

**ASHLAND CITY COUNCIL  
BUSINESS MEETING MINUTES  
September 19, 2023**

**I. CALL TO ORDER**

Mayor Graham called the meeting to order at 6:01 p.m.

**1. Land Acknowledgement**

Councilor DuQuenne read the land acknowledgement.

**II. PLEDGE OF ALLEGIANCE**

Councilor Kaplan led the pledge of allegiance.

**III. ROLL CALL**

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

**IV. MAYOR'S ANNOUNCEMENTS**

Mayor Graham announced Early Childhood Care grant applications were due September 27, 2023. DEQ was holding a Railroad clean up meeting on September 27, 2023.

**V. APPROVAL OF MINUTES**

- 1. Minutes of the August 14, 2023 - Study Session**
- 2. Minutes of the August 15, 2023 - Business Meeting**

**Councilor Dahle/Hansen m/s to approve the minutes of the August 14, 2023, Study Session and the August 15, 2023, Business Meeting. Roll Call Vote: Councilor DuQuenne, Bloom, Kaplan, Dahle, Hyatt, and Hansen, YES. Motion passed.**

Mayor Graham announced they would be pulling Consent Agenda Items #5, 7 and 9 and moving them to New Business between items #1 and 2 under that section.

**VI. SPECIAL PRESENTATIONS**

**1. Travel Ashland Quarterly Report**

Katherine Kato from Travel and Andrew Gast from Mt Ashland Ski Resort provided highlights of the quarterly report:

- Travel Ashland's role and impact
- Project and Programs

Ms. Kato discussed the Mystery Fest and provided details for council. They went on to discuss year-round consistency for events in Ashland. Travel Ashland was working with the Oregon

Shakespeare Festival on a possible partnership. They were also meeting with the Ashland Galley and Taste of Ashland.

Andrew Gast, the general manager for Mt. Ashland Ski Resort provided an update on their past record-breaking season. Inflation and insurance had increased dramatically. Mt. Ashland was scheduled to open December 9, 2023. This was the resort's 60<sup>th</sup> anniversary.

## **2. Financial Update – Preliminary Fourth Quarter Results**

Finance Director Marianne Berry provided the financial update with a presentation (see attached):

- Finance Department – Quarterly Update
  - FY2023 Preliminary Financial Review
  - Departmental Updates & Current Projects
- Preliminary Financial Statements
  - Fiscal Year Ending June 30, 2023
- Moody's Annual Report – September 1, 2012
  - Confirmed Issuer taking Aa3 – in top 4 highest ratings.
  - Modest Constraints
- Finance Dept Update
  - Staffing
  - Process Improvements
  - Other
- Questions

Currently there was \$76million in cash equivalent investments. The investment was based on safety liquidity and what was needed in the immediate or intermediate term. They took advantage of higher rates and went out on the yield curve that was very secure. Since the city did not need the funds in the 180-day term, staff decided to go out on the yield curve longer. There was \$20million that matured every 6 months.

Ms. Berry addressed the additional debt of the water treatment plant. They were staying within the AA3 ratings and working with consultants on the debt coverage ratios. The city was well within the means to do a strong rating.

Tax revenue collection was based on all taxes, Property, Food and Beverage, TLT, and the Electric User tax.

## **VII. CITY MANAGER REPORT**

City Manager Joe Lessard provided the management report and reviewed the Look Ahead. He addressed outreach efforts regarding the emergency shelter and OHRA's service.

## VIII. PUBLIC FORUM

**Sonya Daw/Ashland/**Urged council to jump start the Ashland CEAP, update the progress report card, and find ways to collaborate with citizens.

**Linda Adams/Ashland/**Announced the Transportation Advisory Committee would hold a public hearing September 21, 2023, regarding a protected bike lane.

**Joel Gerston/Ashland/**Discussed the CEAP plan. The last progress report was in 2020.

**JD Barons/Ashland/**Shared her observations on the sunset to sunrise camping, pallet houses and Lacy McCoy and her family.

