



CITY COUNCIL MEETING MINUTES October 11, 2022

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, October 11, 2022, in the Council Chambers of City Hall. Council members present were John Kirby, Riley Hill, Michael Braden, Ken Hart, Eddie Melendrez, and Susann Mills. Sam Baker arrived at 6:05.

Members of staff present were Dan Cummings, Tori Barnett, Terry Leighton, Justin Zysk, Kari Ott, Casey Mordhorst, Michael Iwai, and Casey Walker.

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 October 7, 2022. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

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

OLD BUSINESS

Ordinance #2815-2022: Codifying Ontario's Municipal Charter

Dan Cummings, City Manager, presented.

BRADEN moved, MILLS seconded, **THE CITY COUNCIL ADOPT ORDINANCE #2815-2022, AN ORDINANCE CODIFYING THE ELECTORS' DECISION TO AMEND THE CITY OF ONTARIO'S MUNICIPAL CHARTER ON SECOND AND FINAL READING BY TITLE ONLY**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

Ordinance #2816-2022: Codifying OMC 3-11 Increase in Transient Lodging Tax to 10%

Dan Cummings, City Manager, presented.

BRADEN moved, MILLS seconded, **THE CITY COUNCIL APPROVE ORDINANCE #2816-2022, AN ORDINANCE OF THE CITY OF ONTARIO (A) CODIFYING THE ELECTORS' DECISION TO INCREASE THE TRANSIENT LODGING TAX, AND (B) AMENDING TITLE 3, CHAPTER 11 OF CITY OF ONTARIO'S MUNICIPAL CODE TO REFLECT THE TAX INCREASE, ON SECOND AND FINAL READING BY TITLE ONLY**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/1.

Resolution #2022-141: Appropriating Funds for Public Works Emergency Repair

Kari Ott, Finance Director, presented.

BRADEN moved, MILLS seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2022-141: A RESOLUTION APPROPRIATING FUNDING FOR EMERGENCY REPAIRS.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

NEW BUSINESS**Resolution #2022-140: Police Officer and Humanitarian Fund**

Kari Ott, Finance Director, presented.

BRADEN moved, MILLS seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2022-140: A RESOLUTION APPROPRIATING FUNDS FOR AN ADDITIONAL POLICE OFFICER POSITION AND TO START A HUMANITARIAN FUND.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 7/0/0.

DISCUSSION ITEMS**Committee Appointments**

Dan Cummings, City Manager, stated: *This has been in front of you several times. It's been asked again. It deals with the appointments of members to the committees. We have a confusing, the Charter says that the Mayor will appoint the members under the Council Rules. The Council Rules says it's the Council that will interview and appoint the committee members. Then each individual ordinance, most of them say that the Mayor will appoint the, the Council will appoint the committee members, or the Mayor will appoint the committee members with the consent of the Council. There are two of them that says the Council will appoint the committees, the members, with the consent of the Mayor. Again, we kind of got things confusing, so staff is recommending, and you can see this is a memorandum from the City Attorney, They're recommending the same thing. They're saying that their interpretation of all it is that the Mayor must consult and involve the Council when making committee member appointments. So what we're suggesting to do is do a resolution based on what the Council would like. Which way do they want it? Do they want it that the Mayor appoints them, with just the consent of the Council, does the Council want to do the appointment of them, but we're suggesting that we do a resolution to solve this issue, hopefully, once and for all. Or, we could leave it the way it is.*

Mayor Hill asked if the resolution would take precedence over the current....

Mr. Cummings stated the policy manual. The resolution would state what the Council wanted.

Mayor Hill confirmed it would override the Council Rules.

Mr. Cummings stated that was correct, and the ordinances, because they would be setting it in stone. A future Council could change it again. But, they needed to remove the current confusion.

Councilor Kirby stated he did not believe the Rules had been changed since 2018, so was there a process established for when those should be reviewed?

Mr. Cummings stated there was not. However, the Rules didn't have the authority the Charter and ordinances had.

Mayor Hill suggested they follow the [process of] the US Constitution, which read that the Mayor appointed with the consent of the Council.



Councilor Braden stated that whether the Mayor stated the name, or a member of the Council did it, was irrelevant. It was a matter that should be treated like all others – seven people could comment and vote.

