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**City of Falls City**  
**City Council Regular Meeting Minutes**  
**December 09, 2019 6:00 PM**  
**Meeting Location: 320 N Main Street, Falls City, Oregon 97344**

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**Council Present:** Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder

**Staff Present:** Mac Corthell, City Manager; Mark Wolf, City Attorney Speer Hoyt; William Sullivan, Community Development & Outreach Coordinator; Jamie Ward, City Clerk

**1. Call to Order**

Mayor Gordon called the meeting to order at 6:00 pm. Dennis Sickles and David Radke were absent

**2. Roll Call**

Clerk Ward took roll call.

**3. Pledge of Allegiance**

Mayor Gordon led the pledge.

**4. Motion to adopt the entire Agenda**

A motion was made by Councilor T. Meier and seconded by Councilor C. Lauder to adopt the entire agenda with changes to the next City Council Meeting date. Motion carried 4-0-0-2. Ayes: Lori Jean Sickles, Tony Meier, Cliff Lauder

**5. Announcements and Appointments**

- a. Next City Council Meeting is for Goal Setting and that meeting is January 6, 2020
- b. Next regular city council meeting is January 14, 2020
- c. Falls City Fire Christmas dinner and Toys for Tots deliveries are December 18, 2019
- d. Santa delivers presents to Falls City Schools December 19, 2019
- e. Christmas Cheer Food Boxes are available December 23, 2019 at the fire station.

**6. Community & Government Organizations**

- a. Sherriff Mark Garton wanted to bring recognition to four (4) deputies, three (3) from the Jail and one (1) from patrol who received a lifesaving award during an incident that occurred at the Polk County Jail. Also a search and rescue volunteer was nominated for volunteer of the Year. Garton also noted that one of the Polk County Sargent's is retiring and received the Mayoral Service award for his service.

**7. Reports**

- a. Mayor Gordon would like everyone to know that pastor Matt Smucker, of Monmouth along with Polk County Outreach received funding for a warming center here in Falls City. Gordon stated the funding was for twenty-five (25) nights this winter and it should begin at the next cold weather spell which is predicted to start around December 15, 2019. We are still looking for volunteers to help out and can find info is at <https://www.co.polk.or.us/fco/warming-center>.

The Dental Van will be here on December 17, 2019 you can contact City Hall who will deliver message to him. This dental van is for issues with pain and is not for cleaning or checkups.

Mayor Gordon also wanted remind everyone that this February there will be a State of the City.

- b. Councilor Drill wanted everyone to know the Christmas Tree Lighting on December 7, 2019 went great this year. She said there was a pretty good public turnout. Drill also wanted to say a special thank you to Weyerhaeuser for donating the tree, Bob Young, James Meltzer, Don Poe, Jon Creekmore, for helping put up the tree. Drill also thanked Brenden Burges with Pacific Power for helping put the lights on the tree.

#### **8. Consent Agenda**

A motion made by Councilor T. Meier and Seconded by Councilor J. Drill to adopt the consent agenda.  
Motion carried 4-0-0-2. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder

#### **9. Appeal from Personnel Action**

Mayor Gordon asked JoHanna Birr is she still wanted to hold her appeal hearing in a public open hearing. Ms. Birr stated that she did.

Open Session started at 6:10PM.

Mayor Gordon went over the hearing process, asking councilors if they have had any ex parte contacts between councilors and any parties involved. Then, Mr. Wolf will describe the scope of the appeal and what we can and cannot discuss during the appeal. City Manager Corthell will read his manager's report and note any responses he received from the party and then Mrs. Birr and or her attorney will have a chance to address council but other than that, other parties will not be allowed to speak on her behalf. Council is allowed at any time during these presentations to ask questions and then a decision will need to be made by council.

Mr. Wolf explained to Council their scope in the review. First, did the City Manager have a reasonable basis for his decision? Second, did the termination comply with City policies? And third, did Ms. Birr provide exculpatory facts to the City Manager and did the City Manager consider those facts prior to making the termination decision? Mr. Wolf also wanted to note the limit of council's authority. Under the City Charter, the City Manager is the head of the City and is tasked with making personnel decisions. The City Council does not have authority in making those decisions but can make recommendations to the City Manager. After the appeal, City Council can remand the decision back to the City Manager for reconsideration, affirm the City Managers decision, or table the decision for another meeting.

Councilor Lauder asked if council was obligated to make one of the three decisions.  
Mr. Wolf asked if he was referring to obtaining from voting then clarified that one of the three decisions needed to be made by the end of the appeal.