**Emily Simon/Ashland/**Noted the Social Equity and Racial Justice Committee needed more committee members.

## IX. CONSENT AGENDA

1. **Social Equity and Racial Justice Advisory Committee Appointment**
2. **Liquor License Approval for House of India, (DBA SMAGS Corporation) at 1667 Siskiyou Boulevard**
3. **Liquor License Approval for Masala Library Bistro & Bar, (DBA Masala Library Bistro & Bar) at 258 A Street, #3B**
4. **2023-2025 BN Supplemental Budget Amendment – Revenue Recognition and Budget Appropriation for Fire Department**
5. **Emergency Procurement of Fire and Rescue Ambulance**
6. **Oregon Department of Land Conservation And Development (DLCD) Technical Assistance Grant Application**
7. **Contract with Axon Enterprises Inc. for APD body worn cameras (BWC) and support services and for conducted energy weapons (CEW or “tasers”)**
8. **City Facility Rooftop Lease between the City of Ashland and Ashland Solar Cooperative**
9. **Professional Services Contract for TAP Intertie System Improvements (Scope 2)**

Councilor Dahle pulled consent item #8 and Councilor Hyatt pulled #6 for further discussion.

**Councilor DuQuenne/Bloom m/s to accept the remaining consent agenda items.**

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

Councilor Hyatt spoke to consent agenda item **#6 Oregon Department of Land Conservation And Development (DLCD) Technical Assistance Grant Application** and noted the exceptional efforts of the Community Development Department staff.

**Councilor Hyatt/DuQuenne m/s to authorize staff to prepare and submit an application for a planning grant from the Department of Land Conservation and Development to hire a consultant to assist the City in drafting an Economic Opportunity Analysis. Roll Call Vote: Councilor Hansen, DuQuenne, Kaplan, Dahle, Bloom, and Hyatt, YES. Motion passed.**

Public Works Director Scott Fleury provided background on **#8 City Facility Rooftop Lease between the City of Ashland and Ashland Solar Cooperative**. Jim Hartman from the Ashland Solar Cooperative provided additional background and noted the agreement would provide solar to possibly twenty families with 20% going to low income. Councilor Hansen and Kaplan spoke in support of the agreement.

**Councilor Dahle/Kaplan m/s to authorize the City Manager sign a long-term Legal Department approved lease agreement with the Ashland Solar Coop. Roll Call Vote: Councilor Kaplan, Bloom, Hyatt, Hansen, Dahle, and DuQuenne, YES. Motion passed.**

X. **PUBLIC HEARINGS** - None

XI. **UNFINISHED BUSINESS** - None

XII. **NEW BUSINESS**

**1. Purchase of Public Works Street and Wastewater Sewer Cleaning Equipment**

Public Works Deputy Director Mike Morrison introduced the topic and spoke to the cooperative agreement. When a larger group made purchases together it resulted in better pricing. Ashland was smaller and it was difficult to get lower pricing.

The life of a street sweeper was approximately seven years. The Public Works Department tried to replace them every 3 years. The difference in what was budgeted and the actual purchase price of \$90,000, was due to new emission standards and inflation. If the city went out for a competitive bid, they would not get a decent price.

**Councilor Hyatt/Bloom m/s to approve the new street and wastewater cleaning equipment be purchased as outlined in the tables from the cooperative contracts. DISCUSSION:** Councilor Hyatt emphasized the equipment was necessary to maintain the infrastructure. Councilor DuQuenne agreed it was a large amount of money but understood the need to maintain and take care of infrastructure. She would support the motion but did not want to do it as this time. **Roll Call Vote: Councilor DuQuenne, Hansen, Dahle, Kaplan, Bloom, and Hyatt, YES. Motion passed.**

**2. Emergency Procurement of Fire and Rescue Ambulance**

Finance Director Marianne Berry explained there were maintenance issues with other vehicles in the fleet. Emergency procurement allowed staff to bypass the bid process and buy directly. The purchase was in the approved budget and would cost less than what was budgeted.

