

CONFIDENTIAL

WORKPLACE INVESTIGATION REPORT

for

City of Roseburg

August 13, 2025

Emily M. Matasar, J.D., AWI-CH
Beery, Elsner & Hammond, LLP

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	INVESTIGATION BACKGROUND	1
	A. Allegations	1
	B. Witness List	2
	C. Documentation	3
	D. Relevant Policies.....	3
	E. Standard for Evidentiary and Policy Findings	4
III.	FACTUAL BACKGROUND.....	4
	A. “Factions” on Council.....	4
	B. City Manager Evaluation and Agenda Item on Termination.....	5
IV.	FINDINGS OF FACT AND POLICY VIOLATIONS	5
	A. Issue Identified: Was City business conducted privately in direct violation of the open meetings laws?	5
	1. Allegations and Relevant Facts.....	6
	2. Findings of Fact: Allegations Substantiated	10
	3. Findings of Policy: No Clear Policy Violation	10
	B. Issue Identified: Were Councilors intimidated or pressured into voting certain ways?	10
	1. Allegations and Relevant Facts.....	17
	2. Findings of Fact: Allegations Substantiated	22
	3. Findings of Policy: No Policy Violation.....	22
	C. Issue Identified: Were daytime jobs threatened as a way of keeping Councilors in line?.....	22
	1. Allegations and Relevant Facts.....	22
	2. Findings of Fact: Allegations Not Substantiated	22
	3. Findings of Policy: No Policy Violation.....	23
	D. Issue Identified: Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?	23
	1. Allegations and Relevant Facts.....	23
	2. Findings of Fact: Allegations Partially Substantiated.....	26
	3. Findings of Policy: Policy Violation.....	26

EXHIBITS

1. Rummel City Council Resignation
2. Rummel Facebook Post
3. Sipos Cancellation Email
4. Roseburg City Charter 6.5 – Oath of Office
5. Roseburg City Charter 6.9 – State Ethics Laws
6. RMC 2.34.010 – Laws, rules, and policies governing meetings of the Council
7. RMC 2.34.020(B)(7) – Annual Evaluation of the City Manager
8. City of Roseburg City Council and Administrative Policies – City Manager’s Annual Performance Evaluation Process
9. Porter and Briggs Loosley January 9, 2023 Text Messages
10. City of Roseburg January 6, 2024 Library Celebration Screenshot and January 8, 2024 City Council Meeting Synopsis
11. Rich, Mohr and Forrester September 23 – 27, 2023 Emails
12. February 13, 2023 City Council Meeting Synopsis
13. Messenger Contract and Amendments
14. August 12, 2024 City Council Meeting Synopsis
15. August 26, 2024 City Council Packet – Mayor Reports B

I. INTRODUCTION

The City of Roseburg (City) retained Beery, Elsner & Hammond, LLP (BEH) to conduct an independent investigation into the following allegations and whether they violated the Roseburg Municipal Code (RMC), Charter, Council Rules of Procedure, or any other applicable policy:

- (1) Was City business conducted privately in violation of the open public meeting laws? (2) Were Councilors intimidated or pressured¹ into voting certain ways? (3) Were daytime jobs threatened as a way of keeping Councilors in line? and/or (4) Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace her with one of their own?

This is the Confidential Investigative Report (Report) of the investigator's findings. It contains detailed information, witness accounts, relevant documentation, analyses, and findings related to the allegations. The investigator anticipates that the City will keep this Report confidential, and it will not be disseminated except as required by law or as the City determines necessary. To the extent the City wants to notify the parties of the results of the investigation, it should prepare a separate report with a summary of the findings in order to protect the confidentiality of this Report.

II. INVESTIGATION BACKGROUND

A. Allegations

On Friday, January 24, 2025, at 5:06 p.m., then-City Councilor Kylee Rummel sent the following email to City Manager Nicole (Nikki) Messenger, City Recorder Amy Nytes, Mayor Larry Rich, and Council President Ruth Smith:

Good evening,

Due to personal circumstances, I am resigning from City Council. I have the utmost respect for City staff and admire the hard and thankless work that you all do. It has been an honor to know you and I hope that I see you often throughout the community.

Best Regards,

Kylee

Exhibit 1 – *Rummel City Council Resignation*. That weekend, Rummel posted the following to her personal Facebook account:

¹ The investigator interpreted this issue as “intimidated or pressured [*by fellow Councilors*] into voting certain ways” and addresses that issue in this Report.

I have debated sharing this information, but because there are voices that will speak loudly in the days to follow, I want to be the one writing my own narrative.

After 2.5 years of service, I have decided to resign from City Council. I first threw my hat in the ring when a vacancy opened, seeing it as part of doing my civic duty and an opportunity to give back to the community I love and have called home my entire life. This position has never been about status, power, or the ability to influence others or push a hidden agenda. During my time of service, I have carefully weighed every decision, acting in what I believe is in the best interest of the community, and I have stood for ethics, truth and love.

I do not believe in airing dirty laundry or pointing fingers, so I will not be doing that now. I will say though, that lines were crossed by certain members of Council, trying to use me to push their own agendas and even going as far to try to intimidate and influence my vote by threatening my job.

I have never been one to quit, but this is a volunteer position, and the personal sacrifices have been too great. I will not continue to work against those who oppose progress when my time is better spent elsewhere.

I have the utmost respect for those on Council who serve with love for the community and for the very passionate and talented City employees who continue to strive to make this community a better place to live.

Exhibit 2 – Rummel Facebook Post.

During a subsequent City Council meeting on Monday, January 27, 2025, Mayor Rich announced this investigation and identified the following issues:

1. Was City business conducted privately in direct violation of the open public meetings laws?
2. Were Councilors intimidated or pressured into voting certain ways?
3. Were daytime jobs threatened as a way of keeping Councilors in line?
4. Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?

B. Witness List

The investigator interviewed 14 witnesses via recorded teleconference meetings, with several witnesses also being interviewed a second time. The investigator advised all witnesses of the purpose of the investigation; the role of the investigator; confidentiality and public records; and retaliation.

Name	Position	Representative	Date(s)
Larry Rich	Mayor		2-12-2025
Kylee Rummel	Former City Council Member		2-17-2025; 4-30-2025
Shelley Briggs Loosley	City Council Member		2-18-2025; 4-20-2025
Andrea Zielinski	City Council Member		2-18-2025; 4-20-2025
Gary Klopfenstein	Police Chief		2-20-2025
Stuart Cowie	Comm. Dev. Director		2-21-2025
Nikki Messenger	City Manager	Shawn O'Neil	2-24-2025
Zack Weiss	City Council Member		3-4-2025
Katie Williams	City Council Member		3-4-2025
Ruth Smith	City Council President		3-6-2025
Tom Michalek	City Council Member		3-25-2025
Brian Prawitz	Former City Council Member		3-26-2025
Ellen Porter ²	City Council Member		4-12-2025; 5-6-2025
David Mohr	Former City Council Member		5-7-2025

The investigator scheduled an interview with former City Councilor Patrice Sipos for March 19, 2025. However, Sipos canceled the interview the night before, stating, “I do not wish to reschedule.” Exhibit 3 – *Sipos Cancellation Email*.

C. Documentation

The investigator requested, received, and reviewed documentation from individual witnesses and the City. The relevant documents attached as exhibits support the investigator’s findings.

D. Relevant Policies

The City policies under consideration are:

1. Roseburg City Charter 6.5 – Oath of Office;
2. Roseburg City Charter 6.9 – State Ethics Laws;
3. RMC 2.34.010 – Laws, rules, and policies governing meetings of the Council;
4. RMC 2.34.020(B)(7) – Annual Evaluation of the City Manager; and
5. City of Roseburg City Council and Administrative Policies and Procedures Manual – City Manager’s Annual Performance Evaluation Process.

Full copies of these policies are included as Exhibits 4-8.

² Porter and Mohr also submitted written statements prior to their interviews, which the investigator used in the interviews and references in this report.

E. Standard for Evidentiary and Policy Findings

The investigator will make findings of fact and policy using a preponderance of the evidence standard.

III. FACTUAL BACKGROUND

Rummel was appointed to the City Council in May of 2022, and was subsequently elected in the November 2022 general election. She has worked as a financial controller for a Roseburg area non-profit, United Community Action Network (UCAN), for approximately five years, including during her time on the City Council. Porter and Smith were also elected in the November 2022 election and Mohr was appointed in late 2022, so Mohr, Porter, and Smith all started on the Council in January of 2023. They joined Councilors Rummel, Briggs Loosley, Prawitz, Sipos, and Zielinski, as well as Mayor Rich.

Midway through 2023, Prawitz was hired by Umpqua Economic Development Partnership and resigned his position as Councilor. After an application and interview process, the Council appointed Michalek to fill Prawitz's vacancy. In the 2024 general election, Williams defeated Mohr, and Weiss was elected to the position held by Sipos, who did not run.

A. "Factions" on Council

Throughout the investigation, witnesses described a division among Council Members. By 2024, Porter and Smith were friendly with Mohr and Sipos, with Briggs Loosley and Zielinski in the opposing "faction" (a term used by Rummel during her interview). Although Rummel felt aligned with Mohr, Porter, Sipos, and Smith on some issues, she did not feel completely part of their group. Michalek appeared to talk more with Porter and Smith than with Briggs Loosley and Zielinski, but was not squarely within one group or the other. Likewise, Briggs Loosley and Zielinski were closer with Mayor Rich and City Manager Messenger than Mohr, Porter, Sipos, and Smith. Weiss and Williams did not appear to be firmly within one faction or the other at the time of their interviews.

Both groups distrusted the other and during the investigation members of both groups made allegations of perceived slights against the members of the opposing group. Both groups suspected, without evidence, that the other engaged in nefarious private meetings, and viewed the actions of the other in the most negative light. Likewise, members of both groups believed the other group did not respect or follow the rule of law. Several current Councilors expressed a desire to resign from office due to these and other frustrations.

The investigator notes this division because the environment is relevant to the issues raised in this investigation. The Council is and has been acrimonious, and members of the Council are particularly sensitive to perceived slights from the other “faction.” Moreover, the tension among Councilors contributed in no small part to the resignation of Rummel, a Councilor the witnesses nearly unanimously respected.

B. City Manager Evaluation and Agenda Item on Termination

During the “Items from Mayor, City Council and City Manager” portion of the agenda at the October 14, 2024 City Council meeting (from which Messenger was absent), Mohr made a motion for “Council to consider placing termination of the City Manager on the next meeting agenda.” Michalek, Mohr, Porter, and Smith voted yes; Briggs Loosley, Rummel, and Zielinski voted no; and Sipos was absent from the meeting.

At the next meeting on October 28, 2024, Mayor Rich announced that the Council would not be discussing Messenger’s termination that evening “after receiving legal advice that steps should be taken prior to any termination discussion.” However, the Mayor added an item to the Mayor’s Report titled “Public Input, City Manager,” and many members of the public appeared and spoke in support of Messenger, with one speaking critically of her. After the regular Council meeting concluded, Council conducted its annual evaluation of Messenger in an executive session as planned.

IV. FINDINGS OF FACT AND POLICY VIOLATIONS

The investigator analyzed the issues identified by the Mayor and made findings using the preponderance of the evidence standard. “Preponderance of the evidence” for this Report means that the evidence on one side outweighs the evidence on the other. The investigator notes that these are not legal findings but findings based specifically on the facts and policies. In the following sections, the investigator summarizes the allegations, the City policies implicated by the allegations, and the relevant facts uncovered in the investigation. Then, the investigator determines whether the facts substantiate the allegations. The investigator lastly determines whether any substantiated allegations constitute a violation of any City policy.

A. Issue Identified: Was City business conducted privately in direct violation of the open meetings laws?

The first issue the Mayor identified for the investigation was “Was City business conducted privately in direct violation of the open meetings laws?”

1. Allegations and Relevant Facts

Councilors described regular conversations, in person as well as by phone and text messages, with fellow Councilors. Throughout 2023, Mohr, Porter, Rummel, Sipos, and Smith began meeting up socially in groups of three and, on at least one occasion, four. For instance, Rummel and Smith went to Porter's house together on several occasions in 2023, and Rummel, Smith and Sipos all went to Porter's house once. According to Rummel, Councilors also sometimes met at Sipos's house: Rummel and Smith once, and Rummel and Mohr once. Mohr likewise hosted Rummel at his house on at least one occasion, and stated he met up with Michalek at Michalek's house on another. For their part, Briggs Loosley and Zielinski also spoke regularly and occasionally spent time together.

Councilors generally limited conversation to only a couple of other Councilors; apart from the one meeting with Rummel, Smith, Sipos, and Porter, there is no evidence that Councilors gathered in a group of more than three at any one time. In addition, by all accounts, when Councilors met socially, they generally avoided discussing "City business" (which the investigator defined as issues that may come before them for a vote), instead discussing interpersonal matters or past events. During the investigation, it became clear that at least five Councilors (which represents a quorum; more on this below) privately discussed two specific matters of City business: the annual Council President election and the potential termination of the City Manager.

a. Council President Vote

Section 3.8 of the Charter provides, in relevant part, "At the first meeting of the Council each year or as soon thereafter as practical, the Council shall choose one of its members to preside over the Council and perform the duties of mayor in the absence of the mayor from the City or in case of the mayor's inability to act as such." Practically speaking, this is accomplished by a Councilor nominating a Council Member to be Council President and the full Council discussing then voting on it.

There is evidence that, for the 2023 Council President vote, Zielinski talked to Sipos while Briggs Loosley talked to Porter and Smith. In addition, Porter provided a text message thread with Briggs Loosley where Porter offers to make the motion to nominate Briggs Loosley and Briggs Loosley replies that Mohr already offered, which demonstrates that Briggs Loosley also spoke to Mohr. Exhibit 9 – *Porter and Briggs Loosley January 9, 2023 Text Messages*. For 2024, there is evidence that Zielinski talked to Briggs Loosley, Michalek, Rummel, Sipos, and Smith, and that Porter and Mohr also discussed the 2024 Council President election. In addition, Briggs Loosley and Zielinski attended a Roseburg Library celebration on Saturday, January 6, 2024, and met up with Messenger. Briggs Loosley remembered knowing Mohr would become

Council President on that day, but Zielinski remembered being blind-sided by it at the January 8, 2024 Council meeting. Exhibit 10 – *City of Roseburg January 6, 2024 Library Celebration Screenshot and January 8, 2024 City Council Meeting Synopsis*. Messenger corroborated that she, Briggs Loosley and Zielinski knew Mohr “had the votes” on January 6, and believed Zielinski heard it from the Councilors she called to express her interest in remaining Council President. Zielinski did not remember knowing Mohr would be 2024 Council President before the vote at all, and stated that none of the Councilors she spoke to told her who they were planning to vote for.

