

**CITY COUNCIL MEETING AGENDA
CLEAR LAKE, MINNESOTA
MARCH 17th, 2025**

**Work Session with Joe Langel (City Attorney) at 5:30 p.m.
Public Expenditure Policy
Conflict of Interest**

Meeting called to order at 5:31 p.m.

Present: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland.

Absent: None

Also Present: Joe Langel City Attorney, Ron Koren Fire Department Chief, Matt Lunser Assistant Fire Chief, Barry Schuldt Assistant Fire Chief

City Attorney Joe Langel was present to address the topic of the Public Expenditure Policy. Mr. Langel stated he was asked to make some comments on the proposed Public Expenditure Policy. He commented on what the city can and cannot do regarding spending city money. From a broad perspective, when it comes to any cities or any government entity, you must abide by the Public Purpose Doctrine. By Constitution, all expenditures must have a public purpose behind them. Expenditures cannot be for the benefit of any one private individual. Under the Doctrine you must show a public purpose and you must show authority for expenditures. Mr. Langel explained that the proposed policy for the City of Clear Lake regarding meal, food and drink for city business, would be in direct violation of State Law. There are differing views between the common law courts, the Attorney General's Office and the Office of the State Auditor are not always on the same page in terms of what's legit and what's not legit. Meals are not included in compensation but there are situations where this is allowable. Non-routine official meetings, special training or meetings that go over a meal time that could potentially be allowable. As firefighters do not have routine hours and, if their training goes over a meal time, it would not be an issue providing food and beverages as you are requiring your paid, on-call firefighters to participate. If firefighters are on a call this would also apply, food and beverages to sustain the firefighters is acceptable to keep the service going. Recognition and retirement is problematic. Plaques and awards, according to the Attorney General, are not part of compensation. Formal employee recognition programs may be the exception to the rule. Formal employee recognition programs can be created. They must be approved by the city council, they must be detailed and have clear wellness and recognition objectives. Specific amounts must be included in this program. Recognition events cannot be for everyone, must be a specific employee for specific actions or work. Special Events (city gatherings, open houses) would be viewed as giving away money and is not a legitimate expenditure. Donated money, Fire Relief Association, local non-profits is fine as long as the money does not come through the city. Any alcoholic beverages and funerals is an absolute no. Portions of the policy we can work with, but other parts do not meet the requirements of the Attorney General, the State Auditor and the courts. One decision the council must make is: Do you want to have a Formal Employee Recognition Policy? If the council does want this policy it could open up some avenues of money that can be spent to support your employees. It is a formal process, a formal policy and it requires certain details and have a monetary value set forth. It would need to be focused on individuals achieving certain goals not groups or departments. Mr. Langel advised that he would be willing to tweak the policy.

Mr. Langel also spoke regarding "Conflict of Interest". As there is a firefighter on the city council conflicts can be created simply by the mere presence of a firefighter. It is a problem because many of the decisions made regarding the fire department, have an impact on the firefighter. If it impacts pay or the type of equipment that the firefighter uses, hours, anything that can be attributable to the firefighter's personal benefit could be seen as a conflict of interest. A Common Law conflict of interest is not just the money, it's much broader. Common

Law conflicts biased alone constitutes conflict. If you have a personal interest in something that is strong enough that it adversely impacts your ability to remain objective as a council member then that's conflict of interest. Typically what is done, when there are decisions to be made that directly involve the fire department the firefighters, who are on the council, they abstain. Common Law conflict states that you can remain on the council but the firefighter is to abstain from any discussion or vote. Sometimes the firefighter/council member leaves the council table and becomes part of the audience or leave the room. Sometimes someone's presence alone can sometimes impact the discussion. If there is a conflict of interest under Common Law the firefighter/council member should not be involved in the discussion of the matter and should not be voting. Ultimately, if there is a potential conflict, and there is discussion about the nature of that conflict the decision as to where the conflict exists is up to the council. The conflict should be subject matter driven, not necessarily a blanket conflict. There are routine discussions that councils deal with regarding departments that don't always satisfy the threshold of conflict of interest. Mr. Langel advised that he will send language that the courts have come up with regarding conflict of interest. Mr. Langel stated that the firefighter/council member cannot vote on his salary (financial). Ultimately it is up to the council as to whether there is a conflict of interest. Regarding the new fire hall, Mr. Langel advised that the firefighter/council member is not benefiting monetarily but will benefit, as a firefighter, from new facilities and equipment. As far as being the liaison for building the new fire station there is voting on things and presenting information to the council. Presenting factual information to the council would not be a conflict of interest.

Returning to the Public Expenditure Policy: The chief's association dinner, can the city pay for the chief's dinner because they are going as a representative of the city? Mr. Langel: Is it part of the chief's job to go to the dinner? Ron Koren responds: It's the Mutual Aid Association so the chief's, the assist chief's and the retired chief's go. It's a meeting that happens over dinner. Mr. Langel: Who is paying for the retired chief's? Ron Koren: Their departments. For us, in the past the city has paid. Mr. Langel: I'm not certain why the city would pay for that. Ron Koren: Is there anything stating they (the city) can't pay for it? Mr. Langel: Yes. The person is no longer employed here. It's one thing to talk about people that are employed here, it's another to bring people who are no longer employed here. That would be a hard line to cross for the Auditor's office or Attorney General's office to cross. Is business being discussed at this dinner or just the chief's getting together once a year? Ron Koren: It's a retirement dinner. Mr. Langel: This is a problem. Retirement dinners are a big problem specifically for the Attorney General's office. You're taking public dollars and spending it on specific people because someone retired. Based on what was reported the AG's office and the Auditor's office would be a big thumbs down. The fact that five, ten, twenty other cities are doing this doesn't mean that if they were challenged they would get away with it. Mr. Langel advised that the retirement dinner that was described would likely not pass if examined by the Attorney General's office. Regarding the chief's meeting which is hosted by a different department and takes place over supper hour. Mr. Langel reports this is fine and that's what we would likely try to put into policy. Matt Lunser: Can we do this without policy? Mr. Langel: The purpose of a policy for a business meeting is not necessary, the purpose of a policy is to provide guidance to employees instead of relying on someone's understanding of the law. Matt Lunser: To clarify, the business meeting, the chief's get together to discuss business and things going on in the county. So a policy is not necessary to host this meeting and provide pizza? Mr. Langel: When you're hosting, you're feeding other people. Matt Lunser: Every department hosts this. Approximately 5 in central Minnesota and whoever hosts the meeting provides the meal. When it's a business meeting does the fire department need a policy to host and buy pizza? Mr. Langel: There is not likely to be a problem with this. It's the chief's business and its part of the mutual aid setup. I don't think this would be a problem.

Council asks: What's the difference between that and getting hotdogs for the kids when they come to the open house? Mr. Langel: The kids aren't conducting business. Council responds: Sure they are, they're coming to learn about the fire department. Mr. Langel: That's not business. Council asks: Would the open house be community outreach? Mr. Langel: There are statutes that talk about city advertising and promoting the city. But there's no certainty the open house would fall under those rules. Mr. Langel will look into this more. Matt Lunser: When people donate money to the fire department and it comes into the city, that money now becomes the city's. They can't say I'm donating money to the open house? Mr. Lunser: You don't want money

to come through the city if the expenditure is not lawful. People can donate to a non-profit and have that non-profit make the purchase.

Matt Lunser: What's the difference, regarding conflict of interest, of the council voting on their own pay, road repairs, park improvement, raising or lowering taxes, etc.? It seems like council would always have a conflict of interest.

Mr. Langel: There's a specific process for the pay piece. The voting on pay comes the year after. When it comes to zoning and road improvement, etc., there's a series of AG opinions and cases that define or try to define where the line is. If you're going to adopt a zoning ordinance city wide, you have no choice, everyone has to vote on it even though it impacts everyone in the room. If you're going to assess a road project on the block where a council member lives that city council member should not be involved in that assessment. Because this has come up so often, there are opinions out there that flush this out. Because it has come before the courts so often there are decisions that we can rely on for guidance.

Mr. Langel reports he will put something together regarding the Public Expenditure Policy assuming there are no formal employee recognition programs. As far as the fire department providing food and/or refreshments during training for firefighters while doing a two or four hour training is likely not going to be covered. If training for eight hours, food and refreshments can be provided.

Recess is called at 6:18 p.m.

Council Meeting at 7:00 p.m. at City Hall

Meeting called to order at 7:00 p.m.

