

OAK RIDGE CITY COUNCIL SPECIAL MEETING

Municipal Building Courtroom

January 4, 2010 - 6:30 p.m.

AGENDA

1. Call to Order

Mayor Thomas L. Beehan

2. Resolutions

A resolution accepting the resignation of James R. O'Connor as City Manager of the City of Oak Ridge, effective January 8, 2010, and extending to him the Council's best wishes for a rewarding and productive tenure as City Manager of Winchester, Virginia, and its appreciation for a job well done as City Manager of the City of Oak Ridge.

A resolution appointing Gary M. Cinder to serve as the Interim City Manager of the City of Oak Ridge, effective January 9, 2010, at an annual salary of \$111,633.60 and in accordance with the provisions of an attached Employment Agreement.

A resolution creating and establishing the charge of a City Manager Search Committee composed of Mayor Thomas L. Beehan, as Chair, and Council members D. Jane Miller and David N. Mosby, with Councilwoman Ellen D. Smith to serve as an alternate member whose duty shall be to attend all Committee meetings and to assume full voting rights in the event that a regular member of the Committee cannot attend a meeting or becomes unable to serve.

3. Adjournment

MAYOR'S MEMORANDUM
09-10

DATE: December 28, 2009

TO: Fellow Members of City Council

FROM: Mayor Tom Beehan

SUBJECT: PROCESS FOR REPLACEMENT OF THE CITY MANAGER

Attached are three resolutions that will begin the process for replacement of Jim O'Connor as City Manager of the City of Oak Ridge. As you know, Jim has resigned to assume the position of City Manager of the City of Winchester, Virginia.

Resolution #1

The first resolution will accept Jim's resignation as City Manager, wish him well in his new position, and commend him for a job well done in Oak Ridge. Jim will be present at this special meeting, which will be his last in Oak Ridge.

Resolution #2

The second resolution will appoint our Public Works Director, Gary M. Cinder, to serve as Interim City Manager. The City Charter, Article V, Section 2, provides that the Council may designate a qualified administrative officer of the city to assume the duties and authority of the manager during periods of vacancy in the office. Gary is certainly qualified, having served as Public Works Director since October 14, 1991, and as Interim City Manager from May 10, 2003 to March 14, 2004. His performance as Interim City Manager was exceptional, so much so that City Council awarded him a \$10,000 bonus on March 22, 2004.

I have talked to Gary and he has agreed to serve once again as the Interim City Manager at an annual salary that is 10% above his current salary. This is in compliance with the provisions of the Personnel Ordinance as they relate to acting pay for employees assigned to perform work normally specified for a higher job class.

Attached is an employment agreement that is essentially the same as the agreement executed at the time of Gary's prior service as Interim City Manager. It has been reviewed by both Gary and the City Attorney and both found it acceptable.

Resolution #3

The third resolution creates a City Manager Search Committee and defines its charge. It is my recommendation that the committee be comprised of myself, as Chair, and Council members Miller and

PROCESS FOR REPLACEMENT OF THE CITY MANAGER

December 28, 2009

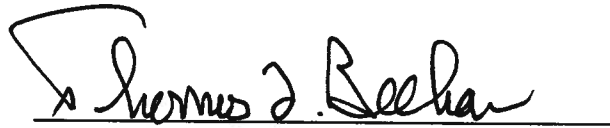
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Mosby, with Councilwoman Smith to serve as the alternate. All have been contacted and have agreed to serve as recommended. Councilwoman Smith, as alternate, will be expected to attend all Committee meetings and to assume full voting rights if a regular member cannot attend a meeting or becomes unable to serve. This practice is the same as that used for the previous Search Committee and it worked well. The mission is to ensure that the work of the committee will continue without interruption and that all of its recommendations will come with the full vote of at least three members of the Council.

The Committee charge, as set forth in the resolution, is also essentially the same as the charge given to the previous Search Committee. The committee so charged functioned well and no real problems were encountered along the way. As always, the committee meetings are open and will be scheduled in full compliance with the Open Meetings (Sunshine) Law.

With the adoption of these resolutions, the City Manager Search Committee can begin its work. As chair, I plan to bring the recommended search procedure to the Council for approval at the earliest possible time, and this will likely involve a second special meeting that will be called for this purpose only.

Approval of all three resolutions is recommended.



Mayor

Attachments

RESOLUTION

WHEREAS, James R. (Jim) O'Connor has served official notice of his resignation as City Manager of the City of Oak Ridge, Tennessee, effective January 8, 2010, to assume the position of City Manager of the City of Winchester, Virginia; and

WHEREAS, Jim O'Connor has served the City of Oak Ridge as its City Manager since March 10, 2004; and

WHEREAS, during his tenure as City Manager, Jim O'Connor served the City well, embracing all challenges, forging new pathways, and leading the way to the successful completion of projects that contributed significantly to the betterment and growth of this community; and

WHEREAS, in so doing, Jim O'Connor earned the respect and gratitude of the Oak Ridge City Council and the community as a whole; and

WHEREAS, while he will be missed by the City of Oak Ridge, he nonetheless leaves with the good wishes of all who knew and worked with him, knowing full well that the City of Winchester's gain is our loss.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:


That the resignation of James R. O'Connor as City Manager of the City of Oak Ridge is hereby accepted, effective January 8, 2010.

