



**CITY COUNCIL DRAFT MINUTES
Monday, September 19, 2022**

HELD HYBRID - Council and some City Staff will be live in the Council Chambers, 1175 E. Main Street. Citizens and presenters will be joining via zoom

View on Channel 9 or Channels 180 and 181 (for Charter Communications customers) or live stream via rvtv.sou.edu select RVTV Prime.

Written and oral testimony will be accepted for public input. For written testimony, email public-testimony@ashland.or.us using the subject line: Ashland City Council Public Testimony. For oral testimony, fill out a Speaker Request Form at ashland.or.us/speakerrequest and return to the City Recorder. The deadline for submitting written testimony or speaker request forms will be at 10 a.m. on the day of the Study Session meeting and must comply with Council Rules to be accepted.

Mayor Akins called the Study Session to order at 5:30 PM Study Session

1. Public Input (15 minutes, maximum)
None.
2. Resolution 2022-24 Creating Standing Advisory Committees
City Manager Joe Lessard gave a Staff Report.

Council discussed the changes and the process.

Staff confirmed that this is a Resolution not a Code change so changes could be made as needed.

Council discussed options.

3. City Attorney Report on City Council/City Manager Authority Respecting Park and Recreation
City Attorney Doug McGeary handed out a memo (*see attached*).

McGeary went over the memo.

Council discussed the memo.

Councilor Graham spoke that she would have liked to see this memo sooner.

Lessard spoke that this would be back on the Agenda for further discussion at a future Council Meeting.

Moran suggested to bring the MOU regarding street funds back to Council for discussion.

Council discussed insurance deductibles and aggregate cap.

4. Look Ahead

City Manager Joe Lessard went over the Look Ahead (*see attached*).

Moran and DuQuenne requested to add Andrew Capanelli to come and speak at a the October 17th Council Meeting regarding telecommunications.

Council agreed to have Tom Armstrong to come speak on October 31st to discuss affordable housing.

Graham discussed natural gas equipment in existing facilities deadline.

Council discussed the “Aspirational Goals” timeline.

DuQuenne suggested to schedule a forensic financial audit. Lessard spoke that that will be an upcoming topic.

5. Adjournment

The Study Session was adjourned at 7:35 PM

Respectfully submitted by:

City Recorder Melissa Huhtala

Attest:

Mayor Akins

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at (541) 488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title I).

Memo

DATE: 09-15-2022
TO: Joe Lessard, City Manager
Michael Black, Parks Director
FR: Douglas M McGeary, Acting City Attorney
RE: City Manager/Council Authority respecting Parks Commission

BACKGROUND:

The City Charter vests the City Council and the Mayor with all powers of the City. Charter VIII §1. The Charter, however, further establishes two separate commissions within the City organization, the "Ashland Park Commission" and the "Ashland Recreation Commission", which are elected and have their own powers. These powers include "control and management" of dedicated city park lands and open space park program lands, and of "park funds" which shall be expended "for beautifying and improving the City's parks." Because the individuals comprising the boards for both bodies are the same, the City has historically come to treat them as a combined commission.

The historic relationship between the City Council (the "City") and the two commissions appears as one of allowance under a Mayor/City Administrator or "strong mayor" form of governance until recently changed in the Charter. That is, the Mayor and City Council has allowed or authorized the Park or Recreation Commissions, as the Park and Recreation Commission, to oversee Park and Recreation operations. This deference is natural given the likely tendency for an elected official to accede to the specific charge of another elected body, particularly one that is expected to accumulate expertise in its assignment.

The City Charter of Ashland was amended by public vote in 2020 adding Article VIII-A to the City Charter that established the position of City Manager to oversee City business operations. This change transitioned the City to a Council-Manager form of government. This governance model is a manager centric or "strong manager" form of government often adopted by larger municipalities or more complex organizations. The City's Chief Executive Officer (CEO) responsibilities, once assigned to the mayor, are now assigned to the City Manager in line with a CEO in the private sector to make operational and management decisions for the organization. The successes or failures of the City Manager, therefore, is more singularly dependent upon the officer's skills and abilities to respond to Mayor and Council policy decisions and control operations of the entire operation.



The language of the City Manager amendment, however, includes language that exempts oversight and management of specific "employees" from management oversight by the City Manager:

“The Ashland Parks and Recreation Commission shall have responsibility for appointing, supervising, and removing its employees, *subject to* state law, Ashland Municipal Code, written mutual agreements between the City Council and Ashland Parks and Recreation Commission, and formal, written City administrative policies.”
Charter Article VIII-A §4 (4)a. (Emphasis added)

This section of the amendment also provides that the City Manager “shall have no responsibility for the supervision of the . . . Ashland Parks and Recreation Commission.” Charter Article VIII-A §4 (5). The above exemption provides that employees assigned to the "Park and Recreation Commission" are most notably determined by or under the City Council’s plenary authority to adopt provisions of the Ashland Municipal Code (AMC), set City administrative policies, adopt City Council resolutions, or enter into memorandums of understanding (MOUs) with the Park and Recreation Commission.

Except for the language in Article VIII-A of the Charter establishing the City Manager position, there are no other references to a "Park and Recreation Commission" in the City Charter. The two Charter established commissions are part of the City organization. They are not created as independent or separate from the City as legal entities. And in that respect, there is no specific power in the Charter for either the Park or Recreation Commission to hire employees. However, the City has created through ordinance the power for the Ashland Recreation Commission “to appoint or designate some individual to act as recreation director. . . , and such other personnel as the [Recreation] Commission deems proper.” AMC 2.16.040. This Director’s office has historically answered to the two Charter established commissions.

Before the adoption of City Manager Charter provision, where respective management or operations commingled or remained ambiguous between the City and commissions, the entities found a need to form several MOUs to separate and apportion their respective share of several responsibilities to the overall organization. One main MOU has been amended over time until its last iteration dated August 19, 2014 (the “2014 MOU”) was created prior to the change to a City Manager form of governance. The 2014 MOU predominantly leaves authority over Park and Recreation employees and park land with a Park and Recreation Commission while the agreement assigns human resource functions to the City.

ANALYSIS:

A. INTRODUCTION: The 2020 adoption of Article VIII-A in the City Charter establishing the City Manager position has presented a question over what degree the Council through its City Manager may have administrative authority over the city's Park and Recreation Department and its employees. As discussed above, the Commission has historically had operational oversight of the City's Park and Recreation Department under portions of the AMC and in MOUs between the City Council and the Commission. With the hiring of a City Manager, responsibilities for the overall organization are realigned and the language within the new 2020 Charter provision must be read given plain meaning to its text, but also informed by the history of agreements that have been created and are currently used by the City and Commission.



B. **TEXT AND CONTEXT.** Under a plain text reading of the Charter, the 2020 Charter amendment does not appear to otherwise change the form of the City’s government, although the creation of the City Manager's office was clearly designed to consolidate management functions into a chief executive-type position for the City in general and specifically to appoint, supervise and remove any non-elected department heads or other city employees.

C. **LEGISLATIVE HISTORY.** To further define or interpret the text and context of the 2020 Charter amendment, the voter's pamphlet can also be considered for evidence. An overall inspection of that document indicates that the 2020 City Manager amendment was to maintain the status quo otherwise created by the Charter and developed over time.

The pamphlet indicates that the City Manager is given no extra supervisory authority over the Commission. Although neither the Park Commission nor the Recreation Commission are entities specifically authorized under the City Charter to operate independent of the City or to hire or oversee employees.

D. **GUIDANCE BY ORDINANCE AND MUTUAL UNDERSTANDINGS.** Based on the City Council’s allocation of responsibilities in the 2014 MOU, the City Manager, like the City Administrator before, currently does not have authority to manage or oversee the employees of the Park and Recreation Department. Importantly and consistent with the Charter, the MOU also provides for this Commission to develop and recommend a proposed budget to the City thereby ultimately leaving decisions of adopting the final budget with the City. It is also important to note that other MOU’s between the City and Commission, or City Council adopted resolutions have established and apportioned responsibilities between the parties for other City controlled properties, programs or funds that do not fall under the definition of park lands or park funds.

Technically, the City has not established the usual structures within the City’s organization or administrative code which would clarify and enable the two City Charter established commissions to administer their chartered functions or the MOUs assigned oversight responsibilities. The City Charter does not create a Park and Recreation Department or assign its oversight to either the Park Commission, Recreation Commission or a Park and Recreation Commission. The Park Commission is defined in the City Charter simply as “The certain board . . . perpetuated and continued as five (5) members.” The charter does assign “control and management” of dedicated park lands, open space park program lands and park funds to the Park Commission but not employee or department oversight. The “control and management” language, in essence, assigns asset level oversight responsibilities to the Commission, a role not usually connected with operational management in the Council-Manager form of local government or in the private sector. There are also no Ashland Municipal Code (AMC) ordinance provisions establishing a Park and Recreation Department and its oversight, as is the case for other City departments. Finally, it is the MOUs adopted by the City Council related to Park and Recreation operations that, somewhat confusingly, allocates oversight responsibilities to either the Park Commission, simply to “Parks”, to the technically undefined “Park and Recreation Commission” or to the Park and Recreation Director to whom the Park and Recreation Commission has “delegated management responsibility.”



Compounding the lack of organizational clarity or structure related to the Park and Recreation operations, is that in limited circumstances the City Manager has been given, by City Charter, operational authority over Park Commission/Park and Recreation Commission matters to ensure performance of certain budget and asset management functions necessary to the City. These limited functions include situations involving the administration of the citywide budget for compliance and financial solvency, and management responsibility for non-park property or facilities under the Park and Recreation Departments assigned responsibilities.

The Charter has established the separate charges for the City Manager, the Park Commission and the Recreation Commission. The electorate was presented with a decision to create the City Manager position with the likely understanding that the roles between these would continue substantially unchanged but also under or subject to the plenary authority of the City Council, historically exercised to assign management oversight of Park and Recreation operation responsibilities in MOUs. Currently, it is through these ordinances and agreements that the City Manager's ultimate authority can be understood. The City Council, however, retains its historic right to adopt or alter ordinances, and enter into or continue/discontinue MOU agreements.

Through ordinances and separate agreements, the City Council and Park Commission have integrated functions and agreed upon budgeting and the allocation of employees. Over time these ordinances and separate agreements seem to have satisfied the electorate that the sharing of responsibility for various management and operational functions, whether or not the efforts fall specifically within the charge of any particular office or Commission, may be appropriate and can continue. This sharing of responsibility does not change simply due to the decision made to pass the 2020 Charter amendment establishing the office of the City Manager. Regardless, the City Council retains the right, as exercised historically, to make the allocation of Park and Recreation operational oversight under its plenary authority. This right is confirmed by the language of Article VIII-A that grants the right of the Park and Recreation to oversee its employees "subject to state law, Ashland Municipal Code, written mutual agreements between the City Council and Ashland Parks and Recreation Commission, and formal, written City administrative policies."

Where the allocation or assignment of management responsibility is now questioned or in doubt, the City Council can make changes to ordinances, if necessary, to further empower the City Manager and affect Commission operational changes that the City finds necessary in the interest of the City. Alternatively, without the existence of certain standing AMC ordinances and the MOU agreements, the default management oversight setting would appear to potentially result in the circumstance of there being no employees or operational assignments to an Ashland Park and Recreation Commission. The current authority to clarify the organizational structure and assignment of oversight for Park and Recreation Department functions rests with the City Council.

CONCLUSION.

The Charter has established the separate charges for the City Manager and the Commission. The electorate was presented with a decision to create the City Manager position with the understanding that the roles between the two would not substantially change. Historically, these roles have primarily maintained the character as defined by the Charter and as have been adopted in ordinances and mutual



agreements found necessary to guide who should be performing what activities on behalf of the City. It is through these ordinances and agreements that the Manager's ultimate authority can be understood.

Technically, the City has not established usual structures within which the Commissions can administer their chartered functions such as creation of a Parks and Recreation Department. Based on the City Council's allocation of responsibilities in the 2014 MOU, the City Manager, like the City Administrator before, currently does not have authority to manage or oversee the employees of the Park and Recreation Department. In limited circumstances, however, the City Manager has been given, as was the City Administrator before, limited operational authority over employees assigned to the Commission to ensure performance of certain maintenance functions necessary to the City. The City Manager, therefore, has been given historical authority in limited situations involving non-park property to direct staff assigned primarily under the Commission's authority to perform management and maintenance of city non-park facilities. Hence, although city employees are assigned to the Commission, they are not considered exclusively under the control of the Commission when engaged in work outside of the scope of the Commission. Where in doubt, the City Council could make changes to ordinances or budgetary appropriation, if necessary, to further define authority or empower the City Manager and indirectly affect Commission operational changes that the City finds necessary in the interest of the City. The authority to clarify the organizational structure and assignment of oversight for Park and Recreation Department functions rests with the City Council.

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Ashland City Council Look Ahead

Note: This is a DRAFT schedule of future agenda items and is subject to frequent changes.

PRELIMINARY DATE	STUDY SESSION MEETINGS - TOPIC/AGENDA ITEMS	DEPARTMENT	LEAD STAFF
3-Oct	EcoNorthwest Economic Diversity Study Report (tentative scheduling) Community Budget Survey Report (tentative scheduling) Croman Mill Redevelopment Concept/Overview (tentative scheduling)	Admin. " Community Development	Joseph Lessard " Acting Director
17-Oct	City of Ashland Aspirational Goals Telecommunications Ordinance Updates for Small Wireless Facilities (5G)	Admin. Interim City Attorney	Joseph Lessard Doug McGeary
31-Oct	Affordable Housing - Preserving Manufactured Home Properties/Locations Economic Development & Business Roundtable Follow-up Community Development Questions & Updates (activity centers, development code & process navigation, business issues)	Community Development Community Development	Acting Director Acting Director
14-Nov	<u>City Facilities & Real Estate</u> Hargadine Parking Structure RFP Severe Weather Emergency Shelter Next Steps Community Center & Pioneer Hall - Preliminary Schematic Design Facilities Optimization Master Plan	Community Development " Public Works "	Acting Director " Scott Fleury "
5-Dec	Police and Fire Partnering / Regionalization	Admin. / Police / Fire	Joseph Lessard / Chief O'Meara / Chief Sartain
19-Dec	Year End Informal Session - Coffee with City Management Team Year End Informal Open House - City Commissions / Standing Advisory Committee Appreciation	Admin. Admin.	Joseph Lessard Joseph Lessard
2-Jan	Meeting Cancelled	National Holiday Observed - New Year's Day	
16-Jan	Ashland Housing Production Strategy Update 2023-2025 Biennium CIP Preview	Community Development Public Works	Acting Director Scott Fleury
PRELIMINARY DATE	REGULAR BUSINESS MEETINGS - AGENDA ITEMS	DEPARTMENT	LEAD STAFF
4-Oct	Proclamation for Indigenous Peoples' Day (Council) Public Arts Commission / Advisory Committee Annual Report Commissions/Standing Advisory Committees Standing Advisory Committee Appointments Update Ordinances to Recognize Establishment of Advisory committees Review/Revisit - Management Responsibilities Ashland Municipal Code (AMC) Management Assignment Provisions City Council-Park and Recreation Commission MOUs / Resolutions Personnel Issues Executive Session - Labor Negotiation Status (tentative scheduling) Labor Agreement Approvals (tentative scheduling)	City Recorder Community Development City Recorder Interim City Attorney Admin. / Acting City Attorney " Admin. / Human Resources "	Melissa Huhtala Acting Director Melissa Huhtala Doug McGeary Joseph Lessard / Doug McGeary " Joseph Lessard / Sabrina Cotta "
18-Oct	Standing Advisory Committee Appointments Social Equity and Racial Justice Commission / Corresponding Advisory Committee Report Travel Ashland Marketing Report Resolution on City of Ashland Aspirational Goals Ashland Fiber Network (AFN) - Business and Technology Planning RFQ/RFP First Reading - Telecommunications Ordinance Updates for Small Wireless Facilities (5G) Review/Revisit - Management Responsibilities Ashland Municipal Code (AMC) Management Assignment Provisions City Council-Park and Recreation Commission MOUs / Resolutions Personnel Issues Executive Session - Labor Negotiation Status (tentative scheduling) Labor Agreement Approvals (tentative scheduling)	City Recorder " Admin. Admin. Technology & Innovation Interim City Attorney Admin. / Acting City Attorney " Admin. / Human Resources "	Melissa Huhtala " Joseph Lessard Joseph Lessard Jason Wegner Doug McGeary Joseph Lessard / Doug McGeary " Joseph Lessard / Sabrina Cotta "
1-Nov	Climate Policy Commission / Corresponding Advisory Committee Annual Report Ad Hoc Development Code Review Committee First Reading - SDC Committee Recommended Ordinance Updates for Multi-Family Developments Second Reading - Telecommunications Ordinance Updates for Small Wireless Facilities (5G) Resolution Setting Telecommunications Installation Standards for Small Wireless Facilities Quarterly Financial Report & Budget Amendments Personnel Issues Executive Session - Labor Negotiation Status (tentative scheduling) Labor Agreement Approvals (tentative scheduling)	Admin. / Electric Community Development Public Works Interim City Attorney " Finance Admin. / Human Resources "	Joseph Lessard / Thomas McBartlett Acting Director Scott Fleury Doug McGeary " Sabrina Cotta Joseph Lessard / Sabrina Cotta "
15-Nov	Facilities Optimization Master Plan First Reading - Housing in Employment Zones First Reading - Expediated Land Divisions - Middle Housing Second Reading - SDC Committee Recommended Ordinance Updates for Multi-Family Developments	Public Works " " Public Works	Scott Fleury " " Scott Fleury
22-Nov	Housing & Human Services Commission / Advisory Committee Annual Report	Community Development	Acting Director
6-Dec	Citizens Budget Committee Appointments Planning Commission Annual Report First Reading - Food Truck Amendments Second Reading - Expediated Land Divisions - Middle Housing	City Recorder Community Development " "	Melissa Huhtala Acting Director " "



Ashland City Council Look Ahead

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20-Dec	Second Reading - Housing in Employment Zones	Community Development	Acting Director
3-Jan	City Council Orientation / Training	Admin.	Joseph Lessard
17-Jan	Second Reading - Food Truck Amendments	Community Development	Acting Director

NOT YET SCHEDULED	NOTES
<p style="text-align: center;"> RVTD Connector vs. Added Ashland Bus Line Ordinance on Weeds and Noxious Vegetation Executive Session - Lawsuit Updates Cost Analysis of Climate & Energy Action Plan (CEAP) Refinancing PERS & Capital Debt 2021-2023 Biennium CIP Review Contracting Water / Wastewater System Management Staff Report Imperatrice Property Lease - Regenerative Agriculture Practices Natural Gas Equipment by 2030 in Existing City Facilities </p>	<p style="text-align: center;"> Potential topic for 2023-25 Budget Process Potential topic for 2023-25 Budget Process Potential topic for 2023-25 Budget Process Potential topic for 2023-25 Budget Process Potential topic for 2023-25 Budget Process Potential topic for 2023-25 Budget Process </p>

	COMMISSION PRESENTATIONS	DATES	
	Transportation Commission	First Meeting in February	
	Tree Commission	Second Meeting in March	
	Historic Commission	Second Meeting in April	
	Band Board	First Meeting in June	
	Social Equity and Racial Justice Commission	Second Meeting in June	
	Wildfire Safety Commission	Second Meeting in July	
	Forest Lands Commission	First Meeting in August	
	Conservation Commission	Second Meeting in August	
	Climate Policy Commission	First Meeting in September	
	Airport Commission	Second Meeting in September	
	Public Arts Commission	First Meeting in October	
	Housing & Human Services Commission	Second Meeting in November	
	Planning Commission	First Meeting in December	

	REOCCURRING EVENTS	DATES	Notes
	Council Liaison Appointments	January	
	State of the City	Second Meeting in January	
	Quarterly Financial Report & Budget Amendment	First Meeting in February	
	Recology Rate Review	First Meeting in March (needs to be approved by April 1)	
	Proclamation for Arbor Week (Tree Commission)	Second Meeting in March	
	Quarterly Financial Report & Budget Amendment	First Meeting in April	
	Commission Reappointments	Second Meeting in April	
	Proclamation for National Historic Preservation Month (Historic Commission)	First Meeting in May (or last meeting in April)	
	Miscellaneous Fees	May	
	Quarterly Financial Report & Budget Amendment	Second Meeting in June	
	Citizens' Budget Committee Reappointments	Second Meeting in June	
	Year-End Budget Briefing	August or September	
	Annual Coordinated Water Rights Mgt. & Water Sharing Plan Report	Before Oct. 1 annually	
	Proclamation for Indigenous Peoples' Day (Council)	First Meeting in October	
	Quarterly Financial Report & Budget Amendment	First Meeting in November	