For 2025, Briggs Loosley discussed the Council President vote with Williams and Zielinski, and Rummel discussed it with Porter and Smith. Porter and Rummel discussed whether Zielinski was open to being Council President again. Porter stated Rummel told her she believed Smith would be good for the job and Rummel stated Smith told Rummel that Smith believed Rummel would be good for the job. Weiss, who had not yet been sworn in, heard that Smith would be nominated, but could not remember how he heard. Despite a lot of conversation between Council members, apart from Briggs Loosley informing Porter that Mohr would make the motion to nominate her in 2023 and knowing Mohr “had the votes” for 2024, there is no evidence for any year that opinions about the Council President vote were shared among Councilors.

b. Terminating Messenger

Before Mohr’s October 14, 2024 motion to add an agenda item to discuss terminating³ the City Manager, every member of the Council had discussed the issue with at least one other Councilor or the Mayor. Moreover, there is significant evidence that information was shared between the Councilors about terminating Messenger. Rummel stated Smith told her that Sipos was “on board” with terminating Messenger (though Smith did not remember telling Rummel that), and also that Smith and Sipos spoke with Michalek, who ultimately agreed that Messenger should be terminated. While Smith denied talking to Michalek, Michalek corroborated Rummel’s account that Smith raised the subject of Messenger’s handling of a cybersecurity breach, though Michalek denied that they discussed termination. The investigator finds it more likely than not that Smith told Rummel that Sipos and Michalek supported terminating Messenger. First, Smith did not deny telling Rummel that Sipos supported terminating Messenger but rather did not remember doing so, while Rummel had a clear memory of the conversation. In addition, Michalek corroborated that he and Smith discussed Messenger’s performance with respect to the cybersecurity breach, which indicates Smith either forgot or lied about talking with Michalek. It

³ Although the investigator attempted to separate the issues of adding an agenda item to discuss terminating the City Manager from the question of actually terminating the City Manager, most witnesses collapsed their discussions on these issues. In addition, as described below, Mohr differentiated between terminating Messenger’s contract with terminating her employment, though that is a distinction without a difference for purposes of this investigation.

is just as likely Smith forgot or lied about telling Rummel that Michalek told her that Messenger should be terminated (regardless whether Michalek actually told Smith that).

Rummel also stated Smith told her on the drive to the October 14, 2024 Council meeting that Mohr was planning to make a motion to add an item to discuss terminating the City Manager. Smith only remembered one conversation with Rummel about Messenger's performance, which she stated occurred long before October and did not include discussion about any other Councilors. The investigator finds it more likely than not that Smith told Rummel about Mohr's motion immediately before the meeting because it resulted in Rummel not being surprised when Mohr ultimately made the motion at the meeting. For Smith, the conversation may not have been as memorable because she already was aware Mohr was making the motion.

Both Rummel and Smith stated that Mohr informed them that he had been approached by four other Councilors regarding terminating Messenger. Rummel further remembered Mohr specifically stating that "he had been approached by every single Council Member, with the exception of Andrea [Zielinski] and Shelley [Briggs Loosley]" on the subject, and that Mohr specifically told her that Porter, Sipos, and Smith supported termination.

Mohr did not remember telling Rummel that he was approached by every Councilor except Zielinski and Briggs Loosley, and stated, "I don't think that's something I would say, so I don't know." Mohr continued, "It would not have been unusual for me to mention other Councilors raised a concern and I did." Mohr appeared to be acknowledging that he spoke generally about the number of Councilors that had discussed a topic with him, but stated he avoided naming which specific Councilor reached out. Moreover, during his interview Mohr stated that the Councilors were sharing their concerns about Messenger with him, but claimed that only Michalek and Sipos mentioned wanting to terminate Messenger. Mohr implied and Porter stated outright that terminating Messenger only became part of the conversation when City Attorney James (Jim) Forrester suggested the motion Mohr eventually made on October 14.

The investigator finds it more likely than not that Mohr shared with Rummel and Smith that he was approached by multiple Councilors generally, and also that in his conversation with Rummel, Mohr named specific Councilors that did and did not approach him and/or support terminating Messenger. Mohr admitted it was common for him to inform Councilors that other Councilors—without specifically naming them—raised concerns with him. Furthermore, Rummel clearly remembered Mohr specifically stating that he was approached by every Councilor *except Zielinski and Briggs Loosley* and that Porter, Sipos, and Smith supported termination, while Mohr spoke in generalizations and was unsure.

Likewise, the investigator finds that Mohr's claim that neither he nor the majority of Councilors discussed terminating Messenger (and rather that they just discussed concerns with Messenger's performance) lacks credibility for several reasons. Both Rummel and Smith described discussing terminating Messenger with Mohr, and Mohr's motion on October 14, 2024, was for

“Council to consider placing *termination of the City Manager* on the next meeting agenda.” (Emphasis added.) Moreover, at the time of Mohr’s motion, Messenger’s annual performance evaluation—where Council convenes to discuss Messenger’s performance, including the Council’s concerns—was already scheduled for the very next meeting. Mohr did not have a satisfactory answer when the investigator probed Mohr about this, as evidenced by the following exchange:

Emily Matasar: So, I understand that maybe when you started having the conversation with the mayor, and when Kylee [Rummel] approached you, that was before the evaluation process started, but when you actually made the motion, it was the meeting immediately before her performance review was scheduled.

David Mohr: That was completely, yeah, I don’t know where that came from. So that was interesting. That was interesting.

Emily Matasar: I’m trying to understand then, if your purpose in making the motion was just to have a conversation . . .

David Mohr: A hundred percent there.

Emily Matasar: And you were going to have a conversation anyway about the city manager’s performance at the very next meeting, you see why I don’t understand that?

David Mohr: Yeah, no, I’m a hundred percent there.

Mohr then encouraged the investigator to review his emails with Mayor Rich and Forrester, and stated they would reflect Mohr’s intent, which he stated was not to terminate Messenger, but rather to “get the Council together to even have a conversation” and “figure out what they want to do.” However, it is clear from the emails both that Mohr’s conversations with Councilors included terminating Messenger and that Mohr expressly wanted to add Messenger’s termination to the agenda.

First, on September 23, 2024, Mayor Rich emailed Mohr and Forrester, stating that Forrester “is going to put together what the process is sometime this week.” Exhibit 11– *Rich, Mohr and Forrester September 23 – 27, 2023 Emails*, p. 1. There is no additional detail about what “process” they are referring to in this email thread. On September 26, 2024, Forrester starts a new email thread, titled “Process for dismissal of employee” to Mayor Rich and Mohr. *Id.* at 2. Forrester advises:

According to the Roseburg City Charter, the City Manager can be removed at any time with or without cause by a two-thirds vote of the entire Council. The current City Manager contract provides additional guidelines for the termination process.

If the proposed termination is for cause, the Council must provide notice of the reason for the proposed termination, allow the City Manager to respond, and hold a hearing that complies with due process guarantees. If the proposed termination is without cause, no notice of reason is required, and no hearing is necessary.

Id. If Mohr’s purpose in reaching out to Forrester was not related to “dismissal of employee” or removing the City Manager, then presumably he would have replied to Forrester’s email to correct him. Instead, the next day, Mohr replied, “Thanks Jim. I’ve had 5 councilors individually approach me, *requesting to dismiss the contract without cause*. Let’s get it scheduled, so we can move forward.” *Id.* at 3 (emphasis added). Later in the thread on that same day, Mohr emailed Forrester stating he was “concerned about the risk this creates to the city. Which is why I was reaching out to [Mayor Rich] and saying ‘what do we do, half our councilors *want to terminate the CM[.]*’” *Id.* at 4 (emphasis added). The emails corroborate Rummel’s account that Mohr was discussing terminating Messenger, and directly contradict Mohr’s and Porter’s claims that it was Forrester who first raised the issue of termination or that Mohr’s purpose was simply to get Council together to voice their concerns.

Mohr also kept Mayor Rich informed regarding which Councilors supported termination, and Zielinski recounted that, prior to the meeting on October 14, 2024, Mayor Rich informed her that Mohr was making his motion and that all Councilors except Briggs Loosley supported the motion.

2. Findings of Fact: Allegations Substantiated

The investigator finds, by a preponderance of the evidence, that Councilors privately discussed⁴ the Council President election and the possibility of terminating Messenger.

3. Findings of Policy: No Clear Policy Violation

The allegations implicate the following policies:

- Roseburg City Charter 6.5 – Oath of Office; and
- RMC 2.34.010 – Laws, rules and policies governing meetings of the Council.

Roseburg City Charter 6.5 states, “Each elective officer, the city manager and municipal judge before entering upon the duties of office shall take an oath or affirmation to support the constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of their office.” RMC 2.34.010(A) states, in relevant part:

⁴ See policy finding immediately below regarding whether these discussions constituted conducting City business “privately in direct violation of the open meetings laws[.]”

The Public Meetings Law shall govern all meetings of the Council. Unless exempted by state law, all official meetings of the Council, for which a quorum is present, shall be open to the public. The quorum requirement for the conduct of Council business is five Council members. Public notice, as specified in Section 2.34.020 of this Chapter, shall be given of all meetings of the Council.

Roseburg City Council is a governing body for purposes of the Public Meetings Law. “Eight councilors constitute the Council of the City[,]” per Roseburg City Charter Section 3.1, and “A majority of the Council members is a quorum to conduct business[,]” per Roseburg City Charter Section 3.5. Thus, as echoed in RMC 2.34.010(A), five Councilors constitute a quorum of the Council.

The Public Meetings Law generally requires that a governing body’s meetings and deliberations be open to the public and that the public be provided notice of the time and place of such meetings. As relevant here, the law regulates “serial communications” in two ways. First, under ORS 192.630(1) “meetings” of a governing body must be open to the public. “Meeting” is defined as “the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” ORS 192.610(7)(a). Convening by a governing body can occur in four different ways: (1) when they gather in a physical location; (2) when they use electronic, video, or telephonic technology to be able to communicate contemporaneously among participants; (3) when they use serial electronic communications among participants; or (4) when they use an intermediary to communicate among participants (the latter two methods are considered “serial communications”). ORS 192.610(1). An “intermediary” can include a member of the governing body. OAR 199-050-0005(7). This means that members of a governing body may “convene” a meeting—purposely or inadvertently—even if a quorum never gather together contemporaneously; such meetings must be open to the public and must follow various procedural requirements, such as providing public notice and taking minutes. But in order for a “meeting” to occur, the convening must be for the purposes of making or deliberating towards a decision for which a quorum of the governing body is required.

In addition, the Public Meetings Law provides that a quorum of a governing body may not “meet” in private for the purposes of deciding on or deliberating toward a decision. ORS 192.630(2). As interpreted by courts in Oregon, this limitation also applies to “serial” communications among a quorum of a governing body. *See also* OAR 199-050-0020 (prohibiting serial communications).

The question presented by this investigation is whether various discussions among members of the City Council constituted serial communications prohibited by the Public Meeting Law, either as a “meeting” under ORS 192.630(1) or because those discussions caused a quorum to “meet” under ORS 192.630(2). The answer to both of these inquiries rests with whether the

communications in question resulted in a quorum of the Council making or deliberating towards a decision through a series of communications.

Under ORS 192.610(3), the term “deliberation” means discussion or communication that is part of a decision-making process. The Oregon Government Ethics Commission (OGEC) has defined the phrase “decision-making process” to include “the process a governing body engages in to make a decision, such as: (a) identifying or selecting the nature of the decision to be made; (b) gathering information related to the decision to be made; (c) identifying and assessing alternatives; (d) weighing information; and (e) making a decision.” OAR 199-050-0005(4).

However, prior to the OGEC regulation quoted above, Oregon courts indicated that “deliberation” requires something more than just the sharing of information. Rather, there would need to be some coordination and often a formal discussion. For instance, in the seminal serial communications case, *Handy v Lane County*, the Oregon Court of Appeals stated, “[N]ot every discussion among a quorum, even on matters of public concern, will violate the statute. Rather, the discussion must rise to the level of, *and* have the purpose of, ‘deciding on or deliberating toward a decision.’” 274 Or App 644 (2015), *affirmed in part and reversed in part*, 360 Or 605 (2016) (emphasis in original). This typically requires evidence of coordination, orchestration, or other indications that the “purpose” of the communications was to deliberate or make a decision outside of the public eye. *See id.*

To that end, there is some ambiguity in Oregon on how to determine whether a quorum deliberated towards a decision outside a public meeting in violation of state law. One of the key questions is whether a quorum of members’ opinions must be shared among a quorum to be considered communications “among participants” in order for deliberations to occur.⁵ Consider a board with five members where three members make up a quorum. In one scenario, Member A meets with the four other members individually. During the first meeting, Member A and the other individual member share their own opinions. In subsequent meetings, Member A shares her own opinion and solicits the opinion of the other member she’s meeting with, but the opinions of the other members are not shared during these conversations, and the other members speak only to Member A on the subject. In this scenario, although a majority of the members have discussed the subject, a quorum of member opinions is not known among a quorum of members because Members B through E only know Member A’s opinion, and only one member, Member A, knows the opinions of a quorum. Stated differently, while the opinion of Member A was shared among a quorum, none of the other members’ opinions were shared among a quorum, so a quorum of members’ opinions is not shared among a quorum of the members of the

⁵ See, e.g., Sophie Peel, *League of Oregon Cities Says Ethics Commission Has Distorted Public Meetings Law*, Willamette Week (May 8, 2025), <https://www.wweek.com/news/city/2025/05/08/league-of-oregon-cities-says-ethics-commission-has-distorted-public-meetings-law/>; Shaanth Nanguneri, *Oregon Ethics Commission Pursues Legislative Action, Further Revision on Meetings Policy*, Oregon Capital Chronicle (August 8, 2025), <https://oregoncapitalchronicle.com/2025/08/08/oregon-ethics-commission-pursues-legislative-action-further-revision-on-meetings-policy/>.

governing body. In this scenario, there does not appear to be any purpose to orchestrate a decision outside of the public eye, so was this “deliberation” by a quorum of the body?

By contrast, consider circumstances in which a quorum of members’ opinions is known to a quorum of members. For example, in another scenario, Member A still meets with each member of the governing body, but this time Member A discusses Member B’s opinion with Member C and Member C’s opinion with Member B. In this second scenario, the opinions of a quorum of the board are shared among three members—a quorum—because Members A, B and C all know each others’ opinions. It is much more likely that this scenario constitutes deliberations among a quorum since the members are sharing each other’s views, which suggests a purpose of orchestrating the decision-making process outside of the public eye.

a. OGEC 2025 Serial Communications Interpretation

It appears OGEC, which in 2023 was tasked with enforcing violations of the Public Meetings Law including serial communications, interprets the prohibition on serial communications to not require a quorum of member opinions be shared among a quorum in order to find deliberation and thereby a violation. That is to say, OGEC would consider not only the second scenario above, but also the first, to violate the law.

In its June 2025 meeting,⁶ OGEC voted to move a preliminary review to a full investigation where the evidence showed that only one member, the Mayor of the City of Salem, communicated with a quorum of members, and she only shared the views of other members with the Council President. In other words, the other members of the Council only spoke with the Mayor on the issue and only discussed their own views in those meetings. However, OGEC voted to move the complaints against all members to the investigation phase, including those non-Mayor, non-Council President members. To be clear, this decision was just to authorize an investigation and has not yet reached the stage of a finding of a violation of the law.

Then, in July 2025, OGEC released a “frequently asked questions” (FAQ) document on “Prohibited Serial Communications.”⁷ In addition to providing general information on how OGEC interprets and enforces the prohibition on serial communications, the document also provides examples of prohibited serial communications. The first example, in question 2, states:

Using an example of a governing body comprised of seven members and a quorum of four members:

⁶ Available for viewing online at around the one-hour mark here:
<https://www.youtube.com/watch?v=XzSAI9z9zmk>.

⁷ Available at
<https://www.oregon.gov/ogec/training/Documents/Training%20Resource%20Charts%20%26%20Materials/Prohibited%20Serial%20Communications%20FAQ.pdf> (last visited August 13, 2025).

Member A calls Member B on May 1st to discuss lowering the downtown parking fines by 10%. On May 15th, Member B emails Member C to see if Member C would also be supportive of lowering the downtown parking fees by 10%. The next day, Member A sends a text message to Member D to see if Member D would support lowering the downtown parking fees by 10%. In this example, four members - a quorum - have deliberated about whether to lower the downtown parking fees by 10%. In this situation a prohibited serial communication has occurred in violation of the Public Meetings Law.

Although it remains unclear which public official(s) OGEC would conclude violated the law in this scenario, Member D simply received a text message on the subject and did not share their views with any other member, yet was counted toward the quorum that “deliberated” on it. Therefore, it seems OGEC does not interpret the law to require that a quorum of members’ views is shared among a quorum of members for deliberation to occur.

However, during the OGEC’s August 2025 meeting,⁸ the Commission held a substantial discussion about the FAQ and how to interpret the serial communications prohibitions in state law. During that discussion, OGEC explained that the FAQ is a living document that will be updated as needed, and that the Commission’s future decisions in the Salem matter described above will help provide some clarity on this issue. Accordingly, we do not yet have definitive guidance on this question from OGEC.

Nonetheless, as of the time of this Report, it appears OGEC would likely find that the Roseburg City Council engaged in prohibited serial communications in the 2023, 2024 and 2025 Council President election, and with respect to the question of terminating the City Manager.⁹ For the 2023 Council President election, there is evidence that five members (Briggs Loosley, Porter, Sipos, Smith, and Zielinski) discussed the Council President election, which is a matter within the Council’s jurisdiction. For 2024, there is evidence that all eight Councilors discussed the Council President vote with at least one other Councilor outside of a public meeting: Zielinski spoke to Briggs Loosley, Michalek, Rummel, Sipos, and Smith, and Porter and Mohr spoke. For the 2025 election, there is evidence that at least Briggs Loosley, Porter, Rummel, Smith, Weiss, Williams, and Zielinski separately discussed the Council President vote. Thus, if the only relevant questions to determine serial communications in violation of the Public Meetings Law are whether the communications (1) relate to a matter within the governing body’s jurisdiction and (2) involved a quorum, as OGEC appears to interpret the law, then a policy violation would have occurred in connection with the conversations regarding the 2023, 2024, and 2025 Council President elections.

⁸ Available for viewing online at: <https://www.youtube.com/watch?v=uDucDJYa2g8&t=3667s>

⁹ According to ORS 192.705(1), a person who believes that a governing body has violated the prohibition on serial communications must file a written grievance with the public body within 30 days of the alleged violation; therefore, the time has long passed for a written grievance to be made on any of the purported violations.

The same is true for Council's conversations around terminating the City Manager. There is evidence that Mohr discussed the topic with a quorum of Council Members: Michalek, Porter, Rummel, Sipos, and Smith. In addition, Porter and Smith discussed it with Rummel, and Smith also discussed it with Michalek and Sipos. Thus, as above, provided the only relevant questions are whether the communications relate to a matter within the Council's jurisdiction and involved a quorum, then there would be a policy violation for the Councilors' conversations regarding terminating the City Manager.

b. Handy v. Lane County Interpretation of Serial Communications

In contrast to OGE's 2025 interpretation of the prohibition on serial communications, the historical understanding—based on the *Handy v. Lane County* decision—of when deliberations occur requires greater orchestration and some evidence of a purpose of deliberating outside of the public eye. Generally, this would likely require that a quorum of members' views is shared among a quorum of the governing body. Here, although the factual allegations were substantiated, a quorum of members did not know the opinions of a quorum of members regarding the annual Council President vote or terminating Messenger. Under the *Handy* interpretation, then, there is insufficient evidence to establish a clear policy violation.

With respect to the 2023 Council President vote, as stated, although there is evidence that Briggs Loosley, Porter, Sipos, Smith, and Zielinski—constituting a quorum—separately discussed the Council President vote, there is no evidence a quorum of Councilors knew the opinions of their fellow members. The only evidence that information was shared “among” Councilors was when Briggs Loosley told Porter that Mohr would nominate Briggs Loosley for Council President. There is no evidence that Mohr knew Porter's views, or that any other Councilors shared opinions among themselves.

For 2024, as stated, there is evidence that all eight Councilors discussed the Council President vote with at least one other Councilor. There is also evidence that Briggs Loosley (and Messenger) knew Mohr would be Council President for 2024 at the Library celebration, which occurred prior to the Council President vote. However, this is the only evidence that a Councilor knew the opinion of any other Councilor, and there is no evidence any other Councilor knew Briggs Loosley's opinion. Thus, there is still insufficient evidence to establish that a quorum of Councilors knew a quorum's worth of opinions about the 2024 vote.

The same is true for 2025, where at least Briggs Loosley, Porter, Rummel, Smith, Weiss, Williams, and Zielinski separately discussed the Council President vote, but there is no evidence that any information or opinions were shared among any Councilors, much less a quorum. As a result, relying on the *Handy* interpretation of the prohibition on serial communications, which requires that a quorum of views is known among a quorum of the Council, there is no evidence of a policy violation regarding the Council President vote for 2023, 2024 or 2025.

The question is closer with respect to Council's conversations relating to terminating the City Manager, under the *Handy* interpretation, but there is insufficient evidence to establish a clear policy violation. As noted, Mohr discussed the topic with Michalek, Porter, Rummel, Sipos, and Smith; Porter and Smith discussed it with Rummel; and Smith discussed it with Michalek and Sipos. Moreover, Mayor Rich, who is not a voting member of Council, informed Zielinski prior to the October 14, 2024 meeting that Mohr was making a motion on the subject and that all Councilors except Briggs Loosley supported the motion. Thus, there is evidence that seven of eight Councilors discussed the subject of Messenger's termination "privately" (*i.e.*, outside of a sanctioned, noticed public meeting of the Council). Moreover, there is also evidence that some council members shared the opinions of their fellow Councilors—gleaned from these conversations—with other Councilors. Specifically, Smith shared Michalek's and Sipos' opinions with Rummel, Mohr shared specific information about other Councilors' views on the subject with at least Rummel and Smith, and Mayor Rich shared his perception of the vote count with Zielinski. Under the *Handy* interpretation, then, Mohr, Smith, and Rummel were at risk of violating the prohibition on serial communications by discussing the opinions of their fellow Councilor with other Councilors.

There is no evidence, however, that a quorum of Councilors' opinions were shared among a quorum of Councilors. For instance, while Zielinski was made aware of the opinions of all Councilors, there is no evidence Zielinski shared her views with any other Councilors. Likewise, while Michalek discussed the issue with Mohr and Smith, there is no evidence Michalek learned of any other Councilors' views in those conversations. Briggs Loosley did not discuss the issue at all. Sipos refused to participate in the investigation, but even if she had it would not change the outcome because it still does not result in a quorum of Councilors knowing the opinions of a quorum of Councilors. Specifically, even if Sipos was sharing information among Councilors and thereby also at risk of convening a meeting on Messenger's termination, it would not result in a clear violation under the *Handy* interpretation because including Sipos "among" the Councilors that shared opinions both ways—Mohr, Smith and Rummel—would still only number four Councilors, while a quorum requires five. Therefore, under the *Handy* interpretation, there is not enough evidence to establish a policy violation.

Because OGEC's interpretation is not definitive (and appears to be fluid at the time of this Report) and because the *Handy* interpretation does not support a finding of a violation, the investigator cannot make a conclusive finding that there was a policy violation for this issue.

B. Issue Identified: Were Councilors intimidated or pressured into voting certain ways?

The next issue the Mayor identified was: "Were Councilors intimidated or pressured into voting certain ways?"

1. Allegations and Relevant Facts

Witnesses alleged feeling intimidated or pressured by their fellow Councilors to vote certain ways on the following issues.

a. Surplus Property

Prawitz and Zielinski described being pressured by Porter to inventory, rather than dispose of, surplus real property in February of 2023. At the February 13, 2023 City Council meeting, Resolution 2023-06 came before the Council “Declaring Certain City of Roseburg Real Property as Surplus.” Exhibit 12 - *February 13, 2023 City Council Meeting Synopsis*. Both Porter and Prawitz stated that Porter called Prawitz before the meeting to discuss her idea of inventorying surplus property to eventually support an urban campground, an issue about which Porter is very passionate. Although Porter did not intend to intimidate or pressure, Prawitz nevertheless felt that Porter was pressuring him to vote with her to inventory the property rather than dispose of it during the February 13 meeting.

Both Prawitz and Zielinski also alleged that Porter pressured them after the February 13 vote. Prawitz stated that immediately after the February 13 meeting, before the Council members had left the Council Chambers, Porter called Prawitz a “traitor,” which Prawitz believed related to his vote to dispose of the property rather than go with Porter’s idea to inventory it. In addition, Zielinski stated Porter called her the day after the vote to discuss her idea to inventory the property. Porter did not affirmatively deny either of these allegations. She stated, “I don’t think I called him a traitor,” and though she did not recall calling Zielinski after the vote, she admitted it would not have been “out of the ordinary[.]” Prawitz and Zielinski remembered these incidents clearly and described them specifically; by contrast, Porter was unsure and/or did not recall the incidents, but in both instances stated it sounded like something she might do. As a result, the investigator finds it more likely than not that Porter called Prawitz a “traitor” and called Zielinski to discuss surplus property after the February 13, 2023 Council meeting.

Although Porter stated her intent was not to intimidate or pressure Prawitz or Zielinski, the investigator finds it reasonable that Prawitz and Zielinski felt intimidated or pressured by Porter’s phone calls to vote to inventory the surplus property as well as calling Prawitz a “traitor.” Calling someone a “traitor” for voting against your desired outcome implies that they should have voted with you, and therefore pressures them to vote that way, especially when combined with a phone call prior to the vote. Likewise, Zielinski described Porter calling her “to give me an earful on how strongly she felt that the City needed to do inventory.” Zielinski recounted that Porter said something along the lines of, “I want you to be on board on this and support it . . . so maybe bring it up in another meeting.” When asked how Porter intimidated and pressured her, Zielinski responded that Porter was “so adamant and pushy” about this issue (and

other issues she supports), and that Porter “just won’t back down.” Zielinski felt “bullied” by Porter during the conversation.

Moreover, although behaviors *after* a specific vote could not reasonably be found to intimidate or pressure a Councilor to vote a certain way on that vote, the issue of how to dispose of surplus property comes before the City Council on a somewhat regular basis. For instance, Council considered how to dispose of another surplus property on April 10, 2023, less than two months after the February 13, 2023 vote. Exhibit 12 – *2023 City Council Meetings Synopsis*, p. 5.

b. Urban Campground

Prawitz and Zielinski also felt that Porter pressured them regarding establishing an urban campground. Both told similar stories about Porter stating she would move and/or leave her husband if she did not “fix homelessness” (per Prawitz) or “get this urban campground” (per Zielinski) in the City. Porter denied saying she would leave her husband, but admitted that she had told “a lot of people that if we can’t get the homeless situation under control, as it now surrounds my neighborhood, that I probably will move.” First, it is more likely than not that Porter referenced her husband in her conversations with Prawitz and Zielinski regarding addressing homelessness in the City. Prawitz and Zielinski both recall Porter specifically referencing her husband; though Porter states she did not, she admits to saying she will “move” (with the implication being that her husband will not). Prawitz and Zielinski’s consistent statements that Porter said she would leave or move away *from her husband* outweigh Porter’s account that she merely said she would move.

Furthermore, the investigator finds Prawitz and Zielinski felt pressure from Porter to vote with her on issues related to homelessness and urban campgrounds based on these statements. Although neither Prawitz nor Zielinski were particularly close to Porter, they felt Porter was using the potential dissolution of her marriage (or, according to Porter’s account, her living separately from her husband) to pressure them into supporting her on issues related to homelessness.

c. Michalek Appointment

Briggs Loosley felt that Porter intimidated or pressured her to appoint Michalek to Prawitz’s vacancy on the Council when Porter called her before the interviews. Porter admitted to calling Briggs Loosley, and left open the possibility that “I told [her] I’d been asked several times to vote for Tom [Michalek.]” Because Briggs Loosley clearly remembers Porter mentioning Michalek and Porter is unsure but leaves open the possibility that she did, the investigator finds it more likely than not that Porter did reference Michalek and at least imply to Briggs Loosley that she should consider voting for him, and also that Briggs Loosley reasonably felt that was pressure to vote to appoint Michalek.

d. Adding Items to Agenda

Rummel and Weiss described Smith requesting that they add an item to the agenda. Rummel and Smith both stated that Smith left Rummel a voicemail asking Rummel to add an item related to Thrive Umpqua to the agenda. Rummel said that in the voicemail, Smith stated she was asking Rummel because staff “like[s] you and they’ll listen to you[.]” Smith was Council President and therefore had more opportunities to discuss adding items to the agenda with the City Manager and Mayor, yet she nevertheless asked Rummel. Because Rummel had felt ignored and steamrolled by fellow Councilors including Smith in the recent past, especially with respect to them continually raising the issue of terminating Messenger despite Rummel’s consistent response that it should be a last resort (see below), Rummel felt pressured and used when Smith left this voicemail, so much so that it served as the last straw leading to her resignation from Council. Smith believed she asked Rummel to raise the Thrive Umpqua agenda item because Smith was going to be absent from Council. Either way, the investigator finds Rummel reasonably felt pressured by Smith to add an item related to Thrive Umpqua to the agenda.

