

## **BOARDMAN CITY COUNCIL REGULAR MEETING – FEBRUARY 1, 2022**

Mayor Keefer called the meeting to order at 7:00 p.m. and led the pledge of allegiance. Roll Call for attendance was taken

**Councilors Present:** Isaac Williams, Brenda Profitt, Paul Keefer, Paul Beagle, Katy Norton, Jr. Drago (In Person), and Leslie Pierson (via Zoom)

**Councilors Absent:** None

**Staff:** Karen Pettigrew – City Manager, Richard Stokoe – Chief of Police / Assistant City Manager, Marta Barajas – Finance Director, Barry Beyeler – Community Development Director, and Jenn Rollins – City Recorder/HR (In Person)

**Audience:** Kelly Doherty, Katie Imes, Ed Glenn, Aaron Moss, Jonathan Tallman, David Norton (Via Zoom), and Lisa Mittlesdorf (In Person)

### **APPROVAL OF MINUTES**

#### CITY COUNCIL REGULAR MEETING – JANUARY 4, 2022

Councilor Williams made a motion to approve the minutes from the January 4, 2022 City Council Regular Meeting. Councilor Profitt seconded the motion. Councilor Beagle asked for clarification regarding his question asked at the previous meeting in December regarding the test results entered for backflow systems. Community Development Director Beyeler replied if the test fails then a repair is generally required for the backflow device. Councilor Beagle also asked Finance Director Barajas if there was an update regarding the close out letter. Finance Director Barajas responded it had not been received yet. There were no other questions. Roll Call Vote: Pierson – Yes; Beagle – Yes; Norton – Yes; Drago – Yes; Williams – Yes; Profitt – Yes; Keefer – Yes. The motion passed 7 – 0.

### **FINANCIAL REPORT – ENDING DECEMBER 31, 2021**

Finance Director Barajas reported money has been transferred to the General Reserve Fund and the report for December shows the summary of accounts the money was moved from and deposited into. Director Barajas then explained waiting on the Close Out Letter for the Migrant Head Start Program was not due to finances as all expenses have been paid and the building cannot be occupied until the Close Out Letter is received. Mayor Keefer asked what the General Reserve Fund is used for, City Manager Pettigrew explained placing funds in the Reserve Fund is a new experience for the city and the funds can be used as needed. There were no further questions.

#### SDC Waivers 2020-2021

City Manager Pettigrew reviewed the figures from the System Development Charge (SDC) Waivers from January 1, 2021 through December 31, 2021 with the councilors. She explained \$79,957 was waived, but the city also collected \$68,324 in SDC charges. City Manager Pettigrew stated the city has hired a firm to do a study on SDC waivers and to provide recommendations. She continued to explain there may be changes to the program after the study and she asked the council members if they would rather continue with the program as is and wait to make changes retro-actively, or if they would like to make changes at the end of the fiscal year. The councilors asked to table the discussion and place it on the agenda for the next City Council Meeting. Mayor Keefer asked if there were any further questions regarding the report; there were none.

## **PREARRANGED PRESENTATION**

### Aaron Moss – Morrow County Broadband Action Team

Aaron Moss explained he is a facilitator to get Morrow County ready for the broadband investment. Mr. Moss presented a list of partners in the program who are helping to address the gaps in broadband access based on infrastructure in order to make Oregon more competitive in technological industries. Objectives include: making high speed broadband available, affordable, and leveraging resources for education, healthcare, and professional development. Mr. Moss expects funding to come available for the first round of broadband funding at the end of Quarter 3 in 2022. According to Mr. Moss, Morrow County currently has 1,700 households which are under served or have no broadband service. The project is also creating programs to increase affordability for families to gain broadband access such as the Affordable Connectivity Program, but they are encountering a messaging gap. Sign ups for the program are low, although the eligibility criteria for the program is minimal. The Affordable Connectivity Program provides a discount of \$30.00 a month to families with a student who goes to a school which provides free and reduced lunch; this automatically qualifies families for the program. Mr. Moss is creating videos in English and Spanish to explain the advantages of the program to the public; he also stated he would provide the city a link and flyers to distribute as they see fit. The Morrow County Broadband Action Team would also like to develop educational programs and workforce development programs to be presented in tandem with the broadband access. The councilors thanked Mr. Moss for the presentation and discussed various ways they could help distribute information regarding the Affordable Connectivity Program.

## **PUBLIC COMMENT**

### Kelly Doherty

Kelly Doherty from 68812 Wilson Lane, Boardman, OR stated it was her belief the governing body of the City of Boardman has deliberated and taken official action on the decision in violation of the open meeting laws under ORS192.610.2690 of the State of Oregon. In addition, also violating Boardman Charter of 1985 Chapter 3 Section 8, 16, and 19. Ms. Doherty stated local government according to Chapter 3, Section 8 of the Charter is made up of the mayor and six council members. The proceedings in Section 16 say that the council will deliberate and the council will be part of officiating the state law and any other exceptions. Ms. Doherty does not believe the decision fell under any of the exceptions to go under closed deliberations, and the enforcement for this proceeding could be according to 192.680, a decision made by a governing body of a public body, in violation of 192.1610 through 1690 may be voidable. This decision was made without a notice, without a motion, without discussion, without comments, a vote, or any minutes taken and was put forth through the city government body. Ms. Doherty would like to know how the decision was made, where the decision was made, who voted, who made what motions, and how this came to be. In addition to violating those rules, this violated the due process clause of the United States Constitution Number 14 and other due process protections at future hearings. There are only three requirements for due process; notice, a hearing, and an impartial tribunal – this is going to jeopardize a lot of hearings in the future. Ms. Doherty would like answers to how this decision was made, she would like them tonight, and would like to call on an answer from the council.

Mayor Keefer asked staff if there was an official response to Ms. Doherty's statement. City Manager Pettigrew replied it would have to be taken before the city's counsel as she did not understand what Ms. Doherty was talking about. City Manager Pettigrew stated she personally doesn't cite and study all the ORS rules, so she didn't know what Ms. Doherty was talking about. Mayor Keefer asked if anyone knew what meeting, decision, or subject Ms. Doherty was talking about; there were no ideas.

Ms. Doherty asked to interject, and Mayor Keefer allowed her to speak. Ms. Doherty stated she was talking about the motion to withdraw a decision 197.830.13B and ORA 661.1021-2 a decision to withdraw the city's decision.

Assistant City Manager Stokoe asked if he could speak, and stated there was not a convened meeting as it was not a decision made by the City Council; it was a decision made by legal counsel with staff to rescind the decision and there will be a public meeting to address this in the future. City Manager Pettigrew stated the decision was repealed so it gives everyone time to re-think about continuing on with LUBA and gives the city a chance to correct errors pointed out by Ms. Doherty.

Ms. Doherty stated she didn't understand what governing body of the City of Boardman made the decision and it was not a decision to be made by legal counsel, it is a decision of a governing body and she wanted to know when the decision was made.

Assistant City Manager Stokoe stated since this subject was under Public Comment and not an action item on the agenda, and it is not advisable to get into the details regarding this comment at this time.

Mayor Keefer explained to Ms. Doherty, the city staff has provided an explanation as to what they did and why they made their decision, and will be discussed further on February 15<sup>th</sup> at a Special Hearing. Ms. Doherty replied she believed the discussion was limited and the discussion needed to be had here. Mayor Keefer explained because this statement was being made under Public Comment the council could not discuss it. The discussion would need to be on the agenda if the council wanted to discuss it, and Mayor Keefer believed it would be discussed in length at the Public Hearing on the 15<sup>th</sup>.

Ms. Doherty asked to state again the Public Meeting has been limited in discussion and asked for this to be put on the next agenda. Mayor Keefer responded the city will take the request under advisement and he felt it is important for citizens to show up and be involved and he appreciated it.

#### Jonathan Tallman

Mr. Tallman stated he wanted to respond to the comment made stating, "we don't pay attention to ORS codes to procedures and process." made by City Manager Pettigrew. The most important thing is procedures and process and he agrees with Mayor Keefer that it is important to have a dialogue, but if you don't follow procedures and process then what is the point of even having them if you aren't going to follow them. Mr. Tallman said it is totally sad what is happening about the process not even being made. He continued, saying Chris Crean is the land use attorney for the city, and Mr. Tallman would file a Freedom of Information Act to ask how much his contract is and how much the city is paying for the contract. Mr. Tallman believes Mr. Crean was hired just to fight land use issues which could have been handled by being open and transparent through this entire procedure. This exactly goes to what is going on with the process not being followed, because it was an application that was filled out improperly and the city still voted on it then rescinded their decision. Mr. Tallman continued to state there is a fee to file an appeal of \$250 which was not refunded because the city said they talked with counsel and decided not to do it. When there is an open error procedure that needs to be followed to make sure it is rescinded in the proper way in public disclosure but it was done by city staff and procedures and processes need to be followed.

Mayor Keefer thanked Mr. Tallman for his comment.

### **ACTION ITEMS**

#### Resolution 2-2022 – A Resolution to Correct Street Names on Tuscany III Final Plat, Within The City of Boardman

Community Development Director Beyeler explained the resolution was to correct street names which were recorded incorrectly on the Tuscany III Final Platt. Councilors discussed the streets to be re-named and/or corrected and asked Community Development Director Beyeler for clarification. Due to confusion regarding the street names and the wording of the resolution, the councilors recommended the resolution be sent back and re-worded for clarification to be presented to the council at their next meeting.

### **REPORTS, CORRESPONDENCE AND DISCUSSION:**

#### **POLICE REPORT**

Police Chief Stokoe presented the council with a copy of the police report for the month of January. Chief Stokoe informed the councilors the numbers are comparable to the numbers from January of last year. Chief Stokoe asked if there were any questions regarding the report. There were no questions.

#### **BUILDING DEPARTMENT**

Mayor Keefer asked if there were any questions regarding the building report. There were no questions.

## **PUBLIC WORKS**

Mayor Keefer stated he appreciated the information listed on the Public Works Department Report as it included information regarding activities of the department so he could use it to inform the public when they have questions. Mayor Keefer asked if there was a way to post this information on the City of Boardman's website. After some discussion City Manager Pettigrew agreed it would be nice to post the information on the website, but it might have to wait until a new website was developed to be more user friendly for citizens. Mayor Keefer asked if there were any more questions; there were no more questions.

## **CITY MANAGER**

City Manager Pettigrew reminded councilors they would be meeting at the Senior Center for breakfast on Saturday prior to the Annual Retreat. City Manager Pettigrew explained she included information regarding CREZ disbursements, and an article from Hermiston notifying of water and sewer rate increases in March.

## **COUNCILOR COMMENTS**

Councilor Williams asked if council members would receive any more information regarding the appeal hearing scheduled for February 15. Community Development Director Beyeler said he anticipated more information coming in regarding the appeal and it would be distributed to the councilors as it was received.

Councilor Williams asked if there was an update on computers being provided to council members. Assistant City Manager Stokoe replied the computers had been delivered and he would work to install software and he hoped to deliver them to the councilors during the Annual Retreat on Saturday.

Mayor Keefer asked for clarification on the wording used to advertise the Public Hearing scheduled for February 2, 2022; Community Development Director Beyeler explained the different types of decisions and the abbreviations of documents.

Councilor Williams asked where he could go and study the ORS that were mentioned by Kelly Doherty; City Manager Pettigrew replied he could search them on the internet and ORS 192 and all of the related information regarding public meetings would be available online.

## **EXECUTIVE SESSION**

Mayor Keefer announced the council will go into Executive Session to discuss ORS 192.660(2)(e) – Real Estate. Mayor Keefer said he would provide an update if any decisions were made during the Executive Session, and he recessed the regular meeting at 8:15 p.m.

## **Mayor Keefer reconvened the regular meeting at 9:21 p.m.**

Councilor Profitt made a motion to give permission to the City Manager or the Assistant City Manager to negotiate acreage for sale owned by the city at the price of \$50,000 an acre to any interested parties. Councilor Williams seconded the motion. Mayor Keefer called for discussion. Councilor Drago asked to amend the motion without the price included. Councilor Beagle seconded the motion to amend. Roll Call Vote: Pierson – No; Beagle – No; Norton – No; Drago – No; Williams – No; Profitt – No; Keefer – No. The motion failed 0 – 7.

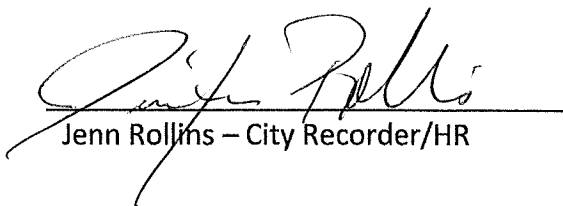
Councilor Drago made a motion to allow the City Manager and/or Designee to enter into negotiations with individuals interested in city property and negotiate the sale of said property. Councilor Profitt seconded the motion with the amendment. Roll Call Vote: Pierson – Yes; Beagle – Yes; Norton – Yes; Drago – Yes; Williams – Yes; Profitt – Yes; Keefer – Yes. The motion passed 7 – 0.

Chief Stokoe asked if councilors would be interested in viewing the training simulator for law enforcement after the Annual Retreat on Saturday. Several councilors asked to participate in the simulation.

**The meeting was adjourned at 9:32 p.m.**

A handwritten signature in black ink, appearing to read "Paul Keefer", written over a horizontal line.

Paul Keefer – Mayor

A handwritten signature in black ink, appearing to read "Jenn Rollins", written over a horizontal line.

Jenn Rollins – City Recorder/HR