

**ONTARIO CITY COUNCIL MEETING MINUTES
March 21, 2016**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, March 21, 2016, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Tessa Winebarger, Betty Carter, Marty Justus, Larry Tuttle, and Charlotte Fugate.

Members of staff present were Tori Barnett, Mallory Mallea, Anita Zink, Al Higinbotham, Jim Wick, Kari Ott, Larry Sullivan, Dan Cummings, Debbie Jeffries, Sheri Smith, Pete Morgan, Marcy Siriwardene, Steve Mallea, Pete Morgan, Cliff Leeper, and Betsy Roberts.

The meeting was recorded and copies are available at City Hall.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

Tori Barnett, Interim City Manager, stated there were a few changes to the Agenda following the Thursday work session. Item "B", Appointment of Dan Beaubien to the Airport Committee was under the Consent Agenda; and the Airport Committee Minutes of March 14, 2016, were now included under Discussion items.

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

CONSENT AGENDA

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

PUBLIC COMMENT

John Gutcher, Fruitland, Idaho, a social gaming entrepreneur, stated he thought that the social gaming fees proposed by Council were too high, and asked that the fees be more consistent with those being charged by other Oregon cities.

Mayor Verini informed Mr. Gutcher that the issue could be addressed later in the meeting, as the proposed resolution would be up for Council consideration and discussion.

NEW BUSINESS

Fire Chief Employment Extension

Mayor, Ron Verini presented.

At the March 15, 2016, SWOT meeting, a discussion was held regarding the employment of the current Fire Chief. This discussion was held again at the March 17, 2016, work session, as an executive session held under ORS 192.660(2)(a), in which a discussion was held on the potential to extend the employment of the Fire Chief. As a consensus was reached by the Council present, it was now before Council for formal approval for the record.

Councilor Tuttle asked what the City would be saving by extending the Chief's employment.

Kari Ott, Finance, stated the City would realize a savings of approximately \$6,586.

Norm Crume moved, seconded by Tessa Winebarger, **to extend the employment of the Fire Chief until December 31, 2016**. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

Resolution #2016-108: Set Social Gaming Fees

Larry Sullivan, City Attorney, presented.

On March 7, 2016, the Ontario City Council enacted Ordinance No. 2715-2016, effective April 6, 2016, amending its social gaming regulations and allowing social gaming fees, including license and application fees, to be set by resolution of the Council. Resolution No. 2016-108 would set those fees.

Nonprofit 501(c)(3) corporations were not required to pay an application fee prior to the enactment of the ordinance. The proposed application and license fees for nonprofits and commercial businesses were listed in the table in the resolution. The resolution proposed making all application fees nonrefundable if the City denied a social gaming license for any reason. The resolution also proposed that nonprofits did not have to submit or pay more than one application fee in any single year, even if they obtained multiple monthly, weekly or daily licenses in a given year.

At the Council work session on March 17, 2016, the Council consensus was to substantially increase the commercial gaming application fees and annual fees from those proposed by staff; to include an additional table fee for commercial gaming special events; and to allocate the commercial gaming fees between administration and code enforcement.

Councilor Winebarger asked Mr. Gutcher for his opinion.

Mr. Gutcher stated that the fee was almost a non-starter for anyone wanting to open a business. A business wouldn't get revenue from anyone that wasn't there.

Councilor Justus stated that Ontario needed to look for other revenue streams. The City had no revenue to pay for maintaining streets and code enforcement, and the city budget had to balance.

Mr. Gutcher stated as a startup business, there was a limited amount of capital to begin with.

Councilor Justus asked if splitting the fees into two payments a year would be beneficial.

Mr. Gutcher stated it would, most certainly.

Councilor Crume stated the proposed fees were a compromise. No one Councilor came up with the fees. He was sensitive to putting fees on any business; however, the unique thing was the special licensing required to allow the operation of this type of business within the city. He believed some sort of fee should cover the expenses that would be incurred with ensuring the business was legitimate and running correctly. This would be for the time expended for the Code Enforcement Officer or a Police Officer to do periodic spot checks. The fee should cover those actions.

Councilor Carter stated the Council took the numbers given by the Council and averaged it out.

Councilor Tuttle asked how much the company would be paying in the first year with the fee structure.

Councilor Winebarger stated that amount would also be based by the amount of tables they would have.

Councilor Tuttle asked for the number of tables.

Mr. Gutcher stated they would start with just four.

Councilor Tuttle verified the total would include the four tables at \$75 each.

Councilor Justus stated it would actually be \$150 per table.

Councilor Tuttle said so it would be \$600, for a total of how much?

Councilor Winebarger stated at four tables, it would be \$1,150.

Mayor Verini stated he'd like to ask the Council if it would be of value to break the license fee into two payments, paying half in the beginning, and six months later paying the remaining fee.

Mr. Sullivan stated splitting the application fee was odd, but it could be structured that way. He could amend the resolution, and change the wording.

Mayor Verini asked what difference it would make if they called it an application fee, or any other fee. Even paying it in two payments would not change it from being an application fee.

Mr. Sullivan stated it was going to be half of that then for renewal, unless they were talking about doing the split payment option for only the initial applications. Or were they thinking the renewal fee could also be made in two payments?

Mayor Verini stated no, just for the initial application and the fees per table.

Mr. Sullivan stated if the Council wanted, he could bring that back to them, as he didn't know if it was best practice to amend the proposed resolution right then.

Councilor Justus stated if the total fees were \$1,100, and Council accepted half, or \$600, shouldn't they get a Promissory Note for the remaining six months?

Mr. Sullivan stated they wouldn't need a Promissory Note if it was already part of the fee schedule. If the second payment wasn't made, the city would rescind the license. If the split payment was the direction the Council wanted to go, he could draft it up, but he believed the current wording need to be amended. They had discussed the application fee as being non-refundable, but if they allowed the payment to be made in two payments, he was not sure if that would work.

Councilor Crume stated what if the initial application fee was paid for up front and then the remainder of the license fee would be due after six months. Would that work?

Mr. Sullivan stated one option was to require that the license fee not be due until 30 days following application. However, that would reduce the level of revenue. That would have to be tracked, but there probably wouldn't be that many applications for this type of business. He could certainly draft a resolution for that.

Councilor Crume asked how that would reduce revenue, if the funding was all due within six months? It was just providing them a grace period to pay the balance. The revenue was still there, just not all at once.

Mr. Sullivan agreed, and that would be easier. He believed there should be some language in the resolution about the license fee being semi-annual as opposed to annual. The resolution could be amended to read that the \$150 per table fee would be a semi-annual payment.

Councilor Winebarger stated splitting the payment into two payments, they'd still only be paying the fee once a year.

Mr. Sullivan stated they would be paying the per table fee for a six month period; then they would have another one due in six months

Councilor Winebarger suggested they make the split to \$75 each payment.

Mr. Sullivan stated it would still be \$150 per table, but if there were four tables, instead of \$600 due at the beginning of the year, it would be \$300, and the remaining \$300 due six months after that.

Councilor Justus stated they'd be collecting \$800 instead of \$300 then.

Mr. Sullivan stated that was correct.

Councilor Justus asked Mr. Gutcher if that would help.

Mr. Gutcher stated he'd have to look at the numbers, but yes, anything that would offset some of those costs at the beginning was going to help.

Mayor Verini stated he this was a special situation for the city's first business that fell under this. Why couldn't they pass the resolution as it currently read, then have Mr. Gutcher come back before Council to ask for special dispensation. Why not do that action on an individual basis.

Mr. Sullivan stated the Council was not going to want to have this same discussion every time someone applied, because it would seem they'd want to treat everyone the same.

Councilor Winebarger stated if there was a business that was already established somewhere else, already bringing in revenue, and they wanted to open again in Ontario, they would be more equipped to pay the full fee at once, over someone that was just starting up. Was there something the Council could develop for anyone who wanted or needed to do the payment plan?

Mr. Sullivan suggested amending the current language under the license fee section and just add "to be paid semi-annually" under the license fee section.

Councilor Fugate stated they were not cutting it half, then, as it would be \$800, then \$300.

Councilor Crume stated it's just splitting up the payment, giving a six month grace period.

Councilor Fugate stated no, because what they had originally talked about was cutting it 50/50, and they were now saying \$800, then \$300.

Councilor Carter asked what the total was.

Councilor Crume stated it was at \$1150.

Councilor Carter stated that four tables was \$600, at \$150 a table, and then the license fee.

Councilor Justus stated the city could collect the \$550 fee now, and then in six months collect the \$600 for the tables. They were just splitting the fees in half. Start-up would be the \$550, but in six months, he'd owe the remaining amount. He'd have two payments a year. He would have the renewal at \$375, plus the per table fee. So collect \$550 now, and \$600 in six months. That's virtually in half. That gave the city a reason to physically go visit the establishment.

Mr. Sullivan stated if the Council wanted, they could do it that way. But, then they wouldn't need a resolution. Council could direct staff that if someone filed an application, they would not be required to pay the full license fee for six months afterwards. Was that the direction of Council?

Councilor Justus stated it was for him.

Councilor Crume stated that it was fair.

Councilor Carter verified they would be starting with four tables.

Mr. Gutcher stated that was correct.

Councilor Carter stated they could at any time increase the number of tables, correct?

Mr. Gutcher stated they certainly hoped they would. That would just depend on business.

Mayor Verini stated the Council wanted them to be successful.

Mr. Sullivan stated he would suggest making two motions: First, adopt the resolution as written; then second, a motion directing staff to not to collect the license fee.

Betty Carter moved, seconded by Charlotte Fugate, that the City Council approve **Resolution #2016-108, A Resolution Establishing Social Gaming Fees**. Roll call vote: Crume-yes; Winebarger-no; Carter-yes; Justus-yes; Tuttle-no; Fugate-yes; Verini-yes. Motion carried 5/2/0.

Marty Justus moved, seconded by Betty Carter, that the City Council approve a six month delay in collection of the license fee. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-no; Fugate-yes; Verini-yes. Motion carried 6/1/0.

Resolution #2016-110: Transfer Funds for Public Safety Necessities

Kari Ott, Finance, presented.

Staff was presenting a proposal to the Council, with the request that some unanticipated, yet necessary, needs for various items in Public Safety and City Hall in general, be authorized for purchase with funding being utilized from the Public Safety Fund.

At the March 17, 2016, work session, Council reviewed the requests from Police, Fire, and General, and determined, by consensus, which items they would fund now from the Public Safety Fund, and the other items they'd like to see placed in the upcoming 2016-17 budget. Based on that direction, staff prepared the proposed resolution for action.

Ordinance #2685-2013 amended Ontario municipal Code 3-11-4, restructuring the percentages distribution to include 26.25% of monies received through the TOT to be allocated to a Public Safety Reserve Fund. Resolution #2015-118, adopted May 18, 2015, established guidelines for use of those funds.

The City Manager asked both Fire Chief Al Higinbotham and Police Chief Steve Mallea to compile a list of items they believed to be necessary purchases, needed now as opposed to later, that were either in the current fiscal year budget, but were eliminated, or that were received subsequent to the budget being adopted. The understanding of this list was that it be truly for needed items, which could, or would, potentially result in injury to staff or citizen, or potential liability for the city.

Council could elect to not authorize funding any of the requests, instructing staff to put the items in the upcoming 2016-17 budget. However, as the items were necessary for safety of staff and/or citizens, and to lower the possibility of liability, staff did not recommend denial of the funds.

Currently, there was \$239,402.29 in the Public Safety Fund. The Fund received an estimated \$14,500 each month from the TOT. Total for all requests equaled approximately \$241,538.36, which fell short of the available funds. However, if the city did receive the \$14,500 for the next three to four months of this fiscal year, that equated to between \$43,500 and \$58,000 at the end of the fiscal year, if no other funds were expended.

Charlotte Fugate moved, seconded by Tessa Winebarger, to adopt **Resolution #2016-110, A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS FOR PUBLIC SAFETY NECESSITIES, WHICH INCLUDES FIRE DEPARTMENT ITEMS #1, 4, AND 5; POLICE DEPARTMENT ITEM #1, AND MODIFIED #2, AND GENERAL ITEM #3, FOR A TOTAL EXPENDITURE OF \$40,807 FROM THE PUBLIC SAFETY FUND.** Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

Declare as Surplus: Two Patrol Vehicles

Steve Mallea, Acting Police Chief, presented.

The Police Department would like to declare two vehicles as surplus property, which were becoming too expensive to repair and maintain. The first was a 2008 Dodge Charger with 117,952 miles; the second, a 2008 Dodge Charger with 137,461 miles.

Staff was asking that Council declare the vehicles surplus so they could be disposed of as staff could not dispose of or negotiate sale on city property until the Council had declared the property surplus. Any revenue received would be posted under Miscellaneous Revenue in the Police Department.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council **approve the vehicles as surplus property.** Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC HEARING

Resolution #2016-109: Closure of Roads at Ontario Airport

It being the date advertised for the Public Hearing on Resolution #2016-109, the Mayor declared the Hearing open. There was no declaration of conflict of interest, no ex-parte contact noted, and no challenge to the Council on their jurisdiction in hearing the matter.

Dan Cumming, Community Development Director, presented.

On December 21, 2015, the Council briefly discussed this issue of closing some entrance/exit roads at the Airport, and directed staff to bring back a report with costs associated with the temporary closure of the roads. On March 7, 2016, the Council approved the cost expenditures of the closures and instructed staff to provide for a public hearing to accept comments on the resolution for the road closures.

Airport Committee and staff were informed that unauthorized vehicles were accessing the city airport property and driving across restricted areas. This could result in vehicle contact and/or accidents with aircraft. At the request of the Airport Committee and the recommendation of the Federal Aviation Administration (FAA) based upon safety issues, it was determined that the access points onto the airport property needed to be gated and/or blocked to restrict unauthorized access onto the property. The closures and gated areas were presented to the Airport Committee, who unanimously gave support for staff to take the action before the City Council for action.

Some of the roads had been used by the general public for many years, giving access to different areas of airport property, including private hangers, as well as the Ontario Municipal Golf Course, while it was open to the general public. Due to the history of public use, it was determined that it was in the best interest of the community that the City hold a public hearing, informing the public of the potential closures, so that any party who wished to voice an objection, or to speak in support of the action, would be given an opportunity to be heard, and to explain the need for the continued use of the road, or to state why it should be closed. The Council would have the ultimate authority to consider said testimony, and determine if a particular access point should remain open or be closed.

The City was currently in the process of obtaining a grant through the Federal Aviation Administration (FAA) for finishing the parameter fencing around the airport property, which would include permanent gates at some of the above stated access point. However, as those funds might not be available until the FY 2018 budget cycle, it was the recommendation of the Airport Committee to close these roads off now utilizing temporary structures. The proposed closures would restrict access to the general public, but allow authorized personnel and vehicles the ability to enter and exit.

The access points under discussion were designated as (1) Hotel Road [BLM access]; (2) Airport Way; (3) SW 31st Street; (4) Static Display property lines West of SW 6th Avenue; and (5) Golf Course Road. Below, the closure requests were more clearly defined.

1. *Hotel Road (BLM access) is considered a private airport road on city property. It is for access to hangers and other airport property and structures only. It is recommended that it be closed off, with restricted access only at the entrance off of SW 4th Avenue at the north end of the city airport property. This is one of the locations designated for a permanent gate. The temporary closure will be via a cable and lock.*
2. *Airport Way is considered a future public access on city airport property. It has been used to access airport hangers and other city buildings. It will be closed and restricted to authorized personnel and equipment access only, utilizing the access point on SW 30th Street (Highway 201). This is a proposed location for a permanent gate, and will be temporarily closed with a cable and lock.*
3. *SW 31st Street is considered a private street on private property, but does provide access points onto city property. The proposal is to close it at the south end on the city property line by concrete barricades. This access point is on the list for permanent closure, so fencing, when installed, will prohibit any and all access via this route.*
4. *SW 6th Avenue is considered a private street on private property, but it does provide an access point onto city property. Access from SW 6th Avenue is proposed to be temporarily closed by posting No Trespassing signs bordering the property line between the city and the private property section, with permanent fencing eventually installed.*
5. *Golf Course Road is shown as a dedicated road, and for many years has been used by the general public as access to the City's Municipal Golf Course and storage units. There is currently a cable and lock barrier across the road, just north of the existing trailer park property. The proposal is to move the cable/lock barrier to the north end of Golf Course Road, and to construct a wire fence along the east ROW, connecting to the fence line along the north line of the mobile home park.*

The Council could leave the existing roads open as is, wait until funding became available under the proposed FAA grant, and then begin the process of closing the access points; OR the Council could opt to do no barriers at this time, but direct staff to procure costs to purchase and install "Airport Property - No Unauthorized Access Allowed" signs, or something similar; OR, based on public testimony, Council could make changes or additions to the proposal by removing some or all of the proposed closures.

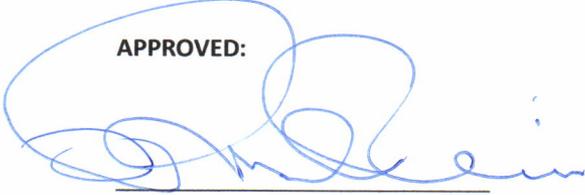
Total costs associated with this action were estimated of around \$5,360; and those costs were approved at the Council Meeting of March 7, 2016.

Norm Crume moved, seconded by Betty Carter, that the City Council approve **Resolution 2016-109 A RESOLUTION FOR THE CLOSURE OF PUBLIC ACCESS TO PRIVATE AND PUBLIC ACCESS ROADS ONTO THE CITY AIRPORT PROPERTY AND PROVIDE MEANS OF ALLOWING PERMITTED RESTRICTED ACCESS TO AUTHORIZED PERSONNEL AND VEHICLES**. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

ADJOURN

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

APPROVED:



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder