

The City Council for the City of Junction City, met for a work session at 6:30 p.m. on Tuesday, February 23, 2021, in a virtual meeting format via internet and phone.

PRESENT: Mayor, Beverly Ficek; Councilors Sandie Thomas, Ken Wells, Andrea Ceniga, John Gambee (joined at 6:34 p.m.), Dale Rowe, and Sidney Washburne; City Administrator, Jason Knope; City Attorney, Carrie Connelly; and Planning Technician, Tere Andrews.

1. Call to Order and Pledge of Allegiance

Mayor Ficek opened the meeting at 6:30 p.m., led the pledge of allegiance, and took roll call. She noted that Councilor Rowe had an announcement that he wanted to make.

Councilor Rowe announced that tonight would be his last Council meeting, as he was resigning his position as a City Councilor effective tonight. He was caring for his father out of state and no longer had the time or energy to put into preparation and attendance at meetings as he would like to do or as the citizens deserved. He shared that it had been his pleasure to serve on the City Council and that he wished he could stay but family came first. He thanked everyone for their understanding and warm thoughts.

Councilor Washburne thanked Councilor Rowe for his service, time, and dedication to the City and to the position. He added that he was proud to have worked with him and appreciated everything he had done.

Mayor Ficek expressed her agreement with Councilor Washburne's comments and stated that they were sorry to lose Councilor Rowe. She noted that she had been looking forward to working with him, but his reasons were very understandable. She thanked him for his service to Junction City and its citizens.

(Councilor Gambee joined the meeting at 6:34 p.m.)

2. Agenda Process Guidelines

Administrator Knope presented the Agenda Process Guidelines and stated that these Guidelines had been approved by consensus of the Council in April of 2015. The document provided guidance on how items got on a Council or Committee agenda, workflow between Council and Committees, and other details of agenda preparation.

Councilor Thomas asked if they would be adding things to the agenda tonight, since this was a work session and they had a number of things to talk about as a new Council. Administrator Knope responded that the agenda was already set for tonight, but an agenda item request form could be filled out for Council consideration at a future meeting. Attorney Connelly added that a work session was a public meeting that was governed by the Oregon Public Meetings Laws and had requirements on setting agendas in advance, which she would be reviewing in an upcoming training.

3. Council Orientation Session One

Attorney Connelly stated that she had served as the lead City Attorney for the City since 2008 and had worked with the City since 1997. She hoped that everybody would be able to walk away with something new from the training, and the material would be available to the Council as a resource. She included a Power Point print out in the packets and reviewed:

Councilor Code

- Councilor Code - What the Council could and could not do.
- The City was a multi-million dollar corporation and the Council were the holders of the public trust.
- Other government partners included federal, state, county, and other cities or districts.

Wielding Council Power

It was important for the Council to know its role in wielding power and the tools at its disposal to determine if the Council had the power to do something and what the sources of law were that governed Council actions.

Council Tools

- City Charter – Adopted by the voters.
- State Statutes – Governed by state legislators.

- Ordinances – The way the Council exercised its legislative power. Ordinances were more permanent in nature, and there was a Charter process that established how ordinances would be adopted. City ordinances were codified into the Junction City Municipal Code (JCMC), which was available on the City's website.
- Resolutions – Usually temporary in nature. Examples included an overarching policy or fees.
- Policies – Tended to be administrative in nature and policies that Administrator Knope might bring to the Council, such as the Agenda Process Guidelines.
- Working Rules – Example Council Rules. City Charter, Section 15, required the Council to adopt by ordinance rules to govern its meetings and proceedings. Current Council rules were set forth in JCMC 2.05 on when regular meetings would occur and how to call special and emergency meetings.
- Agenda Process Guidelines
 - Agenda Item Request Form – Citizens, organizations, and individual Councilors could submit requests, and the Council would decide as a whole what they wanted to do with those requested items.
 - Pending and Future Business Items would be on future agendas.
 - A draft agenda was created by staff and forwarded to the Mayor. The approved agenda was sent to the City Recorder for posting, so the public could see what was going to be discussed at a meeting. This was a good reason for why you would not want to add agenda items at the meeting because members of the public looked at the agenda and decided if they wanted to attend or not.

Council Roles

- Legislating – Adopting an ordinance.
- Adjudicating – Acting more like a judge when certain land use issues came before Council.
- Working with Staff – No individual Councilor had the authority to direct staff. The City Administrator was hired by the Council, and the City Charter delegated the authority for day to day operations to the City Administrator.
- The Council could establish long range plans and could adopt tools that ensured that staff and the community could get from A to B. The Council could have a goal setting session to outline goals over the next year or two.
- Speaking with the Public/Press – Unless a Councilor had been given authority by the Council as a whole, an individual Councilor did not have the ability to speak on the Council's behalf.

