

City of Oronoco City Council
Approved Meeting Minutes
17 October 2023
Regular Meeting @ 6:30 PM
<http://us02web.us/j/8757004539>

I. CALL TO ORDER

Mayor Eichhorst called the October 17th, 2023 regular Council meeting to order at 6:30 p.m.

II. ROLL CALL

Members Present: Mayor Ryland Eichhorst, Councilor Dana Bergner, Councilor Jim Richards, Councilor Carl Krause and Councilor Jim Phillips

Members Absent: None

Guests: City Administrator Sunny Bjorklund Schultz, City Attorney Mike Flaherty, City Engineer Joe Palen, City Deputy Clerk Ranae While and John Giesen on behalf of Marquee Construction.

III. APPROVAL OF AGENDA

Following a review of the agenda, Councilor Richards made a “MOTION TO MOVE ITEM 8C to be under item 5 as letter B. Motion was seconded by Mayor Eichhorst with all present members voting “AYE”.

Councilor Richards made another “MOTION TO ADD ITEM 5C TO DISCUSS THE PERFORMANCE REVIEW OF CITY ADMINISTRATOR SUNNY BJORKALAND SCHULTZ IN A CLOSED SESSION FOR A MAXIMUM OF 15 MINUTES”. Motion was seconded by Councilor Phillips.

City Attorney, Mike Flaherty noted to the board that they need to give notice in order to have a closed session. Councilor Phillips referenced Roberts Rules of Order and the League of Minnesota Cities as references.

Motion was called to a vote with Councilors Eichhorst, Phillips, Richards and Krause voting “AYE”. Councilor Bergner voted “NAY”

Motion Carried: 4-1

IV. PUBLIC FORUM

Mayor Eichhorst provided instructions for participation in the Public Forum and invited the first resident to speak.

A. Dominic Taylor of 110 E Center Street

City drainage along Minnesota Avenue, over the years it has been getting filled in with sand. D. Taylor stated that he has shoveled some of this sand out himself each Spring over the years and it is manageable, but now, with construction going on the drainage has been affected with all of the soil from the construction not being cleared. It is now not draining to the river, but instead into his property. He would like the city to address this issue.

No other residents were interested in speaking at this time.

Public form concluded at 6:40 PM

V. PETITIONS, REQUESTS & COMMUNICATIONS

- A. FYI* Erv DeVlaeminck re: Safety and Security of Residents: A complaint was filed with the city by Erv De Vlainck that suggests the city place cameras on Minnesota Avenue and Lake Shady Avenue as he believes it will help prevent and solve crimes by capturing vehicle identification information.
- Board members discussed the city's current cameras and will look into some other potential locations and costs.
- B. Discussion: City Meeting Requirements (page 117-119 in packet)
- i. Councilor Richards led this discussion and noted it to include getting packets to Councilors ahead of meetings with adequate time to review them. This is not currently happening and has been a reoccurring request of the Council. Councilor Richards stated he would like to have at least five days to review packets.
 - ii. Councilor Phillips agreed as it is helpful to have the packet to review over the weekend rather when the start of the work week.
 - iii. The next topic was defining start times and end times and trying to adhere to these times. All Councilors were in agreement and were discussing ideas for shortening meetings. Attorney Mike Flaharty noted that one thing he has noticed about these Council meetings is that there is a lot of discussion on details that should have been reviewed prior to the meeting so that they can move forward quicker. Try to get simple questions answered before the meeting and do not include unnecessary agenda items. Councilor Richards suggested moving action items to the top of the agenda. Councilors suggested implementing some of Mike's ideas of how to organize and move through an agenda.

Mayor Eichhorst announced that the next item on the agenda is to be held in a closed session and authorized Attorney Mike Flaharty proceed:

This special meeting of the Oronoco City Council is called to order at 7:02 PM
The agenda item for this meeting is the Evaluation of the Performance of Sunny Bjorkland Schultz, City Administrator as pursuant to Minnesota Statute 13B.05 Subsection 3(a).

Administrator Bjorkland Schultz was given the option of having the review open or closed. She responded that she was fine having the meeting remain open. The meeting was not moved into a closed session.

At this time copies of the administrator's performance review were distributed to all Councilors.

