

BOARDMAN CITY COUNCIL – REGULAR MEETING MINUTES – January 2, 2024
BOARDMAN CITY HALL COUNCIL CHAMBERS AND VIA ZOOM

Mayor Keefer called the meeting to order at 7:06 PM and led the Pledge of Allegiance.

Councilors Present: Mayor Paul Keefer Ethan Salata Heather Baumgartner
 Zoom Brenda Profitt Zoom Cristina Cuevas Richard Rockwell
 Karen Pettigrew

Mayor Keefer stated Councilor Salata is on shift, if he receives a call for an emergency, he will need to leave.

Staff Present: Carla McLane, Planning Official Nancy Orellana, Associate Planner
 Brandon Hammond, City Manager Amanda Mickles, City Clerk
 Marta Barajas, Finance Director Rolf Prag, Public Works Director
Zoom - Toni Connell, Utility Clerk Jackie McCauley, Building Clerk
Zoom - Jose Fernandez, Code Enforcement Loren Dieter, Interim Police Chief

Audience: Jonathan Tallman, Ragna TenEyck, Peter Haney, Devin Pulvino, Matt Jensen, Julie Jensen, and Pat Andreason. Via Zoom L. Anders, Mike Connell, Lisa Pratt, Mike Hughes, Stephen Fuss, Yen H, and Chris Crean (City Attorney).

Approval of Minutes

October 18, 2023 Regular Meeting

Councilor Baumgartner moved to approve the minutes of the December 5, 2023 regular meeting as presented. Councilor Rockwell seconded the motion. All were in favor. Motion passed 7/0.

Formal Proceedings

Public Hearing – Boardman Development Code Amendment to Section 3.4.000.B

Mayor Keefer opened the public hearing on Boardman Development Code Amendment to Section 3.4.000.B at 7:09 PM.

Mayor Keefer outlined the conduct of the hearing.

Mayor Keefer asked councilors to disclose any conflicts of interest. There were none.

Mayor Keefer asked if anyone challenged the impartiality of councilors. There were none.

Mayor Keefer stated that based on the staff report, the Council needs to add several documents to the record. Councilor Baumgartner made a motion to add to the record the items described by staff in the staff report and the letter received today from Wendie Kellington representing Jonathan Tallman. Councilor Rockwell seconded the motion. All were in favor. Motion passed 7/0.

Mayor Keefer asked if there was additional correspondence beyond those items included in the staff report. Planning Official McLane stated there was none.

Staff report

Planning Official McLane stated she would like to clarify what the Council’s decision is, what is pertinent to that decision, and provide some explanation of the documents that placed into the record. There have been five separate LUBA appeals regarding the UEC power lines and the permits to build the loop road south of the freeway, and Jonathan Tallman is currently suing the city in circuit court. The LUBA appeals addressed the construction contract (which has been transferred to Circuit Court and is the identified lawsuit), the UEC power line (which the City and UEC prevailed on), and the zoning permit issued to build the loop roads east of Laurel Lane (which was remanded to the City).

This is a legislative decision to approve changes to the Boardman Development Code to allow the City to defer improvements related to a public improvement project until development occurs on adjacent properties. The Planning Commission held a public hearing on December 20, 2023, to consider this change and recommends the City Council adopt the change. The pertinent documents to this change are the proposed changes attached to the Memorandum sent to each Councilor on Wednesday, December 27, 2023, as well as the staff report prepared for the Planning Commission public hearing. The record includes the letter from the Kellington Law Group attached to Planning Commission staff report, which gets into issues related to the LUBA decision that remanded an earlier permit the city issued for construction of the loop road. That decision prompted the proposed change to the Boardman Development Code, but the change applies to any similar project throughout the city, not only the loop road.

To better explain the changes to the Boardman Development Code, the current language states, "Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter." The proposed language modifies this applicability statement by adding the following, "except that the City may defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency if the City finds that the improvements required by the standards are likely to be provided by development of the adjacent property." It is important to note that this change only allows public improvement projects that would be undertaken by the city or another public agency. It is not something that a developer could ask to utilize to defer amenities for their project.