Present: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland

Stand for Pledge of Allegiance

Agenda Approval (motion required)

Council Member Chad Nelson motion to approve the agenda with the addition of adding #7 Right-of-Way Permits to New Business. Seconded by Council Member Sabrina Miller.

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland
Nays: None

Motion carried 5 – 0

Consent Agenda Approval (motion required)

- City Council Meeting Minutes – March 3rd, 2025
- City Council Work Session Minutes – March 5th, 2025
- Accounts payable, receivable and EFTs for March 2025
- Contractors Request for Payment (2nd half of payment)
- Accounting/Financial Clerk job posting

Council Member Lance Gilliland motions to approve the Consent Agenda, seconded by Council Member Chad Nelson.

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland

Nays: None

Motion carried 5 – 0

Open Forum: is limited to Five (5) minutes for non-agenda items; State your name and address. No Council Action will be taken, and items will be referred to staff.

Chris Goenner appeared before council to express his concerns regarding the new fire hall. The question he brought forth was how does the city plan on paying for it? There is an agreement with Palmer Township and Clear Lake Township but we can't bill for this?

Council Member responds: The issue is that Palmer and Clear Lake Townships don't want any of their money going towards building our fire hall. Chris Goenner: It's the City of Clear Lake fire department and we are billing for services which is services of the fire department. We need a building to house the vehicles and that's something they should pay for. The valuations of Clear Lake, Clear Lake Township and Palmer Township were mentioned. Chris Goenner is questioning why the City of Clear Lake residents are funding the build of a new fire hall and feels the townships should be funding or contributing more to funding the new fire hall.

Council responds: The contracts are for services not for contributing to the new fire hall.

Chris Goenner: The City of Clear Lake doesn't need that much equipment so how is that getting parceled out?

Council responds: The new contracts are based on number of parcels, taxable values and the formula takes all that into consideration. The concern the townships had was the building (new fire hall) is going to be owned by the City of Clear Lake as is the equipment. If, for whatever reason, the city no longer has a fire department, that building will still be owned by the city and is still city property. Chris Goenner: If we're going to have a building that's going to house equipment for that area around us we need to build for that because we don't need that big of a building for just Clear Lake City. Council responds: We will because we service them.

Chris Goenner: The point is the city itself does need it, we have it here because we need it to house the equipment for them. Council responds: We don't need it right now but we will need it in the future as we grow.

Chris Goenner: We're giving them service now. Council responds: Our city will need that big of a building as we grow. We're looking towards the future. Chris Goenner: You're looking quite a ways into the future. I don't see us needing that kind of equipment. The point being, we need to build on percentages and that's my concern and, I believe, most people in the city concerns. The conversation continued regarding the equipment and the need for the size of the building. Chris Goenner stated we need a descent building but his concern is how it is paid for. Council responds: We have to look ahead, twenty five years down the road. Chris Goenner: We do have to look at growth but we don't know what the future holds either. Maybe there will be some type of regional fire department, you never know.

New business

1. Development Agreement – Parkside Addition 3 (motion required)

Jay Roos, LGI Homes: Fifty seven single family lots. Would like start as soon as the weather allows. There were a few items to be added, mainly the cost share of the generator. They are getting ready for the contractors to move in and install the water/sewer lines. Council asked about the grade around the pond being steep. Keith Yapp, City Engineer, stated he will take a look at it as these were done a number of years ago but he will look at it and do some spot checks. There was discussion regarding the cut-back and the maintenance regarding the cut-back. Clean-up would be best late fall. Keith Yapp has looked through the agreement and the final draft came from the attorney so it should be to the point where council to approve it if there are no concerns.

Council Member Stefany Janish motions to approve the Development Agreement, seconded by Council Member Chad Nelson

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland

Nays: None

Motion carried 5 – 0

2. Changing Bank – American Heritage Bank (motion required)

Council Member Chad Nelson motions to approve changing the bank to American Heritage Bank, seconded by Council Member Stefany Janish

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland

Nays: None

Motion carried 5 – 0

3. Use of public works equipment (motion required)

No public works equipment should be used by anyone without the expressed permission of the Public Works Director. This means council members, citizens, anybody. They have to have permission from our Public Works Director. That is his equipment, his budget, he needs to be the one saying, yes, you can use the equipment, no you cannot use the equipment. It must be used for something city related.

Council Member Chad Nelson motions that no public works equipment is to be used without the expressed permission of the Public Works Director and only for city related use seconded by Council Member Lance Gilliland

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland

Nays: None

Motion carried 5 – 0

4. Fire Department Report (Report submitted to clerk at council meeting)

Ron Koren, Fire Chief, reports: There were 13 calls for service from 02/17 to 03/17. Chief Koren made his suggestion to the council to check with the League of MN. Cities instead of a lawyer all the time. Chief Koren state half of the things discussed earlier tonight, needed to go to the lawyer and feels it's a waste of money going to the lawyer.

5. Public Works Report

Our new employee started today so I'm getting Tim up to speed on things.

6. On-Site - Quote for Chrome Books (6) for council use (motion required)

A quote for 6 Chromebooks to be used by the council and clerk. On-Site tech is scheduled to be here on the 28th of March to get work stations set up and get off the server. Should council decide to go with On-Site, I believe the tech would be able to set up Chromebooks and get everything working together that same day. Council packets would be downloaded to your Chromebooks which would start eliminating so much paper. They do have the capability for video. At this point, no other quotes have been received. If we find Chromebooks elsewhere would On-Site set them up for us?

Council decides to table this decision until more quotes can be gathered.

7. Right of Way Permits

Two Right of Way Permits same area but different companies. Want to ensure we have some type of tracking system on these. We want to make certain we're collecting the fee for these, get them filed and figure out how to do some tracking on them. Do these need to come to council? We need to check the ordinance to see if council needs to approve and update the ordinance if so, so council can delegate it to clerk (administratively). Council would prefer they not come before council.

Council Reports:

Mayor: Working on a price for the well at the park. Trying to get some numbers together.

Sewer Authority: Special Meeting scheduled for Thursday March 20th, 2025, at 5:30 p.m.

Xcel Energy (Information included in packet.)

Nothing to report.

Community Development:

a. Clear Valley Business Connections

Sabrina Miller will be attending the meeting in April. They do business packets and they help with functions within the city, such as music in Clearwater and they would be willing to help with events here. Cost is \$75.00 per year if we join.

b. Grant applications / Grant writing (Hunter Lake Park)

Will need to start looking for information for next year as there doesn't seem to be anything more this year. LMC is vague so basically we need to find someone to basically write the grants for us.

Clerks Report:

a. Report on reconciliation progress – The process is moving forward but slowly.

Trying to keep Sandy and Shirley focused on the reconciliation. It's a work in progress

b. Banyon Fund Accounting Training (motion required)

The clerk would like to attend Banyon training for Fund Accounting. I would like to take some training in all three areas but starting with Fund Accounting. I would attend on Fridays so we wouldn't need to close the office. I haven't received the application yet but I believe the cost is \$100.00.

Council Member Chad Nelson motions to approve up to 10 hours through Banyon training for the Clerk, seconded by Council Member Stefany Janish.

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland
Nays: None

Motion carried: 5 – 0

c. Begin on 04/01/25 – Utility billing reports will be saved in an e-file

I will set up and begin saving reports in an efile rather than printing each batch report. I will start with utility billing. Council asks: As far as maintenance goes, as in the trucks, can we keep a record of that. Yes.

d. Would like to do council pay quarterly (motion required)

Council Member Lance Gilliland motions to approve council pay quarterly, seconded by Council Member Sabrina Miller.

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland
Nays: None

Motion carried: 5 – 0

e. Pavilion checks on weekends

As we move into spring and summer the Pavilion and City Hall are being booked and we have weekends where we have two different parties renting in one weekend. Someone will need to check the Pavilion and City Hall to ensure they are cleaned between rentals. Public works can check this when it's their weekend to do rounds but we will need someone to check them the rest of the time.

City council will figure out a rotation so they will be responsible for making certain those areas are clean between rentals.

Old business

Council would like a budget review for the quarter. We will strive for the 2nd meeting in April.

Adjournment

Council Member Chad Nelson motions to adjourn, seconded by Council Member Lance Gilliland.

Ayes: Mayor Tim Goenner, Council Members Chad Nelson, Stefany Janish, Sabrina Miller and Lance Gilliland
Nays: None

Motion carried 5 – 0

Meeting adjourned at 7:57 p.m.