Council Authority Recap

- Council authority required two things: 1. Legal Authority from the Law; and 2. A majority vote from the quorum of the Council.
- A Councilor had no individual authority to act on behalf of the City without prior authorization via Council action.

Individual Authority

- Individually, a Councilor did not have any authority.
- A Councilor was a member of a team and could discuss things and share views, but a quorum of a majority made the decision.
- It was important that if a Councilor could not support a City decision and was a dissenting vote on something that did pass, that they did not go out and work against a decision the Council had made.
- The Council did not have to agree on everything, as it was the value of democracy to bring a lot of different ideas, thoughts, and perspectives to the table. But it was important to remember that the majority ruled.
- The Council's job was as a policy maker and not the administrator. The City had a very capable City Administrator who had served the City well over a number of years and had moved up the ranks, so he knew City operations better than most City Administrators, having been the Public Works Director initially.
- When approached by a constituent, it would be helpful to have a script at hand. A Council member could listen, but it was important to respond that a Councilor individually had no authority and a question was one for the Council. The Councilor could direct a citizen to the Agenda Process Guidelines to submit an agenda item request form or invite them to attend a public meeting of the Council, where they could share under the public comment

period. If there were complaints, especially from volunteers or employees, make sure that those went through the proper chain of command.

- Acting outside the scope of a Councilor's authority was a source of personal and individual liability.

Changes to Agendas and Agenda Procedures

- The laws governing changes to the agenda and how items got on the agenda were set in the Agenda Process Guidelines. If the Council did not like something in those guidelines, the Council could amend that process. If a Councilor asked to make an exception to those procedures, staff and the mayor did not have the authority to approve that request because everybody was bound to those guidelines.
- An example was over the last couple of meetings she had heard individual Councilors asking to add Follow up to Public Comment as a regular agenda item. If the Council were to do that, it would need to change the Agenda Process Guidelines.

Councilor Wells suggested that the Council review the Council Agenda Guidelines at a future Council Work Session to see if they wanted to make any changes to it. He noted that there were items that used to be on previous Council meetings that were no longer on the agendas and they could look at that. Attorney Connelly responded that an individual Councilor could request this on an agenda request form and then it would be posed to the Council as whole. Administrator Knope added that one thing to keep in mind with the Agenda Process Guidelines was that at the end of the day, the Mayor had the final say of what went on the agenda and in what order, and that authority was outlined in the Charter.

Councilor Liability

- ORS 294.100 – A Councilor could be held personally liable for misexpenditure of funds. If the Council followed the advice of legal counsel on an expenditure, that could be used as a defense.
- Acting Outside the Scope of Duties – A Councilor could be held personally liable, and the City's insurance would not defend or indemnify the Councilor. Alone, a Councilor had no authority; the Council was a team that worked together.
- The City had the duty to defend and indemnify the Council or Councilors, if acting within the scope of their duties.
- Council decisions were protected by discretionary immunity. An example was if the Council made a decision as a whole that there were not sufficient funds to patch every sidewalk in town and resources were allocated accordingly but then someone fell on a sidewalk and got hurt, the individual Councilor and City would be protected because this was a discretionary policy choice that the Council made regarding the City budget.
- Acting inappropriately in an employer or supervisor role:
 - By Charter, the Council had two direct appointees: City Administrator and Municipal Judge. The Judge provided an annual report to Council. A recent ordinance also added some additional Council appointees, such as the City Attorney, City Prosecutor, City Engineer, and City Public Defender.
 - The Charter delegated day to day operational powers to the City Administrator. The City Administrator operated the City and hired/supervised City staff.
 - The Mayor acted as point person for the Council in its role as supervisor.

Ethics

Rule One: Do not use your position for Financial Gain.

- A public official is any person serving the City as an elected official, appointed official, employee, or volunteer.
- A public official could not use their position for financial gain or to avoid losing money for themselves or for a relative, member of their household, or business that they were associated with. The "but-for" test could be used that something would not be available to a public official "but-for" their position.
- An example of the "but-for" test was IPADs being issued to each Council member. A Council member discovered that they could access free movies on the City paid IPAD, which would result is a financial benefit and would not be available to that Councilor "but-for" their position.
- A relative was defined as your spouse, children, brother or stepbrother, sister or stepsister, parents or stepparents, son-in-law or daughter-in-law, and anyone whom the public official had a legal support obligation or provided or received employment benefits.

