CITY COUNCIL MEETING MINUTES
June 15, 2021

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, June 15, 2021, in the Council Chambers of City Hall. Council members present in person or by call-in were Riley Hill, Sam Baker, John Kirby, Michael Braden, and Freddy Rodriguez. Eddie Melendrez was excused; Ken Hart arrived at 6:07 p.m. Freddy Rodriguez departed at 7:45 p.m.

Members of staff present in person or by call-in were Adam Brown, Tori Barnett, Peter Hall, Dan Cummings, Terry Leighton, Kari Ott, Larry Sullivan, Al Cablay, Paul Woods, and Jon Esplin.

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

Mayor Hill led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on June 11, 2021. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

BAKER moved, KIRBY seconded, **TO ADOPT THE AGENDA AS PRESENTED.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

PROCLAMATIONS

Mayor Hill read two proclamations into the record (both attached) honoring John Jaramillo and Don Gonzales.

PUBLIC COMMENT

Francisca Cabrera: *I just had a couple of questions. Jose Bobadilla is trying to get a building permit approved to enclose a carport that he has on his property, and he was told that in order to get that approved he had to construct a sidewalk from the front of the home to the curb. We were wondering if that is contingent, that he does have to do that get it approved, or can he not do that if it's just if we want to or not? Is that true? Is there an ordinance in effect that would require a sidewalk be built from the front of the home to the curb?*

Mayor Hill stated from the front of the home to the curb he was not aware of that, but he knew that if there was no sidewalk next to the curb and the footprint was changed, they would have to construct a sidewalk there.

Ms. Cabrera: *Okay. My question is then if it's enclosed, you're not, the existing carport is there, you're just enclosing it. That is considered changing the footprint of the home.*

Dan Cummings, Community Development Director, stated they were enclosing the carport and making it part of the living quarters, so that was increasing the footprint of the home; therefore, the city code required a sidewalk, unless the Council granted special permission to not construct it. There were no sidewalks on 11th Street, so it would be section of sidewalk in the middle. Staff did not have authority to waive that requirement.

Ms. Cabrera: *We're just asking because it would be as you stated Mr. Cummings, the only house that has that sidewalk. All the others do not have that particular feature on the front of their home to the curb.*

Mayor Hill asked if they were seeking a waiver of the sidewalk requirement.

Ms. Cabrera: *Yes, it is Mayor Hill.*

Mayor Hill stated before the Council could address it, they needed to see a drawing and pictures of what would be occurring there. It would require a Deferred Development Agreement, but he would not speak for the Council.

Ms. Cabrera: Okay. *And I have one more question. If we were to be told that we did have to do that, is there funds provided through the Community Development Block Grant that would allow us to use those funds to construct that sidewalk? Do we cross that road yet or wait until to see if we can get it waived?*

Mayor Hill stated he was not aware of any.

Ms. Cabrera: *Okay, okay. So, may I just clarify? If we get drawings and pictures of that particular location, would you want drawings and pictures of the houses to the side of it?*

Mayor Hill stated they needed to go through the Community Development office, who would move it forward.

Ms. Cabrera: *Perfect. That sounds great. Thank you very much.*

<u>Gustavo Morales:</u> *Thank you Mayor and Councilmen. I'm calling back into today's meeting to continue the conversation regarding the development of Project Turnkey. Thank you for giving us the time today. We're coming before you to continue the conversation regarding Project Turnkey. Now before I talk about the project itself, I'd like to, in advance, apologize for the gap in communication that has occurred regarding this project. We look to continue to value our relationship with working with the city and regardless of the decision the City Council makes. I want it publicly known that we appreciate the work that's gone into it up to this point, as well as communication that has been done. We look forward to being able to work in any and all future projects. As you know, we are very passionate, and regardless of the project, we hope that we will be able to continue this passion even if there is an opportunity for it to be successful. That being said, we're coming here today to ask for the City Council to make a decision on whether or not they would be willing to support, and we have, and are willing to answer any questions that you may have regarding Project Turnkey. At this time, we are in the final steps of being able to acquire a motel or hotel to be used to help serve foster children, individuals within the DHS system, and our community-based programs who experienced, for whatever reason that may be, and are in transition between places and their home. The acquisition of the property would be allowed to accommodate those community members and individuals in place while they get their foothold to be strong, contributing members of our community. This is not for homeless individuals. This project is being built for helping provide a strong foothold for those community members who have been successful and have been part of a community but given the circumstances have landed in an unfortunate circumstance where they need temporary shelter. I'm going to pause there and hopefully be able to answer any questions that you may have if that's available.*

Mayor Hill stated there had still not been anything presented to the Council as to what the plan was. There was nothing on the Agenda about this.

Councilor Kirby stated because the Council did not have enough information, the delegate from the last meeting would not disclose information, even though some Councilors knew of the possibility of this occurring and had questions. He believed the city would need two or three months to consider the action, but they needed to have all the correct information. Then put it on the Agenda and go through the proper channels.

Mr. Morales: *The only thing that I will mention is this project is on a tight deadline and unfortunately, we do not have up to three months. We have been working on this project since March, and one of the reasons I apologized for the gap in communication is because there was a misunderstanding on the City Council's engagement on this project. And we are happy to disclose any information regarding the project itself. It has gone through the entire due diligence process so the survey, environmental reviews processes have all been conducted. The property itself in question is the Red Lion. We have reached out, since our last conversation, to all the property owners and all the property owners that we've been able to contact because 99% of them are owned by corporations that are out of state, meaning that no, none of the property, well the majority of the properties are not owned or community owned. They are invested with statewide corporations out of state to transfer this facility to be utilized to help support community members who are living in our community. The feedback that we were able to receive regarding the place itself is that as long as the facility itself works incognito, meaning that it appears to be a hotel, then they have no concerns. The reasons that they would have no concerns is because it's 63 rooms off the market, meaning that it's 63 rooms more that would allow more business for the other hotels that are operating. And I apologize, there's a lot of background noise. I don't know if someone is muted, but I hope that you can still hear me okay. The operation plan is in place, and our organizations was willing to make the investment that is needed to run the facility to be able to serve our community members. The investment that is being made by the state is $3.5M for the acquisition of the property to be converted to use for this facility. Our organization has also identified additional tools and resources of almost $1M for the operation of this project. And we would hate to lose this one-time funding opportunity that would serve our community members. The reason that this funding came about was because of the pandemic and the wildfires or natural disasters that have occurred in our state this past year. We do not anticipate seeing any additional programs or resources coming down the pipeline to serve our community members. We're pushing this because one, we are talking about this work, but two, if we were working in collaboration with you for something that we'd like the state to change, I think you would like to see the same level of passion as we're working with our legislators at that level. That being said, we want to make sure that as an organization that we turn over every stone, and there are lessons learned. I'm going to be honest, there are lessons learned in how we approached this project that will be changed moving forward with any other future projects. The other question that I'm aware of that was regarding this project is a space for children. In the plan itself, there's two spaces. One, part of the facility would be converted into a recreational area for youth and children, but the second part we were evaluating, and one of the future phases that part of the parking lot would be converted, assuming that we're able to retain compliance with existing codes and ordinances, into an outdoor recreational area playground that would be suitable for children to utilize during their stay at the facility.*

Mayor Hill asked why the city had to act on this project. Was it a requirement?

Mr. Morales: *Regarding what we're asking of the city, the only thing we're asking is for support for the project to be able to move forward. The reason that it's on such a tight deadline is because the way that the funding was allocated by legislature the fund has to be used up by June 30th of this year, which means that we have to be able to close on that project by June 25th in order to allow for adequate time to be able to get the funds and utilized them for the purpose of the project. Again, lessons learned, and in hindsight, with future projects, we intend to do a much better job in communicating with both City Council and working with the team members of our city.*

Mr. Sullivan stated when Mr. Morales asked for the city's support, was he talking about a motion passed by the Council in support of the program, and if the city didn't give that support, what was the effect of that on the ability of them to get the funding.

Mr. Morales: *All we're asking is for an acknowledgement, whether that be a letter or public recognition that the project tis allowed to move forward.*

Mr. Sullivan stated this was a private transaction between private individuals, correct?

