COUNCIL MEETING MINUTES
February 4, 2013

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, February 4, 2013, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, and Ron Verini. Larry Tuttle was excused.

Members of staff present were Jay Henry, Tori Barnett, Bob Walker, Mark Alexander, and Mike Long. The meeting was recorded on tape, and the tapes are available at City Hall.

Ronald Verini led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Jackson Fox, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

CONSENT AGENDA

Mayor Dominick recused himself from voting on the Consent Agenda, as his business had an invoice for payment on the bills.

Councilor Jones asked why the $25 employee cards from Public Works were paid from the Office Supply line.

Bob Walker, Public Works Director, stated that was due to past practice.

Councilor Jones stated he didn't believe it should come from that line, as it wasn't really a "supply". It was misleading.

Mr. Henry stated it would be addressed in the upcoming budget.

Councilor Fugate asked where the money came from for flowers and donations, that type of thing, when sent by the city.

Tori Barnett stated the Administration Department had a specific line for that, approved through the budget process, which also included the funds provided to the highs school for the Leadership Award.

Ron Verini moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Approval of the Regular Minutes of 01/22/2013; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-abstain. Motion carried 5/0/1/1.

PUBLIC COMMENTS/PRESENTATIONS

(From her written statement)

Ruth Rolland, Ontario: *This city has a wonderful history and it has a lot of great assets - - in terms of its proximity to some amazing regional geography – our land resources - - we have the river and irrigation - - and being right here next to the freeway and rail system for commerce. All these things have enabled Ontario to come into existence, but it has been the City's most valuable resources – all the PEOPLE who live and work here - - and who have committed their energy and imaginations to accomplish good things for their families and this community - - which has made it possible for Ontario citizens to enjoy a continuously improving school system and our community*

college, and many great businesses – and all of these are here for all of us – for THE PEOPLE who live and work here. The people we elect and hire to keep the city's goals in a positive direction – we give them our collective power – which amounts to a pretty strong authority to decide what they will build up and promote, and what they will tear down – perhaps to the point of causing its destruction. You know I'm talking about the pool and the golf course, and many other things like streets, or CDBG grants and City buses. - - And then there are the people of the city itself: Certain workers seem to be much less valuable to some of the City's leaders. Public Works employees have been – always have been doing their jobs well, showing up to get the work done, and going beyond what is required of them in many, many cases. Thank goodness we have them to call on for snow storms and frozen water meters, and water and sewer services. They know their jobs and do their jobs. And the leaders who were voted to exercise the power have seen fit to pursue a strategy of making sure they lost benefits and removed incentive bonuses and in other ways have shown no respect to these city employees. These are your neighbors and part of this community. They deserve better treatment. They have been outside city hall again this evening with signs, to tell the City that the City Council refuses to respect them for their dependable hard work to serve this city with honor. They deserve to have the dignity of fairness in their wages, health and welfare benefits, and working conditions.

Al Phillips, Ontario, stated he had been working with Scott McKinney, Country View, to develop a preliminary proposal for operating the Ontario golf course. They were looking to keep the money from the greens fees, and would be asking for a subsidy of $75K annually from the city, with the intention of drawing back on that. They had a lot of good idea, such as multi passes, combining crews, one working crew to work both courses, to share the burden of the cost. They were also looking at increased hours with more man hours, and to lower management costs. There would be no city employees managing the course, and it would be run by someone who already owns a course and has run it for a profit. Other funds distributed back with profit sharing or for building new items at the course, which were needed. They wouldn't hit up the city for money. They'd like the city to seriously consider their proposal.

Councilor Fugate asked who would manage the course.

Mr. Phillips stated both he and Mr. McKinney would share those duties.

Councilor Jones expressed some concern about the wells.

Mr. McKinney stated the wells had been examined, and he actually had the same system at his course. That system was good, and it was operational, but it was not the only way to go. There was another system out there that was cheaper to operate. He wanted to wait until June to access the system, to find out what it was going to cost to make it operational, as opposed to a hand-operated system. Each sprinkler head was $175, and there were 1,800 heads. He had five (5) updates on his system, but Ontario had done nine (9). Combining forces would allow the use of his system, at a savings. The wells were a big issue. There was one well that was a year older than the course, and that was the main irrigation. Back up well was the Hollingsworth well, which they couldn't access during the hot months of the year, as they were second place on water rights. Their suggestion, but not this fiscal year, was to maybe look to put in a back-up well in July. There were a lot of options open to them.

Councilor Jones stated he hadn't realized that the city was in second place regarding the water rights.

Mr. Sullivan stated he hadn't spent a lot of time on this issue, but he couldn't recollect ever running short on water.

Councilor Jones stated it probably needed to be looked at, as they would have a high water demand in July and August, which could create a problem if the city was second.

Mr. Sullivan stated that would be easy enough to deal with He could call Ron Jacobs, the Water Master, to resolve the issue.

Mr. Phillips stated the water was certainly the biggest issue, but the course was sustainable. He planned to take a different approach on management. He didn't plan to stick anyone in there like a General Manager, as it would be their responsibility, and he would be willing to sign an agreement stating such. He recommended that the City Manager send someone out to review assets, than funds could be set aside for $75K so there would be no need to reappropriate later. The city would maintain the buildings, but if a major thing, like the air conditioner, went out, they would need to discuss that. Minor repairs would be handled by his crews.

Councilor Fugate asked who would handle the accounting – the City or his group?

Mr. Phillips suggested they hire an independent accountant. Following an inspection, there would be an accounting. No a lot of money to be made, but they could manage the course. It was becoming harder and harder for all golf courses, nationwide, to operate. By combining the two courses, it would provide efficiency and double coverage.

Councilor Fox stated in the proposal, it read that the city was to provide major maintenance, repairs, wells, buildings and parking lots. What about the actual mowing?

Mr. Phillips stated they would be taking care of the equipment repair. That line item was large compared to before, but that was to do the mechanical work as well. He believed the budget from last year - $10K – was too much. If repairs were that high, then the equipment should be replaced. Large amounts of money for maintenance should be reviewed for replacement.

Councilor Crume stated the proposal read to begin in March, 2013.

Mr. Phillips stated they would have liked to start last week. The Greens Keeper believed there were things they needed to deal with NOW, not at the end of June. There were a lot of bugs to eradicate, and there were 1,800 double-wire sprinkler heads there were being eaten by squirrels. Also, when the snow was completely gone, they needed to replant any dead areas. Plus, the Men's and Women's Associations had a meeting scheduled for February, and they wanted to get moving on tournaments. Everyone out there was stepping up to volunteer.

Councilor Crume stated if the city agreed to the proposal, would the existing mowers be used, and if they broke down tomorrow, would this new group replace those?

Mr. Phillips stated no, they would work with the City Manager on that. As he stated earlier, they had budgeted $10K for equipment repair, which they could certainly do. They had increased that line for that, to repair and maintain.

Councilor Crume asked what would occur if a mower was beyond repairing.

Mr. Phillips stated they would determine the worth, and then sell it and then obtain a replacement machine. They would be working with the city on that type of thing. He knew a fairway puncher ran about $8K, and they didn't currently have one of those. If one was purchased, it would be shared between the two courses. They would try to use existing equipment, as much as possible. Currently, there were five (5) mowers, but only one person to mow. Maybe they could trade one mower for something they needed. Each mower was about $14K, and if they sold two, they could get stuff they needed.

Councilor Jones stated with regard to this proposal, did the Council have to advertise, or could they move forward on this.

Mr. Sullivan stated the city could move forward, on the assumption of declaring a sole source option.

Councilor Jones suggested having Mr. Phillips and Mr. McKinney attend the February 14th work session with more details so the Council could approve it, if so desired.

Councilor Fugate stated they had approved $12K to finance the course through the end of June, but Mr. Phillips was asking for $75K, so how would that work?

Mr. Phillips stated he would work with the City Manager on that. Also, they had budgeted $20K for electric, but the bill for last year was only $18K. If the city kept the power in its name, that could be an option for the funding assistance.

Councilor Fugate verified that $75K was for the full year?

Mr. Phillips stated it would be for a full season. Between now and June, 30% of the revenue would be with season passes. Their proposal was for per "season", not a fiscal year.

Mayor Dominick asked for two Council members to volunteer to get the proposal ready for the next Council works session.

Mr. Phillips stated he also had a letter of recommendation from the Men's Association, for the Council to approve the proposal. He didn't want to make any major changes to the course, but would know better after six months, how much it would cost to run the course, to see if it was even feasible to run it. After that first six months, changes might need to be made.

Councilor Fox volunteered to work on this project.

Councilor Jones stated he'd like to, also.

Mr. Sullivan stated he would draft a contract for Council review. The proposal provided red the 2013, 2014, and 2015 seasons, but it was really only a one season agreement.

Mr. Phillips agreed.

Councilor Crume stated he liked the idea of reviewing it, but he wanted to see the city tighten up on what their responsibilities would entail, expense-wise. The plan was to have the city spend $75K, but it could be more with the wells and equipment. They needed to be prepared for what was coming down the road, not just what was there today.

Mr. Phillips agreed, they would like to have a contingency plan in place for replacement.

Mayor Dominick thanked Mr. Phillips and Mr. McKinney for their proposal.

Industrial Lands

Riley Hill stated this project was not just about industrial lands – it was much bigger. (See attached hand-out) There were five items on the list, and each had a committee. They started out wanting about 800 acres added to Ontario, but as they progressed, they were pared down to 225 acres. It was very disappointing, and they had spoken with our state representative about it. He agreed to help if Ontario wanted to push forward for more land. Also, they had gone out to Skyline and found out that Conagra now owned that through a bankruptcy. He and Dan Cummings and the City Manager visited with Conagra about acquiring 1,000 acres up there, close to the prison, and that was being worked on. Through this process, they tried to identify what else would be good for the county. Some state agencies said the poverty rate in Malheur County was 23%, but PSU had it at 39%. Regardless, Malheur County was the highest in Oregon. Malheur County alone was larger than six (6) other states in the US, with a population of 460 to 1195 per square mile. Multnomah County had 1704 per square mile, while Malheur County had 3.2 people per square mile. Where would it be better to have smoke stacks and industry? That was easily answered. This community was in favor of industrial growth.

The natural resources being talked about referred to the gold mine, and two more coming to town. Calico was leading the way. The group believed that by being behind that, they could create more jobs, taking Malheur

County out of poverty. One issue on industrial lands was water, and the goals Oregon had established were that now there was a beginning agreement to move water from one farm to another. Also, there were already zones for solar farms. They seemed to forget the businesses they already had - Ore-Ida, St. Alphonsus hospital, and several other businesses that might need help, and they should stand behind them. Ask what they needed to be more productive, or hold hearings to hear what they needed, and to see what we could do to help them.

Next, was agricultural – this was a big ag community. What could they do here to enhance that, to add value to what we already had? There were other things out there.

Next, they talked about a career and technical school. They had gone to a school in Wilder, that had combined six schools together to end up with five (5) disciplines. Most of the school boards, including TVCC, had almost 100 people taken over to that campus, and there had been no negative feedback. They were now actively working on ideas that came from the community. On the Wilder model, there was mechanics, diesel, CNA, welding, culinary arts, and construction classes. Under that model, they stayed at their school for core classes (half day), and then went over to the other facility. There was major competition to get in. The group wanted to get input from the local businesses on what was needed here. They had already talked with Ore-Ida, the mines, and Gentry Ford (mechanics) about keeping kids local, and to give them job opportunities. The Hollingsworth mechanics received their training away from here, just as one example. Currently, 14% of the college population had a BS or higher. That left 86% to fill something else. They were being trained, but they needed jobs to keep them here.

Councilor Crume asked where it would be located, and how would it would be funded?

Mr. Hill explained that the model in Wilder had several districts combine; Ontario would have three (3). Each would front money for the administration. Then they would receive half the FTE funds. There would be higher administrative costs, but they would retain more students, so there would be more money. They were looking at two possible locations - some property near Cairo Junction, and also on the college campus. The President of TVCC was excited to have it on their campus. The Board would be looking at areas this coming Thursday, in Wilder, at 1:30. He planned to let the college digest the plan, and would then return to the Council asking for a formal resolution in support of the plan.

Councilor Crume suggested having the schools Superintendent speak to the Council.

Mr. Hill stated he could try, but it might prove difficult, as they were not the entity putting this project together. It was being designed by a grass roots group. He believed there was 85-90% on board, but it all boiled down to funding.

It was the consensus of the Council to have this issue on the agenda for 14th study session.

NEW BUSINESS

Bid Award: Malheur Farm Lease

Bob Walker, Public Work Director, stated bids were opened on December 28, 2012, for the Malheur Farm Lease. Sage Farms was the apparent successful bid with the percentage crop share with a minimum payment guarantee of $76,000 and a maximum share crop of $133,000. Sage Farms would also address all issues with the system pressure and sprinkler package at their expense. When comparing the NEW contract minimum payment in comparison to the historical payments as it related to the current (OLD) contract, the difference in revenue was an increase of approximately $33,000 annually. The Public Works Committee discussed this issue at their January 24, 2013, meeting, and recommended approval.

Dan Jones moved, seconded by Charlotte Fugate, that the City Council authorize the City Manager to enter into a Lease Agreement with Sage Farms for the Malheur Farm Lease. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Bid Award: Snake River Intake Screen

Bob Walker, Public Works Director, stated the Water Treatment Plant Intake Screens in the Snake River had been in service for more than thirty years. Structurally, the screens were in good condition. The problem was the ability to clean the screens when they plugged due to algae. There was an air system inside the screens which was designed to clean the screens by discharging high pressure air from the inside. This system did not currently function properly and needed to be modified. Staff couldn't get inside the screens to make repairs as there was currently no access. The intention of this project was to reconstruct the ends of the screens in order to allow access by divers to clean the screens from the inside. Additionally, the air cleaning system would be reconstructed.

The project was approved in the 2009-11 budget for $80,000. After several dives by the Extreme Dive Team, it was discovered that the air cleaning system inside the screens was not functioning properly and needed to be replaced. This required installation of access hatches on the ends of both screen sections, a modification of the high pressure air system at the river pump station, and new air discharge pipes inside the screens. The project was re-budgeted and approved in the 2011-2013 Budget for $111,000 (11WAT-05).

Originally, staff was going to utilize divers to accomplish this work underwater, leaving the screens in place. The screen assembly consisted of two identical sections which were bolted together. After discussions with the design engineers, it was determined that it would be easier to disconnect one section of the screens, remove it from the river, and take it to a machine shop to provide an access opening. Once this was accomplished, staff would contract to have the new air discharge pipe installed inside the screen. When that work was completed, the screen section would be reinstalled and the other section removed and repaired. The bid to remove and replace was $21,735. The remaining portion of this project was an estimated cost of $24,000 for installing the access hatches and an estimated cost of $35,000 to repair the air system. Combining those additional costs with an estimated $10,000 for the remaining engineering resulted in a total cost of $90,735; with $103,416.59 remaining in this project account, staff should be under budget by $12,681.59. The Public Works Committee had discussed this issue at their January 24, 2013, meeting and recommended approval of this action.

Ron Verini moved, seconded by Jackson Fox, to authorize the City Manager to sign an agreement with Richard Phillips Marine, Inc. for the Snake River Intake Screen repair. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Ordinance #2675-2013: Amend TOT Ordinance (1st Reading)

Larry Sullivan, City Attorney, stated the purpose of the proposed ordinance is to remedy the misallocation of the City's transient occupancy tax after July 1, 2003, by amending City Code Section 3-1-4.

Ordinance 2450-2000, enacted in the year 2000 and codified in City Code Section 3-11-4, provided that 52.5% of the proceeds from the City's Transient Occupancy Tax (TOT) was to be distributed to the City's Street Fund for street maintenance. Beginning with the 2003-2004 budget, the City allocated that percentage of the TOT to the General Fund instead of the Street Fund.

At the end of 2012, Finance Director Michael Long discovered the error and began making the correct allocation with TOT proceeds received after January 1, 2013. Ordinance No. 2675-2013 amended Code Section 3-11-4 to remove the requirement that the City reimburse the Street Fund for any TOT misallocation before January 1, 2013. Unless City Code Section 3-11-4 was amended by the Council, it would be necessary for the City to reimburse the Street Fund in the amount of approximately $2.4 million dollars.

Councilor Jones asked for an explanation of the ordinance process.

Mr. Sullivan stated the charter stated each ordinance would have two readings. If the Council approved first reading, changes could be made between the first and second/final reading. Also, citizens could voice concerns between the two readings. After the final reading, there would be a 30-day waiting period before becoming active, unless the Council passed it be emergency. Then it became effective immediately on final reading.

Councilor Crume asked if it would start over if changes were made between readings.

Mr. Sullivan stated it would not.

Councilor Crume stated, to ensure the audience understood what they were doing, if they moved forward on the ordinance – as currently written – the General Fund would not have the TOT money they had been collecting and spending for the past nine (9) years, at an average collection of $250K. Without having that amount of money coming in, there would now be the challenge of developing a budget with less money. That hadn't been done yet, but it was coming up. If they were to pay the $2.4M back to Streets, that would add another $250K out of the General Fund, meaning a total loss of $$550K General Fund every year. It was troubling, and he believed it was impossible to go that direction. At the Thursday Work Session, he had been in support of moving the 52% in the Streets, and moving forward without paying it back. After further discussion, he had arrived at a possible solution to do both. His idea was not set in stone, and it might not even work, but it did have some merit. In an effort to try and reimburse Streets, which desperately needed funds, what about when the data center was built, and the franchise fees from the power increase, and depending on the size of the structure and the power usage, how about taking 25% of the fees collected and putting it towards the Streets, until the $2.4M was repaid. He welcomed any thoughts on his idea. He was just trying to move forward without encumbering the General Fund, but to also get Streets reimbursed.

Councilor Fox stated he found value with Councilor Crume's argument, that the Council should find a way to pay the funds back, and he wanted to look into that idea. He disagreed, however, with passing an ordinance and just forgiving that type of behavior. Just six years ago, another $2M was misspent from Public Works, and the Council forgave that. To him, the breached the public trust. For that reason, he wanted accountability, and he couldn't support the ordinance as written, to forgive that $2.4M. The Council needed to rebuild trust, and needed to manage money properly.

Councilor Verini asked what other $2M Councilor Fox was referring to? When and what?

Councilor Fox stated it happened six years ago, for public infrastructure, and that violated Oregon law.

Councilor Fugate stated that Bob Quinn was in attendance, and he owned hotels in the area. Perhaps some comments from him would help in their discussions.

Bob Quinn, Ontario, stated he saw a need to improve the streets, but also saw the outcome of taking that money from the General Fund. He had been in operation since the beginning of the TOT, and had originally been against at 6%, but he came to live with it. It had been drafted with the idea of 70% going to Streets, and 30% to the Chamber to promote tourism. That ordinance had seen a lot of changes since the initial implementation. It was news to him about the change of funds going from Streets into the General Fund, but he truly didn't see a problem with that. Streets were funded out of Public Works, but didn't that money come from the General Fund anyway? Where did those funds come from?

