

The City Council for the City of Junction City, met in regular session and in a work session at 6:30 p.m. on Tuesday, February 28, 2023 in the Council Chambers of City Hall, 680 Greenwood Street, Junction City, Oregon and in a virtual meeting format via internet and phone.

**PRESENT:** Mayor, Kenneth Wells; Council President, Karen Leach; Councilors Sandie Thomas, Sidney Washburne, Andrea Ceniga, John P. Gambia, and Ken Hancock; City Administrator, Jason Knope; City Attorney, Carrie Connelly; and City Recorder, Kitty Vodrup.

## REGULAR SESSION

### 1. Call to Order and Pledge of Allegiance

Mayor Wells opened the meeting at 6:30 p.m., led the Pledge of Allegiance, and took roll call.

### 2. City Councilor Oath of Office – Ken Hancock

Recorder Vodrup administered the oath of office to Ken Hancock for the position of City Councilor.

### 3. Wetland Delineation

Director Kaping presented the request for HBH Engineering to have a Wetland Delineation Study done by Cascade Environmental Group. This study was needed, as part of the Sewer Treatment Plant upgrade.

**MOTION:** Councilor Ceniga made a motion to authorize HBH to undertake the Wetland Delineation project with Cascade Environmental Group for no more than \$62,755 and authorize the Public Works Director to sign any related task orders or associated documents. The motion was seconded by Councilor Leach and passed by unanimous vote of the Council.

### 4. Council Committee Amendments

Administrator Knope presented the ordinance to combine the Community Services and Community Development Committees and the resolution to update the Committee Bylaws to reflect the combined Committee and add citizen members.

A. Ordinance No. 1 – An Ordinance Amending Junction City Municipal Code Chapter 2.10 to Combine the Community Services Committee with the Community Development Committee and Create a New Committee Entitled the Community Services and Development Committee.

Attorney Connelly read Ordinance No. 1 in full.

**MOTION:** Councilor Thomas made a motion to read Ordinance No. 1 by title only. The motion was seconded by Councilor Leach and passed by unanimous vote of the Council.

Attorney Connelly read Ordinance No. 1 by title only.

**MOTION:** Councilor Leach made a motion to adopt Ordinance No. 1. The motion was seconded by Councilor Washburne and passed by unanimous vote of the Council.

B. Resolution No. 1 – A Resolution Amending Resolution No. 850, which Established Council Committee Bylaws; and Repealing Resolution No. 1265.

Attorney Connelly stated that they should add a Section 4. Effective Date to the resolution that stated that the resolution would take effect when the amending Ordinance (Ordinance No. 1) went into effect.

**MOTION:** Councilor Hancock made a motion to approve Resolution No. 1, as amended. The motion was seconded by Councilor Ceniga and passed by unanimous vote of the Council.

### 5. Updated Committee Assignments

Mayor Wells made the following updated Committee Assignments:

#### Finance and Judiciary Committee

Karen Leach – Chair  
Andrea Ceniga  
Sandie Thomas

#### Public Works Committee

Sid Washburne - Chair  
John Gambia  
Sandie Thomas

**Public Safety Committee**

Andrea Ceniga – Chair  
Ken Hancock  
Sid Washburne

**Community Services and Development Cmte.**

John Gambie - Chair  
Ken Hancock  
Karen Leach

It was noted that each Committee would still appoint a Vice Chair. Administrator Knope added that the newly formed Committee would need to develop a combined Purpose Statement, as well as select a Vice Chair. He added they would also finalize the standing meeting date for the new Committee and move the standing Public Safety Committee into the available meeting slot at the first of the month.

**6. Adjournment of Regular Session**

Regular session was adjourned at 6:53 p.m.

**WORK SESSION****1. Call to Order**

Mayor Wells called the Work Session to order at 6:54 p.m.

**2. Council Training**

Attorney Connelly presented the first of two Council trainings. This training focused on Councilor Code: Authority, Ethics, and Public Meetings/Records:

**Authority****Boundaries**

Council authority, as a whole, extended to the City Boundaries. There was overlapping authority with the county in the Urban Growth Boundary and other overlapping authority with federal, state, cities, and fire and school districts.

