CITY COUNCIL MEETING MINUTES
June 11, 2024

The scheduled meeting of the Ontario City Council was called to order by Mayor Debbie Folden at 6:00 p.m. on Tuesday, June 11, 2024, in the Council Chambers of City Hall. Council members present were Penny Bakefelt, Susann Mills, John Kirby, Ken Hart, and Debbie Folden. Sam Baker were excused. Eddie Melendrez arrived on Zoom at 6:40 p.m.

Members of staff present were Dan Cummings, Tori Barnett, Corinna Hysell, Clint Benson, Casey Mordhorst, Marshall Pierce, Al Haun, Michael Iwai, Tatiana Burgess, and Andy Wood. Kari Ott participated via Zoom.

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

AGENDA

This Agenda was posted June 7, 2024. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

KIRBY moved, BAKEFELT seconded, **TO ADOPT THE AGENDA AS PRESENTED.** Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 5/0/2.

CONSENT AGENDA

MILLS moved, KIRBY seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF APPROVAL OF COUNCIL MEETING MINUTES OF MAY 28, 2024.** Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 5/0/2.

Dan Cummings, City Manager, introduced new city employee Tatiana Burgess, the new Plaaning Director.

PRESENTATION

Safe Streets for All
John Ringert and Darren Fluke presented.

Agenda
- Transportation Safety Action Plan (TSAP) Overview
- Community and Partner Organization Engagement
- Discussion
- Next Steps

TSAP Overview

Project Purpose

- SS4A Compliant Safety Action Plan
  - Reduce Fatal and Serious Injury Crashes
    - Identify and Prioritize Projects and Strategies
  - Engage Community
  - Address Underserved Communities
  - Data-Driven
  - All Users

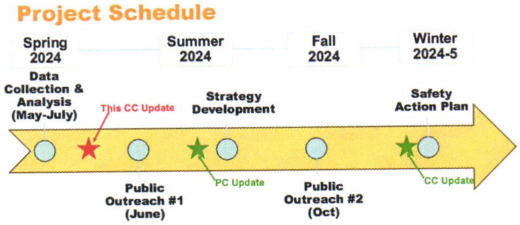
Project Scope

- Public roads within Ontario urban growth boundary
- Roadway owners
  - City of Ontario
  - Malheur County
  - ODOT

SS4A Action Plan Components

- Vision & target(s)
- Oversight group
- Data-driven
- Engagement
- Equity/Demographics
- Projects/Strategies
- Performance measures

Project Schedule



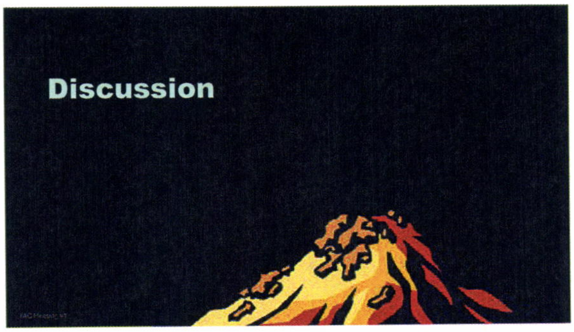
Engagement

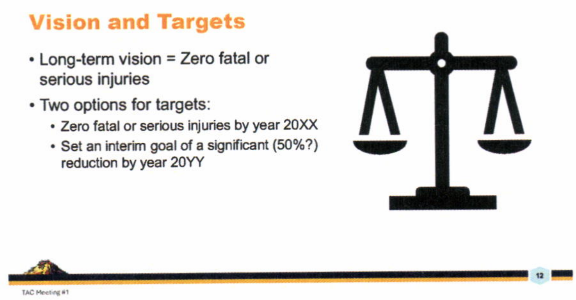
Engagement Goals and Strategy

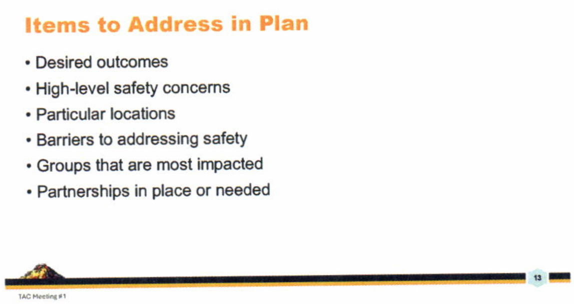
- Build awareness of the plan and transportation safety
- Collect input from the public and stakeholders to understand existing challenges and priorities
- Develop a plan that reflects the diverse needs of the community
- Build buy-in to the plan's vision from stakeholders, elected officials, and the public.

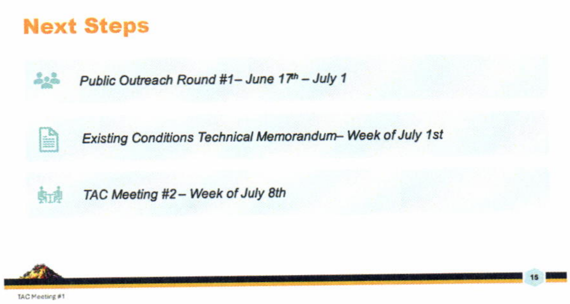
Engagement Approach

- Survey and Map
- Public tabling events – Farmers Market and Alive after Five in the Gardens
- Business outreach
- TAC engagement









Councilor Bakefelt asked when they planned to wrap up their public comment stage.

