilor Grassman asked if the commissioners had these meetings over email. City Attorney Amberg said yes, and that their city attorney actually told them he was very uncomfortable with their actions and informed them that he thought they were violating public meetings law.

Councilor Otte asked if it was their intent that was important in the case. He gave the example that he may speak with Councilor Grassman about a topic and she may speak to another councilor about that topic, but that the intent was not to sway a vote.

M. Amberg answered that intent was not really the issue, but that it was about orchestrating a decision outside of a public meeting. He stated that in the Lane County decision the situation was pretty egregious. He commented that although technically no other jurisdiction than Lane County is accountable to the decision, it is important for all public organizations in Oregon.

Councilor Grassman asked whether it was important that the commissioners were paid. M. Amberg answered that it does not really matter whether the elected positions were paid or not. The important part was to be very conscious when having conversations with each other not to deliberately discuss setting how a vote will come out, including by email. All those kinds of discussions should be had in an open public meeting. He stated that the Attorney General has said that he intends to introduce new legislation about open meetings and public records law during this session.

Councilor Bischoff asked M. Amberg to define "willful." He answered that it meant "intentional." The Lane County Commissioners were willful because they received advice from their attorney that what they were doing was probably violating law and they kept going.

Councilor Grassman commented that usually if an attorney gives you advice they do it for a reason. She was surprised that they did not take their attorney's advice.

M. Amberg informed the Council that if there is a quorum of councilors at a social event, they should definitely be cautious and not discuss city business. He said that it was important to avoid the perception of discussing city business outside of the public meeting.

Mayor Schiedler commented that he agreed that it was very important for councilors to avoid meeting up at social events whether they were discussing city business or not to avoid that perception.

M. Amberg stated that the councilors should be aware that any writing they do in the process of conducting city business is a public record including notes in a council meeting, emails, text messages, etc.

Councilor Grassman asked if that meant the councilors should technically retain anything if they write on it during a council meeting. M. Amberg responded that that is a public record and to keep in mind that any of those notes could be requested in the future.

Councilor Eder asked when they were allowed to discard their records. M. Amberg answered that it was really the City's responsibility to retain those records so the councilors should really turn those notes in to the City.

Administrator Muir stated that the councilors could bring their filing cabinets in to City Hall.

Councilor Kintz said that if anyone requested her notes she would give them a copy but she did not feel that they constituted a public record. M. Amberg responded that it was not the individual councilor's responsibility to give that out but they should give their notes to the City to retain. Councilor Kintz said she wanted a second opinion on that because she did not think that doodles on council packets should be considered public record.

M. Amberg said that he did not know exactly what the retention period was but that the notes were public record. S. Muir stated that she did not know but could find out what the retention timeframe was for those records. She suggested that the issue might be a good topic for a League of Oregon Cities conference session.

16. **ADJOURN REGULAR SESSION:**

Mayor Schiedler adjourned the regular meeting at 8:25 p.m.


17. **EXECUTIVE SESSION:**

An executive session was held pursuant to ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection. Members of the media may attend, however, they may not report on what is heard.

18. **EXECUTIVE SESSION:**

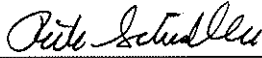
An executive session was held pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. Members of the media may attend, however, they may not report on what is heard.

Respectfully submitted by:



Kelsey Lewis, Assistant to the City Administrator

ATTESTED BY:



Rick Schiedler, Mayor