Mayor Gordon asked Council about ex parte contacts

Councilor L. Sickles stated she did not have any extra knowledge or contact with either party

Councilor Drill stated she had no prior knowledge or contact with either party

Councilor Meier stated he had no prior knowledge or contact with either party

Councilor Lauder stated he had no prior knowledge or contact with either party

Mayor Gordon stated he had received a text message from Steve Birt on November 16, 2019 stating he was not happy with the conversation Gordon and he had on a previous date and Mayor Gordon responded that he should email any City concerns to his City Email account. Mr. Birt's email response was that he would not choose to start any further conversations.

Mr. Birt commented that Mayor Gordon was incorrect on the date of and that Mayor Gordon and he had a phone conversation prior to that text. Gordon stated that the phone conversation was after the text message.

Mr. Birt confirmed that was correct.

City Manager Cortell read his Staff Report regarding the termination of JoHanna Birt. (See exhibit A)

Councilor Drill asked Cortell about the bullet point on workplace violence and if that was just the firearm being where policy was broken. Cortell stated it was.

Larry Lender, Ms. Birt's legal representation spoke on her behalf and stated that he knew this appeal process was bound to the subject of the termination but feels the story starts the day prior to when the firearm was found. Lender believes the story starts with a text message sent to Mayor Gordon regarding not being able to remain quiet about some of Cortell's actions. Mayor Gordon stated that the text did not refer to Mr. Cortell at all and that was not the reason for the termination and he needed to only focus on the matter of termination, otherwise he would be out of order.

There was a comment from someone in the audience in which Mayor Gordon stated she was not recognized and council was not taking public comments at this time.

Mayor Gordon brought the attention back to Mr. Lender but stated he needed to stay on the topic of the termination not Ms. Birt's suspension.

Mr. Lender stated he needed a little bit of latitude here and that if they can only address if a firearm is an appealable offense if she (Ms. Birt) received permission from her boss (Mr. Cortell) and is the problem. ORS 166 .370 sub 1 while in or upon conviction that any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony. Mr. Lender stated that when the weapon was found Ms. Birt was on suspension and could not be in possession of this firearm. Lender also referred to the same ORS code section three (3)(h) reading that a person who is authorized by the officer or agency that controls the public building to possess firearm or dangerous weapon in that public building, which means that if her supervisor (Mr. Cortell) had given her permission to have it, it would not be a crime. As a matter of fact, when the Deputy left there (Ms. Birt's residence) he said no crime had been committed and left the firearm with Ms. Birt's husband. In certain circumstances, it is illegal to have a firearm, but Lender stated it was not in this case, as Ms. Birt said she received permission by Mr. Cortell to have it in City Hall. Lender referred once again to November 5, 2019, the day prior to when Ms. Birt was put on paid administrative leave, stating that they believe it is a disciplinary action. In fact, in the handbook it states that it is the most severe form of disciplinary action next to being terminated. On November 6, 2019, while Birt was on suspension that her desk was gone through

and the firearm was found. So the underlying suspension that started this was before there was a safety concern. Birr feels that it was because of specific conversations she had with CortHELL regarding concerns with doing Journal entries, and for petty moving cash from utilities to petty cash.

Mayor Gordon stated that these were irrelevant and did not pertain to the scope of her termination.

Councilor Drill was recognized and asked City Attorney Mark Wolf if Johanna's lawyer could explain why the gun was in the work place, or why all of this happened?

Mr. Wolf stated Ms. Birr or Mr. Lender could responded as to why the gun was in the work place but only as long as they stay on the topic of the gun. Stating that prior incidents or prior disciplines were not the subject of the appeal and focus on what was the cause of the termination.

Mayor Gordon reminded Council that the suspension itself is unrelated to the termination and therefor irreverent to this appeal process.

Councilor Drill wanted to clarify why the suspension could not be talked about.

Mr. Lender asked Mayor Gordon if it is his position that the only reason Ms. Birr was terminated was because of the gun. Mayor Gordon asked Lender if he had the letter of termination and his response was yes, Gordon then asked if he saw anything else on that letter besides the gun reference in that letter. Lender quoted "While the current conduct issues are one in a pattern of performance and conduct deficiencies, they stand alone in determining that termination is the only appropriate course of action at this juncture."

Mayor Gordon opened the floor for City Manager CortHELL to respond. CortHELL said "stands alone", in other words, there were other issues but they were not relevant to this issue and that we could address them if JoHanna would like to but he wishes to refrain from that at this moment because this issue stands alone.