**Councilor Bloom/Hansen m/s to sign the contract for the procurement of the budgeted ambulance from Braun NW Inc, Chehalis WA. DISCUSSION:** Councilor Bloom commented it needed to get done. Councilor Hanson added the ambulance was \$200,000 but less than the cost of a fire truck ambulance. **Roll Call Vote: Councilor Bloom, Hyatt, Hansen, DuQuenne, Kaplan, and Dahle YES. Motion passed.**

**3. Contract with Axon Enterprises Inc. for APD body worn cameras (BWC) and support services and for conducted energy weapons (CEW or “tasers”)**

Deputy Police Chief Dan Moulin explained the replacement process and contract.

**Councilor Hyatt/Dahle m/s to approve a sole source procurement with Axon Enterprises for a five-year term in the annual amounts stipulated in the staff report dated September 19, 2023.**

**DISCUSSION:** Councilor Hyatt thought the sole source procurement was justified and it was prudent to continue with what worked. Councilor Dahle thanked the chief and deputy chief. Having the body cameras was a critical component. Councilor Kaplan supported the motion. He appreciated the equipment automatically turning on within 30-foot radius when a taser was deployed.

**Roll Call Vote: Councilor Kaplan, Dahle, DuQuenne, Hyatt, Bloom, Hansen, YES. Motion passed.**

**4. Professional Services Contract for TAP Intertie System Improvements (Scope 2)**

Public Works Scott Fleury explained the contract was for the design and construction administration of TAP system improvements. He noted the improvements and how the scope would resolve design issues and part of the construction administration. This was approved in the budget and was part of the ARBOR Grant the city received.

**Councilor Hansen/Kaplan m/s to approve a Legal Department approved professional services contract with RH2 Engineering Inc. for TAP system improvements in the amount of \$196,650.**

**DISCUSSION:** Councilor Hansen noted the money was already appropriated and there was a plan. He appreciated the work to keep the water flowing. Councilor Hyatt observed this was an excellent example of regional cooperation. Mayor Graham commented the biggest way to cause catastrophic issues was letting a water system fail. **Roll Call Vote: Councilor Hansen, Kaplan, Bloom, DuQuenne, Hyatt, and Dahle, YES. Motion passed.**

**5. Ashland Parks Commission Seat #1 Vacancy Appointment**

Interim Parks Director Leslie Eldridge provided background on her leaving the Parks Commission to become the interim parks director. This appointment would fill her vacancy. She explained the ranked choice voting process the commission used that resulted in appointing Stefani Seffinger. Council approval of the appointment recommendation was the final step.

Stefani Seffinger explained why she wanted this position. This was a transitional time and her prior experience as a city councilor and parks commissioner would be beneficial.

**Councilor Hansen/Kaplan m/s to appointment of Stefani Seffinger to Position #1 of the Ashland Parks Commission. DISCUSSION:** Councilor Hansen thanked Ms. Seffinger for her work with council and her love for parks. He believed she would work to bring these two bodies together and move into this new era. He thanked her for her public service. Councilor Kaplan thanked Ms. Seffinger for stepping up and liked her priorities. He was the liaison to the Senior Center Program and looked forward to working with her. Councilor Bloom noted City Charter Article 3, Section 4 stated vacancies were filled by council and this body was not part of that process. Alternately, he disagreed with the Charter and thought the Parks Commission should be appointing their own commissioners. This highlighted the need to review the Charter. It was outdated and needed clear lines between the organizations. He hoped council would set up a committee to review the Charter. However, because the Charter indicated council made this appointment and council was not included, he could not in good conscious support the motion. Councilor Dahle welcomed Ms. Seffinger and echoed the concern of seniors becoming homeless. Councilor Hyatt thanked the Parks Commission for going through the process in an open and transparent manner. She appreciated Ms. Seffinger's passion for seniors and looked forward to working with her more. The Charter did need review, but the Parks Commission was elected, and she supported the motion. **Roll Call Vote: Councilor DuQuenne, Hyatt, Dahle, Kaplan, and Hansen, YES; Councilor, Bloom, NO. Motion passed 5-1.**

## **6. Climate Friendly Areas (CFA) Study Adoption**

Community Development Director Brandon Goldman and Planning Manager Derek Severson Provided the staff report. The Climate Friendly Areas (CFA) study would establish a set of rules that would define areas to reduce greenhouse gas, promote multimodal life and reduce vehicle trips. This was a regional effort. The DLCD hired 3J Consulting to develop the study.

