



CITY COUNCIL MEETING MINUTES March 16, 2021

The scheduled meeting of the Ontario City Council was called to order by guest Ian Neill at 6:00 p.m. on Tuesday, March 16, 2021, in the Council Chambers of City Hall. Council members present in person or by call-in were Riley Hill, Michael Braden, Sam Baker, Ken Hart, and John Kirby. Eddie Melendrez was excused; Freddy Rodriguez arrived at 6:51 p.m.

Members of staff present in person or by call-in were Adam Brown, Tori Barnett, Peter Hall, Dan Cummings, Terry Leighton, Steven Romero, Kari Ott, Larry Sullivan, Al Cablay, and Erik Hartley.

The meeting was recorded, and copies are available at City Hall.

Guest Ian Neill led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on March 12, 2021. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

BRADEN moved, KIRBY seconded, **TO ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

PRESENTATION

Jesus Solano, Four Rivers Community School, gave a presentation on the condition and possible ways to fix various sidewalks in the City of Ontario.

PUBLIC COMMENT

Larry Sullivan, City Attorney, stated: *The question that was posed to me is what actual authority does the City Council have in regulating the conduct of City Council members and what steps can the City Council take if they find that City Council members have failed to abide by any rules that had been adopted by the Council? It is true that because Council members are elected officials, the options for removing a Council member are very few. As a matter of fact, they are non-existent, except in a very few cases. If a Council member ceases to be an elector – in other words, if a Council member ceases to be a registered voter, that's a basis for removing a Council member. If a Council member fails to meet any other current qualification that's required of a Council member the city has the right to declare a vacancy of that position. But none of those qualifications deal with offenses that are non-criminal offenses. The Council could, theoretically, take steps to, for instance, censure a Council member, but that would be something that the Council could do to make a statement to the public, rather than anything that would result in a direct punishment to that Council member. There was discussion about perhaps seeking to remove a Council member who had been elected as Council President, for instance. Unfortunately, that's an office that is determined by the City Charter and it determines how long a person who's been appointed as a Council member is allowed to remain on the Council as the President. There is no provision in the Charter for removing that person. My conclusion is that the Council really has very little that it can do. It can't impeach a Council member, it could support a recall potentially, but that would be up to the individual Council members and that wouldn't be something that would likely be appropriate for the entire Council to vote on. Those are really the options that are available to the Council at this point.*

Marty Justus, Ontario, stated: Mayor, City Council, you know who I am. I'm a former City Council person. I'm here with Dan, also a former City Council person. We put together that we'd like to read to you-

Mayor, City Council, and City Council Members: Councilor Rodriguez's actions are not only a distraction but are unbecoming of an elected official and they have drawn into question the entire judgment of this elected body. The Council is aware of the numerous legal actions taken against Mr. Rodriguez both locally and in the states of Idaho and California.

We respectfully request you acknowledge a mistake was made by the Council when he was elected City Council President.

Furthermore, by removing him from this position and all of his committee assignments it will show the citizens of Ontario that a City Councilperson's misdeeds in their personal and professional lives have consequences. Domestic violence is a serious issue, so is knowingly misrepresenting the truth, including slander of community member on social media and from the dais. His use of Councilman Freddy Rodriguez Facebook page is clear proof of his using his elected position to slander, bully, and intimidate Ontario Citizens.

Please accept the attached signatures of past Mayors and City Council members as a request to you to add to your Agenda tonight, "A vote of no confidence for Councilor Rodriguez." Also, that motion should include removing him as City Council President and his representation on all city committees effective immediately and a request that he resign from City Council.

Signed: LeRoy Cammack, Ron Verini, Dan Capron, Marty Justus, Norm Crume, Charlotte Fugate, and Tessa Winebarger

So, yes, I understand what the attorney said, but you have a responsibility to the citizens of this city to show your disdain for his behavior. Your failure to do that is a failure of this Council. Thank you.

Dan Capron, Ontario, stated: *I just came because I signed the letter and I support everything that was said. The action of this Council, I think, come into question on some items. You all are great, upstanding citizens, and I appreciate the time you put in here, and I have much respect for you, but this is just one mistake that was made. Thank you.*

CONSENT AGENDA

BRADEN moved, BAKER seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED HOUSING INCENTIVE PROGRAM: BK CONSTRUCTION, INC. (27-2021) AND HOUSING INCENTIVE PROGRAM: DAVID THOMPSON (28-2021) AND.** Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

OLD BUSINESS

CITY MANAGER COMPENSATION

Adam Brown, City Manager, presented.

BRADEN moved, HART seconded, **THAT THE CITY COUNCIL APPROVE A COMPENSATION INCREASE FOR THE CITY MANAGER OF 2½ PERCENT.** Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.



BID AWARD: WAYFINDING SYSTEM

Adam Brown, City Manager, presented.

BRADEN moved, KIRBY seconded, THAT THE COUNCIL TABLE THE WAYFINDING CONTRACT UNTIL THE NEXT MEETING. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

NEW CONTRACT FOR SAFE ROUTES TO SCHOOL (SRTS) DESIGN

Paul Woods, City Engineer, presented.

BRADEN moved, KIRBY second, THAT THE CITY COUNCIL APPROVE THE NEW MASTER SERVICES AGREEMENT AND TASK ORDER FOR THE SAFE ROUTES TO SCHOOL DESIGN AND ADMINISTRATION EFFORT FOR JACOBS FOR \$56,500. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

SEWER LINE REPLACEMENT PROJECT – SERVICES DURING CONSTRUCTION TASK ORDER

Paul Woods, City Engineer, presented.

BRADEN moved, KIRBY seconded, THAT THE CITY COUNCIL APPROVE THE KELLER ASSOCIATES, INC. TASK ORDER FOR \$125,000 FOR SERVICES DURING CONSTRUCTION IN ASSOCIATION WITH THE COMMUNITY DEVELOPMENT BLOCK GRANT FOR SEWER REHABILITATION. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

NEW BUSINESS**RESOLUTION #2021-108: TAPADERA LIFT STATION IMPROVEMENTS – DESIGN TASK ORDER**

Paul Woods, City Engineer, presented.

BRADEN moved, HART seconded, THAT THE CITY COUNCIL APPROVE RESOLUTION #2021-108, A RESOLUTION AWARDING THE KELLER ASSOCIATES, INC TASK ORDER FOR TAPADERA LIFT STATION UPGRADES AND APPROPRIATING \$58,000. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

LIQUOR LICENSE APPLICATION – KS FOOD AND SPIRITS, LLC (ELEMENTAL)

Steven Romero, Police Chief, presented.

KIRBY moved, BAKER seconded, THAT THE CITY COUNCIL APPROVE THE FULL ON-PREMISES, COMMERCIAL LIQUOR LICENSE APPLICATION FOR KS FOOD AND SPIRITS LLC. Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

PUBLIC HEARING**ORDINANCE #2788-2021: ACCEPTANCE OF PRIVATE PROPERTIES AS PUBLIC RIGHT OF WAYS FOR PUBLIC STREETS – FIRST/SECOND READING BY TITLE ONLY AND DECLARING AN EMERGENCY**

It being the date advertised for public hearing on the above stated matter, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, or any declaration of a conflict of interest.

Dan Cummings, Community Development Director, presented.



BRADEN moved, HART seconded, **THAT THE CITY COUNCIL ADOPT ORDINANCE #2788-2021, AN ORDINANCE ACCEPTING CERTAIN TERRITORY AS CITY OF ONTARIO STREET RIGHT OF WAYS AND AS PUBLIC STREETS, ON FIRST READING BY TITLE ONLY AND DECLARING AN EMERGENCY.** Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2788-2021, AN ORDINANCE ACCEPTING CERTAIN TERRITORY AS CITY OF ONTARIO STREET RIGHT OF WAYS AND AS PUBLIC STREETS, ON SECOND READING BY TITLE ONLY AND DECLARING AN EMERGENCY.** Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

DISCUSSION ITEMS

SE 2nd Street Grant Funding

Adam Brown, City Manager, stated SE 2nd Street was a project that was unfinished due to budget restrictions to cover the entire project from Idaho to 18th Avenue. There were working with the grant writers to acquire grant funding from the EDA to complete the project. Almost 90% was already engineered, and the remaining was 75% engineered. Under the current funding, as a result of a preliminary study, they were told the city would likely be funding at a 50/50 match, which was what was in the budget. He wanted to bring some options to the Council. They could go for the 50/50 funding, or ARPA, which was a relief package passed by Congress and the President, included a lot of money for the EDA in a 20/80 match. After speaking with the grant writers, he was told that there were 22x the amount of funding in the ARPA bill than in current funding. His thought was that the city wait until May to file the application.

Potential Ordinance: Buying Local

Councilor Hart stated this was on the Agenda at his request. As background, he and the City Manager were driving to City Hall from the V&C meeting and he noticed the car being driven was a Nissan with a Bronco Motors plate. He jokingly said to Mr. Brown, "politically, you might want to take that off" thinking it was Mr. Brown's personal car. No, it's a city-purchased car. As a former CFO for Gentry Motors, he spoke with Ryan and asked how much was donated to annually to different groups in Ontario, and it was about \$50K a year. That bothered him that the city would use funds to go outside the community to buy something that could be purchased locally if they tried. He was aware they were looking to purchase a new truck for the Airport Manager, and he hoped it was Auto Ranch Ford, or Auto Ranch Chevy, or Steve's Hometown Toyota. That being said, and understanding that the Nissan purchase was based on the lowest bid, he still wanted them to consider having some type of ordinance that would say the city would work hard to support the local businesses, especially with that type of purchase. Oftentimes some things couldn't be bought locally, like a fire truck, but just a car could be. It struck a chord with him as a former small businessperson, and he knew that others might agree. He was looking for thoughts on it. He didn't want someone local to gouge them, but really just to make staff aware they should buy local when possible. If they couldn't, let the Council know. A \$200 or \$500 savings on a \$25K car, there might be a way to keep that local.

Mr. Brown stated he wanted to provide context behind the purchase. He was familiar with working with state procurement lists that had enormous savings, and the city was not taking advantage of that. It was literally thousands of dollars in savings. The city did take advantage of that the following year. Staff went to the dealers and asked if they could meet the state bid, because most were on the other side of the state, and the first two years, the local dealers stated they could not. It was generally a few thousand dollars different. Staff continued to ask, and the third year, a dealer stated they would match it. The past two years they had matched the low price on the state bidding list, which saved the city several thousand dollars per vehicle, and the business was kept local. For the City Administration vehicle, staff was looking for a vehicle with all-wheel drive that could be taken across the state during the winter. Therefore, staff went with the lowest priced car that fit that parameter. The state bid also had a Toyota, so staff could have brought that before Council to explain that while the Toyota was \$4K more, and staff was always looking at saving money. He called the dealership in Oregon that had the contract, and it took them three months to return his call. He'd already purchased the car by that time. In retrospect, that could have been brought that option to the Council.



Councilor Hart stated buying a car shouldn't be a political decision, but it was a political decision because it showed the support for the local businesses. If staff was going to ask Steve Dominguez from Hometown Toyota to ask for help on a city project, don't take the Nissan. Was it possible to create an ordinance that outlined that if something couldn't be purchased locally, that was fairly easy to get locally, that it be investigated? It was important to send that signal.

Mr. Sullivan stated the umbrella the city operated under during public contracting was the state law that governed what bids could be accepted. Oregon did have an expressed set of contract preferences for goods and services that were manufactured or produced in Oregon, and it allowed them to choose those over goods as long as those goods were equal to price, fitness, availability, and quality. The obligation over state law was to accept the lowest bid, and they could procure the local product if it met the same qualities as an out-of-state product. It imposed limitations on opting to pay more for a local product than could be obtained from an out-of-state manufacturer. The reason was because of the city's obligation to maintain the fiscal integrity of the city and to get the maximum bang for the buck out of the taxpayer's money. The thinking was that it was more important to save the taxpayer's money than to support a local business by authorizing purchases of more expensive local goods. There was a loophole. If the manufacturer or the seller from the other state was in a state that gave an actual bidding preference for that manufacturer or seller in that state, by law, they could boost that seller's cost by the amount of the preference. Essentially, they could pay a local person extra to compensate that the low bidder in another state was getting some type of preference. That was a very small exception.

Councilor Hart stated he still would like staff to craft something to bring back to a future Council. He wanted it workable and legal but would also ask for something for Council discussion.

Mr. Brown wanted to let the Council know there was a current policy which read all things being equal, they could buy local or give preference. That was consistent with the law. Was there room to craft something beyond that?

Mr. Sullivan stated not beyond; an ordinance could read that *"the city shall give preference to local businesses to the extent that it is compatible with ORS 279A.120"* so it was being cited back to a state statute. It would have to be tied into the state statute so the fact that there was a state law was not overlooked.

Councilor Kirby thanked city staff for purchasing items from his business.

House Bill 3115

Adam Brown, City Manager, stated this Bill solidified the Boise vs. Martin homeless case, as well as the Grants Pass case, which read you could not deny people to perform life essential functions in the public right of way. Life essential functions were declared as breathing, eating, sleeping, etc. Putting a tent in the public right of way or in a public park was something that could not be denied to someone. The Bill solidified and codified that. The City of Portland had a process where they were able to clean the places where the homeless were, with proper advance notice. It was similar to the process Ontario used down by the river, where the state's process was followed. Portland indicated they did not believe this Bill would change that practice.

Mayor Hill verified the way the Bill was written, sleeping, eating, and breathing on a sidewalk would be okay.

Mr. Brown stated yes. That's the way the Boise vs. Martin case was decided. The Bill attempted to codify it into state law what had been decided in those cases.

Councilor Kirby asked if alternative sites were offered.

Mr. Brown stated yes. It was consistent with the Boise vs. Martin and the Grants Pass case that if there was somewhere that was being offered for the homeless to eat, or sleep, or use the restroom, then they could push them off the public rights of way, if there was a place for them to go. It was in with the Legislature now, which closed end of June.

Response to Citizen Concerns Voiced at Previous Meeting

Mayor Hill stated that Councilor Melendrez had wanted to speak on this but given that the City Attorney already gave a response as far as what the Council could do, he suggested passing on this item.

Homeless Shelter Issues: Neighborhood Concerns

Adam Brown, City Manager, stated that Councilor Melendrez had asked that this item be addressed, but as he was not in attendance, maybe they should bring it up later. Staff had been working with the homeless community that had been running the transitional shelter. There were about six or seven that met every Wednesday, and spoke about any concerns, problems, any time law enforcement was involved, so they were attempting to address those issues promptly. One concern that Councilor Melendrez had was regarding the camera system. Chief Romero walked the property with the property owner and Community in Action and presented them a strategy for installing the ring system, and that system was to allow a two-way conversation, the property owner or program manager could tell someone to leave the property if they were not supposed to be there. The group would like to continue the program through the end of June, which was when funding ran out. Community in Action would be coming before Council in April to make that request. On a side note, the city still had \$5K on the budget for homeless services, and he let them know if they did not have funding for the ring system, he would ask the Council to use some of those funds for the security system.

Marijuana Ad-Hoc Committee

Councilor Braden stated it came up at the budget discussion last week that there was a youth education program funding set aside of \$5K. He presented at that meeting that they could ask the Marijuana Ad-Hoc Committee to look into a youth education program to provide the Council with a referral and outline something to direct them on how to use those funds. Was it time to enlist the help of the Marijuana Ad-Hoc Committee to do that?

Councilor Kirby stated there was a Program Director for Education at Lifeways, Judy Trask. She'd be the contact person and would be delighted to hear from the city. Direct the education money to Judy Trask at Lifeways.

Councilor Braden verified they were saying not to use the Ad-Hoc Committee but ask staff to contact Judy Trask.

Mr. Brown stated his agreement because they couldn't do much with \$5K but to add to their education program, and Judy Trask was very passionate about this, would be more effective than the Ad-Hoc Committee trying to create something similar.

Infrastructure Bill

Mayor Hill stated it was shown in the news, and everyone knew it was going to happen, but there was going to be an infrastructure bill. He wanted to see the city get awards for the engineering for some of the city's identified projects and asked to see something about that on the upcoming Agenda.

Mr. Brown stated that had been discussed that day with Jacobs, who were prepared to present at the next meeting.

Next Meeting

Councilor Hart asked if Jacobs could be ready by next Tuesday?

Al Cablay, Public Works Director, stated they would be ready by next Tuesday.

Councilor Braden stated he would be out of town next week.

Mayor Hill confirmed there would be a meeting next Tuesday. (*March 23, 2021*).

Mr. Sullivan reminded the Council that the fourth Tuesday every month he attended the Vale City Council meeting. As he had done in the past, he would call in to the Ontario Council meeting for the first hour, but would then need to sign off.



HAND-OUTSChecks Register: Feb 1 / Mar 12, 2021 (Attached)

Mayor Hill asked about the \$1,177,000 payment to Synagro Technologies.

Ms. Ott stated that was for the final payment of the solids removal at the Wastewater Treatment Plant.

County Court Minutes: Feb 24, 2021 (Attached)CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Councilor Rodriguez read a statement into the record: *I didn't hear all of the comments by previous Councilperson Justus here tonight, so I won't address them now so I'll address what I was told would be a topic, so I'll address that here tonight as it is a very important for me to address. As for my residency, which is what we're going to talk about here. I have two locations where I live. Yes, you guys did hear one of many questions so selective hearing is a thing. And that question you guys selected to hear I can say yes you did hear correctly, although it does seem like you guys changed the wording a little bit. The question was if I stay in a trailer at a specific campground that's outside of city limits. My answer was yes. The question was not is your only residency at that trailer. My answer would've been no. Why? Because I'm not a liar. I also pay and I am financially responsible for paying a residency here inside city limits. Why? Because I'm not stupid. I know I do have two residencies one inside the city and the other one is outside of the city on the edge of town. And yes, I was homeless for two weeks at the beginning of January yes, but even then, I was paying for my residency within the city limits but chose to stay in my van because of having my dog with me. It was a living thing. There were other dogs there. I would definitely understand that not many here or even listening would understand the issues of being homeless and the struggles that it entails. But I can tell you I fought to maintain my residency in the city that I have been elected to lead regardless if the financing of it kept me struggling. Long story short, I've always made sure to maintain residency inside the City of Ontario.*

EXECUTIVE SESSIONSEXECUTIVE SESSION: ORS 192.660(2)(e)

An executive session was called at 7:19 p.m. under provisions of ORS 192.660(2)(e) to discuss real property. The Council entered a second Executive Session.

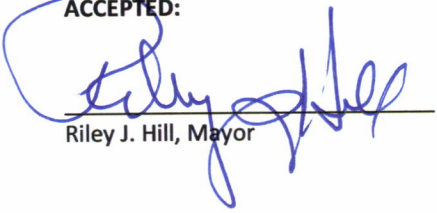
EXECUTIVE SESSION: ORS 192.660(2)(h)

The Council entered an Executive Session under provisions of ORS 192.660(2)(h) to discuss current or real litigation. The Council reconvened into regular session at 9:17 p.m.

ADJOURN

HART moved, KIRBY seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

ACCEPTED:


Riley J. Hill, Mayor

ATTEST


Tori Barnett, MMC, City Recorder