

**COUNCIL MEETING MINUTES**  
**May 2, 2011**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, May 2, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander, Alan Daniels, Kathy Daly, Jordan Barnett, Tony Abney, Mo Carpenter, Chuck Mickelson, Bret turner, and camera operator Delaney Kee. The meeting was recorded on tape, and the tapes are available at City Hall.

Councilor Verini stated in light of the killing of Osama Bin Laden, he wanted to dedicate the Pledge of Allegiance to the service men and women. He then led everyone in the Pledge.

**AGENDA**

Mayor Dominick requested that the bills be moved to New Business.

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

**CONSENT AGENDA**

Charlotte Fugate moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 04/18/2011; Item B: Approval of Minutes of Study Session of 03/31/11; and Item C: Proclamation: National Water Safety Month – May 2011. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Mayor Dominick read the Proclamation into the record:

**WHEREAS,** *Citizens of Ontario recognize the vital role that swimming and aquatic-related activities relate to good physical and mental health and enhance the quality of life for all people; and*

**WHEREAS,** *Citizens of Ontario understand the essential role that education regarding the topic of Water Safety plays in preventing drowning and recreational water-related injuries; and*

**WHEREAS,** *Ontario is aware of the contributions made by the recreational water industry, as represented by the Association of Pool & Spa Professionals, the National Recreation & Park Association and the World Waterpark Association in developing safe swimming facilities, aquatic programs, home pools and spas, and related activities providing healthy places to recreate, learn and grow, build self-esteem, confidence and sense of self-worth which contributes to the quality of life in our community; and*

**WHEREAS,** *Citizens of Ontario recognize the ongoing efforts and commitments to educate the public on pool and spa safety issues and initiatives by the pool, spa, waterpark, recreation and parks industries; and*

**WHEREAS,** *Citizens of Ontario understand the vital importance of communicating Water Safety rules and programs to families and individuals of all ages, whether owners of private pools, users of public swimming facilities, or visitors to waterparks.*

**NOW, THEREFORE,** I, Joe Dominick, Mayor of the City of Ontario, Oregon, do hereby proclaim the month of May, 2011 as National Water Safety Month.

Kathy Daly, Aquatics and Recreation Director, introduced her three lifeguards in attendance – Mo, Jordan, and Tony. The primary reason behind water safety month was to promote it both in and out of the water. Parents needed to watch their kids, and parents and kids both needed to be educated on water safety. The Ontario pool would be hosting over 1,000 kids for end-of-year parties, and one thing they would all do is take the water safety pledge.

**OLD BUSINESS**

**Liquor License Application: New Outlet - Vegas Country (Full On Premises Sales)**

Issued handled at the Thursday, April 28, 2011 Study Session. Motion passed 7/0/0. See minutes.

**Approval of Engineering Contract with Anderson Perry for SE 2<sup>nd</sup> Street**

Chuck Mickelson, Public Works Director, stated this agreement with Anderson Perry and Associates of La Grande, Oregon provided for the preparation of plans and estimates for the rehabilitation/reconstruction of SE 2<sup>nd</sup> Street from East Idaho Avenue to SE 18<sup>th</sup> Avenue. The roadway was the number one priority within the city for reconstruction, and completion of these plans would enable the city to be in a position to take advantage of potential state or federal funding. It would allow the city to receive engineering designs for rebuilding that portion of street section to a standard that would allow support of the truck traffic loading that it was currently supporting.

The June 2009 budget adoption approved expending the funds for the design; however, at the March 17, 2011 Study Session, Council tabled the award pending a response from the Rural Road Assessment District No.3 soliciting participation in the design costs.

At present, SE 2nd Street was experiencing deterioration of the structural integrity of the street section due to inadequate road base material and pavement depth that was needed to support the loading it was receiving. The roadway was built many years ago with inadequate sub-grade, sub-base and pavement for the current truck weight limits. By rebuilding this section of street, the north /south freight route would become more user accessible and user friendly and would be built to withstand the volume of traffic that was traveling on it for local business, and for access to the south bypass. The design would provide for upgrades to the existing utilities (sewer, storm and water), replacement of curbs, gutters and sidewalks, and the installation of an upgraded road section along SE 2nd Street from Idaho Avenue to SE 14<sup>th</sup> Avenue. In addition, it would also provide for centerline elevations and storm drainage design from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue.

Public Works staff received formal responses to the RFP for this project from six firms on December 22, 2010. The formal responses were from Anderson Perry Associates of La Grande, Oregon, CH2M-Hill of Boise, Idaho, Engineering & Waste Solutions of Boise, Idaho, Ferguson Surveying & Engineering, of Mt. Vernon, Oregon, Holladay Engineering of Payette, Idaho, and Keller Associates of Meridian, Idaho. Chuck Mickelson, Bob Walker, Bret Turner and Norm Crume each reviewed the proposals. Each of the firms presented an excellent proposal and it was obvious that each of them could be successful in preparing the plans and specifications. However, after ranking each firm based on schedule, resumes (qualifications of the personnel to be assigned to the project), references and similar projects completed, and locations where the work will be completed, the committee unanimously selected Anderson Perry as the highest ranked firm based on their proposal.

The project would be designed to Federal Highway Administration and ODOT standards. Anderson Perry and Associates had significant experience in preparing plans and specifications to those standards and performed very effectively in Phase 1 of North Oregon Street project. CK3, LLC, would conduct the surveying for the project.

The City Council requested that the Public Works staff contact Rural Road Assessment District No. 3 to request their participation in the design costs from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue, which was the portion of SE 2<sup>nd</sup> Street which was in the county. The cost for a complete design of this section of SE 2<sup>nd</sup> Street was \$22,500. As an alternative, the consultant could provide centerline elevations and storm drainage design from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue for \$4,500. Bob Walker and Councilor Norm Crume met with the Directors of Rural Road Assessment District No. 3 on April 19<sup>th</sup> and the RRD agreed to fund the \$4,500 for the reduced design on this portion of SE 2<sup>nd</sup> Street. Therefore, the overall design project had been reduced to \$125,000 with \$4,500 to be provided by the Road District. The motion was for the approval of the agreement with Anderson Perry in the lump sum amount of \$125,000.

This project was included in the 2009 – 2011 budget as STR-7 in the amount of \$175,000. When, and if, this project was approved for construction funding, there would need to be an amendment to this Agreement for completion of the specifications, preparation of an environmental study, if needed, and other additional services during construction to include inspection.

Councilor Sullivan asked if there was a written agreement, and would the city receive the county's money up front.

Mr. Mickelson stated yes to both questions.

Norm Crume moved, seconded by Dan Jones, that the City Council approve the Agreement between the City of Ontario and Anderson Perry and Associates, Incorporated of La Grande, Oregon, for the professional engineering services for the design of the reconstruction of SE 2<sup>nd</sup> Street from Idaho Avenue to SE 18<sup>th</sup> Avenue, in the amount of \$125,000 and authorize the City Manager to sign the Agreement on behalf of the City of Ontario. Roll call vote: Crume-yes; Fox- no; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/1/0.

### **NEW BUSINESS**

#### **Approval of the Bills**

Mayor Dominick recused himself from voting on the bills as his corporation had an invoice for payment.

Norm Crume moved, seconded by Charlotte Fugate, to approve the bills as presented. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-abstain. Motion carried 6/0/0/1.

#### **MCOA Bus Shelter Agreement**

Larry Sullivan, City Attorney, stated Malheur Council on Aging and Community Services (MCOA) was an Oregon public benefit corporation with 501(c)3 tax exempt status. It had received grant funds from Malheur County to purchase and install benches and bus shelters for use by customers of the Snake River Transit bus system. The proposal was to install those benches and shelters at the locations within the City specified in Exhibit "A" of the Agreement. The benches and shelters would be designed in accordance with Exhibit "B" of the Agreement.

The specified locations were within the city rights-of-way, on public sidewalks. The proposal was to authorize MCOA to install and maintain the benches and shelters without the payment of a fee to the city, because the installation of the benches and shelters would be a benefit to the city residents who used the bus service.

MCOA requested that it be allowed to put advertising on the benches and bus shelters. This was allowed under the City Code if done with the city's permission, through a franchise agreement. The content of the advertising would be within MCOA's discretion. The Oregon courts determined that cities may not constitutionally regulate or restrict the content of commercial advertising, so the city would not be able to control the advertisements that were

placed on the benches or shelters. However, MCOA intended to adopt a written policy informing advertisers of the kinds of advertising MCOA would accept, which MCOA would provide to the Council at the Council's request.

The Agreement required MCOA to keep the benches and shelters in good condition and free from graffiti. The Agreement also required MCOA to indemnify the city from any claims arising from the use of the benches and shelters, as well as the advertising that was done. The city could terminate the Agreement for cause within 30 days, or within 180 days without cause.

Councilor Fugate asked for a full disclosure of the budget, not just Oregon, but Idaho as well.

Jim Smith, Chairman, SRT, was looking for ways to enhance revenues from the bus system. They were going to dedicate someone to deal with advertisements, and assumed Larry Sullivan would work with Loni [Debban] on the ads. They had already received some benches, but were in the process of obtaining right-of-way permission from the land owner for placing benches on their property.

Fritz Halliberg, SRT Liaison, stated when this began in 2007, they had 34,000 riders, covering 194K miles. Today's numbers showed 70,000 riders.

Councilor Fugate state that Ms. Debban had only presented the numbers for Oregon; she wanted Idaho numbers.

Mr. Smith stated he would coordinate that with Ms. Debban and Teri Lindburgh.

Councilor Fox stated it was a double-edge sword. Saw the numbers, but the economy was down, and the City didn't even know if they would be funding the bus again, but the Council was being asked to move on purchasing benches.

Mr. Halliberg stated the senior centers used it, and the center in McCall came down once a month. They all shopped and ate in Ontario. Also, Ms. Debban would be approaching Vale and Nyssa to try and get them on board with this system. And, the benches were coming from a grant from the state, and eight of them would be in Ontario.

Mr. Smith stated gas prices increased, more riders would use the system.

Councilor Sullivan questioned why ridership was increasing, but there was no increase in revenues. They needed to alleviate the pressure on the community, maybe increase the cot to ride.

Councilor Fox stated as of now, he would probably vote no on the benches, because he would be voting no on the transit system.

Councilor Verini stated the bus was important for economic development in this area. That \$30,000 in the city's budget was for a system that brought a lot of riders into the area. Also, corporations looked at those types of things when considering whether to locate somewhere.

Councilor Crume stated he didn't know about the budget yet, but one thing he did know was that the City Manager was proposing to cut 3.5 employees from staff. That bothered him deeply. He struggled with laying off 3.5 people, but subsidizing a bus. They needed to really think about where they were spending the money.

Councilor Fox stated he would really need to be convinced to vote yes.

Mr. Smith stated they needed to look at this as an investment, showing that the city care about the youth, the seniors, the vets, or whomever needed the system. Ontario pulling their \$30,000, would be a \$180,000 match loss.

Councilor Fugate stated they had been told there would be advertising and marketing, but that hadn't happened yet, and it had been two years.

Councilor Jones asked when the grant would expire.

Mr. Hallibert replied it would at the end of July. [sic]

Councilor Jones suggested tabling the issue until the end of June.

Mayor Dominick stated the Contract termination was September 1, 2011; however, the agreement before them was only allowing them to purchase the benches and shelters. This did not show intent to fund the bussing, but to get the benches and shelters at no cost to Ontario.

Councilor Sullivan asked why Ontario would only receive 8 benches, while Payette would receive 22.

Mr. Hallibert stated there were more stops in Payette and Fruitland, because everyone was riding to Ontario. Those 22 benches would be split with Payette and Fruitland. Also, he was working on putting together a video relating to ridership.

Councilor Sullivan confirmed this action did not commit the city to funding the bus later.

Ron Verini moved, seconded by David Sullivan, that the City Council approve the Malheur Council on Aging and Community Services Franchise and License Agreement. Roll call vote: Crume-yes; Fox- no; Fugate-yes; Jones-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

#### **PUBLIC HEARING(S)**

##### **Ordinance #2655-2011: Annex/Rezone Nadine Drive (1<sup>st</sup> Reading)**

It being the date advertised for public hearing on the matter of Ordinance #2655-2011, 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.

David Richey, Planning & Zoning Administrator, stated at this action was to annex and rezone property generally known as the Nadine Drive Neighborhood, located north of 18<sup>th</sup> Ave, along Alameda Drive and found on Assessor's Map 18S 47E -09C. The applicant, a combination of property owners, and the city, in response to a public health hazard from domestic wells and septic systems, were proposing the annexation to facilitate a local improvement district to extend City services into the area.