Mr. Morales: *No, it was a transaction from a private entity to a public entity. We are a public non-profit organization, and we would be the ones who would be taking the facility to be utilized so we would be overseeing the management and operation of the facility to be used for the intended purposes. And so, all we're asking is for support from the city and the acknowledgement of that often comes in the form of a letter saying that we are supportive of the project to be able to move forward. If we do not receive that letter, then we would not receive the funding. To Councilman Kirby's point last time, we value our relationship, and we don't want a project to move forward that the Council does not see a value and/or may create a significant burden for our community in whatever that may be, for whatever reasons that may be.*

Councilor Rodriguez stated he had been under the impression the project would be helping homeless individuals, so it had now taken a different light. He also spoke of assisting DHS with foster kids, so because of that, would this project help with that?

Mr. Morales: *That is one of the goals, yes. And so the adults are, they're appointed guardians, while they are transitioned from one foster home to the next.*

Councilor Kirby called to resume the order of business; they had exceeded the time. They couldn't act. There was an Agenda before the Council, and he called to move on with the business before the Council.

Mayor Hill stated he would need a motion for what the Council wanted to.

Councilor Kirby stated they had exceeded the three minutes, and it was not on the Agenda for them to act upon. They couldn't do anything that night, so move one with business.

BRADEN moved, HART seconded, **THAT THE COUNCIL AMEND THE AGENDA TO ADD ITEM 7E, PROJECT TURNKEY LETTER OF SUPPORT. NO VOTE**

Councilor Kirby stated this whole thing had been handled awkwardly from the beginning. He suggested they move on, and that Mr. Morales come back next year.

Councilor Braden stated the time sensitivity of the project imposed by the state was getting the Council to act in an untimely manner, but he believed they could give the process consideration to see if a letter of support was supported by the Council.

Retyped Motion:
BRADEN moved, HART seconded, **THAT THE COUNCIL AMEND THE AGENDA TO ADD ITEM 7E, PROJECT TURNKEY LETTER OF SUPPORT.** Roll call vote: Rodriguez-yes; Baker-no; Kirby-no; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 4/2/1.

Mayor Hill stated since they had amended the Agenda, with the consensus of the Council, they were going to continue with the Project Turnkey action.

Mr. Morales: *Thank you. I'd like to take this time to be able to answer any questions or any other questions that the Councilors would have with our youth project.*

Councilor Kirby stated when the marijuana industry came to Ontario, buffer zones had been established that a dispensary could not move within 500 feet of a residential area. There was an established dispensary, and Project Turnkey was moving across the street. If A couldn't follow B, could B follow A? It appeared they were ignoring the intent of the code that residential areas were to be free from marijuana dispensaries. That didn't add up.

Mr. Morales: *The only comment that I can say with a level of certainty regarding that is I would have to defer to Dan on the code, but as our city continues to grow, there is a new development that has been approved and is moving forward in that very area, on the back side of Home Depot. Now the exact location and the distance from that dispensary that you're speaking of is not 100% to me, but I know that that area is being developed for residential. So as the city continues to develop and if that area continues to be approved for residential development, we would hope to be able to see more homes to allow for more opportunities for our community members to have a space to be able to contribute to our area.*

Mayor Hill stated this had not been before the public, to allow for comments. Where were the children going to play? In the Home Depot parking lot? Did the other businesses in the area support the project? For the Council to support it, they needed to know the community supported it.

Mr. Morales: *So, we've been able to generate significant amount of community support, especially with the Latino communities, we also have organizational support from various entities that are also being informed of support. Now in regard to the immediate area, we reached out to all the businesses within a three-block radius of the location, and of the property owners that we've been able to communicate with, they do not have concerns as long as the facility is self-contained, and remains to remain and work incognito, meaning that it appears to be operating and working as a hotel. The reason that they have no concerns is because it's 63 quality rooms that are now off the market that will allow them to drive further traffic to the surrounding hotels in the area, which is the primary vicinity that it's located in. And regarding Dairy Queen, because of family members being able to utilize the space, it would generate some businesses having those individuals be able to go to Dairy Queen, go to access to grocery stores, access to basic needs within walking distances without the concern of transportation.*

Councilor Kirby stated that was already a high-density traffic area, and they were trying to move additional housing into it. That housing unit jumped through all the hoops, rang all the bells, blew all the whistles, and looked at a sewer transfer station, and many other things to assist them, and they had been providing information to the Council. If there were advocates for Project Turnkey, where were they? The Council had seen nothing, and they should not be acting on something like this blind. He agreed that housing was needed, but they needed to work with the Council and Mr. Morales was arm-twisting them and he didn't like it.

Councilor Rodriguez asked if the rooms could potentially be filled by local people or kinds in need, or would the city see other areas ship their people over here.

Mr. Morales: *The goal is to meet basic community need. There are 63 rooms, and our goal is to be able to utilize those rooms to meet different and various needs. Foster kids is one of our priority needs that we would like to support, in addition to the foster kids, we'd also be working with victims of domestic violence, victims of sex trafficking which is, unfortunately, another very vulnerable population that is in fact within our community and working with other families within the DHS system and services, which includes families within the *** program, and families that are utilizing our organizations programs and services.*

Councilor Rodriguez assumed there were state agencies in support of this project.

Mr. Morales: *We don't have a letter of support specifically from organizations our agency is working with such as Victims of Domestic violence, however we are working with the Department of Justice Crime and Survivors, and I can pull that information for you, or I can follow up with an email. A group of individuals who work specifically with those victims and so I did not request a letter of support from the Department of Justice, but we have letters of support from our local Department of Human Services that serves Malheur County that includes our foster children, our **** families, and community members acting in social services for support.*

Councilor Rodriguez asked what would happen to those in need of this program if this did not move forward.

Mr. Morales: *The answer to that is simple. Their current living situation is extremely complicated with the housing shortages that we are currently experiencing. There is no place for them to be or to live permanently or temporarily for them to have access to adequate housing and shelter. As you may all be familiar, housing is a significant contributor to social determinates of health. Social determinates of health are often contributors to long-term successful individuals. If we don't offer support and intervene early on with helping facilitate and access to adequate housing and shelter, especially for our faster children, the outcome of their future success are very limited. That's an opportunity that doesn't come very often. So, we are in fact, to Councilman Kirby, I can understand and can hear that you are not in favor of this project moving forward. The reasons that you provide are genuine and so really the question is do we balance economic opportunity and who to lose, or do we value, do we weigh the value of the contributions that this will make to the families who desperately need the service and requires zero financial investment from the city and be able to achieve some significant outcomes now and for the future of the children and the families who will be utilizing the facility.*

Mayor Hill stated as it was a non-profit organization, would there be property taxes paid on the facility? It currently paid property taxes, which supported the community. The city would also lose the TOT, or would there be a tax on that because they were short-term residents?

Mr. Morales: *So, we, I believe, that we would not pay property taxes, however, in the communication that I sent via email, we, as an organization, understand the value and the importance of this, so if the city feels that the financial implications from the loss of the property taxes create an impact, we are happy to evaluate how we can compensate the city for the loss of that revenue.*

Mayor Hill stated when Community In action did theirs, they held a forum where they invited the community and residents to comment, and then made a presentation to the Council and what their plans were. If the Council acted on this without hearing from the community and residents, someone was going to say they weren't doing their job.

Mr. Morales: *So, our community has diverse prospectives, and yes, they're always, there is an opportunity and a risk for that happening. Given the nature of our work, our organization has developed a significant amount of social pull and capital and back to Councilman Kirby's point, we didn't fill the room because we didn't want to put any additional pressure on the City Council. I think many of you are aware of the work of the organization and how much we are able to mobilize community and given the nature of this work and the sensitivity of the populations that we want to serve, we want to do the best job that we possibly can to one, ensure that the communities that we're targeting, the vulnerable populations, are being able to be served the best way possible and also reduce and minimize any implications and additional impacts they may have on the commercial area. Now given that it's in a commercial area, I don't anticipate seeing a whole lot of the property owners and managers picketing because, as you mentioned, it's in a non-residential area that is being converted to residential. So, at this time there is no one living within the area that I think would see any major concerns. Regarding traffic, it's located on an off grid. Now I can't remember the property term, but it's not a collector nor a main street, so the traffic is actually pretty minimal on that street. It's often utilized by folks who are entering or exiting or who are utilizing the facilities within that area.*

Mayor Hill asked if there was a traffic study on that area. He believed it to be a busy street.