Lender answered Councilor Drill's question regarding why Ms. Birr had the gun in her desk was because she often worked alone at the work place. Lender brought to councils attention that Mr. Birr was convicted of a DUII and at that time the gun was unloaded, the clip was removed from it and the reason she had not transferred it home was because she was not allowed to under her current probation guidelines.

Councilor Drill clarified the question, asking the reason she could not remove the firearm from City Hall was because it was in violation of her probation and could not transport it.

CortHELL asked if the terms of her probation stated that she could not transport it or she could not possess it.

Lender stated he would need to look at the terms of her probation to answer that.

Mr. Wolf said that there were two separate issues here, whether or not she was prohibited by criminal law to possess the gun and the separate issue of having a firearm while at work.

Councilor L. Sickles asked if the clip was removed from the gun, and if the clip was present in the drawer as well. Lender said the clip was not in the drawer and that it was elsewhere, outside of City Hall.

Mayor Gordon asked Corthell if he consulted the City insurance company and our City Attorney to see what they recommended. Corthell stated that CIS recommended termination and our City Attorney concurred.

Gordon asked council if they had any questions.

Councilor Lauder asked if Ms. Birr was terminated the day before the gun was found.

Corthell responded that she was not; she was suspended on a totally separate incident.

Councilor Lauder asked if she was on administrative leave before that. Mr. Wolf clarified that Ms. Birr was terminated on November 15, 2019 following an investigation which stemmed from the firearm being found.

Councilor L. Sickles asked if JoHanna was put on probation after she was put on probation and if that is why it was stuck there, how long she has been on probation, and how long has her husband been working for the City, and if he could have transported the firearm.

Lender went on to say that on November 13, 2019, Ms. Birr was given notice and an opportunity to respond to the allegations either in-person or in writing. Ms. Birr responded that she did not have enough time to prepare a response. Her request for more time was denied and that the scheduled meeting time would remain the same. When Ms. Birr came to the scheduled meeting, she asked to have her husband present in the meeting and was denied. They then decided to not meet because she did not have a witness present. Lender wanted to make one thing clear that Birr believes she was given permission to have the gun in the work place.

Councilor L. Sickles asked Mr. Wolf if Mr. Corthell had given JoHanna permission to have the gun would that change the City Attorneys recommendation to terminate Ms. Birr.

Mr. Wolf answered that he didn't want to get into a hypothetical situation.

Councilor Lauder asked Corthell that if we have a City Policy in place, does he, as a city manager, have the authority to override that Policy.

Corthell stated he did not.

Councilor Drill asked if the State Law superseded the City Policy.

Mr. Wolf said again that we are looking at two (2) different issues here: State Law and City Policy. With that there are two (2) different standards one could violate. Each have different factors that have to be met to violate them. Although Wolf stated the State law could have a higher burden to violate them.

Councilor Drill asked if it were possible for the City Manager to give permission to an Employee to have a firearm and it not be a fire able offence.

Mr. Wolf said that could not happen if a City Policy stated no guns allowed at all.

Councilor Drill asked Corthell if he was able to address any of the other issues with JoHanna

Corthell answered that he did not have a chance to

Councilor L. Sickles asked Sherriff Garton if one of the deputies came and got the firearm

Sherriff Garton answered that he did not get a chance to read the report before he came out here tonight.

Mayor Gordon stated that just because charges haven't been filed doesn't mean they won't and anything criminal regarding this doesn't pertain to council.

Councilor Lauder asked Mr. Wolf if Mac as City Manager had any authority to circumvent the City's policy.

Mr. Wolf stated that Mac did not have that authority to circumvent and the exception to the criminal statue would not be able to be proven in this case.

Councilor Drill asked JoHanna when she was given the permission by Mac to keep a firearm at work.

Ms. Birr answered that it was a couple years ago when he first got here, and stated that Terry and originally gave her permission.

Mayor Gordon wanted to state that for the record City manager Corthell denied that allegation and wanted to refer back to the City Charter stating the office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions; City Council hires the City Manager to head all administrative decisions because it is not at the purview of a Public Body. He went on to say that he supports Mac in his decision, because that is what our charter says and that there is nothing in his performance that would show that he would defer from those policies and procedures. Gordon asks council to affirm Corthell's termination decision.

Councilor Drill asked Mac if he had carried a gun in his truck or anywhere in the workplace

Corthell responded he did not because it is against policy.

Councilor Drill would like to see it brought back to City Manager Corthell for reevaluation.

Councilor Meier affirms Corthell's decision

Councilor Lauder believes the fact that a weapon was found on City property stands on its own.

