CITY COUNCIL MEETING MINUTES
November 9, 2021

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, November 9, 2021, in the Council Chambers of City Hall. Council members present in person or by call-in were Riley Hill, Sam Baker, John Kirby, Ken Hart, Michael Braden, Susann Mills, and Eddie Melendrez.

Members of staff present in person or by call-in were Adam Brown, Tori Barnett, Terry Leighton, Jason Cooper, Kari Ott, Larry Sullivan, Al Cablay, Paul Woods, Al Haun, and Marc Berg. Larry Sullivan departed the meeting at 6:57 p.m.

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

Lucy Mills led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on November 5, 2021. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

MILLS moved, HART seconded, **TO ADOPT THE AGENDA AS PRESENTED.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Bob Simerly, McCain Foods, stated: *Thank you. I live in rural Nyssa. I'm an employee of McCain Foods. In 1998, McCain bought significant portions of Ore-Ida's business, including the appetizer business, which included onion rings. As part of that acquisition, we acquired a lease to onion storage facilities, which we subsequently bought in 2008, that is on, and completely surrounded by, Heinz property in Ontario. The reason that I am here today is just to let you know that, to make sure you are aware of that relationship. We currently have an easement, an ingress/egress from the facility to 3rd Street, and we want to be assured that we're going to be able to continue access to our building. We have requested and have received written notice from Heinz that we will, so we are not raising any objection, we just want to be on record as having that relationship, having that facility there on the Heinz campus and wanting to ensure that we have unencumbered access to it.*

Mayor Hill stated he assumed it was a recorded easement.

Mr. Simerly: *Yes, and the Planning Commission has a copy of it.*

CONSENT AGENDA

HART moved, MILLS seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED CITY COUNCIL MEETING MINUTES OF SEPTEMBER 14, 2021.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

OLD BUSINESS

Sales Agreement between Nascosto and City of Ontario: Tapadera Lift Station Property Purchase
Dan Cummings, Community Development Director, presented.

HART moved, MELENDREAZ seconded**, THE CITY COUNCIL APPROVE THE SALES AGREEMENT BETWEEN NASCOSTO LLC AND THE CITY OF ONTARIO AS PER ATTACHMENT 1 OF THIS REPORT AND AUTHORIZE THE CITY MANAGER TO SIGN THE AGREEMENT FOR A TOTAL DOLLAR AMOUNT OF $8,949.60.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

Motion for Downtown Lights and Carriage
Councilor Hart stated the V&C Committee approved to grant funds to allow business owners downtown to purchase lights. They were looking for a Hallmark downtown experience. As part of that, the city would like to use funds from the City Manager's budget to contribute $700 to cover the expense of the horse and buggy/sleigh that would be participating in the Frosti Fest event.

MELENDREZ moved, HART seconded, **THE CITY COUNCIL AUTHORIZE STAFF TO SUPPORT THE DOWNTOWN BUSINESSES WITH A DONATION OF $700 TO BE USED AS A GRANT MATCH TO PAY FOR HOLIDAY LIGHTS FOR DOWNTOWN BUSINESSES.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

NEW BUSINESS

New Hangar Lease: Rick Todd, 131 Cessna
Dan Cummings, Community Development Director, presented.

MELENDREZ moved, HART seconded, **THE COUNCIL CITY COUNCIL APPROVE THE HANGER LEASE OF 131 CESSNA TO RICK TODD.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

Hunter Lane septic Failure and Request for Deferred Improvement Agreement
Paul Woods, City Engineer, and Al Haun, Senior Engineering Technician, presented.

HART moved, BAKER seconded, **THAT THE CITY COUNCIL APPROVE THE DEFERRED IMPROVEMENT AGREEMENT REQUEST AND DIRECT STAFF TO WORK WITH THE OWNER OF THE PROPERTY AT 1707 HUNTER LANE TO FINALIZE THE AGREEMENT AND TO DIRECT STAFF TO UTILIZE SDC FUNDS TO DO THE ENGINERING FOR THE ENTIRE HUNTER LANE.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

Mr. Brown stated they might be able to use ARPA funds for the project, instead of hitting the city's checkbook. He'd confer with the Finance Director on that.

Resolution #2021-137: Appropriate Additional Funds for CCTV Services
Kari Ott, Finance Director, presented.

HART moved, BAKER seconded, **THE CITY COUNCIL CITY COUNCIL APPROVE RESOLUTION #2021-137 TO APPROPRIATE ADDITIONAL FUNDS FOR CLOSED CIRCUIT SEWER LINE INSPECTION SERVICES.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

PUBLIC HEARING

Ordinance #2798-2021: Vacating all that Portion of NE 2nd Street Lying between NE 5th Avenue and NE 6th Avenue; All that Portion of NE 3rd Street Lying Between NE 5th Avenue and south of I-84; That Portion of NE 5th Avenue Lying East of NE 3rd Street and West of the East Side of Blocks 178 and 179; That Portion of NE 6th Avenue Lying East of Blocks 186 and 187 and West of the East Side of blocks 177 and 178 of Wilson's Supplemental Plat, to the City of Ontario and all of the Alley within Block 179 of said Wilson's Supplemental Plat, on First Reading by Title Only

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

BAKER moved, MELENDREZ seconded, **THAT THE CITY COUNCIL APPROVE ORDINANCE #2798-2021, AN ORDINANCE VACATING ALL THAT PORTION OF NE 2ND STREET LYING BETWEEN NE 5TH AVENUE AND NE 6TH AVENUE; ALL THAT PORTION OF NE 3RD STREET LYING BETWEEN NE 5TH AVENUE AND SOUTH OF I-84; THAT PORTION OF NE 5TH AVENUE LYING EAST OF NE 3RD STREET AND WEST OF THE EAST SIDE OF BLOCKS 178 AND 179; THAT PORTION OF NE 6TH AVENUE LYING EAST OF BLOCKS 186 AND 187 AND WEST OF THE EAST SIDE OF BLOCKS 177 AND 178 OF WILSON'S SUPPLEMENTAL PLAT TO THE CITY OF ONTARIO AS SHOWN ON ATTACHED EXHIBIT "A" AND ALL OF THE ALLEY WITHIN BLOCK 179 OF SAID WILSON'S SUPPLEMENTAL PLAT IN THIS REPORT, ON FIRST READING BY TITLE ONLY.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

HART moved, KIRBY seconded, **THAT THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2798-2021, AN ORDINANCE VACATING ALL THAT PORTION OF NE 2ND STREET LYING BETWEEN NE 5TH AVENUE AND NE 6TH AVENUE; ALL THAT PORTION OF NE 3RD STREET LYING BETWEEN NE 5TH AVENUE AND SOUTH OF I-84; THAT PORTION OF NE 5TH AVENUE LYING EAST OF NE 3RD STREET AND WEST OF THE EAST SIDE OF BLOCKS 178 AND 179; THAT PORTION OF NE 6TH AVENUE LYING EAST OF BLOCKS 186 AND 187 AND WEST OF THE EAST SIDE OF BLOCKS 177 AND 178 OF WILSON'S SUPPLEMENTAL PLAT TO THE CITY OF ONTARIO AS SHOWN ON ATTACHED EXHIBIT "A" AND ALL OF THE ALLEY WITHIN BLOCK 179 OF SAID WILSON'S SUPPLEMENTAL PLAT IN THIS REPORT.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

Ordinance #2799-2021: Planning Action 2021-07-28AZ – A Request by Gold Thumb Investments, LLC, for the Annexation and Rezone of Property from Urban Growth Area Industrial (UGA-I) to City Light Industrial (I-1) on First Reading by Title Only

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.

Councilor Baker asked where the street improvements would be?

Mr. Cummings stated code only required improvements in front of their own property; however, they would be speaking with other owners in the area to see if there was interest in improving further sections while construction was occurring.

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

HART moved, MILLS seconded, **TO TABLE THE ACTION PENDING LEGAL COUNSEL.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-no; Hart-yes; Melendrez-yes; Hill-no. Motion carried 5/2/0.

DISCUSSION ITEMS

2022-2023 Budget Calendar

Adam Brown, City Manager, stated staff was seeking approval of the proposed budget calendar for the 2022-2023 fiscal year, which would begin July 1, 2022.

Councilor Hart stated he had spoken with both Kari Ott and Adam Brown, and they were all in agreement if they could get the three-day budget marathon into a quality two-day job, would be appreciated by everyone involved. He'd leave it on the calendar for three days left the third day as a reserve.

City Leases

Adam Brown, City Manager, stated this had been requested by Councilor Hart. He had wanted to confirm the city was doing due diligence on city leases. At the airport, there were a couple that were beyond 30 days. Another lease was at the golf course. The city had been attempting to put the golf course amenities to use, and one proposal had been to turn sheds into storage units. The city entered into a contract with the Leavitt's, who began working three units, and after some time determined they had taken on more than they could handle and couldn't continue. They had never made any money, but indicated they were committed to the lease, and they intended to pay the city for that lease. He'd received a message that day from them but hadn't connected with them yet.

Kari Ott, Finance Director, stated the lease was $140 a month, but they had some past due. They were paying sporadically. They had never quit paying but were just behind.

Councilor Hart asked what the $373 and the $6,500 were.

Ms. Ott stated that was the past due amount. The past due had gone before Council, which resulted in a Promissory Note, which reflected the amount of the note that had not been paid; it was $140 for the current lease, and the remainder was from the past due.

Mr. Brown stated they relinquished control of the units. They retained three units they'd completed, which was where the $140 a month was being used. The remainder had been released.

Councilor Braden stated he personally knew the Leavitts and was involved and aware of this lease agreement as it was developed four years ago. Ms. Leavitt contacted him that day, knowing this discussion was on the agenda, and he spoke briefly with her about it. The Leavitt's basic issue was that their lease was based on projected revenue, sharing a percentage of their revenue back with the city, but they failed to develop. They did make good on saying they'd tied up the property for 18 months and were willing to sign a note, but it was a failed business venture on their part, and they were paying from personal funds that were quite difficult currently. She asked if there was a way to get a reduction or relief from this issue. He asked her to contact Mr. Brown, to see if he thought they should appear before the Council. He wanted the Council to know the discussion he had and the reasoning behind it. But he wanted her to meet with MR. brown to develop a proposal for the Council of there was potential to go that route.

Mr. Brown stated he would appreciate any thoughts from the Council on the matter before speaking with Ms. Leavitt. They had never collected any rent off the units.

Councilor Braden stated his thoughts were that they agreed to pay a note for the lease when they hadn't collected any money because they felt it was the right and honorable thing to do since they'd tied up the property. They relinquished rights to the property when they terminated the lease and signed the note. He looked at the use of the golf course, and the city failed to generate any additional revenue from it. He didn't' see cause for the Leavitts to pay for what didn't come to fruition; to continue paying the city for it, if something like this came to the Council on a city property, he would have considered relief. His suggestion would be to have Mr. Brown discuss a reduction of the matter with the Leavitts, and then determine if they or he would present to the Council.

Mayor Hill stated it would be good to hear a proposal from them.

Councilor Hart stated unrelated to the Leavitt situation, his goal was to see how the city was tracking leases, what occurred if someone got behind, when did notice go out, that type of thing. He wanted a consistent process, ensuring if a renter became delinquent, the Council was informed.

City Attorney Proposal

Adam Brown, City Manager, stated staff had been working to receive a proposal from Yturri Rose for legal counsel, and had received it from a new attorney to the firm. Their hourly rate was $300 per hour. He hadn't seen any municipal experience, as it was a specialized part of law. Councilor Hart had indicated that many things could be done virtually, so based on that, he sought some references from the League of Oregon Cities. He located another attorney who was interested, who was in a firm located in Bend who had over 20 municipal clients. The applicant commented he was aware there would be times he would be needed to appear in person, and he'd have no problem driving to Ontario. They could provide municipal law services from their location in Bend. Further, he learned the attorneys could be interviewed in closed session.

Mayor Hill stated in noting the fee schedule, there might be a possibility of having as split fee schedule. Someone just listening to the Council talk versus having to do legal work. That might be two different fees, which should be explored.

Councilor Hart Request for Transient Lodging Tax

Councilor Hart stated at the previous meeting, he had asked staff to research what the steps were to increase the TOT and it had been shared that the Council had authority to do that and would not have to take it before the voters. His intention was to ask staff to help him draft a resolution for the second meeting in December, or the first one so they'd not have to have a second one. There was one more meeting in November, then one in December. He wanted to provide ample notice to the community of the intent to bring that resolution to the first meeting in December, where he wanted to vote to increase the TOT an additional 1%, taking them from 9% to 10%. The proceeds of an estimated $120K annually would see 75% dedicated to the operation of the pool when opened, and 25% to the operation of the Malheur County Fairgrounds. If the Council approved that, they would send that to the voters on the May 2022 ballot to approve or deny the increase.

Mr. Brown confirmed that Councilor Hart wanted to word the ballot measure to read that if the voters approved, the City Council would enact it.

Councilor Hart stated yes, whatever the legal steps were. The Council would take the action to send it for a vote, and the results would be enacted by the Council.

December Meeting Schedule

Adam Brown, City Manager, stated when reviewing the meeting schedule with Mayor Hill, and Councilors Hart and Baker, it was noted the second Council meeting in December was between the week of Christmas and New Year's Day. Those three in attendance wanted it discussed with the rest of the Council to remove that particular meeting. It had been suggested to meet on the 7th, and if needed the second meeting on the 14th.

Councilor Braden stated they would have their next Council meeting in two weeks, on the 23rd, then they were asking to add an additional meeting on the 7th, and then do a regularly scheduled meeting on the 14th. He did not feel the need to add the December 7th meeting, unless there was something timely or a large workload. He'd rather wait for the 14th and just have one December meeting.

Mayor Hill asked what direction the Council would like to move?

Councilor Braden stated he'd rather skip the 7th, do the 14th, and not have a second meeting in December, (the 4th Tuesday of the month) and meet again on the second Tuesday of January. Basically, stick to the regular schedule, but drop the second meeting in December (the 28th).

Council consensus to accept the idea presented by Councilor Braden.

HAND OUTS

Monthly Stats *(Attached)*
October 2021: Fire & Rescue, Public Works; Police; Code Enforcement

Minutes *(Attached)*
County Court 10-20-2021

CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

- Adam Brown stated he had attended the Airport meeting, and it went well. They had previously discussed looking at alternatives to the Commercial Use Fee of $1K for using the airport as someone's business. When it was discussed previously, Councilor Kirby reminded them all that something had to pay for the airport, so they might think of that. If they wanted to eliminate a revenue, where would it be made up? Chairman Bain asked the committee to think on that and bring back ideas to the next meeting. When they met again, following discussion, it was determined that it made sense that the operators using the airport should have to ay more, and that it shouldn't be placed on the hangar owners. The committee voted to leave it unchanged.

- Mayor Hill stated at a previous meeting they had discussed a plan to do a purge of the evidence room. Any forward motion on that?

  Mr. Brown stated it had been a struggle to find someone. Interim Chief Bartol was coming in December, and would helping acting Chief Cooper, and he hoped he had some resources. He had reached out to the company who had contacted some members of Council, but had had not heard back from them. He was also working with CIS who had a retired law enforcement person on staff, and he was hoping for some ideas from him. After spending several hours on this, he'd been totally unsuccessful so far on getting this going.

- Mayor Hill stated there were two studies related to the bridge – one for the traffic study need and the other was the economic study. Were there any updates there?

  Mr. Brown stated for the economic study, he was still waiting on that from Eco Northwest. They were supposed to be getting him a study. It had been about three weeks, so he'd reach out to others.

  Mayor Hill stated the package has been passed, the infrastructure bill, so it would be good for Ontario to be ahead of the game.

Mr. Woods stated the traffic study was being done by Jacobs. To date, they had all the data they could find, and were working to collect more via a subcontractor. It had been difficult, but they'd collected some good data. One other piece of information regarding another bridge over the Willamette, that had been done through an environmental perspective, called a categorical exclusion, which had been done through a CDBG project and cost around $50K. He and Mr. Brown were working with Merchant McIntyre to get some help.

- Mayor Hill asked about other engineering projects the city wanted to get ahead of the curve on, would he please bring those forward to the next meeting, unless he could tell them now.

  Mr. Woods stated the water and sewer extension to Treasure200 and Navarette had 30% of the design done, working towards 90%. They encountered a few issues but saw no permit issues. Regarding the Tater Tot trail, they were helping get the grant application submitted. The airport project was underway, but they couldn't get it paved this year because of the Idaho Power poles being moved.

  Mayor Hill stated the infrastructure bill for $1.2T was going to be out there, but were there any other projects they should push for to get a piece of those funds?

  Mr. Woods stated he'd love to see them use that for pavement projects on NE Oregon, or the extension of SE 2nd Street, or the Water Plant expansion, or an upgrade to Eastside reservoir.

- Mayor Hill asked the status of the water race at golf course?

  Mr. Brown stated he was not sure if the promotor would be able to pull off a spring race. He's going after all the due diligence, receiving help from both Dan Cummings and Paul Woods, but there were a lot of hurdles to pull this off.

- Councilor Melendrez thanked Public Works for all the No Parking signs they'd installed on the east side of town.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(h)

An Executive Session was called at 7:58 p.m. under provisions of ORS 192.660(2)(h) to discuss current or potential litigation. The Council adjourned the session at 8:30 p.m. and returned to the regular meeting.

➢ Mayor Hill asked the City Manager to provide him with a coy of the Rural Fire Department report that had been conducted by the CPA firm.

ADJOURN

HART moved, MELENDREZ seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

ACCEPTED:

Riley J. Hill, Mayor

ATTEST

Tori Barnett, MMC, City Recorder