Planning Official McLane stated Mr. Tallman has requested the following documents be added to the record.

- The Certified Record TOC (table of contents) in Tallman IV (LUBA 2022-062)
- The Certified Record in Tallman IV (LUBA 2022-062)

These two first documents make up the record in LUBA 2022-062 which was remanded to the City for further action. This proposed amendment to the Boardman Development Code is the path that the City has chosen to address a portion of the decision on Remand.

- Signed appeal decision loop road July 21

This is the Notice of Decision that was signed July 1, 2022 and is part of the Record identified in bullet #2. It is the first page of that Record.

- Final Loop Road LUBA Decision

Mr. Tallman named this document the Final Loop Road LUBA Decision. It is not. It is the Petition for Review submitted to LUBA by Mr. Tallman's attorney in this matter.

- January 10, 2012 Staff Report & Attachments

This is the Staff Report completed in 2012 for the adoption of the Port of Morrow Interchange Area Management Plan (IAMP).

- Council 2012-02-21

These are the Council Meeting Minutes from the meeting where the Port of Morrow IAMP was adopted.

- POM Final IAMP

This is the adopted IAMP that was in place at the time of the loop road development.

- LUBA 2022-014

This is a LUBA Order in the matter of an appeal made by Jonathan Tallman against Morrow County related to the Access Permit, or lack thereof, for the Farmer's Cup coffee shop.

- AS FILED Req to LUBA reactivate not dismiss appeal

This is a response by Jonathan Tallman's attorney related to the Order identified just above.

In summary, in LUBA No. 2022-062, LUBA agreed that the city development code requires a collector road be built to a certain width, and the construction of sidewalks, street lights, etc. simultaneous with construction of the road. The City's approach to addressing the LUBA decision starts with this proposed amendment to the Boardman Development Code which will be followed by the necessary permit to authorize the road

construction, which would also address the other items identified in the LUBA's decision that are not specifically addressed in this action.

Planning Official McLane stated the proposed change is aligning the development code with policy decisions that that were made by the City Council at the time when appeals were done. City Attorney Chris Crean stated this amendment is about implementing IAMP for the POM interchange. The City has been implementing sequentially a piece at a time since it was adopted in 2013 to protect taxpayer's.

Mayor Keefer asked to hear from proponents. There were none.

Mayor Keefer asked to hear from opponents. Jonathan Tallman said he would like to work with the City and for the roads to be done the right way. This development code change is due to his case. He read a portion of the letter his attorney sent referencing requirements of the road completion with amenities. He said the City previously passed an Ordinance to do the loop road the right way.

Mayor Keefer clarified that Mr. Tallman does not own the property in the LUBA appeal for Yates Lane and Devin Loop. Mr. Tallman confirmed he is not the owner of that property but owns the other side where there is a proposed loop road.

Mayor Keefer asked to hear neutral comments. There were none.
Mayor Keefer closed the public hearing at 7:35 PM.

Staff Response to Testimony

City Attorney Chris Crean stated there were 5 different LUBA appeals, Mr. Tallman filed 4 of them. Only 1 was remanded, the other 3 were dismissed and the City prevailed. Mr. Tallman is also suing the City for the construction contract for the building of Devin Loop and Yates Lane. Mr. Crean said when Mr. Tallman stated the road must match on each side, Mr. Crean clarified there is no legal authority for that, but it does point out the basis for the opposition to the amendment. The proposed change allows the City to defer the amenities building to the developer; in this example, Mr. Tallman is considered the developer on the other side of the loop road. Mr. Crean stated that Mr. Tallman is attempting to shift cost of the development from him to the public. This code amendment applies city wide, not only the POM interchange.

