

CITY OF LOGAN
CITY COUNCIL MEETING
CITY HALL, 108 W. 4TH STREET
JULY 23, 2012

At 7:00 P.M. Mayor Fetter called the meeting to order. Those present were Council Members Johnson, Lefebber and Crum. Council Member Clark was absent. Mayor Fetter asked if there were any additions or deletions to the agenda. Johnson stated that there were a few items on the agenda that addressed the recent termination actions that had been taken, and he didn't feel they were prepared to address those issues without legal representation. They were item numbers 16, 17 and 19. Mayor Fetter stated that since they were on the agenda he wanted the citizens to be able to go ahead and ask the questions, and if the council couldn't answer the questions they could be put on the agenda for the next meeting. Motion was made by Lefebber and seconded by Johnson to approve the agenda with no additions or deletions. 2 ayes. Crum voted nay.

Agenda item 5 was to discuss and approve the first reading of Ordinance 440: An ordinance to amend Chapter 92 Water Rates. Mayor Fetter said that the current ordinance states that the rates would be looked at each year, and the rates would go up at least one percent. He stated that he felt the water only should be raised one percent, and leave the original charge alone just to help cover overhead expenses. Johnson stated that he is in favor of leaving the water rates the same for now without an increase, and the sewer rates would have a slight reduction. Crum stated that he thought the rates should be raised by one percent to keep things going and running properly. Lefebber stated that he had talked to a few people, and they are against the water going up. Johnson asked if there is a surplus even at the current rates. Mayor Fetter stated that in water there is a slight surplus, but it wouldn't be as much if the one percent wasn't approved. Mayor Fetter stated that they would have to make a motion to leave the ordinance "as is" if they didn't want to make any changes. Crum stated that he felt the water needed to be raised, and if the sewer is going down then it would be a wash. He stated that it would only be a few pennies, and we need to keep the money built up so we could make any improvements if they were needed. Johnson stated that he didn't feel the rates needed to go up because we are building a surplus at the present rate. Lefebber stated that the people that he talked to didn't want the rates to go up, even if it's a couple of pennies. Mayor Fetter stated that he didn't want the city to be in the situation they were in four years ago, and that's why Iowa Rural Water is used to map this out for the city. Their suggestion of raising the rates one percent would increase the rate on one thousand gallons by five cents. Motion was made by Johnson and seconded by Lefebber to leave the ordinance the same without the one percent increase. 2 ayes, Crum voted nay. The motion was not approved so it will be put on the next agenda.

Next on the agenda was to discuss and approve the first reading of Ordinance 441: An ordinance to amend Chapter 99 Sewer Rates. Iowa Rural Water suggests that the minimum sewer charge be \$16.49 and \$3.04 for each 1,000 gallons thereafter. Motion was made by Johnson and seconded by Crum to approve Ordinance 441 as written. 3 ayes.

Agenda item 7 was to discuss and approve the first reading of Ordinance 442: An ordinance amending Chapter 23: Park Board. The ordinance has been changed to a seven member board

instead of five. It also staggers the terms of the board members with three seats expiring in 2015 and four seats expiring in 2017 so that not all seats will be reappointed in any given year.

Item 4 had been omitted in error. Approve the consent agenda which consisted of approving minutes of the 7-6-12 special council meeting and 7-9-12 regular council meeting, set a date of Monday, August 6, 2012 for a regular council meeting, approve the Claims Register and building permit for Dan Christo, 310 W. 5th St.; garage. Motion was made by Johnson and seconded by Lefebber to approve the consent agenda. 3 ayes.

Discussion on agenda item 7 continued. Johnson stated that he didn't see a need to change to a seven member board. Crum stated that if we keep the five present members then we are not complying with the law of a gender equal board. He feels we need to add two more to comply with the law. Otherwise, we will have to kick some present members off and replace them with new ones. He stated that they had all done a great job and had done a lot of work for the town. They had all requested to be put back on the Park Board, and he didn't want to have to kick anyone off. Lefebber stated that a five member board seems to work, but it doesn't comply with the gender equal law. He stated that if we want seven people, then we should put seven people on the board. He didn't feel that it makes that much difference. Motion was made by Crum and seconded by Lefebber to approve Ordinance 442, changing from five to seven members on the Park Board. 2 ayes, Johnson voted nay. The motion did not pass so it will be on the next agenda.

Next on the agenda was to address citizen's information requests. Johnson stated that they had received several information requests under the Freedom of Information Act requesting certain public records and documents. Many of these are readily available, but some may take some time due to struggles of just getting day to day tasks done. He stated that there are some that relate to the dismissals and recent actions taken, and they want to have an attorney look them over before they are released. The State Ombudsman and others have counseled that they should be viewed by an attorney for the city's sake. Mayor Fetter stated that he's not sure what all of the legalities are since we don't have a city attorney, and if we don't approve one tonight he will temporarily appoint one tomorrow to address some issues relating to the city that need to be taken care of.

Agenda item 9 was to discuss and approve a new city attorney. Mayor Fetter stated that they have had a couple of attorneys from Council Bluffs who are interested in helping the city, and there was another one turned in today. They are Aaron Rodenburg, Ryan Watson, and Helen Savage. Johnson stated that he was leaning toward Rodenburg because of his experience and the others lacked the experience of working for a city. Crum stated that he would like to find out more about what they charge and their experience. Lefebber stated that he was leaning toward Rodenburg but would like to hear more from the cities he has worked for. If Mayor Fetter appointed someone, he would let them know it would be temporary until a final appointment was made. He will get all of the information to everyone on these three individuals. Motion was made by Crum and seconded by Johnson for Mayor Fetter to appoint a temporary city attorney. 3 ayes.

Next on the agenda was for Andrew Francis to discuss day to day operations of the city. Mr. Francis asked if there was any thought given to operational continuity before the firing of the previous city administrator. Johnson said yes, it had been considered. Francis asked who would be doing the training and how would the new employee be up to date so that nothing would fall through the cracks. Johnson stated that the Deputy Clerk is in place and is making sure that some of the basic tasks are taken care of. Mr. Francis stated that the Deputy Clerk is learning as she goes. He also stated that payroll for the city employees was late and that this is an embarrassment to the city. Mr. Francis said this is all because there was not a plan in place. He asked if there is anything that the council members are personally doing to ensure that there isn't a disruption in day to day operations, such as late paychecks, because the decision to fire the clerk was their personal decision. Johnson stated that it's urgent to hire someone to do the clerk/administrator job, hopefully with the right qualifications. Mr. Francis stated his concerns about several items that have to be done in the near future, including the Street Road Use Report, which would provide \$12,000 per month to the city. He asked if the council could guarantee that it will be turned in on time. Johnson stated that they will take that into consideration because it sounds like a very high priority.

Item 11 on the agenda was for Renee Springston to discuss non-compliance with ordinances. She stated that she had tried numerous times to reach the council members by phone, and she had left specific requests for them to return her phone calls with regards to her concerns. Ms. Springston demanded that her voice finally be heard and that Johnson, Clark and Lefebber act like the civil leaders that they were voted in to be. Her question to Johnson and Lefebber pertained to the perceived violations of the Logan Code of Ordinance 5.09 Removal of Appointed Officers and Employees and 55.05 Livestock. Springston stated that as a taxpayer she is frustrated with their blatant disregard for the city ordinances for which they swore an oath to uphold. Other areas of concern include Logan Code of Ordinance 47.04 Littering in city parks and 50.02 Nuisances. She asked for an explanation from Johnson and Lefebber for the reason they refuse to uphold the State Code and City Code of Ordinances, and she also asked for the reason for the recent terminations.

Item 12 on the agenda was Ginger Schemmer discussing the new council position. Ms. Schemmer stated that she would still like resignations from Johnson, Lefebber and Clark.

Agenda item 13 was Linda Francis discussing neglecting duties of the council. Ms. Francis asked many questions of Mayor Fetter and Crum about their jobs for the city with regard to how long they had their council/mayor positions, phone calls from citizens, attendance of citizens at council meetings and how many citizens' phone calls they had not returned. She asked Johnson and Lefebber why they ran for city council. Ms. Francis asked about their neglect to attend council meetings, postponing decisions on water and sewer rates for weeks and months, and not obliging the public by making sure that a city owned resource is able to be used by the public when they offer to improve it at no cost to the city. She stated that if there is a conflict with a property line, a citizen that's not on the council bears the expense of locating it, not the city. She asked how they have neglected nuisance abatements and not filled positions on boards that are empty. She stated that they have not complied with making boards gender equal, which has been a law since January. Citizen's information requests have not been fulfilled. She asked why citizens would not conclude that they were neglecting their

duties. Another question that Ms. Francis asked was what would constitute an emergency, and why would Johnson and Lefebber keep secret information from Mayor Fetter and Crum that was so important that they called a special meeting, or emergency meeting, one day prior to a regular council meeting simply to fire two city employees who have never been given the reason why. She stated that only conclusion they could draw was that it was personal agendas of the council. Johnson stated that he had only missed two meetings in the four years that he has been on the council. He also stated that personnel issues are not discussed, especially without legal representation because it puts the city at risk. He added that he hopes this information will come forward. He stated that the mayor and the other council members had access to the same information that he had. Crum stated that he had access to the information, but as far as he could see the city clerk didn't do anything wrong. Mayor Fetter stated that he has since been given a possibility of one thing, but he was not informed ahead of time of everything that went on. The mayor did see Johnson's request of everything that he had asked for, but he did not see everything that went back to him. Johnson was asked why he was not responding to people that were calling him. He stated that he had received a letter from Renee at the last meeting, and he assumed that was what she was calling about. He had not heard from her since. Johnson stated that Jim Ettleman had called, and they had spoken in his driveway. He said there were others that had called that he had spoken to. Several other people stated that they had called Johnson and left a message. Johnson confirmed that he has an answering machine, and when asked if the messages were erased before he got them he stated that he could not answer that. Lefebber stated that he had missed two meetings since he had been on the council. It was confirmed that Clark had missed six of nineteen meetings, but she had phoned in for one of those meetings for about five minutes. Lefebber stated that he had a few phone calls, and when he received the last one he was fishing with his children. He apologized for not returning calls. Johnson stated that they are willing to talk to anyone about many of these issues, and they are not avoiding conversation with anyone.

Agenda item 14 was for Terry Francis to discuss council procedures. Mr. Francis stated that he wanted to reemphasize the fact that the decision that was made on July 6th for the terminations showed that there was no strategic plan in place to ensure that the continued compliance with the requirements for the day to day operations with specific reports to different state departments would be upheld. That's a very important factor and a dereliction of duties. As far as procedural things, he stated that the special meeting that was called on July 6th should have shown that the council was aware of the procedures that should take place when it's a discussion for a decision with regard to an employee. He stated that they should have gone into a closed session, a discussion should have been held, and all of the council should have been informed of all of the information that was available so that when they came out of closed session an informed decision could have been made. Mr. Francis made a request on July 9th under the Freedom of Information Act for three documents. He stated that as of this date, he has not received them. He also stated that it seems funny that certain emails were released to FOX 42 within a 48 hour period of time. He asked what the council considers a reasonable length of time for him, under the Freedom of Information Act, to receive his three pieces of paper of the procedures of the city council for the special meeting on July 6th. Mr. Francis restated that it was funny that he couldn't get his documents, but that FOX 42 got those emails within 48 hours. Johnson stated that he can't speak to that. Mr. Francis stated that he would like to receive those documents within a reasonable time frame.

Agenda item 15 was for Jim Ertleman to receive clarification on a previous meeting. Mr. Ertleman stated that he wanted it to go on record that he will condemn anyone who is making physical or emotional threats to the council members or their families. Mr. Ertleman asked Lefeber if he felt there were grounds for the termination of Angela Winther on July 6th. Lefeber stated that he thought there were grounds for her termination. Mr. Ertleman asked Lefeber if he was going to share any of those grounds at this time. Lefeber stated that he wanted to speak with an attorney before he could share that. Mr. Ertleman asked him how he became aware of the grounds to terminate Angela Winther because there was no discussion at the meeting. Lefeber stated that he had been on the council since January, he had attended the council meetings and saw the on goings. Lefeber said as he had stated earlier, he can't wait until the city has an attorney so that light can be shed on this issue. He stated that there are a lot of questions that he can't answer because he doesn't want to get anyone in trouble. Mr. Ertleman asked if he was saying that he can't answer on the grounds that it may incriminate him. Council Member Lefeber said no. Mr. Ertleman asked if it may incriminate someone else. Mr. Ertleman stated that FOX 42 had reported that they had bills to the city from the city attorney that amounted to thousands of dollars. He asked if it was an accurate statement that Angela Winther had run up bills for the city that amounted to thousands of dollars. Johnson stated that he didn't know what they were referencing. He stated that the bills are at all meetings, and they are public for anyone to look at. Mr. Ertleman said he was referring to the attorney bills for the City of Logan. Johnson stated that he had not added them up, and he would be guessing to say how much they were. Mr. Ertleman asked if the amount of money that was run up by Angela with the city attorney was part of the grounds for her termination. Johnson stated that he was not going to comment on that at this point. Mr. Ertleman asked if what FOX 42 said about the clerk running up thousands of dollars in attorney's fees is factual or not. Johnson stated that he didn't even know what they were looking at. Mr. Ertleman stated that the attorney bills for this year so far are less than \$2500, and \$400 of that is a bill for Johnson to contact the attorney about firing Angela Winther. Mr. Ertleman contacted another city for a comparison on their attorney bills. He found that the other city had spent far more on attorney fees than the city of Logan. Johnson stated that he didn't know what was going on in the other city.

Next on the agenda was Melissa Rosengren to discuss the dismissal of the clerk. Ms. Rosengren stated that the council had made it clear that they were not going to answer any questions about the terminations. She read a prepared statement, and it is on file with the minutes of this meeting at City Hall.

Agenda item 17 was Rick O'Neill to discuss how the decision was made to terminate the clerk. Mr. O'Neill stated that most of his questions had already been asked, but he was still puzzled by the reason why that big of a decision did not include Crum or Mayor Fetter. He stated that if it was that drastic, then maybe there are criminal charges. He stated that if it was over an email, then that's discipline, not firing. He asked if anyone would like to comment, and Johnson stated that he wasn't going to. Mr. O'Neill asked if any other options were discussed besides termination. Johnson stated that it's a personnel issue, and he wasn't going to talk about it.

Agenda item 18 was Tom Hoff to discuss openness of meetings and how decisions are discussed and made. Mr. Hoff stated that the citizens don't understand why the council does the things they do. Why they do things is somewhat of a mystery, and apparently it's a mystery to some of the council members and the mayor. He stated that if there is an issue, the citizens would appreciate hearing the council talk about it and hear their opinions so they would know why they voted the way they did. Without that open discussion among the council members, citizens have nothing left but conjecture and assumption. He stated that there's a lot of discussion among the citizens why they think the council might have done something. It really inflames situations, and makes it worse than it would have been if the council would have had an honest and open debate. He stated that people wouldn't have to guess if there was open debate and discussion. Mr. Hoff also stated that he appreciates the opportunity to hear from each council member why they think something is one way or the other and why they are going to vote. He voiced his appreciation for the discussion that they did hear tonight and his concern for the discussion that they didn't.

Agenda item 19 was John Espenmiller to discuss the terminations. Mr. Espenmiller read a prepared statement, and it is filed with the minutes of this meeting at City Hall.

Next on the agenda was for Brittany Nordby to discuss the survey in Milliman Park. The Park Board wanted the council's input and approval to do the survey either on the north or the south side of 3rd Street. Motion was made by Crum and seconded by Lefeber to have the Park Board go ahead and have the survey done up to the citizen's side of 3rd Street in Milliman Park. 3 ayes.

Citizens questions and comments: Gary Altwegg stated that employees were terminated that had been with the city for years. There was a regular city council meeting on Monday, but there was a special emergency meeting called on Friday for the terminations. He asked what the emergency was from Friday to Monday that they needed to terminate these people over a weekend, especially with the time of year when we needed these people to finish city business. Marcia Pitt stated that she totally condones anyone who has threatened or been mean to council members. She has friends that are on park and pool boards in small towns in another state, and they are in awe that the turmoil in Logan started over walking trails in an existing park. Bill DeWitt asked for the resignation from Dee Clark because he saw her at the restaurant today and she is absent from this meeting. He asked if they could put on the next agenda to ask for her resignation at the next council meeting. Jim Ettleman asked if Angela Winther has been given written notice yet. He also asked if the reason for her termination is included in the emails. He asked what date Johnson got her emails, and he finds it interesting that he consulted with the city attorney on her termination prior to receiving her emails. Patti O'Neill stated that Lefeber told someone at the pool over the weekend that Angela Winther was mailed a letter and would know the reason by today. She didn't feel this should have been told on the street. Renee Springston asked why the council members went outside the scope of the law in Angela Winther's termination. Susie Bonham expressed concern that if the citizens get the survey done at Milliman Park, would the survey markers be ripped out of the ground. Chris Mausbach stated that if they fired Angela the right way, then they shouldn't need an attorney for legal representation. Terry Francis asked Lefeber and Johnson if they felt with all of the transactions of the last month if they thought they could effectively govern in their position with absolutely

zero support from this town. He called for both of their resignations immediately for lack of support from the city. Todd Wills asked Johnson and Lefeber to resign.

Chamber representative to update the council. Nikki Allen and Ragene Darling talked about the Chamber's Car/Motorcycle Show on August 25th from 1 to 4. They will have vendors, and the cruise will be at 4.

Clerk/Administrator comments: The Logan Herald Observer has requested to receive in writing, all future city council agendas – both regular and special meetings – within 24 hours of the actual meeting date and time. They would also request agendas for all other city committees, boards and other entities with the same time consideration. The Iowa DNR has received a grant from the US Forest Service to complete 15 community tree inventories in the SW Iowa District. Logan is one of the communities that have been selected. A representative will be here on August 4th to begin taking inventory of all city managed trees. Logan City Hall will be open from 9-12 and 1-4 on Friday, July 27th.

	CLAIMS	
ACCO	CHEMICALS	\$4,839.78
AFLAC	INSURANCE	\$70.52
AGRILAND FS	FUEL	\$1,019.89
AQUA CHEM INC	HEATER REPAIR	\$1,093.15
AQUATIC TECHNOLOGY, INC.	DOLPHIN REMOTE	\$260.71
BIG SKY RACKS INC.	FREIGHT/MOUNT	\$8.39
BROWN SUPPLY CO INC	FLAGS	\$55.45
C & R ENTERPRISES, LLC	CHEMICALS	\$801.39
CENTER FOR EDUCATION EMPLOY	PUBLICATION	\$254.95
CRESCENT LOCK & SAFE	REKEY LOCK	\$98.84
DELL MARKETING L.P.	COMPUTER	\$737.68
EMBLEM ENTERPRISES, INC.	EMBLEMS	\$210.28
FERGUSON WATERWORKS	MAINT CONTRACT	\$758.48
FIRST NATIONAL BANK	PAYROLL TAXES	\$8,508.71
G & M REFRIGERATION	POOL REPAIRS	\$674.60
GARY NORDBY	LAWN CARE	\$300.00
LOIS HALL	CONTRACT SERVICES	\$928.68
HARRISON CO LANDFILL	ASSESSMENT/TIPPING	\$3,233.00
HARRISON CO. R.E.C.	UTILITIES	\$170.63
HENNINGSEN CONST, INC	COLD PATCH	\$1,028.75
STATE HYGIENIC LABORATORY	WATER TESTS	\$40.00
IOWA ASSOC OF MUNICIPAL UTIL	DUES JULY-SEPT	\$559.75
IOWA DEPT.OF NAT RESOURCES	PWS FEES 2013	\$179.69
IOWA LEAGUE OF CITIES	DUES 2012-2013	\$779.00
IOWA WORKFORCE DEVELOPMENT	UNEMPLOYMENT TAX	\$1,901.84
INSTITUTE OF PUB. AFFAIRS	BOARD TRAINING	\$596.16
IOWA ONE CALL	LOCATES	\$27.00
I P E R S	REGULAR IPERS	\$4,081.42
LATTA DRAINAGE DISTRICT	DRAINAGE TAX	\$500.00
SALVO,DEREN,SCHENCK,	LEGAL FEES	\$400.00
LOGAN AUTO SUPPLY	HARDWARE	\$91.69
LOGAN DO IT BEST HARDWARE	PAINT/OS/UPS/SUP	\$576.52

LOGAN FIRE DEPT.	CPR CLASSES	\$20.00
LOGAN HERALD OBSERVER	PUBLISHING	\$592.44
LOGAN PUBLIC LIBRARY	REIMBURSE	\$1,825.00
LOGAN SUPER FOODS	POOL CONCESSION	\$792.74
LOGAN WATER DEPARTMENT	WATER DEPOSITS	\$126.87
MANGOLD ENVIRON TESTING	WASTEWATER TESTS	\$46.00
MATT PARROTT & SONS CO	CHECKS/WATER BILLS	\$1,189.76
MID AMERICAN ENERGY	UTILITIES	\$6,314.02
OLOFF JEREMY	DUMP TRUCK REPAIR	\$228.98
PAPILLION SANITATION	TRASH PICKUP	\$115.00
POSTMASTER	POSTAGE	\$282.00
PRINCIPAL LIFE	LIFE & DISABILITY INS	\$298.30
RILEY DONNA	MILEAGE	\$36.63
RUSS HEESE	TRIM TREE LIMBS	\$200.00
SAMS CLUB	CONCESSIONS/SUP	\$2,062.44
S.E. SMITH & SONS	PARK SHELTER	\$142.64
SOUTHWEST IA PLAN COUNCIL	FY13 DUES	\$997.00
THE OFFICE STOP	OFFICE SUPPLIES	\$7.94
TREASURER, STATE OF IOWA	STATE TAXES	\$1,483.00
TREASURER STATE OF IA	SALES TAX	\$3,802.00
TRUE NORTH	INSURANCE	\$2,851.17
ULTRA NO TOUCH	CITY VEHICLE WASH	\$22.00
UPPER BOYER DRAINAGE DISTRICT	DRAINAGE TAX	\$1,057.94
VARNELL'S POWERLINE INC	DEPOSIT REFUND	\$55.09
VERIZON WIRELESS	CELL PHONES	\$116.16
VOSTER, DINDY	DEPOSIT REFUND	\$18.04
KRIS WALSKI	COMPUTER SETUP	\$100.00
WATERLOO TENT & TARP CO INC	UMBRELLA FRAME	\$631.99
WINDSTREAM	TELEPHONE	\$316.81
WINNELSON CO	VALVE BOX RISER	\$134.00
ANGELA WINTHER	PRINTER INK	\$53.73
MIKE WOHLERS	BANNER REPAIR	<u>\$20.00</u>
	TOTAL	\$60,726.64
	PAYROLL THRU7/21/12	<u>\$36,378.23</u>
	PAID TOTAL	\$97,104.87
FUND SUMMARY	GENERAL FUND	\$61,161.97
	LIBRARY	\$687.32
	ROAD USE	\$8,821.50
	TRUST AGENCY	\$3,190.93
	WATER	\$16,444.09
	SEWER	<u>\$6,799.06</u>
		\$97,104.87

Motion was made by Council Member Crum and seconded by Council Member Johnson to adjourn the meeting. 3 ayes.

Marilyn Keizer, Deputy City Clerk
 Attest: Randy Fetter, Mayor