



CITY COUNCIL MEETING MINUTES April 26, 2022

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, April 26, 2022, in the Council Chambers of City Hall. Council members present were John Kirby, Riley Hill, Michael Braden, Eddie Melendrez, Sam Baker, and Susann Mills, Ken Hart was excused.

Members of staff present were Dan Cummings, Tori Barnett, Terry Leighton, Kari Ott, Justin Zysk, Paul Woods, Casey Mordhorst, May Swihart, Jeremy Jones, and Marc Berg.

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

Eliza Braden led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on April 22, 2022. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Mayor Hill removed item 8F (Agreement with FCS Group) from New Business.

BRADEN moved, BAKER seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

PUBLIC COMMENTS

Dan Joyce, Malheur County Judge, stated he was asked to attend the meeting to speak on several different items. One related to clean up day on Alameda. That had been scheduled for April 30th. There were many things that could not be discussed regarding that property, but they were moving forward. That was extremely important for this community and Malheur County. It might pave the way for other areas to be cleaned up more rapidly.

Mayor Hill asked Judge Joyce to clarify it was the property located across from Alameda Elementary School known as the Easom property. Was that correct?

Judge Joyce stated that was correct. He had been reluctant to say the name, but now that it had been opened up, he felt free to discuss it.

Mayor Hill stated it had been brought up to him many times, and he knew the city was going to participate in cleaning it up. He, personally, was going to provide a tractor and operator, and Ontario Sanitary Service had volunteered a dumpster for that day. There were many others who wanted to assist in cleaning up that property.

Judge Joyce stated many came forward about it, but it was a subject for which a limited amount could be said. There had been a tremendous amount of legal work done on the issue.

Judge Joyce stated other issues were that the county had just finished their annual budget. They were able to fund a few items in Ontario – the P to P project and the library, and that was commendable. The county was okay on their payments in lieu of taxes. Malheur County had about 75% federal land, and that land was not taxable, but the federal government enacted a law several years ago that allowed them part of the budget. They lobbied for it every year, and it depended on who the administration was and how easy they were to deal with. It was very important for the county budget.

The RailX project was proceeding, as well as it could, economically. They had received a blueprint as to how to move forward, and it had been a moving target for the County in how to deal with it. They were seeing some light at the end of the tunnel, even though they might not read that in the paper. It was up to people to do their own research, and the county was available for calls and visits to discuss the project. On the calls, he tried to respond to a gentleman, and he received a recording that said “please go to my cell phone”; he went to the cell phone and was told to return to the original number. Therefore, was never able to contact that person. That’s just one of the calls he received at his level.

Another issue for the county was transparency. The county had been accused of not being transparent, but with Zoom and Covid, anyone could watch them on tv, in pajamas, at 9:00 a.m. Anyone could go online and check, or leave comments.

CONSENT AGENDA

BRADEN moved, MILLS seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF THE CITY COUNCIL MEETING MINUTES OF APRIL 12, 2022.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

SPECIAL ACTION

If I Were Mayor Contest Winners

Mayor Hill presented certificates of achievement and a check to each of the winners of the 2022 If I Were Mayor Contest. Award winners were: Elementary School winners – Rafaela Rodman and Eliza Braden, both first place; Middle School winners – Melissa Ince and Abilene Lee, 1st place; Kodiak Lopez, 2nd place; Alyx Chadwick and Jackie Lopez, 3rd place; and David Martinez and Monica Rodriguez, 4th place; High School winner: Jacqueline Pena, 1st place.

OLD BUSINESS

Resolution #2022-115: Goodfellow Reimbursement District

Dan Cummings, Community Development Director, presented.

BRADEN moved, MELENDREZ seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2022-115: A RESOLUTION CREATING THE GOODFELLOW REIMBURSEMENT DISTRICT AS DESCRIBED BY THE PUBLIC WORKS DIRECTOR'S REPORT AND AUTHORIZE THE MAYOR TO SIGN.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

NEW BUSINESS

Resolution #2022-114: Public Records Request Policy and Procedures

Tori Barnett, City Recorder, presented.

KIRBY moved, BAKER seconded, **THE CITY COUNCIL ADOPT RESOLUTION #2022-114: A RESOLUTION ADOPTING A PUBLIC RECORDS REQUEST POLICY AND PROCEDURES.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

Resolution #2022-116: Rescinding and Replacing the Classification and Compensation Plan

May Swihart, Human Resources Director, presented.