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RS-50 Single Family Residential at its regular meeting of February 14, 2011, and recommended Council approval of Ordinance #2655-2011.

There had been some discussion to modify the proposed ordinance to take into consideration storm drainage or other issues, but those should have no bearing on the ordinance before them.

Councilor Fox stated if this was zoned single family, what about the duplex or group home.

Mr. Richey stated as those were already there, they would be grandfathered in, and that was legal.

Councilor Fox asked if the group home was commercial.

Mr. Richey stated that Oregon law, and Ontario codes, indicated it was exempt.

Mayor Dominick indicated he had a group home about 5-6 blocks from his house, and it was legal.

Councilor Fox argued that these homes were not in the city limits yet.

Mayor Dominick stated if they already existed in the subdivision, and it was annexed, those were allowable uses.

Larry Sullivan, City Attorney, stated that was correct. There were rules against spot zoning. They could not change the zone for just one property. The provision in the Ontario Code was for a non-conforming uses.

Councilor Sullivan asked about the church.

Mr. Richey stated it was an outright use in a single family zone.

Mr. Mickelson provided a summary on where the city was on the project. In February 2010, it started with a failed drain field. A number of meetings were held, a Director's Report was prepared, filed with the City Recorder on January 11, 2011, Council approved on January 18<sup>th</sup>, and on February 7<sup>th</sup> the Council approved the creation of an LID. Concurrent with this process the Planning and Zoning Commission recommended zoning to the City Council upon annexation. At a March 31<sup>st</sup> study session, certain code issues were discussed, particularly using Horning Way and Crest Way as historic examples, and what they had been asked to do on their project when sewer and water was extended. It was very similar to the action on Nadine Drive. There was an existing 40' right of way, the neighborhood sought private funding for the project, and had put in 24' of pavement, 5' sidewalks and swales for drainage. At the conclusion of the March 31<sup>st</sup> study session, the Council made a motion *"...to direct staff to reset the public hearing for annexation and rezone and continue on with the sewer and water project and add a concrete ribbon on Nadine Drive with a width of 4'6" if it can be accomplished without increasing the assessments to the LID property owners beyond the amounts currently budgeted. There would not be a concrete ribbon on Alameda."* That motion passed 6/1/0.

During April, staff evaluated the options for the Nadine right of way. What had been done on Horning Way would impose serious encroachments on the Nadine properties. The fire chief indicated that the allowable minimums for a residential street are 20' with no parking allowed or 26' with parking on one side only.

On April 27<sup>th</sup>, staff met with the Public Works Committee to present several paving width options. As there were a limited number of homes in that area, staff didn't believe a sidewalk was necessary, and a 20-foot cross section with no parking met fire code. Or, 16-foot pavement with a 5-foot concrete ribbon on each side would also be sufficient.

After discussion, a motion was made by Mr. Tuttle that the Public Works Committee recommend to the City Council the following: approve the construction of a 26 foot street width on Nadine Drive, 24 feet of paving with 1 foot ribbon curb on both sides; that the property owners on Nadine Drive participate in any storm drainage costs or problems that arise when Alameda Drive is fully developed; that the 17 property owners be responsible for the 155 feet of sanitary sewer and 110 feet of water mainline extension on Alameda Drive. Motion carried 6-0-1.

Costs will be increased with the additional width of pavement over what presently exists along with the sewer and water line at the north end of Nadine. Mr. Mickelson looked at the previous estimates and indicated that costs might increase as much as 18.6%, however we are in a positive bidding climate and contractors are likely to be very aggressive in their bids.

Currently the drainage runs onto private property. They could install a depressed swale behind a 1-foot ribbon curb; however that had been done initially on Horning Way and Crest Way, and they no longer existed. The home owners had filled them in with landscaping, driveways etc. Also, the PWC wanted the Nadine Drive neighborhood to participate in the costs when Alameda widened. That would be in the future, and it would be an entirely different issue.

Ontario Municipal Code 8-7-2-d spoke to sewer. In regards to that issue, staff would need a Notice of Completion and if someone were to ask for a waiver for the connection, he would work with that applicant.