Mr. Morales: *In the respect, I have to refer back to Dan as I mentioned earlier regarding the actual traffic of the space, but since it's being converted into residents, there are safety and contributing measures that we are looking to put into place for our facility for protection on both the security side as well as ensuring access to the facility is controlled so that the vulnerable members of our population are safe and secure, as well as the rest of our community.*

Mr. Hill stated he indicated the people were not homeless, just between homes. If they weren't homeless, what were they?

Mr. Morales: *So, depending on the definition of homeless, if they took the traditional term, we have more than one family, or they exceeded the capacity of a home, those families are considered homeless. When I'm thinking about homeless and the term, I'm referring is for folks who are on the street, asking for money, who could probably use and take better care of their personal hygiene. So, the homeless population that I'm referring to. There's another project that is currently assisting those populations, and we are happy to support that project as well. The project that we're working on is to meet the gap of families who are in the system that don't have, that are not in homes. Foster children, for example. They were removed out of their existing environment or removed by the state for a number of reasons. Our goal is to be able to provide a shelter and a space for that individual with their appointed guardian to be able to utilize it while they're identifying a more permanent home for that individual. That process can take a couple of days to several months. It varies case by case. The access to adequate shelters that are safe, secure, and provide an environment that is more ideal to allow that child to have some level of normal, is non-existent. What we're trying to do is provide that level of normal for that child while they're experiencing the traumatic event, being removed, and displaced from their home and put into an environment where we hope they'll be grow roots and grow up to be successful individuals.*

Councilor Rodriguez asked if they had received any support, advice, or suggestions from Hot Box?

Mr. Morales: *We do not have specific feedback from that business. We did reach out, in fact we have done work with them in the past, but we have not heard back from them specifically. To be clear, we've reached out to all the businesses, that I believe I shared with the Council in one of the previous communications, and 90%, 95% of those businesses are owned by other businesses that are out of state.*

Councilor Braden stated he looked at this project and thought the Council was trepidatious to pursue it based on the pushback for the tiny homes. This was a similar project to that. He felt the tiny homes project was not the city's project, same as this Project Turnkey was not a city project. He asked himself if he supported the outcomes of this project, just as he did with the tiny homes, and he did. He thought the causes and support stated were a worthwhile pursuit for the city to endorse their support. The Council was looking at the projects and treating them as city projects that needed their research, approval, or civic outreach, but there were private projects that were asking for city support. He supported the outcomes. The Council should support Project Turnkey. He understood they might not like and have questions about the location, lack of communication, but this was an opportunity for his organization to invest $3.5M to buy and use an asset in our community that helps the community. That was an outcome they should support.

HART moved, BAKER seconded, **THAT THE ONTARIO CITY COUNCJL SUPPORTS THE WORK OF EUVALCREE AND THE OREGON COMMUNITY FOUNDATION TO HELP THE VULNERABLE CHILDREN IN OUR COMMUNITY; THE SUPPORT OF THIS SPECIFIC PROPERTY IS PREDICATED ON EUVALCREE CONDUCTING A PUBLIC HEARING OF THE NEARBY PROPERTY OWNERS AND THAT THE NEW PROPERTY USE IS IN COMPLIANCE WITH ALL CURRENT ZONING REQUIREMENTS.** NO VOTE

Mr. Brown stated that councilor Melendrez was viewing the meeting and asked Mr. Brown to convey his support for the project. He wrote *I'm watching the live feed. I'd like to voice my support of the project, if possible.*

Mr. Sullivan stated the motion called for a public hearing. He didn't hear it would be conducted by the City Council. The public hearing needed to be conducted by Euvalcree. It did not be before the City Council.

Councilor Hart stated his intent in the motion was for Euvalcree to conduct their own public hearing, not an official City of Ontario public hearing.

Restated Motion:
HART moved, BAKER seconded, **THAT THE ONTARIO CITY COUNCJL SUPPORTS THE WORK OF EUVALCREE AND THE OREGON COMMUNITY FOUNDATION TO HELP THE VULNERABLE CHILDREN IN OUR COMMUNITY; THE SUPPORT OF THIS SPECIFIC PROPERTY IS PREDICATED ON EUVALCREE CONDUCTING A PUBLIC HEARING, ON ITS OWN, OF THE NEARBY PROPERTY OWNERS AND THAT THE NEW USE OF THE PROPERTY IS IN COMPLIANCE WITH ALL CURRENT ZONING REQUIREMENTS.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

CONSENT AGENDA

KIRBY moved, BRADEN seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED COUNCIL MEETING MINUTES OF APRIL 8, 2021; APRIL 20, 2021; APRIL 27, 2021; MAY 6, 2021; AND MAY 18, 2021; AND A HANGAR LEASE TANSFER FROM KOEPPEN FAMILY TRUST TO ROB AND LISA SANDERS FOR HANGARS 102 HOTEL; 103 HOTEL; AND 107 INDIA.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

OLD BUSINESS

Resolution #2021-117: GASB 54

Kari Ott, Finance Director, presented.

KIRBY moved, BRADEN seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2021-117, A RESOLUTION ESTABLISHING POLICIES RELATING TO ENDING FUND BALANCES OF 2020-2021.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

Resolution #2021-118: Clean Up End of Year Finances

Kari Ott, Finance Director, presented.

BRADEN moved, KIRBY seconded, **THE CITY COUNCIL APPROVE RESOLUTION # 2021-118: A RESOLUTION TO ADOPT A SUPPLEMENTAL BUDGET TO RECOGNIZE UNEXPECTED REVENUES AND TO TRANSFER BUDGETED APPROPRIATIONS FOR UNEXPECTED ITEMS.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

Resolution #2021-119: Master Fee Schedule FY 2021-2022

Kari Ott, Finance Director, presented.

Mayor Hill had some questions on the fees; the fee or charge associated with, for example, the Boy Scouts selling Christmas trees; a fireworks stand daily fee of $20 or a seasonal fireworks stand for $20; the derelict structure fee, the appeal fee, abatement fee; a frozen meter fee for $50, which wouldn't be the owner's fault; and there were several different cemetery fees, and that could be cleaned up. For Code Enforcement, there was already a fee for derelict structures, so it could be a repeat of the earlier fees. That needed to be cleaned up, too.

Ms. Ott stated the longer a structure remained as derelict, the higher the fees billed. These were fines the city charged. Regarding the cemetery fees, there were different sizes and locations. The fireworks fee was possibly an error and was probably $200 for the season.

HART moved, BRADEN seconded, **THE CITY COUNCIL TABLE RESOLUTION #2021-119 PENDING CLARIFICATION, EDITS AND CLEAN UP.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

Resolution #2021-120: City Council Rules and Procedures Polity: Meetings
Adam Brown, City Manager, presented.

BAKER moved, BRADEN seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2021-120, A RESOLUTION AMENDING SECTION II MEETINGS OF THE CITY COUNCIL RULES AND REGULATIONS.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

Ordinance #2791-2021: Amend OMC 2-8-5 re Public Works Committee
Paul Woods, City Engineer, presented.

KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE ORDINANCE #2791-2021, AN ORDINANCE AMENDING PROVISIONS OF ONTARIO MUNICIPAL CODE TITLE 2, CHAPTER 8, SECTION 5, TITLED PUBLIC WORKS COMMITTEE, ON FIRST READING BY TITLE ONLY.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2791-2021, AN ORDINANCE AMENDING PROVISIONS OF ONTARIO MUNICIPAL CODE TITLE 2, CHAPTER 8, SECTION 5, TITLED PUBLIC WORKS COMMITTEE.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 6/0/1.