KIRBY moved, MILLS seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2022-116, A RESOLUTION RECINDING AND REPLACING THE CLASSIFICATION AND COMPENSATION PLAN TO ADD THE POSITION OF "BUILDING INSPECTOR"**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

Resolution #2022-117: Transfer Funds for Wages for Building Inspector Program

Kari Ott, Finance Director, presented.

BAKER moved, KIRBY seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2022-117: A RESOLUTION TO APPROPRIATE FUNDING FOR THE BUILDING INSPECTOR POSITION**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

Resolution #2022-118: Amend IAFF Contract (#2022-113) Change Wage Adjustment Date

May Swihart, Human Resources Director, presented.

MILLS moved, KIRBY seconded, **THE CITY COUNCIL ADOPT RESOLUTION #2022-118 TO AMEND IAFF CONTRACT (RESOLUTION #2022-113) TO CHANGE THE WAGE ADJUSTMENT DATES TO JANUARY 1ST 2022, JULY 1ST 2023, AND JULY 1ST 2024**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

City Manager Pro Tem MOU with Dan Cummings

May Swihart, Human Resources Director, presented.

BRADEN moved, KIRBY seconded, **THE CITY COUNCIL APPROVE THE PROPOSED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND DAN CUMMINGS FOR THE POSITION OF CITY MANAGER PRO TEM**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

PUBLIC HEARING**CDBG Microenterprise Grant**

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, and no ex-parte contact.

Kari Ott, Finance Director, presented.

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

No motion necessary; requirements for conducting a public hearing on this action have been met.

Accept ROW for a Portion of NW 11th Avenue and Dorian Drive, per Approved Partition Plat, Approved Under Planning Action #2022-02-11 PTN

Mayor Hill declared a potential conflict of interest on the action and stepped down from the dais.

BRADEN moved, MILLS seconded, **TO APPOINT COUNCILOR SAM BAKER AS COUNCIL PRESIDENT PRO TEM**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-recused. Motion carried 5/0/1/1.

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, no ex-parte contact, and one declaration 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.

KIRBY moved, BRADEN seconded, **THE CITY COUNCIL APPROVE THE DEDICATION OF THE RIGHT OF WAY FOR A PORTION OF NW 11TH AVENUE AND DORIAN DRIVE AS SHOWN ON THE PARTITION PLAT, SAID PARTITION BEING APPROVED BY AN ADMINISTRATIVE ACTION ON MARCH 5, 2022, UNDER PLANNING FILE 2022-02-11PTN, AND AUTHORIZE THE COUNCIL VICE PRESIDENT TO EXECUTE HIS SIGNATURE ON THE FINAL PLAT ACCEPTING THE DEDICATED RIGHT OF WAY.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-recused. Motion carried 6/0/1/1.

Mayor Hill returned to the dais.

DEPARTMENT HEAD UPDATES

Finance: Monthly Report

Kari Ott, Finance Director, presented. She pointed out on page 4, there were legal expenses. The date was April 21, 2022, rather than March, because she didn't have to reconcile any of those fees. The city was currently \$72K over budget in legal. Also, the marijuana tax came in higher than in the past. The last quarter – Oct through Dec - the city received \$1,006,000, which was around \$150K more than anticipated. Additionally, the Council had discussed ARPA funding, and there had been a request for the senior housing program. She reminded them that in the budget, there was the storm project for \$300,000, homeless for \$10K, the water treatment plant was \$1.7M, replenish the housing incentive program at \$150K, the senior center flooring, and the public safety facility. The Council had asked staff to come back about the senior subdivision request, and if the Council wanted to fund that project by taking money from the water treatment plant project and reimburse that decrease with Stelling property proceeds.

Councilor Kirby stated developers were receiving a \$10K housing incentive, but this was an entire subdivision which had some type of formula that arrived at the \$2,200 per lot. How was that amount arrived at?

Ms. Ott stated they could not get the \$10K because the homes were too small; however, the developer was not receiving any other funding from any other sources.

Councilor Kirby asked if this was one overall check, or a separate check each time a lot was developed?