**How Does Council Wield Their Power**

- The Council operated subject to the City Charter, which was voter approved.
- The Council approved Ordinances, Resolutions, and Policies.

**Council Rules**

- Council adopted Council Rules via Ordinance, pursuant to the City Charter. The rules should be regularly reviewed.
- When pointing to Council Rules, do so to clarify procedures and to make sure business was moving ahead smoothly as opposed to using the rules to stop a discussion.

**Agenda Progress Guidelines**

- What was included on the agenda was captured in the Council Rules. The Council approved Agenda Progress Guidelines set a procedure to allow business to get before the Council.
- A Councilor or citizen could submit an agenda request form to request an agenda item be discussed at a Council or Committee. A completed request form was submitted with the forecaster, and then the Council as a whole considered the request and decided whether they would like to add it as an agenda item at a future meeting.
- Staff prepared draft Council or Committee agendas with items from the forecaster and any business item staff needed to have acted on right away and then the agenda went to the Mayor or Committee Chair for review. Administrator Knope added that the Mayor or Committee chair could direct that items be put on an agenda.

**Council Authority Requires Two Things**

1. Legal Authority – Needed to be something within the City's jurisdiction.
  2. Numbers – Needed to have a majority vote from a quorum of the Council. Junction City quorum was the Mayor and four Councilors or four Councilors if one of them was the Council President.
- Individually a Council member had no authority to act or speak on behalf of the City without prior authorization or delegation via Council action. In any other capacity, like posting on Facebook, appearing publicly, or being at a Chamber meeting, a Council member needed to be very clear that they were there in their individual capacity. Especially in a small town, everyone knew they were a Council member. If a citizen approached a Council member to talk about City business, the Council member could listen, unless it was a land use matter,

and thank the citizen for their concern and encourage them to fill out a complaint form if a complaint, talk to staff about a matter, or bring to the Council at a public meeting.

### **Council Role: Policymaker**

- As a body, the Council set long range goals, managed Intergovernmental Relationships, legislated and deliberated, and did high level risk management as a group and not individually.
- The Council did not interfere with day to day administrative duties. (Council Rule 10.2 outlined this, "The Council sets policies and goals. The staff implements and administers the policies and goals.")

### **No Individual Authority**

1. Do not negotiate on the City's behalf.
2. Do not speak on the City's behalf
3. Do not influence or direct staff.

### **Council's Employment Role Limited**

- Per Charter, the Council hired the City Administrator and Municipal Judge.
- By Ordinance, the Council appointed the City Attorney, City Engineer, City Prosecutor, and Defense Counsel.
- All other employees were under the City Administrator.
- The Council did job performance evaluations for the City Administrator and could provide feedback on City operations.
- *Example: A Councilor did not like how the streets were maintained. Do not take that to the Public Works Director but take to the City Administrator, who would manage the day to day operations.*
- *Example: An employee jumped the chain of command and took an issue directly to a Council member. The Council job in this case would be to enforce the chain of command and reroute that employee to their supervisor and take that back through the proper Department Head and/or back to the City Administrator.*

### **City and Council Liability**

- If the Council spent funds outside of appropriations, there was not only City liability but there was potentially individual personal liability for those funds that were misspent. If the Council had acted, based on the advice of legal counsel, that was a defense.
- Individually acting on the City's behalf, could be subject to personal liability.
- If acting outside of appropriate employer/supervisor role, could expose the City to liability and potentially personal liability for the Council member.
- Ethics and Elections violations.
- Public Meetings – Improper Executive Sessions could expose a Council member to Oregon Government Ethics complaints and personal liability.
- Criminal Actions.

