



October 25, 2018
5:30 p.m. City Council Meeting
Oakridge High School Auditorium
47997 W. First Street
Oakridge OR 97463



SPECIAL SESSION AGENDA

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- 1.0 CALL MEETING TO ORDER/PLEDGE OF ALLEGIANCE
 - 2.0 PUBLIC COMMENT – N/A
 - 3.0 MAYOR & COUNCIL COMMENT- N/A
 - 4.0 ADDITIONS, CORRECTIONS – N/A
 - 5.0 CONSENT AGENDA – N/A

 - 6.0 ADMINISTRATIVE SERVICES
 - 6.1 Reconsider the termination Action taken on October 18th, 2018 and allow for Attorney's to continue their negotiations.

 - 7.0 COMMUNITY SERVICES
N/A

 - 8.0 POLICE SERVICES
N/A

 - 9.0 EMERGENCY SERVICES
N/A

Accommodation for Physical Impairments: In order to accommodate persons with physical impairments, please notify the City of any special physical or language accommodations you may require as far in advance of the meeting as possible. To make arrangements, Contact: Susan LaDuke at 541-782-2258. For the hearing impaired, the City's TTD Number is 541-782-4232.

Business of the City Council
City of Oakridge, Oregon
October 25, 2018

Agenda Title: Rescind Action of October 18, 2018 in the Matter of Termination of the City Administrator as of October 31, 2018

Agenda Item No: 6.7

Agenda Bill Author:
Susan LaDuke
Rick Zylstra

Proposed Council Action:
Motion to Rescind

ISSUE: Council voted to terminate the City Administrator per section 5 of his contract.

FISCAL IMPACT: \$15,000 deductible + \$10,000 per employment incident. Total cost is undetermined.

BACKGROUND: During discussion Councilor Gobelman stated it was in violation of the charter, Article III, section 10. (see attached) On Friday, City Recorder reviewed the City Administrators contract and found that in section 5, the basis used for termination, it stated termination to be “as provided in the City Charter.” (see attached) This information was provided to the City Attorney for review. It was determined that the motion was in violation of the City Charter as well as a violation of the contract. The violations of The City Charter and contract open the City to potential civil action. There was precedence set in this type of action in March of 2018, when former Mayor Coey called a special meeting in order to ask the Council for approval of Non-Renewal of the City Administrators Contract. At that meeting the Mayor announced that direction of legal counsel was to *not* ask for non-renewal. A motion to extend the City Administrators contract until June 30, 2019 was made and passed. In March, notice was given to City and CIS attorneys of the proposed actions. Notifying our attorneys, seeking and following guidance provided limits the amount of deductible the city must pay when CIS attorneys step in. However, this does not include amounts that will come out of the city finances if civil action is taken.

OPTIONS: 1) Motion to Rescind
2) Original Motion Stands

STAFF RECOMMENDATION: Option 1

RECOMMENDED MOTION: I move to rescind the motion of October 18, 2018 to terminate the City Administrator as of October 31, 2018 and allow legal counsel to reconvene negotiations as provided by City Charter.

until the end of their term of office.

Section 8. The councilors in office at the time this charter is enacted shall continue in office, each until the end of their term of office. At each biennial general election, three councilors shall be elected, each for a term of four years, and at each biennial general election the number of councilors to be elected to fill vacancies pursuant to Section 28 of the Charter shall be elected.

Section 9. Mayor. The Mayor in office at the time this charter is enacted shall continue in office until the end of the mayor's term of office. At the biennial general election held in 1954 and every fourth year thereafter, a mayor shall be elected for a term of four years.

Section 10. Other Officers. Additional officers of the city shall be a municipal judge, a city administrator and such other officers as the council deems necessary. Each of these officers shall be appointed and may be removed at the pleasure of the mayor with consent of the council. The council may combine any two or more appointive city officers. The council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of judicial functions.

Section 11. Salaries. The compensation for the services of each city officer and employee shall be the amount fixed by the council.

Section 12. Qualifications of Officers. No person shall be eligible for an elective office to the city if they are an employee of the city, and unless at the time of the election the person is a qualified elector within the meaning of the state constitution and has resided in the city during the twelve months immediately preceding the election. The council shall be final judge of the qualifications and election of its own member's subject, however, to review by a court of competent jurisdiction.

CHAPTER IV

COUNCIL

Section 13. Meetings. The council shall hold a regular meeting at least once each month at a time and at a place in the City that it designates. It shall adopt rules for the government of its members and proceedings. Meetings of the Council shall be open to the public as provided in state law. The mayor or three councilors may call special meetings of the council in a manner prescribed by ordinance.

Section 14. Quorum. A majority of council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 15. Journal. The council shall cause a journal of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the journal.

Section 16. Mayor's Functions at Council Meetings. The mayor shall be chairperson of the council and preside over its deliberations. The mayor shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

City may terminate this Agreement with City Administrator, at the pleasure of City Council as provided in the City Charter. In such event, City Administrator shall be paid on the date of termination, a lump sum cash equivalent to four (4) months of salary, less all amounts required to be withheld and deducted. In addition, City Administrator shall be entitled to compensation for all earned but unused vacation, subject to this Agreement. For the duration of the severance term, City shall pay the cost to continue all health insurance benefits as provided under this Agreement. City Administrator acknowledges that this contract provision cannot be changed or modified by any statement or policy of City which would tend to indicate that City Administrator may not, at any time, be dismissed without cause, or that City Administrator is other than an "at will employee." Acceptance of severance by City Administrator shall constitute a waiver and release of all claims of City Administrator and any persons legally entitled to assert claims as a result of City Administrator's dismissal against the City, its mayor, council, employees, volunteers, agents or representatives, whether known or unknown to City Administrator at the time such severance pay is accepted.

B. TERMINATION WITHOUT CAUSE BY CITY ADMINISTRATOR

City Administrator may terminate this Agreement upon 45 days written notice to City. In such event, City Administrator shall continue to render services and shall be paid his regular compensation up to the date of termination. No benefits as set forth in Section 5: A. above shall apply.

C. DISCIPLINARY ACTION OR TERMINATION FOR CAUSE

The City may terminate City Administrator for cause as a result of violation of any of City's policies or directives, because of illegal action involving personal gain, or crimes of moral turpitude. City Administrator shall receive notice of any charges against him and possible sanctions being considered. City Administrator shall also be advised of the date and time when City will consider charges and possible sanction. He will be afforded an opportunity to refute the charges, either orally or in writing, before the City Council, and to have representation of his choice at the hearing. Available options to City other than termination include oral or written reprimand and suspension with or without pay, in compliance with Fair Labor Act guidelines for maintaining executive exemptions. In addition to the above, grounds for removal include:

- (1) Incompetence, inefficiency or inattention to or dereliction of duty.
- (2) Dishonesty, intemperance, addiction to drugs or controlled substances, immoral conduct, insubordination or discourteous treatment of the public or fellow employees.
- (3) Any other willful failure of good conduct tending to injure the public service.
- (4) Neglect of duty and excessive absence.