Mr. Cummings stated it would be to help with the infrastructure. The plan was to pay the developer the \$80K to help pay for the infrastructure. The developer would reduce the cost of each parcel by that \$2,200. It operated like the housing incentive program; instead of \$10K, it would be the \$2,200. It would help the senior housing in this community similar to the middle-income house building. This was strictly for senior housing and was going to be a private subdivision. It fell within the approved ARPA funding allocations.

Councilor Kirby stated there was a full street on the west side of Alameda, so there was a stub street that would align with that that would go into the subdivision. Was the public or private?

Mr. Cummings stated all were private, but controlled. They'd have to control those within the community. The city would not have any police entering to deal with parking, etc. however, crimes and fires would be responded to. A private street would not be swept or plowed. It would be done by the homeowners.

Mayor Hill stated there was already a program in place for this type of action. Maybe instead of providing the funds outright, maybe allocate \$2,200 at the time a permit was issued or a Certificate of Occupancy was issued.

Mr. Cummings asked if the funding would allow the money to be expended and only paid out....

Ms. Ott stated with ARPA funding, it could be earmarked, but because the city was under the \$10M standard deduction, it could be spent on whatever they wanted.

Mr. Cummings stated they could do an incentive program for that subdivision, just like they did for any other subdivision, but the dollar amount would be less.

Mayor Hill stated the goal was to bring people into town. It appeared this would follow that goal as established by a previous Council.

Councilor Kirby stated much of the underground work was nearing completion. Was a motion needed?

The question was whether they wanted to put money out now, or with a CofO, or not at all.

Councilor Baker stated he'd like to see the funds expended as the building permits were filed. That was fair and was similar to what everyone else was receiving.

Mayor Hill stated currently the funds were paid out upon the receipt of the CofO.

Councilor Braden stated currently the money was taken out of the Business Loan Fund. If it was done in smaller portions, when the CofO was issued, would they want the checks to follow the same course through finance?

Ms. Ott stated there needed to be some type of form. Where did they want it approved? They didn't need to do a budget amendment and it didn't need to go through the BLF committee. Get the CofO from Planning, present it to Finance, and issue the payment.

Mr. Cummings stated Ms. Ott was correct. He did not know if the BLF was the right way to go, but the same form could be used. It would be at the pleasure of the Council to set the requirements. This subdivision would not have the same requirements of the current housing incentive.

Councilor Kirby asked if authorizing the payment could be contingent upon receipt of the CofO.

Mayor Hill verified it would be specific to this subdivision.

Mr. Cummings stated yes. The check would go to the developer to help cover the cost of the infrastructure.

Councilor Braden stated he didn't want to cut several checks; he'd rather do it all at once.

Paul Woods, City Engineer, stated this was a private road with publicly dedicated utilities. There was a permanent utility easement in the private road, so Public Works didn't need to do anything.

Mayor Hill asked when the CofO was done, did that go to the developer of the subdivision, to the person purchasing the home, or how did the Council want it to go?

Councilor Kirby stated he was frustrated because the discussions that had occurred between the developer and the previous City Manager, he didn't know what the developer was told.

Mayor Hill stated the City Manager couldn't promise anything except telling them to appear before the Council

Councilor Braden stated he wanted to correct his statement of one check going to the developer, and that was not the intended goal in this program. It was to pay the builder. There was not a staff report on this issue, so maybe have that prepared for the next meeting? It had been discussed to take the money from the water treatment project. His question was that they had just replenished some funds in the BLF that was intended for this purpose, so he wanted them to consider using those funds. That was his question. They had just replenished some funds in BLF for this purpose, so use for this?

Ms. Ott stated they could do that. Staff's thoughts were to use funds from the Stelling property sale to replenish that, so then they'd be where they were on the Water Treatment Plant because it was mostly Public Works funds anyway. They could go that route but would then have less money to pay the \$10K incentives.

Mayor Hill stated he was alright going either way, to the builder or the homeowner. But, either way, it should be an incentive to reduce the liability on that subdivision. What did the Council want to do?

Ms. Ott stated she had requested the discussion to get direction, not necessarily for a decision that night.

Mr. Cummings that was staff's thinking so the Council could direct staff which route to take. Staff would return with a staff report explaining everything, with a resolution adjusting the funds accordingly. The Stelling property was purchased with Public Works funds, and while it didn't need to all go back, it made sense to use some for infrastructure.

Ms. Ott stated another thing to consider was that housing incentives now were given, but as property taxes were received, the BLF was paid back.

Mayor Hill stated there seemed to be several things going on. He recommended that Council request staff to bring back a report. Did the Council, in some fashion, want to do \$2,200 a lot to go towards that subdivision, and let staff tell Council where they wanted to take that money from?

Consensus to have staff bring back a report, after determining how much would be given.

Councilor Melendrez stated going back to the legal expenses, he'd like to know why there was such a large overage.

Mayor Hill stated he, Councilor Hart, Councilor Melendrez, and Mr. Cummings would be speaking with legal counsel the next day about that very thing.

DISCUSSION ITEMS

Executive Recruitment Firms

May Swihart, Human Resources Director, stated she had reached out to 12 executive search firms, but only heard from one, The Prothman Group. Their proposal was provided in the packet before Council. Prothman guaranteed finding a candidate in the first year, and if that placement did not work out, a year after that Prothman would conduct a replacement search, only charging a professional fee. They would come to Ontario, meet with Council and staff, to get a feel for what the Council was looking for in a City Manager, and then do a nationwide search. They coordinated everything from the initial advertisement to the final interview. The cost, with the one-year guarantee, was \$20,500. Those funds could be expended from the savings associated with Mr. Cummings' serving as City Manager Pro Tem.

Councilor Braden stated his review of the proposal was that the \$20,500 was the contract fee, but the city would also reimburse for many other costs, including interviews and other things.

Ms. Swihart stated that was correct. There were other costs listed.

Mayor Hill stated his take was that the world had changed since hiring headhunters. There was Twitter and Facebook and all the other technologies that went worldwide. The city should consider those. They should consider advertising locally before rushing out and hiring a headhunter.

HAND OUTS

Minutes: County Court (Attached)

April 6, 2022

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Kirby stated he was still seeking some consideration of a watering structure for this year. It was something they wouldn't have to enforce if it wasn't needed, but this area was still under a drought, so to have a process established that the community could participate in to conserve water would be beneficial.

Mayor Hill stated years ago, something similar had been developed, so maybe staff could find that and bring it back for Council review.

- Councilor Melendrez backed up to what Ms. Swihart had presented. Was she looking for an answer from the Council to give her the green light to do the search, or was there more time? What had been decided?

Mayor Hill stated there was lots of time. There was no legal obligation to force the city to do anything.

Councilor Melendrez verified that the Mayor, in saying stay local....

Mayor Hill stated what he was saying that there was no rush, no legal obligation. This had happened before.

Councilor Melendrez asked why not start the search now.

Mayor Hill stated it was a matter of money.

Councilor Melendrez verified the city didn't have the funds.

Mayor Hill stated the city had the money, but it seemed that with the new technologies and all the outreach that could be done over the Web, they should advertise locally, they never knew who might pop up.

Councilor Kirby stated he would feel better if they had a plan. He felt it best that the Council initiate some formal plan that would, maybe May could put something together to solicit the way to do this. It didn't mean they couldn't come back and use Prothman, but put together that the Council was going to do a headhunter or executive search through using means that were available to the Council and review its success after three or four months before moving forward with a headhunter. A process should be developed.

Councilor Melendrez stated when they hired Prothman before, they found Adam Brown, who was highly qualified. And, before he left, Mr. Brown gave recommendations to go that route. That's the way he felt about hiring Prothman, the sooner the better.

Councilor Braden echoed Councilor Melendrez's comments. He didn't believe time was their friend, although he was grateful for Dan Cummings. Mr. Brown provided some guidance when he left, and Council asked May to research that and provide a proposal. Before them was that result. He'd like the Council to arrive at a consensus to either proceed or delay. It felt like he, along with Councilor Melendrez and maybe others, would like to proceed with this action.

Mayor Hill stated he wanted to take some time.

Councilor Kirby stated he was seeking an actual process. He didn't want to just roam around the country with no guidance or set process. He could go with Prothman now, but could also go for looking for an executive on their own, for maybe three months, and then move it to...

Mayor Hill stated it wasn't always on their own. They could put it out to LOC.

Councilor Kirby stated that was part of the process – write it down on paper and publish it.

Councilor Baker stated he was in no hurry to jump into something for \$30K that they didn't know...

