

ASHLAND CITY COUNCIL MEETING MINUTES
Tuesday March 19, 2024

6 p.m. Regular Business Meeting*

I. CALL TO ORDER

Mayor Tonya Graham called the meeting to order at 6 pm.

1. Land Acknowledgement**

Councilor DuQuenne read the land acknowledgement.

II. PLEDGE OF ALLEGIANCE

Councilor Hyatt led the pledge of allegiance.

III. ROLL CALL

Mayor Graham, Councilors Hyatt, Bloom, Dahle, Kaplan, DuQuenne and Hansen were present.

IV. MAYOR'S/CHAIR OF THE COUNCIL ANNOUNCEMENTS/PROCLAMATIONS

1. Cesar Chavez Proclamation

2. National Women's History Month

Mayor Graham read the proclamations into the record.

V. APPROVAL OF MINUTES ***

1. Minutes of the March 4, 2024 – Study Session Meeting

2. Minutes of the March 5, 2024 – Business Meeting

3. Minutes of the January 3, 2023 – Business Meeting

Councilor Hyatt/Hansen m/s to approve the March 4, 2024, March 5, 2024, and January 3, 2023, meeting minutes.

Roll Call Vote: Councilors Hyatt, Bloom, Kaplan, DuQuenne, Dahle and Hansen, YES. Motion passed.

VI. SPECIAL PRESENTATIONS

VII. CITY MANAGER REPORT

Interim City Manager Sabrina Cotta gave an update regarding work on the City's new website. She mentioned that staff liaison training began that day and reminded Council that the April 1st, 2024, Study Session would be focused on DEI assessment and strategic planning as well as UGB expansion options and an update from the Homeless Masterplan Subcommittee.

VIII. PUBLIC FORUM (15 minutes – Public input or comment on City business not included on the agenda)

Benjamin Ben-Baruch- Spoke about the humanitarian situation in Gaza. Asked Council what would it take for them to act and condemn Israel. Spoke about the refugee crisis in Gaza and asked Council how ready the City was to take in some of those refugees. Stressed that tax

dollars coming from the City were going to support Israel. Wanted the Council to express the sentiments of the community to politicians at the Federal level.

Laura Davis/Ashland- Spoke about her experience on the Night Lawn. Wanted the City Council to experience the Night Lawn in person for a night.

Nissan Plotnick/Ashland – Spoke about his struggles on the Night Lawn.

McKenna Presley/ Talent – Talked about Israel’s bombing of the Al-Shifa hospital. Spoke about how Israel’s actions can be seen as war crimes. Spoke about Israel using the rubble from Gaza to build a US backed port.

Shekina McCollough/ Ashland – Urged Council to urgently address the Climate and Clean Air packet at the next Council meeting.

Piper Banks/Ashland – Urged Council to act on the Climate and Clean Air packet.

Amanda Morehouse/Central Point- Read a statement from activist Rachel Corey, who was murdered by Israeli soldiers in 2003. Urged Council to call for a ceasefire. Brought up the connection between the treatment of the unhoused and the treatment of Palestinians.

Sitka Moss/ Shady Cove – Urged Council to call on Oregon’s senators and the President for a ceasefire. Spoke to the role the US has in funding and providing weapons to Israel. Spoke about the ongoing massacres committed by Israel against Palestinian people looking for aid.

Ancient Hatfield/ Ashland – Felt that Council was wrong to think that Palestine was not a local issue. Mentioned how tax dollars raised by the people of Ashland are being used to support Israel. Mentioned how 62% of US voters support a permanent ceasefire. Mentioned how the issue of the unhoused is connected to Palestine, as the tax dollars were going to towards the genocide in Gaza as opposed to funding housing and health initiatives. Urged Council to act.

Austin Kongelman/Ashland- Wanted the City to continue operating 2200 Ashland St. Felt that the City was turning their back on the homeless and instead was prioritizing the interests of business.

Scott Butler/Ashland- Suggested converting unused buildings in Ashland into shelter spaces. Urged Council to find a better solution than the Night Lawn.

Liz Adkisson- Spoke to the trauma caused by the actions in Gaza on people’s minds and bodies. Urged Council to act immediately.

IX. CONSENT AGENDA

1. Budget Supplemental for APRC

Councilor Bloom/Dahle m/s to approve consent agenda.

Discussion: No Discussion

Roll Call Councilors Hyatt, Bloom, Kaplan, DuQuenne, Dahle, and Hansen, YES. Motion passed.

X. PUBLIC HEARINGS AND ORDINANCES

1. First Reading – 3233 Ordinance Amend Fire Prevention Code

Ashland Fire Marshall Mark Shay spoke about the updates to the Fire code and why the City was undergoing this process. He added that the State fire code was recently updated, with changes on the City level. He also mentioned how the updates would remove redundancies concerning food vendors/food pods.

Councilor Hyatt/Bloom m/s to approve of the 1st reading of Ordinance No. 3233 and send the ordinance to a second reading in April.

Discussion: Hyatt and Bloom praised Shay for his work.

Roll Call Councilors Hyatt, Bloom, Kaplan, DuQuenne, Dahle, and Hansen, YES. Motion passed.

2. First Reading- Ordinance 3236 Establishing Human Resources Department
3. First Reading- Ordinance 3235 Establishing City Recorder Department

Acting City Attorney Doug McGeary spoke about the reason for establishing departments by ordinance. McGeary noted that policies for City Recorder were set by whoever held the position, meaning there was a lack of overall consistency. He felt that the creation of a department would ensure smooth operations moving forward. He also noted that HR was another department that had expanded and had unique legal requirements, adding that establishing HR as a department would likewise ensure consistency and continuity.

Bloom noted the shortcomings of the City Recorder position in the past. He wanted the City to be clear and consistent about the job responsibilities and wanted a way to hold the position accountable for not following through on responsibilities. McGeary noted that since the ballot measure for the City Recorder position had not been voted on yet, he thought it would be best to leave the duties as listed in the City Charter, adding that the charter could be updated after the election results. Bloom asked if it would be possible for Council to still implement a set of rules and guidelines for the position even if it stays an elected one. McGeary responded that it was ultimately up to the Council to decide the requirements, but they could pull the necessary elements from the Charter.

Kaplan asked how many people currently work in the HR department. Cotta responded that there are three people who work in HR. Kaplan asked how these ordinances relate to other city government organizations and the overall structure behind it. He also noted the timing of the recorder ordinance was strange considering the forthcoming ballot measure. He suggested the ordinance be addressed after the election. Cotta clarified on the need for HR to be a separate department with McGeary adding that it allows for much needed autonomy. Kaplan asked why the HR department should be moved out from under the umbrella of City Manager and asked how other cities are organized. Cotta responded that, in her experience working for other cities of various sizes, the HR department was autonomous from the City Manager because of the specialized role of the job. She added that the scale and scope of procedures around staff's adherence to employment guidelines required the HR department to be flexible. Kaplan asked for clarification regarding the department being autonomous. Cotta responded that, although the HR Director reports to the City Manager, the HR department has its own responsibilities. Kaplan noted the issue was around hierarchy within

city government. Cotta added that it also involves what each department is overseeing. DuQuenne thought it was premature to move forward with the City Recorder update until after the election.

Hyatt asked if it was common to have a department of one person and what the impact of waiting until after the election was. McGeary responded that he left the duties in the charter as is because of the potential changes which are to be voted on in the upcoming election. He noted that one person being a department worked because of the unique role of the City Recorder within city government. He also anticipated the city recorder department expanding in the future to either two or three people. Hyatt felt that it was important for HR to have autonomy. She highlighted the unique role HR has regarding other departments, as well as the Council. She wanted to know if this ordinance would help HR serve Parks and their personnel better. McGeary confirmed that it would.

Bloom felt that there were many unanswered questions regarding the Recorder position. Dahle asked if the Recorder's Office ordinance is not addressed at this meeting, would there be any immediate issues. McGeary responded no. DuQuenne asked about HR and DEI status. Cotta responded that the DEI assessment and strategic planning would be brought up at the April 1st, 2024, study session. Dahle asked if the City Manager could hire and fire the head of HR, which McGeary confirmed. Dahle asked if there was anything lacking regarding the head of HR for that position to be equal to other department heads, which Cotta confirmed. Hyatt asked for clarification regarding the Ordinance number.

Councilor Hyatt/Dahle m/s to approve first reading of Ordinance # 3235 Creating a Human Resources Department for the City of Ashland and advance this ordinance to a 2nd reading at the next regularly scheduled City Council business meeting on April 2nd, 2024.