Lease Renewal for Beck's Spray Service
Greg Beck, Ontario, stated: *I graduated in 1967 from Treasure Valley Community College in Aviation. In 1968, I got drafted so I went into the Warrant Officer program, and I flew for the Army for seven years. Then I got, Casey Jones wanted to retire, and he called me at Fort Lewis, Washington, said how soon can you get down here. I said, well right away. So, I went down and took over, I got project transition which gives you four months to get out, get a job, so I was double-dipping actually. I got paid by the Army and got paid Casey. Anyway, I went to work as the General Manager for the flight school. Then I got into crop dusting and that's about where I'm at. I've been doing it since 1983. I got married in the fall of '82; and 1983 we formed Beck's Spray Service and I've been that ever since. My wife and I, we were going great guns for 25 years, and then she dropped dead of a heart attack. She'd been dead over 12 years. I quit flying two years after. I'm selling out to Clyde Esplin, and that takes care of that.*

Clyde Esplin, Ontario, stated: *Greg, will you stay up here with me please? I just have to say a couple words about Mr. Greg Beck, and I also appreciate the Mayor and City Council for your time that you're giving us to speak here and advocate that we might keep the lease. Greg Beck has been flying for 54 years. He's been in the city for 54 years, started flying in 1967. Got his commercial license. I personally know Greg Beck. Worked with him for the last five years. I know him to be a completely honest man. I would trust any transaction, any deal, with Greg Beck on a handshake and I am proud to work with him and am a better person for having worked with him I do have some prepared remarks that I'd like to give, we were going to give during the Public Comment section, and then I would like to be able to take questions and ask that the lease for Beck's Spray Service, owned by Gregory Beck, be renewed. Id' like to thank Greg Beck, thank him for sticking it out in business since 1983. Thanks for being an integral part of the Casey Jones business here in Ontario since you got back from Vietnam and thank you for your service in Vietnam and for the country. Greg, he's a veteran. I think that the veterans of Vietnam played an integral part in our victory in the Cold War over the USSR. I think that their influence for their tenacity and veracity in battle cannot be overstated and the help that it created in influencing the USSR to end the Cold War. I'm grateful to work with Greg Beck at Beck's Spray Service going on for five years now. My life is richer and better for these ongoing experiences. If the feeling is mutual, Greg, if life has improved for you in any way by working with me, I'm honored. I will gladly fly under power lines, or, at your preference, I'll fly over them, for as long as we can work together. No matter what is decided here tonight, the flying will go on. I just pray that some here will have a fraction of the courage that Greg Beck has demonstrated over time, and it will take courage for someone to move, and someone else to second a motion, and to vote that Greg Beck, or the Greg Beck's Spray Service lease be continued. It's a lease that has gone on for 38 years. It should not be terminated by this City Council.*

Unfortunately, however, there is already a narrative in place. Ontario Airport is on the cusp of prosperity. It is just one more cookie-cutter, cut and paste, $325K master plan away. It will take just one, or two more, city-funded airport events and jet owners will be rushing to Ontario, though facetious, of course. But first, the Airport Manager must get rid of Clyde Esplin, and I work for Beck's Spray Service, so the lease must be terminated. I think that's unfortunate for Mr. Beck; I think that it's unfortunate that it's come to this point, and I don't understand why the animosity. This is the opinion of the Airport Committee and the Chairman, now, I don't want to sound mean, I just want to convey the truth, okay? There's been a lot of things said about me and my children and pictures flashed up on the screen. The Airport Committee Chairman has been found by the NTSB to lack judgement. He admitted stealing work labeled for the Greg Beck Air Service. He talks the right talk. He's borrowed lots of money and flies a fancy airplane. He claims that that he could build a big hangar at any time, yet for eight years he's operated in Ontario off a piece of Visqueen. And this body voted to allow that temporary business. Greg and I, on the other hand, own a smaller, piston-powered airplane, for which we owe not a soul a dime. We own it outright. We own a jet hangar and a jet, outright. We actually do invest in real estate. Since working together, we have acquired $2M in real estate and we could actually build a hangar in Ontario. We own one already. We own a jet. But the Airport Committee would much rather be flattered by Jim Bain, who again the NTSB says lacks judgement. Tom Frazier advised the Airport Committee that hiring a "professional" manager would bring jet owners and new hangars. Now he says that in addition to the full-time professional manager, the city needs to hire a full-time realtor. The realtor would walk the jet owners through the process of building a hangar. I might add a $500K bill that leased next to a vacant jet hangar that's already there. But the realtor is all we need to walk the owners through this process. The Airport Committee members suggested that a nice brochure would help. Shay Meyers demonstrated trendiness by suggesting an online brochure. Meanwhile, the only actual jet owner cannot be on the committee because he's not in lockstep with Tom Frazier and Erik, who shares an office space with Tom Frazier, and all the others who are in the office there with them discussing why I should be off the airport. As someone who owns a jet and could build a hangar, let me just say: it is not the brochure or the realtor that makes a difference. It's the lies, the corruption, the taxes, the extra costs to build, the uncertainty of living in a tyrannical state and with a tyrannical Airport Manager that keeps me from investing here. Okay, so, voting to continue the lease is the right thing. Alright? You have friends on the Council I hope they have the courage to do the right thing. We are not going anywhere in any case. We have no debts. We have customers. Our customer base is growing. We're an integral part of the agrobusiness in this valley. That's the end of my prepared remarks and I think we'd like to take any questions.

Mr. Beck: *Why am I being thrown off the airport?*

Mr. Esplin: *And without cause, we might add, yeah.*

Mr. Beck: *Yeah, what's the reason?*

Mayor Hill stated the Council had a recommendation from the Airport Committee to not renew the lease.

Mr. Beck: *That's right, okay. Let me tell you about the Airport Committee. I'm a commercial operator. I make money. Most of the people on the Airport Committee are private operators and they, secretly, their jealous because they can't afford the airplanes. They think I'm having fun. I'm trying to make a buck. I hate to fly, you know. I did it for 40 years, but hell, I wouldn't fly. I'd just as soon drive.*

Mr. Esplin: *And if I could add, Greg, okay, so that's why we mentioned something about the Airport Committee. The Airport Committee Chairman is our direct competitor, who has been found to be lacking in judgment; two other committee members stood in the office with Tom Frazier, who has insisted that I buy fuel from him for over a year now and that's been attempted to be enforced by the city as well. So that's who's on the committee. You can kind of see where the recommendation might be coming from there.*

Mayor Hill stated he understood their position, but there had to be a reason for the city to accept or reject the recommendation.

Councilor Kirby stated he was the Council Liaison to the Airport Committee. He'd known Greg Beck a long time. He found him to be a just man, but he did not give the same status to Mr. Esplin. The truth was he wanted to run the airport himself and they were setting reasonable standards for him, and he continued to snub those standards. He believed the city had bent over backwards. The City Manager had worked with Mrs. Esplin, trying to get things done, but every time Mr. Esplin was at a meeting, he claimed he was always right and everyone else was always wrong. They'd heard him say that again tonight. It was time to stop that nonsense. If Mr. Beck wanted to continue, he would lease to him in a heartbeat, but not Mr. Esplin. Since it had been announced that Mr. Esplin was buying that business, to him that meant the city should not renew the lease. Mr. Esplin was the foul player. The city should take no action and deny that lease going forward.

Mr. Beck: *No, you're wrong. Clyde and I entered a three-year lease. He's two-thirds to paying me off. He's got one more year. So let me at least go one more year; renew the lease for another year.*

Councilor Kirby stated he would with him, but not with Mr. Esplin flying for him.

Mr. Beck: *Well who in the hell else am I going to get? He already owns the airplane.*

Mr. Esplin: *Can I answer as well? Okay, so John Kirby knows that I'm a disgusting individual. Could he give an example of something that I've done?*

Mayor Hill stated the Airport Committee made a recommendation, so it had traveled through the City Manager and the City Attorney. The Council needed to hear the reason that lease shouldn't be renewed.

Mr. Esplin: *And if I may rebut, I would request the chance to rebut any accusations that are made.*

Mr. Brown stated they had met with Mr. Esplin and his wife to attempt to work out the challenges the city had been dealing with. They successfully dealt with some, including getting caught up on the fuel flowage fee. They were behind on rent. There was still the need to remediate or find a different test sample for the contaminated soil that was on their site. The Airport Committee, which Mr. Bain was not in attendance when the denial was recommended and had not participated in any of these discussions, brought up unsafe practices and a lack of regard for others on the airfield who he shared space with. Regardless of the lease renewal, the soil would need to be tested again or remediated.

Mr. Beck: *Wait a minute. This is the first I've heard of it. I tested in Twin Falls. They sent over a water sample down there from a well. You know, I don't get the city water. I have a city well out there.*

Mr. Esplin: *We were specifically targeted with a soil sample. We were not notified that this soil sample was going to be taken. They took the soil sample at the most harmful time for us, the most harmful circumstances for us, without notifying us. So we had no….*

Mayor Hill stated the city would allow him to take a different sample by a lab of his choice as long as the city was there to watch where the sample was taken from.

Mr. Esplin: *I think that's very generous of the city, even though they didn't let us watch when they took the sample. But, and we're willing to take another sample if the lease is renewed, and we continue the lease. I'm more than happy to do that.*

Mayor Hill stated it was the opposite. In order for anything to be done, the sample had to be taken care of first, and fees had to brought current.

Mr. Esplin: *What fees are not current? You mentioned rent. What rent is not current?*

Erik Hartley, Airport Manager, stated it was fuel flowage.

Mr. Brown stated Mr. Esplin mad an attempt to catch up the fuel flowage fee, but there had been a misunderstanding about the amount, or the amount per gallon. The lease was made whole after going three years of no lease payment. Staff's concern was about Mr. Esplin's judgment about whether he needs to pay, along with his public display regarding his feelings about it. As of this date, he would call it mostly current on fees.

Mr. Esplin: *We were told 6¢, so we paid 6¢, then they said no, it's 7¢, and so another $20, so the fees that are behind are $20, if I'm understating, and we're willing to pay that, if I'm understanding correctly.*

Mayor Hill stated the issue that he had been hearing was that the issue was not with Mr. Beck, it was Mr. Esplin's involvement with him.

Mr. Hartley stated there had been a report filed with DEQ last year after water was left on at Beck's Spray Service, which flooded the catchment. The water had no where else to go and went everywhere. That had happened a number of times over the years. Prior to Mr. Esplin joining with Mr. Beck, there had been history of soil contamination, so DEQ took a soil sample. No one was surprised to find multiple chemicals in the soil, one very much exceeded the DEQ allowable amount. There was also the history of non-payment, not wanting to be a good tenant, and within the legal structure of the lease agreements, both parties or either party could walk away from the lease. Through all that history, the city took the stance to not renew the lease. The Airport Committee's vote was in line with the Council's original vote. He also informed them that an FAA non-official complaint was filed by Mr. Esplin on behalf of Beck's Spray for not meeting grant assurances. That investigation was now closed. The FAA found no foul play on the city's behalf.

Mayor Hill stated there had also been questions about who was actually running the business.

Mr. Sullivan stated that discussion was the result of Dan Beaubien had the same reaction to Mr. Esplin's presence on the airport that Mr. Hartley and the Airport Committee had. Mr. Beaubien approached him with the request to get Mr. Esplin banned from the airport. At that time, it didn't appear that Mr. Esplin was an employee of Beck's. A letter was sent to Mr. Esplin informing him that he was squatting on airport property because there was no legal tie to Beck's. A public meeting was held, in which Mr. Esplin claimed that he was an employee of Beck's, and he also had an attorney who wrote a letter to Mr. Sullivan saying he was an employee. He reasoned that if he were an employee, that was fine, but that would mean the city had to terminate Beck's lease if the city wanted to keep Mr. Esplin off the property. The Council subsequently chose not to renew the lease. The legal position he took was that since the Beck lease was going to expire in six months, there was no need to immediately terminate, but to just let it expire.

Mayor Hill asked if the issue with the renewal because there was contamination that needed to be looked into, and was another issue because of the Mr. Esplin's employment with Mr. Beck?

Mr. Brown stated it was a combination of many things. There was the history of being behind in payment of fees; it was the discrepancies in his standing as an employee or contractor; and also his operations on the airport.

Mayor Hill asked who actually managed the business.

Mr. Beck: *He flies. I do the bookwork and that stuff. I've got to get my money out. I'll keep managing the business until I die 'cuz I gotta do something. Just like Kirby!*

Mayor Hill stated based on the testimony, there was money to build hangars and maybe the money to buy him out.

Mr. Esplin: *If we might add about the rent. You said the rent has been behind for some years and now it's caught up. I came recently, and the rents caught up. I know I'm an evil, bad person who tries to land when cars are on the runway. Apparently, in the airport meeting we discussed that cars have right of way over airplanes on the runway. Everyone on the Airport Committee seemed to agree with that. That's totally contrary to my knowledge and experience, but apparently the Ontario Airport Committee feels that way.*

Councilor Kirby stated that's not the way it was presented. John Freeburg, who had a plane at the airport, was in his vehicle, with his radio with him, and was watching Mr. Esplin, waiting for him to announce, which Mr. Esplin did not do.
Mr. Esplin: *You are not required to announce, but you are required to give way to airplanes.*

Mayor Hill stated he believed they had a local law or ordinance at this airport that would require them to announce.

Mr. Esplin: *There is a, the lease requires that there be a functioning radio on the airplane. There's no requirement in an uncontrolled airport when you speak, although it would be unwise on short final as you're going into the flare to be announcing. And that's what John Kirby was asking for. He was asking for you to announce on short final in the flare and to give way to vehicles on the runway and all the people on the Airport Board, except for Shawn Coleman, seemed to agree with that.*

Mayor Hill asked for direction from the Council. By taking no action, it would be a nonrenewal of the lease.

Councilor Kirby asked to move forward on the Agenda.

Councilor Braden requested to move forward with the next item on the Agenda.

Mr. Beck: *What am I going to go home to?*

Mr. Esplin: *We'll keep on operating.*

Mr. Beck: *Well, I'm not pleased. You've left me hanging. What are you going to do?*

Mr. Sullivan stated that Mr. Esplin appeared to be telling Mr. Beck that he could operate in defiance of the lease.

Mr. Esplin: *That's incorrect.*

Mr. Beck: *Wait a minute. When's the lease due?*

Mr. Esplin: *We have property off of the Ontario Airport that we have lots of places to operate outside of the Ontario Airport and we have the opportunity to move things, as much material as we can before you steal it.*

Councilor Braden stated he concurred with what Mr. Sullivan said he heard.

Mr. Beck: *When's the date, when does it expire?*

Mr. Sullivan stated it expired June 30, 2021.

Mr. Beck: *June 30th? Oh, that gives me two weeks to get it off. Everything I own, the last 40 years off the airport. I'll move to Nyssa or Vale. You sons a b***.*

NEW BUSINESS

Mayor Hill changed the sequence and moved to item 7A on the Agenda, as those individuals had been waiting to speak on the matter.

Paul & Stacey Gehrman Half Street Construction: North Dorian Drive Local Improvement District (LID)
Dan Cummings, Community Development Director, presented.

Stacey Gehrman, Ontario, stated: *I'm a little confused. I understand what Mr. Cummings' was saying about the driveway return, but I don't understand your offer of paying is at the $50,555 that we would pay up front? Because that's for the whole 91 feet with no driveway return, so I'm not understanding what's on offer.*

Mayor Hill stated yes, that was what he said, but it was just one option. If costs increased, the city would be responsible for any increase over what the Gehrman's already paid.
Mrs. Gehrman: *True, but I know that City Engineer's $555 a running foot is an estimate and not based....*

Mayor Hill asked if that was for the whole street, or each side?

Mrs. Gehrman: *That was for one side of the street.*

Mr. Cummings stated that was for the sections and roads missing from SW 4thAvenue to NW 4th Avenue, just doing half-street improvements.

Mr. Brown stated it was his understanding that they had a contractor ready, so they had a price.

Mrs. Gehrman: *We had a contractor who knows what is necessary to put in a section of pavement and concrete, but it wasn't engineered. It was considerably less, by thousands of dollars than what we were quoted by the city. I mean, like $45K less.*

Mr. Brown stated if the city were to get a bid from that contractor to see if it were apples to apples, he believed the city would accept that price.

Mrs. Gehrman: *My problem is we would have to have it engineered. We would have to call in an engineer and not just engineer this small section, but because of the drainage problems, we would have to engineer the whole side of the street and that's quite excessive. That's a lot of money. And the other thing that Mr. Hall brought up, I think it was Mr. Hall or Mr. Breidenbach, I'm not sure which at the meeting last night, was that if this is paved here, and there's an open ditch here, and people driving think they're on the road, and it's snow covered, they're going to end up in that ditch and you know, there's never been an accident in that ditch, that we know of, and we've lived there for years. So, anyway, that was brought up and so, yeah, people along here, just as a point of process perhaps, in the future, we knew we were going to have to annex; this gentleman was concerned because he's also on septic; this road, Antiquity Lane, got a name because we were a rural route and the fire department wanted it named because they couldn't find, because of rural route numbers it's difficult, and I see Mr. Leighton nodding his head so that's why Antiquity Lane has a name. So, we put in 600+ feet of sewer and water down here to the house and I'll tell you, it cost more than the house did. We couldn't put in a main line for the sewer because we would've so that when Mr. Tremble someday needed to hook in, we could have an agreement, a recapture agreement, we couldn't do it because that would have had to have been engineered and it totally put it out of reach, even with the recapture agreement. So, we did put a main line for the water down to here and put in a fire hydrant. This fire hydrant now covers our home, Mr. Tremble's home, Mr. Fox's home, and this area out here. So, you know, we're trying to do what we can for the neighborhood for the good of the community, but these engineering costs, it's out of reach. Everybody along here is retired. Our incomes are retired people's incomes*

Mayor Hill suggested to get everyone on her side of the street together to arrive at a plan they thought might be affordable. Future Councils doing future budgets might be inclined to work on some of those streets there were exposed. An LID was substantially more expensive than to just do a private deal, around 50% less. Then give her thoughts to Mr. Cummins and the Council to see what could be done.