Mr. Severson provided the following presentation (see attached):

- Why these Rules? Missing Oregon's Pollution Reduction Targets has Real Costs
- Updated land Use and Transportation Rules
- What is a Climate Friendly Area?
- Candidate CFAs
- Croman Mill District
- Railroad Property
- Transit Triangle
- Downtown
- Prescriptive Methodology
- CF & EC Implementation Timeline

Mr. Goldman explained the CFA minimum residential had 15 units per acre, but the city could increase that. The city could also create an ordinance with an upper cap of five stories instead of 4 stories.

Mr. Severson explained most of the local developers worked on a smaller scale and few would want to do something so different. Mr. Goldman added the current market condition and development community did not develop five story buildings but that could change over the next 15 years. They went on to further explain the units per acre and realistic amounts and potential CFA areas.

### **Public Comment**

**Robert Cortwright/Salem/**Repeated a request to the Planning Commission in June, to establish additional CFAs to meet the climate goals. That translated into 3500 units of housing. He was concerned the CFA study did not reach the number.

Mr. Goldman was asked about annexing properties in the urban growth boundary and whether it would create more CFA. Council would have to go through a zone change and generate a comprehensive plan adjustment. DLCD requirements had specific dimensions, and it would have to be a larger area. Using a combination of the areas recommended for CFA would give the city a good starting point. Creating a CFA in the downtown posed a potential risk for rebuilding that might not align with historic district criteria.

**Councilor Hyatt/Kaplan m/s to approve the attached Climate Friendly Area study report, authorize the mayor to sign the attached letter of approval and direct staff to submit the study to the Department of Land Conservation and Development before the December 31, 2023, deadline. DISCUSSION:**

Councilor Hyatt was glad RVCOG was there in support, the report showed the research was substantive and the effort had a lot of forethought. After the business roundtable the night before, this information was timely. Councilor Kaplan noted this was a tiny step and there was so much else needed to make it effective. He would rely on staff to guide council through these things. Councilor DuQuenne supported study and wanted to look at bringing in outside developers through incentives. Councilor Hansen supported it as well. He hoped that when development opportunities occurred, the market would be favorable. This gave them time ahead of the 3500 new units coming to Ashland. Councilor Bloom thanked staff and commented it was a big lift. Eight hundred units was not an acceptable number and he wanted to look at the zoning. Two of the CFA listed were in southeast Ashland. It was time for that area. **Roll Call Vote: Councilor Bloom, Hansen, Dahle, Hyatt, Kaplan, and DuQuenne, YES.**

**Motion passed.**

### **XIII. ORDINANCES, RESOLUTIONS AND CONTRACTS**

#### **5. First Reading of Amendments to AMC 13.02 Rights-of-Way ordinance and the accompanying resolution for Design Standards and Applications Requirements regarding small cell wireless facilities**

Acting City Attorney Doug McGeary worked with citizens opposing small wireless on the ordinance and explained the changes they had recommended. Recently, he had also met with members of the industry who had pointed out certain areas of the ordinance that would be problematic for the city and he concurred. They had offered to help work on the ordinance. If

council wanted the ordinance presented before them. He recommended another thirty days to work out the issues with both the citizens and members of the industry. Alternately, council could approve the LOC model ordinance which both the LOC and industry members supported and was used in many cities. The ordinance was close but needed some changes after talking with industry attorneys. The resolution would give the city the ability to control location.

### **Public Comment**

**Greggory Busch/ Seattle, WA/**Represented AT&T. They had submitted a letter of joint concerns with the ordinance and the resolution that would leave a risk in the city. Wireless was critical for fire and medical services, coordinating responses to combat wildfire and other large event emergencies. Large festivals also required large network capacities. Small cells needed to be directly near the coverage to increase capacity for large scale. They were requesting additional time to provide suggestions on the proposed ordinance and resolution. He cited issues with the ordinance.