Weiss also recounted a situation where Smith called him to ask him to support an issue, though he could not remember whether it was adding an item to the agenda for her or supporting an item that was on the agenda. Although Weiss could not remember specific details, he remembered he “didn’t feel comfortable” with the conversation. Weiss stated he called Smith back to tell her to raise the issue herself, and Smith was receptive and understanding in that second conversation. Smith recalled asking Weiss to ask a question of Messenger when an issue arose at a meeting because, in Smith’s view, Messenger was more receptive to questions from certain Councilors, such as Weiss, than others. Because Weiss could not remember the issue and because he stated he “didn’t feel comfortable” but also did not feel intimidated or pressured to vote a certain way, the investigator finds Smith did not intimidate or pressure Weiss in this instance.

e. Terminating City Manager

Rummel felt Mohr, Porter, and Smith intimidated and pressured her to support terminating the City Manager. Rummel recounted Smith raising the issue with her multiple times despite Smith appearing to agree when Rummel repeatedly said that termination was not an appropriate action. In addition, Rummel stated that, during one conversation Smith initiated about terminating Messenger, Smith asked Rummel if she was concerned for her job. When Rummel asked Smith why she would be, Rummel stated Smith replied, “Well, because you work at UCAN and UCAN’s executive director Shaun Pritchard and Nikki Messenger are very close. . . . If you voted to terminate Nikki, then you could lose your job.” Rummel stated Smith then suggested that Rummel abstain from the vote. Smith admits to one conversation on the subject with Rummel, but denied bringing it up repeatedly, denied ever expressing a concern to Rummel that a vote she made as a Councilor could affect her job with UCAN, denied ever discussing a

friendship between Pritchard and Messenger, and denied ever suggesting any Councilor abstain from voting.

Nevertheless, the investigator finds Rummel reasonably felt intimidated or pressured by Smith on the issue of terminating Messenger. First, Rummel could have felt intimidation or pressure based on the single conversation Smith admitted to having with her on the subject. Smith stated she told Rummel, during a “bitch session,” that she believed Porter would be a “good city manager.” This demonstrated, or at the very least implied, a viewpoint that Messenger should no longer be City Manager.

Moreover, the investigator finds it more likely than not that Smith brought up the issue with Rummel on more than one occasion, and that Smith referenced Rummel’s job with UCAN. Rummel was feeling pressured from multiple Councilors on this issue, and was primed to remember each and every conversation. Moreover, when Mohr also raised her job security with UCAN related to this issue (discussed below), Rummel was particularly upset because Smith had already raised it. By contrast, Smith was less invested in the issue or how it affected her personally. Rummel and Smith were social together, and talked regularly, so Smith simply may not have remembered every time she raised the issue with Rummel.

Likewise, Rummel stated she felt pressured by Porter. According to Rummel, Porter called her in August 2024 and brought up terminating Messenger, and Rummel replied similarly to how she replied to Smith. Rummel said that Porter replied that she did not believe Messenger “is open to changing her ways” and that Porter “didn’t see any other option than to, you know, get a different City Manager.” Porter did not remember a conversation with Rummel regarding terminating Messenger, but left open the possibility that it occurred, stating further that Rummel’s account of the conversation “sounds like something I would say, but I don’t recall saying it.” Porter believed the only possible time the conversation with Rummel could have taken place was after the October 14, 2024 meeting where Mohr motioned to add the discussion to the agenda. Even if the conversation occurred after the October 14 meeting, at that point Councilors believed the ultimate issue of whether to terminate Messenger was coming before Council for a vote (and it still could in the future), so Rummel could have reasonably felt intimidated or pressured on the issue by Porter after October 14.

Rummel also felt Mohr was intimidating or pressuring her into supporting Messenger’s termination. She indicated that, even after telling Mohr she “wasn’t in support of termination,” Mohr told her “he didn’t think there was any way around terminating the City Manager and that he supported the termination of the City Manager.” In addition, Rummel felt pressured when Mohr sent her a text message after the October 14, 2024 meeting, stating her job with UCAN could be at risk if she supported terminating Messenger, which she took as “intimidating me or trying to intimidate me, trying to grow this, to plant this seed of doubt or fear and then seeing if we can grow that.”

Mohr's own description of his conversations with Rummel was unreliable and the investigator therefore gives it less weight. While Mohr initially stated Rummel told him she did not want to terminate Messenger, he later stated, "There wasn't anything about termination specifically[]" in their conversation. Yet later in the interview Mohr again stated that Rummel told him she believed some action was appropriate, but "doesn't want to terminate" Messenger. Mohr thus contradicted his own account that his conversation with Rummel did not include "termination specifically" when he stated twice that Rummel told him she did not support terminating Messenger. As a result, the investigator finds it more likely than not that the conversation occurred as Rummel described.

The investigator further finds that Rummel reasonably felt that Mohr was intimidating or pressuring her to vote to support terminating Messenger in their conversations. Rummel and Mohr both recounted that Rummel did not believe termination was appropriate, yet Mohr nevertheless told her there was no other option. And according to Mohr's own account, within days of his conversation with Rummel, he reached out to the Mayor and City Attorney to start the process to get the issue before the Council (although, see above, the process Mohr actually reached out about was to terminate Messenger). Mohr ignored Rummel's stated opinion that termination was not appropriate, which Rummel reasonably felt as intimidation or pressure to support termination.

The investigator does not find it plausible that Mohr's and Smith's references to Rummel's job at UCAN constituted intimidation or pressure to vote a certain way. First, according to Rummel's account and a preponderance of the evidence, Mohr and Smith both supported terminating Messenger, so it is unclear how Rummel felt intimidated or pressured to vote *to support* terminating when Mohr and Smith expressed to her that doing so might get her fired. That also is inconsistent with Rummel's own account that Mohr and Smith intimidated or pressured her to support terminating Messenger.

On this matter Rummel stated, "I was worried that if I voted against termination, those City Council members would come back and say, 'The reason that Kylee [Rummel] voted the way that she did was because she was afraid for her job.'" The investigator also asked Rummel how her abstention would help Mohr, Smith, and the other Councilors who supported terminating Messenger, and Rummel replied, "If they could have had seven voting and it still would've had a majority, then they... I think that that was the motive. That's just my suspicion, but I can't confirm it." In other words, Rummel believed Mohr and Smith would prefer that she abstain entirely rather than vote against termination. Neither undermining Rummel's credibility nor encouraging Rummel's abstention would actually help Mohr's and Smith's apparent cause to terminate Messenger, and the investigator finds by a preponderance of the evidence that Mohr and Smith's references to Rummel's job at UCAN did not intimidate or pressure Rummel to vote a certain way.

2. Findings of Fact: Allegations Substantiated

The investigator finds by a preponderance of the evidence that on several occasions and regarding several different issues, Councilors reasonably felt intimidated or pressured into voting certain ways, as described more fully above.

3. Findings of Policy: No Policy Violation

It is unclear what City policy is violated by Councilors intimidating or pressuring each other to vote certain ways and there is therefore no policy violation.

C. Issue Identified: Were daytime jobs threatened as a way of keeping Councilors in line?

The third issue the Mayor identified was: “Were daytime jobs threatened as a way of keeping Councilors in line?”

1. Allegations and Relevant Facts

Rummel stated and the investigator found that both Mohr and Smith expressed to her their concern that if she voted to terminate Messenger, it could put her job with UCAN at risk due to the friendship between Messenger and UCAN’s executive director. However, Rummel did not believe Mohr or Smith intended or had power to actually get her fired, nor was her fear ever that she would actually lose her daytime job. Rather, Rummel understood Mohr’s and Smith’s comments related to her job at UCAN as intended to undermine her credibility if she voted to terminate or to pressure her to abstain from the vote entirely.

“Threaten” is defined, in relevant part, as “to utter a threat against” whereas “threat” is defined, in relevant part, as “a declaration of an intention or determination to inflict punishment, injury, etc., in retaliation for, or conditionally upon, some action or course.”¹⁰ The “punishment, injury, etc.” that Rummel perceived Mohr and Smith would inflict was to her credibility and not to her job at UCAN. Besides Rummel, no other witness described any threats made to their daytime jobs.

2. Findings of Fact: Allegations Not Substantiated

Because Councilors did not “threaten” any other Councilors daytime jobs, this allegation is not substantiated.

¹⁰ www.dictionary.com/browse/threaten; www.dictionary.com/browse/threat.

3. Findings of Policy: No Policy Violation

The allegations were not substantiated, therefore no policy was implicated or violated.

D. Issue Identified: Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?

The fourth and final issue the Mayor identified was: “Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?”

1. Allegations and Relevant Facts

The City Council evaluates the City Manager’s performance annually, per RMC 2.34.020(B)(7), the City Council and Administrative Policy on City Manager’s Annual Performance Evaluation Process, and Messenger’s contract. RMC 2.3.020(B)(7) provides, “Annual Evaluation of the City Manager. The Council shall evaluate the City Manager in accordance with the terms of the Manager’s employment agreement.”

Both the administrative policy and the section on performance evaluations in Messenger’s contract were amended in 2021. The 2021 contract amendment states, in relevant part, “City Council will review and evaluate Employee’s performance as City Manager on an annual basis with formal evaluation beginning in July of each calendar year in accordance with specific criteria adopted by City Council, which the City Council may change from time to time at its sole discretion.” Exhibit 13 – *Messenger Contract and Amendments*, p. 4. The policy requires that the City Manager present “a report on the accomplishments of Council Goals and Objectives adopted by the City Council” at the first meeting in July, and then the Mayor and Councilors meet with the City Manager one-on-one during the remainder of July and early August. Exhibit 8 – *City of Roseburg City Council and Administrative Policies*, p. 1. The Mayor and Councilors are expected to complete evaluation forms, provided in the policy, in August so that the performance evaluation may be completed at the second meeting in August. *Id.*

The evaluation process in 2024 was different than usual. At the June 10 Council meeting, Council convened a work group to discuss the evaluation process and make recommendations for changes. The work group met on June 15, June 26, July 5, and August 8, 2024, but was unable to finalize any recommendations. As a result, and after the 2024 review was already behind schedule, there was a consensus at the August 12, 2024 Council meeting to use the current form for the 2024 evaluation. Exhibit 14 – *August 12, 2024 City Council Meeting Synopsis*, p. 1. Then, at the Council meeting on August 26, 2024, Mayor Rich proposed a revised schedule for the evaluation process as follows:

Second Meeting in August:

The City Manager will present a report to the City Council.
(August 26, 2024 – Executive Session)

Early September:

The Mayor and City Councilors meet one-on-one with the City Manager if needed to discuss the City Manager's performance during the past year. The City Manager and the Mayor/Councilor discuss any performance issues during the one-on-one meetings.
(September 3 – September 13, 2024)

Completed By September 30:

The Mayor and Councilors complete an appraisal form (as approved by the Council) and submit it to the Council President in sufficient time for the information to be consolidated into one report for inclusion in executive session materials for the first meeting in October.
(Evaluation forms will be distributed to Council by September 16, 2024)

Second Meeting in October:

The City Manager's performance appraisal is conducted. The City Manager has the right to choose whether this shall be done in open session or in executive session.
(October 28, 2024 – Executive Session)

Exhibit 15 – *August 26, 2024 City Council Packet – Mayor Reports B.*

After the August 26 meeting, Councilors began completing the written appraisal forms,¹¹ which contained generally positive scores as well as feedback for improvement. In addition, six Councilors met with Messenger one-on-one as contemplated in the policy: Briggs Loosley, Michalek, Rummel, Sipos, Smith, and Zielinski. Messenger refused to meet with Mohr one-on-one and refused to meet with Porter remotely while Porter was in Montana for work. Messenger had a planned vacation out of the country scheduled for early October, so Messenger's performance appraisal was scheduled to be held in executive session on October 28, 2024.

As stated, at the October 14 Council meeting, Mohr motioned for "Council to consider placing termination of the City Manager on the next meeting agenda." Michalek, Mohr, Porter, and Smith voted yes; Briggs Loosley, Rummel, and Zielinski voted no; and Sipos was absent from the meeting, as was Messenger. Messenger's performance appraisal was already scheduled to be held in executive session at the next Council meeting on October 28. At the meeting on October

¹¹ Due to ongoing confidentiality and litigation concerns, the investigator did not obtain the actual evaluation materials. As a result, the investigator relied exclusively on witness accounts to analyze this issue.

28, the Council received public comment about Messenger and discussed her performance evaluation in executive session under ORS 192.660(2)(i) but did not discuss termination.

Thus, in 2024, because the work group delayed the process, the City Manager did not present her report at the first meeting in July, as required by the policy. In addition, one-on-one meetings and completion of the appraisal forms did not begin until September, while the policy contemplates them occurring in late July through mid-August. Lastly, rather than holding the performance appraisal at the second meeting in August, as required by the policy, it was pushed to the second meeting in October, two months late.

Further, at the meeting immediately prior to Messenger's scheduled October 28 evaluation, Mohr made a motion for "Council to consider placing termination of the City Manager on the next meeting agenda." At this point, the evaluation was nearly complete, yet Mohr's motion passed, meaning a majority of present Councilors voted to discuss Messenger's termination at the same meeting when Messenger's performance appraisal was to be conducted.

As noted, many of the Councilors interviewed who voted "yes" to Mohr's October 14, 2024 motion stated that they did not intend to actually terminate Messenger. Michalek stated he believed Messenger was performing adequately and that he scored her high on her evaluation, but the reason he voted "yes" to Mohr's motion was to hear the other Councilors' concerns about Messenger. Michalek also stated that "part of the evaluation results in termination or not termination." It appears Michalek believes discussing termination should be part of the evaluation process for an at-will employee such as the City Manager. Mohr claimed his objective was to allow Council to voice their concerns about Messenger, though the investigator previously concluded that his intent was to terminate the City Manager. *See* Section IV(A)(2). Porter and Smith expressed frustration with the typical evaluation procedure and wanted more interaction from Messenger, and apparently believed that a termination executive session would encourage that. Porter specifically stated—and Mohr implied—that Forrester's advice was the first time Messenger's potential termination came up; however, the investigator finds this implausible for several reasons. First, although Mohr made a similar statement, Mohr's emails reflect that it was Mohr that raised the issue of termination, not Forrester. Second, there is evidence Mohr and Porter were talking to each other during the investigation. Because the evidence reflects that it was Mohr and not Forrester who raised the issue, it is more likely that Mohr and Porter discussed an opinion or belief that Forrester raised the issue (and expressing no opinion on whether they did so with a motivation to deceive).

Likewise, although Rummel reported hearing from both Porter and Smith about Porter being City Manager or a Mayor/City Manager hybrid, that did not appear to be the driving force behind the conversation to terminate Messenger. First, Porter denied telling Rummel that "we should just do away with the city manager position [and] just have a mayor that acts as city manager." She also denied telling Rummel she would run for mayor if that were the case. If the conversation happened at all, by Rummel's account it occurred roughly 18 months before

Mohr's motion to add the discussion to the agenda. Similarly, Smith did not seriously believe that Porter would actually become City Manager, and says she stated it to Rummel during a "bitch session."

2. Findings of Fact: Allegations Partially Substantiated

The investigator finds, by a preponderance of the evidence, that Messenger's 2024 evaluation was both (1) delayed by the work group's unsuccessful attempt to change the evaluation process and (2) interrupted by Mohr's motion on October 14. Although all Councilors completed the written forms (albeit later than contemplated in the policy), Messenger met with the six Councilors she was willing to meet with, and the Council did deliver her performance appraisal in executive session on October 28, 2024, the investigator nevertheless finds Messenger's 2024 evaluation was not conducted properly due to the delay and Mohr's October 14 motion.

There is insufficient evidence to find that the reason Messenger was denied a proper evaluation was because certain Councilors wanted to fire the City Manager and replace her with one of their own. Although Rummel stated both Porter and Smith mentioned Porter acting as either City Manager or Mayor/City Manager, there is no evidence these conversations related to or caused Mohr's motion or the Councilors' desire to terminate Messenger. The alleged conversation between Porter and Rummel occurred in early 2023, too long before Mohr's October 2024 motion to reasonably be the cause of it. In addition, there is no evidence this was communicated to Mohr, who ultimately made the motion, or to any of the Councilors who discussed termination. And while Smith admitted to having a conversation with Rummel about Porter being a good City Manager, Smith never seriously believed Porter would or could be the City Manager. The other witnesses who reported hearing about replacing the City Manager with "one of their own" heard about these conversations from Rummel. For these reasons, the allegation is partially substantiated.

3. Findings of Policy: Policy Violation

The factual allegation that the City Manager was denied a proper job evaluation was substantiated. The allegations implicate the following policies:

1. RMC 2.34.020(B)(7) – Annual Evaluation of the City Manager; and
2. City of Roseburg City Council and Administrative Policy – City Manager's Annual Performance Evaluation Process.

RMC 2.34.020(B)(7) requires the Council to "evaluate the City Manager in accordance with the terms of the Manager's employment agreement." The section on evaluation in Messenger's current employment agreement states, in relevant part, "City Council will review and evaluate Employee's performance as City Manager on an annual basis with formal evaluation beginning in July of each calendar year in accordance with specific criteria adopted by City Council, which

the City Council may change from time to time at its sole discretion.” Exhibit 13 – *Messenger Contract and Amendments*, p. 4. The “specific criteria adopted by City Council” is the “City Manager’s Annual Performance Evaluation Process” City Council Policy, which sets out the timeline discussed in detail above, and provides the written appraisal forms. Exhibit 8 – *City of Roseburg City Council and Administrative Policies*.

Council’s 2024 evaluation of Messenger did not comply with the timeline described in the policy and therefore violated it. Messenger’s report on the accomplishments of Council Goals and Objectives did not occur at the first meeting in July, as required by the policy, and the performance appraisal itself did not occur at the second meeting in August, as required by the policy. RMC 2.34.020(B)(7) requires the evaluation to comply with the terms of the agreement, which references the policy, so the 2024 evaluation also violated RMC 2.34.020(B)(7).

From: [Kylee R. Rummel](#)
To: [Nicole A. Messenger](#); [Amy Nytes](#); [Larry Rich](#); [Ruth M. Smith - City Council](#)
Subject: City Council Resignation
Date: Friday, January 24, 2025 5:06:14 PM

Good evening,

Due to personal circumstances, I am resigning from City Council. I have the utmost respect for City staff and admire the hard and thankless work that you all do. It has been an honor to know you and I hope that I see you often throughout the community.

Best Regards,

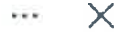
Kylee

9:51



Kylee Rummel

15h · 🧑



I have debated sharing this information, but because there are voices that will speak loudly in the days to follow, I want to be the one writing my own narrative.

After 2.5 years of service, I have decided to resign from City Council. I first threw my hat in the ring when a vacancy opened, seeing it as part of doing my civic duty and an opportunity to give back to the community I love and have called home my entire life. This position has never been about status, power, or the ability to influence others or push a hidden agenda. During my time of service, I have carefully weighed every decision, acting in what I believe is in the best interest of the community, and I have stood for ethics, truth and love.

I do not believe in airing dirty laundry or pointing fingers, so I will not be doing that now. I will say though, that lines were crossed by certain members of Council, trying to use me to push their own agendas and even going as far to try to intimidate and influence my vote by threatening my job.

I have never been one to quit, but this is a volunteer position, and the personal sacrifices have been too great. I will not continue to work against those who oppose progress when my time is better spent elsewhere.

I have the utmost respect for those on Council who serve with love for the community and for the very passionate and talented City employees who continue to strive to make this community a better place to live.



41

17 comments

Kristin Talbott

From: Patrice Sipos <psiposcb@gmail.com>
Sent: Tuesday, March 18, 2025 3:03 PM
To: Emily Matasar
Subject: Meeting

Ms. Matasar,

I am cancelling our meeting for tomorrow morning at 9:00 am and I do not wish to reschedule.

Thank you,

Patrice Sipos

6.5. Oath of Office.

Each elective officer, the city manager and municipal judge before entering upon the duties of office shall take an oath or affirmation to support the constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of their office.

6.9. State Ethics Laws.

State of Oregon ethics laws shall govern the conduct of all city officers, employees, appointees and agents.

§ 2.34.010. Laws, rules and policies governing meetings of the Council.

The following shall apply to the conduct and procedures to be followed for all meetings and proceedings of the Council:

- A. **Public Records and Meetings Law.** The disposition of public records created or received by Councilors shall be in accordance with the Oregon Public Records Law. Written information incidental to the official duties of a member of the City Council, including electronic mail messages, notes, memos and calendars are public records and are subject to disclosure under the Public Records Law. The Public Meetings Law shall govern all meetings of the Council. Unless exempted by state law, all official meetings of the Council, for which a quorum is present, shall be open to the public. The quorum requirement for the conduct of Council business is five Council members. Public notice, as specified in Section 2.34.020 of this Chapter, shall be given of all meetings of the Council.
- B. **Parliamentary Procedure.** Unless specified to the contrary in this Chapter, "Robert's Rules of Order" shall govern the proceedings of the Council in all cases; provided, however, strict adherence to such Rules shall be used only to the extent necessary to observe the law, expedite business, avoid confusion and protect the rights of members of the public and the prerogatives of the City's elected officials.
- C. **Americans With Disabilities Act.** All meetings of the Council shall be held in compliance with the Americans With Disabilities Act.
- D. **Laws Regarding Smoking in Public Meetings.** Smoking shall be prohibited during all meetings of the Council and at all times within the Council Chambers.
- E. **Recording of Council Meetings.** All meetings of the Council may be recorded on tape; provided, however, the written minutes shall serve as the official and permanent record of all Council meetings.
- F. **Confidentiality.** Councilors will keep all written materials provided to them on matters of confidentiality under law in complete confidence to ensure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Councilors, the City Manager or the City Attorney. Issues related to confidentiality include:
 - 1. If in executive session, the Council reaches consensus on the proposed terms and conditions for any type of negotiation, whether it be related to property acquisitions or disposal, pending or likely claim or litigation, employee negotiations, or any other duly authorized confidential matter, all contacts with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Councilor will not have any contact or discussion with any other party or its representatives, nor communicate any executive session discussion.
 - 2. All public statements, information or press releases relating to a confidential matter will be handled by designated staff, the Mayor or a designated Councilor.
 - 3. The Council may sanction a member who discloses a confidential matter, as specified in Section 2.34.100 of this Chapter.

- G. **Conflict of Interest.** Conflicts of interest may arise in situations where a Councilor, as a public official deliberating towards a decision, has an actual or potential financial interest in the matter before the Council. In accordance with state law, an actual conflict of interest is one that would be to the private financial benefit of a Councilor, a relative or a business with which the Councilor is associated. A potential conflict of interest is one that could be to the private financial benefit of a Councilor, a relative or a business with which the Councilor is associated. A relative means the spouse, children, siblings or parents of a Councilor. A Councilor must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue unless allowed by state law.
- H. **Ex Parte Contacts.**
1. Councilors shall endeavor to refrain from having ex parte contacts relating to any issue of a quasi-judicial hearing. Ex parte contacts include those by a party on a fact in issue under circumstances which do not involve all parties to the proceeding. Ex parte contacts can be made orally when the other side is not present, or in the form of written information that the other side does not receive.
 2. If a Councilor has ex parte contact prior to any hearing, the Councilor will reveal such contact at the meeting prior to the hearing. The Councilor shall describe the substance of the contact and the Mayor shall announce the right of interested persons to rebut the substance of the communication. The Councilor will also state whether such contact affects the Councilor's impartiality or ability to vote on the matter. The Councilor must state whether he will participate or abstain in the vote on the matter.
 3. A Councilor, who was absent during the presentation of evidence for a quasi-judicial hearing, cannot participate in any deliberations or decision regarding the matter unless the Councilor has reviewed all the evidences and testimonies received.
- I. **Speaking by Council Members.** Any Councilor desiring to be heard shall be recognized by the Mayor, and shall confine his remarks to the subject under consideration or to be considered. Councilors will be direct and candid, and shall speak one at a time, allowing one another to finish speaking before another begins.
- J. **Communications With Staff.** Councilors shall respect the separation between policy making and administration by:
1. Working together with staff as a team and in a spirit of mutual confidence and support.
 2. At all times, respecting the administrative functions of the City Manager and Department Heads, and refraining from actions that would undermine the administrative authority of the City Manager or Department Heads. However, notwithstanding the above, the Council's ability to judge the effective functions of the City Manager shall not be hampered. The Council shall give clear direction to the City Manager. If the City Manager is not clear about Council's intent, the City Manager shall ask for clarification. In all events, the Council will abide by the City Charter and Municipal Code when dealing with the City Manager.
 3. Limiting all inquiries and requests for information from Department Heads to those

questions that may be answered readily or with only the most minimal of research. Questions of a more complex nature shall be addressed to the City Manager. Such questions should, whenever possible, be put in writing with sufficient information to clarify the intended purpose of the question. Questions requiring staff time beyond 90 minutes shall be referred to the full Council for discussion and decision on the use of staff time. All written information given by the City Manager or City Attorney to one Councilor should be distributed to all Councilors with a notation indicating which Councilor requested the information.

4. Limiting individual contacts with Department Heads and other City employees so as not to influence staff decisions or recommendation, to interfere with their work performance, to undermine the authority of supervisors or to prevent the full Council from having the benefit of any information received.
 5. Respecting roles and responsibilities of Staff when and if expressing criticism in a public meeting or through public electronic mail messages. Staff shall have the same respect for the roles and responsibilities of Council members.
 6. As a general rule, during Council meetings, Council members will address questions of Staff to the City Manager. However, if a member of Staff is at the meeting specifically to provide special knowledge or expertise, a Councilor may direct a question directly to that person.
- K. Legal Advice. Any request by a Councilor to the City Attorney for advice requiring legal research shall be through the City Manager. Exceptions to this are issues related to the performance of the City Manager and/or unique and sensitive personal, yet City-related requests. When these types of issues arise, the Mayor shall contact the City Attorney.
- L. Planning Commission Testimony. In an effort to maintain the impartiality of the Planning Commission as a general land use hearing body of the City, especially in cases where issues can be remanded by the City Council back to the Planning Commission for review, the following rules are established:
1. For legislative land use matters before the Council, Commissioners may testify as a Commissioner, as a Commission representative if so designated by the Commission, or as a citizen.
 2. For quasi-judicial hearings or petitions for review before the Council, Commission members, who have participated in the preceding Commission decision, may not testify before the Council on the respective matter.
- M. Order and Decorum. Councilors and citizens shall maintain order and decorum at Council meetings (including public hearings) and at Commission meetings. At the direction of the Mayor, or by a majority of the Council present, any audience member may be directed to leave the Council Chambers or Commission meeting place for the duration of the meeting if they:
1. Use unreasonably loud or disruptive language.
 2. Make loud or disruptive noise.

3. Engage in violent or distracting action.
 4. Willfully damage furnishings or the interior of the Council Chambers or any City meeting room.
 5. Refuse to obey the rules of conduct provided herein, including the limitations on occupancy and seating capacity.
 6. Refuse to obey an order of the Mayor or an order issued by a Councilor which has been approved by a majority of the Council present.
- N. Signs and Posters. No posters, placards or signs, unless authorized by the Mayor, may be carried or placed within the Council Chambers, any meeting room in which the Council is officially meeting, or any meeting room in which a public hearing is being held. This restriction shall not apply to armbands, emblems, badges or other articles worn on personal clothing of individuals, provided that such devices are of such a size and nature as not to interfere with the vision or hearing of other persons at the meeting, and providing that such devices do not extend from the body in a manner likely to cause injury to another.
- (Ord. 3215 § 3, 2006; Ord. No. 3553, § 8, 3-8-2021)

§ 2.34.020. Notice and types of meetings.

- A. Notice of Meetings. Except when more extensive notice is required by state law or this Code, the City Recorder shall give notice of all Council meetings to the public by posting the meeting agenda on the bulletin board at City Hall, and delivering, by mail or otherwise, the agenda to the news media and other interested persons upon written request. Provided state law is not violated, the failure of the City Recorder to give timely notice shall not prevent the Council from meeting or invalidate its actions. Notice shall include the date, time and location of the meeting, and a list of the subjects to be presented to Council. Unless a different location is specified in this Chapter and decided upon in advance of the meeting, all meetings of the Council shall be held in the Council Chambers.
- B. Types of Meetings. The Council may conduct the following types of meetings under the guidelines contained herein and the City Recorder shall give notice of said meetings, as provided herein:
 - 1. Regular Meetings. Regular Council meetings shall be held at 7:00 in the evening on the second and fourth Monday of each month. If such date falls upon a legal holiday, the meeting shall be held at the usual hour and place on the next following day, unless cancelled in advance by the Mayor or by majority vote of the Council. Unless otherwise specified in advance of the meeting, all regular evening meetings of the Council shall be held in the Roseburg City Hall Council Chambers. Notice of regular meetings shall be given in accordance with the above Subsection A at least 48 hours prior to the meeting. The Mayor or the Council, by majority vote, may cancel any regular meeting. When possible, notice of such cancellation shall be given at least 24 hours prior to the meeting.
 - 2. Special Meetings. Special meetings of the Council may be called by the Mayor or by a majority of the members of Council. The call for a special meeting shall be filed with the City Recorder who shall give notice of said meeting at least 24 hours prior to the meeting. Only the subjects listed on the special meeting agenda may be acted upon at the special meeting.
 - 3. Emergency Meetings. An emergency meeting of the Council may be called on less than 24 hours' notice, provided that an actual emergency exists. The minutes of such meeting must describe the emergency justifying less than 24 hours' notice and contain a statement from the Mayor or City Manager indicating why the meeting could not be delayed. The City Recorder shall attempt to contact the news media to provide notice of such emergency meetings. Only the matters creating a need for the emergency meeting shall be discussed or acted upon during the meeting called for such reason.
 - 4. Work Study Sessions. Work study sessions of the Council may be called by the Mayor or at the request of a majority of the members of Council. Such meetings shall allow Council the opportunity to review forthcoming projects of the City, determine goals for the ensuing year, receive progress reports on current programs or projects and to hold open discussion on any City-related subject. Only subjects listed on the work study agenda may be acted upon during the work study session.
 - 5. Executive Sessions.

- a. Executive sessions, or closed meetings, shall be held in strict accordance with the Public Meetings Law. Matters discussed in executive session shall be exempt from public disclosure. Executive sessions shall be closed to all persons, except the Mayor and Council; persons reporting to Council on the subject of the executive session; the City Manager, unless directed otherwise by the Council; City staff persons directed by the City Manager to attend; news media representatives, unless excluded by the Public Meetings Law; and other persons authorized by Council to attend.
 - b. No elected official who declares a conflict of interest on a topic to be discussed in executive session shall remain in the room during such executive session discussion. No person attending an executive session of the Council shall disclose or discuss information received in executive session with another person, except a person who would have been authorized to attend the executive session but was not present at the time the executive session was conducted.
 - c. Prior to opening an executive session, the Mayor shall announce the purpose of the executive session, the state statute authorizing the executive session and the anticipated length of time required for the session and shall advise all those present, including the news media, that matters discussed in executive session are not to be disclosed or reported upon to the public.
 - d. An executive session may be held during any open meeting for which proper notice has been given, so long as the open meeting is adjourned until the executive session is concluded and then reopened to the public. A meeting that will be solely an executive session may also be called provided notice requirements, as outlined in this Section, are met and the meeting agenda identifies the state statute authorizing the executive session.
 - e. No executive session may be held for the purpose of taking any final action or making any final decision, but a consensus of Council opinion may be gathered.
6. Annual Meeting With the Municipal Judge. At least once each year, the City Council will meet with the Municipal Judge to discuss how to make the Municipal Court a more effective tool for the City. On a different date, but also once a year, the City Council will conduct a performance evaluation of the Municipal Judge.
 7. Annual Evaluation of the City Manager. The Council shall evaluate the City Manager in accordance with the terms of the Manager's employment agreement.
- (Ord. 3215 § 4, 2006)

CITY MANAGER'S ANNUAL PERFORMANCE EVALUATION PROCESS
(City Council Policy)

Background: In 2005, the City Council determined a need to adopt a process to be followed for the City Manager's Annual Performance Evaluation. The process was slightly amended again in 2008 and the Council agreed it should be affirmed each year prior to starting the process. In October 2014, the City Council adopted a new evaluation form which simplified the criteria for evaluation and amended the scoring system. The new form is included in this policy. The following summarizes the process involved. In 2021, Council further amended the evaluation process regarding timelines, self-evaluation and quarterly evaluations:

First Meeting in July:

The City Manager will present a report on the accomplishments of Council Goals and Objectives adopted by the City Council.

Late July/Early August:

The Mayor and City Councilors meet one-on-one with the City Manager if needed to discuss the City Manager's performance during the past year. The City Manager and the Mayor/Councilor discuss any performance issues during the one-on-one meetings.

Mid-August:

The Mayor and Councilors complete an appraisal form (as approved by the Council) and submit it to the Council President in sufficient time for the information to be consolidated into one report for inclusion in the City Council agenda packet for the second meeting in August.

Second Meeting in August:

The City Manager's performance appraisal is conducted. The City Manager has the right to choose whether this shall be done in open session or in executive session.

CITY MANAGER PERFORMANCE EVALUATION

CITY OF ROSEBURG, OR



INDIVIDUAL BEING EVALUATED _____
EVALUATION PERIOD _____ to _____
REVIEWER'S NAME _____
DATE SUBMITTED _____

Each member of the City Council must complete this evaluation form, sign it in the appropriate space provided above and return it to _____ no later than _____.

All submitted evaluations will be summarized and included on the City Council _____ agenda for discussion.

Mayor

Date

PURPOSE

The purpose of the Performance Evaluation is to provide feedback on the job performance of the City Manager and, if necessary, create a development plan for areas of improvement. It is also used to provide a basis for a merit increase. Additionally, the performance evaluation process provides the Council and City Manager the opportunity and means to establish and maintain open communication and an effective working relationship.

PROCESS

Performance evaluations are based on performance standards that address the competencies, skills and expected outcomes necessary for being an effective City Manager. These standards define the level at which the City Manager must perform their job duties to meet the Council's expectations. Performance evaluations should include positive feedback as well as areas for improvement and examples of observed behavior.

The Council and Mayor should meet periodically to monitor the performance of the organization and the City Manager. The City Of Roseburg has determined that the City Manager job performance review and evaluation process will take place as follows:

1. Annually, beginning in July and concluding by the end of September, there will be a formal written process where each Councilor will complete this, or a similar form, which will then be used as the formal, official Performance Evaluation. At the time of the formal review, there should be no surprises to either the City Council or the City Manager. The entire City Council and the City Manager have input into the performance evaluation. This gives both parties the opportunity to be heard and to provide honest input and make the performance evaluation a joint process.

CONFIDENTIAL

INSTRUCTIONS

The evaluation form contains ten (10) core competencies and their expected standards of performance for each. A 5 point scale is used to rate each of the behavioral standards.

Using the following scale, indicate your rating of the City Manager's performance for each category.

Any item left blank will be assigned a score of 3 (Meets). Use whole digits; fractions will be rounded down (e.g., 3.5 will be entered as a 3).

Rating Scale	Definition
5	Consistently exceeds targets and standards.
4	Superior performance in meeting targets and standards.
3	Performance meets expectations.
2	Performance does not consistently meet expectations.
1	Performance is well below reasonable standards.

In each Core Competency, divide the sum of your ratings in that Competency and divide by 5 to arrive at a single score for the competency.

In addition to assigning a numerical rating to specific items within a Core Competency, this evaluation form also contains sections for entering narrative comments, including the opportunity to respond to specific questions and to include any specific examples of observed behavior which support your rating and are pertinent to the evaluation period. Additional pages may be added if necessary. Please write legibly. All evaluation forms must be submitted prior to the deadline identified on the cover page. Submitted forms will be summarized into a single performance evaluation to be presented and discussed by the City Council and the City Manager.

Please submit the form as follows:

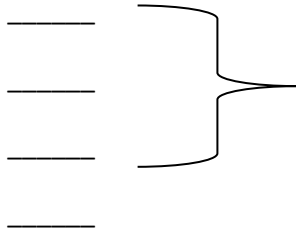
- Leave all pages of the evaluation form attached
- Initial each page
- Sign and date the cover page
- Enter the date the evaluation was submitted in the space provided on the cover page

CONFIDENTIAL

LEGEND

Core Competencies

1. CORE COMPETENCY



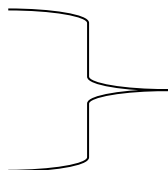
BEHAVIORAL STANDARDS

RATING

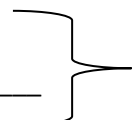
NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

ADDITIONAL COMMENTS:



NARRATIVE

Evaluator Initials _____  **VERIFY**

CONFIDENTIAL

1. INDIVIDUAL CHARACTERISTICS

_____ Diligent and thorough in the discharge of duties; a “self-starter”.

_____ Exercises good judgment.

_____ Displays enthusiasm, cooperation and willingness to adapt.

_____ Displays mental and physical stamina appropriate for the position.

_____ Composure, appearance and attitude are fitting for an individual in this Executive position. This person is able to separate personal feelings from the advancement of the City’s interests.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

2. PROFESSIONAL SKILLS AND STATUS

_____ Maintains knowledge of current developments affecting the practice of local government management.

_____ Demonstrates a capacity for innovation and creativity.

_____ Anticipates and analyzes problems to develop effective approaches for solving them.

_____ Willing to try new ideas proposed by City Council and/or Staff.

_____ Sets a professional example by handling affairs of the public office in a fair and impartial manner.

Add and enter the numerical values from above _____ ÷ by 5= _____
is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

3. RELATIONS WITH ELECTED MEMBERS OF THE CITY COUNCIL

_____ Carries out directives of the City Council as a whole as opposed to those of any one member, special interest or minority group.

_____ Participates in setting City Council meeting agendas which avoids unnecessary Council involvement in administrative actions.

_____ Disseminates complete and accurate information equally to all Council members in a timely manner.

_____ Assists by facilitating decision making without usurping authority.

_____ Responds professionally to requests, advice and constructive criticism and accepts responsibility for undesirable results.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

4. POLICY EXECUTION

_____ Implements actions and directives in accordance with the intent of the City Council.

_____ Supports the actions of the City Council after a decision has been reached, both inside and outside the organization.

_____ Understands, supports and enforces local government's laws, policies and ordinances.

_____ Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness.

_____ Offers workable alternatives to the City Council for changes in law or policy when an existing policy or ordinance is no longer practical.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

5. REPORTING

_____ Using the City Charter as a guide, provides regular information and reports to the City Council concerning matters of importance to the local government.

_____ Responds in a timely manner to requests from the City Council for special reports.

_____ Takes the initiative to provide information, advice and recommendations to the City Council on matters which are non-routine and not administrative in nature.

_____ Reports produced by the City Manager are accurate, comprehensive, concise and written to and for their intended audience.

_____ Produces and handles reports in a way to convey the message that the affairs of the City are open to public review and scrutiny.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

6. CITIZEN RELATIONS

- _____ Responsive in a timely manner to requests and/or complaints from citizens.
- _____ Demonstrates a dedication to service to the community and its citizens.
- _____ Maintains a nonpartisan approach in dealing with the local news media.
- _____ Meets with and listens to members of the community to discuss their concerns and strives to understand their interests.
- _____ Makes an appropriate good-faith effort to maintain citizen satisfaction with city services.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

7. STAFFING

_____ Recruits and retains competent personnel for staff positions.

_____ Applies an appropriate level of supervision to improve any areas of substandard performance.

_____ Stays accurately informed and appropriately concerned about employee relations

_____ Professionally manages the compensation and benefits plan.

_____ Promotes training and development opportunities for employees at all levels within the organization.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

8. SUPERVISION

_____ Encourages Department Heads to make decisions within their jurisdictions with minimal City Manager involvement, yet maintains general control of operations by providing the appropriate amount of communication to staff.

_____ Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls of their programs while still monitoring operations at the department level.

_____ Develops and maintains a friendly, informal and professional relationship with the staff and work force in general yet maintains the professional dignity of the office of City Manager.

_____ Sustains or improves staff performance by evaluating the performance of staff members annually, setting goals and objectives for them, periodically assessing their progress and providing appropriate and timely feedback.

_____ Encourages teamwork, innovation and effective problem solving among staff members.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category.

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

9. FISCAL MANAGEMENT

_____ Prepares a balanced budget to provide City services at a level directed by the City Council.

_____ Makes the best possible use of available funds, conscious of the need to operate the City efficiently and effectively.

_____ Prepares a budget and budgetary recommendations in an intelligent, accessible manner understood by the City Council.

_____ Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability.

_____ Appropriately monitors and manages fiscal activities of the City.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for this category

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

10. COMMUNITY RELATIONS

_____ Shares responsibility for addressing the difficult issues facing the city.

_____ Avoids unnecessary controversy.

_____ Cooperates with neighboring communities and the county.

_____ Helps the Council address future needs and development appropriate plans to address
long term trends.

_____ Cooperates with other regional, state and federal government agencies.

Add and enter the numerical values from above _____ ÷ by 5= _____ is your score for
this category

NOTE: For a rating of 1 or 5, please provide or cite an example or instance in the space below.

ADDITIONAL COMMENTS:

Evaluator Initials _____

CONFIDENTIAL

NARRATIVE EVALUATION

List three performance objectives for the City Manager that you feel are the most important targets for the upcoming year:

1. _____
2. _____
3. _____

What would you identify as the City Managers strength(s), expressed in terms of the principle results achieved during the review period?

What performance area(s) would you identify as most critical for success?

What performance area(s) would you identify as most critical for improvement?

What constructive suggestion(s) and/or recommendation(s) can you offer to the City Manager to improve performance?



Shelly >

Jan 9, 2023 at 2:39 PM

Hi there, Ellen here - do you need me to make the motion to appoint you to the pres. position tonight?

Hi, thank you for the offer so kind. Currently, David has offered. If for some reason he changes his mind you can jump on it. Thank you.



I couldn't think which counselor had the planning commission because the planning commission doesn't have a counselor. Because they meet every other Monday that we don't



iMessage





5-Year Anniversary Celebration

Saturday Jan 6th, 2024 | 10:00 am - 12:00 pm

The community is invited to celebrate the library's fifth anniversary!

