



CITY OF LA PINE, OREGON

REGULAR CITY COUNCIL MEETING

Wednesday, January 24, 5:30 p.m.

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

Available online via Zoom: <https://us02web.zoom.us/j/87863297412>

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 City Hall at (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY.

The Regular City Council meeting is a business meeting of the elected members of the La Pine City Council, in which matters that have come before the City in application, or legislatively/judicially by process can be acted upon under Old and New business. Matters that are not formally before the City or have yet to be initiated by application cannot be officially acted upon. If any party would like to initiate an action through process or application, city administrative staff are available during the regularly scheduled business hours of City Hall to provide assistance.

AGENDA

CALL TO ORDER

ESTABLISH A QUORUM

PLEDGE OF ALLEGIANCE

PUBLIC HEARING:

None

REGULAR COUNCIL MEETING

PUBLIC COMMENTS

Public Comments provide an opportunity for members of the community to submit input on ongoing matters within the city. Any matter that warrants testimony and rebuttal may be debated during a public hearing on the matter.

Public Comments are limited to three (3) minutes per person; when asked to the podium, please state your name and whether you live within La Pine city limits. The acting chair may elect to respond to comments if the matter is within the jurisdiction of the city or defer to city staff for response.

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 time selected by the City Council

CONSENT AGENDA

Information concerning the matters listed within the Consent Agenda has been distributed to each member of the City Council for reading and study, is considered to be routine, and will be enacted or approved by one motion of the City Council without separate discussion. If separate discussion is desired concerning a particular matter listed within the Consent Agenda, that matter may be removed from the Consent Agenda and placed on the regular agenda by request of any member of the City Council.

- 1. 01.10.24 Regular City Council Meeting Minutes.....3.

OLD BUSINESS:

None

NEW BUSINESS:

- 1. Recreational Immunity
 - a. Staff Report.....7.

OTHER MATTERS

PUBLIC COMMENTS

Three (3) minutes per person; when asked to the podium, please state your name and whether you live within La Pine city limits.

STAFF COMMENTS

MAYOR & COUNCIL COMMENTS

EXECUTIVE SESSION: per ORS 192.660 if necessary

ADJOURNMENT



CITY OF LA PINE, OREGON
REGULAR CITY COUNCIL MEETING

Wednesday, January 10, 5:30 p.m.

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

Available online via Zoom: <https://us02web.zoom.us/j/87945683260>

MINUTES

CALL TO ORDER

Mayor Richer called the meeting to order at 5:30 p.m.

ESTABLISH A QUORUM

City Council

Mayor Richer

Councilor Shields-excused

Councilor Van Damme-excused

Councilor Ignazzitto

Councilor Morse

Student Councilor Marston

Staff

Geoff Wullschlager-City Manager

Ashley Ivans- Assistant City Manager/Financial Director

Rachel Vickers-Associate Planner

Amanda Metcalf-City Recorder

Kelly West- Public Works Director

Present Via Zoom

Brent Bybee- Principal Planner

PLEDGE OF ALLEGIANCE

Mayor Richer led the pledge of allegiance.

PUBLIC HEARING:

None

REGULAR COUNCIL MEETING

PUBLIC COMMENTS

No public comments.

ADDED AGENDA ITEMS

None

CONSENT AGENDA

1. 12.13.23 Regular City Council Meeting Minutes
2. Financials
 - a. Financial Summary
 - b. Interest Income Report
3. Public Comments 12.13.23

Councilor Ignazzitto made a motion to approve the consent agenda. *Councilor Morse seconded the motion.* Motion carried unanimously.

OLD BUSINESS:

None

NEW BUSINESS:

1. Consideration of Personal Services Agreement for Comprehensive Plan Update – 3J Consulting
 - a. Staff Report
 - b. Personal Services Agreement

Principal Planner Bybee presented the associated staff report updating the Council on the coordination with 3J consulting regarding the comprehensive plan update. In addition, Mr. Bybee informed the Council that the City of La Pine was awarded the Technical Assistance Grant from DLCDC for \$50,000.00, this will help fund the services provided by 3J.

Councilor Ignazzitto made a motion to approve the contract for services and its attachments therein and direct the City Manager to sign the contract on behalf of the City of La Pine. *Councilor Morse seconded the motion.* Mayor Richer called for a Roll Call Vote:

Councilor Van Damme- Absent

Councilor Shields- Absent

Councilor Ignazzitto- Aye

Councilor Morse- Aye

Motion passed unanimously.

OTHER MATTERS

None

PUBLIC COMMENTS

None

STAFF COMMENTS

Finance Director Ivans informed the Council that sewer connections have started in the Cagle Development. She gave an update on her training in Utah for two new modules that were added to the

City's operating software. Staff will start implementing the platforms which include Community Development, and Electronic Document Management. Lastly, she is working on year end and the closing of the USDA water bond.

City Recorder Metcalf had no comments.

Principal Planner Bybee stated that he is happy that the contract was approved and signed.

Associate Planner Vickers updated the Council on the current and new applications for Community Development.