**Areej Rajput/Portland, OR/**Represented T Mobile. They respectively requested to partner with the city to work on an ordinance legally in compliance with federal law. In 2018 the FCC issued an order regulating small cell to wireless facilities in public right of ways. It was upheld by the ninth circuit court and was still in effect and preempted any of the inconsistencies the ordinance would have with federal law. She highlighted other inconsistencies in the ordinance. On a positive note, where the ordinance was not preemptive with federal law, was the language regarding aesthetics. She asked for a continuance of the first ordinance.

**Kim Allen/Portland, OR/**Represented Verizon. It was only recently the industry learned of the city's pending code change that prompted the letter with concerns for the ordinance and resolution. She was on the committee that formed the LOC ordinance model and provided background. Ashland's proposed code was one of the most difficult and restrictive code she had ever seen. It would make the City of Ashland an outlier in the state of Oregon. The wireless carriers provided an essential service to the residents, businesses, and visitors. They were ready to work with the city on this ordinance.

**Paul Mozina/Ashland/**Referred to an email he sent earlier titled **So Who Decides**. He questioned the gap and thought they needed to start with the definition of personal wireless. He read from the Willits case in 1999. He supported a telecommunications cell to landline.

**Marilyn Lindsay/Ashland/**Spoke to the telecommunications industry spending \$1.2billion to lobby congress for the past twenty years. Money was the number one reason laws were passed and the most egregious is the one that protects telecommunication from EMF radiation. The recent letter from AT&T T Mobile and Verizon identified as stakeholders prompted her to ask what is at stake for them? They were businesses and sought profits. The city attorney was concerned with protecting the city from litigation but not protecting humans and all life forms.



**Kelly Marcoutulli/Ashland/**Reminded council they were voted into office to uphold Ashland's common values. The decision to accept or reject the attorney's draft was a huge decision and thrown into the mix was the menacing threat from the letter. The ordinance draft was not based on the LOC model and not biased to allow telecommunications industry to profit. The LOC model ordinance was based on telecommunications intimidating tactics. This was the fork in the road. She asked if council would listen to citizen experts or greenlight the simplest path forward that did nothing to protect the public.

**Pati Holman/Ashland/**After 40 pages of documents from citizen research and safe technology with the draft of the resolution or ordinance not one of the recommendations was followed by the city attorney. This was after many years of engagement, activism, research, and knowledge. She referenced the FCC, SHC, EHT case from 2020, children's healthy defense, who won their petition, and responded the FCC had to address the safety concerns of healthy effect of radio frequency yet telecom had no problem supporting them. She referred to the Flower Hill case where the Willits case was upheld and stressed the importance of the significant gap.

Councilor DuQuenne confirmed the city attorney met with the community three times and there were agreements. Councilor Kaplan asked about disfavored locations that included residential and anything within 1500 feet of schools, medical and health facilities. Mr. MCGeary spoke with Kelly Burns regarding emergency and confirmed they rely heavily on technology for their emergency systems and provided examples. The city could regulate aesthetics but not safety. The intention was to provide space between facilities and lower the risk of litigation. Councilor Bloom confirmed there were franchise fee ordinances with a 5% cap per state legislature. Councilor Hyatt confirmed setback amounts, testing and radio frequency measurements was close to contradicting federal law.

Council went around the room and expressed their opinions on next steps. Councilor DuQuenne thought they were determining location, how much and what will it look like. She had been ready to move forward. Then she heard about the setback. She was not comfortable with the LOC model. They needed to find a common ground and were not there yet.

Councilor Kaplan had not looked at LOC model ordinance. He was concerned they did not prohibit cell service in Ashland. 5G was already here and they needed technology advanced cell service for emergencies, tourists, etc. He questioned if the 1500-foot setback would affect hospitals and other facilities. Now he was hearing it might. He was also concerned that all these specific requirements might raise the hassle factor so high that the city would not get any applications. He was not interested in bureaucratic procedures to make things hard. This ordinance did not seem ready. He wanted the opportunity to review the LOC model ordinance.

Councilor Dahle explained it broke down into safety, aesthetics, and design. He had worked with radio frequency for years. They were mandated through FCC law and regulation that when a transmitter was turned on, whether it was a radio station or cell service, it generated a certain

power and frequency that was measured. Those limits were defined federally and there was nothing a local government could do about that. He addressed the 1500-foot setback. Cell service was overlapping fields, so you do not lose service. He disagreed with the premise regarding making a land line call anywhere, it was an outdated statement.

