



CITY COUNCIL MEETING MINUTES February 13, 2024

The scheduled meeting of the Ontario City Council was called to order by Mayor Deborah Folden at 6:00 p.m. on Tuesday, February 13, 2024, in the Council Chambers of City Hall. Council members present were Deborah Folden, Penny Bakefelt, Susann Mills, and John Kirby. Sam Baker arrived at 6:04, after the first action. Eddie Melendrez and Ken Hart were excused.

Members of staff present were Dan Cummings, Tori Barnett, Corinna Hysell, Clint Benson, Casey Mordhorst, Marshall Pierce, Andy Woods, and Michael Iwai.

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

AGENDA

This Agenda was posted February 9, 2024. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Mayor Folden added Sarah Poe, Malheur County Health Department, to the Agenda under Presentations.

BAKEFELT moved, KIRBY seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 4/0/3.

Councilor Baker arrived.

CONSENT AGENDA

KIRBY moved, BAKEFELT seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF APPROVAL OF COUNCIL MEETING MINUTES OF JANUARY 23, 2024**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 5/0/2.

Councilor Mills asked if Ms. Barnett had the opportunity to find out from other Oregon cities what their procedures were for appointing people to serve on city committees.

Ms. Barnett stated she had, and was preparing a spreadsheet for the City Manager to present to Council.

PRESENTATION

Sara Poe, Malheur County Health Department, stated: *Thank you so much for having me. I'm the Director for the Malheur County Health Department. We care very much about the people who are in Ontario and have had a great relationship working with the city over many years. Several years ago, we helped the city adopt an ordinance for smoke free property, and that's what I'm here to talk to you about today. The state has asked us to review any of those policies and also one of our goals in the next couple of years is to take similar policies to both Vale and Nyssa and make some recommendations for how they can also create a smoke free property that helps keep their residents in two ways. One, we want to have some more prevention so that when we go to parks and public spaces owned by the city, that we will not be also exposed to second hand smoke, and also just some modeling of other people smoking. As a mother, and I brought my family here today, recognizing that 14% of 8th graders have already vaped, have already tried vaping, and we want the normal thing to be the healthy thing. We want to really normalize what is happening in Ontario, and being the way to live a healthy*



life. So, having more spaces that are smoke free help us do that. Also, we want to encourage access to treatment and there's the Oregon Quit line, which is free, is available online, but also by text and calling, in English and in Spanish, and it provides free counseling, check-ins, different resources, including free cessation medication, such as the patch and gum, can be mailed to you. So, we want people who want to quit to also have access to that. I gave you a packet of a lot of information. We're not going to go over all of it today. Here's the most up to date annual report from 2022 on tobacco use. I just want to point you to one of the statistics on the second page that 23 of adults in Malheur County are quitting smoking. That's still significantly higher than both the national and the state average. That's almost a quarter of our adults that may have negative health outcomes and possibly die from something that is preventable. So, that's one way that as the city and the health department would try to reduce some of those negative health issues. Also on that left hand packet you have two copies – one says current, and that is what is currently in place for the City of Ontario, and behind it, you'll have my health department suggestions. I always like it when I can take anything official like this and make it simpler, and that's what we've done. So, I want to go through, you do not have to make any decisions today. I'm just proposing some suggestions that you could discuss or meet about with me at a separate time, and then choose to amend or adopt at a later time.

The differences is what I'm going to take you through from the current draft to the proposed draft. On the first page, under 7.7.1, this is just definitions of the smoke free property that is owned by or managed by the City of Ontario. Nothing has changed, from the facility, the park areas, enclosed area, inhalant delivery systems. The place of employment, we have a minor change to take out that employees frequent during the course of employment, just because it's an unnecessary condition like how frequently used something is. So I'm trying to identify these, maybe explanations, that aren't necessary, and make it busier than it needs to be. The next section does change, partly because of the way that we talk about smoking has changed. A lot of people are wanting to know what the difference is between smoking, or vaping, using e-cigarettes, and then the type of products that people are smoking. So, this is the recommended language from the Oregon Health Authority that smoking means inhaling, exhaling, burning, holding, or carrying any lighted, heated, or activated cigars, cigarettes, cigars, cigarillo type, or other lighted or heated products containing, made, or derived from nicotine, tobacco, marijuana, or other plant, rather natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated inhalant delivery system and hookahs. Smoking does not include the use of traditional, sacred tobacco as part of an indigenous practice or lawfully recognized as a religious, spiritual, or cultural ceremony or practice. And, recommended, approval from city administrator must be requested and received prior to the ceremony. This is on public, the city-owned property, that that would be happening only. And that would take out from your old ordinance, it's changing a lot of that definition, but also taking out the one, two, and three. We don't really define vaping anymore, or electronic cigarettes because it's just an inhalant device. Inhalants include different devices that at some times were not even lit. Trying to use this language in a way this is common across the State of Oregon that the Oregon Health Authority would be perfect.

Moving to the back side, for public places and places of employment instead of just public spaces. So, place of employment, this is a bit of a change, but it is not asking the City of Ontario to make a new rule. This is the state rule that the city does need to follow, which is the Indoor Clean Air Act. I also made a copy, behind these two, I pulled out the ORS related to prohibition on aerosolizing, smoking, or vaporizing in a place of employment. That's what this is referring to. So a person cannot smoke, aerosolize, or vaporize an inhalant or carry a lighted smoking instrument within ten feet of the following: parts or places of employment or enclosed areas open to the public. And that the Indoor Clean Air Act. We, at the Health Department, actually receive any of those complaints. So complaints that somebody was smoking near an entrance of a public space or even inside, those complaints come to us, and we have a lot of rules around how quickly we have respond to those. I am really proud of the fact that we have only taken an education approach. Each time we've done that, as far back as I can see any records, we have never suggested a fine. So this is not something that we're trying to punish, especially to any business owners, it's supposed to be around education to help them, perhaps, move like ashtrays away from the entrance of a space, or put up signage so that that doesn't happen.

This change, under 7-7-2 is really just copying out the state law, which you also had done previously. If I wanted to make a suggestion, if the city ever wanted to take a step to be healthier, to take this law an additional step, several other cities have, and even counties across Oregon, it's to extend that rule of ten feet. The

recommendation is from ten feet to twenty-five. That would be up to you. I'm happy to talk with you about the different research around that at another time.

Moving on to City Facilities, this is just where the language has changed for both city parks and facilities to this language of a person may not smoke, aerosolize, or vaporize an inhalant, or carry a lighted smoking instrument. It's just changing that language to be consistent.

Then, in the old ordinance, there was, for a moment, we discussed having a smoke free downtown area, and that was removed. So we took that out. I can show you the language that was proposed at one time, but I'm thinking that this line of the activities described in ORS 433.850(2) are exempt from the provision of this section, I think that was attached, to the old section because it's pulling out what is exempt from the places of employment, so those sentences. I listed those off. That's part of why you have a copy of that ORS, and I just would recommend that that be moved to the public places and places of employment section. So you'll see that I added that line just above city facilities, add then the rest is the same.

So that is our suggested changes, which are really just cleaning it up, to be honest. I'm happy to talk with you about ways that other cities or counties area approaching this. If you have any questions, I'm happy to take them. I'm not an expert in tobacco prevention, but I'm learning. And I'm happy to connect you with a lot of the state partners that we have, as well.

Councilor Kirby asked since this has been implemented for a while now, was there still a problem?

Ms. Poe: *So we do continue to receive complaints, and usually it's really a matter of a letter, and sometimes a letter and a phone call and a visit to identify if there were things that were near. There are two different things, one, the complaint system that would be coming for the Indoor Clean Act, that comes to us. If someone was complaining just about someone in the parks, that would actually go to your Ordinance Officer.*

Councilor Kirby stated then the city has shortcomings. Was that what was happening?

Ms. Poe: *I think that the problem really is that 23% of adults are still smoking in Malheur County, and 14% of our 8th graders are trying a type of smoking.*

Councilor Kirby asked if that percentage of people were true citizens of Malheur County, or were they from Idaho?

Ms. Poe: *So that is a behavioral survey done, based on people's place of residence, so they do have an address attached to them, when they answered that survey.*

Councilor Kirby stated during COVID, the Idahoans were just nasty, but Oregonians pretty much complied. He wondered if this was a carryover from that.

Ms. Poe: *I see your point, and I think that, honestly, there isn't probably a big difference between people who are smoking in Idaho and Oregon. We seem to have a higher rate, both in the Treasure Valley in the Idaho side, and then rural and Eastern Oregon, our numbers are actually pretty similar. On your right hand side there are a few signs; these are smoke free Oregon signs that do have to be posted in public places that sell tobacco, so that's one of the things we do for compliance, as well, to make sure that those are posted. This is just a suggestion of a smoke free park sign. If you ever wanted more of these signs that could be in English or Spanish or have the City of Ontario or the Health Department or tertiary information on here, we would be happy to purchase and install those for you, or share them for you. That could be a Health Department expense. There's more quit line information. I'd love to come and talk to you about anything else, anytime.*

Mr. Cummings asked Ms. Poe if on the suggestions, she said she hadn't included the smoke free downtown portion, would she please send that to them for review.

Ms. Poe: *I can. It's just a paragraph that was including the section of, what I call old downtown, forgive me if I don't have the language here, in front of Jolts down to Eastside Florist, that whole strip. Because really, if you think of the ten foot rule, outside every single door, it really is most of that street anyway. So, it really wasn't going to be too much, but there was some concerns about fairness, and were we making things more difficult for one business and not another.*

Mr. Cummings stated that corridor, assuming that's what she was speaking about, the ten foot rule almost limited smoking downtown, but he had seen, and maybe that was where she was receiving complaints from, was that there were a few businesses where people went on the sidewalk to smoke, and if they looked at the ten foot rule, those people were standing right on the edge of the curb, catty cornered, so they were meeting the ten foot rule. The twenty-five foot would get rid of that. But, on the twenty-five, was the state even considering changing the ten to the twenty-five?

Ms. Poe: *I haven't heard that at a state level, but many cities, and even counties, have passed that in Oregon. So, we actually have lots of materials available to us when you're ready to transfer from a ten foot to a twenty-five foot rule. That was something that other cities had done. I have not seen that proposed statewide.*

Mr. Cummings stated he recognized that on the East side of Oregon Street, those businesses, such as bars, had a choice to send the people out into the parking lot behind their place, but technically that was city owned property and they were not supposed to smoke there. On the West side, there was no choice except on the corner, so to increase that to twenty-five, the city would be putting a full restriction on all those businesses down there, that none of their patrons could smoke at all. They'd probably lose those patrons from coming to their business. He wanted them all aware that the increase would affect the bars and gamer places, because their clients were the ones still smoking.

Ms. Poe: *But it is the business that is responsible for responding to any complaints and ensuring that people are not smoking within that ten foot rule, and also, they can't just send people over to the business right next to them.*

Mayor Folden asked if there had been a lot of recent complaints.

Ms. Poe: *No, not recent, but to be fair, I'm just getting the Indoor Clean Air Act complaints, so I do not have any data on any ordinance complaints.*

Councilor Kirby asked what happened if ordinance received a call.

Ms. Poe: *There isn't actually anything in your ordinance about enforcement. It's just a penalty. That the penalty for violation is any provision of this chapter is a Class D violation, which, I believe, the minimum is \$55, and maximum is \$250, under ORS 153.012. I can give you some examples of enforcement. They usually would say the city ordinance.*

Mayor Folden thanked Ms. Poe for her presentation.

NEW BUSINESS

Apron Expansion: Independent Fee Estimate

Andy Wood, Airport Manager, presented.

FAA AIP Handbook - Order 5100.20C outlined Programming Control and Reporting Procedures Grant-In-Aid Program procedures. The City Manager signed the FAA AIP and BIL grant application for the Jet Apron Expansion Project for bid and construction. The next process was to have an Independent Airport Engineer estimate the project formulation, design, bidding, and construction services. A previous AIP number had been approved for the design stage from 2023 and was within budget to date with the match funding from FAA 90% and ODAV 9%. Local City Council matching funds are 1% of the complete project.

Century West Engineering from Bend, Oregon, was approached to provide the fee estimate and could turn this around within two weeks of the signed contract. On February 5, 2024, the Airport Committee sent a recommendation to the City Council to approve the Century West Engineers Independent Fee Estimate (IFE) contract for \$4,000.00.

MILLS moved, BAKEFELT seconded, **THE CITY COUNCIL APPROVE THE CENTURY WEST INDEPENDENT FEE ESTIMATE CONTRACT AND AUTHORIZE THE MAYOR TO SIGN THE CONTRACT.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 5/0/2.

PUBLIC HEARING

Accept Right of Way for a Portion of NW 16th Avenue

It being the date advertised for a 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, or declarations of conflict of interest were stated.

Dan Cummings, City Manager/Community Development Director, presented.

Norm Poole Oil, Inc., through Ralph Poole, and Jack's Landing, LLC, through Bruce Erlebach, as part of the improvement of their property in building a portion of NW 16th Avenue for future development of the properties, needed to dedicate the right of way and public utilities to allow for the construction of the project and inspections thereof. In doing so, they wished to dedicate the Right of Way and Public Utility Easements prior to any partition or subdividing of the lands, so improvements were in place to aid in the development of the property.

To be able to construct the street and public utilities, a right of way was required to be in the city's name so the sewer and water line could be constructed to city standards and provide inspections of the project.

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

MILLS moved, KIRBY seconded, **CITY COUNCIL TO APPROVE THE DEDICATION OF THE RIGHT OF WAY FOR A PORTION OF NW 16TH AVENUE AND ADJACENT PUBLIC UTILITY EASEMENTS AS SHOWN IN THE DEEDS OF DEDICATION AS ATTACHMENT 1 AND 2 OF THIS REPORT AND AUTHORIZE THE MAYOR TO SIGN THE DEED OF DEDICATION.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 5/0/2.

HAND-OUTS

Department Stats: January, 2024

Police, Fire, Public Works, Code Enforcement

Packet

V&C Bureau Board 02/01/2024

Minutes:

County Court 01/24/2024, 01/31/2024; Airport 01/02/2024

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Fire Chief Benson stated he wanted to publicly acknowledge and thank Simplot. Simplot had a small ammonia leak a few weeks ago that the Fire Department responded to, and the department's oxygen meters didn't do much good. He reached out to Simplot to see if there were any grants for ammonia monitors, and when they responded back to him, he was told Simplot had actually purchased for the Fire Department, two hand-held ammonia monitors, as well a testing kit and they were also now



included on Simplot's maintenance schedule since they had to be calibrated and tested twice a year. He just wanted to give Simplot that shout out.

Councilor Bakefelt thanked Simplot as well, as they were a big partner for the National Night Out event, along with their donation to the Fire Department.

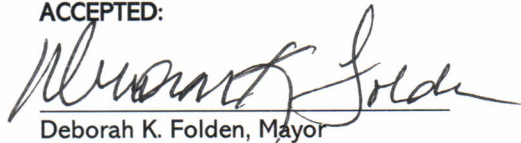
- Mr. Cummings stated the city had created a grant committee, and they were reviewing a lot of different grants. As the Council was aware, the city had not renewed their contract with Merchant McIntyre, but kept that money in the budget to help the grant committee in two different ways. One, if the city needed to hire someone to help review or write grants, or two, to have matching money if needed. With the grants currently under review, he met with Michael Braden, who had an extensive background in grant writing, so he planned to write a professional services contract to have Mr. Braden assist the grant committee in their grant writing, on an hourly basis, unless the Council directed him otherwise. The city had issued an RFP/RFQ before, and received zero responses, local or from within Oregon. Mr. Braden had agreed to serve the city in that capacity. He would be either reviewing applications, or sometimes maybe writing a grant proposal. There were a lot of grants available, and this would help the city out.

No objections voiced by Council.

ADJOURN

BAKEFELT moved, MILLS seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 5/0/2.

ACCEPTED:


Deborah K. Folden, Mayor

ATTEST


Tori Barnett, MMC, City Recorder