

The City Council for the City of Junction City, met in regular session at 6:30 p.m. on Tuesday, September 14, 2021 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, Beverly Ficek; Council President, Ken Wells; Councilors Sandie Thomas, Sidney Washburne, Andrea Ceniga, and John Gambee. Excused Absence, Councilor Karen Leach; City Administrator, Jason Knope; City Attorney, Carrie Connelly; Police Chief, Bob Morris; Public Works Director, Gary Kaping; Finance Director, Mike Crocker; Planning Technician, Tere Andrews; and City Recorder, Kitty Vodrup.

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.

2. Changes to the Agenda

Mayor Ficek added Library Board Appointments after Agenda Item 8.

3. Approval of Minutes – August 10 and 24, 2021

MOTION: Councilor Washburne made a motion to approve the August 10, 2021 minutes. The motion was seconded by Councilor Ceniga and passed by unanimous vote of the Council.

MOTION: Councilor Washburne made a motion to approve the August 24, 2021 minutes. The motion was seconded by Councilor Wells and passed by unanimous vote of the Council.

4. Public Comment on Items not Listed on the Agenda

Ms. Cathie Campbell, 554 Kalmia Street, Junction City, asked: Had the City received the ARPA funds from House Bill 5006; were those funds approved as earmarked by Senator Manning; and would the funds cover the entire purchase price, remodel, and closing costs of the new Police Department building and if not where would those funds come from. Mayor Ficek responded that the City would get back to her with answers.

Ms. Cindy Montgomery, 1215 Oak Street, Junction City, stated that in the last year, she had referred two businesses to the Revolving Loan Fund. Both businesses came back to her saying that the Committee was not active, due to the need for Committee members; therefore, she decided to submit her application. She noted that the Revolving Loan Fund (RLF) Committee was the only Committee that had non-staggering appointments, which caused this Committee to become non-existent every two years. She hoped the Mayor, City Council, and Finance and Judiciary Committee could take a look at this and resolve it.

Ms. Montgomery continued that twice Mayor Ficek had stated that she would never appoint Ms. Montgomery to the RLF Committee, and Ms. Montgomery felt those comments were rude and inappropriate. She stated that the Mayor and the City Council should be held to the same standards of conduct as City employees. She appreciated the support from those Council members who supported her application to this Committee. She did feel that the Committee was important to the Junction City businesses, which was why at this time, she had decided to rescind her application for the RLF Committee.

Mayor Ficek thanked Ms. Montgomery for her comments and noted that they did have the RLF Committee appointments on the agenda tonight. Mayor Ficek continued that she had spoken to Ms. Montgomery previously and apologized that Ms. Montgomery had taken offense to any of Mayor Ficek's actions and she apologized again tonight.

Councilor Thomas stated that Ms. Montgomery was one of the first to submit her application, and she felt that the Council did her an injustice.

5. Soroptimist Proclamation

Mayor Ficek read a proclamation, proclaiming October 3, 2021, Soroptimist International of Junction City Day throughout Junction City, OR USA, congratulating the Soroptimist for its 100th anniversary and celebrating the Junction City Club for their many contributions to our community.

6. Public Hearing (Continued) – Zoning Code Text Amendment Regulating Mobile Food Units (File #AMD-20-19)

A. Public Hearing - Mayor Ficek read the required public hearing script and asked if the Council had any conflicts of interest. There were none. She announced the public hearing would be recommenced at 6:42 p.m.

Staff Report

Planning Technician Andrews stated that at the August 10, 2021 public hearing, the Council heard a staff report and took testimony; through that testimony, staff was asked to bring back information about adding language to the proposed code to require liability insurance from the Mobile Food Unit operator. She researched to see if other similar sized cities in this part of Oregon required liability insurance, but there were none; however, she did find one similar sized city along the coast that did require it. In addition to that research, the City's legal counsel was consulted and through that process, the City's insurance carrier was also consulted regarding this proposed language.

Technician Andrews continued that the feedback from the City's insurance carrier was the liability insurance was a great idea for the property owner who was looking to rent space to a Mobile Food Unit operator, but they had some hesitation regarding the City making this a requirement. They saw some drawbacks, which included: potential of a discrimination suit being filed if other types of temporary use permits other than the Mobile Food unit were issued and they did not require similar liability insurance, which could be a problem for the City. The other concern was that if a Mobile Food Unit permit were issued and the City staff member mistakenly issued it without requiring to see the insurance coverage, that could also come back on the City as a problem. Technician Andrews noted that the proposed code language was written with those concerns in mind, and she read that language, "The applicant provides proof of valid Lane County Mobile Food Unit License. License must be valid for the duration of the City of Junction City Mobile Food Unit Permit." She noted that this clarified previous criteria language that the Lane County license had to be valid during the entire period of the license. She continued to read the proposed code language, "The applicant provides proof of general commercial liability insurance coverage for the licensee's operations in an amount not less than \$1,000,000 per occurrence and \$2,000 aggregate. In addition, the applicant shall provide proof of property damage insurance coverage in an amount not less than \$100,000 per occurrence and \$500,000 aggregate. While proof of such coverage must be submitted by applicant, City is not required to determine the accuracy or completeness of the proof provided. Applicant is solely responsible for maintaining valid insurance coverage for the duration of the City of Junction City Mobile Food Unit Permit."

Technician Andrews stated that the other thing that she wanted to point out was that the related code language, Junction City Municipal Code Chapter 17.145.010 authorized the Council, the Planning Commission, and an individual property owner to initiate an amendment, and the City Council initiated a code amendment to regulate Mobile Food Units at their meeting on August 11, 2020. She went over the history at the August 10, 2021 Council meeting during staff reports and unless there were questions regarding that, she would not be going over that again.

Attorney Connelly stated that she wanted to let the Council know that because they recognized that the insurance coverage addition was a policy choice for the Council, they had included two separate Exhibit B's: Version 1 included the insurance requirements and Version 2 was without the insurance requirements.

Mayor Ficek asked if Councilors had any questions of staff.

Councilor Ceniga stated that she was a little confused as the proof of such coverage must be submitted by the applicant, but the City was not required to determine the accuracy or completeness. She asked if the applicant would just need to tell the City that they had insurance or would they have to show proof of insurance.

Attorney Connelly responded that proof of coverage would need to be submitted, but the City would not call the insurance carrier or double check that the insurance was accurate. If the proof of insurance document showed that they had \$1,000,000 coverage and they really only had \$10,000 in coverage, that kind of follow up by staff would not occur, as they were trying to eliminate the City's liability for not following up to that level.

Councilor Washburne stated that he just wanted to make sure that the Mobile Food Unit had to meet state health codes and fire codes to operate in the City. Technician Andrews responded they would have to meet those.

Councilor Wells expressed appreciation for the two Exhibit B documents. He appreciated how Technician Andrews and Attorney Connelly had explained this, as it was very cut and dried and that was important for the Council in making the overall decision.

Mayor Ficek stated that she would ask for public testimony.

Proponent Testimony

Ms. Tess Gardner, 810 Birch Street, Junction City, asked for clarification that there were two different ways for the code amendment, one with insurance and one without. Mayor Ficek responded that was correct and thanked Ms. Gardner for her question.

Neutral Testimony

Ms. Cindy Montgomery, 1215 Oak Street, Junction City, stated that she was on the Planning Commission and the insurance issue did not come before the Planning Commission. She continued that she was a business owner that had to give lots of different people her insurance; you list someone as an additional insured and they automatically receive notification of all your insurance changes.

Mayor Ficek thanked Ms. Montgomery for her comments and asked if Council had any questions.

Councilor Gambie asked for clarification from staff, as it felt like they were requiring something but not really taking responsibility for requiring it.

Attorney Connelly responded that this was her attempt to protect the City from liability that it probably did not want to assume, while trying to also ensure citizens in the area were safer per the testimony at the last hearing. She continued that her general recommendation was not to require liability coverage of permit applicants because mistakes in that coverage or lapse of coverage had been held to be the city's responsibility and she did not think the City would want a Type I review to impose inordinate amounts of review time on its staff. The language could be changed if the Council wanted to, and she was just trying to protect the City.

Councilor Gambie stated that the Council heard that testimony at the last meeting and tasked staff with that job; he appreciated how staff had tried to address those things.

Opponent Testimony

None.

Questions from the Council

Mayor Ficek asked if the Council had any questions.

Councilor Thomas asked if they were talking about the Exhibit B option with or without insurance. Mayor Ficek responded with the liability insurance.