A motion made by Councilor Meier and Seconded by Councilor Lauder to affirm the City Manager's termination decision. Motion carried 3-1-0-2. Ayes: Lori Jean Sickles, Tony Meier, Cliff Lauder; Nays: Jennifer Drill

Councilor Drill wanted to say she feels torn because it is a "he said, she said" it makes her feel uncomfortable with the fact none of the other issues were brought up.

Public Appeal Process Closed at 7:04 PM

#### 10. Public Comments

- a. A letter was sent from the Mid- Willamette Valley Area Commission on Transportation (see exhibit B)
- b. Warren Gooken, 19580 Forest View Lane Falls City, OR  
Asked Council if the City has a Code Enforcement officer currently and if not if the City was going to get one. Gooken stated that he has noticed an abundant number of vehicles on the City streets; some of them have tags and some do not. Gooken was wondering at what point you draw the line. Gooken feels that anyone trying to improve property values around here these vehicles are hindering this. Also had a suggestion for the Newsletter, he would like us to explain what "no trespassing" means. He feels that some people in this community do not seem to understand what no trespassing really means.

Mayor Gordon responded that we do not currently have a Code Enforcement officer employed and it is a big ticket item for the City. Gordon went on to explain that the City has about a twenty thousand (20,000.00) dollar budget for Code Enforcement and that is not tenable amount of money to pay someone. Mayor Gordon stated that it's definitely something the City needs to address and one particular way of doing that is for the City to establish a public safety levy. Falls City has tried to get one passed in the past, but has failed. Another option is to boost our IGA with the Polk County Sheriff's office and develop a partnership with them. Mayor Gordon also brought up that the Council of Governments is adding Code Enforcement services, and that it could be possible to contract out with them.

City Manager Corthell explained that the City is handling each case at a one at a time basis and assessing the most grievous ones based on either size or based on violation. Council was looking for some other kinds of funding, i.e. a fee base added to the water bill to help fund a permanent officer.

Councilor Lauder believes that we could get rid of cars pretty easily but we cannot get rid of trailers due to the expensive price.

Sherriff Garton explained that it's a common problem around all of Polk County and it cost about one thousand dollars (\$1,000.00) per trailer to have them removed.

#### 11. New Business

- a. Ordinance 557-2019 AN ORDINANCE OF THE CITY OF FALLS CITY, GOVERNING THE USE AND OCCUPATION OF THE PUBLIC RIGHTOF WAY BY COMMUNICATIONS PROVIDERS AND ESTABLISHING AN APPLICATION PROCESS, FEES, AND TERMS FOR SUCH USE

City Manager Corthell stated that this Ordinance has been posted at City Hall for Seven (7) days

A motion was made by Councilor Drill and seconded by Councilor L. Sickles that the City Council of Falls City read Ordinance 557-2019 for the First time by title only. ORDINANCE 557-2019 An ORDINANCE OF THE CITY OF FALLS CITY, GOVERNING THE USE AND OCCUPATION OF THE PUBLIC RIGHT OF WAY BY COMMUNICATIONS PROVIDERS AND ESTABLISHING AN APPLICATION PROCESS, FEES, AND TERMS FOR SUCH USE Motion carried 4-0-0-2. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder

A motion was made by Councilor Drill and seconded by Councilor L. Sickles that the City Council of Falls City adopt ordinance 557-2019, AN ORDINANCE 557-2019 AN ORDINANCE OF THE CITY OF FALLS CITY, OREGON GOVERNINGN THE USE AN DOCCUPATION OF THE PUBLIC RIGHT OF WAY BY COMMUNICATIONS PROVIDERS AND ESTABLISHING AN APPLICATION PROCESS, FEES, AND TERMS FOR SUCH USE Motion carried 4-0-0-2. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder

b. Corthell briefly read his staff report (see exhibit C)

Public Works Superintendent Don Poe stated that he and Corthell had a discussion regarding all items up for surplus and agrees that it would benefit the City to surplus these properties to make the City function more smoothly. Poe stated he fully supports Corthell's decision.

Councilor Drill has a concern that getting rid of the equipment right away without knowing what outside contracting would look like could be a mistake. Drill stated that she would like to see what contracting would cost before agreeing to sell the Grader and the Dump Truck.

Corthell clarified that we would use the Grader and the Dump Truck through the winter season and start contracting after the rainy season. All this Resolution does is ear mark it for surplus sale after the City is finished using it through the rainy season.