- C. Performance Review of City Administrator Sunny Bjorkland Schultz: Councilors took time to review copies of the performance review before beginning.
- Councilor Bergner asked what rubric was used to come to conclusions of satisfactory or unsatisfactory. Seeing lots of positive comments but marginal satisfaction. Councilor Richards stated there is no rubric, that scores are based on feedback and performance. Administrator Bjorkland Schultz noted that her personnel forms do have a numeric rubric, but this form was made by Councilor Richards. Councilor Bergner stated that she feels it is very subjective.

Councilor Richards noted that organization of work was marked as unsatisfactory, the attitude was marginal, work habits was unsatisfactory, productivity was unsatisfactory and the overall job performance was unsatisfactory for her position. Mayor Eichhorst and Councilor Bergner stated that they do not agree with the review. They would like to see some sort of documentation of negative reports made against the Administrator. Councilor Bergner noted that since the personnel committee meetings are not recorded and do not take minutes she finds it hard to believe that some of this isn't exaggerated or being made up to get back at someone. She stated that if there were unsafe events or toxic work environment that something would have been filed. She continued that she knows what is happening and is disappointed because the city is moving in a good direction, and this is going to change that right in the middle of a project for which the State is paying 80% of and there is a lot that has to be done for it. She encouraged the other councilors to really think about what they are doing.

Councilor Krause expressed that his opinion on the matter is his own.

Attorney Mike Flaherty suggested that no one make any motion until after they have completed the evaluation portion. He suggested that the mayor set a process by which each councilor may speak once and then close the item discussion. Sunny will also be given the opportunity to speak.

Councilor Richards stated that Sunny has had plenty of time to respond and even sent requests for feedback on her review but have received nothing. Councilor Phillips agreed.

Attorney Mike Flaherty informed the Council that it is the personnel committee that performs the reviews, but the reviews ultimately come from and must be agreed upon by council.

Councilor Dana Bergner: Stated that she does think that there is a toxic environment and that it is you (motions to Councilors Richards, Phillips and Krause). She thinks that Sunny has been doing a great job. There have been growing pains, yes, the city is in the midst of lawsuits, a multimillion dollar project, new committees starting. There is a lot happening it is exciting and a lot of hard work. Sunny works a lot of hours outside of her regular hours. This is a shame and believes council members clear misuse of power is really disturbing. As a citizen and fellow council member it is concerning. This should have been done in a more professional way.

Mayor Ryland Eichhorst: Stated that he believes that Sunny has been presented a lot of challenges over the past year. There is a lot of added work that she does outside of her regular duties that she does not get credit for. It was already concerning that we had a two person staff to manage a multimillion dollar project along with regular duties. Some of this includes building permits, which have more than doubled in number, management of three PFA loans which takes a lot of hours. Currently working on outdated software. A lot of back work trying to fix things that have been missed over the years and get caught up. Have three lawsuits to oversee. The office is never not open. Someone is always there and he believes that Sunny has things to improve but overall she is doing a great job. His overall score would definitely not be unsatisfactory.

Councilor Jim Richards: Working outside of regular city hours, a lot of that is because Sunny is not here during the day. We have been talking about this with Sunny for months and have seen very little improvement over the past three months. Would like to have regular business hours for the city. Feels they are losing the confidence of their residents.

The city lost an employee because of disagreements with Sunny. He stated that she has even agreed that things have happened and even apologized. Employee raises did not happen on time. It's not just what you do, its how you do it. Its being on time, showing up. When told by a past employee that they want to file a lawsuit against the city because of how they were treated, its too much.

He has given a lot of grace and had a lot of discussions over the past year and nothing is improving. He is done.

Councilor Jim Phillips: Agrees with Councilor Richards and stated that they have gotten letters at the city that have been disturbed by what is happening at city hall. There were also delays on the water & sewer project that didn't allow us any options. After discussing her performance with Councilor Richards and Sunny many times, and not seeing any improvement, its time for a change.

Councilor Carl Krause: Biggest concern is what he has been hearing from residents around town that they can't get any answers at city hall because Sunny isn't around. Sunny says she will get back to them, but never does. Employees not getting paid on time is a bad thing.

Administrator Sunny Bjorkland Schultz: Sunny took time to respond and clarified how the city has never had a city administrator and that working only regular office hours is not part of the job due to the number of out of office hours being put in for meetings, events and daily work. She believes that whoever is talking to Councilors negatively about her have not told her any of the issues so that she can fix them. Everyone she speaks with has been very happy with her performance. She has appreciated this opportunity and if you want to take it away, that up to you. She does not believe that "countless" people have come in to discuss her as stated earlier by Councilor Richards.

Councilor Krause made a "MOTION TO HAVE SUNNY BJORKLAND SCHULTZ IMMEDIATLU REMOVED FROM HER POSITION AS CITY ADMINISTRATOR WITH THE OPTION TO REISIGN OR TERMINATED" Motion was seconded by J. Phillips. Mayor Eichhorst expressed that he hopes that Councilors Richards, Phillips and Krause know what they are doing on behalf on the tax payers. All of the city will be impacted by this decision. Believes this is putting their wastewater contract and sewer projects in jeopardy. Believes that this action has placed the city at a big disadvantage considering the timing and her knowledge. This will change the view of the city by our own residents and surrounding communities. He feels this is short sited and inquired who was going to step up to help with the day to day operations, never mind the big projects? No response was provided.

Motion was called to a vote with Councilors Phillips, Richards and Krause voting "AYE". Councilor Bergner and Mayor Eichhorst voted "NAY"

Motion Carried: 3-2

S. Bjorkland Schultz thanked the board for the opportunity afforded to her. She has appreciated being there.

Mayor Eichhorst called for a 5 minute break
Councilor Bergner did not return to the meeting.

VI. DEPARTMENTS & COMMITTEE REPORTS

A. Oronoco County Law Enforcement: No updates report.

B. Water & Sewer: City Engineer, Joe Palen provided an update to the Council on current projects. Memo with full update is included in the packet.

The WWTF Contract is moving along quickly. Hoping to commission the startup in late November or early December. Councilor Phillips wanted to be sure that if areas are not hooked up yet and it freezes, what happens next? J. Palen informed that there is an extra step in the winter where a circulator pump is used for these segments to prevent any freezing. Lift station panel controls are on the way.

Operations and Maintenance Agreement: J. Palen pointed out changes made to the contract. . Eichhorst made a "MOTION TO APPROVE THE OPERATIONS AND MAINTENANCE AGREEMENT WITH PEOPLES SERVICE INC. OF OMAHA, NE". Motion was seconded by Councilor Phillips with all present members voting "AYE"

Motion Carried: 4-0

A Glenn's Motorcoach Update: Marquee Construction representative John Giesen was in attendance to discuss current conflict with the city. 12" water main is required to be extended and needs to replace the current 8" water main.

Discussion on different types of ways to achieve this. City attorney advised the Council to not make motion on this tonight as they should not agree until the development agreement can be signed. He stated that since they have an attorney drafting letters to the city regarding a conflict, he is uncomfortable with allowing the project to continue without an agreement in place. It was decided by the Council that they would enter into a verbal agreement to ensure that the project was able to keep moving forward before winter. A "MOTION TO DRAFT A LEGAL SETTLEMENT AGREEMENT CONSISTANT WITH THE TERMS DISCUSSED TO BE PROVIDED WITHIN 8-10 DAYS AND APPROVAL FOR THE MAYOR TO SIGN UPON REVIEW" was made by Councilor Phillips. Motion was seconded Councilor Richards by with all present members voting "AYE".

Motion Carried 4-0

Two sisters restaurant project is moving along. City ERU and WW fees are structured based on a typical residential unit produces approximately 5,000 gallons of waste water each month. This same calculation is used for businesses. The developer is predicting that they will generate 131,400 gallons of waste water each month. This is equal to 26 residential units and would cost them approximately \$128,000 for their hookup fees. City engineer Joe Palen believes that the developers projected flows are high. Proposes to base the initial fee on their estimate but execute it with a clause in the development agreement that states that the city will monitor their first year flows and recalculate that fee after a year. If the city owes Two Sisters at the end of that year, the city will pay it back and if Two sisters owe more at the end of the year, that they will pay it. No action was needed.

C. Public Works: Director Cain Dolan

D. Streets & Roads: This discussion was tabled to the December regular meeting due to meeting length.

- E. Fire Department: September minutes and activity is included in packets. Nothing additional to report.
- F. Oronoco Fire Relief Association: Minutes from the September meeting was included in the packets. No updates to report.
- G. First Responders: A copy of the bylaws that they are proposing were reviewed. Tonya Dreesman in attendance on Zoom. She confirmed that they have always had by-laws, but they are in the process of updating them. After some discussion, the First Responders will make some adjustments and bring it back to the council at another meeting.
Mayor Eichhorst MADE A MOTION TO TABLE THE DISCUSSION OF THE BY-LAWS UPDATE OF FIRST RESPONDERS FOR FURTHER REVIEW BY THE CITY ATTORNEY” Motion was seconded by Councilor Phillips with all present members voting “AYE”
Motion Carried 4-0
October 2nd meeting minutes and activity are included in the Councilor packets.
- H. Emergency Operations: No new updates.
- I. Economic Development Authority: Community and Economic Development Associates or CEDA has provided a contract for services that requires council approval. Mayor Eichhorst explained, the contract is for CEDA to assign a member of their staff one day each week for 2024. As one of the EDA’s first actions, they have made a request that council approve the contract that includes contracting for November and December of 2023 and January through December of 2024.
Councilor Phillips commented that he was excited for CEDA to come on and feels that selecting the one day a week option rather than one day every other week was a good decision because he feels more time is needed to accomplish big things. He would also like to see their representative work with Planning and Zoning as they are also looking to update some of the city ordinances and feels that the community engagement would benefit them as well. Councilor Phillips then made a “MOTION TO APPROVE THE PROPOSED CEDA CONTRACT FOR SERVICES STARTING ON NOVEMBER FIRST 2023”. Motion was seconded by Councilor Richards with all present members voting “AYE”.
Motion Carried 4-0
- J. Planning & Zoning: Minutes of the August meeting and a YTD Permit activity report were provided in all Council packets.
Construction Management Services (CMS) has provided an invoice for services in the second and third quarters of 2023. Councilor Richards made a “MOTION TO PAY CMS INVOICE IN THE AMOUNT OF \$18,377.63”. Motion was seconded by Councilor Krause with all present members voting “AYE”.
Motion Carried 4-0
A public hearing to consider Cannabis related moratorium will be held at the November 21st regular meeting.

Discussion on ordinances for Cannabis Public Use and Tobacco Ordinance will be discussed at the next regular meeting due to meeting length.

K. Parks & Trails: No meetings in August or September. October's unapproved minutes are included in the packet.

L. Personnel/Community Center: Councilor Richards gave an overview of the LMC template for Personnel Policy. Discussion took place and will be reviewed again at another meeting. Following discussion on the Community Center, Councilor Phillips made a "MOITON TO PUT OUT AN RFP TO PRESENT TO OLMSTEAD COUNTY AND CMS FOR A BUILDING INSPECTOR CONTRACT FOR NEXT YEAR" Motion was seconded by Councilor Krause with all present members voting "AYE"

Motion Carried 4-0

M. Downtown Oronoco Gold Rush Days: No new updates

VII. UNFINISHED BUSINESS

A. Update on 115 3rd Street SW: City attorney Mike Flaherty clarified that this is the hazardous building that they have been discussing and that Sunny did most of the work on it. CMS has sent their rep to inspect the building and they believe that they have enough information to have a search warrant issued so that the city can have the inside inspected. The owners have stated that they have a quote of around \$11,000 to demolish a portion of the house, clear up the junk and add a portion to the house, but no guarantee that they will ever do the work. The city will need to go into the house for a full inspection, and will have to do so with the owners consent or with a search warrant. Attorney Flaherty believes that they are close to gaining the consent.

She will need to get building permits before any construction can start. A demolition permit has already been obtained. One way or another the inspection will take place before the next meeting.

VIII. NEW BUSINESS

A. The 2023 Outstanding Citizen Nominations are open and the deadline is this Friday, November 10th. Criteria and nomination form are included in packets.

B. Councilors reviewed a list of the businesses requesting to renew their liquor and tobacco licenses. Mayor Eichhorst made a MOTION TO APPROVE THE LIQUOR RENEWAL FOR TILLY'S AND GAS-N'-GO. Motion was seconded by Councilor Phillips with all present members voting "AYE".

Motion Carried 4-0

C. City Meeting Requirements – Item is tabled until the November meeting

IX. CONSENT AGENDA

A. Consent Agenda items for October 17th include the following:

- 1) Staab construction Pay Request #22 in the amount of \$375,543.83
- 2) Fitzgerald Excavating & Trucking Pay Request #20 for \$500,647.53
- 3) Financial Report

Motion to "APPROVE THE CONCENT AGENDA" was made by Mayor Eichhorst.
Motion was seconded by J. Phillips, with all present members voting "AYE".
Motion Carried: 4-0

X. ADJOURNMENT

A "MOTION TO ADJOURN" was made by Mayor Eichhorst.
Motion was seconded by J. Richards with all present members voting "AYE"
Meeting was adjourned at 9:45 p.m.

James White