

ONTARIO CITY COUNCIL MEETING MINUTES
April 18, 2016

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, April 18, 2016, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Betty Carter, Marty Justus, Larry Tuttle, and Charlotte Fugate. Tessa Winebarger was excused.

Members of staff present were Tori Barnett, Mallory Mallea, Kari Ott, Larry Sullivan, Dan Cummings, Anita Zink, Steve Mallea, Sheri Smith, Dallas Brockett, Billy Carter, Pete Morgan, Cliff Leeper, and Betsy Roberts.

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

Marty Justus led everyone in the Pledge of Allegiance.

AGENDA

Mayor Verini stated two items had been added to the Agenda: Item 7A) Scott, Inc. V. City of Ontario Settlement Agreement; 7B) Code Enforcement Software; and item 7C) Employment Agreement with Adam Brown as City Manager; and second Executive Session under Section 10 - ORS 192.660(2)(h).

Charlotte Fugate moved, seconded by Norm Crume, to adopt the Agenda as amended. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1.

CONSENT AGENDA

Marty Justus moved, seconded by Norm Crume, to adopt Consent Agenda items A) Minutes of Regular Meeting of April 4, 2016; B) Encroachment Permit Request – Grease Interceptor for Long’s Pub; C) Utility Billing Write-Offs; and D) Approval of the Bills. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1.

NEW BUSINESS

Scott, Inc. vs City of Ontario Settlement Agreement

Larry Sullivan, City Attorney, presented.

In 2015, Scott, Inc. filed a civil complaint against the City in Malheur County Circuit Court seeking a declaratory judgment authorizing Scott, Inc. to open a medical marijuana dispensary at 432 North Oregon Street. The Council authorized the City Attorney to represent the city in the litigation and to oppose the opening of a medical marijuana dispensary, because of the ban imposed on marijuana-related businesses, including medical marijuana dispensaries, in Ordinance No. 2704-2015. The case was scheduled for trial on May 13, 2016.

Scott, Inc.’s attorneys recently contacted the City Attorney to negotiate a settlement. In addition to the medical marijuana dispensary, which was the subject of the litigation, the attorneys also wanted to address the marijuana grow site which was currently located on the property, as well as an adjacent secondhand store which was on the same block. The proposed settlement agreement addressed all three issues. No money would change hands in the settlement.

- ✓ Scott, Inc. agrees to dismiss the current lawsuit with prejudice, which means that it cannot be filed again;
- ✓ Scott, Inc., will remove the “Marijuana” sign outside the premises;

- ✓ The city agrees it would not take action against the current medical marijuana grow site on the premises as long as it complies with state law and city ordinances. It currently was in compliance with the I-2 designation of the property because agricultural uses were allowed in an I-2 zone, and Oregon law classifies medical marijuana grow sites as agricultural uses.
- ✓ The city agrees that it will treat the secondhand store as a nonconforming use, which would allow the same use to continue, even though retail stores were no longer allowed in the I-2 zone in which the store was located.

Allowing the secondhand store to be treated as a nonconforming use was reasonable to the City Attorney and City Planning Director, because of the long history of similar stores at that location. As to the nonconforming use designation for the secondhand store, the Ontario City Code placed significant limitations on property designated as a nonconforming use. The city would be able to prevent another secondhand store from opening at the same location if it closed for six months or more; it would be able to prevent it from expanding beyond its current operation; and it would be able prevent it from changing to a different use (something other than a secondhand store), unless the use was one permitted in an I-2 zone.

Charlotte Fugate moved, seconded by Betty Carter, that the City Council approve the Scott, Inc. Settlement Agreement and authorize the Mayor to sign it. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1.

CHANGE TO AGENDA

Tori Barnett, Interim City Manager, requested to add the CH2M Hill issue to the Agenda, moving item 7B to 7C.

Betty Carter moved, seconded Norm Crume, to amend the Agenda. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1.

NEW BUSINESS

Water treatment Plant Construction Project

Betsy Roberts, City Engineer, CH2MHill, presented.

The current cost estimate for construction for the entire project at the Water Treatment Plant was \$1.57M. This cost included the additional work consisting of a new caustic tank, three (3) new sodium hypo-chlorite tanks, and additional eye wash stations, which were required per code.

Removing just the additional work, the cost of construction and the design element, was approximately \$165K, or about 10% of the overall construction project cost.

Councilor Fugate asked about carry-over from this current fiscal year.

Ms. Roberts stated the budget for this fiscal year was \$1.4M. Staff will have spent about \$200K for final design fees and possibly a bit more for the very beginning of construction. If they brought \$1.2M forward, they'd need around \$300-\$400K *additional* budgeted for the coming year. She anticipated getting more set numbers soon.

Mayor Verini asked what CH2 needed from the Council.

Ms. Roberts needed consent from the Council to move on the bid with those new items included.

Councilor Fugate asked when CH2 would begin the project.

Ms. Roberts replied staff hoped to get started during June. They had begun purchasing parts and equipment, and were also prepping.

Councilor Tuttle asked if the \$300K was in the CIP list presented to the Public Works Committee.

Ms. Roberts stated she was unsure, but believed it was.

Council consensus to move forward with the bid, including the additional items.

Ordinance Software Program

Sheri Smith, Police Administration, and Dallas Brockett, Ordinance Officer, presented.

Code Enforcement staff started researching software that could help streamline daily work process and possibly provide a more efficient method of tracking case load follow-up. The current records management software used in the police department does not provide a specific module for code enforcement, therefore, much of the case load is tracked by using a series of additional programs, such as the GroupWise calendar and Microsoft Excel and Word.

The Ontario Police Department currently uses records management software that was designed with limited code enforcement tracking capabilities. Although the Justice RMS program is required to process law enforcement and code enforcement Oregon uniform crime reporting, it also creates additional steps for the complete code enforcement process. These additional steps cost staff an average of 15 minutes per case just in the initial entry.

Two different software programs were researched.

1. Sassy Software. This software is specific to code enforcement although there is already a planning/zoning module being used within the city. The code enforcement module is currently being developed and is based on Microsoft Access format. It is complex and any additional customization will be an additional cost. This software is not designed for mobile use.
2. Citizenserve. This software provides a series of modules including code enforcement, permits, business registration, and animal control to name a few. Customization of reports is included with the license fee, as well as automated updates. This software is cloud based, which means everything runs from and is safe to a server hosted by the developing company.

If purchasing new software was not chosen, staff would continue with the current RMS at no additional cost to the city.

If a different software package was the choice of the Council, the financial implications were as follows based on four user licenses:

1. Sassy Software

\$1,682.00- First year setup, configuration, training and 30 minutes of support per month

\$ 270.00- Cost for 30 additional minutes per month for support (1sr year only)

Total: \$1,952.00

\$ 666.00 - Annual maintenance

2. Citizenserve

\$9,600.00- First year setup, configuration, project management, support, and training

\$1,060.00 - Purchase of iPads for mobile application (\$530 each)

\$ 300.00- Estimated cost for vehicle mounting

\$ 104.00- Estimated cost for Airwatch licenses

\$ 40.00 - Verizon setup fee to be added to current police shared data plan

Total: \$11,104.00

\$7,200.00- Annual maintenance

This was not an anticipated purchase in this Fiscal Year; therefore, the funding would need to be authorized for transfer out of either General Fund, the Public Safety Fund, or utilize the \$8000 received for the two surplus police vehicles, adding in the difference from a secondary source.

Councilor Crume asked Officer Brockett if he had an estimate of how much staff time in dollars this software package would save him per year?

Officer Brockett replied that it would be a guess, but he believed each 15 minutes case could decrease to five minutes. They did 32 cases a day with no interruptions. He didn't have an exact number of what they would be saving; he just knew they would save a lot of time. Without actually having a trial and being able to use the program, they couldn't really measure that.

Councilor Crume asked if they had been able to have a trial with Sassy.

Officer Brockett replied they had not, both were just demonstrations. They were never able to go hands on.

Councilor Crume asked, with the exception on one being mobile and one not being mobile, if there was much difference in what the department would do per day as far as efficiency of what staff did.

Officer Brockett stated he thought Citizenserve was more user friendly and more intuitive. He thought training a new person with the Sassy software would take a lot of time. The actual building of the software would take more time. There were a lot of pages and tabs to go through. With Citizenserve, it was right there with the cost. They included the training on the software. All their support was no extra cost and was available 24/7. The software was rarely down; if it was, it was around 15 minutes. The Sassy software was in Montana, with one person running it. She'd been there for about 15-18 years, and could leave at any time. If she did leave, the software would get outdated. As for time savings, both were comparable.

Councilor Crume asked how using funds from public safety would fit in with code enforcement

Councilor Justus noted that he thought a clean city would reduce crime, and that alone would justify money coming out of public safety.

Mayor Verini did not have a problem with that argument, but did they want to spend \$11,104 dollars for this?

Councilor Tuttle asked if the \$7,200 annual maintenance was a one year contract.

Ms. Smith stated it would need to be renewed yearly.

Mayor Verini asked if the first year of \$11,104 included the \$7,200.

Ms. Smith stated yes. They could renew annually, or every five years.

Mayor Verini asked if there would be a discount.

Ms. Smith replied no, but it guaranteed the price.

Councilor Crume asked if she knew of any history of what percentage they typically went up per year on this type of contract with this company.

Ms. Smith stated she didn't know what they had done contract wise, but when she first started researching this a year and half ago, nothing has changed in that time.

Councilor Tuttle wanted to be clear that \$11,104 would include the first year's maintenance.

Ms. Smith stated yes. Citizenserve itself was only going to be \$9,600. The other fees were Ipads and getting them on the Verizon plan, vehicle mounted, the Airwatch licenses, etc. The cost of the mounts after the first year would need to be added to the budget for replacement, as electronics did go bad.

Councilor Crume asked the Chief Mallea if he felt this was a good idea.

Chief Mallea said it would definitely cut down on the time.

Councilor Crume stated the idea was to make it more efficient rather than hire extra bodies.

Chief Mallea said it would be more efficient to do the program then hire another body.

Councilor Crume asked if the program was going to pay for itself.

Chief Mallea stated that's where they had difficulty, coming up with how much it was actually going to save.

Councilor Justus asked Officer Brockett if the run time was from 15 minutes to 5 minutes a job, then we were going to be able to process 4,000 complaints a year with the same amount of man power.

Officer Brockett replied that they hoped to.

Councilor Justus gave an example: If the city had a \$100 dollar fine for every one of our complaints and moved it from \$1200 to \$4000 dollars, wouldn't we be making the city money? So at \$100 for each, then the city would have made \$12,000.

Officer Brockett added from the stats of last year that they abated 70 properties, with the \$150 administrative fee added in, in a perfect world everyone paid their bill, so that would be around \$10,000.

Councilor Fugate asked about the licenses fee and ipads.

Ms. Smith answered the license was to access the program, as they already had ipads. She'd have to add licenses to their ipads to go in and check Officer Brockett's work.

Councilor Crume asked about taking the \$8,000 from the sale of the cars and then to take the remaining fee from the general fund rather than public safety.

Larry Sullivan, City Attorney, stated the resolution didn't actually put parameters on what qualified as a public safety expense.

Councilor Tuttle asked if Chief Mallea had put in a car in the upcoming budget.

Chief Mallea stated he did put one car in the budget, yes.

Councilor Crume asked Mr. Sullivan if they had to state how they were going to pay for it.

Mr. Sullivan stated it would take a resolution, identifying where the funds were going to come from.

Councilor Tuttle asked if they could add the financial piece to this motion.

Councilor Tuttle said he preferred that the \$8,000 stay in the general fund if the car was in the 16-17 budget. He would rather have the \$8,000 go towards the car, since that's where it came from to begin with. He'd rather see the funds come from the Public Safety line.

Mayor Verini stated his agreement.

Councilor Justus asked how much was in the public safety fund.

Kari Ott, Finance, stated it was around \$200,000.

Norm Crume moved, seconded Charlotte Fugate, that Council approve the purchase of Citizenserve with the appropriate hardware and estimated cost to install, with payment coming from the public safety fund. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-Yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1

Employment Agreement with Adam Brown as City Manager

Larry Sullivan, City Attorney, presented.

City Manager candidate Adam Brown and the City Council had exchanged a series of offers and counteroffers for Mr. Brown's employment as City Manager. At the City Council work session on April 14, 2016, the Council formulated a new counteroffer and directed the City Attorney to send it to Mr. Brown. Later in the afternoon of April 14th, the City Attorney revised the draft Employment Agreement to include the new counteroffer, and sent it to Adam Brown in an email explaining the counteroffer. In the evening of April 14th, Mr. Brown called the City Attorney to discuss the Employment Agreement. In the afternoon of April 15th, Mr. Brown emailed to city staff and the City Council his signature on the Employment Agreement, along with a cover letter accepting the position of City Manager.

The draft of the Employment Agreement that Adam Brown signed had not been formally approved by the City Council. Until the Council accepted that draft of the Employment Agreement, there was not a contract between the city and Mr. Brown.

This draft of the Employment Agreement included:

- Salary: \$117,000;
- Start date: June 6, 2016;
- \$150/month into a 457 Deferred Compensation plan;
- \$100,000 life insurance;
- Annual membership dues for ICMA and OCCMA and for professional conferences budgeted at \$5,310 for the 2016-2017 fiscal year, with the same expenses to be paid in future fiscal years;
- Severance pay of six (6) months if terminated without cause, with no annual increase;
- City-owned vehicle and fuel to use for work and commuting (no personal use) with maintenance at city expense;
- Moving expenses, temporary housing allowance, airfare budgeted at a maximum of \$12,500, subject to presentation of receipts by Mr. Brown;
- Mr. Brown will have 22 days of annual leave per year, which includes eight (8) days credited on the date of hire, which increases to 27 days after five (5) years;
- The city will provide a smart cell phone with a voice and data plan;
- An evaluation on December 1, 2016, and on the same day of each year after that;
- Indemnification as limited by the Oregon Tort Claims Act.

Marty Justus moved, seconded by Charlotte Fugate, that the City Council approve the Employment Agreement with Adam Brown and authorize the Mayor to sign it. Roll call vote: Crume-no; Winebarger-out; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-no. Motion carried 4/2/1.

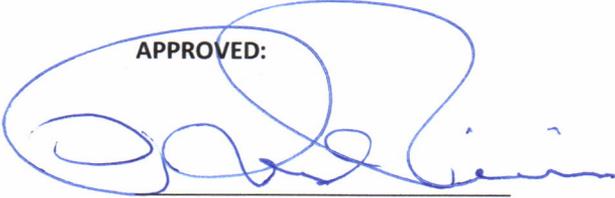
CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

Councilor Tuttle stated he wanted to hear the updates on the Airport from the Airport Manager. He didn't feel it was the job of a City Councilor, even if that person was the Liaison to the Committee, to present information.

ADJOURN

Betty Carter moved, seconded by Marty Justus, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-out; Carter-yes; Justus-Yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 6/0/1.

APPROVED:



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder