

COTTAGE GROVE CITY COUNCIL
GOAL SETTING WORK SESSION MINUTES
MARCH 20, 2021

CALL TO ORDER

Mayor Jeff Gowing called the virtual meeting to order at 8:00 am in the Council Chambers at City Hall.

ROLL CALL

City Recorder Trudy Borrevik called the roll. The following were

PRESENT: Mayor Jeff Gowing, Councilors Greg Ervin, Mike Fleck, Kenneth Michael Roberts, Chalice Savage, Candace Solesbee and Jon Stinnett

STAFF PRESENT: City Manager Richard Meyers, Assistant to the City Manager Jake Boone, City Recorder Trudy Borrevik, Public Works & Development Director Faye Stewart, Finance Director Roberta Likens and Police Chief Scott Shepherd

City Manager Richard Meyers advised Council the meeting was being aired live on YouTube and that he had started putting Council and Planning Commission meeting vides on YouTube as well. He advised Council to not view Planning Commission videos for at least two weeks from the date of the meeting to avoid any conflicts.

Richard passed out a Memorandum to the Council from the City Attorney, who wasn't able to attend the meeting, which covered several topics.

Richard talked about an incident where a public records request was received and processed by the City and a copy of a City check that was provided to the requestor was posted to Facebook and how the City was affected by that action.

Richard talked about unintentional public meetings and public records and retention rules. He advised Council that if they made notes during a Council meeting, that they were considered a public record and needed to be retained. He suggested that any notes made by Council, emails, texts or posts on Facebook, etc. should be forwarded to the City Recorder to be retained.

Discussion was held on public records and the retention of Council emails. It was also discussed that Council not respond to "all" when replying to an email and that they practice caution when replying to Councilors.

Councilor Ervin asked about the definition of a public record as far as Council was concerned and if it included anything that related to the City.

Richard said that was correct and said it didn't have to be something that was on a Council Agenda. He said if it related to their function as a City Councilor, it was a public record. He said there would be some exceptions but the better thing to do was error on the side that it was a public record and retain it. He said if Council received a request from someone to see their emails, etc. they should be directed to contact the City Recorder who handled all public record requests.

Richard said the next topic was Public Records Retention Issues which talked about the City's Social Media Policy and the posting by City officials on social media sites. The City Attorney provided an example in her Memorandum. He talked about social media and the deletion of posts that were public records. Discussion was held on posting on social media and the suggestion was to bring it to Council to discuss to vet an answer as a whole as it being an official message.

The updating of the City's Facebook page was discussed to get information about the City on social media on a timelier basis. Richard talked about projects that the Assistant to the City Manager would be working to get information out.

Richard reminded Council if they felt the need to post on social media to make sure they were clear that they were one of seven and it was only their comment, opinion, etc. not the entire Council's. He also suggested that if they did comment that they should direct citizens to a meeting, website, link, etc. where they could get the entire information.

Discussion was held about postings on social media and the proper way to comment and respond to comments.

Richard went over the section in the City Attorney's Memorandum, Posting in Individual and Official Capacity, which provided examples of social media postings and what to refrain from.

Richard talked about unfair labor practices. He said if Councilors posted or responded to a post regarding the City labor negotiations or collective bargaining agreements, they could create an unfair labor practice that the union could file against the City. He advised Council to refrain from those kind of posts.

Richard talked about prohibited promotion of private interests, prohibited political commentary, defense of official vs. personal speech and security breaches.

Discussion was held on the promotion of private interests and what to stay away from posting on social media as a City Councilor versus postings as an individual.

Councilor Solesbee expressed her concern of people not wanting to run for Council or apply for committees or commissions due to personal attacks and derogatory comments, etc. from the public. She asked about suggestions for Council on how to handle that.

Councilor Fleck commented that he would like some insight from the City Attorney on when free speech stopped and defamation of character came into play.

Richard said when someone was elected to a public office, the standard was higher. He talked about Council relationships and behaviors. He talked about how virtual meetings had affected staff and Council processes and that we needed to strengthen those back up to model proper behavior.

Discussion was held on the challenge of addressing issues of personal attacks and when and how they should be addressed.

Councilor Fleck expressed his views on addressing comments and postings on Facebook that weren't accurate without getting into a disagreement. He talked about Council relations and suggested that Council have some future work sessions on consensus building and active listening.

Discussion was held on Council relations and respect and agreeing to disagree on issues.

Richard talked about public record requests for Councilor notes, text or emails. He said in the current world of virtual meetings, if a Councilor was at home attending a meeting virtually and they were to answer their phone or text during the meeting, someone could request to see who they were communicating with and the content. He said at Friday morning's meeting, one of the Councilors held up their phone and did something on the phone in front of their camera on the computer. He said this was an example of what not to do. He talked about if a request were denied and how it would be handled. He said the requester would have to file an appeal through Circuit Court.

Faye also commented on emails and how they linked together. He commented on the justification for an investigation of a computer or phone and reminded Council to be mindful of what they were doing while conducting Councilor business.

Councilor Fleck commented that he used his phone during meetings to add meeting dates but recognized that someone could submit a public record requests.

Mayor Gowing agreed that Councilors needed to be careful when texting and provided two examples. He said at a Cottage Grove Council meeting he saw a Councilor texting with their spouse who was in the audience during the meeting. He said the other he heard from a speaker while attending a meeting that two Councilors were texting back and forth about a speaker and commented that the speaker was an idiot and the speaker requested to see what they were texting about.

Councilor Savage asked if there were requirements for someone to request public records such as being a local resident or providing identification.

Richard said staff couldn't ask those types of questions, anyone could request public records. He said there was a form to be completed with the requester's name and address and the information

they were requesting. He said it had to be a public record, the City didn't have to create a document with requested information. He said there were some records that were confidential and not available to the public.

Richard talked about ethic rules and said Councilor Savage had asked a question about her employer, a local developer, who held regular lunch meetings which included architects, other developers and real estate agents. He said the lunches were paid either by her employer or one of the attendees. He said under the gifts provision in the ethic rules, Councilors were allowed \$50 per year per person from those persons who may have a legislative interest with the City. He said she could track each lunch and subtract from the allowed \$50 for each person or the City Attorney said it would be easier to pay for her own lunch. He said Council should contact City staff if they ever had a question about an ethics issue.

Councilor Fleck commented about ex-parte contact and potential conflicts of interest and that she would need to be very careful when attending those lunch meetings.

Richard said the last section of Carrie's Memorandum was about Unintentional Public Forums which said if someone had their own public forum created by their social media account, they couldn't block anyone from commenting which would be a violation of freedom of speech.

Richard passed out to Council the League of Oregon Cities Oregon Municipal Handbook Chapter 10 "Working with the Public." He said the League has been working on updating the chapters in the handbook. He cautioned Council when reading the handbook and said it was prepared for all cities and some cities had different policies and procedures in their organizations.

Council took a six minute break.

Richard said he wanted to discuss Council Rules next. He talked about virtual meetings and what information staff and the public could see from the recordings. He said the new virtual realm had created some challenges with the Council Rules. He said one thing for Council to discuss was if they wanted to require Councilors to have their cameras on when they were in a Council meeting. He said the video only showed who was on camera during the meeting, it didn't show those who weren't on camera.

Councilor Solesbee said the exception to that would be when the cameras wouldn't work.

Richard said there were always technical difficulties and suggested that in the rule or discussion parameters be set.

Richard provided Council with the Council Rules that were adopted and went into effect January 1, 2015. He talked about public meetings and said Council meetings were public which meant they could be seen by the public however the law didn't require that they had to participate unless it was a public hearing. He said when the Charter and Council Rules were adopted, procedures were set up allowing the public to participate which was more than what State law said they had to do.

Richard went over the Council Rules.

Meetings: The types of meetings, when they were held and what could be discussed at the meetings.

Calling a Meeting: Who could call a meeting and how it was done was discussed.

Cancellation of Meetings: How meetings could be cancelled and who could cancel them.

Quorum: What occurs when a quorum isn't present for a meeting.

Attendance, Excused Absences: How Councilors are excused from meetings and when they are considered unexcused. Discussion was held on abstaining from voting and censuring a Councilor.

Rules of Order: Presiding Officer, Pro-tem Presiding Officer, Council Discussion/Debate, Right to Appeal and Excusal During the Meeting. Each of the sections was discussed.

There was a more lengthy discussion on Council Discussion/Debate. Richard said staff would be working on addressing the Council by following the rules more closely. He also talked about citizens who wished to speak and said when meetings were held in person, citizens could sign up at the meeting to talk. He said with the virtual meetings, staff would like anyone wishing to speak on an item, to sign up before the meeting. He said when the agenda was posted online, there was a link for someone to sign up to speak at the meeting. He said written comments would still be allowed. He said public meetings were an opportunity for Council to discuss the City's business in front of the public. He said it wasn't for the public to continually ask questions and bring up items on issues. He said the rules currently allowed for someone to speak once on an item for a limited period of time.

Councilor Fleck said he didn't think Council wanted back and forth discussion with the public. He said the reason for a structured meeting was to have it professional, hear all sides and make decisions. He said during Concerns from the Council was a time for Councilors to provide their concerns, positions, etc. on items.

Councilor Stinnett asked about the powers of the Mayor and if the discussion on an item was going too long, if the Mayor could end the discussion and move on to the next item.

Richard said he could if it wasn't a public hearing and it had to be by Council approval.

Discussion continued on public comments in virtual meetings and written comments and if written comments received were read to Council or posted on the website.

Richard said if staff received written testimony and it was received by 5:00 pm the day of the meeting, the testimony would be added to the Council Agenda on the website.

It was asked if Council could rescind a vote or decision.

Richard referred to #18 in the Council Rules, Reconsideration of Actions Taken, which outlined how reconsideration of an action was handled. Discussion was held on how a reconsideration could affect a decision. Also discussed was the postponement of an item.

Discussion was held on Roberts Rules of Order versus the Council's adopted procedural rules and the intent.

Richard talked about Item 7.3, Council Discussion/Debate and 7.5, Excusal During the Meeting. He said in virtual meetings it was difficult for Council to ask to be excused. He asked how it would apply to cameras and being on camera in a virtual situation. He suggested that if a Councilor was having difficulty with their internet connection affecting their participation in the meeting, that they advise the Mayor.

Councilor Stinnett asked Richard when he thought Council would be able to resume regular meetings.

There was discussion about COVID and what had to be done in order for meetings to resume fully in person.

Council talked about citizen comments and how they should be handled.

Mayor Gowing said the Agenda Sessions were meant for a time for Councilors to ask their questions of staff. He said it would make the regular meetings more efficient and would allow staff time to research the question before the Monday night meeting. He said posting the meetings for the public to view would show that the Council asked questions and got answers at the Agenda Session and wouldn't need to ask at the regular meeting.

Richard talked about virtual meetings and what was allowed and what wasn't.

Richard passed out the current list of the Council goals. He talked about goals and what Council should be looking at as far as setting new goals. He read a job announcement for a City Manager from a City in Oregon which he commented on and said staff was available to be a tool for the Council to help them get information out to the public.

Councilor Fleck commented that staff couldn't advocate for something on a ballot, it had to be done by the Council to educate the public.

Public Works & Development Director Faye Stewart provided information to Council on the projects the City had completed since 2017. He talked about the safe routes to school project the City had received grant funding to complete. He also talked about funding that the City received from the State of Oregon for gas tax and how it was budgeted. He talked about funding the City received from Federal Funding, Urban Aide which was based on allocation of population. He talked about utility operating expenses and what the City paid for from gas tax revenues.