Councilor Thomas stated that she thought requiring the insurance was a good idea. She added that they had heard from a Mobile Food Cart owner at the last meeting about the insurance and it sounded good.

Mayor Ficek asked about the name of the person who had testified and the insurance she had referred to. Technician Andrews responded that Ms. Tess Gardner had provided the testimony. Attorney Connelly added that the insurance she had referred to was FLIP (Food Liability Insurance Program), which was covered by the first criteria requirement in the Exhibit B Version 1 with the insurance.

Attorney Connelly added that this was a policy decision that the Council got to balance liability to the City and protection to its citizens.

Mayor Ficek asked if there were further comments and questions from staff or Council. There were none.

Mayor Ficek closed the public hearing at 6:59 p.m.

City Council Deliberation and Decision

Mayor Ficek asked for Council deliberation.

Councilor Washburne stated that he was in favor of having insurance because all businesses had to have insurance in case something happened, and he thought they needed that for liability in the City.

Mayor Ficek asked Attorney Connelly to restate why it may not be in the City's best interest to include the requirement for insurance. Attorney Connelly responded that the liability insurance that the City would be requiring was intended to protect the property owner and patrons of the Mobile Food Cart, and her position was that this was something that the lessor or the private property owner on who's property the Mobile Food Cart was placed, would be requiring from their lessee. If the City imposed that requirement and something went wrong with the insurance, like the coverage was not the amount that the City required by code or the coverage lapsed during the middle of the permit term, the Oregon Supreme Court had determined that the City could be held liable for not fully enforcing its code.

Attorney Connelly continued that she did not like to put code language in where there was a chance it might not be enforced and that staff was in kind of a tough position having to ensure that the insurance was carried in the right amount and through the years; whereas, that coverage would be obtained anyway, whether the City required it or not. And if it was not required by the City, then the lessor/property owner, would take care of it rather than having the City added to the list of names added in the lawsuit. She added that this was a precautionary measure.

Councilor Washburne asked if they could include language that the property owner would have to have a certain amount of dollars of insurance. Attorney Connelly responded no and the property owner who was leasing the plot to the Mobile Food Cart owner, would require that from their lessee, the Mobile Food Cart owner. Instead of this language being in the City's code, she thought it would make sense for it to be in the property owner's lease; the City could not require the property owner to include that in their lease, but it was inconceivable that they would not include that requirement. She added that was her perspective and she was being careful and sharing for Council consideration but was not telling the Council what to do, but just trying to explain the concern.

Councilor Ceniga asked for clarification that if they wrote something in the code to require insurance, there was a potential chance for liability to come back on the City, but if they did not put anything in the code, the responsibility would fall back on the property owner that allowed the food trucks on their property.

Attorney Connelly responded maybe and probably. What they knew was that if the Mobile Food Cart owner did not carry the proper amount of insurance and the food cart fell over on somebody, they would have a claim against the Mobile Food Cart owner and then they would probably also name the property owner, who would have required the Mobile Food Cart owner to carry insurance. The property owner would know that they would likely get named in a suit by somebody hurt by the Mobile Food Cart owner. If the City required this liability coverage, then in addition to the Mobile Food Cart owner and the property owner, the City could be named in that suit as well.

Councilor Ceniga asked if the City did not require anything, then the City could not be named in any sort of a lawsuit. Attorney Connelly responded that the City would probably not be named, but they could say the City never should have issued a permit or the person did not satisfy any of the other criteria either, but this was just adding one criteria that imposed some level of duty on City staff. She continued that Attorney Williamson had explained the case previously, which was a City of Eugene case; the City of Eugene issued a permit for a taxicab to operate. The City required \$100,000 of coverage. The taxicab owner only had \$10,000 in coverage, and the City was held liable for that difference when somebody was injured by that taxicab owner.

Councilor Wells asked what would stop a lawyer from going after the City, whether they had the insurance language or not. Attorney Connelly responded that was a good point, and the City could not stop them, but the City might have a better defense.

Councilor Wells asked for clarification that if they had no insurance requirement in the Code, they would have a better defense than if they had specific guidelines, but as stated on page 10, those requirements would fall back on the food truck person to have that insurance and it said that the City did not have to check it. He felt that they were getting two positives versus no negatives.

Attorney Connelly responded that was why she drafted the language that way. She was trying to point the finger away and not at the City but at the Mobile Food Cart owner. She just needed to make sure everybody was aware that adding a requirement for insurance coverage raised

the possibility of suit against the City, regardless of how she drafted the language and she tried to draft it very carefully.

Mayor Ficek stated that to summarize, the insurance company said that in their opinion, the property owner should have this liability insurance requirement but not the City and the City's legal counsel was saying the same thing. So if someone did get hurt on the property, they would sue the cart and the property owner and it would be less likely that the City would be named in the suit, if the City did not require liability insurance. She asked Attorney Connelly if that was correct.

Attorney Connelly responded that was a good summation. She continued that she wanted to point out that it was a close call and was a close enough call that the City's insurance, CIS (City County Insurance), was not heavy handed about its best practices. If the City imposed this requirement, CIS was not going to increase the City's deductible or otherwise going to affect the City's coverage. CIS recognized the risk, but they did not think it was a huge risk. She added that she wanted to point out again that while raising these issues, it was not an open and shut matter and was a valid policy choice.

Mayor Ficek stated that was another facet to it that the City's insurance company would not raise the City's premiums. Attorney Connelly responded that was right.

Mayor Ficek asked the Council how they would like to proceed.

Councilor Ceniga stated that she was going to throw out a possible recommendation that they not make the decision tonight, but take a little more time to think about this, because she did not feel like she was ready to make a decision tonight.

Mayor Ficek asked how the rest of the Council felt about putting this off until the next meeting in two weeks.

Councilor Thomas responded that was fine with her.

Councilor Wells stated that there were two options for the ordinance adoption, and asked if the recommendation from Councilor Ceniga was to do Option A, where the ordinance was read in full tonight and then would be read by title only and considered at the next meeting.

Mayor Ficek asked if this would cause a problem with staff or legal counsel if they decided not to do anything tonight.

Technician Andrews responded that the one consideration would be that the Beer Station was operating under a Temporary Use Permit. A Temporary Use Permit was valid for one year with the possibility of two extensions through the Planning Commission. The Beer Station had received their second extension last November; therefore, their permit would run out on November 21st, and they would not be eligible for another extension.

Councilor Gambia expressed his agreement with Councilor Ceniga that this caught them off guard a little bit tonight, through no fault of anybody, but it was just an interesting question. They lived in a society that had a lot of litigation and as such, they were stuck kind of straddling the fence. He thought Councilor Washburne's initial suggestion that they require some insurance was a good suggestion, and Attorney Connelly came back with a good suggestion that the City did not want to do that but could urge it with this language. At this point, he was in favor of the compromise between those two where the City urged it but did not take responsibility on the City to enforce it.

Councilor Washburne stated that if they put this out further, then that meant the Beer Station would be out of compliance by the time they actually voted, because it had to go 30 days before it went into effect. Director Kaping confirmed that the ordinance would not go into effect until 30 days after the Council voted on it.

Mayor Ficek asked about public comment if they extended this out two weeks. Technician Andrews responded that they had closed the public hearing and the record tonight and if they wanted to reopen for public testimony, there would be a 20-day notice requirement to reopen the public hearing. Attorney Connelly responded that was true if they were to reopen the public hearing, but deliberations could continue as long as testimony was not taken from the public.

Mayor Ficek asked if Council deliberation could continue in two weeks. Attorney Connelly responded that it could and said that the hearing was closed so no more testimony could be taken. The Council could talk about this in two weeks or they could entertain a motion tonight. The Council options on page 3 of the AIS (Agenda Item Summary) read that the Council could adopt the ordinance, provide staff with other direction, or deny the request. If the Council chose to continue the deliberation, they would be providing staff with other direction to bring back to a future meeting.

Mayor Ficek asked if they needed a vote on that. Attorney Connelly responded that a motion would be helpful to know what direction staff was receiving.

Councilor Wells asked what information staff was going to bring back in two weeks that the Council did not already have to make a decision tonight. He noted that they had Version 1 with insurance and Version 2 without insurance. He asked which one Councilor Gambee liked.

Councilor Gambee responded that he liked the one that the application required insurance, but the City would not enforce that but left it on the property owner to enforce. He was not sure if that was version 1 or 2. Technician Andrews responded that was Version 1.

Councilor Gambee stated that he was not opposed to what Councilor Ceniga talked about in bringing this back in a couple of weeks, but what Councilor Wells said was a good point. Unless they directed staff to bring back more information, they were going to have the same information. They would have more time to think about it and get clearer on where they stood, which he thought was what Councilor Ceniga was saying.

Councilor Ceniga stated that she just wanted to make sure that the verbiage was right. She asked if the Council was happy with Version 1 with insurance, which Councilor Gambee had liked.

Councilor Gambee stated that right now, he was in favor of Version 1, because he thought it was a compromise that Councilor Washburne had brought up but did not take the liability on the City.

Technician Andrews noted that Version 1 could be found on page 10 of 26, Exhibit B, and C2 was where they language had been placed for the insurance that she had read earlier. She said she would be happy to read it again.

Mayor Ficek asked Technician Andrews to read it again. Technician Andrews read: "The applicant provides proof of general commercial liability insurance coverage for the licensee's operations in an amount not less than \$1,000,000 per occurrence and \$2,000 aggregate. In addition, the applicant shall provide proof of property damage insurance coverage in an amount not less than \$100,000 per occurrence and \$500,000 aggregate. While proof of such coverage must be submitted by applicant, city is not required to determine the accuracy or completeness of the proof provided. Applicant is solely responsible for maintaining valid insurance coverage for the duration of the City of Junction City Mobile Food Unit Permit."

Mayor Ficek asked if anyone else had questions. She expressed her agreement with Councilor Wells and was not sure what staff would bring back that they did not already have in front of them tonight.

Councilor Wells stated that staff had done a good job and the way Attorney Connelly had drafted the language covered all bases in what they had wanted when they discussed this before. He would go along with Councilor Gambee and agree with Version 1.

Mayor Ficek asked Councilor Ceniga if she had questions or if there was more information that staff could give. Councilor Ceniga responded that she had re-read this two more times tonight, for a total of about five times now. She thought Attorney Connelly was the one that said this kind of took the liability off the City but at the same time they were putting it in writing so there would still be liability. She asked if that were correct.

Mayor Ficek responded there would be and said that if someone got hurt by the food cart, they would sue the cart owner, property owner, and there was a possibility that the City might get sued, but not for sure. She asked Attorney Connelly if that was correct. Attorney Connelly responded that was right and a claim would only come against the City, if the insurance the City was saying had to be in place was not in place and if there was no coverage for the

damaged individual. Then they would turn to the City and the City would point to the language that the City was not required to determine accuracy or completeness. The City would try to point out that it was still not responsible because it said up front that the City was not responsible. She added that she just wanted to be clear, the claim against the City would only happen if the insurance was not in place.

Mayor Ficek asked if that helped. Councilor Ceniga responded yes.

Mayor Ficek asked if there were other Councilor questions or comments.

Councilor Wells stated that this had been a long process and he thought the Planning Commission deserved a real word of encouragement for the job they had done for the City. Mayor Ficek expressed her agreement.

Councilor Wells continued that he thought they had discussed it very well as a Council too and he expressed appreciation. They had taken a lot of time and he thought they were getting to the end of what they wanted. Mayor Ficek expressed her agreement. She asked how the Council wanted to proceed.

Councilor Washburne stated that he thought it was time to figure out what they were going to do and take a vote on it one way or the other.

Attorney Connelly asked Mayor Ficek if she wanted her to read the ordinance in full and then the Council could see if there was a motion. Mayor Ficek responded that she would be delighted to have Attorney Connelly do that.

B. Ordinance No. 1 – An Ordinance Amending City of Junction City Municipal Code Chapters 17.05 Introduction and Definitions, 17.135 Temporary Use Permit, and 17.150 Administration, Enforcement and Interpretation to Permit Mobile Food Units in Commercial Zones.

Attorney Connelly read Ordinance No. 1 in full.

Councilor Wells asked if they needed to include in the motion which Exhibit B version they were approving. Attorney Connelly responded that she had inserted in the reading of the ordinance that it included Exhibit B Version 1.

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

Attorney Connelly read Ordinance No. 1 by title only.

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

C. Public Comment on Mobile Food Unit Fee

Technician Andrews stated that before the Council was Resolution No. 1, which would adopt an annual \$100 fee for the temporary use permit for Mobile Food Units.

Mayor Ficek asked if there were any public comments on this fee.

Ms. Cathie Campbell, 554 Kalmia Street, Junction City, asked if a business that had a two-day event would still have to pay the \$100 permit fee. Technician Andrews responded that the ordinance the Council just adopted had a section for exceptions, and there was an exception for an event like a Mobile Food Cart being invited by the property owner for something like a weekend grand opening; in that case, no permit fee would be required.

Ms. Cindy Montgomery, 1215 Oak Street, Junction City, asked if there was a limit on how many food carts could be on a location. Technician Andrews responded that there was not a certain number and what limited how many carts could be on a location was the siting of the carts themselves. The carts had to meet setback requirements and could not impede traffic or pedestrian walkways, which would limit the number of carts that could be on a particular property for safety reasons.

MOTION: Councilor Wells made a motion to approve Resolution No. 1. The motion was seconded by Councilor Washburne and passed by unanimous vote of the Council.

7. **Tri-County Chamber Report**

Executive Director Rick Kissock reported: Many visitors stopped by their office during the Scandinavian Festival, and they were seeing a general increase in visitor and relocation inquiries. While some local businesses were still struggling with COVID issues, there were signs that the economy was moving forward with some new businesses opening in the area. They were doing numerous ribbon cuttings, holding monthly networking breakfasts, and lunch forums and he appreciated the participation from Council members. The Chamber held their golf tournament last weekend. On Thursday they would hold their annual meeting and awards lunch honoring Junction City Farm and Garden as small business of the year, Hurd's Hardware as large business of the year, and the Junction City Moose Lodge as the organization of the year. The Chamber Board would be reading a proclamation to honor all the Chamber member businesses and organizations for their outstanding efforts the past 18 months to continue in the face of adversity brought on by the pandemic. Cathie Campbell and Cindy Montgomery were planning a job fair with Workforce Lane County to take place the end of September or early October. Annual distinguished service awards banquet would be held on November 4th, honoring volunteers from Junction City, Harrisburg, and Monroe; nomination forms were available at the Chamber office. Plans were underway to hold the annual Christmas Light Parade – December 3rd in Junction City, December 4th in Harrisburg, and December 11th in Monroe. Plans for spring included the annual dinner and auction event and the inaugural Taste of Tri-County and Business Expo which would be held in Harrisburg. The Chamber continued to look forward to working together with the City on matters of economic development, as the City grew in population and business activity.

8. **JCHS Noise Parade Street Closure Request**

MOTION: Councilor Ceniga made a motion to approve the street closure request for the JCHS Homecoming Noise Parade on September 22, 2021 from 6:00 p.m. to 8:30 p.m. The motion was seconded by Councilor Wells and passed by unanimous vote of the Council.

9. **Library Board Appointments**

Mayor Ficek distributed copies of Library Board applications from Laura Brown and Nancy Sabin. She wanted to make Library Board appointments tonight, as she thought it was important for the new Library Coordinator to have a full board.

MOTION: Councilor Gambie made a motion to appoint Laura Brown and Nancy Sabin to the Library Board. The motion was seconded by Councilor Wells and passed by unanimous vote of the Council.

10. **Revolving Loan Fund Committee Appointments**

Mayor Ficek stated that she would like to appoint Craig Carpenter, Ethan Nelson, Kara McDaniel, and Darin Olson to the Revolving Loan Fund (RLF) Committee and noted that she would serve on the Committee as well.

Councilor Ceniga stated that she would like to see Cindy Montgomery serve on the RLF Committee, as she was a long-time business owner of a small business and very active in the community. She thought that Ms. Montgomery being in business for 25 years and their reputation in the community spoke volumes and for whatever personal reasons Ms. Montgomery was not being considered, even though she had submitted her application on time and expressed interest.

Councilor Thomas stated that she felt the same way.

Mayor Ficek responded that she did not know what personal reasons Councilor Ceniga was referring to. She continued that as Mayor, she was tasked to bring forward a list of appointees to the RLF Committee, which she had done. She appreciated the comments but had proposed four names for Council consideration tonight.

Councilor Ceniga stated that Winn Wendell and Cindy Montgomery had turned in their applications for the public at large position. She continued that Mayor Ficek had appointed Mr. Wendell, but the Council did not approve that and wanted Cindy Montgomery to fill that position, but the Mayor had said she would not appoint Ms. Montgomery; Councilor Ceniga noted that she did not think that was right or fair not to appoint Ms. Montgomery.

Mayor Ficek responded that she had apologized to Ms. Montgomery and she did not have anything against Ms. Montgomery. Mayor Ficek continued that Ms. Montgomery was already serving on the Planning Commission, and Mayor Ficek wanted to get as many citizens involved as possible and to have different people serving on the Committees. She continued that the Council did not want to appoint Mr. Wendell, so she went with Jon Edwards, which the Council said no to and now she had appointed Darin Olson tonight.

Councilor Wells stated that it was very important that they get this Committee up and going, and the longer they delayed, the City and citizens were the ones that suffered.

MOTION: Councilor Wells made a motion to approve the Mayor's appointments to the Revolving Loan Fund Committee. The motion was seconded by Councilor Gambia.

Councilor Gambia stated that he thought Ms. Montgomery did a great job in so many different ways in the City and he also appreciated Mr. Edwards and Mr. Olson for their contributions as well. He noted that Ms. Montgomery had rescinded her application tonight, and he agreed with Councilor Wells that they needed to get the Committee up and running.

Councilor Wells stated that they were fortunate to have many good, qualified applicants. He wanted to add to everybody else's words in high praise for Ms. Montgomery and he thought it was time that they moved forward.

Mayor Ficek called for the vote.

Councilors Ceniga, Washburne, and Thomas stated that they wanted to abstain.

Councilor Washburne noted that one of the problems with this Committee was that everyone's terms ended at the same time and that should be changed. Mayor Ficek expressed her agreement and said that was something the Council would work on, but they needed to get the RLF Committee together so they could start working.

Councilor Wells called for a point of order and asked for clarification from Attorney Connelly on if Councilors could abstain from voting. Attorney Connelly noted that she would this look up, as certain Charter's counted an abstention as a no vote.

It was noted that there were five Councilors present. Councilor Gambia stated that he and Councilor Wells had voted in favor of the motion.

Mayor Ficek called a recess at 8:04 p.m. The meeting was reconvened at 8:10 p.m.

Mayor Ficek asked Attorney Connelly if she had an answer. Attorney Connelly responded that she did. Abstentions counted neither for or against. No decision had ever been made in Oregon on this, but the precedent was persuasive in other jurisdictions. Under the City's Charter and under these circumstances, they would need three affirmative votes to pass any matter, which they did not have. The Mayor could not vote, except in the event of a tie and therefore the motion would die for lack of passage, unless someone who was abstaining wanted to vote in favor because no RLF Committee could actually be seated unless there was Council support of the Mayor's appointments. Attorney Connelly read the following from the Attorney General's Public Records and Meetings Manual, "Members of boards, commissions, or councils are obviously appointed to make decisions. Absent compelling circumstances, for example, pecuniary conflict of interest problems, members should not abstain from voting." She continued that elected officials were elected to make hard decisions and while an abstention was a tool, it was not recommended.

Councilors Washburne, Ceniga, and Thomas withdrew their abstentions and each voted no. The vote on the motion failed by a vote of 2 to 3, with Councilors Gambia and Wells voting in favor and Councilors Thomas, Washburne, and Ceniga voting against.

Councilor Wells suggested that the Mayor appoint the three financial industry professionals, as the criteria read that membership would be up to five. He added that along with the Mayor, there would then be four on the Committee and they could at least get the Committee going.

Mayor Ficek asked Attorney Connelly for her comments. Attorney Connelly responded she had shared that with the Council before that they could appoint individually or could appoint a slate

of the Committee; the Mayor could appoint three, appoint one by one, or appoint however desired.

Mayor Ficek stated that she would like to appoint the three financial industry applicants.

MOTION: Councilor Wells made a motion to approve the Mayor's appointments of Craig Carpenter, Ethan Nelson, and Kara McDaniel to the Revolving Loan Fund Committee. The motion was seconded by Councilor Gambee and passed by unanimous vote of the Council.

11. **Schedule Date to Discuss Council Goals and 5, 10, and 20 Year Plans**

Mayor Ficek asked for Council discussion on selecting a date for the Council Goals Session and the 5, 10, and 20 Year Plans. It was noted that the October 6th Community Development Committee meeting had been cancelled.

The Council consensus was to hold the Council Goals Session on Wednesday, October 6, 2021 from 6:00 p.m. to 9:00 p.m.

12. **Council Agenda Forecaster**

Administrator Knope presented the forecaster and noted that the Library Board Appointments that had been scheduled on the draft September 28th agenda would be removed.

13. **Committee Reports**

Finance and Judiciary Committee (September 2, 2021): Councilor Gambee reported:

- The Committee had 7 or 8 things on the forecaster that Council had directed the Committee to review, and they were tackling 1 or 2 per meeting
- He thanked staff and the Councilors on this Committee.

Public Safety Committee (August 26, 2021): Councilor Gambee reported:

- Staff presented a Police Report which was interesting. The officers repeatedly protected the citizens and he was grateful for that.
- He thanked staff and the Councilors on this Committee.

Councilor Washburne noted that the Community Services Committee and the Public Works Committee did not meet in September.

Community Development Committee (September 1, 2021): Councilor Ceniga reported:

- Reviewed the noise parade request and recommended approval.

14. **Staff Reports**

Chief Morris reported: Last week the Junction City Police Department (JCPD) was awarded accreditation for the dispatch center. There were 49 dispatch centers in the state and JCPD was one of only 7 that had achieved accreditation; both the Police Department and dispatch center were now accredited. Oregon Department of Justice had taken over the prosecution of the nursing home theft case and sentencing would soon occur; the defendant would be required to pay restitution.

Director Kaping reported: He provided an update on the projects that had been listed in a recent flyer: 1st through 4th Street paving project had been completed; the 9th, 4th, and bike path paving projects would be done in late September; and the crack seal projects on Dorsa, Crona, Boden, and 3rd Street had been completed. Staff was working on hot tape and stop signs, mainly focusing on schools and would broaden out from there as long as the weather held. The sewer line project that was in the master plan was nearly complete, with some paving and sowing of grass seed needing to be done. Staff was getting ready to start the waterline project and were waiting for some parts. ODOT (Oregon Department of Transportation) would be giving a presentation to the Community Development Committee in November about possible funding options for a Highway 99 project. Staff had started the dirt work at the park at the Reserve.

Mayor Ficek stated that she had the opportunity to tour Public Works facilities with Director Kaping on Monday and encouraged all Councilors who had not yet done that to do so.

Director Crocker reported: Emily Eastland was hired as the new HR (Human Resources) Assistant last week, and she would be introduced to Council next month.

Administrator Knope reported: Still in process of recruitment for the Senior Center Coordinator position. The Senior Center Advisory Board had been talking about reopening the center but wanted to make sure they had administrative support on the ground first.

15. Councilor Comments/Questions

Councilor Washburne asked if Public Works had gone to the auction. Director Kaping responded that there was nothing there that they were looking for, so they were searching the private market for a service truck and other equipment.

Councilor Ceniga thanked staff for all that they did and to pass that along to all employee of the City. She added that a lot had been going on over the last couple of months and the hard work had been noticed.

Councilor Gambia asked about the hot tape. Director Kaping responded that hot tape was a thermal plastic that they used for crosswalks. It lasted five or six years, compared to painting which lasted about six months.

Councilor Gambia stated that the Finance and Judiciary Committee was discussing RLF Committee membership terms and would bring a recommendation to Council. He noted that staff, the Planning Commission, and Council had been working on the Mobile Food Cart regulation for over three years, back to Planner Jordan Cogburn and continuing with Technician Andrews; he commended everyone for their hard work. He expressed appreciation for all the good things the Soroptimists had done over the years and to the many wonderful people in the community who volunteered their time at the Chamber and other organizations, as well as served on the Library Board or other City governing bodies.

Councilor Wells expressed appreciation to staff for helping him attend meetings electronically over the last 6 to 8 weeks.

16. Mayor's Comments

Mayor Ficek expressed appreciation to staff and stated that the City had tremendous staff and were lucky to have them. She continued that the RLF Committee appointments were one of the few things that the Mayor did with Council approval. She said that she was accused of making something personal, but she had nothing against Ms. Montgomery at all. She recommended the three other very qualified people and the Council kept coming back to the same thing over and over again, and because she had not selected Ms. Montgomery the Council was not going to approve anyone else.

17. Adjournment

As there was no further business, the meeting was adjourned at 8:37 p.m.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

Beverly A. Ficek, Mayor