Mrs. Gehrman: *Well, we can certainly work on that. There was one thing that came up when interviewing with neighbors that had been there for a long time. They remembered that when all the curbs and gutters were put in from NW 4th down to Idaho, or almost to Idaho, through to about here, that the Council at that time did not want to make this a full street because they wanted to keep all of the traffic on Verde, and I think you've heard all this from me before that that was to be the thoroughfare to the Yturri Beltline and they didn't want a lot of traffic on here and so it just wasn't finished.*

Paul Gehrman, Ontario, stated: *Mr. Mayor, City Council. The one aspect that's really causing problems for everybody on this street is you've got the open ditch. The largest section of the open ditch, the gentleman that owns that property, is in the county. That's Mr. Tremble. Across the street, they have Fry's in the yellow house, and then behind them are the Gilmore(?) and they're still in the county. It's kind of hard to have the city tell Mr. Tremble that he's got to put curbs and gutters in. Anyway, that's one of my things. And answer his question about Antiquity Way, the people that had the house prior to us had an antique shop. And I think it was either Rural Route 3 or 4 and you had to have a piece of cardboard like that with everything laid out to answer a call when I was working. I know the fire department had that same problem. That's why they went to naming all these streets and stuff. Thanks for you time. I request a deferment please.*

BRADEN moved, KIRBY seconded, **THE CITY COUNCIL INSTRUCT CITY STAFF TO ENTER INTO A DEFERRED IMPROVEMENT AGREEMENT (DIA) FOR THE HALF STREET CONSTRUCTION OF THE PORTION OF NORTH DORIAN DRIVE ADJACENT TO THE LANDS OWNED BY PAUL AND STACEY GEHRMAN.** Roll call vote: Rodriguez-out; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-out; Hill-yes. Motion carried 5/0/2.

Mr. Cummings suggested the Council direct staff to have engineering done on the entire street from NW 4th to SW 4th, at the city's expense, so when property owners needed or wanted to do their portion of the street improvements, that particular large expense would not be an issue. Staff could get an estimate at least to what the engineering cost might be. To get real numbers, they'd need to go out for bid.

Mayor Hill agreed; staff should look at it to see what could be done.

OLD BUSINESS

Charter Amendments

Councilor Hart, Chairman, Charter Amendment Committee, presented. This was open for discussion, amendments, questions, or action.

Councilor Braden stated he had reviewed the proposal, and he questioned why they were proposing to put this on a special election ballot as opposed to the no-cost next election ballot measure, which would be next May instead of this November. He would like to know the reasons behind accelerating this to November and having a cost associated.

Councilor Hart stated there was nothing specific. It had been 30+ years since it had been updated, so waiting six more months to save taxpayer money, he was open to that. The committee wanted to give Council maximum ability to act sooner if they wanted. It was up to the Council.

BRADEN moved, KIRBY seconded, **THAT THE CITY COUNCIL POSTPONE THIS ACTION TO THE MAY 2022 ELECTION.** NO VOTE.

Mayor Hill asked to go over the induvial issues and to make an overall motion at the end of the discussion.

BRADEN rescinded his motion; KIRBY rescinded his second.

Mr. Hart presented the Sections for amendment.

- **Section 3.8 – Council: President**
  Recommendation: Add the following: By majority vote, the council ~~can~~ may remove the Council President as President and appoint another. Council concurrence.

- **Section 4.1 – City Manager: Appointment and Qualifications**
  Recommendation: Changes the voting requirement for council to remove the City Manager from a two-thirds vote to a majority vote. Council concurrence.

- **Section 4.2 – City Manager: Vacancy**
  Recommendation: Replaces the current section with the following: When the manager is temporarily disabled from acting as manager or when the office of the manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

Councilor Braden asked about the duration of this Section. He didn't want to leave a person permanently "pro tem" to allow the Council the power to authorize all hires and fires. That was not the intent of the current government formation. It was the job of the City Manager to do that.

Mr. Brown stated the language before them was from the LOC template. It was more for when a City Manager was incapacitated or had departed. There were specific provisions in the charter where the pro tem had to have consent to hire department heads. It was an interim position while between City Managers.

Councilor Hart stated the issue of the term was never raised. It didn't address a timeline. Regarding leaving an interim in the position long term so Council could appoint people, that was a weakness in the current charter, too.

Councilor Kirby stated that was the recommendation of the committee.

Mr. Sullivan pointed out that Section 4.1 of the charter currently read that the Council SHALL appoint a City Manager for an indefinite term, so it was a mandatory appointment. If the Council chose to keep a manager at pro tem, it would be contrary to Section 4.1 of the charter which required the appointment of a regular City Manager. The Council had an obligation to appoint a City Manager; when that Manager was disabled or the position vacated, then a pro tem would be appointed. But, having appointed a pro tem did not relieve the Council of their obligation – at some point – to appoint a regular City Manager.

Councilor Braden stated the reference to *at some point* was his initial issue.

Mr. Sullivan stated the argument could be made that the Council could continue with a pro tem Manager; however, from a legal view, a Council could not abandon their efforts to appoint a permanent City Manager because that was mandated by the charter.

Councilor Braden stated he wanted it to be clear, and that was an area that was not so clean. It appeared that what Councilor Hart was telling him he was looking at the wrong document or what he was saying was not relevant. He was reading the summary of changes recommended by the City Charter Review Committee, was that incorrect?

Councilor Hart stated he was looking at the right document; he, however, was looking at a side-by-side. Was he thinking that the committee was asking to add an additional requirement that the Council had to approve any appointments during that time? That language was still there, as it was in the current charger, under Section 4.2, they hadn't changed the language. They only tried to clarify that, for example, when the City Manager went to Fruitland, so out of state, he could appoint a temporary Manager, but not a pro tem. For him, it was page 12 of 40, under *City Manager: Vacancy If the office of city manager becomes vacant or if the city manager is absent from the City or disabled, the Council may designate a city manager pro tem. The city manager pro tem shall perform the duties of city manager but may appoint or dismiss a department head only with a two-thirds vote of the entire Council. The term of office of the city manager pro tem ends when the city manager returns to the City or takes office.* The Committee aligned the language to meet what the LOC standard was. The Committee deleted language, which was vague, and adopted the LOC language.

Councilor Braden stated he also saw the current charter applied only to department heads of staff, where they were now following LOC suggestions that it be that way for all staff. Was that correct?

Councilor Hart stated that was correct.

Councilor Braden confirmed they were talking about "mays", what "may" happen down the road? He asked Mr. Sullivan if this was too much of a may, and he should just let it slide?

Mr. Sullivan stated sometimes a pro tem could be in office for a while, if efforts were being made to hire a manager, but applicants weren't there, or the interview process took some time. He didn't know of any language to be added that would put pressure on the Council to come up with a different solution, unless they hired someone who wasn't as qualified as they'd like due to lack of time.

Councilor Kirby stated they could spend more time on this issue since it wasn't going forward until May, most likely.

Councilor Braden stated he was content with the section, after hearing from Mr. Sullivan.

Concurrence on this section.

- **Section 5.2 – Municipal Judge: Appointment**
  Recommendation: Replaces the current section with the following: A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court. Council concurrence.

- **Create New Section 5.5 – City Attorney**
  Recommendation: Currently, there is no section regarding the City Attorney. The following will be added as section 5.5: The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney may appoint, supervise, and may remove any employees who work in and for the city attorney's office. Council concurrence.

