



City of Oregon City

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Meeting Minutes - Final City Commission

Dan Holladay, Mayor
Carol Pauli, Commission President
Brian Shaw, Rocky Smith, Jr., Renate Mengelberg

Tuesday, October 13, 2015

8:00 PM

Commission Chambers

SPECIAL MEETING

1. Convene Special Meeting

Mayor Holladay called the meeting to order at 8:01 PM.

2. Roll Call

Present: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

Staffers: 4 - Community Development Director Tony Konkol, City Attorney William Kabeiseman, Human Resources Director Jim Loeffler and City Recorder Kattie Riggs

3. General Business

3a. To Consider the Continued Employment of the City Manager

Mayor Holladay said this special meeting had been called to consider the continued employment of City Manager David Frasher. The Commission met in Executive Session on October 9, 2015 to consult with legal counsel concerning the legal rights and duties of the City regarding litigation likely to be filed and in particular a tort claim notice sent to the City by Mr. Frasher's lawyer. He thanked the Commission, staff, and others involved in the process for keeping this matter quiet to this point. The City Manager reported to the Commission and was an at will employee. The City Commission answered to the citizens. Due to employee confidentiality, the City did not discuss personnel matters and they would respect Mr. Frasher's privacy as any other City employee. Therefore the Commission would not discuss publicly every factor that led to a personnel decision. It was the Commission's duty to make a decision and as an employer they were obligated to respect confidentiality rules that applied for the benefit of all employees.

Jerry Herrmann, resident of Oregon City, said he met Mr. Frasher five years ago and at various times he and Mr. Frasher did not always agree especially in regard to the Natural Resources Committee. However, he always tried to get people together to work out the problem. Mr. Frasher had called Mr. Herrmann to encourage him and took interest in his work. He tried to solve each problem fairly. He thought if there was a way, the Commission should give Mr. Frasher another chance.

Bob Mahoney, resident of Oregon City, thought if Mr. Frasher had lost the confidence of the Commission to perform his duties, that should be dealt with as a personnel issue, not by way of an alleged complaint leading to a special meeting. He expected the Commission to proceed in a reasonable manner and let citizens know what was

going on. He had not seen anything of concern regarding Mr. Frasher and supported him. He also supported the City and it didn't do any good for Mr. Frasher's or the Commission's reputation to not disclose what the complaint was about.

Amber Holveck, Chamber Director, had the pleasure of working with City staff and Commission. She thought Mr. Frasher had provided strong leadership, however she also believed strongly in the leadership of the Commission to do what was right for the community. The Commission had her support and existing City staff were maintaining the City and things were moving forward smoothly.

Doug Neeley, resident of Oregon City, said when he was on the Commission he worked with five different City Managers. He thought Mr. Frasher held together the executive management team in a way that no other City Manager had done. He was available and listened to the public. Mr. Neeley wanted to make sure the Commission considered how their decision would impact the morale of the executive staff.

William Gifford, resident of Oregon City, thought the Commission had already explored all of the perspectives and he trusted they had done their due diligence. He was concerned about what happened after the decision was made. If there was a change in leadership, he thought the Commission should give the current City Manager the fairest severance package possible. He also thought they needed to do a national search and get the best City Manager possible.

Betty Mumm, resident of Oregon City, knew this was a hard decision. She supported the Commission and knew they would make the best decision for the citizens and would be fair about the severance package.

Denyse McGriff, resident of Oregon City, said Mr. Frasher was fair, honest, and compassionate. She had not agreed with every decision he made, but he had listened and understood the historic nature of Oregon City. He was accessible to citizens and was respected by staff.

Commissioner Shaw said they were all friends of Mr. Frasher, but they had to separate the personal side from a business decision. In evaluating a City Manager, the Commission must consider the whole picture. There were many good things to be said about Mr. Frasher's service as City Manager, but they must be weighed against the totality of the situation as they understood it. He asked citizens to trust the Commission on this decision.

Commissioner Mengelberg said the City Manager needed to maintain a positive working relationship with the City Commission and staff. If the Commission decided that was missing, they had a duty to decide to do what they must.

A motion was made by Commissioner Smith, seconded by Commissioner Pauli, to release David Frasher from employment effective at the close of the City's current pay period on Friday, October 16, 2015, and that City staff hereby as directed to determine the value of all unpaid wages due to him through the close of business on October 16, 2015, plus the value of earned and unused leave accruals which amounts shall be paid to him in accordance with City policy and law as his final payroll payment. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

4. City Manager's Report

Mayor Holladay said because Mr. Frasher, through his attorney, sent a tort claim to the City which could lead to litigation, neither he nor any City Commissioner would have any additional public statements to make about that night's unanimous decision to release Mr. Frasher from his employment as City Manager. There would be a press release which would have more information. The City would pay Mr. Frasher wages and compensation to which he was entitled to according to City policy and laws on October 16, 2015 including the value of his earned leave balance. The Commission declined to pay the more than \$400,000 in severance which was called for in his 2013 employment contract. City officials believe legal reasons why the contract was void and unenforceable. When Mr. Frasher's contract was signed in 2013, there was a great body of law that said a current Commission could not bind a future Commission in a contract where an employee was providing governmental functions. Mr. Frasher's contract was for five years, but was not brought forward to the new Commission to be ratified. He thought the contract was void and on the advice of the City Attorney that was the action the Commission would take.

5. Adjournment

Mayor Holladay adjourned the meeting at 8:27 PM.

Respectfully submitted,

Kattie Riggs, City Recorder