

COUNCIL MEETING MINUTES

February 21, 2012

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Tuesday, February 21, 2012, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan and Ronald Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Al Higinbotham, Larry Sullivan, Mark Alexander, Justin Allison, Bret Leavitt, Henry Filipponi, Lisa Hansen, Dan Shepard and Anita Zink. The meeting was recorded on tape, and the tapes are available at City Hall.

Guests present: Larry Meyer, Argus Observer; John Breidenbach, Ontario Chamber of Commerce; and Steven Schuback and Dan Rowan, LGPI.

Norm Crume led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Ronald Verini, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA

David Sullivan moved, seconded by Norm Crume, to approve Consent Agenda Item A: Approval of the Regular Minutes of 02/06/2012; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC COMMENTS

John Breidenbach, President/CEO Ontario Chamber of Commerce, stated he was there due to a member of the Chamber whose business was across the river in Fruitland. That business was under the impression her business was left out of bid process from the Recreation Department. He did not know of any City policy that indicated a business had to be within the Ontario city limits to be involved in a bidding process. While he did approve of the shop local first campaign, anyone who knew him also knew he believed the Snake River was just a river, not a wall. He would like to see that any policies that came from the city indicate that chamber members be considered for any bid process. He had had a few conversations since, and believed the bid came in late. Please, as they moved forward, in working for the citizens of Ontario, keep in mind those across the river who worked and shopped here.

Mayor Dominick stated he was unaware of any policy that outlined that bids were for Ontario only.

Mr. Breidenbach stated he wasn't talking about going over to Boise; he was talking about those within the SREDA area.

Councilor Fox asked if the person Mr. Breidenbach was speaking about had actually asked to be in on the bid.

Mr. Breidenbach stated he believed that business had been for several years, and had actually received the winning bid on several occasions. The business was Big Sky Sportswear. The city was obligated to request three bids, and there were three received from within Ontario. Also, according to Mayor Dominick and Kathy Daly,

Ontario Aquatic Director, the bid from Big Sky came in late, something he had not been aware of when initially speaking with Big Sky.

Councilor Sullivan asked if she had been notified, and told it was because the bid had been submitted late?

Mr. Breidenbach stated he didn't know, but he would contact her tomorrow. His main goal was to ensure that those businesses that were just across the river in our vicinity were included. As the city moved forward on policies, perhaps that issue could be addressed.

Justin Allison, Ontario, stated on behalf of the Ontario Volunteer Firefighters, he wanted to give an invitation and update on the 33rd Annual Volunteer Firefighter's Benefit Dinner and Dance. It was scheduled for March 3rd. They would be serving tri-tip and chicken, with a live band and dance after dinner. There would be both a silent and live auction and many items to be raffled. The money raised covered programs such as the annual smoke detector program, testing and installing up to 250 households every year; it paid into the burn-out fund to assist families who had lost things due to fire; and they had purchased the vehicles to carry cascade system for both city and rural, used for refilling their bottles when on a fire, both city and rural. Each vehicle replacement was funded by the benefit dance money. They had also purchased ice machines for both Station One and Station Two, and they had purchased hand-tools and to work on the equipment. They thanked the generosity of their fellow citizens for the tremendous support already in the community. The Department wanted to provide a free ticket for two to the event. They hoped to see everyone there.

Mayor Dominick thanked the department for what they did for the community.

OLD BUSINESS

Ordinance #2666-2012: Consenting to the Assignment of the Malheur Home Telephone Company Franchise to CenturyLink QC (Second and Final Reading by Title Only)

Larry Sullivan, City Attorney, stated there had been no changes since first reading.

Ron Verini moved, seconded by David Sullivan, that the Mayor and City Council approve Ordinance No. 2666-2012, AN ORDINANCE CONSENTING TO THE ASSIGNMENT OF THE MALHEUR HOME TELEPHONE COMPANY FRANCHISE TO CENTURYLINK QC on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

NEW BUSINESS

Request for Special Permission to Connect to Sanitary Sewer

Dan Shepard, Engineering Technician III, stated Dale Ayers and his wife Marguerite, who owned property located at 1436 Horning Way, were requesting special permission from the City Council to connect to the sanitary sewer main near their property. Their septic system was failing and Malheur County Environmental would not issue a permit to repair the system because they were located within 300 feet of a municipal sewer main.

The property on Horning Way was located within 300 feet of the City of Ontario's sanitary sewer main. Oregon Department of Environmental Quality regulations did not allow Malheur County Environmental to issue a permit to fix or construct a septic system if the lot was within 300 feet of a public sewer system. Ontario Municipal Code, Title 8, Chapter 7, Section 8-7-4(M) stated "*No Sewer Connection Outside City. There shall be no properties outside the City connected to the City sewer lines, except by special permission of the Council.*" Previous requests to connect from properties outside the city limits had been required by City Council to annex if their property was contiguous to city limits. The property was not contiguous to city limits and therefore not able to annex. This property was under an agreement to annex but was not annexed at this time.

The Council had asked that the property owners sign a consent to annex. He had spoken with the Ayers' about that request, and they were amenable to signing the document.

Mr. Sullivan stated the consent form was recordable with the county, so it would remain with the property.

Councilor Jones asked if they were going to move forward with the rest of the annexation, including the two streets next to it?

Mayor Dominick stated he believed it was in the hands of the engineering company.

Councilor Jones disagreed. It was up to city to move forward.

Mr. Sullivan stated that was correct; a city could officially begin the annexation process, directing the Public Works Director to obtain signatures.

Mayor Dominick stated he thought they were looking for more information.

Councilor Sullivan stated he thought they were waiting for information from Dan Cummings.

Councilor Jones asked if the city was in contact with Dan Cummings? He wanted to move forward to wrap this up. By next work session, have comments or Dan Cummings in attendance, as this needed to move forward. Can that be a time line?

Mayor Dominick stated the upcoming agenda was already pretty full.

Councilor Fox asked what the history of the area was. Why didn't that whole area annex?

Mr. Shepard stated Mr. Cummings was actually the project manager, and he helped get the financing. But what kept it from proceeding was that there were several changes of property. Mr. Cummings had wanted to bring this forward as one group, but he was having some difficulty with the people.

Councilor Fox verified they hadn't signed a Developmental Agreement before receiving water or sewer?

Mr. Shepard indicated he did not know.

Mayor Dominick stated those were good questions for staff at the study session. Please get your questions to either him or Henry, so answers would be available. The main issue before them was getting the Ayers' hooked up to sewer and a signature for the annexation.

Ron Verini moved, seconded by Charlotte Fugate, that the City Council approve the application to request connection to the City of Ontario sanitary sewer main for the property at 1436 Horning Way with the condition that the applicants sign a consent to annex. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Approval of Hollingsworth Well Easement Settlement

Larry Sullivan, City Attorney, stated the purpose of this agenda item was to seek Council approval of the Hollingsworth well easement settlement for payment of annual easement fees from 1973 to 2011. In 1973, Hollingsworths', Inc., an Oregon corporation, recorded an easement granting to the City the right to use a well on Hollingsworths' real property. Since that time, that well had been used continuously by the City to water the golf course. Apparently as a result of a recent title search done by Hollingsworths', Inc., it was discovered that the easement required the City to pay an annual fee of \$250 for the granting of the easement. In November, 2011, the attorney for Hollingsworths', Inc., sent a demand letter to the City for the payment of \$26,867.26, for the unpaid annual well payments plus interest. As a result of negotiations between the parties, the outstanding balance was

reduced to \$10,281.56. This represented six years of annual payments plus interest in the amount of \$2,031.56, plus the remaining years of annual fees from 1973 to 2005 at no interest, in the amount of \$8,250. The City had already paid the sum of \$2,031.56, leaving a settlement balance of \$8,250. The City Attorney prepared a settlement and release agreement, and, as stated in the release, the City would have to pay the annual fee of \$250 beginning on March 20, 2012.

David Sullivan moved, seconded by Jackson Fox, that the Mayor and City Council authorize the payment of \$8,250 to settle the well easement claim made by Hollingsworths', Inc., of Ontario, an Oregon corporation. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Mayor Dominick stated with regard to the Council Goals, he wanted to continue moving forward, by having step one and two filled out and ready for the March 1st study session.
- Mark Alexander gave an update on the new program regarding panhandling issues.
- Lisa Hansen stated she had been talking with the auditors and she would be finalizing the MDA. She believed they would be ready to do their presentation at the study session of March 5th. Had one hold-up with ODOT, due to a change in personnel, but everything moving forward.
- Tori Barnett reminded them that the study session on March 1st would begin at 1:30, as opposed to the regular time of 12:00. Also, there were still positions open on both the Planning Commission and the Recreation Board.
- Ron Verini stated since he had been a resident of Ontario, the city had never looked this good. We were financially solvent, the streets were cleaner, and there was a tremendous contingency in the bank. With the comments and calls he had received, there was an enormous amount of support for Henry Lawrence, and there was a lot of feeling that he was probably one of the best in the industry. He should be complimented for the job he's done for Ontario, as he was doing a hell of a job!
- Dan Jones asked about the transfer station. Could they please have an update on that at next work session? He was curious as to why it wasn't open yet.

Joe Dominick stated there had been a change in the access layout and the gentleman who had done the plans had gone out of business. They were looking to get those files from him. That would be up for discussion at the Thursday study session.

- Dan Jones asked when they would receive the details on last year's Golf Course numbers.

Henry Lawrence stated it would be ready by the next study session

- Joe Dominick stated he had been waffling with this all day, and he wanted to talk to them – his six Councilors. One part of being a team leader or as mayor was to let the council know when it was time for change. It was time for change, now, not tomorrow, now. They were seven ambassadors for this entire city. Not sections of the city, the entire city. They were not elected from a district or precinct. They were leaders for the entire community. The community expected them to lead and that's why they were elected. When community members saw Councilors disrespect city staff, it trickled throughout the entire community. That's why the change had to be today. Some attitudes and disrespect from many of them had gone too far. He truly could understand and respect if a Councilor could not respect any employee of the city; he had been in the same position. That was a personal option to do that; however, they were an elected official at all times, 24-hours a day. Therefore, he expected his Council to be professional, cordial,

and to use proper decorum at all meetings. The gavel would no longer be quiet. He would no longer tolerate attacks on department heads that were unwarranted. The questions needed to be strictly towards the issue, within the facts presented, and not personal. He made a very serious error a few weeks ago, and it would not happen again. He encouraged every member of the Council to remember they were elected officials 24-hours a day, not just when they were in that room. Any and all statements made, whether in that room or in the community, were that of an elected Councilor, or Mayor. When he stopped at his favorite store to buy beer, and he wasn't going to mention any names as he said last week they shouldn't name specific business, he was not in there as Joe, the print shop owner, but as the Mayor, and he needed to know that and present himself accordingly. No matter how much they wanted to be private citizens, they gave that up when they were elected. They were elected because the taxpayers demanded efficient use of their tax dollars, and productive workers who didn't waste time or money. Because of City Manager Henry Lawrence, they had the best budget for the city in 10 years. They had the most productive staff in history. Because of the disrespect shown by this Council, that productivity was in jeopardy. So he was asking that he, and the Council, to remember to act professional, cordial, and to use proper decorum at all meetings. When in the community, one last time, remember, they were Councilors and he was the Mayor, 24-hours a day. Show the community and the employees the respect they deserved. There was no response needed, because they all knew what they needed to do to move this city forward as elected officials. Thank you.