Mr. Ringert stated it was planned for around the first part of July, but that might get extended.

Councilor Bakefelt let them know of the National Night Out event on August 13th, and that would be a great place to talk about the survey, but it appeared that would be too late.

Mr. Fluke stated they were on a tight timeline, but wanted to get as much public engagement as possible. August would be late, but they could make project materials available.

Councilor Hart verified the end product was what, and then the city was given money to implement it?

Mr. Ringert stated what they had presented was a plan, and there were billions of dollars still available for implementation grants. The plan was a plan, and hopefully it was a plan with a range of opportunities. Then it was going to be looking for the money to do it, be it local funds, grants, and that was what this process was for. If there was a plan in place, the city could go after the money for implementation. Hopefully this plan wouldn't just end up on a shelf.

Mr. Fluke stated that was the rush behind getting the plan done this year, so the city would be eligible to submit for implementation grants in the next fiscal year.

NEW BUSINESS

Contract Award: Warrington – Airport Way/BLM Contract
Marshall Pierce, City Engineer, presented.

The city went out for bid for the BLM airport project and received two bids in response to a bid invitation for the above referenced project. Two companies provided bids on the project, Warrington Construction at $478,437 and Tapani Inc. at $693,695. The lowest bid by far was from Warrington Construction; a local contractor with a good reputation in the valley. The low bid was valid for up to 60 days after bid opening.

The total bid from Warrington came in at $478,437 and a contingency amount of $48,000 should be added for a total project cost estimate of $526,437. The city would initially front the total costs for construction and would be refunded 66% from the BLM Way portion (from the BLM) and 50% for the Airport Way portion (from Hotbox). This worked out to a total city obligated amount of $168,815 of the total bid amount. The project was budgeted in the 23-24 budget and carried over to the 24-25 budget in the Street Fund and Capital Projects UCF.

Councilor Hart asked if this was the last request from the city to put additional taxpayer money into this project, that the rest was BLM?

Mr. Cummings stated that was the hope, and none were expected. The city had applied for a grant for $150K from ConnectOregon to help finish the security fencing project. There might be some matching money needed if the city was awarded the grant. The fencing was not 100% for the BLM project, it was for overall security.

Councilor Hart confirmed there were no beacons to buy, or fancy windsocks. Everything they had was okay with BLM. His fear was the continued trickle of having to invest additional taxpayer dollars.

Mr. Cummings stated no, the city was not going to invest anymore. The city, in order to meet BLM's $7M was downsizing their project. Their initial construction estimate was at $9M. The city was working with BLM in shrinking down their building. BLM was going to have to do with less. BLM informed the city that the federal government was not giving them any more money. There was the $48K contingency, and barring anything disastrous occurring, he did not expect to spend that money.

Councilor Hart stated as this was Phase I, and it needed to be done, was there a chance that the BLM project could fall apart? The city had invested already, and BLM would have to pay their component of it, but if the building didn't work out, what was done? BLM was going to build, but it was the size that was unknown, correct?

Mr. Cummings stated yes. He had attended an earlier meeting about this, and he was ensured this was moving forward and the city would recoup their money for the infrastructure.

Councilor Bakefelt asked if there was anything in writing from Hot Box that they were going to be putting in their funds?

Mr. Cummings stated yes. The agreement when they developed was that they were obligated to pay their half. During the first phase, they actually paid their portion up front, and the city paid them back. It was not a huge cost, something like $23K.

KIRBY moved, MILLS seconded, **THE CITY COUNCIL TO APPROVE THE BID AWARD TO THE LOWEST RESPONSIVE BIDDER, WARRINGTON CONSTRUCTION, FOR $478,437.00 AND $48,000.00 FOR CONSTRUCTION CONTINGENCY, AND AUTHORIZE THE CITY MANAGER TO SIGN ALL DOCUMENTS.** Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 5/0/2.

PUBLIC HEARING

Residential Housing Rehabilitation Grant
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.

Kathy Markee, Residential Housing Rehabilitation, Community in Action, presented. By law, Ms. Markee was required to read the public hearing notice into the record: *The City of Ontario is eligible to apply for a 2024 Community Development Block Grant from the Business Oregon. Community Development Block Grant funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements, primarily for persons with low and moderate incomes. Approximately $12 million will be awarded to Oregon non-metropolitan cities and counties in 2024. The maximum grant that a city or county can receive is $400,000.00. The City of Ontario is preparing an application for a 2024 Community Development Block Grant from the Business Oregon for the Malheur Residential Housing Rehabilitation Program in Malheur County to rehabilitate owner occupied homes of low to moderate income homeowners. It is estimated that the proposed project will benefit at least 40 persons, of whom 100% will be low or moderate income. A public hearing will be held by the Ontario City Council at 6:00 p.m. on June 11th in the Council Chambers at Ontario City Hall. The purpose of this hearing is for the city council to obtain citizen views and to respond to questions and comments about: community development and housing needs, especially the needs of low- and moderate-income persons, as well as other needs in the community that might be assisted with a Community Development Block Grant project; and the proposed project. Written comments are also welcome and must be received by June 10th at noon at City Hall, 444 SW 4th Street. Both oral and written comments will be considered by the city council in deciding whether to apply. The location of the hearing is accessible to persons with disabilities. Please contact City Hall at 541-881-3201 if you will need any special accommodation to attend or participate in the meeting. More information about Oregon Community Development Block Grants, the proposed project, and records about the City of Ontario past use of Community Development Block Grant funds is available for public review at City Hall 444 SW 4th Street during regular office hours. Advance notice is requested. If special accommodation is needed, please notify City Hall at 541-881-3201 so that appropriate assistance can be provided. Permanent involuntary displacement of persons or businesses is not anticipated as a result from the proposed project. If displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required/reasonable benefits to those displaced. Any low- and moderate-income housing that is demolished or converted to another use will be replaced. To attend by zoom use the following link https://zoom.us/j/2115424962. These calls will be recorded and videotaped for public record. Publish date: June 1, 2024*