Councilor Rockwell made a motion to approve Amendment A-BDC-23-001 as presented to the City Council and directs staff to prepare the necessary adoption documents for action by the City Council at the February meeting. Councilor Pettigrew seconded the motion. Roll call vote: Councilor Profit – yes, Councilor Baumgartner – yes, Councilor Cuevas – yes, Councilor Pettigrew – yes, Councilor Rockwell – yes, Councilor Salata – yes, Mayor Keefer – yes. Motion passed 7/0.

FINANCIAL REPORT

Ending October 2023

Financial Director Barajas stated the October report shows the General Fund received \$1 million from CREZ III in Community Development Contributions. The City also received some late franchise fee payments. Waste Water Improvement invoices have been paid. Construction invoices are not as timely, due to engineers and architects verifying the work prior to the payment of the invoices. Projects are moving along nicely.

Ending November 2023

Financial Director Barajas stated the November report is showing the interest rates are slowing. November shows property taxes deposits. The majority of these deposits are received in November (3-4 deposits) and December (2-3 deposits). Councilor Pettigrew asked if the amount difference in the other accounts are due to interest. Financial Director Barajas stated it was.

PREARRANGED PRESENTATION

Morrow County Administrator - Matthew Jensen

Matthew Jensen presented the Ambulance Service Area (ASA) Plan Update. ORS 682 outlines responsibility of counties as the authority over the ASA. Since at least 1998, the Morrow County Health District (MCHD) has handled the management of the ASA. This includes appointment of an EMS Advisory Committee, determination of providers, and review of performance. MCHD was the sole provider in the County; this created a situation where the contractor is in control of the contract.

Using the previous ASA Plan as a template, the update in language will re-establish the County as the authority, establish an independent EMS Advisory Committee, establish three possible ASA within the county to provide the option of multiple providers, and update technical requirements to refer to OHA & ORS standards. This update is in process and no decisions have been made for providers. There will be opportunities for community feedback when the time is appropriate.

MCHD gave a 90-Day notice on December 13, 2023 to discontinued service. The "drop dead" date from MCHD is March 12, 2024. The original consideration was to work with MCHD to provide ambulance service during implementation of the new ASA. Morrow County will need to have an alternate plan in place by March 12, 2024. The following options will be explored: continued discussion with MCHD for services, new providers assume services, interim operations through agreements with neighboring providers, interim operations under County management, or a combination of all of the above. The plan will be developed by mid-February so there is no interruption of service.

Councilor Rockwell asked how long the EMS Advisory Committee was running with 7 of the 9 members being MCHD employees. Mr. Jensen stated when it started when most members of the committee were volunteers; they are now full time employees with MCHD, has been the past 3-4 years.

Councilor Cuevas asked to clarify what data is used to determine needed services. Mr. Jensen stated it is outlined in the ASA Plan, it includes response time, call volume, and expense.

Mayor Keefer stated he is excited about what is happening with the ASA update. He says there are many positives that are not heard, only the negative. The City and County can develop a partnership to provide better services for Boardman. Mr. Jensen stated MCHD offered the 90-day notice because the language indicates they would surrender the equipment to their successor. MCHD would surrender the equipment to themselves as the current Board. Mayor Keefer stated his appreciation for the work Mr. Jensen is doing to update the ambulance services for the better for Morrow County.

Councilor Pettigrew asked what locations they will be offering public hearings. Mr. Jensen stated this has not been determined yet, but he would imagine there would be at least one in North Morrow County and one in South Morrow County for ease of access.

PUBLIC COMMENT

There was none.

ACTION ITEMS

RESOLUTIONS

1-2024 Declaring Surplus Property – 2015 Ford Interceptor Utility

Councilor Baumgartner moved to approve Resolution 1-2024 Declaring Surplus Property – 2015 Ford Interceptor Utility. Councilor Salata seconded the motion.

All were in favor. Motion passed 7/0.

Councilor Pettigrew asked if there was a plan to sell this vehicle. Interim Chief Dieter stated the City of Stanfield would like to purchase.

2-2024 - Decrease Contingency and Increase 2023-24 Expenditures for Personnel Services, Materials and Services and Capital Projects

Councilor Baumgartner moved to approve Resolution 2-2024 a resolution to Decrease Contingency and Increase 2023-24 Expenditures for Personnel Services, Materials and Services and Capital Projects. Councilor Rockwell seconded the motion.
All were in favor. Motion passed 7/0.

Election of Council President

Councilor Cuevas made a motion to appoint Councilor Baumgartner as council president for the year. Councilor Pettigrew seconded the motion.
All were in favor. Motion passed 7/0.

Budget Committee Appointment of 2024-25 Budget Officer

Councilor Baumgartner made a motion to appoint Finance Director Marta Barajas as Budget Officer for the 24-25 budget year. Councilor Rockwell seconded the motion.
All were in favor. Motion passed 7/0.

Approval of 2024-25 Budget Calendar

Councilor Baumgartner made a motion to approve the 2024-25 Budget Calendar as presented. Councilor Rockwell seconded the motion.
All were in favor. Motion passed 7/0.

Reappointment of Budget Committee

Councilor Baumgartner made a motion to re-appoint Dori Drago, Stephen Fuss, and Lisa Mittelsdorf to the budget committee for a term ending December 31, 2026. Councilor Rockwell seconded the motion.
All were in favor. Motion passed 7/0.

Reappointment of Planning Commission

Councilor Baumgartner made a motion to re-appoint Zack Barresse and Ragna TenEyck to the planning commission for a term ending December 31, 2026. Councilor Pettigrew seconded the motion.
All were in favor. Motion passed 7/0.

POLICE REPORT

Interim Chief Dieter stated December was another busy month. Calls for service are well above years past.

BUILDING DEPARTMENT

Building Clerk Jackie McCauley stated the building permit numbers are going down this time of year, likely due to the interest rates. Councilor Salata asked if permits pulled last year have been completed. Mrs. McCauley stated most have been completed and they expire after 180 days. Planning Official McLane stated places like Tidewater Living will pull one permit for 144 residential units, so that piece of information may not accurately reflect how many residential units were constructed.

PUBLIC WORKS

Public Works Director Prag stated the City received the remaining smart points for radio needs this past week. The Public Works Department has about 98% of the shipment, waiting for the remaining shipment of 20. Mayor Keefer asked if there was sewer services out by Devin Loop. Public Works Director Prag confirmed there is sewer service and a letter was sent to residents to explain the process of connecting to the City's sewer.

CITY MANAGER

City Manager Hammond stated the first Council Workshop to address updating the City Charter is February 6 with the end goal of having it completed by August 27th and on the November ballot for a vote. Annual

Council training videos through CIS (insurance) will be sent in February with two months to complete. The City has awarded Bolen Construction the SE Front Street project, the estimated cost was \$1.5 million, the bid came in at \$1.3 million. City Manager Hammond thanked Councilor Baumgartner for submitting input for the Council vision and goals, and thanked the councilors for volunteering their time and staff for their work on staff reports.

Councilor Salata mentioned the AEDs in every City vehicle. City Manager Hammond stated they will be in every City owned vehicle and maintained by the Boardman Fire Department. Every City staff member has been trained for First Aid/CPR/AED training. Councilor Baumgartner asked if the AED was still on the outside of former Mayor Toms' house. Del Turner – Boardman Fire Department stated the AEDs belong to the MCHD and they would be responsible for maintaining the AEDs around town.

MAYOR

Mayor Keefer stated the Christmas Party was nicely done. He was able to offer a speech via live video call and was grateful for the opportunity. Mayor Keefer stated he would like to stay on track for City Manager's evaluations and review. Would like to find a date to complete the 6-month evaluation, as it is time. Mayor Keefer also stated he appreciated everyone coming.

ADJOURNMENT 8:53 PM

Paul Keefer – Mayor

Amanda Mickles – City Clerk