- Norm Crume stated he wanted to add to what the Mayor had said, and to be a little more specific, and the first thing he wanted to say was Henry, he was sorry. He was sorry that he didn't act on the feelers that he put out, letting them know what was going on. He felt at the time it was just a Councilor, or Councilors, way of doing business. He didn't think much more of that. Obviously, he was naïve to think that. To go along with that, he wanted to state that he believed a particular Councilor had an agenda. He didn't know that as fact, it was just his own personal feeling, that the said Councilor wants the City Manager to leave. It really bothered him to hear, out in the community, the half-truths or three-quarter truths, that he had been hearing from people that he respected and admired. And to know that the information given to those people was given by a Councilor that knew the same information that he knew. He didn't understand why that entire information wasn't given, and it had been hard to get that information straightened out once their minds had been poisoned by thinking that Henry had screwed up on everything that this city had done over the last three years. Case in point: Councilor Fugate brought up two weeks ago a case about a road that was chip-sealed. The information around town was that it cost \$70K to repair it. Councilor Fugate went to the Public Works Director and found out the hard cost was \$10K and change. He didn't know what the deal was, but he heard that they hadn't added labor into that. So he went and checked himself. He went to John Bishop and asked what kind of time was taken, and what the process was, and it boiled down to this job was done at the end of a few other days, and the crews had been out doing other streets as assigned. They had come back after lunch, before doing clean-up, and before the end of the day, over three or four different days. Mr. Bishop guesstimated 40 man-hours to get the job done. At approximately \$30 per man hours spent, it was around \$1,200. So if the hard costs that Councilor Fugate got was \$10K and change, and adding in another \$1,200, that was a far cry from \$70K, Jack. He didn't understand his goal other than to have the City Manager leave.

Another one was that Councilor Fox believed there was a nepotism problem here within the city. For somebody that was on the outside, when they saw numerous people of a certain family, or families, working in one place, one could say nepotism could happen. He had been there three years as a Councilor, and he hadn't heard of any instance yet. He didn't understand. To him, every time Councilor Fox turned around, he had to look for the negative in the issues. He saw that they had some very fine employees, and he had never heard of any problems with that situation.

Another one that bothered him greatly, was that everyone on the Council had been given a draft copy of the audit. It said in big, bold letters across the front *DRAFT*, and that very day, it was spread all over town how bad a job Henry had done on the budget. In fact, he had heard that it had been given to the newspaper to print, and thank God they checked to see what the background was, and didn't. Correct him

if he was wrong, Lisa, but last time he heard, they were somewhere around \$10 off for the two-year budget.

Ms. Hansen stated it was just one year.

Councilor Crume stated it was a far cry from what the draft said. He could only think that with that type of action, Jack had only one thing in mind, and that was to ruin a man's life and his reputation. He was just not going to take it anymore. He sat there and respected his opinions and views, and he still did, but his actions, the way that he had held his position, had crossed the line, and it was just time for him to stand up and say so.

Another thing was the Fireman's Ball...on the advice of the Mayor, he was going to stop. He thought he had said enough, and he thought they got the idea. He just hoped that it could stop. All of their jobs were to be leaders throughout the community, and if they trying to tear down a person, or tear down departments, he didn't see that happening. He wanted to say to Henry, thank you, from the bottom of his heart, and he stood behind him all the way.

Mayor Dominick thanked Councilor Crume for his comments, and reiterated that was why he would be enforcing Council rules and Council decorum. He hoped the Council would respect that.

EXECUTIVE SESSION

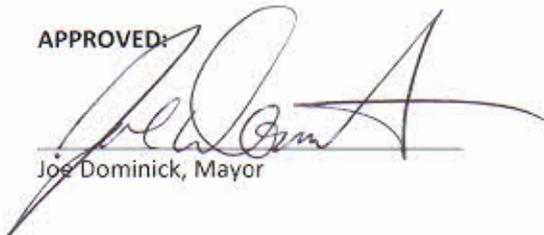
Executive Session: ORS 192.660(2)(d)

An executive session was called at 7:50 p.m. under provisions of ORS 192.660(1)(d) to discuss labor negotiations. The Council convened into regular session at 9:05 p.m.

ADJOURN

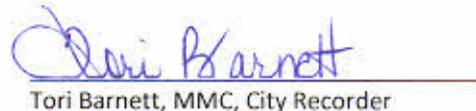
David Sullivan moved, seconded by Ronald Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

APPROVED:



Joe Dominick, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder