

**ONTARIO CITY COUNCIL MEETING MINUTES
Tuesday, February 17, 2015**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Tuesday, February 17, 2015, in the Council Chambers of City Hall. Council members present were Ron Verini, Norm Crume, Tessa Winebarger, Charlotte Fugate, Thomas Jost, Larry Tuttle, and Betty Carter.

Members of staff present were Tori Barnett, Larry Sullivan, Marcy Siriwardene, Mary Domby, Kari Ott, Mark Alexander, Al Higinbotham, and Betsy Roberts. The meeting was recorded, and copies are available at City Hall.

Thomas Jost led everyone in the Pledge of Allegiance.

AGENDA

Mayor Verini added the Downtown Revitalization presentation by Councilor Charlotte Fugate and Marty Justus; also, there could possibly be a discussion item regarding marijuana issues.

Norm Crume moved, seconded by Charlotte Fugate, to adopt the Agenda as amended. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

PRESENTATION

Charlotte Fugate stated they would have a visit from Main Street Oregon on February 26th, beginning at 6:00 p.m. at the Four Rivers Cultural Center. Sheri Stuart would give a presentation on what Main Street meant and what the process was. The next morning, there would be an Economic breakfast at the Clarion Inn, sponsored by SREDA, and they hoped to have a good turn-out for that, including all the Councilors. There was a \$10 fee for attending the breakfast, but the presentation by Sheri would be free.

Marty Justus stated Councilor Fugate had approached him a few weeks ago, asking him to be her co-chair on this project. They put together a committee, and they'd already done some amazing things. There were currently seven committee members, and they had begun the incorporation process to revitalize Ontario through a 501(c)(3). They had identified a target zone as to where they wanted to work, and it would occur in four phases. Idaho Avenue to SW 1st was Phase One; then they'd cross SW 4th to SW 4th; then they'd encompass all of Oregon Street; and then they'd come back down Oregon over to SW 4th. They were looking forward to meeting with Sheri, as she could give them guidance on how to make Main Street successful. They really wanted this to work, and to bring some good things to the city. Once they had that up and moving, they'd come back before Council on a regular basis to give updates on the status of the project.

Mayor Verini stated he noticed a sign downtown that read "Downtown Revitalization", and wondered if the committee was getting a true buy-in from the folks and the businesses?

Mr. Justus stated the committee wanted to ensure that all the business owners and property owners down there, that one: the committee was communicating with them, so they went door-to-door on each business down there, and each one of the committee members had a block to do. They introduced themselves, explained what they were doing, and they had received very positive feedback. They also did a mail-out based on every address they had for every property owner from one end of Oregon Street to the other, and each of them would receive, or had already received, a letter outlining the project, and providing some contact information for the committee, making sure everyone was included in the project, and that their feedback would be welcomed. Having buy-in was very important, so they were reaching out to everyone.

CONSENT AGENDA

Norm Crume moved, seconded by Betty Carter, to approve Consent Agenda Item A: Minutes of the Regular Meeting of February 2, 2015; Item B: Appointment to Recreation Board: BreAnna McLean; and Item C: Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Nicki Hall, Ontario, [distributed some copies of police report] stated: *I am before you because the Mayor is above the police force for Ontario. I believe the Police Officers in this town need to be overlooked at their duties and their jobs, because a lot of things were being underlooked. The gentleman that I'm speaking about on the paper work there walked through a restraining order yesterday, tried talking to me, I went like this, I turned, I walked away. He did this to my hand. We were dating for a month and a half. I found out that he was one of your guys's major criminals, and this is his criminal background record. And you can tell that there's a lot of assaults on there. Today he has never been arrested by our Ontario Police Department for the violation of restraining order that has been approved by Judge Long. The assault of my hand and baby toe that I have got wrapped up in another wrap in my sock, by assault and battery by telling him that I want him to please gather his things and get out of my home after finding out that he is a sex offender and a criminal that has assaulted 19 women of Oregon and Idaho. And I am now his 20th victim. I'm asking that either the Police Department be looked over or maybe they be on some probation. Maybe somebody needs to step in and look at things a little different and stop just wanting to go after somebody that's smoking pot because Oregon's trying to make that legal, or murderers. I can definitely tell ya Project Dove is getting ready to shut their doors on the police force and the help for the women that are getting raped. They helped me with my restraining order because I've gone through this before. Okay? So I'm asking that the Police Department start being looked over a little bit closer, and that's what I'm asking of you, because this should not happen to a woman, especially one that's already physically handicapped, like myself.*

OLD BUSINESS**Diagonal Parking Request Denial Appeal for Pilgrim Lutheran Church, 208 SW 1st Avenue**

No changes since the previous discussion on this action. Any issues had been addressed.