Mr. Quinn stated if the Council moved the funds from General Fund and back into Streets, were they just adding to the General Fund burden?

Mike Long, Finance Director, stated there was no money. Streets did not receive any money from the General Fund. The Streets fund came from the gas tax, which was dedicated to streets, from the state, and from the sewer system. Water paid from their proceeds when they had to dig up the streets, etc., and streets could get money from grants, or ODOT, but no General Fund money was in the streets.

Mr. Quinn stated he could only speak for himself, not all hotel owners in the area, but they saw all the services Ontario supplied, not just street maintenance. There were things that the General Fund actually did pay for, and were critical – for example, his businesses averaged four or five calls to 911 over the course of the month by guests, along with several calls to the Fire Department, and some false alarms. They needed great streets, but great services, also.

Mayor Dominick verified that Mr. Quinn was also on the city's Budget Board, as well as being a motel owner. Had Mr. Quinn read the proposed ordinance? Was he in favor of not paying back the street fund, and moving forward? The money was now going back to the Streets, but was he in support of not paying back the funds.

Mr. Quinn stated he was somewhat biased, but he would hate to figure out how to pay that money back from 2003 to current. He agreed with just moving forward and starting fresh.

Councilor Jones asked if that would be legal.

Mr. Sullivan stated it was, and he had also had it reviewed by the auditors, who stated it would good.

Councilor Crume asked if anyone could share any thoughts on the past history as to when this change occurred. There had been an obvious desire by staff to make the change, and at one time there had been an ordinance attempted to raise the TOT from 8% to 10%, and a provision to change the percentages by resolution. That did not pass? Did Mr. Quinn recall that, and why it was voted down?

Mr. Quinn stated the TOT started at 6% for a 70/30 split, but he didn't recall the circumstances for the increase from 8% to 10%. He had the impression the ordinance had been passed to redirect the funds.

Councilor Crume stated it had been discussed, and a lot of paperwork had been generated, but no ordinance was ever passed.

Mr. Quinn assumed it had been done, and knew the TOT was going to the General Fund, not knowing it wasn't supposed to be done that way.

Mr. Hill stated that speaking as the Public Works Committee Chairman, he knew the issue was coming to them at their meeting this coming Thursday, and it was hard to balance the budget, but when they did the library district, additional moneys came to the city then, and he knew the rate payer got short-changed every time that came up. When were they going to be fair and honest with the rate payers? The Street Fund was inadequate, and the funds from the gas tax were inadequate. Ten years ago, they identified $28M of repairs needed. Also, they had been under-billing the prison, with a loss of $1.8M for sewer. It seemed like they should bite down and pay it back. They were also going to be seeing some additional money from the prison. It seemed the money was misspent, and because of the actions of some employees, the money never came back. It would be addressed on Thursday.

Mr. Sullivan stated he didn't disagree with Mr. Hill, but in the case of rate payers, the clarification, the money that came into the city from the TOT was all money paid to the city by people staying in hotels. It was not funded by city residents. It was actually all non-residents, and that money was misdirected into the General Fund. That $2.4M was received from non-residents. If the Council decided to take the money into the Public Works fund, that would be the rate-payers paying it back. If the money had been taken and put into the streets, the streets would be better, but it's not like projects were not completed because the money wasn't there.

Councilor Fox stated in the future, when the streets were repaired, didn't the rate-payers suffer in making up the deficit.

Mr. Sullivan stated it would be only if it was paid back. From here on, it's the hotel people who paid for the streets.

Mr. Hill stated Mr. Sullivan's answer wasn't clear. The money should be spent on streets. Who should make that up? They might have looked at SDC's differently, then. It was unfair to the rate-payers. They also hadn't adequately documented where Public Works' employees were working, and there had been no accounting of that. That was now being fixed. They were now looking at over $4M having been misspent. The tax payers and rate payers were taking it on the chin if this just slid by.

Mr. Sullivan stated it wasn't as if the money wasn't spent for the general good. It had been used to fund 10 years' worth of activities. The General Fund did benefit.

Councilor Jones stated this seemed to be a budget issue. There was not an urgency to make a decision on paying this back, but there was in following the ordinance. There was a new budget coming up.

Councilor Fox wanted to wait to hear from the Public Works Committee on their recommendation. He also wanted to let the public know, to see what they wanted to do.

Mayor Dominick confirmed the city was now following the ordinance.

Mr. Henry stated they were.

Councilor Jones suggested tabling this issue.

Councilor Fox asked if this was at the direction of the auditors, as a way to fix this.

Mr. Sullivan stated yes. It was possible a claim could be placed on the city. If that came before the amendment was done, the court could be looking at a circumstance where the only option was to grant the request to pay it back. Did the Council want someone to make the decision, or did they want to make it themselves. If the Council passed the proposed ordinance, and decided later to pay the money back, they could do that. This ordinance would only correct the error made by misdirecting the money.

Dan Jones moved, seconded by Jackson Fox, to table the proposed ordinance.

Councilor Crume verified if this motion was to be voted on tonight, they could table it any time before the second reading. Also, if it passed tonight, the second review would take place before the second reading. If they voted to move forward, they could stop it at any time. If the Council agreed with whatever the Public Works Committee recommended.

Ms. Sullivan stated that was correct.

Restated Motion:
Dan Jones moved, seconded by Jackson Fox, to table the proposed ordinance. Roll call vote: Crume-no; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-no; Dominick-no. Motion carried 3/3/1. Motion failed.

Ron Verini moved, seconded by Norm Crume, to receive the findings from the Public Works Committee and to contemplate Councilor Crume's idea. Roll call vote: Crume-yes; Fox-no; Fugate-no; Jones-no; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 3/3/1. Motion failed.

Mr. Hill asked if this ordinance would stop the 52% from coming to the streets?

Mr. Sullivan stated no, it recognized that it had to start on January 1, 2013.

Dan Jones moved, seconded by Jackson Fox, to table this amendment for 30 days allowing the Public Works Committee to discuss the issue and to allow the receipt of the audit from Oster. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Moore Park Lease Renewal

Larry Sullivan, City Attorney, stated the existing lease agreement between the City of Ontario and Riley Hill for the property commonly referred to as Moore Park would expire on May 18, 2013. Mr. Hill was requesting a renewal of the agreement for another five (5) years on the same terms and conditions. The City leased this property from Mr. Hill for $1.00 a year.

Ron Verini moved, seconded by Jackson Fox, that the Council authorize the Mayor to sign the five-year Lease Extension Agreement with Riley Hill for the lease of Moore Park by the City. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(h)

An executive session was called at 8:54 p.m. under provisions of ORS 192.660(1)(h) to discuss pending or potential litigation. The Council reconvened into regular session at 9: 25 p.m.

BACK TO NEW BUSINESS

Declaratory Judgment

Larry Sullivan, City Attorney, stated the City Council received a letter from Max S. Taggart II requesting that the City undertake a proceeding under Charter Section 6.5(1)(f) to declare a seat vacant for violation of the City Charter. There were no cases reported in Oregon in which a member of a city council had been removed for violating the City Charter. There might be some question whether Charter Section 6.5(1)(f) complied with Amended Article II, Section 6, of the Oregon Constitution and what procedure the Council should follow to declare such a vacancy.

The City Attorney recommended that before the City Council initiated the kind of proceeding referred to in Mr. Taggart's letter, it should authorize the City Attorney to file a complaint with the Malheur County Circuit Court to declare: 1) that Charter Section 6.5(1)(f) was constitutional; and 2) that the Council had the authority to conduct a proceeding to remove a councilor for violating the City Charter.

Jackson Fox moved, seconded by Ron Verini, that the Council authorize the City Attorney to file a declaratory judgment action in Circuit Court regarding the constitutionality of 6.5(1)(f) and the procedure required to enforce that Charter provision. Roll call vote: Crume-yes; Fox-yes; Fugate-no; Jones-yes; Tuttle-out; Verini-yes; Dominick-no. Motion carried 4/2/1.

Investigation of Baker Complaint

Mayor Dominick removed himself from the dais as this was action was a conflict of interest.

Jackson Fox moved, seconded by Norm Crume, to table the Baker Complaint pending the results of the Declaratory Judgment from the Circuit Court. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-abstain. Motion carried 5/0/1/1.

PUBLIC HEARING

Ordinance #2673-2013: Amend TVCC Master Plan and Associated Amendments to the City of Ontario Comprehensive Plan re: the 2012 TVCC Facility Master Plan (1st Reading)

It being the date advertised for public hearing on the matter of Ordinance #2673-2012, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Bob Walker, Public Works Director, stated Treasure Valley Community College developed a Master Plan for the College with assistance from the Oregon Department of Land Conservation and Development (DLCD) and the Oregon Department of Transportation (ODOT) through a Community Outreach Grant. The Master Plan was created to guide development. A change in the comprehensive plan or zoning code that affected an entire zone, and therefore multiple parcels, was a legislative action. The proposed amendment of the Comprehensive Plan to include the TVCC Master Plan as a supporting Document was applicable to any property that the Master Plan was applicable to; obviously, only the TVCC Campus. Therefore, this action was a quasi-judicial action that must go through both the Planning Commission and the City Council. The Plan Amendment was a land use decision and was

appealable to the Land Use Board of Appeals (LUBA). Notice had been provided to adjacent property. On Monday, January 14, 2013, the Planning Commission moved to recommend the request to the City Council. This was approved and recommended by the Public Works Committee at their January 14, 2013 meeting.

Bernie Babcock, TVCC Representative, stated the document was more focused with regard to a 15-year build-out of the campus, with a reduction in the scope of buildings on the campus. On page 23, one thing identified was the amount of square footage per full time student. TVCC was at 65, even with all the acreage. One future item was to modify the spaces to reduce the compression. This also included new outdoor recreation areas. The other thing on page 48, was academic zoning. They opted for the current configuration, with the building of an academic corridor, but would maintain the current green spaces. Under this scenario, they would not build onto Park Boulevard. Option B, on pages 49-50-51, would preserve the buildings, and they would remodel and develop the existing buildings. This master plan was less aggressive than previously adopted in 2007. On page 54, it encapsulated their options. The traffic study done for 2001, was good through 2018, and assumed several things – full time capacity higher, and a 3-6% growth in the city, which had not been experienced.

Page 54 was the preferred alternative for their build out. They wanted a tighter, more walkable campus – park and walk - and they clarified their circulation routes through-out the campus, with a second entrance on 9th, with a drive connected to the Weese Building. They would landscape the existing road. The plan covered parking, bikes, landscaping, etc. Since 2005, they had completed $26M worth of developing and improvements. The college zoned district had benefited both the college and the city.

The Mayor opened the hearing for public testimony.

Opponents: None.
Proponents: None.

There being no Proponent and no Opponent testimony, the Mayor declared the hearing closed.

Jackson Fox moved, seconded by Ron Verini, that the City Council adopt Ordinance #2673-2013, based on the information, findings and facts as set forth in Action 2012-11-13CPAMD and the Planning Commission staff report, to **APPROVE** the request to adopt the Treasure Valley Community College 2012 Facility Master Plan as part of the TVCC Master Plan into the City of Ontario Comprehensive Plan. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Jay Henry stated they had selected Mike Long as the permanent Finance Director, and they were seeking consensus from the Council to appoint Mr. Long to the position.
- Councilor Jones asked that two items be added to the next agenda for discussion and update: the waste disposal station, and the Project Dove alley project.

ADJOURN

Ron Verini moved, seconded by Jackson Fox, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

APPROVED:

FOR

Joe Dominick, Mayor

ATTEST:

Tori Barnett

Tori Barnett, MMC, City Recorder