**\*\*The City will only defend the Mayor and Councilors for actions taken within the official scope of duty and delegated authority. The City will not defend the Mayor and Councilors for actions taken that exceed or are outside the official scope of duty and the individual Council member will have to hire their own attorney and incur those fees\*\***

Mayor Wells noted that City County Insurance really made a point of Council members not acting outside their scope of authority at a recent League of Oregon Cities meeting, as that subjects that individual to personal and financial liability. Attorney Connelly noted that the League of Oregon Cities provided fabulous conferences and workshops and she highly recommended Council members take advantage of those.

### **Ethics**

Attorney Connelly stated that if a Council member had questions on if something were an ethics issue, they could speak to Administrator Knope. If Administrator Knope thought the Council member should contact legal, then they could speak to Attorney Connelly directly. Attorney Connelly noted that Councilors did not have the authority to contact her directly and could do so only if the City Administrator or Mayor said it was okay. The reason was that no individual Councilor should be able to incur attorney's fees to the City.

Attorney Connelly circulated a copy of Oregon Government Ethics Commission (OGEC) *Guide for Public Officials* and noted this could be found on the OGEC's website. She stated that a public official could also contact OGEC directly if they had ethics questions.

### Who is a Public Official

- Elected and appointed officials
- Employees and volunteers

### Rules

1. Do not use your position for financial gain.
  - a. You are not allowed to get money or avoid losing money that you would not otherwise have access to, **BUT FOR** your official position. This extends to the public official, their relatives, and businesses that the official or relative are associated with.
  - b. *Example: City provided IPADS for use and an official discovered they could stream Netflix, not at their expense. If they use that Netflix account, they are not incurring an expense that they otherwise would have, but for this official position and that was an ethics violation.*
2. Gifts are Limited
  - a. \$50 per year from one source.
  - b. A gift was something of economic value given to the public official, relative, or member of public official's household, without receiving value back, and it was not given to the general public on the same terms.
  - c. The public official and the giver could be found in violation of ethics laws.
3. Declare Conflicts of Interest
  - a. Actual – There **will** be a financial benefit or detriment to the public official, relative, or associated business. Must announce and state the reason for an actual conflict, recuse oneself and not take part in discussion or vote.
  - b. Potential – There **could** be a financial benefit or detriment to the public official, relative, or associated business. Must announce and state the reason for a potential conflict and then you can take part in the discussion and vote.

\*\*\*When in doubt, shout it out\*\*\*

- State the nature of the conflict
- Do it before voting or discussing the matter
- Do it on the record
- Do it at each meeting the issue is discussed
- Failing to disclose an actual or potential conflict could result in personal liability up to \$1,000 per violation.

### Public Meetings

- A public meeting was when a quorum met to deliberate or decide City business.
- This included not only when a quorum was meeting in person and discussing or deciding City business but when there were serial discussions via email.
- *An example of a serial email discussion was when staff emailed the Council agenda to the Council and Council members started responding and replying all and discussed agenda items.*
- Currently a quorum of a Committee was two and when the addition of citizens members was official, three Committee members talking about Committee business outside a public meeting could be unlawful.

It was asked what if a Committee member, who was not the chair, wanted an item to be on a Committee agenda. Attorney Connelly responded that they would need to submit an agenda item request form, which would go to staff. Staff would then add it to that Committee's agenda forecaster and at the next meeting, the Committee as a whole would decide if they wanted to discuss it.

Attorney Connelly continued that if staff emailed the Council or Committee members on trying to arrange a time and date for a meeting, that would be considered an administrative matter and would not violate the public meetings laws. In the case of Handy versus Lane County, they had discussed substantive matters via email and that did violate the public meetings laws.

In response to a question on what constituted a Committee quorum, Attorney Connelly stated that currently there were three person Committees and a quorum was two. After 30 days when the ordinance and resolution took effect and once there were the additional two citizens appointed to a Committee, there would be a total of five members and then three would be a quorum, unless it was a personnel matter where a quorum would be two because the citizen members could not vote on personnel matters. She added that a public meeting was when a quorum of a body was together and were deliberating or discussing a matter.

### **Requirements of a Public Meeting**

Advance notice to the public, have an accessible location, voting needed to be recorded, needed records of the meeting via minutes, and must allow public attendance virtually or in person.