Councilor Lauder stated that he agrees that getting rid of everything means losing the ability to some of the work ourselves. He feels we would need to replace it with a ton and a half dump bed truck. He would like the City to keep the snow plow.

After more discussion there was an agreement to change the original resolution to only allow the surplus sale of the 2004 Chevy Pickup and 1996 Chevy Tahoe. (See exhibit D)

A motion made by Councilor Drill and Seconded by Councilor L. Sickles to adopt RESOLUTION 25-2019, A RESOLUTION DECLARING CERTAIN CITY VEHICLES SURPLUS PROPERTY AND AUTHORIZING THE SALE OF THE 1996 CHEVY TAHOE AND THE 1996 TAHOE. Motion carried 4-0-0-2. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder

c. Corthell read his staff report explaining the existing charter and the council rules defining the process of declaring Council vacancies. (See exhibit E)

Councilor Drill really liked the proposed process.

Councilor Lauder wanted to know when this new Resolution would take effect.

Councilor Meier believes that when this part of the City Charter was created it would take the decision process out of the hands of the Council.



Councilor Drill wanted to make it clear that this should not be taken lightly

Councilor L. Sickles stated she was on the Committee that worked on changing the charter and feels that it's not a political decision and that it makes it should be an automatic action without council having to be consulted.

A motion made by Drill and Seconded by Meier to adopt RESOLUTION 26-2019, A RESOLUTION DECLARING A PROCEDURE FOR DECLARING VACANCIES UNDER SECTION 31(b) OF THE FALLS CITY CHARTER. Motion failed 1-3-0-2., Ayes: Jennifer Drill. Nays: Lori Jean Sickles, Tony Meier, and Cliff Lauder

A motion made by Meier and Seconded L. Sickles by to interrupt the section 31(a & b) under the City Charter to be automatic removal from council. Motion carries 3-1-0-2., Ayes: Lori Jean Sickles, Tony Meier, and Cliff Lauder. Nays: Jennifer Drill Nays

Councilor Drill asked where the Charter rules removing someone from council were kept. Mayor Gordon responded that they were in the meeting minutes from December 10, 2015.

Councilor Drill wanted to state that she doesn't agree with it. She believes that there should be Due Process and these matters shouldn't be taken lightly. Councilor Drill would like to add the option for Councilors to call in to be added to the council packet.

A process for selection will be approved at the January 6, 2020 Goal Setting Meeting and then a date will be given to appoint someone at the January 14, 2020 Meeting

## 12. Old Business

a. Corthell stated that in 2018, a citizen advisory committee was commissioned by the Mayor to hear proposals on the Luckiamute Clinic property and craft a recommendation to the City Council. In addition, a request for proposals was circulated locally in hope of finding a proposal that would be beneficial to the city and pass muster with the City Council. Currently both of those buildings are vacant and in turn, degrading. This causes several issues: blight, degradation and that unused assets become liabilities, and finally loss of income to the city.

Corthell went on to explain that City Staff is currently in the process of getting three (3) quotes to determine how much it would cost to make the building habitable. Once quotes have been received by City Staff, they will bring them to the Council along with a proposal to fund the repairs. It has become clear that grants to fund restoration of a city owned building are nearly non-existent and not a reliable source to depend on for funding. As such, City Staff will likely ask the Council to approve a loan or withdrawal from the Falls City Revolving Loan fund to bring the building up to habitability. Additionally, City Staff will reach out to Polk County in an effort to partner with them on an Economic Development proposal that would see the city providing value in the form of temporarily reduced/subsidized rents on the now-habitable buildings, and the county providing value in the form of an economic development grant to start up the business with the winning proposal.

b. Corthell stated that on December 18, 2019 at 3:00PM field trip to the Mill on Airlie Rd. ran by Rick Taylor. Corthell also wanted Council to see what the City of Eagle Point did to the old Butte Creek Mill after the original one burnt down on Christmas Day 2015. It goes to show what a community can do when it rallies together to make something happen out of tragedy.


Corthell wanted to add that he and the City Attorney highly recommend the public appeal process for personal decisions be removed from the personal policy stating that it is really unfair to have anyone sit there and have someone state lies about them. Corthell stated that he is honest to a fault and it's a part of the reason he doesn't want to do this job. He follows every policy, every procedure and every law and it's not right to have someone sit there be insulted in that manner. Corthell understands it's not councils fault and he is not blaming anyone but would recommend that policy be changed so no one else has to go through that.

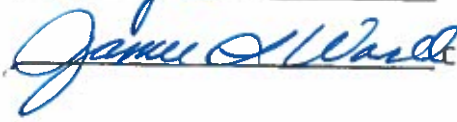
Councilor Lauder agrees with Corthell because council is not a jury but was acting like a jury and when it comes to "he said, she said", all they are doing is belittling someone in public.

Councilor Drill asked why the process was put in place in the first place. Corthell responded that it changed in April of 2013 and it's not a normal process for most cities. Corthell stated that because he was doing his job right Council didn't know what was going on a day to day basis. And the only way to prove that would be to smear another person, which isn't right for either party.

**13. Adjourn**

The meeting adjourned at 8:37 pm.

  
\_\_\_\_\_  
Mayor, Jeremy Gordon

Attested:   
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City Clerk, Jamie Ward

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**STAFF REPORT**

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**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** CITY MANAGER, MAC CORTHELL  
**SUBJECT:** J. BIRR TERMINATION  
**DATE:** DECEMBER 9, 2019

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**SUMMARY**

J. Birr was terminated from employment with the city on 11/15/19 due to violation of multiple city policies.

**BACKGROUND**

**11/06/2019**

A handgun was located inside the Utility Biller's desk typically occupied by JoHanna Birr. The Polk County Sheriff's Office was called in accordance with city policy and took possession of the firearm. The responding Deputy advised that JoHanna was on probation and prohibited from possessing firearms, and that she did not hold a valid concealed carry permit (due to being on probation). JoHanna was placed on paid administrative leave for violation of the following policies:

1. Workplace Guidelines, Paragraph 13: Employees are prohibited from bringing firearms... on to city premises.
2. Workplace Guidelines, Paragraph 14: [C]riminal activity while at work is prohibited.
3. Workplace Violence, Definitions on Page 129: Some examples of workplace violence include, but are not limited to... Firearms or other weapons at work or on public property (exclusions apply for law enforcement personnel).

In accordance with the City's workplace violence policy, the recommendation of the City's insurer, and concurrence from the City Attorney's Office, JoHanna was placed on paid administrative leave so an investigation could be performed. JoHanna was provided written notice of the paid administrative leave, and an opportunity to respond to the purported policy violations.

JoHanna responded to the allegation at 4:15pm via email. The only statement relevant to the allegation was this, "Secondly, why do you feign surprise at finding a pistol in my desk drawer? You have been fully aware of its presence for months. You have even recently discussed the need for employees to have the ability to defend themselves. You are certainly aware of previous incidents at City Hall where staff was threatened. Did you not give me verbal permission to keep it at my desk?"

**11/07/2019**

JoHanna issued a second email response at 4:21 pm the following day demanding a response to her initial email. Noting that JoHanna appeared to be attempting to engage in some sort of argument, and with the investigation into her conduct ongoing, no response was given.

**11/08/2019**

JoHanna issued a third email response at 12:12 am demanding public records that are not relevant to this hearing by noon on 11/8/19, closing with "Then we will continue to the next phase of due process or legal action."

**11/13/2019**

JoHanna was issued a pre-disciplinary meeting notice at approximately 12 noon, advising her again of the policy violations in question and setting 9:30 am the following day as a second opportunity to respond since her initial responses had been to simply levy allegations of permission against me, and focus on issues that were not relevant to her paid leave and potential disciplinary action.

JoHanna responded at 7 pm that this was not enough time to prepare, and I advised her that she had been on paid leave for 5 days with her only tasks being to monitor email for next steps and to prepare a response to the allegations if she so desired, and that the time for her meeting would remain in tact.

**11/14/2019**

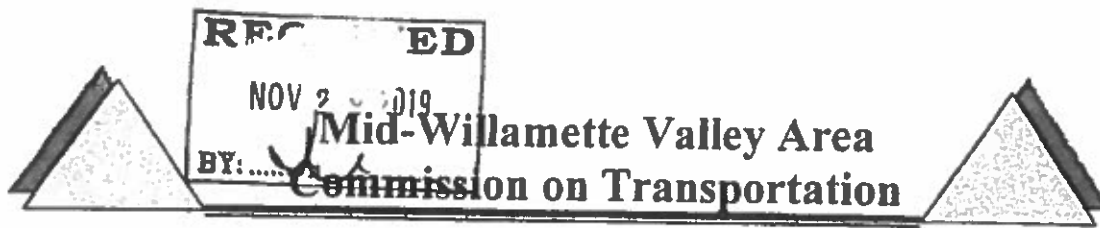
JoHanna showed up to City Hall at 9:25 am with her husband Steve Birr in-tow. I asked JoHanna back to my office and when Steve attempted to follow I advised him that this was not a meeting for him. Steve began to shake and became very abrupt and asked if JoHanna's Supervisor Jamie Ward would be there. I told him she would and he stated "we're done" then insinuated that he was in-touch with legal counsel and the pair left. JoHanna did not say one word the entire time.

**11/15/2019**

JoHanna was terminated from employment for violation of the listed policy provisions and issued the attached termination letter.

**11/21/2019**

I received a hang-up call from JoHanna's cell phone number at about 7pm on a Saturday.



A local advisory body chartered by the Oregon Transportation Commission

Chair  
Councilor Ken Woods, Jr  
City of Dallas

Vice Chair  
Mayor Cathy Clark  
City of Keizer

November 25, 2019

Mayor Cecelia Koontz, City of Monmouth  
Mayor Brian Dalton, City of Dallas  
Jeremy Gordon, City of Falls City ✓  
Mayor John McArdle, City of Independence

**Your Representation on the Mid-Willamette Valley Area Commission on Transportation (MWACT)**

MWACT is comprised of 12 elected and 5 non-elected officials from throughout Marion, Polk, and Yamhill Counties. The purpose of MWACT is to assist the Oregon Transportation Commission in setting transportation policy and priorities in the three-county area. The elected officials on MWACT represent several cities along the major corridors. There is one position that represents the above listed cities along Highways 22W/99W/51 in Polk County.

Councilor Ken Woods of Dallas has been your representative. His term expires at the end of December 2019. Councilor Woods is willing to serve another term, if that is the desire of the represented cities.

If you wish to nominate a different mayor or councilor other than Councilor Woods to fill this position, please notify Mike Jaffe at the Council of Governments (100 High St. SE, Suite 200; Salem, OR 97301, 503-540-1606, [mjaffe@mwvcog.org](mailto:mjaffe@mwvcog.org)) by December 15, 2019. If other nominations are received, you will be polled regarding your preference.

MWACT meetings are normally held on the first Thursday of each month at 3:30 p.m. in the conference room at the COG. Agendas are mailed one week prior to the meeting.

If you have any questions, please call me at 503-540-1606.

Respectfully,

Michael Jaffe  
MWVCOG Transportation Planning Director

MJ:lm

cc: Ken Woods, Jr., MWACT Chair  
John Huestis, ODOT  
Dan Fricke, ODOT

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## STAFF REPORT

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**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** CITY MANAGER, MAC CORTHELL  
**SUBJECT:** SURPLUS PROPERTY  
**DATE:** DECEMBER 9, 2019

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### SUMMARY

A proposal to declare some city owned vehicles and equipment surplus property.

### PROPOSED SURPLUS

1989 International Dump Truck- This vehicle is rarely used, and generally only to move gravel from one location to another for road maintenance and for water/sewer system repairs. The vehicle requires a class B commercial driver's license to operate and no city staff have held such a license for at least 2 years. City staff will replace the capability of this vehicle with a hydraulic lift trailer.

1978 Grader- This equipment is used one or two times per year to maintain the City's unpaved roads. It has had constant mechanical issues since its arrival two years ago, costing over \$8,000 last year to get/keep it running, and the City still had to outsource some of our road grading due to the machine breaking down on the road.

2004 Chevy Pickup- This vehicle is no longer used and is not needed by any city department. Failure to surplus as soon as possible will lead to a decline in value + insurance costs + maintenance costs.

2006 Ford F-350 with Plow- City Staff plans to keep this vehicle through the winter season in order to plow roads in case of snow. In the future, the City's public works vehicle will be equipped with snow plow capability and full plow services will be sought via IGA.

1996 Chevy Tahoe- With the addition of the new Fire brush rig, this vehicle became more or less obsolete. Chief Young has said this vehicle is not needed and rarely used.

Staff intends to retain grader and dump truck through rainy (road maintenance) season, and snow plow through winter season. Thereafter, Staff will retain 2017 PW truck as PW and Fire backup and/or duty truck when needed, and will purchase a new PW truck and trailer outfitted for plowing, towing and dumping.

### PREVIOUS COUNCIL ACTION

1986 Ford L9000 Fire Pumper- Declared surplus by the Council in January 2019 (\$9000)

### FINANCIAL IMPLICATIONS

The City gains the proceeds from the sales, approximately \$55k-\$70k.

The City saves \$3,508 per year in insurance.

The City saves on all maintenance performed on these vehicles (over \$12,000 last year).

The City minimizes depreciation by selling sooner rather than later.

**STAFF RECOMMENDATION**

Adopt.