Councilor Hart stated the distinction was the nomination piece. If the power to nominate was only with the Mayor, there could be two people interested, and the Mayor could decide on who to appoint. Was that what Councilor Braden was agreeing to? That the Mayor would have the power to put the nomination up, but the full Council would have the vote. If the person was voted down, the Mayor would have to nominate someone different, or not. That needed clarification.

Councilor Braden stated he might have misspoken. His intent was to echo what Councilor Hart stated. That the decision of committee appointments by the Council should be able to be brought forth and ratified by any member able to make a motion of this seven member Council. It was slightly problematic if just one person could make the nominations, because that person could abstain from making one, and then the position would not be filled, or a candidate that one of the Councilors wanted in the position would not be an option. He'd like to see the resolution drafted to work the same as the rest of the motions and decisions by the Council.

Councilor Kirby stated they needed to remove the ambiguity.

Councilor Hart suggested staff a resolution both ways – one with the Charter language where the Mayor made the appointments, with the Council confirming that; or second, another version where an appointment could be made by any member of the Council.

Mayor Hill stated it was on of his contentions when the City Manager could hire without ever speaking with the Council about a department head. He didn't care for that. The Council should have a say if there was an appointment to a committee.

Consensus to have staff draft two different resolutions.

2022 Charter Amendments for Taxes vs Fees

Dan Cummings, City Manager, stated: *This is for clarification. There had been several questions asked by several different people regarding whether the charter amendment on taxes included any taxes and possibly any fees. Again, it was made clear that the charter amendment only refers to a city general retail sales tax. That's the only tax that has to go out to a vote of the people. In other words, if they wanted to put a 1% sales tax on all retail sales, then that would have to go to the vote of the people. If the Council wanted to put some other tax, and no fees are included in that, so if you want to raise the fees for the application for a conditional use permit, you do that by resolution. Once a year we look at all our fees and you adopt that, so the fees are not included, and neither is any other tax. A good example is TOT tax. That does not have to go out to a vote of the people. This Council elected to at the last time to put it out to a vote of the people, but legally they did not have to. So you always have that choice. If you want to put it out to them, but you don't necessarily have to. The charter amendments are only for a retail sales tax. I wanted to make that clear again at a public meeting because it's been, some people are thinking that any and all fees and taxes have to go through a vote of the pole, and that would hamstring...*

Mayor Hill thanked Mr. Cummings for clearing that up. If this Council wanted to impose a fee on some future issue, they could put it out to the people.

Public Safety Fee Ordinance

Dan Cummings, City Manager, stated: *This is up for discussion and guidance. The Public Safety Fee, which was a \$5 fee added to the utility bills, there was a \$8 for streets, and there was a \$5 one for public safety. During the last budget cycle, or two cycles ago, the Budget Committee discussed, the Council directed the City Manager to create a budget without that public safety fee in there. He did so, the budget was adopted without that fee in place, and then the previous City Manager directed the Finance Director to stop collecting that fee. In the research of things, mainly because of the charter amendments and stuff, I discovered that that fee, both fees were put by ordinance and*

therefore, and I got the City Attorney's opinion on that also, is that to truly quit collecting that fee, the City Manager did not have the authority to do that. It must be done by an ordinance. Therefore, I'm here in front of you to say, as your new City Manager, I told you if I find something wrong, I'm going to fix it, we're not just going to go on, so I'm here to ask you to that we need to fix that, we have, what I call three options. One option would be to do an ordinance and actually repeal that whole ordinance, just get rid of it. The other option you would have that I would come back with an ordinance to amend that ordinance and state that the fee charged under that is done by resolution and at that same meeting after you adopt that, then we would adopt a resolution to fix the issue that it would set the fee at zero based on the date that the City Manager directed city staff to quit collecting that. That would fix the problem there. It would still leave that ordinance in place so that any future budget time, if the Budget Committee and the Council so choose that they needed to reinstate that fee, they could do so by just doing a new resolution and say now instead of zero it's one dollar, two dollars, five dollars, ten dollars, whatever the Council and the Budget Committee selected to do at that time, or you could wait and say well we need time to think about it, but we can't violate our own ordinance so instruct staff to start collecting that fee like we're supposed to, the ordinance says, until you have time to figure out which way you want to go. So those are the options. I'm asking you to not tell staff to continue, because we know it needs fixed, to have one of those options. Get it fixed or get back to collecting it until you decide what you want to do.