Ontario's application for the Residential Housing Rehabilitation program is due September 30, 2024. Funding would provide rehabilitation to at least 20 home low- moderate income homeowners. Published on June 1, 2024 in both Spanish and English.

Councilor Kirby verified with Ms. Markee that this project would not have an impact on any other programs.

Ms. Markee stated this program, they had done for years. Weatherization and those other programs were separate, so this is an on its own project. If they were able to do weatherization at some point, for the need for additional public safety and critical needs, then they might go in right away. If they were low-income qualified, they might go in and take care of those problems. But it really was a separate branch. They did leverage a little with a USDA grant that had to be leveraged so there were times they could not complete a project with the funding they had for a particular home, so they could leverage with some of the USDA funds. All of the housing programs and the building was all separate. In 1916-18, Ontario had this program, then Nyssa and Vale had other open grants that were not spent out so they could not go back to them yet, so Ontario actually had it for two two-year cycles. In 2021-23 it was Nyssa, and 22-24 was just being finishing up for Vale, so it was Ontario's turn again. There was a collaboration between those cities and the county, and it had to be a regional collaboratively, in order for their applications to be looked at.

Councilor Kirby stated this was all by application, but did they ever target specific areas? There had been a lot of rehabilitation down around Fortner.

Ms. Markee they'd always worked off a wait list, and they added names to the list all the time. She wasn't saying it wasn't possible, but it would take further research. There were currently 224 homeowners on the wait list.

Councilor Bakefelt asked that as there were 224 already, would there be any reason for anyone else to apply? How were those separated out?

Ms. Markee stated when they received a wait list, from whichever city they resided in, they did not do a prequalify. They were just added to the list. They wouldn't even know if an applicant was qualified until their name was reached from the list. That 224 could end up just 20 because of all different reasons. Some were walk-aways, where they couldn't put enough money into the home to make a difference. An applicant might not be qualified. Also, they could not work on CDBG grants, or mobile units older than 1977, so there were many things looked at.

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

MELENDREZ moved, HART seconded, **THE CITY COUNCIL APPROVE THE RESIDENTIAL HOUSING REHABILITATION GRANT PRESENTED BY KATHY MARKEE.** Roll call vote: Mills-no; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/1/1.

ACCEPT RIGHT OF WAY FOR A PORTION OF NW 4th AVENUE, PER APPROVED PARTITION PLAT, APPROVED UNDER PLANNING ACTION 2023-08-13 PTN

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.

The City Council, the governing body for the City of Ontario, needed to accept the right of way of a portion of NW 4th Avenue as shown on the Plat. The subject property had been subdivided by Ontario Industrial Light, LLC, into three lots with public right of way being dedicated along the northern border of the property. The action required the dedication of public right of way for a portion of NW 4th Avenue. Construction of all the public improvements would be done at a later date during development of the property. The Partition was ready to be finalized and the public right of way accepted by the City Council.

There was no financial cost to the city at this time other than normal maintenance of the city infrastructure developed and constructed on the property by the developer.

The Council could, by motion, not accept the right of way offered for dedication and instruct the applicant to make the street private. However, these alternatives would not meet city codes for connectivity and existing public use of portions of the roads.

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

HART moved, BAKEFELT seconded, **THE CITY COUNCIL TO ACCEPT THE DEDICATION OF RIGHT OF WAY FOR A PORTION OF NW 4TH AVENUE AS SHOWN ON THE ATTACHED PARTITION PLAT, SAID PARTITION BEING APPROVED BY AN ADMINISTRATIVE ACTION ON SEPTEMBER 23, 2023, UNDER PLANNING FILE 2023-08-13PTN, WITH EXTENSIONS GRANTED, AND AUTHORIZE THE MAYOR TO EXECUTE HER SIGNATURE ON THE FINAL PLAT ACCEPTING THE DEDICATION OF RIGHT OF WAY AS SHOWN ON SAID PLAT.** Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 6/0/1.

DEPARTMENT HEAD UPDATE

Airport: Semi-Annual Report
Andy Wood, Airport Manager, presented.

Councilor Kirby stated when the plane crashed at the airport recently, both Andy and Dan were out of town, and Fire Chief Benson got the call. His crew arrived on scene, and Dan was working with the Chief from out of town. He then contacted a member of the Airport Committee, John Freeman, who gave him an assessment of what was occurring. Following that, Pete Morgan, who was covering for Andy, contacted him and provided an update. He was asked if the proper notifications had been made to FAA and NTSB, and was told they were already on the road. As a Councilor, he watched the city function very well in what could have been a mush worse situation. He offered congratulations Chief Benson and the fire department, Jacobs, the police department, the EMTs, everyone involved in the incident. It couldn't have been handled any better.

Councilor Hart thanked Mr. Wood for his work. He was clearly passionate about the airport. While he had some questions that he might not be able to answer, but maybe at a future meeting? He asked for help in understanding better the revenue sources at the airport. There was revenue from lease rentals, correct? They paid a ground lease. What was the monthly hangar cost?

Mr. Wood stated for just a land lease? It would vary from $500 to $1000 depending on the size, annually.

Councilor Hart asked if there was just a plane parked, not in a hangar, what was the fee for that?

Mr. Wood stated it varied between $500 to $1500 a year. If a plane was there for a week, it would be a weekly rate. For a month, it would be monthly. If a plane was there for three weeks or more, he charged a monthly rate. If the plane was just there for a day, there was currently no charge for that. That was because they were expected to purchase fuel, and other supplied at the airport or in Ontario. For example, the corporate jet that had been there for a few days, his jet fuel would be around 8-10,000 gallons, so when they landed and topped off, they were spending more money than what the airport would get from a daily rate. It was only like $2 per day.

Councilor Hart confirmed the city received a percentage of the fuel. Any idea of that percentage?

Mr. Wood stated it was around $1000-2000 per month, depending on how much volume went through. It was based on a flowage fee. There were also various types of fuel.

Councilor Hart confirmed there was no landing fee. Was that typical?

Mr. Wood stated it was typical for the smaller general aviation airports. Larger airports, such as Nampa, Caldwell, or Boise, there was a fee for that. Fees were reviewed regularly, and if the Airport Committee wanted to increase or change that, they'd do that. The Council was presented the fee schedule, and had approved it. But if the Council wanted it tweaked, the Committee would certainly do that. It was the general feeling that when an aircraft came in and spent several hundred dollars to fill their plane, to ask for a $2 landing fee was like…

Councilor Hart asked if $2 was being charged in Nampa?

Mr. Wood stated no, not for a landing fee, but for a daily tie down.

Councilor Hart stated he assumed that landing was more.

Mr. Wood stated they had looked at some of the larger jets had a landing fee between $500-1000, depending size of the jet. Currently, with the numbers the airport was getting, there might be $3000-5000 annually. It depended on who much they wanted to deter people from flying in, or how much they wanted to encourage them. He hadn't asked any of them how much they spent on meals or lodging.

Councilor Hart stated he hoped that Mr. Wood understood it was the Council's responsibility to ask questions, and he believed he was asking valid questions. He asked Councilor Kirby, in his role as Airport Committee Liaison, to look again. He didn't know the last time the fees were reviewed, but what were some other opportunities for them to offset the subsidy. That was a reasonable question.

Mr. Wood agreed. Some of the largest revenues they could gather was, well, 15 years ago there had been talk about planting alfalfa on 350 acres. In speaking with the local farmers that did that, they said they could make $300,000 off it. There had been an opportunity 15 years ago that was missed. He didn't want to miss those chances again. The Airport could have been in the black for around $125,000 if the right decision had been made 15 years ago. He'd like to be in that position, and welcomed any solutions. That was his greatest frustration. Everyone looked to him for the answers, but he believed it was a team who should be working together. He'd like to see ten referrals from each Councilor for possible sponsorship. This city was not Andy, the city was not Dan, it was all of the community. If they were not unified in what they did, all they were doing was self-destroying.

Councilor Hart stated at the last SREDA meeting, he would like to have Mr. Wood attend. At the previous meeting, he had brought up that he was concerned about the regional airport and economic development. The Snake River Economic Development Association cared about economic development. Was it a benefit to the community if Ontario had an awesome airport? It was big enough to have jets come in. If something happened to it, everyone would go Fruitland. Oh wait, Fruitland didn't have an airport. Was there an opportunity for Ontario to look at a regional tax structure that supported a regional asset. He asked them to do some homework – to return to them and tell them the economic development associated with Ontario citizens continuing to subsidize the airport, which was a benefit to a much broader community. For example, BLM. He was excited they were here, but BLM was going to benefit much more than that one area. They agreed that was one of the things they could possibly look into. There were airport districts. Could it be that for the citizens of Malheur County? Could they go for a vote and ask if it was important to have that airport.. The citizens might say yes, it made sense, and it could be made into a separate district, with an independent tax base. He hoped that Mr. Wood believed that he wanted to do all he could to ensure it was viable, long-term, and great, but they couldn't just have people upset because questions were being asked.

Mr. Wood stated one question had been what the debt for the revenue from the previous year, and it was around $250,000. He had subsequently dropped it to $180,000. They could make improvements as long as they weren't fighting each other to do it. That's where they needed to show a united front. He didn't like to see a disjointed community. He appreciated the hard efforts that people put in behind the scene, that did not get recognition they should. There were a lot of people who loved the Ontario Airport, who would do anything for the airport. He was grateful for their service.

Councilor Bakefelt stated she appreciated his report, it was very detailed.

Mr. Cummings stated he had Googled a few things while Mr. Wood was presenting, and found the average landing fee was $2-50. The high number was from international airports. Most based it on the weight of the aircraft. For example, Alaska International was $1.87 per 1,000 pounds, up to 6,000 pounds which was $2.33. It was about $12 to land a 6,000 pound airplane. Those fees were higher because those airports had radio towers and staff. Smaller airports with a fee were in the $2-5 range, as they were not providing anything but the wear and tear on the asphalt. That likened back to charging $2 to land, but purchasing $600 in fuel, so it was like which one did they weigh? Also, the hassle of trying to collect that $2 and track it, compared to receiving the $600 in fuel, had to be given weight.

Mr. Wood stated the weight for the Ontario Airport, for a tandem wheel, was 60,000 pounds, and over the past few years there had only been one jet that had exceeded that weight.

Councilor Melendrez thanked Mr. Wood for the support for the fencing at Lanterman's Park. Regarding the comment earlier, he was one that hadn't supported getting sponsors, so he wanted to do what he could to support the airport.

Councilor Bakefelt asked where he was at for sponsorship. She believed he needed $5,000.

Mr. Wood stated he received $15,000 from the V&C Board, but he needed $25,000. He had received around $5,000 more. They needed another $10,000. He would take whatever anyone was willing to give. As he didn't want to continue to ask the same places or people that got asked all the time, he widened his area outside of Malheur County.

Councilor Melendrez asked Mr. Wood to contact him regarding sponsorships. Also, he'd like to hear more about connecting youth programs with the airport. He thanked him again for all he had done, and continued to do for the airport.

Response to Roberto Escobedo Letter
Councilor Kirby asked if Chief Iwai would give an update to the letter the Council received on May 14, 2024.

Mike Iwai, Police Chief, stated: *I'm happy to address Mr. Escobedo's letter on May 14th. I'm going to give you a summary of what occurred, and then kind of the internal process of what the police department does when we have a use of force incident.*

On March 11, 2024, at approximately 5:30 p.m., the Ontario Police Department responded to a reckless driving complaint and the complaint was driving through residential yards and then a complaint of a crash, which occurred on the property of The Body Shop gym. The vehicle was high-centered, fully active, and the driver was behind the wheel. The gear was still in drive. Officer Frazier, there was a total of three officers that responded, primarily Officer Frazier and Sgt. Laurenson were the two primary officers, and then Officer Jared Cutler was the third officer that really didn't do much, and didn't have to do much. The driver did not respond to verbal commands. As Officer Frazier continued to attempt verbal communication with the driver, he did not respond. After approximately 28 seconds, the male started jerking his arms rapidly, leaning over towards Frazier. Fraizer was on the passenger side of the vehicle with the door open. Again, the vehicle is high-centered and was facing that if it hit something that could roll its wheel, it's going to go into SW 4th. He's standing right there, which I'll talk about here in a minute. Sgt. Laurenson is making his way to the driver's side, as Frazier's attempting contact with him. As the driver is not responsive to Officer Frazier's request to turn the vehicle off and bringing the vehicle into park, he leans over and unfastens the seatbelt, knowing that at some point we're going to have to get him out. He leaned towards, and when he was jerking his arm, Officer Frazier believed that he was trying to get the vehicle into a different gear, that he was, when I reviewed the video, you can just see him jerking his arm, beginning to moan and resist as offices attempted to assist him, again inaudible. So you can see Officer Frazier go inside the bed, inside the cab of the truck, basically push, pushing out towards the driver's side of the door. Sgt. Laurenson opened up the driver's side door, they take him to the ground, they place him in handcuffs. The officers believed that he was impaired, and he was impaired: he was medically impaired, but he was thinking he was alcohol impaired. When you watch the video, you can see Officer Frazier saying this multiple times. The driver, for the most part, remained inaudible until medics arrived. So, a couple of things about the video.

Within ninety seconds of Sgt. Laurenson arriving on scene, he was the second officer, and arrived seconds after Officer Frazier did, medics were requested to respond. That's a minute and a half.

Within ninety seconds of being contacted, the driver was secured and in handcuffs. They were double cuffs because when you use single cuffs, it puts a lot of pressure on your shoulders, and a lot of people have bad shoulders, so they used two cuffs. Now you have a wider span when your hands are behind your back.

Other than being on the ground, face down or slightly on his side, at no time was his airway obstructed. No knees was on his back, shoulder, or neck area. Officer Frazier had his left and part of his right knee on the upper left leg or buttocks area for control.

Less than four minutes and thirty seconds, he was put into a seated position. So why do we keep them on the ground? We keep them on the ground because you're actively resisting. When you're down on the ground, it's hard for you to move, to include your feet and your hands. So keeping someone down on the ground is good for voluntary compliance.

At four minutes and forty seconds, he was stood up with the assistance of two officers. In watching the video, yes, from afar it can look like he is face down into the ground, but within minutes of the video being there, you can see that he is kind of tilting over towards his right, so he's technically on his stomach, yes, but he's still kind of on, on his side.

Within five minutes and three seconds, medics were on scene to provide medical assistance. So medics were on scene within five minutes of the initial contact with Frazier.

His blood sugar was checked at low levels and glucose was administered, and ultimately he was transported to the hospital because his levels were not improving. They were actually going down. The first time it was checked was around 52, I believe it was, and the second time they checked it was at 30, so it was going down.

Now specific questions that Councilman Escobedo had made mention through his letter:

<u>Was the force necessary?</u> Regarding the use of force, it was a custody technique that was used. There was no kicks and strikes. There was obviously no deployment of any less lethal rounds and of course there was no deadly force or even a show of deadly force. It was minimal, outside of officer presence and verbal commands. Custody techniques: physical restraint was utilized and justified.