Discussion: Both Hyatt and Dahle felt that the ordinance was appropriate and prudent given the City's unique structure.

Roll Call Councilors Hyatt, Bloom, Kaplan, DuQuenne, Dahle, and Hansen, YES. Motion passed.

Councilor Bloom/DuQuenne m/s to table the adoption of ordinance #3236 Creating a City Recorder's Office for the City of Ashland until after the May 21st Election.

Discussion: Bloom highlighted the unanswered questions regarding the Recorder position and suggested having a future study session to work out the issues. DuQuenne felt that the ordinance was premature and should wait until after the election.

Roll Call Councilor Hyatt, Bloom, Kaplan, DuQuenne, Dahle, and Hansen, YES. Motion passed.

4. First Reading – 3234 Ordinance Telecommunications Updates for Small Wireless Facilities (5G)

Dahle noted an error in the ordinance number between the packet and the agenda. Staff clarified. Cotta discussed the ordinance and provided an overview regarding the creation process. Attorney Nancy Werner appeared via Zoom to discuss the ordinance. She stated that the ordinance was designed to maximize the City's control over small wireless facilities,

while still working within national rules set by the Federal Communication Committee. The FCC states that you cannot have a moratorium on small cell facilities and that a city cannot refuse applications for small wireless facilities. In addition, the FCC states that a city has no authority to regulate construction and placement of personal wireless facilities based on environmental impacts. She drew attention to the 60-day time limits on the review process for new wireless applications and the FCC allowing for aesthetic conditions regarding placement. However, she noted that these conditions must be in writing. She explained the origin of Chapter 16 and how the update includes small wireless facilities. The first change was that telecommunication companies were required to get a license or a franchise agreement from the city before they could begin installation and operation within its limits. The other change to Title 16 involved clarification regarding permits for small wireless facilities. The review process could be either an administrative review or a discretionary review. She added that there would be specific design standards for historical, residential, and special use districts that must be met before small wireless facilities could be deployed as part of the administrative review. She went over the process for how discretionary reviews work.

Dahle asked for context on the League of Oregon Cities model ordinance and its connection to public right of way. He noted that the City had moved in a different direction from that model. Werner responded that the change was a result of the definitions stated in Title 16. She saw it as a way to treat all telecommunication providers in a similar manner. Kaplan asked Werner to compare and contrast the LOC model ordinance and the ordinance the City was discussing. Werner drew attention to right of way ordinance and how the language in Title 16 was similar to right of way ordinance within other cities, noting that LOC has a similar model right of way ordinance structured in a similar fashion to the model telecommunication ordinance. She also noted that the LOC ordinance was created before the 9th Circuit Court reviewed and struck down the FCC's aesthetic requirements for small wireless facilities. The ordinance being discussed by the City factored in that court ruling. Kaplan noted that the LOC model ordinance did not include the distinction between the administrative and discretionary review processes. Werner noted that the LOC model ordinance was created as a response to a federally created model ordinance.

Bloom asked about utilities easements and the amount of control telecommunication companies would have over those. Werner responded that the chapter focusing on easements included public utility easements as part of the definition of public rights of way. She noted that including those types of easements under public rights of way is a common practice in cities across Oregon. The easements standards serve to check unregulated placements by telecommunication companies. DuQuenne asked about the process behind discretionary review. Werner provided an overview of the discretionary review process. DuQuenne praised the safety and aesthetic guidelines within the ordinance, but also wanted to ensure that the South Side of Ashland had small wireless facilities. Hansen asked about permit issues and community objectives. Werner responded that public notices would be included as part of that.

Graham asked about the neighborhood meeting and what the process would be to ensure an accurate report back from the telecommunication companies. Werner suggested that a staff member attend the meeting but also suggested not specifically adding that as a requirement in the ordinance because of logistical issues. Graham asked if there could be a situation where the City could not approve something due to lack of staffing if they decide to put language in the ordinance mandating staff attendance. Werner felt that it could possibly increase risk and open opportunities for legal action on the part of the telecommunication company. Dahle asked if it would be appropriate to add that language to the application process, which Werner agreed.

