

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, March 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, and Ken Hancock; Excused Absence: Councilor John P. Gambee; 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. Intergovernmental Agreement – Baker City

Administrator Knope presented the Intergovernmental Agreement for the City of Junction City to provide A level electrical inspections and plan review services to the City of Baker City.

**MOTION:** Councilor Leach made a motion to enter into an Intergovernmental Agreement with Baker City for A Level inspections and A Level Electrical plan review services and authorize the Public Works Director to sign the necessary documents. The motion was seconded by Councilor Washburne and passed by unanimous vote of the Council.

### 3. Function 4 Junction Street Closure Request

Administrator Knope presented the street closure request for the annual Function 4 Junction. Councilor Washburne asked if they would be putting out concrete barriers and making sure they had enough staff to control traffic so they would not have the traffic problems like last year. Administrator Knope responded that the type of barriers would be the same as what was used last year, and he would follow up with the Function 4 Junction representatives on having the appropriate number of people on hand for the event.

**MOTION:** Councilor Ceniga made a motion to approve the street closure request for the Annual Function 4 Junction on June 2<sup>nd</sup> and June 3<sup>rd</sup>, 2023 as conditioned in Attachment B with the nonexclusive use of city streets for street closure from 5:00 p.m. to 10:00 p.m. on June 2<sup>nd</sup> and from 5:00 a.m. to 10:00 p.m. on June 3<sup>rd</sup>. The use of City streets will apply to the route shown in Attachment A, contingent upon approval from the Oregon Department of Transportation. The motion was seconded by Councilor Leach and passed by unanimous vote of the Council.

### 4. Street Closure Request – Function 4 Junction Swap Meet

Administrator Knope presented the street closure request for the Function 4 Junction swap meet.

**MOTION:** Councilor Thomas made a motion to approve the street closure request for the Annual Function 4 Junction Swap Meet on April 7<sup>th</sup> and April 8<sup>th</sup> as conditioned in Attachment B with the nonexclusive use of city streets for street closure from 04-07-23 at 5:00 p.m. to 04-08-23 at 5:00 p.m. The motion was seconded by Councilor Hancock and passed by unanimous vote of the Council.

### 5. Adjournment of Regular Session

Regular session was adjourned at 6:46 p.m.

## WORK SESSION

### 1. Call to Order

Mayor Wells called the Work Session to order at 6:46 p.m.

### 2. Council Training

Attorney Connelly presented the second of two Council trainings. This training had a brief review of items from the first training and review of Public Contracting and Land Use Procedures.

#### Individual Authority

- Council members did not have individual authority to act or speak on behalf of the City without prior authorization via Council action.
- Agenda Items – The Council, as a whole, considered and approved agenda item requests.

- Public Records Requests – Council members submitted records requests same as citizens.
- Directing Staff/City Operations – Council members did not direct staff or provide direction to the City Administrator on day to day operations.

### **Executive Sessions**

- Limited legal exceptions for what could be discussed in Executive Session.
- Stay within the bounds of what the Executive Session was called under.
- Council members should not talk about anything covered in Executive Session outside of the Executive Session with anyone.
- If discussion exceeded exemption or a Council member talked outside of a session, media could arguably report on everything heard or request related public records.

### Public Contracting

(Public Contracting Flow Chart was distributed at the meeting)

### **Types of Contract**

- Goods and Services – Example, Tyler Software. (279B/Division 47)
- Public Improvements – Example, Public Works fence. (279C/Division 49)
- Regulated Personal Services – Usually architects and engineers. (279C/Division 48)
- Exempt Personal Services – Example, Local Government Law Group or Municipal Judge contracts. Could be procured based on qualifications, not necessarily price. (Exemption E-17)
- Flow chart showed each type of contract and the process to follow on each, depending on price.
- Junction City's public contracting was not only governed by state law and the City's rules, but there was a code provision, JCMC 3.30, that required Council approval of almost all City contracts. The kinds of contracts that would come to Council were those that were over staff spending thresholds. Exemptions from Council review were city facility and equipment rental agreements that were approved by council resolution or routine purchase orders and bills of sale which fell within delegated purchasing authority and spending limits established by Council resolution.

### **Types of Procurements**

- Direct - Awards were allowed with no competitive bid requirements for all contracts of \$10,000 or less.
- Informal – Three quotes. \$10,000 and up to the formal procurement limit, which changed between the kind of contract you were talking about.
- Formal – Over the formal procurement threshold, which was over \$100,000 or \$150,000, depending on the type of contract. Would issue a full solicitation (Request for Proposals).

### **Exemptions**

- Exemptions were in the public contracting rules and could be by class or by contract.

Attorney Connelly noted that when the Council reviewed the updated public contracting rules (coming to Council after budget), they would be members of the City Council and would also be members of the Local Contract Review Board.

### **Spending Authority**

- Resolution No. 1004 set spending authority.
- City Administrator – Up to \$15,000 and in an emergency up to \$25,000. Anything over those thresholds would come to the Council.
- Department Heads – Up to \$5,000 and in an emergency up to \$10,000

### Land Use Procedures

#### **Heavily Regulated by State Law**

- 50 years ago, Governor McCall asked the legislature to protect Oregon lands and since that time, Oregon land use had been ahead of the country in terms of protecting the state's natural resources. The land use laws tell us what we need to protect, how to plan, and set up a procedure for how land use decisions need to be made.
- Land use was governed by state statutes, Statewide Planning Goals, Oregon Administrative Rules, and the City's Comprehensive Plan, Zoning Map, and Development Code.

**Legislative Actions**

- Council was qualified to make legislative decisions. Example: Approval of City's Comprehensive Plan. The Planning Commission would recommend language, but only the Council could make changes.
- If a development code change was needed, it needed to comply with the City's Comprehensive Plan.
- If a Comprehensive Plan change was needed, it needed to comply with state law and the Statewide Planning Goals.

**Quasi-Judicial Actions**

- Quasi-Judicial meant "like a judge."
- So instead of adopting language that was going to apply citywide (Legislative), the Council would be deciding specifically what a person could do with their land.
- Must figure out what was allowed by the code and the application needed to be aligned with code. If there were code provisions that the Council did not like, they could look at doing possible amendments for the future, but not for the application under consideration.
- Public Testimony could not be taken into consideration if it did not specifically address applicable criteria.
- Quasi-Judicial actions:
  - Applicant initiated for one property or a very few number of properties.
  - Required notice to be sent to the public within a certain number of feet, depending on the kind of application.
  - Hold a public hearing at Planning Commission and Council
  - Script was provided to Planning Commission chair and Mayor, as state law required certain things be read into the record.
  - Professional staff provided a written decision and findings. Staff went through all the applicable criteria and put that in the staff report and findings.
  - For most land use applications, they had to be decided within 120 days. Some land use for low income needed housing must be decided within 100 days.

**Impartial Decision Making for Quasi-Judicial Actions**

- Must have no Bias – A Council member could not come in and know already how they were going to vote, as the point of the hearing was to get testimony to inform their decision. Make sure to come in with an open mind.
- No Exparte Contacts – Contacts outside of the record, whether it was a site visit, a newspaper article, talking with a constituent, or obtaining any information about the application.
- No conflict of interest – Actual or potential (covered in last training).
- If the application meets the applicable criteria, the Council member would vote to approve, despite:
  - Personal concerns
  - Feelings or impressions on material outside of the record
  - Do not do personal research outside of the record. The Council was functioning as a judge and did not get to develop evidence. That was the responsibility of the applicant or others, such as an opponent.
  - Applicant's trac record or financial wherewithal.

**Prejudgment Bias**

- Means you were incapable of basing decision on evidence and argument presented. If you could not do that, you would need to announce that you had prejudgment bias and could not fairly decide this and step aside. If a prejudgment bias was proven in a LUBA (Land Use Board of Appeals) appeal, it would not just impact the Council member personally, it would invalidate the whole decision.
- If there were claims that a Council member was biased, a Council member could state on the record that they could make a fair and impartial decision based solely on the record and still serve as a decision maker, unless there was concrete prejudgment bias otherwise, such as a Councilor making it clear when running for the position that they were running to oppose a land use decision.

**Exparte Contacts**

- Governed by state statute.
- Best to avoid exparte contacts all together.
- If a Council member had communicated in writing about an application, bring writing in and put it in the record, because that gave everybody full information about communications that

were had. Example: If a Council member had had exchanges on Facebook in advance of a hearing, that would disqualify that Council member as a decision maker unless they print that Facebook page and bring it in or read it into the record.

- If a Council member had a conversation with someone in a grocery store, refer them to staff or tell them to come to the Council meeting.
- Communications with staff were not exparte contacts

**Practical Tips for Handling Ex Parte**

- Think of yourself as a judge. The only communication a Council member should have with participants was in the hearing itself.
- Develop your own script to politely turn folks away from the topic.
- Keep track of any contacts that get through and write down the conversation.
- If the public hearing was continued or was closed but a final decision had not been reached, a Council member must be extra vigilant to not have ex parte contacts or talk with anyone on this issue.

**Staff Reports/Findings**

- Available to public 7 days before hearing
- Sets out all applicable criteria
- Provides proposed decision with supporting findings and conditions
  - The findings explain why a decision is made and ensures that all legal standards and applicable criteria are met.
  - LUBA (Land Use Board of Appeals). That is an administrative body that was created by state law to hear land use decisions. If there an appeal of a land use decision made by Council, that can be appealed to LUBA. LUBA looks at the City’s decision and that is why you want the findings to be comprehensive.

**3. Adjournment**

As there was no further business, the meeting was adjourned at 7:52 p.m.

ATTEST:

APPROVED:

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Kitty Vodrup, City Recorder

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Kenneth Wells, Mayor