BE IT FURTHER RESOLVED that City Council extends to Jim O'Connor its best wishes for a rewarding and productive tenure as City Manager of Winchester, Virginia, and its appreciation for a job well done as City Manager of the City of Oak Ridge, Tennessee.

We will miss you, Jim!

This the 4th day of January 2010.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

RESOLUTION

WHEREAS, James R. O'Connor has resigned as City Manager of the City of Oak Ridge, effective January 8, 2010; and

WHEREAS, Article V, Section 2, of the Charter of the City of Oak Ridge provides that the Council may designate a qualified administrative officer of the city to assume the duties and authority of the manager during periods of vacancy in the office; and

WHEREAS, Gary M. Cinder, the City's Public Works Director, has served previously as Interim City Manager for the City of Oak Ridge and his performance as such was commended by City Council as exceptional; and

WHEREAS, the Mayor recommends that Gary M. Cinder be appointed again to serve as Interim City Manager at an annual salary that is 10% above his current salary, in compliance with Section 6.9 of the City's Personnel Ordinance; and

WHEREAS, Gary M. Cinder has agreed to accept the appointment.

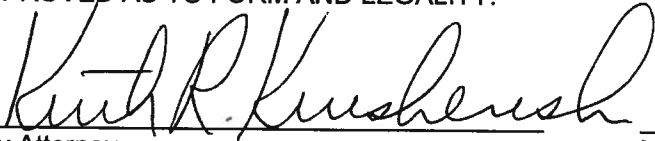
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the Mayor is approved and Gary M. Cinder is hereby appointed to serve as the Interim City Manager of the City of Oak Ridge, effective January 9, 2010, at an annual salary of \$111,633.60 and in accordance with the provisions set out in the attached Employment Agreement.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 4th day of January 2010.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

EMPLOYMENT AGREEMENT

This is an agreement entered into this 5th day of January, 2010, between the City of Oak Ridge (the City) by the City Council and Gary M. Cinder (Interim City Manager), to provide for the employment of Gary M. Cinder as Interim City Manager of the City of Oak Ridge, Tennessee, and to set forth the terms and conditions of his employment and the mutual obligations, rights and duties of each party.

WHEREAS, James R. O'Connor resigned as City Manager of the City of Oak Ridge, Tennessee, effective January 8, 2010; and

WHEREAS, Article V, Section 2, of the Charter of the City of Oak Ridge provides that the Council may designate a qualified administrative officer of the city to assume the duties and authority of the manager during periods of vacancy in the office; and

WHEREAS, on the recommendation of the Mayor, City Council has approved the appointment of the incumbent Public Works Director, Gary M. Cinder, to serve as Interim City Manager of the City of Oak Ridge, Tennessee.

Now, therefore, in consideration of the mutual promises as set forth in this agreement, the City of Oak Ridge and Gary M. Cinder agree as follows:

Section 1. Duties.

City Council agrees to employ Gary M. Cinder as Interim City Manager of the City of Oak Ridge to perform the functions and duties as specified in the City Charter and the City Code including the resolution of all pending and future personnel actions, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

Section 2. Term.

A. This agreement shall become effective on January 9, 2010, and shall continue in effect until a regular City Manager is selected and reports for duty.

B. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Council to terminate the services of the Interim City Manager at any time, subject only to the provisions set forth in Section 3, Paragraphs A and B, of this agreement.

C. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Interim City Manager to resign at any time, subject only to the provisions set forth in Section 3, Paragraph C, of this agreement.

Section 3. Termination.

A. In the event the Interim City Manager is terminated before expiration of the aforesaid term of employment and during such time that he is willing and able to perform the duties of Interim City Manager, then the City shall reinstate the Interim City Manager as Public Works Director at a salary commensurate with his salary as Public Works Director on January 8, 2010, plus any increase provided in the FY 2011 City budget if such reinstatement occurs after June 30, 2010, and with full benefits, including leave accrued during the tenure as Interim City Manager, to be carried forward. Provided, however, that in the event the Interim City Manager is terminated "for just cause," then in such event, the City shall have no obligation to reinstate the Interim City Manager as Public Works Director. "Just cause" is defined and limited for the purposes of this Agreement to the following reasons: (1) willful neglect of duty; (2) felony or misdemeanor conviction of any crime involving moral turpitude; (3) violation of duties by the Interim City Manager of honesty and sobriety; or (4) any other act of a similar nature of the same or greater seriousness.

B. In the event the City at any time during the employment term reduces the salary or other financial benefits of the Interim City Manager in a greater percentage than an applicable across-the-board reduction for all City employees, then, in that event, the Interim City Manager may at his option be deemed to be "terminated" at the date of such reduction within the meaning and context of Section 3, Paragraph A above, and shall be reinstated as the Public Works Director.

C. In the event the Interim City Manager voluntarily resigns his position as Interim City Manager before expiration of the aforesaid term of employment, then he shall give one (1) month's written notice to the City Council and shall be reinstated as Public Works Director under the same terms and conditions as those set forth in Section 3, Paragraph A.

D. In the event that an individual other than the Interim City Manager is appointed as City Manager, the Interim City Manager shall be restored to the position of Public Works Director at a salary commensurate with his salary as Public Works Director on January 8, 2010, plus any increase provided in the FY 2011 City budget if such occurs after June 30, 2010, and with full benefits, including leave benefits accrued during the tenure as Interim City Manager, to be carried forward.

Section 4. Salary.

City agrees to pay the Interim City Manager for his services rendered pursuant hereto an annual base salary of \$111,633.60, payable in equal installments on the same pay period schedule as other general employees of the City are paid.

Section 5. Hours of Work.

The City of Oak Ridge requires the full-time service of its Interim City Manager and, therefore, in the event the Interim City Manager is not available for his duties, he shall designate a City employee as his representative to be responsible in his place, and so inform members of City Council when appropriate.

Section 6. Automobile and Communications Equipment.

A. The Interim City Manager requires that he shall have for business and personal use during his employment with the City an automobile provided to him by the City. The City shall be responsible for paying for liability, property damage, and comprehensive insurance and for the purchase, operation, maintenance, repair, and regular replacement of said automobile.

B. The City agrees to provide a mobile or portable radio compatible with the City's radio system for the Interim City Manager's exclusive use.

C. The City agrees to provide a cellular or digital telephone for the exclusive business and personal use of the Interim City Manager.

Section 7. Dues and Subscriptions.

The City agrees to budget and to pay the professional dues and subscriptions of the Interim City Manager necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the City.

Section 8. Professional Development.

The City agrees to budget and to pay the travel and subsistence expenses of the Interim City Manager for professional and official travel, association conferences, short courses and seminars,

meetings, and occasions adequate to continue the professional development of the Interim City Manager and to adequately pursue necessary official and other functions for the City.

Section 9. Community Involvement.

The City recognizes the desirability of representation in and before local civic and other organizations, and the Interim City Manager is encouraged to participate in these organizations in order to maintain a continuing awareness of our community attitudes and ideas.

Section 10. Benefits.

The City agrees to provide the Interim City Manager with the same employee benefit package at the same cost as that provided to all regular full-time City employees.

Section 11. General Provisions.

A. The text herein shall constitute the entire agreement between the parties.

B. If any provisions, or any portion thereof, contained in this agreement are held to be unconstitutional, invalid, or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

APPROVED AS TO FORM AND LEGALITY:

CITY OF OAK RIDGE, TENNESSEE



City Attorney

Mayor

Gary M. Cinder

ATTEST:

City Clerk

RESOLUTION

WHEREAS, Article V, Section 1, of the Charter of the City of Oak Ridge, Tennessee, provides that City Council shall appoint a chief administrative officer of the City who shall be entitled City Manager, and who shall serve at the pleasure of the Council; and

WHEREAS, on February 9, 2004, James R. O'Connor was appointed by City Council to serve as City Manager of the City of Oak Ridge, Tennessee; and

WHEREAS, James R. O'Connor has resigned as said City Manager, effective January 8, 2010, to assume the position of City Manager of Winchester, Virginia; and

WHEREAS, to begin the process of recruiting and ultimately hiring an individual to serve as City Manager, it is the recommendation of the Mayor that a City Manager Search Committee be created to develop a search procedure for approval by City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That there is hereby created a City Manager Search Committee composed of Mayor Thomas L. Beehan, as Chair, and Council members D. Jane Miller and David N. Mosby, with Councilwoman Ellen D. Smith to serve as an alternate member whose duty shall be to attend all Committee meetings and to assume full voting rights in the event that a regular member of the Committee cannot attend a meeting or becomes unable to serve.

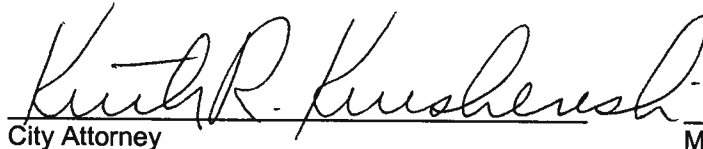
BE IT FURTHER RESOLVED that the charge of the City Manager Search Committee shall be to:

- Recommend a City Manager search procedure for consideration of approval by City Council.
- Execute the approved search procedure to the point of identification of a small number of final candidates for City Manager.
- Working with the City Clerk, arrange for City Council interviews with the finalists, tours of the City, meetings with the staff, etc.
- Negotiate a proposed Employment Agreement with the finalist selected by City Council.
- Present the Employment Agreement to City Council for approval.

BE IT FURTHER RESOLVED that said Committee shall cease to exist upon appointment of a new City Manager for the City of Oak Ridge, unless its service is extended by action of City Council.

This the 4th day of January 2010.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk