



 ORIGINAL

## CITY COUNCIL

January 8<sup>th</sup>, 2018 WORKSESSION

Time: 6:00 pm

City Hall, 1001 Bridge St. Vernonia, OR 97064

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### Mission Statement

The City of Vernonia pledges to be an ethical and responsive government using community collaboration to foster leadership and a vision for civic improvement while providing a safe, peaceful, economically viable community.

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## MINUTES

**In Attendance:** Mayor Leonetti, Councilor McNair, Councilor Wagner, Councilor Hult, and Councilor Seager

**Staff in Attendance:** City Attorney, Ruben Cleaveland, City Administrator Mitchell and City Recorder Borst

### Call to Order -- Mayor Leonetti

Mayor Leonetti called the meeting to order at 6:25 pm

### Additions or Removal of Agenda Items

There were none.

### New Business

- Media Relations, Public Records, and Public Meeting Law

Mr. Cleaveland explained to Council that the city may want to implement a social media policy. Typically, when this sort of policy is created it is centered on use of a city owned Facebook page. The League of Oregon Cities and Oregon Association of Municipal Recorders have done extensive work on developing a policy which we may want to use. Mrs. Mitchell explained that the City currently has a Facebook page which is used exclusively for public notices. Mr. Cleaveland explained that that is the best use of the page as you avoid creating public records which need managed.

Mrs. Mitchell explained that there was some confusion on what official's rights were for commenting on Vernonia Community Boards. Staff's understanding is that posts on the boards are hard to control so we should not intervene. Mr. Cleaveland explained that if a Councilor speaks about city business on social media they run the risk of breaking public meetings law. If a single Councilor posts and another sees it, or comments, you may have a public meeting. He explained that Councilors can use social media (Facebook) as they please as long as they refrain from speaking on city business.

Councilor McNair expressed his disagreement with this as he feels he should be allowed to speak on his community's business. He is interested in how this applies to his first amendment rights as government can't restrict your freedom of speech. He explained that using social media is a good way of getting your views out to the public. Mr. Cleaveland explained that it's a matter of balancing interest and that as a Councilor you may not be able to use technology as others can. Unfortunately, in this case the law has not caught up with the technology. Councilor McNair



inquired as to how difficult it is to archive posts on social media. Mr. Cleaveland and Mrs. Borst explained that it is extremely difficult and expensive.

Councilor Hult explained that there must be a way to educate the public as well as encourage them to attend meetings. She explained that as a Councilor she is no longer able to speak on city business as a citizen as she is more educated on matters. She understands the dilemma and suggests potentially putting more information in the paper. Councilor McNair stated that Council has no more access to information than the public. The burden doesn't rest on Council because people chose not to attend meetings. Mr. Cleaveland explained that short of an executive session, Council can correct citizens they meet in public. Speaking to citizens in person removes some of the risk of breaking public meeting laws.

Councilor McNair inquired about the definition of deliberation as he feels it should be more defined than we have been told. Mr. Cleaveland explained that the state and courts have taken a broad view of the definition of deliberation in that it can simply be a back and forth conversation. He then presented a few examples of cases where deliberation has been defined broadly (Emails and Lane County). He stated that the League of Oregon Cities and City Attorneys are advising officials not to do any sort of serial meetings. Councilor McNair stated that he feels the difference lies with intent in these cases. Mr. Cleaveland explained that the courts don't care if you have intent or not. The only difference is they may not personally fine you if you didn't intend to break the law. The group then discussed examples of potential intent.

Mrs. Mitchell explained that as a Councilor, they agreed to follow a slightly different set of rules and must follow the law. Mr. Cleaveland explained that the first amendment has exceptions such as time, place, and manner restrictions. What's being discussed tonight would fall under these restrictions. There are safe guards in there stating how you can say things. Councilor McNair explained that he is unsure what his rights are and where/when he can speak. Mr. Cleaveland explained that he can still communicate with people, just not on Facebook. He can go outside and talk to citizens or councilors as long as there is not a quorum and they do not discuss other councilors.

Councilor Hult stated that the law has always been there and is merely trying to keep city business in the public's view. She inquired as to if Council can address concerns stated on Facebook, during a Council meeting. Mr. Cleaveland responded that they could.

Council then discussed the need to develop a policy for social media use as the media policy and Council rules are vague. Councilor Hult stated that Council had already directed staff to make more of a media presence to keep the public informed. Mrs. Mitchell and City Recorder Borst explained that staff explored making a Public Information Officer on Facebook and were unable to. Mrs. Borst explained that there are no other known cities in Oregon that respond to citizen requests on Facebook. Best practice is to use the site strictly for Public Notices with comments turned off. She added that using the site to respond to citizens would be a public records nightmare which could cost tens of thousands of dollars to archive and maintain.

Councilor Seager responded that he doesn't feel the City should respond on Facebook as citizens should contact city hall or attend meetings for information. Councilor Hult proposed putting something in the paper explaining why the city cannot respond on Facebook. Mayor Leonetti explained to the group his experience with Facebook and how information can get misconstrued. The group then briefly discussed how Facebook posts can go awry.

Councilor Seager presented a scenario to Mr. Cleaveland for his input. He asked if Council could respond to a citizen on a controversial subject when approached individually. Mr. Cleaveland stated that Council could meet with a citizen as long as a quorum is not present. He explained that if said citizen stated other councilors' opinions it wouldn't be an issue as long as it wasn't initiated by the Councilor. This could be an issue with Quasi-Judicial decisions as ex parte contact could remove that Councilor from voting. As a Councilor, they must decide if they wish



to respond to these kinds of requests. He stated that Council can speak publicly as long as it is not on Social Media and there is not a quorum present outside of a meeting. He added how newspapers and letters are a good way of doing so as there is no way for a back and forth discussion.

Councilor McNair then inquired if Vernonia was a strong mayor system. Mr. Cleaveland and Mrs. Borst explained that in a way Vernonia has both as the Mayor is a voting member of Council but has no administrative authority.

After brief discussion, consensus of Council is that they would like to develop a social media policy and update the Council rules to address social media use. Social Media use for employees will be located in the employee handbook.

**Adjournment**

Mayor Leonetti adjourned the meeting at 7:55 pm

These minutes were approved at the January 16<sup>th</sup>, 2018 City Council Meeting.

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Stephanie Borst, City Recorder

  
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Mario Leonetti, Mayor