If the Council accepted the PWC's recommendation, some action would be needed by Council to rescind the original motion, and a new one would need to be made.

Councilor Sullivan asked about the cost per person, and the possibility of the prices coming in at 80% of the estimate. It would obviously be affected by the oil prices, but using the most recent specifications, would it potentially come in at the same price as originally quoted?

Mr. Mickelson stated he had reviewed a recent sewer extension project on SW 4<sup>th</sup>. Looking at the average bid, the low bidder was 25% lower than the average. On sewer, it was substantially lower. Contractors were hungry, but he couldn't guarantee prices would come in lower than estimated. They needed to finish the design and go out for bid. However, another option for the city to consider was instead of a 26-foot section, to meet fire code, they could put in a 20-foot roadway section with no parking. That would be more in line with original estimates.

Councilor Sullivan verified a 26-foot road would allow parking on one side.

Mr. Mickelson stated 24-foot asphalt, with 1-foot of concrete on each side.

Councilor Sullivan asked if they could bid the 26-foot, and change the width without having to rebid the entire project.

Mr. Mickelson stated that rather than have to rebid, they could have two alternatives in one bid – a 26-foot and a 20-foot option. That would be 26-foot with parking on one side, or 20-foot with no street parking. Currently, they had about 18-foot of asphalt.

Councilor Fox asked if it was practical to assume no one would park on the street. Did the PWC make any comment regarding the narrow street, or the fire code issues? Did those same rules apply to the alleys in Ontario?

Mr. Mickelson stated he could not answer the fire questions, and wanted to defer those to the Fire Chief.

Mayor Dominick stated they had talked to the Fire Chief about the 20-foot minimum, and also about how the garbage trucks maneuvered in there. Parked cars got honked at. A minimum of 20-feet with a parked car on the side would cause problems.

Mr. Mickelson stated that Scott Wilson, Ontario Sanitation Service, was a member of the PWC and was in attendance at the meeting. The garbage trucks used the cul-de-sac area to back up and get turned around. The PWC recommended the 26-foot street with parking on one side.

Mr. Sullivan stated what staff was doing was proceeding forward with annexation and rezone. The Council didn't have the responsibility today to decide the specific scope of work to be done. That would come at some point, but right now, one whereas clause in the ordinance indicated the purpose was to extend utilities in the area to protect if from failing septic systems. The discussion held by the Council was that as long as the Council had the goal of doing the work following the annexation, it wasn't necessary for the Council to designate the scope now. That would be done following the annexation and the bids received for the project. The discussion was beneficial to the residents, but unnecessary today to decide on the particulars.

Mayor Dominick stated once a section of the community annexed, there was no provision to unannex. He wanted everyone to be aware that OMC 8-7-2(d) required them to hook up to sewer after they were annexed.

Mr. Sullivan stated they could rescind the motion made on March 31, 2011, that portion dealing with dimensions. Not because it had to be replaced by other dimensions, but because that piece wasn't necessary as part of the annexation process. However, it might be beneficial to do that now. The motion could be made before the public hearing to allow for discussion.

Councilor Jones asked what happened when the area was annexed and the residents were required to abide by the code.

Mr. Sullivan stated annexation first, then form the LID to decide the scope of work. They would bring the properties in, recognizing that the primary reason for the LID was to hook into city utilities.

Councilor Crume asked what happened if they approved the annexation that night, and the bids came in \$100,000 over, and the residents refused to do the LID – what would happen to the annexation?

Mr. Sullivan restated that they could not unannex. The Council could see what could be afforded, what the residents were able to do. Sometimes there were situations where the residents had to solve their own problems. Once inside the city, they could ask for city assistance once the bids were received from the contractors. Basically, did the Council feel it was in the best interest to move forward with the annexation? It would allow the city to extend utilities to the residents of Nadine Drive. The question for the residents was whether or not, recognizing the uncertainty of the actual costs, where did they stand on the annexation.

Councilor Verini stated it made more sense to bid first to see what the numbers would be from the contractors, before the city did the annexation.

Mr. Sullivan stated that wasn't really fair to the contractors.

Councilor Fox stated he wanted to move on this project, but still had more questions than answers.

Mr. Sullivan stated it was up the Council to decide how they wanted to spend the money. Mr. Mickelson had provided all the information available, and that same information had been shared with the Nadine Drive residents.