### **Junction City Meetings**

Per JCMC 2.05/Council Rule 3, the Council had the following types of meetings: regular, work session, special, and emergency.

### **Executive Sessions**

- Limited discussions according to state statute and not to be shared.
- No final decisions.
- Could not discuss anything outside the bounds of what the Executive Session was called under. If the conversation of Executive Session went outside of the scope of whatever it was called under, media could report on that discussion and possibly the whole discussion.
- Media were allowed to attend all Executive Sessions, except labor negotiations.
- Unlike the rest of public meetings laws, Executive Session compliance was governed and enforced by the OGEC, so a public official would be subjecting themselves potentially to personal liability of up to \$1,000 per violation.

### **Public Meetings Practical Tips: Do's**

- Set realistic agendas that did not go too late into the night.
- Review meeting materials in advance and be prepared for meetings.
- Keep the meeting formal and know your Council rules.
- Public attendance did not mean public participation. Even when the public was allowed to participate that did not mean there needed to be a back and forth conversation.
- Restate the vote and note if staff must follow up on any items.
- Get comfortable having discussions in public. *Example: Handy issue, where the Commissioners had discussions outside a public meeting on a topic and had already decided how they were going to vote and then when it came time to vote on a controversial issue, they voted immediately without discussion.*

### **Public Meetings Practical Tips: Don'ts**

- Avoid replying to emails when City business information is shared.
- Avoid conversations in person or via email between Councilors where the views of a fellow Councilor are shared. You might only respond to one Councilor, but you do not know what that Councilor was doing with that information and they could forward to a third Councilor who could forward it to a fourth Councilor, etc. That was how the Lane County Commissioners got into trouble through serial, electronic conversations. Two of the Commissioners had not had an email conversation directly, but when you looked at the string of emails, all of them had been discussing a certain issue.
- Avoid sharing firm opinions or views on items the Council would need to vote on outside of the public meeting. Have the conversations at the meeting.

### **Public Records**

- Public records were open to the public and were not intended to be kept confidential.
- There were few exceptions where public records were not disclosed.
- A public record included any writing that contained public business information that was prepared, owned, used, or retained by a public body regardless of physical form or characteristics.
- Included voice mails, electronic information, emails, texts, tweets, and Facebook posts.
- It was not required to create records, in response to a public records request.
- Even when a record was "exempt", often they were subject to public interest balancing test.
- Notes being written at a meeting were public record and subject to release.

**Emails**

- Attorney Connelly strongly encouraged Council members to use City assigned emails.
- She noted that City business emails sent and received from a private email were public records and subject to disclosure. If such emails were deleted on a private email, the Council member would need to retrieve those and possibly have to hire someone to pull those deleted emails off of their hard drive.

It was noted that a Council member did not use a City assigned email but had created an email just for City business. Attorney Connelly responded that was better than using personal email, but that member would need to make sure and save those City business related emails or copy the City Recorder on correspondence. If a public records request came in for those emails, that Council member would be opening their personal computer to seizure for those emails.

**Public Records Continued**

- City Recorder was the records custodian for the City.
- Use City assigned emails.
- Timelines: When a public records request came in, the City had five business days to acknowledge receipt and an additional ten days to provide the documents or a projected timeline.

**Councilor Access to Public Records**

- A Council member did not have any greater access to public records than an individual member of the public, unless it was something a Council member had been delegated authority or requested by the full Council.
- An individual Council member needed to submit public records requests, just like members of the public.
- City staff was super responsive and if a Council member asked them for something that pertained to the Council member exercising their authority in their Councilor capacity or trying to get background on something because they were new to the Council, staff would assist that member. But what Attorney Connelly did not want was for staff to be running ragged responding to Council member personal individual requests, taking staff time away from actual city business that the Council as a whole had asked them to take care of.

**3. Adjournment**

As there was no further business, the meeting was adjourned at 8:21 p.m.

ATTEST:

APPROVED:

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Kitty Vodrup, City Recorder

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Kenneth Wells, Mayor