Graham asked about sending a staff member as opposed to a decision-making staff member to the meeting. Werner suggested that the applicant must inform and allow a staff member to attend. Bloom suggested including the language around sending a staff member to the meeting as part of the second reading. He also brought up concerns about fire risks from the small wireless facilities and asked what could be done to mitigate that risk. Werner noted that there was provision within the Title for Ashland Fire to hire an independent consultant at the applicant's expense to evaluate fire risk. She also pointed out that the design standards required an emergency shut-off switch at every facility. Bloom expressed concerns of people flipping the switch in a non-emergency situation. Werner noted that the shut-off switch would be within a locked box. DuQuenne asked if both the independent consultation for fire risk and the emergency shut-off switches were explicitly stated within the ordinance. Werner responded that the shut-off switches were part of the design standards set nationally by the FCC. Independent consultation was explicitly stated within the ordinance. Dahle noted that the City was required to meet certain federally mandated requirements. He asked if there was a way to hold applicants accountable if they do not meet the FCC standards, which Werner noted could be done.

Hyatt asked about small cell safety. She noted that wording in both the ordinance and in the design, standards was "ensure maximum protection" while also noting there was no language in place to allow for a small cell facility to claim *force majeure*. She asked if there was anything within the ordinance that would allow for a small cell carrier to claim *force majeure* to get out from paying insurance indemnity to the City. Werner noted that small cell carriers could not use *force majeure* to escape consequences. Kaplan asked about the resolution mentioned in the design standards and if that would be approved as part of the decision. McGearly answered that the resolution has been established but because of delays, it was not able to be presented to Council before the meeting. McGearly said that it could easily be included as part of the second reading. Cotta added that the resolution is also posted on the website. Kaplan asked how detailed the design specifications were in the resolution versus the design specifications in the ordinance and why there would be two different sets of design specifications. Werner noted that the design standards in the resolution are longer and more detailed while also being easier to adjust. DuQuenne asked staff how much the City paid Werner and her team for their work. Cotta responded she did not have any copies of the invoices at this time.

DuQuenne asked if it was possible to see the amount the City had paid Werner and her team before the second reading, which McGeary said he could provide within that time frame. Dahle asked how a smaller municipality would deal with the timeframe if a provider files many applications at once and causes an issue with workload. Werner noted that there was a limit on the number of permits that could be filed at any one time, with McGeary adding that the limit was 10 to file at one time. Werner noted the best a smaller municipality can do is limit the number of permits that come in at one time because of how the FCC regulations are worded. Hyatt asked Cotta and McGeary if they feel that City staff could navigate any issues regarding permits and timelines. Cotta felt that staff could handle the workload. Hyatt noted the discretionary notice was at 300 feet, while local planning actions were at 200 feet. McGeary suggested adding the Community Development Director to the mailing list regarding the notice. Hansen wanted to set expectations regarding public notice and meetings. He asked what can the City do regarding accountability to the telecommunication industry within those meetings. Werner responded that the feedback from the meeting could be used within discussion between the City and the applicant. She also brought up that the meeting could generate substantial evidence regarding the application not meeting design standards. She also noted that RF standards were required and controlled by the FCC. The City could require documentation and testing in order to ensure compliance on an ongoing basis. Dahle asked why Werner used the term "substantial evidence" over the term "probative evidence." Werner responded that she was using wording from federal law, while also raising concern of using "probative evidence" because of applicant issues found after the 60-day window. Kaplan asked how certain Werner was with the Ordinance not accidentally causing effective prohibition of the installation. Werner noted how the aesthetic requirements could not ban the placement of installations outright. She also pointed to a provision where the City Manager could waive requirements if a requirement would create an effective prohibition.

Public Forum

Lelah Vaga/Portland (Appearing via zoom). Spoke on behalf of the telecommunication group Verizon Wireless and a company called Wireless Policy Group. Praised the Council for their work. Noted how wireless usage has increased and will continue to increase. Praised Council for balancing the infrastructure needs with keeping the "character" of the town intact. Spoke to a pair of letters submitted to the record by Verizon.

Kelly Marcotulli/Ashland – Felt that the ordinance was confusing and incomplete. Wanted to create a "safe Oregon" with no 5G. Presented a petition with 10,000 signatures from across the state of Oregon.

Bruno Marcotulli/Ashland – Felt that the City was ignoring the work of Andrew Campanelli.