10 a.m.-12 p.m. - Craft stations for youth

10:30 a.m. - Remarks from local officials

11 a.m. - Journalist Bob Welch, author of "Seven Summers (and a Few Bummers): My Adventure Hiking the 2,650-Mile PCT"





Synopsis of City Council Meetings for the year of 2024 (Meetings are in date order starting with January)

January 8, 2024 - City Council Meeting

1. Mayor Rich appointed the following Commission Chair appointments:

• Airport	Councilor David Mohr
▪ Economic Development	Councilor Patrice Sipos
▪ Historic Resource Review	Councilor Kylee Rummel
▪ Homeless	Mayor Larry Rich
▪ Homeless	Councilor Shelley Briggs Loosley
▪ Library	Councilor Andrea Zielinski
▪ Parks and Recreation	Councilor Ruth Smith
▪ Public Works	Councilor Ellen Porter
- Mayor Rich appointed Councilors Michalek and Sipos to serve on the MedCom Board.
2. Approved the reappointments of Steve Skenzick and Daniel Sprague to the Airport Commission for another three year term.
3. Approved the reappointments of Jerry Smead, Bryan Sykes, and Jeffrey Weller to the Budget Committee for another three year term.
4. Approved the reappointment of Michael Widmer to the Economic Development Commission for another three year term.
5. Approved the reappointments of Bentley Gilbert, Stephanie Giles, and Lisa Gogal to the Historic Resource Review Commission for another three year term.
6. Approved the reappointments of Dr. Gregory Brigham, Shelley Briggs Loosley, and Shaun Pritchard to the Homeless Commission for another three year term.
7. Approved the reappointments of Mandy Elder and Shirley Lindell to the Library Commission for another three year term.
8. Approved the reappointments of Ryan Finlay and Diana Wales to the Parks and Recreation Commission for another three year term.
9. Approved the reappointment of Jaime Yraguen to the Planning Commission for another four year term.
10. Approved the reappointment of Fred Dayton Jr. to the Public Works Commission for another three year term.
11. Appointed Councilor David Mohr to act as the 2024 Council President.
12. Accepted the resignation of Misty Danskey from the Economic Development Commission with regrets.
13. Accepted the resignation of Terri Lundy from the Library Commission with regrets.
14. Approved the December 6, 2023 Special Meeting Minutes.
15. Approved the December 11, 2023 Regular Meeting Minutes.
16. Approved the December 13, 2023 Work Session Minutes.
17. Recommended Approval of an OLCC - New Outlet – Chops Catering at 1308 NW Park Street #103.
18. Recommended Approval of an OLCC – New Outlet – Darin Allaire at 254 W. Broccoli Street.
19. Adopted Resolution No. 2024-01, entitled, “Authorizing and Supporting the Application for a Douglas County PIER Grant.”
20. Approved to postpone the Winchester Street Property discussion until the January 22, 2024 meeting.

From: Larry Rich <lrich@roseburgor.gov>

Sent: Monday, September 23, 2024 1:45 PM

To: David Mohr <DMohr@cityofroseburg.org>; James Forrester <james@ROSEBURGLAW.COM>

Subject: Process

David,

FYI

I talked to Jim. He is going to put together what the process is sometime this week.

Larry

Sent from my U.S.Cellular© Smartphone

Get [Outlook for Android](#)

From: James Forrester <james@ROSEBURGLAW.COM>
Sent: Thursday, September 26, 2024 2:11 PM
To: Larry Rich <Lrich@roseburgor.gov>; David Mohr <DMohr@cityofroseburg.org>
Subject: Process for dismissal of employee

Mayor and Council President:

According to the Roseburg City Charter, the City Manager can be removed at any time with or without cause by a two-thirds vote of the entire Council. The current City Manager contract provides additional guidelines for the termination process. If the proposed termination is for cause, the Council must provide notice of the reason for the proposed termination, allow the City Manager to respond, and hold a hearing that complies with due process guarantees. If the proposed termination is without cause, no notice of reason is required, and no hearing is necessary. However, in order for the council to discuss potential termination with or without cause in executive session, the City Manager needs reasonable notice of that session. According to public meetings law, the City Manager has the right to have the discussion occur in an open meeting. This right is solely for the affected employee, in this case, the City Manager. Finally, as with any executive session, the actual voting must occur in an open meeting. The council, in this case, would come out of executive session to vote on the actual termination, as the vote cannot occur in the executive session.

Jim Forrester

541-673-5541 • www.roseburglaw.com
P.O. Box 1205 • 810 SE Douglas Avenue
Roseburg, Oregon 97470



DOLE COALWELL
ATTORNEYS
Serving Douglas County Since 1913

From: David Mohr <DMohr@cityofroseburg.org>
Sent: Friday, September 27, 2024 9:36:46 AM
To: James Forrester <james@ROSEBURGLAW.COM>; Larry Rich <lrch@roseburgor.gov>
Subject: Re: Process for dismissal of employee

Thanks Jim.

I've had 5 councilors individually approach me, requesting to dismiss the contract without cause. Let's get it scheduled, so we can move forward.

Best,

/David

From: David Mohr <dmohr@roseburgor.gov>
Sent: Friday, September 27, 2024 3:22 PM
To: Jim Forrester
Subject: Re: Process for dismissal of employee

Jim,

Ultimately I just want to do the right thing. It sounds like we are on the same page. I trust you.

As soon as the council members started telling me they wanted to terminate the contract, I wanted to ensure everything was above board and the process was working as appropriate. I am really concerned about the risk this creates to the city. Which is why I was reaching out to Larry and saying "what do we do, half our councilors want to terminate the CM"...

The process and the role of the Council President and Mayor aren't well defined in these situations. So, I'm often trying to assess what feels right for all stakeholders.

I will ALWAYS be 100% in support of what is deemed as "the right thing to do".

Best,

/David

February 13, 2023 - City Council Meeting

1. Received an Annual Comprehensive Financial Report from Auditor, Jeff Cooley, with Neuner Davidson and Company.
2. Finance Director Ron Harker provided a Quarterly Financial Report for quarter ended December 31, 2022.
3. Finance Director Ron Harker provided information regarding the 2023-2024 Budget Calendar.
4. Jerry O'Sullivan, Adapt Chief of Regional Business Operations and Gene McVae, Adapt Director of Housing and Recovery Community Development provided a presentation regarding Adapt Downtown Services.
5. Approved the January 23, 2023 Special Meeting Minutes.
6. Approved the January 23, 2023 Meeting Minutes.
7. Recommended approval of the OLCC new outlet application for RBRE LLC located at 1830 NE Stephens Street in Roseburg, Oregon.
8. Adopted Resolution No. 2023-04, entitled, "A Resolution Amending Resolution No. 92-13 to Add a Small Cell Fee."
9. Adopted Resolution No. 2023-05, entitled, "A Resolution Authorizing and Supporting Application for an Oregon Parks and Recreation Department Local Government Program Grant."
10. Adopted Resolution No. 2023-06, entitled, "A Resolution Declaring Certain City of Roseburg Real Property as Surplus." Council directed staff to use a realtor to list the property.
11. Adopted Ordinance No. 3580, entitled, "An Ordinance Amending Chapter 9.25 "Telecommunications Providers" of the Roseburg Municipal Code."
12. Adopted Ordinance No. 3581, entitled, "An Ordinance Amending Section 10.02.010 of the Roseburg Municipal Code Regarding the Oregon Fire Code."
13. Authorized Amendment No. 3 for the Gary Leif Navigation Center increasing the guaranteed maximum price by \$1,193,903 for a total of \$1,389,641.
14. Awarded the Five-Year Design and Engineering Services contract for the Distribution Main Replacement Program to Century West Engineering.

February 27, 2023 - City Council Meeting


1. Approved to have the Mayor and Council sign the letter of support to the Oregon State Legislature regarding the proposed bill to address concerns for small and rural cities and counties regarding homelessness, and support other documentation supporting this legislation.
2. Kelly Wyatt, Roseburg resident, thanked the City for the response to the Laurelwood neighbors.
3. Approved the February 13, 2023 Meeting Minutes.
4. Recommended approval of the OLCC Change of Ownership application for Best Kept Secret, LLC dba Little Brothers Pub located at 428 SE Main Street in Roseburg, Oregon.

EMPLOYMENT AGREEMENT AMENDMENT

BETWEEN: THE CITY OF ROSEBURG ("City")
AND: Nicole A. Messenger ("Employee")

4. **COMPENSATION AND BENEFITS.** In exchange for services as City Manager, City will pay Employee an annual salary of \$186,744, effective retroactive to September 1, 2024, payable on a monthly basis (\$15,562 per month) on the last working day of each month. City will also provide Employee eight sick leave hours per month, paid vacation, insurance, retirement and other benefits similar to those provided to City Department Heads.
- 4.1. Employee will accrue vacation leave at the rate of five weeks per year. Once per year, prior to June 30, Employee may elect to cash out up to 40 hours of accrued vacation time.
- 4.2. Employee shall receive \$250.00 per month for fuel allowance. This taxable allowance shall be separate from the Employee's base salary.

CITY OF ROSEBURG



Larry Rich, Mayor

Date: 2-10-25

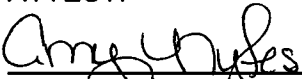
EMPLOYEE



Nicole A. Messenger

Date: 1-31-2025

ATTEST:



Amy Nyles, City Recorder

EMPLOYMENT AGREEMENT AMENDMENT

BETWEEN: THE CITY OF ROSEBURG ("City")
AND: Nicole A. Messenger ("Employee")

4. **COMPENSATION AND BENEFITS.** In exchange for services as City Manager, City will pay Employee an annual salary of \$177,849, effective retroactive to September 1, 2023, payable on a monthly basis (\$14,821 per month) on the last working day of each month. City will also provide Employee eight sick leave hours per month, paid vacation, insurance, retirement and other benefits similar to those provided to City Department Heads.
- 4.1. Employee will accrue vacation leave at the rate of five weeks per year. Once per year, prior to June 30, Employee may elect to cash out up to 40 hours of accrued vacation time.
- 4.2. Employee shall receive \$250.00 per month for fuel allowance. This taxable allowance shall be separate from the Employee's base salary.
7. **RESIDENCY**
- 7.1. Effective November 13, 2023, any requirement to establish residency within the Roseburg city limits has been waived.

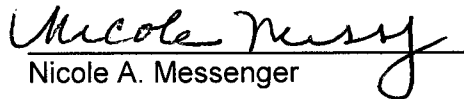
CITY OF ROSEBURG



Larry Rich, Mayor

Date: 11-27-23

EMPLOYEE



Nicole A. Messenger

Date: 11/21/2023

ATTEST:



Patty Hitt, City Recorder

EMPLOYMENT AGREEMENT AMENDMENT

BETWEEN: THE CITY OF ROSEBURG ("City")
AND: Nicole A. Messenger ("Employee")

3. TERMINATION.

3.1. Termination Without Cause: City may terminate Employee's employment with City at any time without cause and without prior notice. If City exercises its right under this sub-paragraph, or if Employee resigns at the request of Council, and if Employee executes and does not revoke a full release of claims in a form satisfactory to City, City will pay Employee severance pay in the amount of 12 months of salary, less all amounts required subject to lawful withholding or deduction. Any severance pay will be paid in a lump sum no later than five business days after Employee executes a full release of claims or after the expiration of any revocation period, whichever is later, or in another method that is mutually agreeable to the City and the Employee. In addition to severance pay, City will continue Employee's insurance benefits for six months, or until Employee is re-employed, whichever is earlier. This severance agreement is specific to Employee and does not set a precedent for future City Managers.


4. COMPENSATION AND BENEFITS. In exchange for services as City Manager, City will pay Employee an annual salary of \$164,448, effective retroactive to September 1, 2021, payable on a monthly basis (\$13,704 per month) on the last working day of each month. City will also provide Employee eight sick leave hours per month, paid vacation, insurance, retirement and other benefits similar to those provided to City Department Heads.

4.1. Employee will accrue vacation leave at the rate of five weeks per year. Once per year, prior to June 30, Employee may elect to cash out up to 40 hours of accrued vacation time.

4.2. Employee shall receive \$250.00 per month for fuel allowance. This taxable allowance shall be separate from the Employee's base salary.

REIMBURSEMENT OF LEGAL EXPENSES. City will make a one-time reimbursement to Employee of \$1,717.07 for legal expenses incurred due to work exposures. Reimbursement will occur with the payroll following execution of this amendment.


CITY OF ROSEBURG



Larry Rich, Mayor

Date: 11-18-21

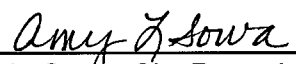
EMPLOYEE



Nicole A. Messenger

Date: 11-16-2021

ATTEST:



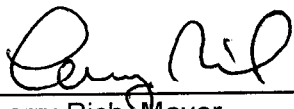
Amy L. Sowa, City Recorder

EMPLOYMENT AGREEMENT AMENDMENT

BETWEEN: THE CITY OF ROSEBURG ("City")
AND: Nicole A. Messenger ("Employee")

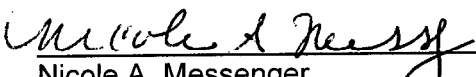
4. **COMPENSATION AND BENEFITS.** In exchange for services as City Manager, City will pay Employee an annual salary of \$159,660, effective retroactive to September 1, 2020, payable on a monthly basis (\$13,305 per month) on the last working day of each month. City will also provide Employee eight sick leave hours per month, paid vacation, insurance, retirement and other benefits similar to those provided to City Department Heads.
- 4.1. Employee will accrue vacation leave at the rate of five weeks per year. Once per year, prior to June 30, Employee may elect to cash out up to 40 hours of accrued vacation time.
- 4.2. Employee shall receive \$250.00 per month for fuel allowance. This taxable allowance shall be separate from the Employee's base salary.
5. **PERFORMANCE EVALUATION AND SALARY ADJUSTMENTS.**
- 5.1. City Council will review and evaluate Employee's performance as City Manager on an annual basis with formal evaluation beginning in July of each calendar year in accordance with specific criteria adopted by City Council, which the City Council may change from time to time at its sole discretion.
- 5.2. City Council may perform additional informal reviews and evaluations of Employee's performance as it deems appropriate.
- 5.3. At the conclusion of each annual performance evaluation, City Council shall have the following options regarding adjustment to Employee's salary.
- 5.3.1. To adjust Employee's salary by awarding a cost of living adjustment (COLA) and/or merit increase of a percentage of Employee's gross salary as determined by City Council; or
- 5.3.2. To make no adjustment to Employee's salary.

CITY OF ROSEBURG


Larry Rich, Mayor


Date: 3-17-21

EMPLOYEE


Nicole A. Messenger

Date: 03.22.2021

ATTEST:


Amy L. Sowa, City Recorder

EMPLOYMENT AGREEMENT

BETWEEN THE CITY OF ROSEBURG ("City")

AND: NICOLE A. MESSENGER ("Employee")

EFFECTIVE: SEPTEMBER 1, 2019

RECITALS

- A. City is a municipal corporation located in Douglas County, Oregon
- B. City desires to employ the services of Employee as City Manager as provided by City Charter; and Employee desires to accept the position of City Manager on the following terms outlined herein.

AGREEMENTS

- 1. **DUTIES.** City hereby employs Employee as the City Manager of the City of Roseburg, Oregon, to perform the functions and duties specified in the City Charter, the ordinances and resolutions of the City, and any other functions and duties assigned from time to time by City.

Employee will devote her full time, attention and energy to City's business and to performing the duties of City Manager. During her tenure as City Manager, Employee will immediately disclose to City any activities or interests in which she plans to engage that may conflict with the duties of the City Manager or the interests of the City. In addition, Employee will not engage in any business or other activities which interfere with or conflict with her duties as City Manager or the interests of the City or accept remuneration from other sources, except as approved in advance by City.