<u>Why did the officer wait so long to get him up and continue to sit on him after being restrained?</u> No officers sat on him, like George Floyd. The Goerge Floyd situation involved an officer with a knee to the neck area. No officers placed their knees on the back, shoulders, or neck area. Additionally, he was brought to his side when officers checked for weapons after handcuffing. And that's protocol. Once you get someone placed in the handcuffs, you want to check if they have any weapons on them. And that could be why so quickly he was on his stomach, and he started going over to his side. He was checking his pockets, patting him down for any weapons or means of escape.

<u>What is proper procedure?</u> Well, for us, Ontario Police Department, under policy 504.3 Impaired Driving, diabetic shock is mentioned under observations, under officer observations. In accordance with the department's use of force policy, Sgt. Laurenson's use of force is justified and given the totality of the circumstances, a custody technique was deployed. Compassion and dignity were extended to the driver. And I'm going to come back to that here in a minute.

Most importantly, this is the question: <u>How can I be assured that my diabetic grandfather is safe driving in Ontario? Or any diabetic driving through Ontario?</u> And I answered that the officers' action were justified. I am glad that no one was seriously injured in this incident, including innocent bikers, walkers, rollers, and drivers which preceded officer contact. I would hope that the blood sugar levels are mentioned by those with diabetes, especially with Type 1. I would encourage diabetic drivers to carry some sort of first aid identification on their possession, such as a bracelet, necklace, or watch, additionally signifying a known and serious health condition. I wear one for allergies on my watch. From what the officers knew at the time of dispatch and arrival, they acted in accordance with their training and the custody technique utilized, again, was justified.

Regarding the laughing, the officers were not laughing at the incident or the driver. In fact, this did not occur while Mr. Escobedo, Mr. Escobedo, by Mr. Ramirez is there. Mr. Ramirez is already gone. What they were, what happened was the officers were making fun of each other. They were trying to move the vehicle because, remember, it was high-centered and Cutler made a comment to Officer Frazier that he couldn't drive, and that's what they were laughing about and smiling. At no time was it directed at or about Mr. Ramirez.

Now, to address a couple of things on the review. When you're involved in the use of force, any use of force with the department, the office has to fill out a report. Any exhibits, to include audio, video, are part of the record. They generally don't like to write two reports, and I wouldn't either because they have to write a report that's going to go over to the DA's office. There is a reported record of something, which we share with the media upon request. They generally utilize the same information there, so they're not writing two reports, so that you can't say if I type something that's a little different that the officer's being untruthful. That report with a bunch of data sites that we collect, specific to the use of force and use of force only, that goes up to the first level supervisor or a Sgt for review. After a Sgt takes a look at it, it goes to a Lt., and ultimately it comes to me. When it got to me, there were a couple of things that I wanted to address with the officers, and I did. In reviewing the video, even though they were compassionate, and they were professional with Mr. Ramirez, both of them did use a cuss word, and so I counseled them both on ensuring that we don't cuss while we're dealing with the public. It doesn't matter how well a situation goes, how professional they are, it always looks bad when you have a cop that is cussing at somebody else. That was the main issue.

The second issue was specific to Officer Frazier and his decision to stand with the door open with a vehicle running, and a guy that can't really control his extremities. He is standing right there between a tree, a car door, and a vehicle. And the discussion with Officer Frazier was really more for his officer safety. If that would have hit something, were it could have spun and actually got some ground, you would have at least one officer seriously injured and potentially Sgt Laurenson. So that was what my review revealed. Those were the conversations that I had with those officers. And that is done. Any questions?

Councilor Kirby thanked Chief Iwai for the response. As a Councilor, and he was speaking to the Councilor in Nyssa, he felt this was very awkward because he either should have been there, and not put Councilor Melendrez, he should have been talking to Chief Iwai. The fact that this came from Councilor to Councilor to Chief Iwai, was the wrong process. He did not know the Councilor from Nyssa, but he assumed he was a good man. But this was the wrong spotlight at the wrong time and the wrong place.

Councilor Melendrez stated disregarding the comments from Councilor Kirby, he thought Councilor Escobedo couldn't attend was because it was the same night as his City Council meeting, and was presenting a proclamation to one of their residents, so he wanted to be there. He spoke to Mr. Cummings about some of the reasons why past history of where Councilor Escobedo had reached out to OPD and never received a response. He could let Mr. Cummings speak to that. Secondly, so Mr. Ramirez having the diabetic shock, that counted as resisting arrest? Him having that medical issue, did that technically resist arrest? Where he was jerking his arm. Did that technically mean he was resisting arrest? Could Chief Iwai speak to that?

Chief Iwai responded that when someone was impaired and they were inaudible and they were not responsive to law enforcement, they were not mind readers. They had no idea that the individual was having a diabetic reaction. It was mentioned during the police academy, and was taught during the standardized field sobriety testing component under impairment. He knew that because he taught it. Officer Frazier recently went through advanced roadside impairment driving enforcement and they talked about medical conditions that could mimic alcohol and drug impairment. At that point, in his mind, he was thinking that he was dealing with someone under the influence of alcohol. Irrespective of not knowing he had a medical condition, Officer Frazier was thinking in his mind that he was not responding to his commands, and he had to get him outside of the vehicle. His actions were justified.

Councilor Melendrez stated he understood. Even thought he might not agree, he thanked Chief Iwai for the clarification.

DISCUSSION ITEMS.

Dog Parks

Dan Cummings stated recently the dog park had been closed at Lion's Park for two reasons. One, people were not cleaning up after their dogs. It had become an extreme health hazard. A sign had been installed asking users to clean up after the animals, but they were not doing it. When the city received a report from a user claiming their dog got Parvo at the park, he ordered the park closed. There was no proof the dog had contracted Parvo there, but as it was not being taken care of by the users, even with poop bags and trash bins provided, along with the signs, it was not being done. He was asking the Council if they wanted to reopen the dog park to give users another chance, or did they want to remove it. He did not know what else to do. There was a few signs around town that someone was promoting a business of being a pooper scooper, who could be hired to clean up the poop. Did the city want to expend the funds to hire someone to clean up the messes made by the users? This was open for discussion on what the Council wanted, or what the citizens might want. The city could not continue to have a health issue there. It was not good for other animals, and it was not good for people using that area.

Mayor Folden stated she knew of a service, run by Brooke Holman, and her business was Happy Scoop. If the Council wanted to go that route, there were businesses available.

Councilor Bakefelt suggested a permit process where people would pay a fee and sign up to use the dog park.

Mr. Cummings stated that was an option; however, the dog park was not a secure place. Placing a can in the park for donations would probably get stolen.

Councilor Bakefelt stated she meant to have them come into City Hall and complete an application. Then they'd know who had authority to use the dog park, and had paid for the use.

Mr. Cummings stated he didn't think people would come to City Hall to do that.

Councilor Melendrez stated before hiring out, he thought they should give one last attempt at reaching out to the people using the dog park to clean up after themselves.

Councilor Kirby confirmed there was another dog park at Beck-Kiwanis, by the tennis courts. Was that dog park dealing with the same issues?

Mr. Cummings stated that one was for the whole park. They had been wanting to install one, but hadn't constructed it yet because of the issues with already existing dog parks. He hadn't been out there, but had been told by Public Works that the at Lanterman's was worse than the one at Lion's. He agreed it was a great idea, but as the users were not courteous enough to clean up after themselves, it had become a health issue. It needed to be addressed in some way.

Councilor Kirby stated he hoped they'd here back from the people. He believed the public would want to weigh in on this. There were a lot of dog lovers in this community. Some people might not have someplace for their dogs to go, such as those who lived in an apartment, so their animals would do their business when out of the home. He hoped the public would respond in some manner, to give the Council some guidance.

Councilor Hart stated perhaps a letter to the editor explaining the potential to close the dog parks, and why.

Mr. Cummings stated they needed to get the discussion out there, so maybe some would listen, get it reposted to other places, and maybe it would cause some people to get mad at the people who didn't clean up the area after their dogs.

Councilor Hart stated he'd rather keep it closed for health reasons until citizens could step up with some ideas on how to deal with the problem. Bring this to the next meeting and see if anyone showed up. Reopening with a health hazard without putting any mitigation with it, he could not support.

Murals on City Water Tanks (SE 5th Avenue, Sunset Drive, and Foothill Drive)
Councilor Melendrez stated this initially started with previous Public Works Director Al Cablay, about possibly doing some murals. He was talking about the water tanks, not the water towers. That project was not started, and Mr. Cablay was gone, but he'd now brought it back to Public Works Director Casey Mordhorst. He thought it would be great to have murals on those. One option would be the Council collaboratively determined some images, such as cultures, or law enforcement, youth sports, maybe something from Four Rivers Community School, or Ontario High School, or even the Ontario School District, or asking the community what they might want. He was looking for support for the plan. He had already reached out to Ace Hardware, Ontario, who made a verbal commitment to donate paint and other supplies, and maybe a scissor lift. It didn't appear there would be much of a cost to the city. Mr. Cummings had mentioned maintenance costs, so there would be a plan for that. He believed those costs would be minimal. He, himself, would volunteer to maintain the murals once in place. Maybe annual maintenance of the murals could be added to the list for ServeDay. He would volunteer his time, and other artists in the community might as well.

HAND-OUTS

Monthly Department Stats
OFR, PW: May, 2024

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Councilor Hart asked Mr. Cummings about the flagpole.

Casey Mordhorst stated he currently had two quotes for the flagpole: one for $40,500 and the other was $31,000. To move the pole from the existing location into Lion's Park, they'd have to remove three large trees. They were rough estimating and should have better numbers next week, but around $15,000 to remove those trees and have the stumps ground out. To have the contractor demo the existing site, and dig the pit for the new base, a direct bury into the ground of around 12', would be around $20-25,000. Staff had reached out to multiple contractors, but everyone is super busy, and staff was struggling to get someone on site to look at it. Another issue was that when the flagpoles were purchased, that did not include inground engineering. Jacobs would look at it and it might cost a little money to do the footing design. So, overall, roughly $60-80,000.

Councilor Hart verified they were talking about moving the flagpole.

Mr. Cummings stated where it was currently was within a public right of way, and under all the new rules, anything within a public right of way had to be a shear off. All of the stop signs and poles had to shear off, meaning if it was hit with a vehicle, it could only be hit by so much pressure and it had to break off so it wouldn't kill you. There was no way of putting a flagpole in the same location that was a shear off because the first time the wind blew, it was going to bend it or break it. The pole would have to be moved outside the public right of way, which was why they were placing it in the corner of the Lion's Park. It could not be put back in the current location because of existing highway codes.

Mr. Mordhorst added that the location of the existing pole was very close to the main transmission line for Idaho Power, and there was a crossline as well. It was a safety hazard where it was currently located. Moving it into the park, away from those power lines and other hazards, would be best. Idaho Power had agreed to help stand the pole.

Councilor Bakefelt asked if there was a spot where they didn't have to remove any trees? Those provided a lot of shade and shelter for people. She was not supportive of removing trees unless they were diseased or a hazard.

Mr. Mordhorst stated the three trees that would have to be removed were old Elms. At some point in the near future, they were going to become a safety hazard. The long term master plan for Lion's Park was that the SW corner would be a monument.

Mr. Cummings stated the American Legion wanted to build a monument there of soldiers that represented all armed forces, living, active duty, etc. There were some monuments in town that honored the deceased, but none that honored the living. That corner had been laid out to place this new monument, and the trees were blocking it. Those were large, old Elm trees, already loosing large branches whenever the wind blew. They were destined for removal regardless, in less than five years. Everyone agrees that trees were wanted in the park, but those three, right in the SW corner, most people did not sit in that area. They were definitely unsafe and had to be removed. Many trees in the park were going to have to be removed, and there was a replacement plan in place. They could place the pole somewhere else, but looking at the entire park, they were trying to keep it exposed on the main drag, but people would get to see it there. If it was moved into the park further, it wouldn't be as noticed by the general public. He visualized it with it placed tight in that corner, the new monument in front of it, the flagpole would actually add to the monument. It was one of those things under the new codes that prohibited them from placing a new pole in the same spot as the existing one.

Councilor Kirby stated the initial pole had been in dedication to the Roy Probasco, who had been the second secretary for the Chamber of Commerce, as well as an employee of KSRV. Upon his passing, Bob Sullivan erected the pole in honor of Mr. Probasco.

Councilor Hart asked what budget the $15,000 to remove the trees would come from.

Mr. Cummings stated none of this had been budgeted for. As a Lion, he had spoken with the Lion's Club, and they were looking into donating to this action. The veterans were also being approached for this. They were all hoping to get some citizens and clubs to maybe do some fundraising. Anything and everything helped. There was also the cost of the actual flag, which was very expensive. That cost was rotated between the city, the Elk's, and the Lion's, and one was kept in reserve.

Councilor Hart stated it appeared they were still moving forward to trying to obtain a solid bid. He didn't think they should ask the citizens to pay for taking out trees that were going to be removed anyway. The ask should be focused on the new pole.

Chief Iwai stated he talked about the compassion the officers used during the use of force incident. Also in his discussion with Officer Frazier was that there were no charges brought against Mr. Ramirez. He wanted to be very clear on that, it was officer discretion. At a bare minimum, a driver evaluation should have been submitted to the DMV for a retest on a license because the driver bears some of the responsibility with known medical conditions. He and Officer Frazier had a discussion about that. The second part was reckless driving. Irrespective of the medical condition, the contact and ultimate use of force was all predicated on the call of reckless driving and a car crash. Otherwise, the officers would not have responded. That was also discussed with Officer Frazier. Last, during the May 28th Council meeting, Councilor Hart mentioned the options for body cameras. Two grants had been written since he'd been Chief. They failed on an Axon through Merchant McIntyre, a grant that would have included new body cams. The body cams weren't the issue. The issue was the Cloud availability because when they purchased body cams without Cloud availability, then they had to budget in a new server, and those were expensive, and the space required for that. The second was redaction software, to make it compliant when sending to media. The first grant that failed was for Axon, and the he didn't recall the cost, but it was very expensive. The second one, for the legislative fiscal grant that was submitted to Senator Findley's office, but did not receive, was less than $50,000, for new body cameras, Cloud-based software, (storage), and the ability to redact to meet compliance with media releases. He believed it was for three years, and it was so cheap compared to Axon because they wouldn't own the cameras. Every 24-months, they were cycled out and they'd receive new cameras. Regardless, that part was not important. Having the cameras, having some customer service that could work with the department on the cameras, having Cloud-based software, and the ability to redact, would be around $15,000.

Councilor Hart thanked Chief Iwai, but he believed they had allocated funds in the next fiscal year for cameras for the city buildings to upgrade and other things. Maybe before pulling the trigger on that, they should readdress that, and maybe that was something that could be reallocated. It seemed like something that would be as important, if not more important, to ensure the city had cameras that protected the officers and had the best resources available. Definitely something to consider.

Councilor Melendrez agreed with the comment by Councilor Hart regarding the cameras, and supported his suggestion.

Councilor Melendrez stated he thought, over his last three on the Council, he was either excited or upset, but he felt, in his perspective, that asking the police about Mr. Ramirez, the incident that happened, that he received more pushback then the previous years of a previous Mayor questioning, the city, and other Councilmen, questioning for something as simple as a parking violation. He got a little sad that when he brought this issue up, he got more pushback then those previous issues ever did with law enforcement. That was his only comment.

ADJOURN

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

ACCEPTED:

J Kirby

John Kirby, Council President

ATTEST:

Tori Barnett

Tori Barnett, MMC, City Recorder