Councilor Melendrez stated it wasn't jumping into something. It could take six months to a year, or longer, so it wasn't jumping into anything. The faster they started the process, the faster they'd have the most highly qualified City Manager for Ontario.

Councilor Braden stated his consensus was the Council instruct HR to enact a contract and get Prothman working for the city.

Mayor Hill agreed with Councilor Kirby that there needed to be a process, whether it be taking three months to advertise locally, or if they would put it out on the Web.

Councilor Melendrez stated wasn't that the process, hiring a professional company to do that? The Council trying to do it on their own was twiddling their fingers and trying to figure it out more than hiring someone who had already done it before.

Councilor Mills stated when the Council used Prothman before when she was on the Council to select the City Manager, they did an excellent job. She believed they had all the qualifications and did a good job, but also it was a timely process no matter who handled it. She believed, money wise, yes, it was expensive, but somewhere along the line it had to be spent anyway to get the job done, so probably now was the best time to start.

Mayor Hill asked if the city had to advertise for this contract?

Mr. Cummings stated no, as it was a professional service contract. May had sent out 12 proposals and only received one back.

Ms. Swihart stated she received one from Prothman, and another response indicating they were swamped and unable to take on any more clients.

Mayor Hill stated it appeared there was one who wanted to see a process, two who wanted to go with Prothman, so the Council was three to three.

Councilor Melendrez asked Councilor Kirby what was against having both, giving the okay to do the search, and then also doing their own search, or whatever process he wanted.

Councilor Kirby stated he had nothing against going with Prothman, but he'd like to see, the process should include, for him, what they had for a job description, what the requirements were. Currently, he did not know. He wanted to see who and what they were hiring. That was one of the things in the City Charter that this Council did – they hired the City Manager. Off of having that, they might want to add some things. Just going out and starting with a headhunter without defining what they wanted, was the cart before the horse. To direct Ms. Swihart to bring Prothman on board to get started, he could see that they'd spend a month getting ready.

Councilor Melendrez asked if he was saying that there was currently no job description for the City Manager? He thought they did have that. Was there?

Ms. Swihart stated the city did have a current job description for City Manager. Also, part of the process that Prothman did was to meet with the Council at the beginning to conduct a workshop of what they wanted out of a City Manager, experience, qualifications, etc.

Councilor Kirby stated it was hard to get employees right now, especially executives. It had been six years since advertising for Mr. Brown's position. There could be things that they as a Council wanted to change. He was asking for a process where they, as a Council, could review the job description to see if there were changes that needed to be made.

Councilor Melendrez asked how much time he thought that might take.

Councilor Kirby stated they had two Council meeting each month, so it wasn't going to take a long time.

Mayor Hill stated the Council didn't know if there might be someone that wanted to jump ship from an executive job. As an example, Eastern Oregon University hired a business manager instead of hiring an education guy, and they got him locally. He came over from Boise Cascade and went to EOU, and that had worked out well for them. The Council needed to not jump fast. He was fine with Councilor Kirby's request for a process, and that process might be advertising locally, and it might be going to LOC, maybe do those things first, then see what happened. Maybe then go with Prothman.

Councilor Braden stated their desire to search local and to search potentially outside of the ICMA profession could be discussed with Prothman and that could be part of their process. He reiterated he wanted to move forward with Prothman, sooner than later.

Mayor Hill stated they wouldn't take action that evening, as they weren't going to hire that night, so all they could do was discuss it. The Council was at a loggerhead, and they'd need to hear what Councilor Hart had to say at the next meeting in two weeks. Council could then move forward.

- Councilor Mills asked if there was any updated from the Police Department regarding the evidence room or the employees that were on administrative leave?

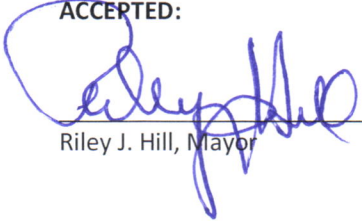
Mayor Hill stated the current Sergeant at Arms (Jeremy Jones) was not prepared to answer that.

Officer Jones stated he was not.

ADJOURN

BAKER moved, MILLS seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-excused; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

ACCEPTED:



Riley J. Hill, Mayor

ATTEST



Tori Barnett, MMC, City Recorder