- 2. **TERM.** Employee's employment as City Manager will commence on September 1, 2019 and continue until terminated by City or Employee as provided in Paragraph 3 of this Agreement. Termination of Employee's employment pursuant to Paragraph 3 will also constitute termination of this Agreement.

- 3. **TERMINATION.**

3.1. Termination Without Cause: City may terminate Employee's employment with City at any time without cause and without prior notice. If City exercises its right under this sub-paragraph, and if Employee executes and does not revoke a full release of claims in a form satisfactory to City, City will pay Employee severance pay in the amount of six months of salary, less all amounts required subject to lawful withholding or

deduction. Any severance pay will be paid in a lump sum no later than five business days after Employee executes a full release of claims or after the expiration of any revocation period, whichever is later, or in another method that is mutually agreeable to the City and the Employee.

3.2. Termination for Cause: City through its City Council may terminate Employee's employment for cause in the following circumstances:

- Violation of the City's Charter, ordinances, resolutions or policies;
- Incompetence or failure adequately to perform the duties of City Manager;
- Failure to follow a lawful directive of the City Council;
- Commission of a crime in the course of the performance of the duties of City Manager or commission of any crime that reflects negatively on the City or affects Employee's ability to perform the job of City Manager;
- Violation of City or state ethics laws or regulations;
- Dishonesty in any form, including but not limited to theft, embezzlement, fraud, or misexpenditure or misappropriation of funds, and intentional and material misrepresentation to the City Council;
- Misuse of drugs or alcohol or violation of any law or policy related to the use of drugs or alcohol; or
- Any conduct that reflects negatively on the City or affects Employee's ability to perform the job of City Manager.

If City exercises its right under this subparagraph, Employee will be entitled to notice of the reasons for the proposed termination and an opportunity to respond, and a hearing that comports with the requirements of applicable due process guarantees. If Employee's employment is terminated under this subparagraph, Employee will not be entitled to any severance pay.

4. COMPENSATION AND BENEFITS. In exchange for services as City Manager, City will pay Employee an annual salary of \$155,000, payable on a monthly basis (\$12,917 per month) on the last working day of each month. City will also provide Employee eight sick leave hours per month, paid vacation, insurance, retirement and other benefits similar to those provided to City Department Heads.

4.1. Employee will accrue vacation leave at the rate of five weeks per year. Once per year, prior to June 30, Employee may elect to cash out up to 40 hours of accrued vacation time.

4.2. Employee shall receive \$250.00 per month for fuel allowance. This taxable allowance shall be separate from the Employee's base salary.

5. PERFORMANCE EVALUATION AND SALARY ADJUSTMENTS.

5.1. City Council will informally review and evaluate Employee's performance as City Manager on a semi-annual basis with formal evaluation conducted during the fourth quarter of each calendar year in accordance with specific criteria adopted by City Council, which the City Council may change from time to time at its sole discretion.

5.2. City Council may perform additional informal reviews and evaluations of Employee's performance as it deems appropriate.

5.3. At the conclusion of each annual performance evaluation, City Council shall have the following options regarding adjustment to Employee's salary.

5.3.1. To adjust Employee's salary by awarding a cost of living adjustment (COLA) and/or merit increase of a percentage of Employee's gross salary as determined by City Council; or

5.3.2. To make no adjustment to Employee's salary.

6. PROFESSIONAL ORGANIZATIONS AND RELATED EXPENSES.

6.1. Except for memberships in the named organizations and a local service club in paragraph 6.2, employee will obtain the prior approval of City Council before becoming a member of, sitting as a director of, or participating as a member of any committee of any professional or non-profit organization.

6.2. City will reimburse Employee for reasonable out-of-pocket costs related to professional or official travel or other expenses required of Employee or believed by Employee to be in the City's best interests or reasonably necessary to continue Employee's professional development, including but not limited to: a service club membership, the League of Oregon Cities, the Oregon City/County Management Association, the International City Management Association, APWA membership and required hours of professional development training to maintain Professional Engineering certification. All such activities will be included for review as part of the City's budget process and any reimbursement under this subparagraph will be limited to amounts provided in the City's budget.

7. RESIDENCY

7.1. Employee agrees to establish residency within the Roseburg city limits within six months of assuming her duties under this Agreement, unless the City Council agrees otherwise.

8. BONDING. City will bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

9. CONFIDENTIALITY.

9.1. Employee recognizes that as City Manager she will have access to proprietary information of City that is a valuable, special and unique asset of City and that needs to be protected from improper disclosure. Employee agrees that she will not directly or indirectly use any such information except as necessary to perform the duties of City Manager, and will not directly or indirectly divulge such information to anyone outside the City organization without City's prior written consent, or unless required by court order or, if in the opinion of the City Attorney, by state law.

9.2. The confidentiality provisions of this Agreement will remain in full force and effect for a period of two years after the termination of this Agreement.

10. **NOTICES.** Notices pursuant to this Agreement will be given by deposit in U.S. mail, certified mail, return receipt requested, addressed as follows:

City

City of Roseburg Attn: Mayor
900 SE Douglas
Roseburg, OR 97470

City Manager

City of Roseburg
Attn: Nicole A. Messenger
900 SE Douglas
Roseburg, OR 97470

Alternatively, notices pursuant to this Agreement may be personally served. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such notice in the U.S. mail.

Either party may change this address from time to time by providing written notice to the other party in the manner set forth above.

11. GENERAL PROVISIONS.

11.1. The parties agree that this written Agreement constitutes the complete agreement of the parties, and that neither party has relied on any promise or representation of the other except those contained in this written Agreement. This Agreement supersedes all prior or contemporaneous oral or written agreements, statements, promises or understandings with respect to its subject matter.

11.2. This Agreement may be modified only by written agreement signed by both parties.

11.3. The provisions of this Agreement are severable. If any provision of this Agreement that is held to be invalid or unenforceable, the invalidity will not affect


other obligations, provisions or applications of this Agreement which can be given effect without the invalid obligations, provisions or applications.

11.4. This Agreement was the result of negotiation by the parties and thus the parties agree that the rule of construction requiring that the agreement will be construed against the drafter will not apply to the interpretation of this Agreement. Both parties acknowledge that they have read and understand the Agreement, enter into it voluntarily, and have had opportunity to have it reviewed by counsel of their choice.

11.5. The failure of either party to enforce any provision of this Agreement will not be construed as a waiver or limitation of that party's right subsequently to enforce and compel strict compliance with every provision of this Agreement.

11.6. This Agreement will be interpreted and enforced in accordance with the laws of the State of Oregon and any action to interpret or enforce this Agreement will be brought in Oregon state court or in the Federal District of Oregon. Before either party files an action in court to enforce this Agreement, the parties shall submit any dispute about the enforcement of this Agreement to final, binding arbitration under the rules of the American Arbitration Association, unless the parties agree to a different method of arbitration. In the event of any arbitration or court action to interpret or enforce this Agreement, the prevailing each party will be entitled to recover its attorney fees, costs and out of pocket expenses.

CITY OF ROSEBURG



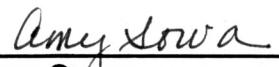
Larry Rich, Mayor
Dated: 8-26-19

EMPLOYEE



Nicole A. Messenger
Dated: 8-13-19

ATTEST



Amy Sowa
City Recorder

7. Held a public hearing regarding an Ordinance Amending the Roseburg Urban Growth Boundary (UGB), De-Annexing Property, Amending the Comprehensive Plan Map, Annexing Right-of-Way and Amending the Urban Growth Management Agreement (UGMA) - File No. CPA-23-002.
8. Received comments from six people in opposition, three people neutral, and nine people or businesses in favor of the Urban Growth Boundary (UGB) Swap.
9. Authorized Staff to prepare Findings of Fact on behalf of City Council and approve the following Land Use Actions, as referenced in File No. CPA-23-002:
 - Amend the UGB by removing the Serafin and Atkinson Properties from the boundary and adding Charter Oaks Property to the UGB.
 - De-Annexation of the Serafin and Atkinson Properties that lie in City Limits.
 - Annexation of Troost St. Right-Of-Way to the edge of the new UGB.
 - City Comprehensive Plan Amendment for the Charter Oaks Property to include applying the City's Low Density Residential (LDR) designation to the majority of the Charter Oaks Property and applying the Public/Semi-Public (PSP) Plan designation to the 17.5-Acre property owned by the Roseburg Public School District.
 - Amend the Urban Growth Management Agreement (UGMA) to reflect the UGB Swap and to include Charter Oaks in Subarea 2 of the Agreement.
10. Awarded the SE Stephens Street Water Main Replacement Project to the lowest responsible bidder, Cradar Enterprises, Inc., for \$ 1,708,905.00.
11. Awarded the SE Douglas Avenue Pavement Repairs Project to the lowest responsible bidder, Guido Construction, Inc., for \$259,390.56.
12. Authorized the City Manager to negotiate and execute an Intergovernmental Agreement with RUSA to include sanitary sewer improvements with the SE Stephens Water Main Replacement Project.
13. Authorized execution of Revised Change Order No. 1 to the Intergovernmental Agreement with ODOT for the Douglas Avenue Deer Creek Bridge Construction Project increasing the city's match to \$1,504,810.

July 29, 2024 - City Council Work Study

1. City Manager Nikki Messenger and Community Development Director Stu Cowie presented Downtown Parking.
Direction was given to Staff bring back comparison charts: 75/25, 70/30, and 65/35 in a regular session at a date to-be-determined.

August 12, 2024 - City Council Meeting

1. Consensus to meet on November 18, 2024, due to the holiday schedule.
2. Consensus to use the current form for the City Manager Evaluation this year.
3. Held a public hearing regarding Ordinance No. 3603 - Comprehensive Plan Amendment (CPA-24-001) – Natural Hazard Mitigation Plan.
4. Ordinance No. 3603, entitled, "An Ordinance Amending the Roseburg Urban Area Comprehensive Plan Adopting by Reference the 2024 Douglas County Multi-Jurisdictional Natural Hazard Mitigation Plan," was read for the first time.
5. Held a public hearing regarding CDBG Close Out – Roseburg Regional Housing Rehabilitation Grant.
6. Directed Staff to officially close out the Regional Housing Rehabilitation Program CDBG grant.
7. Held a public hearing regarding Resolution No. 2024-17 – Supplemental Budget.

8. Adopted Resolution No. 2024-17 – Authorizing Supplemental Budget Revisions and Appropriation Transfers for Fiscal Year 2024-25.
9. Ordinance No. 3604, entitled “An Ordinance Declaring the Amendment of the City of Roseburg Urban Growth Boundary; De-Annexation of Certain Real Property; Annexation of Portions of Troost St. Right-of-Way; Amendment to the Comprehensive Plan Map; Amendment to the Urban Growth Management Agreement; and Directing the Instruments of Record with the Secretary of State, the Department of Revenue and the Douglas County Assessor,” was read for the first time.
10. Ordinance No. 3605, entitled “An Ordinance Amending Chapters 7.02.100 and 7.12.015 of the Roseburg Municipal Code,” was read for the first time.
11. Ordinance No. 3606, entitled “An Ordinance Adding Chapter 7.02.180 of the Roseburg Municipal Code,” was read for the first time.
12. Awarded the Taxiway A Extension Project to the lowest responsible bidder, LTM, Inc. dba Knife River Materials, for \$2,064,955 contingent upon receipt of a grant offer from the FAA.
13. Authorized the Task Order with Mead & Hunt for construction management services on the Extend Taxiway A – Phase II Construction Project for \$247,851.65 contingent upon receipt of a grant offer from FAA.

August 26, 2024 - City Council Meeting

1. Accepted Juliet Rutter’s resignation with regrets.
2. Received public comment from Victoria Theopanes about problems at the Navigation Center; one (1) person neutral and seven (7) people in opposition to Ordinance No. 3605 – Prohibited Camping Code Amendment.
3. Approved the July 22, 2024 Regular Meeting Minutes.
4. Approved the July 29, 2024 Work Session Minutes.
5. Approved the August 12, 2024 Regular Meeting Minutes with changes.
6. Recommended approval of an OLCC – Change of Ownership – Bhatti Corporation dba Roseburg Tobacco & Food Mart 2.
7. Adopted Ordinance No. 3603, entitled, “An Ordinance Amending the Roseburg Urban Area Comprehensive Plan Adopting by Reference the 2024 Douglas County Multi-Jurisdictional Natural Hazard Mitigation Plan.”
8. Adopted Ordinance No. 3604, entitled “An Ordinance Declaring the Amendment of the City of Roseburg Urban Growth Boundary; De-Annexation of Certain Real Property; Annexation of Portions of Troost St. Right-of-Way; Amendment to the Comprehensive Plan Map; Amendment to the Urban Growth Management Agreement; and Directing the Instruments of Record with the Secretary of State, the Department of Revenue and the Douglas County Assessor.”
9. Adopted Ordinance No. 3605, entitled “An Ordinance Amending Chapters 7.02.100 and 7.12.015 of the Roseburg Municipal Code.”
10. Adopted Ordinance No. 3606, entitled “An Ordinance Adding Chapter 7.02.180 of the Roseburg Municipal Code.”
11. Authorized a Task Order with Century West Engineering for the 2025 Pavement Management Program, ADA Curb Ramp Design Services for an amount not to exceed \$129,821.00.
12. Approved the purchase of a John Deere 6105E Tractor and a Diamond Mowers DSF090-C Flail mower attachment.

September 9, 2024 - City Council Meeting

1. Consensus to persist in identifying a viable location for an Urban Campground.

Background: In 2005, the City Council determined a need to adopt a process to be followed for the City Manager's Annual Performance Evaluation. The process was slightly amended again in 2008 and the Council agreed it should be affirmed each year prior to starting the process. In October 2014, the City Council adopted a new evaluation form which simplified the criteria for evaluation and amended the scoring system. In 2021, Council further amended the evaluation process regarding timelines, self-evaluation and quarterly evaluations. According to the existing policy, the process is supposed to begin in July, but has been delayed slightly. This year's proposed schedule is:

Second Meeting in August:

The City Manager will present a report to the City Council.
(August 26, 2024 – Executive Session)

Early September:

The Mayor and City Councilors meet one-on-one with the City Manager if needed to discuss the City Manager's performance during the past year. The City Manager and the Mayor/Councilor discuss any performance issues during the one-on-one meetings.
(September 3 – September 13, 2024)

Completed By September 30:

The Mayor and Councilors complete an appraisal form (as approved by the Council) and submit it to the Council President in sufficient time for the information to be consolidated into one report for inclusion in executive session materials for the first meeting in October.
(Evaluation forms will be distributed to Council by September 16, 2024)

Second Meeting in October:

The City Manager's performance appraisal is conducted. The City Manager has the right to choose whether this shall be done in open session or in executive session.
(October 28, 2024 – Executive Session)