Councilor Melendrez stated he'd like to move forward with the second option. They just approved another officer for Chief Iwai, but he was at 25 persons, but with the new officer bringing them to 26, they were still short. The second option would support future needs.

Mayor Hill stated they still had the same number of police officer FTEs, so that was maintained, and a break was given to the taxpayers but using alternate sources of funding. He believed the thing to do was, and it would need to come back to the Council as this was only a discussion item, but he favored removing the ordinance completely. If a fee needed to be imposed again, put it out to the people like they had done with the TOT tax, and let them decide if they wanted to add that or not.

Councilor Melendrez clarified the Mayor referred to it as a tax, but Mr. Cummings stated it was not a tax, it was a fee.

Mr. Cummings stated he believed the Mayor was stating that even with the fee, he suggested that if they wanted to add it back, to go to a vote of the people. They were not legally required to do that. Council would have both options. Even if they left the ordinance in place, there was still the option to reinstate the fee, which also could be put before the voters. They did not have to start over with an entirely new ordinance. Either way worked, however the Council wanted to begin establishing that fee, if they wanted. It would remain at zero if they didn't do anything with it.

Councilor Kirby stated that in a time of inflation this would not be a good time to reestablish the fee at it would put a burden on all households regardless of income level. That meant the third option was out for him. He could see the trains of thought with the Mayor and Councilor Melendrez, but for him, he'd like to stay the way it currently was, but possibly when they reached the budget process, this would give them a chance to review and maybe work it in. Currently, the forecast for marijuana money was going to drop, so that revenue was unknown. The budget process would begin in February, so he would like the second option to buy some time to allow them to reconsider it. He would be okay with option one or two, but not option three.

Councilor Hart stated because of the new charter, if they did increase the amount, it would take a two-thirds vote of the Council, not a majority.

Consensus to have staff bring back option one and option two for discussion and/or action at the next meeting.

Marijuana Tax – Financial Update *(Attached)*

Kari Ott, Finance Director, stated: *I don't think any of this will be a surprise to anybody, but I was asked to come back with what the projections would be for marijuana tax revenue, which is difficult as you well know because it's been so volatile and so this is what I put together on that. I want to give you a history of marijuana revenue. The blue box for 2022 of \$3,324,989, so it's just kind of gradually increased which is why they budgeted more because we thought we were going to get more. The second half of 2022 is where the revenues have kind of decreased and so that's why they think we're not going to get the \$3.5M that we had budgeted for. So we budgeted \$3.5M, but based off the last half of the year, my estimate would be we'd get about \$3M because we average about \$700K per quarter. If we got that per quarter average, then we'd get about \$3M, which means we were about \$500K short for what we have in the 22-23 budget to spend. So on that note, this is a slide which changed today already, but so the police officer part would have to come out of contingency, what you approved today. However, these are the other projects that are funded from the \$3.5M of marijuana tax revenue does have the changes you've already made before today, with the downtown changes, with the softball backstop, so on this list, anything with a star by it are projects that are already in process, such as the Ontario Promise, the softball backstops, that kind of stuff. So those things are projects that would kind of be really hard to stop at this point, in my opinion, and I put stars by those for that reason. But, with the projects, including the police officer and the humanitarian fund, but we just need to kind of figure out what are the Council priorities, how are going to make up that deficient if we don't get that \$500K, and maybe what is our plan? Are we going to just, like what we did last year, where we paid only part of PERS to start with and then do we not pay the full PERS to start with and wait to see what happens when it comes in, not do some of the projects. So, basically, staff would like direction, also on what are the Council's priorities, what are going to look at to try to save in case we are \$500K short, what are we going to do to balance our budget? That just puts in one place so hopefully everybody can see it.*

Mayor Hill stated they needed to review it and begin to think about what to do because it was obvious the city was going to be \$500K short.

Ms. Ott agreed. They needed to be prepared going forward because the first payment wouldn't arrive until December. The \$500K was a guesstimate based on the last half of the year. It could also be more than the \$500K.

Councilor Hart stated with regard to the Public Safety Facility, where was that at on the chart? Had they spent all the funding for that?

Ms. Ott stated that was ARPA funds, which was why it was not on the slide.