Public Works Director West updated the Council on the current snow preparedness, in addition, Public Works is adapting the wells for shut down required for the Water and Wastewater Project.

City Manager Wullschlager gave an update on the ARPA funds, which are earmarked for the sidewalk improvement on the east side of Hwy 97. Financial Director Ivans was able to have the funds reapplied to design only for the improvement. He also gave an update on the progress of the Urban Renewal Agency's Archway project.

There was an update on the Spec Building that will be built in the Industrial Park. He stated that he will be seeking outside consultation for drafting an RFP.

He said that the City's Planners, Mr. Bybee and Ms. Vickers, have been working on arranging advisory boards for the Comprehensive Plan Update. He further stated that Council will be the ultimate authority for these changes, and as such, should not be on the advisory boards.

He informed that Council that we have been interviewing candidates for the Office Clerk position. He said that this new staff member will be able to help Ms. Metcalf with many of her duties, allowing her to train for her new position of City Recorder.

Lastly, he stated that Commission Chair Bea Hatler will be moving, and a new board chair will need to be appointed.

There were some questions from the Council about the Spec Building. City Manager Wullschlager said that the building is not in the Downtown Overlay and that the intention of the building is to be as flexible a design as possible to accommodate rolling tenancy of different businesses.

MAYOR & COUNCIL COMMENTS

Student Councilor Marston updated the Council on local school outages due to inclement weather. This included all sports and extracurricular activities, including an international wrestling meet. Lastly, he reported that the High School Winter Formal was scheduled for the upcoming weekend.

Councilor Morse had no comments.

Councilor Ignazzitto had no comments.

Mayor Richer thanked everyone for coming to the meeting and discussed the purpose of swales in residential neighborhoods, and the need for vehicles to be moved from the public right-of-way to accommodate plowing.

EXECUTIVE SESSION: per ORS 192.660 if necessary

ADJOURNMENT

Mayor Richer adjourned the meeting at 5:52 p.m.



CITY OF LA PINE

STAFF REPORT

Meeting Date: January 24, 2024
TO: City Council
FROM: Geoff Wullschlager, City Manager 
SUBJECT: Recreational Immunity

- | | | | |
|-------------------------------------|-------------------------|--------------------------|-----------------------------------|
| <input type="checkbox"/> | Resolution | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | No Action – Report Only | <input type="checkbox"/> | Public Hearing |
| <input type="checkbox"/> | Formal Motion | <input type="checkbox"/> | Other/Direction: Please see below |
-

Councilmembers:

In July of 2023, the Oregon County of Appeals issued an opinion directly related to the tradition of recreational immunity as provided for under ORS 105.682. This decision has had the effective result of making recreational immunity a protection that is open to subjective interpretation, and not a standard that has historically protected public agencies and other providers of land access for recreational purposes.

Recreational Immunity defined:

Municipalities and “others” have traditionally relied upon ORS 105.682 which was derived out of a set of statutes (Chapter 105. Property Rights) passed in 1995, to protect themselves from liability in the event that a user of public land was injured during defined “principal purpose” which included recreational use. These principal purposes extend to gardening, woodcutting, or harvest of special forest products, and under 105.682 the limitation on liability is not affected if the injury, death, or damage occurs while the person entering the land is engaging in activities other than the use of the land for recreational purposes, gardening, woodcutting, or the harvest of special forest products.

Case Law:

Under *Fields V. Newport*, the Oregon Court of Appeals determined that while the plaintiff was in fact using a recreational trail, it could not be determined if the principal purpose of plaintiff’s activity was to use the trail where injury occurred for recreation, or something else such as access to the adjacent beach area. Furthermore, it was not the measurable activity, in this case walking, that was used to determine whether or not the test for recreational immunity was met, but the subjective intent of the claimant, wherein it was stated that their internal determination for the activity was something other than recreation, such as travel/access. The plaintiff claimed that a portion of the trail, a bridge, was in despair which led to a fall and injury, and that their resolve for use at the time of incident was not recreational and therefore the City of Newport carried liability for damages.

Take note that the Court used this state of mind determination, not the objective activity itself, in its determination which overturned a lower court ruling on the matter, and likely was the catalyst for the vacation of the “engaging in other activities” language under 105.682.

While the Court of Appeals did not specifically determine the facts of *Fields V. Newport*, they did essentially remove the use of recreational immunity as an immediate response or stopgap in matters of potential litigation, and in turn have placed the burden of proof on the property owner to establish recreational immunity purpose in a defensive posture through a trial court proceeding. As a result, an agency must now prove that the intent leading to purpose/use of an aggrieved party was recreational or other covered primary purpose, to apply limitation of liability in the event of a tort claim or contractual obligation.

Action:

City Administration does not have formal recommendations for Council action on this matter as we will be undertaking a series of steps with our insurer and legal counsel to best protect the city’s assets and interests. We intend to keep you informed of developments and expect to have a draft ordinance in coming months that will potentially further protections for the organization under expanded sections of existing state statute, where appropriate and applicable.