- Example: A Councilor's nephew would be applying for a job with their City. Nephew did not fall under the definition of a relative and even though the Councilor did not have an ethical obligation to disclose, Attorney Connelly advised him to disclose for transparency.

Rule Two: Gifts are limited; a public official is limited to receive \$50 per year per interested giver.

- A gift was defined in ORS 244.020(5) as something of economic value given to the public official, the public official's relative or household member without receiving value back (at no cost or at a discount) and not given to the general public on the same terms.
- Gift Rule: The public official, relative, or member of their household could not ask for or receive gifts over \$50 from any single source in one year if the source had an interest in your official actions (i.e., a decision or vote). Attorney Connelly recommended keeping a list of dollar amounts of gifts received and who gave those.
- A gift was not limited if it was a campaign contribution, present from a relative or household member, an unsolicited award or token of appreciation with resale value less than \$25, or information materials related to your official duties.
- A gift was also not limited if it was part of a customary private business practice not related to your public office, incidental food, beverage, and entertainment (usually free while standing up at an event and in your official capacity), or food, beverage and entertainment when acting in your official capacity representing the City (Example: A Councilor had received delegated authority by the Council to attend a Chamber event as a key note speaker, so the food, beverage, and entertainment would be exempt from the gift rule).

Rule Three – Declare Conflicts of Interest.

- An Actual Conflict of Interest was when an action, decision, or recommendation by a public official **will** result in a financial benefit or detriment to the public official, relative, or any business associated with the public official or relative.
- A Potential Conflict of Interest is when an action, decision, or recommendation **could** result in financial benefit or detriment to the public official, relative, or business associated with the public official or relative.
- Example Actual Conflict: A Councilor was going to be approving the budget and their relative worked for Public Works. The Councilor did not have supervisory control over their relative, so they did not have a direct conflict for that, but if they were approving a budget that also included that employee's compensation, they would have an actual conflict and have to declare that. The item would be pulled out separately and the Councilor could not participate or vote on that item, but they could participate and vote on the rest of the budget.
- Example Potential Conflict: A City Attorney was related to a Council member and the Council was approving a pool of attorneys who may or may not receive the City contract; this would be a potential conflict. The Council member would declare it but could still participate in the discussion and vote.
- "When in Doubt: Shout it Out"
 - State the nature of your conflict
 - Do it before voting or discussing a matter
 - Do it at each meeting where the issue would be discussed.
- When declaring an actual conflict, declare as noted above and refrain from discussion and voting. Attorney Connelly advised moving from the Council dais and going out of the room. Once the matter was over and the Council had voted, the Council member could return.
- It was not a conflict if the financial benefit happened because of membership in a class (any large, distinguishable group of citizens that the Commission determined was a class) or membership on an unpaid non-profit 501(c)3.
- The effect of failing to disclose a conflict was possible personal liability up to \$1,000 per violation.
- When in doubt and wanting an opinion about a conflict, a Council member could talk to Attorney Connelly, but only if the Mayor or City Administrator authorized that. A Council member could also speak directly to OGEC (Oregon Government Ethics Commission).

Conflicts of Interest and Nepotism Rules

- A public official could not appoint, employ, promote, discharge, fire, or demote a relative or member of their household unless the public official followed the conflict of interest rules and the public official may not discuss the employment action.

- A public official may not directly supervise a relative or member of the public official's household, except if the City adopted policies for direct supervision.

Councilor Ceniga noted that her husbands brother worked at Public Works. Attorney Connelly responded that was definitely a relative. When serving on the Budget Committee, Councilor Ceniga would announce at each meeting a potential conflict of interest, describe the relationship and his role for the City and then she could move forward and discuss the matter and vote. But when the budget came before the Council for consideration of adoption, she would declare an actual conflict of interest. The wage compensation for that employee would be broken out from the rest of the budget and she would not be able to discuss or vote on that item. But then after that item was discussed, she could return and discuss and vote on the remainder of the budget.

Attorney Connelly noted that was an example of two different roles and two different ways of handling that. She asked if Administrator Knope had that marked to address that. Administrator Knope responded that he did.

Mayor Ficek thanked Attorney Connelly for doing a great job. She also thanked Councilor Rowe again for his serve to the citizens of Junction City.

Councilor Thomas expressed thanks to Councilor Rowe for the time he had put in. She noted that he had been their numbers guys and kept them on the straight and narrow and would be missed.

4. Adjournment

As there was no further business, the meeting was adjourned at 8:05 p.m.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

Beverly A. Ficek, Mayor