- **Create New Section 6.5(1)(i) – Offices: Vacancies**
  Recommendation: Creates an additional point under 6.5(1) which outlines the circumstances under which an office becomes vacant. The language added states: Ceasing to reside in the city. Council concurrence.

- **Create New Section 6.5(1)(j) – Offices: Vacancies**
  Recommendation: Additionally, 6.5 would include the process by which a two-thirds majority of the entire Council could expel a member of Council for disorderly conduct in Council. This action would require notice and a hearing by the Council.

Councilor Kirby stated the language made him uncomfortable. Someone who was elected by the citizens but giving six other Councilors the ability to remove that person. He believed they should consider adding; *the decision will be referred to the people at a special election or the next general election. A simple majority will be needed to uphold the Council's decision. The member will then be replaced in a manner set in the charter and will fulfill the balance of their term of office.* In the proposed language, there could be five bad Councilors who wanted to get rid of the good ones. But in his proposed verbiage, those good Councilors might have the support of the community and would then not be removed. He believed the Council should make their decision but refer it to the voters.

Councilor Hart disagreed with the change unless there was a strong desire by the Council to do so.

Mayor Hill stated for an individual elected by the people, it should be up to the people to remove them.

Councilor Braden stated he did think they should have any authority to vote each other out, or even put it on the ballot. He could see potential for abuse or mistreatment. He did not think it was the proper use of the authority they were given as a Councilor.

Mr. Sullivan stated he was concerned about Councilor Kirby's approach to the issue. By allowing the Council to refer out a recall was going to be flummoxing the process. They could achieve the same thing that Councilor Kirby brought up without making any charter changes by having the Council make a motion to subject a Councilor to a recall election and authorizing individual Councilors to gather signatures for the recall. That would produce the same result. They would still have to abide by the rules and regulations established by the Oregon Constitution, enforced by the Secretary of State.

Mayor Hill stated he didn't care about the language used but was totally opposed to the Council being able to kick someone off the Council.

Consensus to not move forward with New Section 6.5(1)(j) – Offices: Vacancies as written.

- **Under Section 10 – Miscellaneous Provisions: Create New Section 10.7 – City Sales Tax**
  Recommendation: Would add the following language: Any proposal to implement or increase a city sales tax shall be referred to the voters by the Ontario City Council and that referral to the voters shall occur in November of a U.S. Congressional election year.

Mayor Hill thought it should be any election authorized by the Council, not just a specific one.

Councilor Braden agreed.

Councilor Kirby was in support of it being a general election.

Councilor Hart wanted to leave in the langued about it being a US Congressional election year.

Mayor Hill cast his vote to eliminate the verbiage regarding the November US Congressional election year.

Councilor Kirby liked it as written.

Councilor Baker voiced his desire to leave it as written.

Councilor Braden voted with the Mayor's suggestion of any ballot.

Consensus to leave as written.

- **Under Section 10 – Miscellaneous Provisions: Create New Section 10.8 – City Fees**
  Recommendation: Would add the following language: Any proposal to implement or increase fees or other local taxes (except for a retail sales tax which is governed separately in this Charter) must be affirmed by a two-thirds vote of the entire Council. Council concurrence.

- **Under Section 10 – Miscellaneous Provisions: Create New Section 10.9 – Future Charter Revisions**
  Recommendation: Adds language which requires the Council to have an ad hoc committee review the City Charter every 10 years. Council concurrence.

Mayor Hill stated he had one to discuss that hadn't been presented. He believed the Council must have input on who was hired in a department position, and a department head must be approved by the Council. That should be written in the charter. It had been presented at the meeting as hiring and firing, but he was not saying the Council should have the authority to fire a department head. That would remain under the authority of the City Manager, but the Council should have input on who those department heads would be.

Councilor Hart stated he spoken with four community members about that issue, and they all assumed the Council had a role in the selection of the Police Chief, or the Fire Chief. He believed it was a critical part. In most entities, a good CEO would never pick someone on their own, and just assume everyone else would support the decision. Having the Council involved in the selection of a new leader made a lot of sense and gave candidates more support that the Council had a role in their hiring ensuring their success.

Mayor Hill stated they needed to stop looking at the people currently in the positions. He was referring to the future faces. The City Manager had hired the current Fire Chief and Police Chief with no input from the Council.

Mr. Brown stated that was how it should be. There were not many boards that CEOs reported to where those boards made the hiring decision or were even involved in them.

Mayor Hill stated on the other hand, if the City Manager left but had hired who he wanted, those people would still be there. The Council needed to have a say in who those positions were going to be. Not fire them, just hire them.

Mr. Brown stated he believed they'd have difficulty attracting City Managers and department heads under that scenario.

Mayor Hill stated that was a possibility.

Mr. Sullivan stated that was contradictory to another section in the charter, that being Section 4.5. The idea of having the Council appoint department heads was contrary to Section 4.5 of the charter, which reserved to the City Manager the authority to do any appointments or removals from any office. That would also have to be changed to make it consistent with the Mayor's approach.

Mayor Hill stated he understood that.

Councilor Kirby stated the City Manager was the manager. The Council set policy, voted on actionable items, but if they got in a position of micromanaging would be dangerous. He did not know if they would even be gaining anything by the change. He was not convinced.

Mayor Hill stated he was not asking that the Council have the authority to fire, but they should have some input on who was hired as a department head.

Mr. Sullivan stated in Section 4.5 it did not prevent the Council from making recommendations during an open meeting for hiring decisions. They could do an ordinance that required the City Manager to provide the names of department head position candidates to the Council for recommendation prior to making a final decision. To be consistent with Section 54.5, they'd have to have a public discussion; it would not be protected under executive session.

Mayor Hill stated they could also just change Section 4.5.

Councilor Braden stated they could be interrupting continuity. The City Manager could be on staff longer than the turnover of Council members. His opinion of what a policy maker should be versus what an administer should be, and this was a key deciding moment in defining their roles as policy setters and not administrators. The City Manager carried out the actions, the mission, but the Council defined the mission. He did not want to be involved in making those admin decisions. It was not a policy setter should do.

Councilor Rodriguez stated agreed the Council needed to stay within their boundaries. The Council defined what an administrator should do, and the administrator carried it out. When that was applied to the hiring of the Police Chief, they could have defined better. The Council was not given the opportunity to define, and in many ways, it was just handed to them. He agreed they should stay on the policy maker side, but maybe the Council should get closer with communication.

Mayor Hill stated, for example, a City Manager was a new hire, like two months in, and there were vacancies with staff, but then the City Manager decided to hire staff, but the Council didn't know who they were. Council needed to have some input in that.

Councilor Braden stated in that same scenario, the Council's biggest responsibility was to hire and retain a City Manager and if that person left after two months, and the Councill didn't like the other hires, then it was the Council who had failed.

Councilor Hart stated he supported the change as recommended by the Mayor. Since this was new to the group, and there was a Councilor gone, would it be more sensible to set it aside and the City Attorney provide the proper language to move forward. Did they need more time to consider it, or was everyone okay with it? He was ready to say yes to the additional changes.

Councilor Rodriguez stated they needed to have more time.

Mr. Sullivan stated in fitting that language into the charter, he needed a better idea of what authority they were asking the Council to have. Was it that the Council have the final hiring decision for department heads, or was it that they'd like to have the City Manager inform the Council of the candidate he wanted to hire, then get recommendations from the Council before a final decision was made?

Mayor Hill stated he saw it where the City Manager narrowed the candidate pool down to maybe the top three applicants, and then maybe three members of the Council, could interview and make a recommendation to the Council along with the City Manager.

Mr. Sullivan confirmed the Mayor wanted the Council to have the final decision on the hiring.

Mayor Hill stated yes.

Mr. Sullivan stated that was stronger than the language used earlier, when he had said he'd like the Council to have "some" input. It was now that the Mayor wanted the final decision to be made by the Council.

Mayor Hill stated he said, "must have input in hiring department heads and must be approved by Council".

Councilor Braden stated this was bad policy and did not agree with it.

Councilor Kirby was against the change; Mayor Hill was for the change; Councilor Baker was for the change; Councilor Braden was against the change; Councilor Hart was for the change; Councilor Rodriguez was for the change, as long as they had the chance to review the new language and have the option to approve or disapprove before it went before the citizens for a vote.

Mayor Hill stated all the language throughout the entire charter would be submitted to the City Attorney for development before going for a vote.

Mr. Sullivan stated the final language had to be in 80 days before the election. That meant it could still be developed this year and given to the County Clerk 80 days or more before the election if the Council wanted it on the May ballot. One question he had was how the Council wanted the final product to look. They could create a master charter that had all the language with all the changes in one document and it would be a yes or no vote by the citizens. Or they could have individual ballot questions that dealt with each change. Did they want a yes or no on the entire thing, or did they want to segregate them out for individual votes?

Mayor Hill stated he wanted an all or none, but the Council could decide after the language was developed.

Councilor Hart stated that had been discussed by the Charter Committee and the recommendation from them was that it be submitted as one document, for a yes or no in one vote.

NEW BUSINESS

Mayor Appointments to Special Committees

Adam Brown, City Manager, presented.

No action taken.

Create a Code Enforcement Ad Hoc Committee

Mayor Hill stated it seemed the creation of an ad hoc committee to review the code enforcement issues would be warranted.

Councilor Braden stated it worked well for the Charter Review Committee.

BAKER moved, BRADEN seconded, **TO CREATE AN AD HOC COMMITTEE FOR REVIEW OF THE FEES FOR CODE ENFORCEMENT.** NO VOTE.

Councilor Braden wanted to ensure the same set up was followed as when the Charter Review Committee was established.

Mayor Hill stated it would be.

Councilor Rodriguez stated he was opposed to having a heavy presence of the Council on the committee. It was a determinate to the previous Charter Committee where they were only one Councilor short of having a quorum, who was essentially taking their own recommendations to the Council for action.

Amended Motion:
BAKER moved, BRADEN seconded, **TO CREATE A CODE ENFORCEMENT AD HOC COMMITTEE AND USE THE SAME PLAN AS USED FOR THE CHARTER REVIEW COMMITTEE WITH THREE COUNCILORS AND FOUR CITIZENS AT LARGE.** Roll call vote: Rodriguez-no; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-yes. Motion carried 4/1/2.

STOL Presentation
Erik Hartley, Airport Manager, presented.

BRADEN moved, KIRBY seconded, **THE COUNCIL APPROVE RESOLUTION #2021-121, A RESOLUTION TO APPROPRIATE FUNDS FOR A STOL DRAG RACING EVENT.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-yes. Motion carried 5/0/2.

PUBLIC HEARINGS

Accept Right of Way for Airport Way and SW 31st Street as per the Approved Partition under Planning Action 2020-06-24 PTN
It being the date advertised for public hearing on the matter stated above, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Dan Cummings, Community Development Director, presented.

The Hearing was opened for public testimony. Opponents: None. Proponents: None. There being no Proponent and no Opponent testimony, the Hearing was closed.

BAKER moved, BRADEN seconded, **THE CITY COUNCIL APPROVE THE DEDICATION OF THE RIGHT OF WAY FOR A PORTION OF AIRPORT WAY AND A PORTION OF SW 31ST STREET, SAID PARTITION BEING APPROVED BY AN ADMINISTRATIVE ACTION ON OCTOBER 6, 2020, UNDER PLANNING FILE 2020-06-24PTN AND AUTHORIZE THE MAYOR TO EXECUTE HIS SIGNATURE ON THE FINAL PLAT ACCEPTING THE DEDICATED RIGHT OF WAYS.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-yes. Motion carried 5/0/2.

Accept Right of Way for SW 6th Avenue and SW 26th Street as per the Approved Subdivision of Wapato West Subdivision under Planning Action 2021-05-19 SUB

Mayor Hill recused himself from participating in this action as it pertained to property he owned.

BRADEN moved, KIRBY seconded, **TO APPOINT SAM BAKER AS COUNCIL PRESIDENT PRO TEM.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-abstain. Motion carried 4/0/2/1.

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

Dan Cummings, Community Development Director, presented.

The Hearing was opened for public testimony. Opponents: None. Proponents: None. There being no Proponent and no Opponent testimony, the Hearing was closed.

BRADEN moved, KIRBY seconded, **THE CITY COUNCIL APPROVE THE DEDICATION OF THE RIGHT OF WAY FOR A PORTION OF SW 6TH AVENUE AND A PORTION OF SW 26TH STREET, SAID SUBDIVISION BEING APPROVED BY AN ADMINISTRATIVE ACTION ON JUNE 1, 2021, UNDER PLANNING FILE 2020-05-19SUV AND AUTHORIZE THE MAYOR TO EXECUTE HIS SIGNATURE THROUGH THE COUNCIL PRESIDENT ON THE FINAL PLAT ACCEPTING THE DEDICATED RIGHT OF WAYS.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-abstain. Motion carried 4/0/2/1.

Mayor Hill returned to the dais.

DEPARTMENT HEAD UPDATES

~~**Fire & Rescue: Quarterly Report** *(Document attached)*~~
~~Terry Leighton, Fire Chief, no presentation given.~~ Council postponed to next meeting.

DISCUSSION ITEMS

Bid Award: Street Paving on Goodfellow Street
Paul Woods, City Engineer, stated as part of a private development action, the extension of Goodfellow Street was being done under a development agreement approved by the city. As part of that, the private developer was going to be constructing curb, gutter, sidewalk, and the road base at his own responsibility. The city was going to use System Development Charges to pave the full street section. A request for bid was sent, with two responsive bidders. Low bidder was Idaho Materials, who came in under the signing authority for the City Manager. It had been budgeted with SDCs, so staff could move forward with the City Manager signing off, or it could be brought back for Council approval at the next meeting.

BRADEN moved, KIRBY seconded, **THE CITY COUNCIL AWARD THE LOW BID OF $65,748 TO IDAHO MATERIALS FOR GOODFELLOW STREET PAVING.** Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-yes. Motion carried 5/0/2.

Airport Hangar Incentive Program
Adam Brown, City Manager, stated staff had introduced some ideas to the Council and after discussing them, staff recommended the incentive program for hangar bills be two years of free lease to see how that played out. If it didn't work, staff would bring something else back. This wouldn't require anything out of pocket, but there was a monetary value attached in that it removed another barrier. If Council supported this proposal, staff would come back with a formal action.

Mayor Hill confirmed the proposal was to provide two years of free rent to someone who built a hangar on city land at the airport. In his opinion, that was a good idea.

Councilor Braden asked if the lease amount of standard or was it based on the footprint of the building.

Mr. Brown stated it was based on the footprint of the ground lease. The current rate was 15.9¢ per square foot.

Council consensus to bring this item back before Council for formal action.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORT

- ✓ Mayor Hill stated for those who attended the 442 Stamp Revealing Ceremony held at the Cultural Center, that had been a great show. Very nice presentation. Very informative and well done.

- ✓ Adam Brown asked if the Councill wanted to hold the third meeting in June. There were only two items on the Agenda, both items Councilor Melendrez asked to be placed on there. He contacted Councilor Melendrez to ask if they could be postponed until July, and he had no issues with that.

  Council consensus to hold no meeting next week.

- ✓ Councilor Baker stated he was the Liaison for Public Works. At a meeting they recently held, there had been an issue raised regarding Evergreen Cemetery north gate, which was between TVCC and Park Boulevard. Some local citizens wanted that gate open. The Public Works Director left it open for 60 days, a trial period, because it had previously always been closed. Some of the workers were concerned about the traffic that was cutting through, using the cemetery to get to the college. There were some near misses with lawn mowing crews, so Public Works determined it best to leave the gate closed.

  Al Cablay, Public Works Director, stated there were concerns about safety. One option being considered was to close the gate at night, but leave it open during the day. A dusk to dawn situation, to be monitored for another 60 days. There were only a few complaints, and that option might address those concerns. It would be 7:00 a.m. to 4:30 p.m. Weekends they would remain open, but that could be reevaluated.

  Councilor Kirby stated he had been involved with this, and this concerned Sue Jones, widower of past Police Chief Jim Jones. She was there earlier, but had left, probably due to the late hour of the meeting. He hoped staff would show the courtesy of contacting her. She was aware of the plans for Public Works and the gates being locked, but she had been seeking an official notification.

  Mr. Brown stated he would contact Ms. Jones.

ADJOURN

KIRBY moved, BAKER seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Rodriguez-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-out; Melendrez-out; Hill-out. Motion carried 5/0/2.

ACCEPTED:	**ATTEST**
Riley J. Hill, Mayor	Tori Barnett, MMC, City Recorder