In summary, Pilgrim Lutheran Church, located at 208 SW 1st Avenue, filed a request for diagonal parking on their street frontage on SW 1st Avenue. They're in the process of remodeling their entrance and would like to use the area between SW 2nd Street and the alley as designated handicapped parking. The church has a parking lot across the alley to the west with approximately thirty parking spaces, but would like to have their handicap parking closer to the main entrance. As part of their remodel process, they would make a handicap accessible ramp in the sidewalk at the proposed angle parking location. Following review by staff, it was determined that the area complied with all requirements to grant angle parking *except* the width of the street. The required minimum width was 52 feet, face of curb to face of curb, but the actual width was only 48 feet. It should be noted that the office group across the street to the north would not generate on street parking as it has on site head in parking. The request was denied on that basis. Following that denial, the church requested a review of that denial.

On May 9, 2014, the City Council passed Ordinance Number 2691-2014, which amended City Code Sections 9-2-2 and 10A-57-57-95, and added Section 9-3-1A regarding diagonal parking. On February 2, 2015, the Council tabled this issue pending a review and recommendation by the Public Works Committee, scheduled to meet February 10, 2015.

Staff recommended that the angle parking request denial be upheld because it does not meet the code requirement of a 52 foot wide street; however, the Public Works Committee recommended approval of the

diagonal parking request with two conditions: 1) that the diagonal parking would be used for handicapped parking only; and 2) that the use was allowed only as long as the property was being used as a church.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council **approve the angle parking request** by the Pilgrim Lutheran Church with the two conditions proposed by the Public Works Committee: 1) that the diagonal parking is used for handicapped parking only; and 2) that the use is allowed only as long as the property is being used as a church. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Ordinance #2698-2015: Amend OMC 3-11-4 re TOT by Deleting the Requirement of 3-11-4(B) to Budget Funds for Street Maintenance Activities for Ten Years – Final Reading

No changes since First Reading.

In summary, at the City Council work session on January 15, 2015, the Council amended the agenda for the January 20, 2015, public meeting to include as a new business item a discussion of an ordinance to change City Code Section 3-11-4(B) concerning the allocation of the City's Transient Occupancy Tax (TOT).

Currently, the city receives taxes from people that stay in the city's motels. Before November, 2013, Section 3-11-4 of the Ontario City Code stated that 52.5% of those taxes had to be paid into the city's street fund for street maintenance. Between 2005 and 2012, city staff and the City Council failed to follow that code section and did not spend any of the TOT funds received for street maintenance. This error was discovered by a previous Finance Director at the end of 2012.

After many months of discussion, the Council passed Ordinance 2685-2013 in November, 2013, requiring the city to correct the misallocations by budgeting an additional \$202,648 annually for ten year for street maintenance activities. That ordinance also reduced the amount that had to be spent for street maintenance activities from 52.5% of the TOT funds received by the city to 26.5%.

Approval of Ordinance 2698-2015 would result in the city no longer having the obligation to budget for street maintenance activities in order to comply with City Code Section 3-11-4(B). The other requirement in Section 3-11-4 that 26.5% of TOT funds be used for street maintenance activities would remain in effect. This deletion of subsection (B) from the code would not violate any laws.

On February 2, 2015, the Council passed Ordinance #2698-2015 on First Reading.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council approve Ordinance No. 2698-2015, AN ORDINANCE AMENDING CITY CODE SECTION 3-11-4 BY DELETING THE REQUIREMENT OF 3-11-4(B) TO BUDGET FUNDS FOR STREET MAINTENANCE ACTIVITIES FOR TEN YEARS, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-no; Carter-yes; Verini-yes. Motion carried 6/1/0.

NEW BUSINESS

Resolution #2015-104: Bank Signatories

Mary Dombay, Finance Department Supervisor, stated the city maintains various bank accounts with Wells Fargo, Columbia Bank, US Bank, and various accounts within the Local Government Investment Pool that listed previous Mayor LeRoy Cammack as a signatory. This proposed action would remove Mr. Cammack, and add new Mayor Ronald Verini. Council also stated they wanted the members of the Audit Committee to be signatories on the city's accounts payable and payroll checking accounts. The signature of at least one member of the Audit Committee would be required on all checks \$5,000.00 and larger. Banks required minutes of a meeting or a resolution to make changes to signatories.

On April 7, 2014, the Council approved removing Jay Henry and Michael Long as a signatories and adding Tori Barnett, Mary Dombay, and LeRoy Cammack as signatories on all bank accounts.

Charlotte Fugate moved, seconded by Norm Crume, to the City Council approve Resolution #2015-104, A RESOLUTION SPECIFYING SIGNATORIES ON ALL CITY BANK ACCOUNTS. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Selection of JUB Engineers, Inc., as Airport Engineering Contractor

No further discussion necessary.

In summary, the purpose of this action was for a request for the City Council to select J-U-B Engineers, Inc., Boise, Idaho, for engineering services at the Ontario Airport, for a period of five years. In concurrence with FAA requirements, staff sent out Statements of Qualifications for professional airport engineering services. Only one response was received, that from J-U-B Engineers, Inc. Following review of the submittal, using the guidelines outlined in the FAA Advisory Circular AC 150/5100-14E, titled "*Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects*", it was determined that J-U-B Engineers, Inc., was a qualified firm. At the January 12, 2015 Airport Committee meeting, it was the recommendation of the Committee to select to J-U-B Engineers, Inc.

Norm Crume moved, seconded by Thomas Jost, that the City Council select J-U-B Engineers, Inc., of Boise, Idaho, as engineers on record for the Ontario Municipal Airport for the 5-Year Engineering Contract. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Change of Operations and Skyline Farms – Wastewater Treatment Disposal

Betsy Roberts, City Engineer, CH2M Hill, stated it was her understanding that the Council gave staff consensus to move forward to allow them to negotiate a contract.

In summary, the city's contract farmer gave notice that he no longer wished to operate under the terms of the existing contract. He cited poor soils, inferior water quality, insufficient water and burdensome contract terms as reasons for his decision. The contract did allow for either party to be released from the contract without penalty.

On May 21, 2012, the Council was notified the prior farmer had defaulted on his contract and Council directed staff to negotiate with several local farmers to develop a new farm lease arrangement. On June 4, 2012, the Council updated the farm lease contract and held negotiations with Sage Farms for associated adjustments in costs and city obligations. On June 14, 2012, the Council approved Resolution #2012-113, a resolution authorizing a reallocation of expenditures within the sewer fund for pivot and fencing repairs and additional operating expenses for Skyline Farm.

Skyline Farms served as the treated wastewater effluent receiving area from May 1 through October 31 when the city was not allowed to discharge wastewater to the Snake River. The farm was purchased in the 1990s and the city entered into a lease agreement with the contract farmer (original property owner) in September of 1998. The city constructed a 60 million gallon water storage reservoir and installed a booster pump station from the reservoir to serve five pivot systems that irrigated 352 acres of crop land. The storage reservoir experienced a significant load of sediment in 2010 and the storage capacity was reduced to 40 million gallons as a result of material entering the reservoir.

The booster pump station and the pivot systems were well into the typical service life for such equipment. Because of both water quality and water quantity issues, Skyline Farm was experiencing a degradation of soil structure and crop production. Operational changes were required to protect this asset and to secure an operational future that allowed the city to continue to meet its wastewater management obligations to the Oregon Department of Environmental Quality.

It was anticipated that staff would seek the following: Authorization to begin negotiations immediately to ensure that we have a new contract farm operator on board before April 15; to move forward with the addition of soil amendments to Skyline Farm to protect the soil structure and ensure sustainability; to begin review of the

technical and institutional constraints to providing a water blend to the farm to improve water quality and quantity and subsequently enhance yield; and to restructure the lease agreement to encourage mutual long term stewardship of the property. Staff expected that a re-negotiated lease arrangement would increase the financial obligation of the city; however, estimates were not available at this time.

Oregon DEQ would not allow discharge to the river outside of the current window. The city has over one million dollars invested in Skyline Farm and at this time it did not appear moving to another area was practical, but staff could look at dilution with river water to address some of the quality issues.

It was consensus of the Council (*at the 2/12/2015 Work Session*) to authorize CH2M HILL to work with the City Attorney on proposed changes to the farming lease contract to better protect the investment in Skyline Farms; further, to authorize CH2M Hill to solicit local farming interest in regards to the Skyline and Malheur Farm lease, and to bring proposals back to the Council for consideration. A vote was not necessary.

DISCUSSION ITEMS

Mayor Verini stated he wanted to hear from City Attorney Larry Sullivan about medical marijuana issues.

Mr. Sullivan stated it was his understanding that the prior discussion regarding this issue were to give him, the Planning Department, the Police Chief, some idea of what the Council would like to see in ordinances that would deal with medical marijuana dispensaries. The Council voiced their like for a business license that was targeted specifically at dispensaries, doing zoning regulations that would restrict dispensaries in particular zones. He had spoken with the City Planner, and determined which zones would be most appropriate. The city had a Neighborhood Commercial zone, which would not be on the list. There was a Heavy Commercial and regular Commercial zones, along with a UGA Commercial zone, that would be included in a sample ordinance, unless the Council wanted something else included. Some cities included zones beyond the Commercial zone, mostly Industrial. Those might not be set up appropriate for the type of traffic that a dispensary might generate, and the uses in the Industrial zone might be different. He had previously sent the Council an email that had been given to him by Chief Alexander, which included a number of requests he'd like to have included, including restrictions on locations of dispensaries. The summary of ordinances he'd provided to Council, there were different restrictions that could be placed on a business through a business license, rather than a zoning ordinance. Some aspects that were fairly common between all the ordinances that were a bit problematic under Oregon law. One dealt with signage regulations. He'd need to speak with those city attorneys for those cities, because under Oregon law, the Oregon courts interpreted Oregon's version of the First Amendment differently than the United States Supreme Court. Oregon's was much stricter about allowing the regulation of "commercial speech". It was difficult in Oregon to have ordinances that regulated the content of commercial speech. His interpretation was that they couldn't say there were some things you couldn't put on a sign, because that would violate the Oregon Constitution. He could draft an ordinance with some restrictions in it, if that was the direction the Council wanted to take this, and those could always be removed.

Mayor Verini asked if they put something like that in there, did that negate the whole ordinance, if challenged.

Mr. Sullivan stated almost all ordinances would include language that stated if any part of the ordinance was found to be unenforceable or in violation of the Constitution, that portion could be deleted without affecting the remainder of the ordinance.

Councilor Fugate asked if they could define the size of the signs.

Mr. Sullivan stated sizes could be defined, but it would better done through a general sign ordinance, instead of targeting one specific business. There was not one currently on the city's books. The minimum requirements for any language in any ordinances, was that any restrictions put in one that affected the use of the dispensary, it had to be reasonable and rational.

Councilor Tuttle asked about UGA Commercial.

Mr. Sullivan stated that if allowed, the County would not be able to enforce the ban within the UGA.

Mayor Verini suggested that the Police Chief and Fire Chief get together and draft an ordinance, or they could alter the County's Joint Management Agreement.

Mr. Sullivan stated other cities adopted the state's moratorium to May 1, 2015, and some cities banned sales on Sunday. The justification for a ban would be to add a new sunset addition to extending it out until August to see what the state legislature would come up with.

There was a consensus to continue the ban until August.

Councilor Fugate mentioned recreational marijuana being legal in July.

Mr. Sullivan stated that the same restrictions could be imposed on both.

Councilor Crume asked if a grow site was considered farming.

Mr. Sullivan said that it was not for profit. He said that he would start working on zoning regulations to restrict the commercial zones and some language about the Urban Growth Area and business licenses that would have language that would impose restrictions as well. With a ban in place, wording could always be taken out at a later date.

Chief Alexander stated that removing the ban would get more exposure to the dispensaries. He recommended continuing with the ban with other restrictions. Regulations should be for both medical and recreational.

Councilor Carter asked that the term "no walk up" be included in the restrictions. They currently had no drive up, but she'd like the no walk up in place as well.

Mr. Sullivan stated the wording would be such that any transaction had to take place inside the building.

Councilor Tuttle stated if they put in a dispensary, would that change the registered growers in any way? A person could still grow for their own use.

Mr. Sullivan stated that was correct.

Councilor Tuttle stated in an article in the Argus a few weeks back, it stated that in Malheur County there were 486 registered card holders for medical marijuana, but in the same timeframe, there were 368 growers. There was a discrepancy of less than 120 between the number of growers and number of users. He wasn't so sure the dispensaries were going to be all wrapped up to be what everyone thought they might be. Currently, he believed 368 growers could supply 486 users.

Mr. Sullivan reminded them that they'd have all the Idaho card holders coming over to use the dispensaries here. They couldn't take the product back to Idaho, but they could purchase it here.

Councilor Tuttle verified that at no time were they going to recommend a complete ban?

Chief Alexander stated he thought they should do a complete ban, but use this language as a backup.

Councilor Crume stated if Malheur County had a ban, what was the city supposed to do since the District Attorney had stated he wasn't going to prosecute any marijuana cases.

Chief Alexander stated the ban wasn't going to address possession, because that would be legal.

CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

- Ms. Barnett stated she had received an email from Council on Aging about placing trash cans at various bus stops, and they'd like to know if they made the purchase, would the city provide service. They wanted to place eight 31-gallon galvanized trash cans. She'd be in contact with Ontario Sanitary Service, as well as CH2M Hill about taking care of that.

Mayor Verini asked her to look into who could do the collection piece.

Councilor Crume asked who took care of the trash cans on Oregon Street.

Ms. Barnett stated those were picked up by the Public Works crew.

- Ms. Barnett stated Kari Ott had distributed a budget calendar, so please review and get back with either her or Kari with any conflicts.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(e)

An executive session was called at 8:28 p.m. under provisions of ORS 192.660(2)(e) to discuss real property. The Council reconvened into regular session at 8:51 p.m.

ADJOURN

Norm Crume moved, seconded by Ronald Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

APPROVED:

ATTEST:



Ronald Verini, Mayor



Tori Barnett, MMC, City Recorder