**EXHIBIT**

Resolution 25-2019 and Attachment "A" thereto.

**PROPOSED MOTION**

I move the City Council of the City of Falls City adopt Resolution 25-2019, A RESOLUTION DECLARING CERTAIN CITY VEHICLES SURPLUS PROPERTY AND AUTHORIZING THE SALE OR DISPOSITION THEREOF.

RESOLUTION 25-2019

A RESOLUTION DECLARING CERTAIN CITY VEHICLES SURPLUS PROPERTY AND AUTHORIZING THE SALE OR DISPOSITION THEREOF

Whereas:

1. Property is considered "surplus" when it no longer serves the needs of the city and, therefore the public; and
2. Surplus property should be disposed of when doing so is in the public interest; and
3. The City of Falls City is currently in possession of property that no longer serves the needs of the city and, therefore the public; and
4. Nothing in the City's governing documents delineates a procedure for declaration or disposition of Surplus City Property.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FALLS CITY RESOLVES AS FOLLOWS:

Section 1. The items listed in attachment "A" are declared surplus property. The surplus property listed in attachment "A" shall be disposed of in the manner delineated in said attachment.

Section 2. The City Manager shall determine and utilize the most advantageous method of sale for all surplus property to be disposed of by sale. The methods include, but are not limited to, State Surplus Property, Craigslist, Facebook, Community Boards, and direct contact with City Hall.

Section 3. The City Manager shall determine appropriate pricing based on comparable sales and valuation tools like Kelly Blue Book, for all surplus vehicles and equipment delineated in attachment "A."

Section 4. Monies received from the sale of Surplus Property will be allocated to the City's General Fund.

Section 5. This Resolution shall be effective immediately upon passage.

Continued on next page...



ADOPTED BY THE FALLS CITY COUNCIL ON THIS 9th day of December, 2019.

Vote: AYE 4 NAY 0 ABSTAIN 0 ABSENT 2

12/09/19

Date

  
\_\_\_\_\_  
Jeremy Gordon, Mayor

Attest:

12/09/19

Date

  
\_\_\_\_\_  
Jamie Ward, City Clerk

**Resolution 25-2019**

**Attachment A**

<b>Department</b>	<b>Description</b>	<b>Year</b>	<b>Manner of Disposal</b>
Public Works	Chevy Pickup	2004	Sale
Fire	Chevy Tahoe	1996	Sale

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## STAFF REPORT

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**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** CITY ATTORNEY, ROSS WILLIAMSON AND CITY MANAGER, MAC CORTHELL  
**SUBJECT:** RESOLUTION 26-2019 SECTION 31(B) VACANCIES  
**DATE:** DECEMBER 9, 2019

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### SUMMARY

City Attorney's interpretation and proposed process for declaring a Council Vacancy under Falls City Charter Section 31, Paragraph B.

Resolution 26-2019 giving effect to the City Attorney's recommendations and interpretations on the issue.

### BACKGROUND

Councilor Radke has missed the following meetings this year:

June 24, 2019 Special Meeting;  
August 27, 2019 Special Meeting;  
September 9, 2019 Regular Meeting;  
September 23, 2019 Special Meeting;  
November 19, 2019 Regular Meeting.

### RELEVANT LAW

Section 31 of the Falls City Charter deals with vacancies, and states the following (relevant clause in bold and italic):

The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

(1) Death, (2) Adjudicated incompetence, or (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

(1) Failure to qualify for the office within 10 days of the time the term of office is to begin, (2) Absence from the city for 30 days without council consent (3) **Absence from all council meetings within a 90-day period, (4) *Absence from 5 council meetings in a calendar year*** (5) Ceasing to reside in the city, (6) Ceasing to be a qualified elector under state law, (7) Conviction of a public offense punishable by loss of liberty, (8) Resignation from the office, or (9) Removal under Section 33(i).

### ISSUE

Handling of vacancy declarations under Section 31(b) of the Falls City Charter.

**STAFF RECOMMENDATION**

The City Attorney was asked to provide an opinion on this issue. The opinion is attached to this Staff Report and City Staff concurs with that opinion.

**EXHIBIT**

1. City Attorney's Opinion on Section 31 of the Falls City Charter.
2. Resolution 26-2019 Section 31(b) Vacancies

**PROPOSED MOTION**

I move the City Council of Falls City adopt resolution 26-2019, A RESOLUTION DECLARING A PROCEDURE FOR DECLARING VACANCIES UNDER SECTION 31(b) OF THE FALLS CITY CHARTER.