



# L A P I N E

O R E G O N

## LA PINE CITY COUNCIL AND PLANNING COMMISSION AGENDA

Wednesday, March 15, 2017

**2:30 p.m. Joint Special Session**

**City Council & Planning Commission**

La Pine City Hall – 16345 Sixth Street, La Pine, Oregon 97739

**A. Special Session – 2:30 p.m.**

1. Call to Order
2. Establish Quorum
  - La Pine City Council
  - La Pine Planning Commission
3. Pledge of Allegiance
4. Added Agenda Items

Any matters added to the Agenda at this time will be discussed during the “Other Matters” portion of this Agenda or such other time selected by the City Council.
5. Public Comments
6. Approval of Minutes from February 8, 2017 and February 22, 2017 City Council Meetings
7. Presentation by City Attorneys Jeremy Green and Alan Dale on City Council Roles, Public Meetings, and Ethics
  - Q&A between City Council, Planning Commission, and City Attorneys
8. Discussion on City Council Expectations for City Manager
9. Discussion on City Council Goal Setting
10. Other Matters: Only those matters properly added to this Agenda under line item No. 4
11. Public Comments
12. Staff Comments
13. Council and Mayor’s Comments
14. Adjourn

Pursuant to ORS 192.640, this notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the City Council to consider or discuss additional subjects. This meeting is subject to cancellation without notice. The regular meeting is open to the public and interested citizens are invited to attend. The public will not be permitted to attend the executive session; provided, however, representatives of the news media and designated staff will be allowed to attend the executive session. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the executive session as previously announced. No decision will be made in the executive session. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Patti Morgan (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY

LA PINE CITY COUNCIL AND PLANNING COMMISSION AGENDA

Wednesday, March 15, 2017

**2:30 p.m. Joint Special Session**

**City Council & Planning Commission**

La Pine City Hall – 16345 Sixth Street, La Pine, Oregon 97739

**A. Special Session – 2:30 p.m.**

1. Call to Order

The meeting was called to order by Mayor Dennis Scott at 2:30 pm.

2. Establish Quorum

-La Pine City Council

Mayor Dennis Scott  
Council President Stu Martinez  
City Councilor Karen Ward  
City Councilor Don Greiner  
City Councilor Connie Briese

-La Pine Planning Commission

Chairman Kathy Agan  
Planning Commissioner Russell Smith  
Planning Commissioner Mary Hatfield  
Planning Commissioner John Cameron  
Planning Commissioner Norm McClung – *absent by prior arrangement*

-City of La Pine Staff

City Manager Cory Misyly  
Jeremy Green – Contract Attorney  
Alan Dale – Contract Attorney  
Public Works Manager Jake Obrist  
Economic Development Manager Steve Parnell  
Accounting Clerk Ashley Williams

3. Pledge of Allegiance

Dennis Scott led the Pledge of Allegiance.

4. Added Agenda Items

Any matters added to the Agenda at this time will be discussed during the “Other Matters” portion of this Agenda or such other time selected by the City Council.

None.

5. Public Comments

Kitty Shields, City Resident, said that she was really happy to see what is on the agenda today. She feels like sometimes people come to these positions and don't fully understand what they are getting themselves into. She would like to extend her thanks to those who thought that this was a good idea.

6. Approval of Minutes from February 8, 2017 and February 22, 2017 City Council Meetings

<b>A motion was made by Councilor Greiner and seconded by Councilor Briese to approve the meeting minutes.</b>		
<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Martinez</i>	<i>X</i>	
<i>Councilor Ward</i>	<i>X</i>	
<i>Councilor Greiner</i>	<i>X</i>	
<i>Councilor Briese</i>	<i>X</i>	
<b>Motion passed unanimously.</b>		

Introductions were made at this point by all members of the Council, Planning Commission and Staff. Each person stated their name and the length of time that they had worked with the City.

7. Presentation by City Attorneys Jeremy Green and Alan Dale on City Council Roles, Public Meetings, and Ethics -Q&A between City Council, Planning Commission, and City Attorneys

Jeremy Green introduced himself and said that he wanted to make council and commission aware of different things about foundations in regard to roles, public meetings and ethics. He is hoping that this presentation will make the council more effective in their positions.

**Council and City Manager Roles**

Attorney Jeremy Green said that the Council establishes policy and that policy is implemented by the City Manager. He provided a visual flow chart showing how the roles work. The chart started with the Citizens (voters) that are responsible for electing the Council. The Council in turn is responsible for selecting a City Manager, and the City Manager is responsible for the staff that the manager hires. He stated that the City Manager is responsible for the following functions: hiring and firing staff, organizing and setting administrative policies, implementing ordinances, and following the policies and goals of the City.

Stu had some questions about the following matters Quasi-judicial processes and letters of support. Jeremy explained that Quasi-judicial processes are generally something that relates to land use. Quasi-judicial matters generally only show up when a planning matter is called up by the Council. In quasi-judicial matters the City Council has responsibilities that are similar to a judge. Alan said that there are specific statutes that outline the process for Quasi-judicial matters that interpret code and follow formal policies. Cory indicated that staff puts together a script for Quasi-judicial matters that is outlined by the statutes to cover any ex parte contact. In legislative matters the Council has the role of law making. Jeremy said that letters of support are generally something that the Council should review. He also said that it is not appropriate for a single council member to approve a letter of support and sign it on behalf of the City without the Councils knowledge. Additionally, letters of support should only be approved by the City Council, and never by the Planning Commission. After discussion it was decided that letters of support need to be submitted with ample time to review.

Jeremy said that ordinances are used to set policy, or in an effect, laws and rules of the City. It is ideal to keep Ordinances in place for extended periods of time because the regulations adopting Ordinances are more stringent than those for adopting Resolutions. Resolutions are generally used for fees and other matters that occur more frequently and require less stringent adoption methods.

Jeremy said that it is good practice for all members of the City to set a model for the public, because the public holds us to a higher standard. What you communicate to the public are often times portrayed as what is happening in the City, and is often regarded to as official information. Often time's citizens often construe what is said by us, as individuals, as an opinion of the city as a whole. After a question from Mary Hatfield, Planning Commissioner, Jeremy that it is matter of respect for the citizens and the governing body as a whole. Steve Parnell gave a good example by using the recent marijuana issues, whether or not you agree with the matter, we need to be united in what we say to citizens about City policies. Additionally, the Council should be expected to listen to all concerns from members of the public.

It was discussed that Council should never direct staff because that is the job of the City Manager. Only the Council as a whole can be responsible for administrative matters. It was recommended that if a Councilor has an issue with a staff they discuss it with the City Manager. This is because there are many risks associated with this type of behavior like harassment charges and negative public perception of the organization.

As an individual councilors have no rights to govern, only when they are a group. When councilors are acting within the capacity of the entire body they are able to be legally defended, but if you step outside of those duties you often times will not be covered, and may be personally liable.

It was discussed that land use review items should not be discussed between the Council and the Commission. It was also discussed that the City Council generally should not attend Planning Commission meetings. This is because if the matter is called up to Council there would be an ex parte contact that would need to be disclosed. Furthermore, the application process could be hindered if such a matter happened. In response to a question from Mary, Jeremy said that it is appropriate for the Commission to attend Council meetings, just not the other way around.

### **Mayor, Council President, and Council Rules**

The City Charter establishes the position of Mayor, the positions of the City Council and the roles of the City Manager. The duty of the Council President is to run the meeting if the Mayor is not present at the meeting.

Don had some questions regarding contracts that are sent out to Council for review. He thinks that all contracts should be handled at meetings, because the discussion would help facilitate the decisions made by the Councilors. After a few clarifying questions it was discovered that the contracts Don was referring to had not been awarded yet. Those contracts will be further reviewed at a future meeting.

The Mayors roles were discussed. The Mayor is elected by the public and is recognized as head of the government for ceremonies and other events. The position is responsible for running the meetings, is the spokesperson, and the signer for official documents.

### **Public meeting laws**

How the meetings are being run was discussed. Jeremy said that there is great latitude given in how to hold the meetings, and that public comment can be given at any time. It was recommended however, that the City does this with caution, as we do not want to set a standard that the City loosely runs meetings because at times that can be a bad thing. The public records law grants people the right to be present, but it does not grant them the right to comment. Overall though, it was decided that it is better to have more public comment than too little. If there is a need the Mayor and Council can request that a spokesperson be appointed from specific groups wishing to comment.

The public meeting laws keeps quorums from meeting in private. The noticing requirements needed to have a public meeting were discussed. It was said that there is a common misunderstanding that a quorum of the body cannot get together without holding a meeting, but that is not true. A quorum can come together, but they may not discuss business of any sort regarding the organization. For reasons of transparency it was highly recommended that the Council and/or Commission do not meet outside of a public meeting for any purpose, even if it is not city related.

The definitions of public body, governing body and public meeting were discussed:

- A “public body” is any state, regional, or local governmental board, department, commission, council, bureau, committee, subcommittee, or advisory group created by the state constitution, statute, administrative rule, order, intergovernmental agreement, bylaw, or other official act.
- A “governing body” is two or more members of a public body who have authority to make decisions for, or recommendations to, a public body on policy or administration.
- A public “meeting” is the convening of the governing body for which a quorum is required to make or deliberate toward a decision on any matter or to gather information.

Any committee that is created constitutes a governing body and is subject to public meetings law. The reasons for the Public Meetings Laws were discussed. These underlying policies help citizens understand government decisions, build trust in government, provide access to the process of deliberation enable the public to view government at work and influence deliberations, and helps the governing body gain credibility.

There was a lengthy discussion about the Handy v. Lane County case where commissioners were accused of having serial meetings. Serial meetings occur when a majority of the quorum is represented in e-mail dialog outside of a public meeting. The advice was that the Council avoids any action where they may encounter a serial meeting. For example sending an email to more than one other councilor, or replying to an email and including other councilors in the communication.

It was discussed that personal computers and e-mail addresses could be subject to public record if subpoenaed by a judge. There was a discussion about the City Email and the user platform which is not very effective. When personal emails and computers are used Councilors and Commissioners could be held personally liable in the event of a court case. It was decided that the City should get a more user friendly email platform for the Council and Commissioners. In response to a question from Ashley Williams, Jeremy said that the Urban Renewal Agency should be using the City email platform as well.

Executive sessions are the exception of the public meetings law. In an executive session governing bodies are allowed to exclude the public, but often times the Press can be present. Some of the reasons for an executive session include employment, real estate, and litigation matters. Records that are exempt from public records may also be reviewed in executive session. Executive sessions must be noticed, and must contain that the reason. Additionally, minutes need to be taken but do not need to be disclosed. The Council may not discuss anything but the reason listed in the noticing at an executive session. The main reasons for challenging an executive session are citing the wrong reason, improper subject discussion, and failure to announce the decision in open session. If someone challenges an executive session it is possible to be liable for the challenger’s attorney fees, if the challenger wins the case.

## **Ethics**

Conflicts of Interest arise when a public official has a financial, employee/employer, or business relationship to the matter that is being presented. There are two types of conflicts of interest – potential and actual. Potential conflicts of interest *could* result in some sort of benefit to the elected official. When there is a potential conflict of interest the elected official must disclose the conflict in the meeting minutes and is still able to vote. An actual conflict of interest *will* result in some sort of benefit to the elected official. When there is an actual conflict of interest the elected official must disclose the

conflict in the meeting minutes and must abstain from voting. It was recommended that council fully disclose any thing that they may see as a conflict before the matter is discussed.

There was a discussion about Council Briese's business and if she was in a conflict of interest situation when it came to bidding documents. After it discussion with the attorney it was decided that there was no conflict. Common situations relating to conflicts of interest are approval of bills, awarding of public contracts, and approvals of land use permits.

Connie asked what the relationship is between Planning Commission and Council when it comes to land use matters. General process is that the council is the ultimate authority. Staff will prepare report bring it to commission; if the commission approves it then it is drafted as an ordinance for the council to adopt. After a brief discussion it was decided that the staff would start sending Planning Commissioner packets to the City Council as well so that they can be aware of the situations presented to the Commission without risking ex parte contact.

#### 8. Discussion on City Council Expectations for City Manager

Councilor Briese said that she thinks that Cory does an excellent job of being transparent. She appreciates it and it builds a level of trust for her. She said he goes above and beyond what he is expected to do and that he meets her expectations. She would like to keep an open picture of what is going on with the Commission. One of the large roles of the commission is to sort these issues out so they can be sent to the Council. It was discussed that applications can be decided by staff or commission. However if it is a change to the Zoning Ordinance it must come before the Council.

Councilor Greiner said that he likes to know what is going on in case someone asks him. He said that he thinks all funding requests should go to a work session so they can be vetted through the Council. He would like to reincorporate a roll call vote for every resolution and every ordinance. Additionally he said that he doesn't like the emergency clause on all ordinances He said that some of our ordinances are not being enforced as well as they should be. He is also concerned with the sound system in the council chambers by not accommodating a person with disabilities, mainly in the respect to hearing what is said in meetings.

Dennis said that he has been trying to remember the roll call vote. It was discussed that the councilors should only call the attorney if there is a problem with the City Manager. Other than those types of instances, matters should be vetted through the City Manager. Stu said that in the past the implied rule was that if there were issues with the manager, you would discuss it with the mayor.

Stu said he would like to see Cory reach out more to the council. There are some issues that need to go to other places, but if they are local issues, then it could be beneficial to reach out to the council. Cory said that one thing that he would like to start doing is write a monthly memo, or staff report, to the council. He said that he gets mixed up about which matters he has discussed with whom, and this would help him make sure that everyone got the information. Stu said that he really liked the idea of a monthly update.

There was a discussion about holding more than 2 meetings per month. It was decided to move the meeting time to 6:00 pm and see if they could maintain two meetings per month. Karen said that she likes the open door concept, and that she would like to more transparent with the Planning Commission and Public Works Committee. She likes to know what they are making decisions on, rather than having the Council make all of the decisions. She doesn't want to control it, rather she likes being aware of what is going on in case she is asked. She said that she really appreciates the Mayors open concept.

#### 9. Discussion on City Council Goal Setting

City Manager Cory Misley said that he would like to see the Council and City adopt some higher level goals. Don and Dennis said that there had been goal setting meetings in the past, and that staff should look into those minutes and sessions and see if we could find them useful. Stu said that he thinks that the goals that were set at the time of incorporation are good goals.

Dennis said that some of his short terms goals would be building more green space, better enforcement of ordinances, and construction of a bike path that connects both ends of town. He would like to see the City continue doing City clean up and continue to have surpluses. He would like to see the entire City have sidewalks and to begin designing public art.

There was a discussion on the lack of cohesion around the City and that there was a company that started that process on Huntington with a design plan. Cory said that the Site Plan will trigger some uniformity, but overall the City does not have the money to completely redevelop the streets and streetscapes all at once. The transit center will help correlate with the other developments that we are beginning to see in the City.

Don mentioned an issue with parking in subdivisions. He would like to see better reviews put in place for subdivision development in relation to parking. Karen stated that she would like to see all of the parts of town unified. Additionally, she would like signage on both the north and south ends of town and liked the idea of public art. It was discussed that if the City obtains the old park and ride lot then we could put some signature signage there once the over pass was completed.

The Clean-up Week will be discussed at the next work session. There were some questions about how the City would like to participate in that event. It was decided to have City Staff work with Wilderness garbage staff and have this as a discussion topic on the April Work Session Agenda. Karen mentioned that she would like to see a code enforcement officer hired, since the current staff is so busy. Cory said that we are considering hiring a full time Community Development Director, and code enforcement would be a part of their duties.

Cory said that the goals are already there, the City just needs an official document to get those goals out there for the public to see. Connie said that she would like to see the individual departments have city goals that relate to the council goals. She said that she would like to see these framed more as goals than tasks, which is how they are now. She said that one of her mail goals is to keep the citizens informed of what we're doing. She also recommended trying to find records about the prior goals because this would make the council more effective in setting these formal goals.

Stu said that he would like to see the City look at increasing our tax rate. He thinks that with the growth that was anticipated that we should really consider this because all of these things we wish to accomplish take money. We have to be responsible to the citizens for services, but due to our low tax rate that can be difficult at times. If we present ourselves in responsible manners and are transparent then there is a good likelihood that we will be able to pass it a vote on the tax when that situation arises.

10. Other Matters: Only those matters properly added to this Agenda under line item No. 4

None.

11. Public Comments

Kitty Shields, citizen, asked about the retention of emails and said that there are retention schedules to help staff determine how long items need to be saved. Ashley said that she has copies of those documents and the City went through a lengthy process of paper record clean up last year. Since then the City has properly labeled and stored all records going forward. She also said that she will look into the retentions of public e-mail documents. Lastly, Kitty said she really enjoyed the meeting and thought it was valuable.

12. Staff Comments

Cory said that the job announcement should be up on Friday and will be up until the end of March. Given time frames needed for the new candidate we are hoping to have someone on board by May 1<sup>st</sup>.

Jake said that he and Mike went to a class last week in Sunriver and it was a really good class. There were a lot of operators present and it was very productive.

Cory said that the juvenile detention crew will be helping clean up the sidewalks. He said that the kids will sweep up the rock and that the staff will borrow a vactor trailer from Midstate to vacuum the rocks from swales.

Jake said that we are looking for a contract for landscaping, but it will not be ready for the work session agenda. Jake said the guys are getting the hay pivot operational this week. Jake said that now that the weather is clearing we will have a tour of the Public Works facilities available for those interested in attending.

13. Council and Mayor's Comments


Karen said that the staff is all very busy. Connie stated that she felt it was a good session today. Her comments were mirrored by Dennis Scott, Mayor. Don asked when we were planning to get the Public Works speed trailer out on the streets. Jake said he is planning to get it out there this week sometime.

14. Adjourn

**A motion was made by Councilor Briese and seconded by Councilor Ward to adjourn the meeting.**

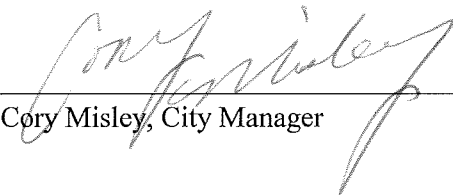
<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Martinez</i>	<i>X</i>	
<i>Councilor Ward</i>	<i>X</i>	
<i>Councilor Greiner</i>	<i>X</i>	
<i>Councilor Briese</i>	<i>X</i>	

**Motion passed unanimously.**



Dennis Scott, Mayor

Attest



Cory Misley, City Manager