

LA PINE CITY COUNCIL SPECIAL MEETING AGENDA

Monday, May 24, 2010 6:00 p.m.

16755 Finley Butte Road, La Pine, Oregon 97739

Midstate Electric Conference Room

A. SPECIAL MEETING

1. Call to Order
2. Establish Quorum
3. Pledge of Allegiance
4. Opportunity for Council Discussion Concerning Councilor Conduct.
5. Public Comment
6. 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. The meeting is subject to cancellation without notice. The meeting is 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 Luana K. Darnerval at (541) 536-1432.

LA PINE CITY COUNCIL SPECIAL MEETING MINUTES

Monday, May 24, 2010 6:00 p.m.

16755 Finley Butte Road, La Pine, Oregon 97739
Midstate Electric Conference Room

A. SPECIAL MEETING

1. Call to Order

Mayor Shields called the meeting to order at 6 pm.

2. Establish Quorum

Roll Call

Present Were:

Mayor Kitty Shields

Councilor Doug Ward

Councilor Barbara Hedges

Councilor Adele McAfee

Councilor Don Greiner

City Attorney Jeremy Green –excused by prior arrangement

City Recorder Luana Damerval

Admin Ass't Patricia Morgan

Quorum established.

3. Pledge of Allegiance

Administrative Assistant Patti Morgan led the Pledge of Allegiance.

4. Opportunity for Council Discussion Concerning Councilor Conduct.

Mayor Shields read from a statement she had prepared. Some of her statement included the following:

- this meeting is in no way an attempt to censure a Councilor or make charges against a Councilor
- the City Attorney has not coached or led any Councilors prior to this meeting and no outside meetings have been held prior to tonight's meeting
- I heard complaints from other Councilors individually and also have my complaints concerning Councilor McAfee's conduct
- there will not be any decisions made at tonight's meeting

00:05:05

Councilor McAfee asked that the other Councilors express their concerns and then she would address them after they had made their comments.

Councilor Greiner read a statement that included the following:

- I have no political agenda, I am not a candidate for Mayor of La Pine and I will not seek political office in Deschutes County, the State of Oregon or the federal government, nor am I interested in the City Manager, City Recorder or Administrative Assistant positions; I am retired.
- I have never been asked to bring charges against any Councilor. Although I have been a party to a one on one telephone conversation and was misquoted and that may have been a misunderstanding. Therefore, I did not feel it was appropriate to bring it before the City Council.
- Further, I have never discussed this issue with the City Attorney as it was a personal matter and not a legal issue.

00:08:10

In response to a question from Mayor Shields, Councilor Greiner stated that the only concern he had was a telephone conversation that he feels he was misquoted on. Councilor Hedges said she has come to the meeting with no knowledge of anything that has gone on. She said she was told there were complaints from the Mayor and Councilor Ward and Councilor Greiner but I have not been told what they are and was not even informed about what the meeting was about except it was as censure. Councilor Hedges said she has been calling this meeting an inquisition because Councilor McAfee was not told what the chargers were. She said that she fully supports Councilor McAfee and has no objection to anything she has done. She said she has seen conduct by another Councilor that she considers to be very inappropriate. Councilor Hedges said she was never told where the meeting was being held at and she felt very left out of the process and she objects to it. She said that it is not the duty of the Mayor to tell the staff what to do without the consent from the Council and that has been going on also. She said she objects to these things and they are going to be changed.

00:10:42

Mayor Shields stated that in a phone conversation with Councilor Hedges she told her about one of the complaints she had regarding Councilor McAfee. She said she has intentionally been very careful not to voice her complaints because Councilor McAfee always had the option of having this as an Executive Session. Mayor Shields said she wanted to make sure that information did not get out among the public prematurely. She said she never used the word censure or inquisition. Mayor Shields said that regarding Councilor Hedges issue involving 'directions to staff 'it would be more appropriate for another meeting. She said since we do not have a manager it falls to the Mayor to act as the manager.

00:14:56

Mayor Shields said her main complaint comes from a telephone conference call that she was on with Councilor McAfee, City Attorney Green and Attorney Melinda Thomas.

- She said in this conference call it was revealed by Councilor McAfee that she knew of some person hiring an attorney to pursue some action against the City. Mayor Shields said that a Councilor has a fiduciary duty to immediately let the Council and the City's legal counsel know if they are aware that someone has hired an attorney.
- She also said that her other complaint concerns an incident that occurred on April 6, 2010. Mayor Shields said that when Councilor McAfee was upset with Councilor Ward for something, Councilor McAfee called Mayor Shields and asserted that she, Mayor Shields, agreed to call an Executive

Session to discipline Councilor Ward. She said the actions of Councilor McAfee have sometimes been divisive. Mayor Shields said that it was inappropriate for Councilor McAfee tell her, Mayor Shields, that she agrees to call an Executive Session regarding Councilor Ward.

- She said that Councilor McAfee also requested, in the same conversation, that an Executive Session be called to discipline City Recorder Luana Damerval.
- Mayor Shields said that on April 14th she learned from Chris Marko, RCAC, (Rural Communities Assistance Corporation) that Councilor McAfee had told him he should not talk to staff about infrastructure planning and other committee meetings. Also, that Councilor McAfee was trying to delay the appointment of Councilor Greiner so she could have a voting block against Councilor Ward to remove Mayor Shields from the Mayor position; there was no other reason to delay that appointment. She also said that at some point prior to that time, Councilor McAfee had tried to get Council consensus to remove Mayor Shields from her position as Mayor.
- She said that Councilor McAfee has made some approaches to employees that were very inappropriate and especially to a particular employee.

Mayor Shields said it was unfortunate that this meeting was not held in an Executive Session so things could be discussed more openly.

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Councilor Ward stated that 'contrary to what has been printed in the media I do not bring any charges to this meeting, I only bring concerns to how the City Council is reacting to various things. '

- He said he has experienced opposition and criticism from other members from the Council and other people within the City.
- Councilor Ward said there have been many attempts to intimidate him and he has been threatened over some of his ideas and some of his views as to how the City should be progressing.
- He said he has never threatened anyone else because of their views being different from his views.

00:27:16

In response to a question from Councilor McAfee asking 'where are the complaints', Councilor Ward stated that it was not appropriate for him to name names in an open forum that will cause embarrassment on at least someone else's part. Mayor Shields said that unfortunately that is going to be a problem and it would make a lot more sense if we were in Executive Session.

Councilor McAfee stated that if she is the person credited with those so called threats she would give her permission for that to be revealed. He said there was more than one person involved in threats and he would not name who those people were.

Councilor Hedges stated that she also tried to delay Councilor Greiner's appointment and she did not know why it was directed at Councilor McAfee. She said the purpose of it was not to oust Mayor Shields as Mayor. Councilor Hedges also stated that 'in her dreams' she has threatened Councilor Ward and she is willing to admit it. She also said that anyone who has threatened him would not be embarrassed by the fact that they did so. Mayor Shields stated that it is clear that we have some troubles and division on the Council and we need to find ways to build us back together.

00:31:59

Councilor McAfee stated that she had heard a possible complaint from Councilor Greiner. She said she did not understand Councilor Ward's complaint, he would need to clarify. Councilor Ward stated that Councilor McAfee threatened him over the telephone on April 9th at 7 pm. He said that she told him that he was

planning on terminating an employee at an Executive Session scheduled for April 10th and that she highly objected to it. Councilor Ward said that Councilor McAfee did not ask him, she accused him. He said that Councilor McAfee also stated the following during the phone conversation:

He was the destructive voice on the Council

- he was rude and loud and never listened to anyone else's views except his own
- she threatened him and said we will take care of you

In response to a question posed to Councilor McAfee regarding his description of the telephone conversation, Councilor Ward stated that she must either be suffering from short term memory loss or she is just not being truthful. Councilor McAfee stated that she was speechless by Councilor Ward's statements.

00:35:39

Mayor Shields (referring to a phone conversation with Councilor McAfee) stated that an Executive Session was being called under the permissible purposes of Executive Sessions, section B, discipline of public employees and public officers. She said she emphasized 'complaints', from not only her but other Councilors when she was speaking with Councilor McAfee during that phone conversation. Mayor Shields said she has never said that 'charges were being brought against you'. She said she has never characterized it as charges.

00:38:00

Councilor McAfee then asked Mayor Shields if she could play the recording she made of that phone conversation. Mayor Shields said she thought it was illegal to record someone without their permission. Art Uecker, City Insurance Agent, stated that according to Oregon State Law that only one side of the conversation needs to know that it is being recorded. Mayor Shields said she did not agree to have the recording played because it could have been edited and tampered with as well. Councilor McAfee stated that the point had been made and asked to move on.

00:40:45

Councilor McAfee then read from her prepared statement which included some of the following comments:

- at a lot of Council meetings there has been little tolerance for dissenting opinions.
- two public citizens were called out at the last Council meeting for requesting attorney invoices, and also it was stated that they were doing this for personal gain.
- at the same meeting she was called out for reviewing and questioning legal bills which both she and Councilor Hedges consider excessive.
- the business community contribute 47% of the property tax value in our City and they have been largely ignored
- after an employee was directed by both Councilors Ward and McAfee to pursue the dispute resolution policy at a meeting on March 29th, a subsequent meeting between the employee and her supervisor (the first step in the Dispute Resolution Policy), was cancelled when Councilor Ward appeared and stated that the Mayor had sent him to City Hall to inform the employee that there was to be no meeting and she was not to discuss anything. When the employee tried to tell Councilor Ward that she was following the City Attorney's directive Councilor Ward said he did not care what the Attorney had told her, the Attorney does not run the City the Mayor does. Later that same day the employee, still upset, called Councilor McAfee and told her what Councilor Ward and Mayor Shields had done. She told the

- employee that she had done nothing wrong and also told her she had done the right thing.
- She called the Mayor and Councilor Ward and expressed her frustration of what they had done. She notified the City Attorney about what had occurred during the episode. She then followed up with a private e-mail to Councilors stating her objections of how a routine employee issue was mishandled and raising concerns over what she considered unsupportable actions on the part of both Councilor Ward and Mayor Shields.
 - Subsequently she was asked to take part in a telephone conference call between Mayor Shields, City Attorney Green and an employment attorney from the firm. She felt the call turned out to be more of an interrogation than a discussion. The entire tone of the call was insinuating that Councilor McAfee had done something wrong by speaking to the employee, who had called her. Councilor McAfee stated "I would do the exact same thing again under the same circumstances, wrong is wrong. The Mayor has chosen to make an allegation from that conference calling stating that I had put the City at risk by my actions by not telling the City Attorney that the employee might have spoken to an attorney, not that I had ever known if she did or did not.
 - The City has now been billed for many hours of legal review regarding this issue. These billed hours including fixing the problem created by the wrong information given to the employee by the very attorney that had written it."

Councilor McAfee apologized to the citizens of La Pine for the time wasted on these irrelevant issues that do not move our City forward. She said what needs to be done is; the City needs to have the City Charter ready by July to be on the November ballot; the Council needs to select a City Manager on May 26th. Councilor McAfee stated that 'it can only be through transparency that we will hold public trust and then there will be true progress.'

00:49:05

Mayor Shields stated that during that telephone conference call, Councilor McAfee said that the person was going to hire an attorney and that he had advised such and such. Mayor Shields stated that no minutes or recordings were made of that conference call.

Councilor Hedges stated she has concerns regarding City Recorder Damerval and also Councilor Ward. When she has called Mayor Shields 'she has put me off and told me that the City Recorder is doing a fantastic job.' Councilor Hedges said that she would like to have another meeting where she can address these issues; that she had put them off because Mayor Shields had told her that the City Recorder is working at her direction. Councilor Hedges stated that the City Recorder should be working at the direction of the Council. She said she would like to have another meeting 'so we can all air our concerns regarding other Councilor's conduct.' Councilor Hedges stated that she finds nothing that Councilor McAfee has done that warrants this meeting other than what other people have done. She said we need to go over what the position of the Mayor is and what the Councilor's position is as defined.

00:54:05

Mayor Shields stated that she never told Councilor Hedges that staff works at her direction. Councilor McAfee stated that Councilor Hedges makes an important point. She said that Mayor Shields has acted in an administrative capacity with no express or consent from the Council. Councilor McAfee stated that by Mayor Shields doing this, she was on both the policy and administrative sides. She said that is why the Manager/Councilor form of government works because it avoids that conflict.

00:55:55

Mayor Shields stated that some of that sort of thing will automatically go away anyway. She said when staff cannot make those decisions by default it falls to the Mayor if we do not have a manager.

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5. Public Comment

Robin Mirrasoul, area resident, stated that she has seen inappropriate behavior from Councilor Ward and Mayor Shields. She said that Councilor Ward showed tonight that he can be threatening and intimidating. Ms. Mirrasoul said she has observed Councilor Ward bordering on being verbally abusive. She also said she has watched Mayor Shields stonewall and waste tremendous amounts of money. Ms. Mirrasoul said that a lot of attorney fees have been wasted on that stonewalling including the Mayor requesting the City Attorney to write a thank you letter.

Loretta Murphy, area resident, stated that she does not understand why Councilor McAfee was not told of the charges against her; 'that a murderer has more rights to prepare a defense.' She said regarding the telephone conference call, if the City Attorney was questioning the actions of a City Councilor on behalf of another Councilor he was taking an 'adversarial position' against Councilor McAfee. Loretta Murphy said that Mayor Shields then used that conversation 'to bring a charge' and that could be entrapment. She said the City Attorney helped Mayor Shields ask questions that Mayor Shields then used against Councilor McAfee.

01:04:20

Mayor Shields stated that it did not happen that way. Mayor Shields said that it was something that Councilor McAfee said during that conversation. Councilor McAfee stated that she never said the alleged statement about the employee having hired an attorney.

01:06:37

Ed Criss, Deschutes County Planning Commissioner, stated that meetings like this one need to get their public notice and need to meet newspaper deadlines. He said if the Attorney is not advising you to adhere to ORS (Oregon Revised Statutes) than he is guilty of malfeasance. Ed Criss stated that, regarding the involvement of a City Councilor with an employee issue, you have now created a hostile work environment. He said you have now jeopardized the tax payer monies of every citizen in this City. Mr. Criss said ' you have a hostile work environment that should have been dealt with appropriately and it has not been. He said he knows something of that hostility because someone he knows contacted City Hall regarding bringing music to the City. Mr. Criss said the first contact that person had with the City was very hostile and completely inappropriate. He said if you wind up in a courtroom you will have a very serious problem and probably waste more of the taxpayer's money. Mr. Criss said that when Councilor Ward is talking about fiscal responsibility, he ought to take that into consideration before he talks to employees. He said that what he has seen this evening, was hostility coming from Councilor Ward.

01:11:35

Mayor Shields stated that there is a perceived hostile work environment but it is not coming from where Mr. Criss thinks it is, that the cause is not what he thinks. She said we will have to find a way to have an Executive Session and take care of this.

Pam Cosmo, area resident, stated that she was so sad to see this whole evening. She stated that she is disappointed because there seems to be so much ineptitude and nothing seems to get done. Ms. Cosmo said she appreciated that Councilor Hedges and Councilor McAfee have gone out in the community and been accessible to the public. She also criticized the \$130,000 spent on legal fees. City Recorder Damerval stated that the current budget for legal fees is \$130,000 but the City will probably only spend \$105,000 for this year. Mayor Shields stated that the cost of legal fees should go down with a City Administrator or Manager.

01:18:35

Tom McAfee, husband of Councilor McAfee, stated that she is the most prepared and engaging of all the Councilors. He said that she stays up to 2 am and 3 am in the morning preparing for City meetings. Mr. McAfee stated that Councilor McAfee has been the voice of La Pine, especially to those persons who have been ignored, marginalized and received ill treatment at City Hall.

01:20:23

Bob Cox, area resident, stated that the City has gone through too many Councilors since being incorporated. He said this is a community and what we need is leadership. Mr. Cox said that he has watched the behaviors of both Mayor Shields and Councilor Ward and that 'what we need is leadership.'

01:22:21

Dan Varcoe, Chamber of Commerce, stated that we all need to listen to each other better. He said that pretty much the group is supporting Councilor McAfee. He said this community wants to see this City go somewhere. Mr. Varcoe suggested that the Councilors take advantage of the experience that Councilor McAfee brings to the Council. He said with good communication and transparency we can make good progress.

01:26:35

Jayne Benner, area resident, stated that any of us who have worked with Councilor McAfee can see she does her homework and goes above and beyond what is asked of her. She also said that Councilor Hedges works on committees and always is a pleasure. Ms. Benner said that the Council made the decision not to hire a City Manager when Christine Nelson resigned. She said a lot of people objected to that and now we can all see some of the results of making that decision.

Ted Scholer, area resident, stated that most organizations have retreats and that a personality assessment is part of that so 'you know yourself better and you know your co-workers and Council people better and come away with some goals.' He also said a facilitator is hired to run the session. Mr. Scholer said that the facilitator is usually from out of town and is unknown by person's participating in the retreat.

01:29:36

Patrick Sanchez, area resident, stated, regarding a comment made by Councilor Ward at a previous meeting that the City Manager may not be given the power and authority for trying to manage or budget. He said how would the City Manager be able to manage without some kind of authority. Mr. Sanchez stated he supports Councilor McAfee and Councilor Hedges.

Councilor Ward stated that the interim, part-time City Manager would not have authority to terminate City Staff without the approval of the City Council. He said that authority would only be given the permanent full time City Manager. He said that is the only authority they took away from the Interim City Manager. Mayor Shields said the Interim City Manager would have all authority, including budgetary authority, except for the authority to terminate staff.

01:34:02

Stu Martinez, former Mayor of the City of La Pine said that the issues involved in tonight's meeting should have been handled in a totally different way. Mr. Martinez stated that the former City Manager was doing her job. He said there were some Councilors at the time who were trying to go down to City Hall and manage. Mr. Martinez said he was told the former City Manager left because Councilors were down at City Hall trying to do the day to day job. He said when he left the Council he told the Council to let the Manager manage, that the Council is there for policy. Mr. Martinez congratulated the Council on moving forward with a City Manager but felt they had waited too long to hire another Manager.

Virginia Classen, area resident, stated that whenever she has worked with Councilor McAfee she has been very open and had great ideas and good input. She said she has not seen any behavior that she would consider inappropriate and she is very sad that this whole thing has come about. Ms. Classen stated that she has observed, as a member of the audience, the division on the Council when she has attended City Council Meetings.

01:41:22

Vic Russell, local business owner, stated that he wanted to commend all of the Councilors for the time they spend on the Council. He said many people are behind the City and want to see it move forward. Mr. Russell said when mistakes are made; 'let us not have to place blame.'

Art Uecker, City Insurance Agent, stated that the Chamber of Commerce is there to assist the City Council in any capacity. He said that he wanted to applaud Ted Scholer for his suggestion of holding a retreat. Mr. Uecker also said as the City's Insurance Agent he was concerned about the hostile work place issue. He said that 'whether we agree or do not agree that a hostile work environment exists, the fact that statements have been made and concerns exist means you need to deal with it.' Mr. Uecker asked, with the Council's permission, that when they sit down and discuss that particular issue, he would like to meet with the Council so he can present the concerns to CIS (City Insurance Services), so that they can bring in loss prevention experts to help the Council deal with employment issues.

01:49:30

Lupita Lewis, area resident, stated she commended the City Council for the work they have done. She also said she commended Councilor McAfee for keeping her composure. Ms. Lewis stated that she is a blind person and so cannot read body language but from what she heard from Councilor Ward, she feels that he owes Councilor McAfee an apology and needs to learn to hold his temper.

Wendell Evers, area resident, stated that the City Council needs to be like a hub on a bicycle so no matter even if you disagree you have to agree to keep that wheel going straight.

Vicky Jackson, area resident, stated that she has repeatedly tried to get an attorney invoices from the City and finally got them last week. She said that the City of La Pine has spent \$334,000 total for the attorney. Ms. Jackson questioned the need to spend \$70,000 in the next fiscal year on attorney fees if a City Manager is being hired and also suggested sending out an RFP (Request for Proposal). She also stated that Mayor Shields should resign and that Councilor McAfee should become the Mayor.

01:57:00

Mayor Shields stated that she is not resigning because the City needs the continuity and her term is up at the end of this year. She said that meetings are always noticed in compliance with the ORS guidelines.

Public Comment

Loretta Murphy said it was inexcusable that the meeting notices ‘never’ make the newspaper. City Recorder Damerval stated that she did not like being accused that the notices are never in the newspaper and said ‘we do it when we can.’ In response to a comment from Ms. Murphy regarding the number of notices that have missed the newspaper, City Recorder Damerval said that she did not know.

Marilyn Waggoner, area resident, stated that there was a notice of the entire year’s City Council meeting for several weeks in the newspaper. She said she did not like having adults sit in front of many, many people and air differences that should have been taken care of when they happened.

Mayor Shields stated they try to get the agenda notices out the Thursday before every Wednesday meeting but sometimes there are last minute agenda changes or, they are waiting for additional information and it delays the notice from getting in the newspapers. Art Uecker also reviewed the various locations where the agenda is posted in the City and said that staff is making every attempt to get information out to the public. He said that if there are personnel issues, they need to be addressed outside of the confines of an official meeting with the parties involved.

02:05:14

Mayor Shields stated she was hoping for some suggestions like better clarification for the role of the Councilors. She also suggested creating a code of conduct, perhaps something more comprehensive than we have currently.

Councilor McAfee stated that she would like to make a motion to move forward, to realize the potential of La Pine and conduct ourselves in a manner befitting Councilors for the City of La Pine. Mayor Shields asked for discussion first on the motion because 'we do not want it to get approved and then it goes nowhere.' She said she liked the motion.

Public Comment

Mrs. Thomas advised the Council to say their apologizes and just put it aside so they can get on with representing the City and community. Pam Cosmo stated that the only way to move on is to forgive each other. Patti Morgan, Administrative Assistant, stated she believed Councilor McAfee was talking about having a ‘forgiving spirit’ and letting things go and not bringing them back up later on.

A motion was made by Councilor McAfee and seconded by Councilor Hedges to move forward, to realize the potential of La Pine and conduct ourselves in a manner befitting Councilors for the City of La Pine

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Mayor Kitty Shields</i>	<i>X</i>	
<i>Councilor Doug Ward</i>	<i>X</i>	
<i>Councilor Barbara Hedges</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	

Motion passed unanimously.

6. Adjourn

A motion was made by Councilor Ward and seconded by Councilor McAfee to Adjourn the Meeting.

<i>Vote as follows:</i>	<i>AYE</i>	<i>NAY</i>
<i>Mayor Kitty Shields</i>	<i>X</i>	
<i>Councilor Doug Ward</i>	<i>X</i>	
<i>Councilor Barbara Hedges</i>	<i>X</i>	
<i>Councilor Adele McAfee</i>	<i>X</i>	
<i>Councilor Don Greiner</i>	<i>X</i>	

Motion passed unanimously.

Mayor Shields adjourned the meeting at 8:12 pm

Mayor Kitty Shields

Attest:

City Recorder Luana Damerval