Councilor Melendrez verified this year the city was funding the police officer with marijuana money, but for the following years, where would they find money for that? The General Fund?

Ms. Ott stated the city did not have money for funding another police officer besides marijuana funds.

Mayor Hill stated it was a misnomer to call it marijuana funds because it was included in the total budget. The money the city had for marijuana was in the total budget that was drawn from for certain things.

Ms. Ott stated that was correct, but without marijuana funds, the city did not have the funds to sustain another officer.

Golf Cart Storage Units

Dan Cummings, City Manager, stated: *Why I'm bringing this up, most of you will recall the Leavitt's first rented all the golf cart, leased all the golf cart deals, then they redid that and limited it down to, and did a Promissory Note to the city, and part of that Promissory Note said that you'd write off, if they caught up what they owed as far as monthly rent on the one unit that had three doors on it which they were leasing for \$140 a month, and they were behind about \$3,000, as of right now, they are \$3,355.05 is what they owe on that portion of it. They have to make that current prior to being able to pay the \$500 and write off the \$4,600 that you did under a Promissory Note. Councilor*



Braden has been in contact with them, and they have stated to him, they have moved out of that unit, they have stated to him that their plan is to try to pay off that \$3,000 in the next month or two that will open the option of being able to pay the \$500 and write off the remainder of it. So their plans are, hopefully in the next couple months to get that done. They are out there out of the storage units, so we have quit charging them the \$140 a month fee so it doesn't continue compounding. I just wanted to bring you up to speed on that and then we've had a request by Ron Dillon, since his speed boat deal shut down, that a lot of his equipment and stuff he has there, instead of having to haul it clear off site, he would like to rent that space to put that equipment and stuff in. I told him because of the past history we've had recently with all the leases out there that he's pretty sure the Council's not interested in getting into another long term lease or anything out there, so what I'm really asking for the Council to do is give me the authority to do like a month-to-month rent deal, pretty strict, one-sided, type thing for the city. And I've discussed this with Mr. Dillon that not interested in trying to present a long term lease again until we get things handled out there. But we'd entertain a month-to-month rent that, for a certain amount, that it have a 30-day notice either way that you'd get out of there the minute, and again, give that authority to me and not having to come back to the Council to say hey, he's behind on his rent, what do you want me to do, evict him? That's the only reason I'm asking for the Council to give me that authority to negotiate a month-to-month rent on that facility and possibly, if we can see somebody else wants one or two of the other ones, they're not fixed up enough to really rent out, but there are options. Long story short, I'm just saying how do you want to do that? Do you not want to enter in anymore lease agreements or rental agreements out there, or do you want to try to still get some sort of revenue but tighten the process up?

Mayor Hill stated it seemed it would be okay to do that, but it would be a one-time, up-front fee. If they were going to consider something with Mr. Dillon and he wanted to have three of those units or whatever, a one-time, up-front fee, paid it all upfront, and that took care of for the year.

Mr. Cummings stated that created a one-year lease, and he didn't think that was a good idea. He thought it best to do a month-to-month so if they didn't make their payment, he had authority to remove them.

Mayor Hill stated it might be a year, but the one-time fee, up front, whether it was for a year or whatever, they paid the entire amount right at the beginning. Then there was no fight with them.

Mr. Cummings stated if he paid a year up front, that was a one-year lease.

Mayor Hill stated yes, but the city had all the money up front.

Councilor Braden asked if that would bind the city into not being able to remove him within that one year period if the city had another intended use for the property? The flexibility is what they wanted to sustain.

Mayor Hill stated then don't lease it.

Councilor Braden stated he wanted to offer his consensus that the City Manager be authorized to conduct the transaction for Ron Dillon as the city's show of support for the Ontario Speedway and Ron Dillon's efforts there, and he like the flexibility of doing it on a 30-day cancellation by either party basis. He didn't care what the fee was or how many units were involved; that partnership was good for the city.

Mayor Hill stated he was alright with that, but the 30-day cancellation didn't work with Oregon laws.

Mr. Cummings stated he would write it up and Mr. Dillon understood what the meaning was behind it. The future plans of the airport had the units being torn down. That's why he didn't want any long term leases.

Council consensus to enter into a lease with Mr. Dillon on the month-to-month basis and have the City Manager handle the transaction.

HAND OUTS

Monthly Department Stats *(Attached)*

September, 2022: Public Works, Fire & Rescue; Police; Code Enforcement

Councilor Mills offered her compliments to staff for the reports they provided. They were thorough, informative, and neatly done with all the photos, and she appreciated the good work done by staff.

Councilor Melendrez voiced his agreement with her comments.

Minutes: County Court *(Attached)*

County Court: 09-28-2022

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Dan Cummings stated he had been working on the energy grant the city was pursuing. In July, he asked Ryan for an update, and he submitted the following email: This is the grant program that the City of Ontario passed the resolution to support and serve as the eligible applicant. If you remember, only cities, rural electric cooperatives, and tribes were authorized to apply. I did get it submitted a few weeks ago. It was a monster with 35 attachments. I requested the maximum grant amount of \$1M. The grant awardees will be named in mid-September. I expect very stiff competition, but I also think our grant is very competitive. If we are awarded the grant it will ensure that the project actually gets built and will have a dramatic effect on the economics of the project. It will also have good financial benefits for the city. In addition to the funding fee paid to the city out of the grant proceeds (we can figure out how much the city wants later if awarded), I calculated during the grant application process that we could probably save the city around \$45,000 to \$50,000 per year on its power bills at the city water and sewer plants. I also hope to subscribe some of the local hospitals, clinics, and other first responder infrastructure in the city, reducing their costs by about 5%. Finally, we will donate 20% energy cost reductions to many of the low-income multi-family housing complexes in the area. That was from July.

Today, he received the following email from the Oregon Department of Energy: Dan, as discussed with Ryan this morning, the application CG-01-049 to the Community Renewable Energy Grant Program by the City of Ontario scored highly in the competitive review. The application requested \$1,000,000, however, if the City of Ontario wished to move forward with the performance agreement process, the Oregon Department of Energy would only be able to offer a grant of \$400,000.

After discussing it with Ryan, who thought \$400K was better than nothing, so he was told to respond. Ryan's email was this: Thank you to Oregon DOE for this very substantial grant. It will go a long way toward making this project a reality with tremendous benefits for the City of Ontario and other subscribers in the region. I've discussed the offer of a reduced amount grant with Dan at the City of Ontario. We agree that it is better to take this \$400,000 offer now than to recompetete the project at a later date. We would like to move forward with the performance agreement process.

This was just to give them the good news about received the grant, and he'd keep the Council updated.

- Mayor Hill stated three entities received Measure 110 monies. The Chief brought up the issue that there was nobody cooperating with each other, so he mentioned it at the Border Board, and they would like to get involved. He'd like to ask staff to bring together those three agencies, plus the Oregon Department of Human Services and the county, to discuss collaboration on homeless issues so there wouldn't be a redundant effort on things.

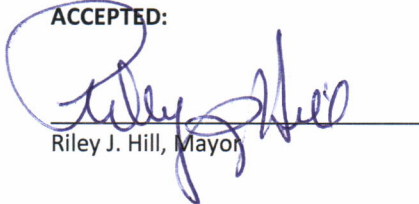


- Mayor Hill stated two weeks ago at Chamber, the Bureau of Labor and Industries made a presentation about apprenticeships and following up on that he spoke with Superintendent Albusu and BOLI. Superintendent Albusu stated she would be supportive of trying to get apprenticeship programs for classroom work that would be done at the school level, and they'd get credit for that. The BOLI representative was very supportive of that. He would be convening a meeting with the Poverty to Prosperity group, the Eastern Oregon Workforce Board, and the Small Business Development Center, to try to get something put together for the junior and senior students for getting into some programs that they could learn apprenticeship skills in plumbing or electrical. Councilor Hart was also interested in that issue with medical staffing.
- Councilor Braden stated he wanted to inform the voters that there were four current Councilors had expiring seats at the end of 2022. It had been in the paper, and he'd had many discussions in the community about it. Suzanne Mills, Ken Hart, Mayor Riley Hill, and he, himself, were the four terms expiring. There would be candidate forum at TVCC on October 19th, at 6:00 p.m. He attended the last one four years ago, and it was a good event for becoming aware of the candidate's stance on issue, their ability to lead, and he highly recommended concerned citizens attended or followed online.

ADJOURN

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

ACCEPTED:


Riley J. Hill, Mayor

ATTEST


Tori Barnett, MMC, City Recorder