

REVISED
LA PINE CITY COUNCIL WORK SESSION AGENDA

Public Hearing and Work Session

Wednesday, July 27, 2011

5:30 pm

51340 Highway 97, La Pine, Oregon 97739

South County Building Meeting Room

Work Session

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Interview of Francis Hansen & Martin LLP – 5:30 pm
5. Interview of Bryant, Lovlien & Jarvis, PC – 6:15 pm
6. 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.
7. Ordinance No. 2011-05
An Ordinance Granting Bend Cable Communications, LLC, and Oregon Limited Liability Company dba Bend Broadband, the Right and Privilege to Provide and Operate General Communications Business within the City of La Pine.
 - a. Open Public Hearing
 - b. Staff Report
 - c. Public Comments
 - d. Close Public Hearing
 - e. Council deliberations
8. Ordinance No. 2011-04
An Ordinance adopting Code Section 10.1.0 Expiration of Approval, and Declaring an Emergency.
 - a. Open Public Hearing
 - b. Staff Report
 - c. Public Comments
 - d. Close Public Hearing
 - e. Council deliberations
9. IGA with Deschutes County regarding Administration of Land Use Applications
- Document No.: 2011-01, Intergovernmental Agreement

10. Discussion on Social Gaming.
11. Other Matters
12. Public Comments
13. 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 meetings. This notice does not limit the ability of the City Council to consider or discuss additional subjects. These meetings are subject to cancellation without notice. These meetings are open to the public and interested citizens are invited to attend. 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 at (541) 536-1432.

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51340 Highway 97, La Pine, Oregon 97739

South County Building Meeting Room

Work Session

1. Call to Order

Mayor Mulenex called the meeting to order at 5:30 pm.

2. Roll Call

Roll Call:

City Manager Rick Allen

Mayor Ken Mulenex

Councilor Stu Martinez

Councilor Dan Varcoe

Councilor Adele McAfee – arrived at 5:34 pm

Councilor Don Greiner

Admin Ass't Patricia Morgan

Quorum established.

3. Pledge of Allegiance

Wayne Kovacs, President of the Water District, led the Pledge of Allegiance

4. Interview of Francis Hansen & Martin LLP – 5:30 pm

Martin Hansen introduced himself and his two partners, Chris Manfredi and Alison Huycke. He said there were eight attorneys in the law firm and the original partnership was formed in 1980. Mr. Hansen said he has worked with City Manager Allen in the past. He said he has a lot of experience working with the City of Bend. Mr. Hansen stated that they represent a number of utility districts. He said their approach is to work individually with the client and determine how much representation is needed. Mr. Hansen said the City Manager usually functions as a gate-keeper to determine the frequency of legal counsel. He said quick turnaround and quick communication is something his firm can offer. Mr. Hansen stated that their motto is leave the client better than they found him.

Councilor Varcoe asked how their firm would handle a transfer of legal representation from another law firm. He said if there is no litigation it would probably be very smooth.

Councilor McAfee asked if they had identified any unique issues with La Pine or any challenges. Mr. Hansen said that a new city will always be a challenge. He said he has worked with all levels of

cities and counties. Mr. Hansen stated there will always be issues. He said any lawyer working for the city is working for the Council first and foremost. Councilor Martinez asked if they handle labor negotiations. Mr. Hansen said it depends on what level the Union is, but they have done Union work in the past. He said he would refer them to a speciality attorney if necessary. In response to a question posed by Councilor Greiner, Mr. Hansen said that if the Council decided to change law firms it would be wise to have the current attorney finish any projects that are in process. He said that files get changed over all the time.

00:20:25

Councilor McAfee asked if the firm has any unique experience that would help the City with the transition of the Water and Sewer Districts. Mr. Hansen stated they have experience working in all forms of government processes and he has a lot of experience with one government entity dealing with another government entity. He said at the City of Bend, the Fire Districts were separate from the City and had their own lawyers.

Attorney Alison Huycke stated that she specializes in the business and real estate side. She said she was more on the contract side of the firm. Mr. Hansen stated that she helps him with resolutions, etc. Attorney Chris Manfredi stated he practices labor and employment law on the management side. He also said he does some general litigation.

Mayor Mulenex asked what would happen if the firm had other clients in the city that the City of La Pine would deal with. Mr. Hansen stated that the current businesses in La Pine that his firm represents would not create a conflict of interest. He said the firm, if selected, would not take on any new clients where there could be a conflict of interest. Mr. Hansen stated he would encourage the Council not to have individual contact with the attorney unless there is some real reason to. He said the Mayor may be the logical person to contact the attorney other than the City Manager. Councilor McAfee asked if the firm has any policy in place for some sort of self-analysis or coordination that the City may need regarding fiduciary responsibility. Mr. Hansen stated that in their advice to the Council the firm's job is to make sure the Council follows its fiduciary responsibility.

00:36:45

5. Interview of Bryant, Lovlien & Jarvis, PC – 6:15 pm

Jeremy Green and Sharon Smith represented the firm. Mr. Green stated that his firm has a specialty in municipal and special district law. He said they represent the City of Madras, the City of John Day, City of Prairie City, City of La Pine and the City of Burns. Mr. Green stated he liked working with cities because of the variety of work they involved. Sharon Smith stated that her work with La Pine has been with the land use and withdrawal of the Water and Sewer Districts. She said she has done a lot of land use for private clients and for the Bend School District.

Councilor McAfee asked if there a self assessment or coordination the firm would go through in their response to the Council. Mr. Green stated that they talk among themselves and determine what direction they need to go. Sharon Smith said that they meet regularly and also have an open door policy to make sure they are being as efficient as they can be in providing services. Councilor Martinez asked if the firm has a specialist in union negotiations. Mr. Green said they do not have an attorney that specializes in union work. He said the firm could contract with a specialist. Councilor Martinez asked about receiving a call from an individual Councilor to the City Attorney. Mr. Green said that now that La Pine has a City Manager that is who the firm would normally interact with but any advice given to an individual Councilor would have to be the same for all Councilors.

In response to a question from Mayor Mulenex, Mr. Green said that the City is the client. He said the body of the City itself is technically the client. The Council is employing the firm. Mayor Mulenex asked if the firm had clients in the City that do business with the City. Sharon Smith said they represent the school district. In response to a question from Mayor Mulenex, Ms. Smith stated that if another firm was selected they would work swiftly to give the other firm the files they would need.

Councilor McAfee asked what were the issues that the firm has to be mindful of when representing numerous cities in Oregon. Mr. Green said one positive thing is that the firm can work on one project and many of the cities can share the cost associated with the project. Councilor McAfee suggested, regarding the Council Rules and Procedures, maybe they need to address the issue of who should be contacting the attorney.

6. 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.

11a) Authorizing the Mayor and City Manager to sign the letter allowing USDA to have the City of La Pine assume the loans from the Water and Sewer Districts.

01:04:00

7. Ordinance No. 2011-05

An Ordinance Granting Bend Cable Communications, LLC, and Oregon Limited Liability Company dba Bend Broadband, the Right and Privilege to Provide and Operate General Communications Business within the City of La Pine.

a. Open Public Hearing

Mayor Mulenex opened the Hearing.

b. Staff Report

City Manager Rick Allen stated that Bend Broadband is now providing services in La Pine and needed to do this franchise agreement. He said the City partnered up with the City of Madras to develop the best franchise agreement. City Manager Allen said it is a little unknown as to how much revenue will be generated because it is not like the power company, etc. City Attorney Green stated that the agreement has an escalating franchise fee schedule for a ten year term.

Melanie Grandjacques introduced herself and Frank Miller both from Bend Broadband. She said they are the 19th largest employer in Central Oregon. Ms. Grandjacques said they recently received stimulus money to expand their services. She said there will be 115 permanent jobs created with this expansion. Ms. Grandjacques said the project will be completed in September of 2012. She said they would be building 100 miles of fiber.

City Manager Allen said this is really about economic development so La Pine is competitive to businesses locating to La Pine, the franchise fees themselves will not generate a lot of revenue.

01:32:08

- c. Public Comments

None

- d. Close Public Hearing

Mayor Mulenex closed the Public Hearing.

- e. Council deliberations

In response to a question from Councilor Greiner, Frank Miller stated that they will not be going underground except in a few instances.

A motion was made by Councilor Greiner and seconded by Councilor Varcoe to Approve Ordinance No. 2011-05.

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Dan Varcoe</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	
<i>Councilor Stu Martinez</i>	<i>X</i>	

Motion passed unanimously.

01:35:33

- 8. Ordinance No. 2011-04
An Ordinance adopting Code Section 10.1.0 Expiration of Approval, and Declaring an Emergency.

- a. Open Public Hearing

Mayor Mulenex opened the Public Hearing.

- b. Staff Report

City Manager Allen stated that this is an Ordinance to extend land use applications for planned sub divisions in La Pine due to the economy. He said the extensions would be good for up to five years. Sharon Smith stated that the reason this is being done is to allow construction to just gear up and be ready to go instead of having to start from scratch. In response to a question from Councilor McAfee regarding TDC's (Development Charges), City Manager Allen stated that he could do some research and come back at a future meeting and discuss them.

- c. Public Comments

Loretta Murphy, area resident, asked is it clarified in this Ordinance that only the person or entity holding the permit now may apply for the extension. Sharon Smith said it is really tied to the property and not a particular person.

Vicky Jackson, area resident, asked if all the paperwork will be processed in the City. City Manager Allen said that Deborah McMahon, planning consultant, will assist in this process. He said the City has not yet established fees.

- d. Close Public Hearing

Mayor Mulenex closed the Public Hearing.

- e. Council deliberations

None

A motion was made by Councilor Varcoe and seconded by Councilor Greiner to Approve Ordinance No. 2011-04 an Ordinance Adopting Code Section 10.1.0 Expiration of Approval and Declaring an Emergency as Modified.

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Dan Varcoe</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	
<i>Councilor Stu Martinez</i>	<i>X</i>	

Motion passed unanimously.

01:53:00

- 9. IGA with Deschutes County regarding Administration of Land Use Applications
- Document No.: 2011-01, Intergovernmental Agreement

City Manager Allen stated that this is the agreement with Deschutes County that will allow them to continue planning tasks for another year on behalf of the City of La Pine.

A motion was made by Councilor Greiner and seconded by Councilor McAfee to Approve Document No. 2011-01 Intergovernmental Agreement.

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Dan Varcoe</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	
<i>Councilor Stu Martinez</i>	<i>X</i>	

Motion passed unanimously.

01:55:11

- 10. Discussion on Social Gaming.

Tom Tirrill, owner of the La Pine Bowling Center, spoke to the Council about allowing Texas Hold-em to be held at his establishment. He stated that he only sells wine and beer at his establishment so he has less revenue than the other bars in town. Mr. Tirrill discussed social gaming under Oregon

law. He stated his business would not make any money by having the game played at his Bowling Alley. Mr. Tirrill said he makes his money off of food and beverages purchased during the games and also video poker machines. He also said that the social gaming is governed by the State of Oregon. Mr. Tirrill stated that people are traveling to Bend to play poker. He said overall, the poker games increase jobs in the area.

Councilor McAfee asked for clarification of what the City of Bend law defers to the ORS (Oregon Revised Statutes).

City Manager Allen stated that this presentation was done to open the idea and see if the Council was interested in pursuing it. The Council had consensus for the City Manager to follow up on social gaming and report back to the Council at another meeting.

02:25:33

11. Other Matters

11a) Authorizing the Mayor and City Manager to sign the letter allowing USDA to have the City of La Pine assume the loans from the Water and Sewer Districts.

City Manager Allen stated he has completed the letter to USDA to allow the loans from the Water and Sewer Districts to be moved over to the City of La Pine.

A motion was made by Councilor Varcoe and seconded by Councilor McAfee to authorize the dispatch of this letter signed by the City Manager.

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Councilor Dan Varcoe</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	
<i>Councilor Stu Martinez</i>	<i>X</i>	

Motion passed unanimously.

12. Public Comments

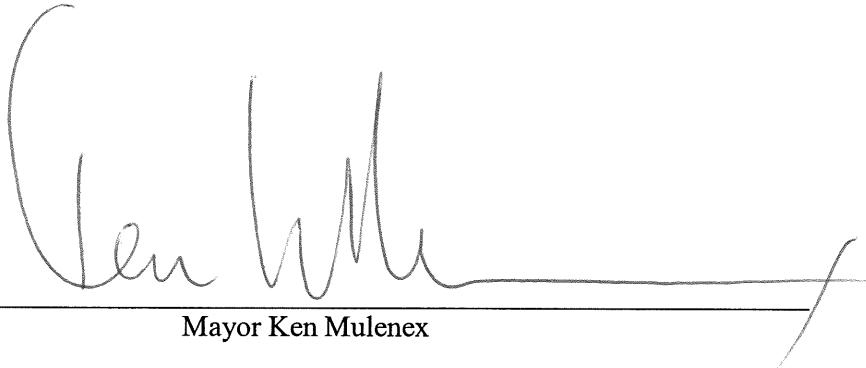
None

Council Comments

Councilor McAfee stated that she would be revising the new letterhead that was created by the City Manager.

13. Adjourn

Mayor Mulenex adjourned the meeting at 8:10 pm.



Handwritten signature of Ken Mulenex in cursive script, positioned above a horizontal line.

Mayor Ken Mulenex

Attest:



Handwritten signature of Rick Allen in cursive script, positioned above a horizontal line.

City Manager/Recorder Rick Allen