Tanya Jane Simmons/Ashland – Felt that 5G was causing learning and behavioral problems.

Anna Ford/Ashland – Felt that the FCC was not doing its job. Wanted the City to look at independent studies.

Derek Franklin/Ashland – Voiced disapproval of the ordinance.

Larry Graves/Ashland – Wanted the City to do more research before choosing a path forward, regardless of what that path may be.

Marilyn Lindsay/Ashland – Was disappointed in Council for not listening to its citizens trying to educate them. Wanted the City to hire Campanelli attorney to help write the ordinance.

Chuck Laurensen/Ashland –Wanted the City to hire Mr. Campanelli and hold a study session with him to create a brand-new ordinance.

Paul Mozina/Ashland –Felt the ordinance was not promoting health and safety.

Meredith Lowry/Ashland – Noted that the City had no say in where towers were installed. Wanted the Council to work with Mr. Campanelli.

Miriam Reed/Ashland – Felt that the City was not respecting the indigenous people with this ordinance. Felt the City was not listening to and respecting its constituents.

Rivers Brown/Ashland – Spoke against the Ordinance. Suggested recalling the Council or firing the City Attorney.

Don McClure/Ashland – Linked 5G to purported health issues.

Lillian Chapdelaine/Ashland – Spoke about living with cancer for 8 years. Noted that she gets inflammation and other health issues when around 5G cell towers or around phones.

Bloom asked Cotta if the current meeting was a publicly noticed meeting, which she confirmed. Bloom remarked that it was unfortunate that Mr. Campanelli was not in attendance.

Council took a recess from 8:36PM to 8:45PM

Graham asked for clarification on the word “simultaneous” as used in simultaneous applications. Werner responded that it was referring to the number of applications submitted within a single day. She mentioned that the number was set by the FCC and was currently set to 10 applications a day.

Councilor Dahle/Bloom m/s to approve First Reading of ORDINANCE NO. 3234: AN ORDINANCE AMENDING AMC TITLE 16 TELECOMMUNICATIONS AND ESTABLISHING STANDARDS FOR TELECOMMUNICATIONS FACILITIES IN THE CITY OF ASHLAND and send it to Second Reading for enactment.

Discussion- Dahle stated that he was present at every telecommunication ordinance meeting save one. He stressed that he considered all testimonies, emails, and conversations before coming to a decision. He mentioned the sheer number of messages he had received from people expressing their opinions about 5G and the complete lack of any messages from wireless service providers. He explained that Mr. Campanelli had provided a draft review and that some of his suggestions had been taken to heart, albeit not with the exact language he provided. Dahle felt that the issue had been discussed as much as it could have, and that all council members had the best interests of the people of Ashland in their hearts. He mentioned how the Council had pulled every version of the ordinance that was not up to standard in his time as a member. He felt that the new ordinance did not put people at risk

and was proud of the work put in by all parties and people, including Mr. Campanelli, to ensure that it was safe. DuQuenne thanked everyone who spoke and worked on the ordinance for the past five years. However, she felt that there was no collaboration between the people and the Council on it and could not support the ordinance. Hansen highlighted the challenge between balancing the input of constituents and the job that must be done. He acknowledged that he cannot make everybody happy while protecting the City at the same time. He expressed gratitude to all who have provided input. Kaplan noted that the ordinance does many things and appreciated the answers to his questions from McGeary and Werner. He felt the ordinance was much better than what is in place. Hyatt thanked everyone who participated over the past few years in conversations about the ordinance. She noted that this was the fourth time this ordinance had come across her desk. She agreed with Kaplan that the new ordinance is better than the previous ones, noting that the old standards were no longer useful. She was grateful for the feedback process and proud of both people who spoke at the meetings and proud of the people who have collaborated as well. Mayor Graham added that the conversation around the ordinance had been going on for over five years. What she has seen across the Council was a desire to push the boundary to allow for as much local control as possible. She wanted to make sure that people could disagree without vilifying those who are disagreeing. She felt that the ordinance was a good step forward and was far better than the ordinance that was originally put in place. McGeary reminded Council to include the discussed language change around the notice towards properties within 300 feet of proposed facilities.

Councilor Hyatt/Dahle m/s amend the motion to include in the notice on discretionary community meetings to those within 300 feet of the proposed sites and the City of Ashland.

DISCUSSION: Dahle restated his commitment to listening to each person's comments about the ordinance.

Roll Call Councilors Hyatt, Bloom, Kaplan, Dahle, and Hansen, YES. DuQuenne, No.

Amendment passed.

Original motion vote.

Roll Call Councilors Hyatt, Bloom, Kaplan, Dahle, and Hansen, YES. DuQuenne, No. Motion passed.

XI. **UNFINISHED BUSINESS**

XII. **NEW BUSINESS**

XIII. **RESOLUTIONS AND CONTRACTS**

1. Contract for Timberline Helicopters

Ashland Fire Division Chief Chris Chambers provided a review of the contract via a presentation. He presented information centered around fiscal impacts and project amounts for the three potential options.

Public comment

Joseph Powell/Ashland – Spoke about his experience as a contractor on the Ashland Loop trail project. Spoke to how previous thinning efforts had been influenced by the landowners. He noted that the habitat had returned in strength and stressed that logging was a tool for this project to ensure wildlife flourishes. Recommend option one to the Council.

John Maurer/Ashland - Thanked the Council for their time and work. Talked about his experience living adjacent to Siskiyou Mountain Park for 40 years. He stressed that climate change is causing the die off but also wanted to ensure the people would not create fires during 100-degree days. He noted that there had been 90 wildfires along the greenway since Alameda, making it an urgent issue that needed to be addressed immediately to prevent future fires.

Eric Navickas/Ashland – Spoke to an email he had submitted. Raised concerns about the large fiscal impact. Voiced his support for option three but agreed that the project must move forward in some capacity in order to prevent fire risks.

Councilor Hansen/Bloom m/s that the City Council, acting as local contract review board, approve this special procurement award to Timberline Logging Enterprises, LLC in the amount not to exceed \$1,400,000 through June 30, 2024 for forestry work critical to our watershed and community wildfire safety.

Hyatt asked if Finance Director Mariane Berry would speak to the offsets and Chambers would speak to the concern of burn pile cost if option three was used. Chambers noted that the \$990,000 cost came from having to get equipment to the site and the lack of return on investment from the logging. He also added that helicopter logging would also negate the cost of having to “slash” the trees in the field by having the helicopters carry the trees to a site where they could be “slashed.” Graham asked if the activity fuels burn pile number is a net number that considers the logging revenue. Chambers responded the \$150,000 cost was not an equal comparison. Kaplan asked for clarification with the total cost being cheaper if the trees are processed out of the forest. Chambers responded that it would be around \$800,000 to process and slash the trees where they are because of the cost needed to hire contractors and equipment. Berry estimated the City had around \$400,000 in revenue set aside in the general fund at the current time. Bloom brought attention to the short timeline available, with Chambers agreeing. He also mentioned that the contractor window was extremely short in addition to the wood rotting, preventing it from being sold. Graham asked what would happen if Council did not come to a decision at this meeting. Chambers noted that there was a risk of losing the contractor if Council did come to a decision. Hyatt suggested utilizing option two, with the cost being covered by the offset along with allowing a potential increase in the contract at the next meeting. Graham asked if the contract could be adjusted once work had begun. Chambers responded no. Hansen asked if Chambers had plans to communicate with the greater outdoor community regarding the work, which Chambers confirmed. DuQuenne asked if the contract would be secured if Council went with option two, which Chambers confirmed. Hasen pulled his original motion.

Hyatt/DuQuenne m/s to approve the contract with Timberline Helicopter for Option Two, not to exceed the unmet need of \$440000 and to bring the balance of the contract back on April 2nd, 2024, for further discussion.

Discussion: Hansen asked if the contract was approved, could Council look back at option one or option two at a later meeting. Graham answered that it would allow for Council to look at the balance of the contract.

Roll Call Councilor Hyatt, Bloom, Kaplan, Dahle and Hansen, DuQuenne YES. Motion passed.

XIV. OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS

- 1. Ad Hoc Committee Request on 2200 Ashland St. Master Plan**

MOVED TO NEXT MEETING

XV. ADJOURNMENT OF BUSINESS MEETING

Meeting adjourned at 9:40 pm.

Respectfully Submitted by:



City Recorder Alissa Kolodzinski

Attest:



Mayor Tenya Graham