

GLADSTONE CITY COUNCIL MEETING MINUTES – January 7, 2014

ROLL CALL

The following city officials answered the roll call: Mayor Wade Byers and Councilors Hal Busch, Thomas Mersereau, Kari Martinez, Lendon Nelson, and Neal Reisner.

ABSENT: Ray Jaren

STAFF

City Administrator, Pete Boyce; Heather Martin, City Attorney; Jolene Morishita, Assistant City Administrator; and Jim Pryde, Police Chief

Mayor Byers led the flag salute. He reported at the last Council meeting Patrick Clark indicated he would like another 30 days to find a location for his pet Lynx and it was approved. The 30 days expire on January 9, 2014. The City was contacted by Oregon State Senator Alan Olson who is considering submitting legislation at the Legislative session in February. This meeting was called to consider lengthening Mr. Clark's extension in light of a legislation solution.

City Attorney Heather Martin reported this is not a regular Council meeting. According to Council rules there is only business from the audience if it is a regular meeting or during a public hearing. A public hearing has not been declared for this meeting and testimony has been heard on this issue at previous Council meetings.

Mayor Byers introduced Senator Olson who represents Senate District 20 which includes Gladstone. Senator Olson said when he first saw the news article on December 15, 2013 which talked about the cat and described the situation what struck him was that Mr. Clark is a veteran. He too is a veteran. Often times Legislatures write laws that have unintended consequences. The law passed in 2009 was intended to protect folks from wild animals and the fact that many people liked to bring in exotic animals. He feels the Bill was so tightly defined that there was never an exception allowed for any reason whatsoever. In hearing about Mr. Clark's situation, he had his staff look into the issue to see if they could open the door for special situations or instances where people who have had animals for a long time that have not had a problem, they could keep that animal. This exception would not be for everyone or anyone. In this case Mr. Clark is a veteran and uses the Lynx to bring serenity to himself from the actions he had in the military.

Senator Olson has talked to colleagues and now there is an agreement with both the House and Senate that a venue should be considered to modify the bill/law that is in place. This could be a tool and instrument to resolve the issue. He is asking Council to allow Mr. Clark an extension to allow them to get through the February session and get the bill through. 91 people have agreed to this bill for the Governor to sign it. There is a possibility the bill will not get through but at least with this opportunity they will have a chance to allow Mr. Clark to keep his animal and move forward until the animal's demise.

Questions from Council

- Question: What is a fair time frame to get this bill through the legislative process? Answer: Senator Olson stated they go into session on February 3rd. There will be hearings and meetings and public testimony. Legally they could be in session through March 3rd. He suggested that the extension be granted from January 7th until the end of session. If the bill did not go through the Council could then take action.
- Question: Will this exception make a precedent for others in the future? Answer: Mr. Olson stated decisions are made all the time to exempt categories and certain groups of people that are allowed by others. In this case Mr. Clark has had his animal for 16 years. Sometimes when you move you are not aware of specific laws until you bump into them. It is up to Council to determine whether it is right to make an exception in this case.
- It was stated that this animal is providing a service to someone and that is a health-related issue. It should be allowed. Question: Has there been any other exceptions made for exotic animals (service animals). Answer: Senator Olson stated he hasn't heard of anything and talking with the Department of Agriculture they have never specifically said they have allowed this to happen or not allowed it to happen. There is an opportunity perhaps that the Americans with Disabilities Act could take precedent here. If Mr. Clark mitigates any situation he may have from his PTSD, this could be considered a service animal. In the law there was a monkey that was exempted as a service animal. Legislators have the opportunity to except certain things.

Senator Olson explained he needed to find a bill that has an appropriate relating clause. They have the opportunity to expand on a relating clause or to contract a relating clause. The broader the clause the easier it is to put an amendment in. He intends to put an amendment into a bill that has an appropriate relating clause. He talked to the Chair of Committee that there is a bill that has a relating clause that is extremely close. If the clause was broadened, then an amendment that would relate to and work for this particular instance could be inserted. He has talked to legislative council and they have given direction as to how to write the bill and include this exception into the relating clause. This is a bill that likely will pass. This gives the director of the Department of Agriculture the opportunity to evaluate the case to see if it is appropriate for this situation. It is not just for one person, but everyone in the state that would run up against this.

He is asking Council for an extension to allow him the opportunity to submit this legislation and get it passed. He has had many people say this would be good legislation and they would support it; from both sides of the aisle, the House and the Senate.

Councilor Nelson moved and Councilor Martinez seconded a motion to allow Mr. Clark a 90-day extension beyond the close of the February Legislative session.

Councilor Reisner stated there is currently a law on the books that say no exotic animals. Mr. Clark did not know that the animal was not allowed in the City when he moved in a couple of years ago. It was a surprise to Mr. Clark and the City that there was such a law. The City must obey laws and uphold state laws and also the Gladstone Municipal Code.

City Attorney Martin explained technically the Council could grant Mr. Clark an exception to what the code provision is. It doesn't have to go before the Planning Commission as is not in the development code. The Council can determine whether they want to grant an exemption based on certain criteria. After reviewing the case last year, there wasn't anything where Mr. Clark would be in compliance with State law.

Councilor Mersereau stated he visited the Clark's residence a few days ago. He saw a tired old pussy cat: a friend. He really doubts whether the cat could do a lot of damage. The fact is that Council represents the people, so emotional feelings should not be a main consideration. He feels the people are expecting the City to run at a reasonable cost and if something blatant was to happen and the cat was to do something, there would be a civil suit. He doesn't feel there is much worry about this but the law does exist. He suggested an insurance policy on the cat for any damage he may cause. City Administrator Boyce agrees that in the interim of the extension an insurance policy would help with the risk the City assumes during this debate.

Question: Will the State or Legislation of the State during this extension period of time take the risk of the City? Answer: Senator Olson stated he couldn't commit the State to take that responsibility on.

Councilor Martinez stated the Council represents all the people, not just those who don't have a Lynx cat that are service animals. She feels they represent Mr. Clark to allow the time to see the process through. Give the Legislature a chance to decide the spirit of the law.

Roll: **Mersereau:** Aye; **Martinez:** Yes; **Nelson:** Yes; **Busch:** Yes; **Reisner:** No; and **Byers:** Yes.

The motion carried 5-1.

ADJOURN

Mayor Byers adjourned the Council Meeting at 7:40 p.m.

The next City Council meeting was adjourned to 1/11, 2014, at 7:00 p.m.

Approved by the Mayor this 11 day of February, 2014.



Mayor

Attest:



Assistant City Administrator