**Councilor Hyatt/Dahle m/s the need to balance the need of residents with EMF sensitivity to the economic needs to successfully conduct business while limiting the risk to our taxpayers for litigation. This does not do it. We need to request the base ordinance come back. We have a C minus do over on the resolution and we need to take it up again on another night.**

**DISCUSSION:** Councilor Dahle was confused by the updated ordinance. He read the LOC model ordinance. It was good, not perfect. He thought the city could do better. They needed to focus on aesthetics and local design and control, safety would work itself out. The telecom companies competed against each other and policed each other. That was how it regulated itself in terms of safety. Councilor Hansen was new to this issue. He was not impressed with the new ordinance and did not think it covered what concerned citizens needed or getting what those of us who wanted safe tech were needing. He thought if they focused on what they could control, he leaned towards the LOC model ordinance. Council should go back to that and start there and work with the citizens and the industry. In lieu of not doing that, council should adopt the LOC ordinance. He did not support moving forward with what was presented tonight. Councilor Bloom was not happy how this played out. It was obvious they needed to start with the LOC model ordinance. The citizens had been collaborative, but he was left with a bitter feeling regarding the approach the industry took tonight and asked them to try a different tune next time. Mayor Graham summarized what was on the table was a motion to postpone but council had not given any direction of which way staff should go. Councilor Hyatt noted the motion intended to bring back the base ordinance for review by this body for the express fact there were four people on council not familiar with the issue. She suggested bringing back the base ordinance so this team could look at what the starting point had been last year. It would be either an up or down on the base ordinance but then they needed to look at the resolution carefully and the thoughts around land use and aesthetic. That was where the city was ok with local control. The moment it stepped out of that opened the balance of taxpayers to pay the legal fees associated with alternate tries at other solutions. She did not like being in the situation they were in right now. It did not feel good. But when she said they need to balance the needs of EMF sensitivity to the economic needs, including the medical institutions and limit the risk to taxpayer litigation, the way to balance that was to give staff direction to bring back the base and then dig into the resolution with regards to land use and aesthetic to advance those three pillars to the best of council's ability under the local control they had. That was her motion. Mayor Graham explained citizens had been asking council to push the envelope and maintain as much control as they possibly could. It was her opinion that Oregon for Safer Technology (OST) version probably pushed them to have more local control than the LOC model. There had been so much work on this already, she did not want to go back through the LOC model again. OST had put forward their recommendations. This body had asked several times to go point by point through the differences between what was being brought forward by staff and what that base

ordinance was so council could decide if there was a risk. If they went back through this again, they needed a process that resulted in an ordinance and not another general conversation. She confirmed Councilor Hyatt's motion was to go back to the LOC model and put most of the attention into the resolution. Councilor Hyatt responded that was her understanding of where they had the most local control and that was in the resolution. They wanted something in place that was effective, enforceable and could at least have a chance to do what the residents were asking. And that would happen in the resolution. They were doing the ordinance they could legally do without stepping into federally regulated areas then taking up local control to the greatest extent possible through the resolution. Mayor Graham confirmed the ordinance before them tonight was close. She asked Councilor Hyatt if they wanted to go with that or go back to the LOC model. Councilor Hyatt confirmed the base ordinance was the LOC model ordinance. She felt hesitant to vote on the motion due to the confusion and the time. Mayor Graham confirmed they were at 9:40 p.m. and required to vote. **Roll Call Vote: Councilor Hyatt, Dahle, and Kaplan, YES; Councilor Hansen, DuQuenne, and Bloom, NO. Mayor Graham broke the tie with a NO vote. Motion failed 4-3.**

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

**5. City Council Standing Advisory Committees Workplans Review**

Item postponed to a future meeting.

**XV. ADJOURNMENT OF BUSINESS MEETING**

The clock ran out and the meeting adjourned at 9:40 p.m.

Respectfully Submitted by:

Attest:

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Clerk of the Council Pro Tem Dana Smith

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Mayor Tonya Graham