He said in December, 2019 a company took the City's software program paver and did a condition index on all of the streets within the City. He said the average condition index at that time was 57.6% which was in the fair category. He said since that time, the average condition index was 53.55% which meant roads within the City were continuing to deteriorate due to weather and use. He said back in 2019 it was asked how much the City would need to spend on a yearly basis just to maintain streets with a condition of 58% which was \$1.4 million per year. He said the City was going backwards as the City only had \$400,000 each year to spend on streets. He said in order to stretch the City's dollars, the City was doing crack sealing to help the streets from deteriorating at a faster rate. He said it was very expensive when the base had to be replaced. He said to increase the index to 72% which was the lower end of good condition, the City would need to spend \$2.8 million per year for ten years to get the City to that point. He said the City spent approximately \$40,000 in crack sealing two years ago which equated to approximately 275,000 lineal feet of crack sealing. He said with City staff doing the work it saved the City a considerable amount of money. Faye said what guided the City's decision were the bridge plan, the paver plan and the transportation system plan adopted in 2015.

Faye talked about capital funding which was where system development charges could be spent. He talked about some of the projects that were eligible for system development charges. He said some of the cost drivers were really just the fact that things wore out, streets were used and if routine maintenance wasn't done, they would wear out from heavy use or natural deterioration. He said the price of materials was outside the City's control.

Faye talked about project costs and getting them in the que and prepared and designed so when there was a potential federal funding source or windfall resources coming into the City, the City would be in a good condition to apply and hopefully get awarded. He talked about some of the projects that he had requested pricing on. He said he had also gotten prices on chip sealing.

Councilor Ervin asked about requirements to be a full-fledged road builder and if the City would be able to do that work.

Faye said there were State laws that wouldn't allow City staff to build roads. He said when projects were over a certain size, specifically with roads, if it were more than \$100,000 in magnitude, the City was required to bid the projects out to private companies. He said a combination effort would be City staff doing saw cutting, remove existing failing pavement and have a company following up replacing the pavement.

Councilor Fleck recommended a work session to educate how the City could save money and what kinds of ideas the City could do to repair streets on a more costly basis and also what the City was going to do to fix the structural deficit in street funding. He talked about ways the City could raise funding for street improvements.

Mayor Gowing said he favored the gas tax over bonding as it would be paid by everyone.

Discussion was held on getting citizens involved to buy in on projects and Council advocating for the community at the State level. It was mentioned that with virtual meetings, it was easier to testify before the Senate or House without having to travel to Salem.

Richard said with federal laws and all the requirements, if major improvements were made on a road, all the ADA requirements had to be met as well. He said with the Safe Routes to Schools project, there was a large portion that was ADA.

Faye said the pavement portion of the Safe Routes to Schools was nothing compared to the cost for all the requirements for ADA.

Discussion was held on ADA standards and requirements and how they affect the City's project funding and budget. The cost of projects was discussed and how the City could possibly save money on being innovative and using different materials, etc.

Richard asked if Council wanted to scrap the long list of goals and do essential basic goals.

Faye said water, wastewater and stormwater were regulated by the State, EPA and DEQ which the City had to abide by and explained. He explained how it worked if the City were cited by any of the agencies for non-compliance. He talked about a piece of equipment at the wastewater treatment plant that was failing and needed to be replaced and the cost involved. He talked about bio solids and how they were processed and a piece of equipment the City was looking at to process the bio solids on site versus paying to have it shipped to another location. He talked about the diminishing infrastructure and said there was a lot of old piping underground, some areas where the piping was a hundred years old. He said public works had a camera system to look at all the lines underground and repair the weak areas. He said the City had contracted with a company to repair sewer manholes to reduce the amount of water going into the stormdrain system. He also talked about pipe bursting as a way to fix underground lines.

Faye said if the City removed all the capital improvement projects and maintained the current debt service in operations, the City would need in 2022 a five percent increase and increases of three percent in 2023, 2024 and 2025 each year.

Faye talked about the golf course and the managing and investments that were proving to be very good and that play had increased to the best it had been since the City purchased it. He talked about how things had improved and the revenue being generated. He said the City was doing to the best it could with the funding and resources.

Richard said another work session should probably be scheduled to go more into the other departments not discussed.

There being no further business, Mayor Gowing adjourned the meeting at 12:17 pm.

Trudy Borrevik, City Recorder

Jeffrey D. Gowing, Mayor