Mayor Dominick stated he wanted to hear from the residents, now that all the information was before them.

Joe Dominick moved, seconded by Charlotte Fugate, to rescind the motion made on March 31, 2011, which required the 4.6-foot of concrete ribbon on Nadine Drive. (No roll call – discussion follows)

Councilor Fox asked if they were going to require any curb.

Mr. Sullivan stated that Councilor Fox could ask for consensus for the recommendation from the Public Works Committee to put a motion in final project, but he didn't recommend that. It could be bid with the design in, but the Council would have to define the final scope.

Councilor Fox stated it seemed they were bending the rules.

Mayor Dominick disagreed. They were on track and not breaking any rules.

Councilor Crume asked for clarification on the annexation. What position did that put the city and the residents in if there was an impasse due to costs?

Mr. Sullivan reminded them again that once annexed, it couldn't be undone. It was going to be the city's problem to resolve the issue. Properties that were within the city limits, that were health risks due to septic issues, an annexation would put the burden on the city to get it resolved.

Councilor Sullivan asked if bids could be received prior to doing the annexation.

Mr. Sullivan stated they could with sewer, but there was no provision for an LID for water for property outside the city limits, no city or state code.

Councilor Sullivan agreed they should move forward with the LID.

Mr. Sullivan stated any signed documents for an LID outside the city limits were not binding with respect to water lines, and there would be no meat for enforcing connection once they were annexed in.

Councilor Crume confirmed that once that area was annexed, if the residents didn't want to pay for anything, the city was stuck.

Mr. Sullivan stated the city could move forward with an LID over objections as long as there weren't 2/3 of the majority objecting. There were sufficient numbers of signed documents to guarantee that the LID would be successful.

Councilor Crume asked if that was regardless of the cost that came in.

Mr. Sullivan stated that was more of an issue with the consent to annexation. Residents signed a consent which gave the city the right to control the connection of the properties to sewer and water in perpetuity. The city could only do that through annexation. To move forward, the city could rely on the consents, but had to be doing it in the good faith belief that it would fulfill the purpose of what the residents signed the consents to annex for.

The Mayor opened the hearing for public testimony.

Proponents: None

Opponents: None

*Bobby Puckett, residing at the corner lot on Nadine and Alameda, stated it was his understanding with talking with Mr. Mickelson twice, he was one who hadn't signed the consent the first time, but he had been contacted at work, and was told the while the consent wasn't needed, it would be nice to have. So, Suzanne took it to him, and he signed it. It was explained to him that he was consenting to being annexed for water and sewer for approximately \$15,000. At the first meeting, when they tried to get the city to stick to their agreement, Mr. Sullivan said there was no deal on the table because either side could back out. Now it sounded like they were going to annex first and then whatever the cost was, the residents would have to absorb it. People were now confused. That waiver was signed for approximately \$15,000 each, plus annexation fees. That was the cost at that time. He had now spoken with two neighbors who refused to attend anymore meetings. They didn't want any part of this if it was going to be different, if they were going to be annexed first, and then told the cost. The request came in basically because two residences were having trouble, but none of the rest of them were. Two or three had relatively new drain fields that were about 12-15 years old. His ran uphill, and the duplex ran onto his, running under his property. He wasn't having any trouble, and neither were the other two he spoke with. Unless they could get the water and sewer for the quoted \$15,000, they could back out, just like the city could. That was where the three of them stood on the issue.*

Ian Fisher, Calvary Chapel, stated with no LID, then no annexation. They were not interested in annexing if there would be no water and sewer. Now it was backwards. Do the annexation first, and then an LID that might or might not go forward. Would any attorney recommend that move? That was a balmy way to do things.

Mayor Dominick stated the Council was learning as they moved forward. This was the first LID in his four years on the Council. Mistakes were being made, and one made was not understanding the Code correctly. One increase in

cost was the \$28,000 they thought Public Works could pay for, but that went against code. That had to be imposed on the residents of the area. The Council couldn't violate their own ordinances. It was unfortunate.

Mr. Fisher stated they were quibbling over being told no LID, no annexation. It had now been flipped and was now annexation first and then whatever happened, happened.

Mayor Dominic stated that was a concern of the Council. They could annex without an LID, but then there was no way to unannex.

Councilor Sullivan suggested moving forward with the bids to see the numbers to see if it would be over the \$15,000.

Mr. Sullivan stated they could, but to make is very clear to the bidders that their bids were contingent upon the actual annexation of the property. If the Council wanted to move forward, he didn't see an issue as long as the bid documents were drafted clearly, recognizing that contingency. Even if a bid was accepted, it had to be contingent upon the city doing the annexation, and that might discourage some bidders. Maybe they could do the actions simultaneously, having the bid opening along with the 2<sup>nd</sup> reading of the annexation ordinance. Once the bids came in and the Council saw the prices, they could move forward with the annexation. It could be structured that way, as long as the bidders were made aware.

Mayor Dominick asked how many days a bid would be good for.

Mr. Mickelson stated the city set the length of time, typically 60 days. It should be structured with two alternatives. It wouldn't take long, as certain costs wouldn't change, but the ultimate number could be redistributed. They would know if the original \$15,000 was good. They could move forward, finalize the plan, go with two options for bidding, open the bids on July 1<sup>st</sup>, and proceed from there. There was never a guarantee to contractors that any project was ever going to be awarded. The city could reject all bids. All of those issues could be addressed in the preamble.

Mr. Puckett stated he was in support if they stuck to the original option, but opposed if it changed.

Mr. Sullivan stated they needed to make a motion to continue the public hearing until after the bid opening.

David Sullivan moved, seconded by Charlotte Fugate, to continue the public hearing for Ordinance #2655-2011 until after bid openings. (no vote)

Mayor Dominick stated that meant they were going to leave the annexation hearing open; they were not going to vote on whether to annex them in that night or act on the first reading. It would be open until they heard further from the Public Works staff.

Jackson Fox moved, seconded by David Sullivan, to amend the previous motion to continue the Public Hearing until June 20<sup>th</sup>, following the bid opening. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

David Sullivan moved, seconded by Charlotte Fugate, to continue the public hearing for Ordinance #2655-2011 until after bid openings. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Ordinance #2658-2011: Annex/Rezone Brown (Hunter Lane)(1<sup>st</sup> Reading)**

It being the date advertised for public hearing on the matter of Ordinance #2658-2011, 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.

David Richey, Planning & Zoning Administrator, stated the applicants, Michael and Marion Brown, 2040 Hunter Lane, needed to connect their house to city sewer. To accomplish that, it required approximately 500 feet of service line. The Planning Commission addressed the proposed annexation and rezone from Urban Growth Area Residential to a City Zone classification of RD-40 Duplex Residential at the April 11, 2011 meeting, and was recommending approval of Ordinance #2658-2011.

The Mayor opened the hearing for public testimony.

Opponents: None

Proponents: None

Dave Duncan, Ontario, stated he and his wife had ownership in the recent annexation adjoining Hunter Lane, up on 19<sup>th</sup>, about 6 acres. What was that zoned when those parcels were annexed? The Brown property was on the NW corner. Everything else was rezoned.

Mr. Richey stated most to the South was zoned RD-40, to the East was single family.

Mr. Duncan stated he believed they were single family. Those on Sandy Way were quite adamant that the Duncan property would not allow duplexes, as duplexes devalued property. They bought it from Erlebach and wanted to know what it had been rezoned to.

Mayor Dominick confirmed the Duncans wanted it all annexed the same.

Mr. Duncan stated no duplexes were allowed in the single family zone, so would Mr. Brown's annexation be into a duplex zone.

Mayor Dominic verified that RD-40 was single family, and RD-50 was duplex.

Mr. Richey stated a less restrictive zone could be upgraded to a more restrictive zone. The property was attached as a shoestring annexation going down the streets. Butting against the Brown property was zoned duplex. Two properties were zoned RD-40 and everything surrounding to the South was urban growth, which was not annexed in. Annexation for that would be classified as single family or duplex.

Mr. Duncan stated to the South of Hunter Lane was the property referenced in the proposed ordinance, and it was already annexed. Everything on Hunter, South to the structures, was annexed under RD-50, single family. Sandy Way West to 19<sup>th</sup>, with the exception of the Brown parcel, was zoned RD-50 single family. He couldn't have duplexes, but manufactured homes were allowed, because those couldn't be excluded in RD-50. Mr. Brown was a single family quarter acre lot – why would they consider a duplex on a single lot?

Mr. Richey stated the Brown's property had the Urban Growth Boundary between his property and the area Mr. Duncan was speaking of.

Mr. Duncan stated that was West of 19<sup>th</sup>. He was talking about parcels South of Hunter Lane, over to 19<sup>th</sup>, on the West boundary. What was that zone?

Mr. Richey stated that was zoned RS-50, single family.

Mr. Duncan asked why they would consider a single parcel with a single building as a duplex zone.

Mr. Richey replied because his only attachment to the city was the RD-40 piece, not RS-50. His attachment was through the duplex property. The street right of way was used as a route to put a specific piece of property in the city limits. It was appropriate to upgrade it to RS-50.

Mr. Lawrence suggested continuing this action to the next meeting.

Mayor Dominick stated he wanted to continue the public hearing to do further research on the properties in question.

David Sullivan moved, seconded by Jackson Fox, to continue the Public Hearing for Ordinance #2658-2011 until May 16, 2011. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

#### **BACK TO NEW BUSINESS**

##### **Ordinance #2657-2011: Amend OMC 7-4-6, add (D) re: Graffiti (1<sup>st</sup> Reading)**

Mark Alexander, Interim Police Chief, stated the Ontario Police Department would like to amend Municipal Code Chapter 4, Title 7, Section 6, by adding Subsection (D), an emergency clause for graffiti removal when that graffiti contained obscenities.

Graffiti on properties that could be viewed by the public from a city right of way attributed to visual pollution and detracted from having a clean, safe, healthful and economically sound community. Ontario Municipal Code required property owners to remove graffiti within a specified time after receiving notice to remove such graffiti. If not addressed, Ontario Municipal Code provided for an abatement process at the cost of the property owner. The Police Department tried to work with property owners, realizing they were victims of crime. Graffiti was a community problem that required cooperation between the police and the citizens. There were resources available for property owners to have the graffiti removed for them.

The Police Department had recently seen graffiti that had profanity and sexual graphics associated with it. An abatement process could take up to 23 days when a property owner was unwilling or unavailable to work with the Police Department for removal. The Police Department would like to have emergency provisions for abatement in the event graffiti contained profanity, obscene graphics, racial comments or was sexual in nature, and therefore proposed changes to Ontario Municipal code Title 7, Chapter 4, Section 6, by adding Subsection (D) which would allow abatement to occur within 48 hours from the time notice was received by a property owner.

Property owners had the right to appeal notices given to abate graffiti; therefore, there could be an increase in those appeals after an abatement had been done, and the department had the means to provide an abatement within 24 hours

Mr. Sullivan stated he wanted to make additional working changes, to make the overall ordinance read better with the new modification. The Council could table the action until May 16 when he could provide a those changes in an updated ordinance, or they could hold the first reading, recognizing there would be changes in the ordinance that came forward for the second and final reading.

David Sullivan moved, seconded by Ron Verini, the Council adopt Ordinance #2657-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTION 6, ADDING SUBSECTION (D), on first 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.

##### **Change Order #1 Contract Award for ConnectOregon 3 FAA Project #3-41-0044-008/009/010: Runway, Taxiway, and Apron Rehabilitation and Runway Lighting**

Alan Daniels, Airport Manager, stated the proposed change order was required to fully utilize the grant. This change order total was \$550,236.60 for a revised contract total of \$3,596,691.76. The Council approved the award to Valley Paving & Asphalt on April 4, 2011.

Ron Verini moved, seconded by Norm Crume, that the City Council authorize the City Manager to be signatory on change order #1 to the contract with Valley Paving & Asphalt for the Airport Improvement Project FAA #3-41-0044-008/009/010. 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**

- Councilor Fox stated Mr. Daniels had brought something up at the work session, and asked if that issue had been completed.

Mr. Daniels stated it had.

- Councilor Jones stated the abandoned gas station was getting worse. Where were they at on that process?

Mr. Sullivan replied that was something that they needed to get back on the Agenda. The time given for DEQ to submit a grant request for funds to do clean up was getting close. He would contact his contact to see if the Council could move forward.

Councilor Jones stated if it was stalling, then maybe they could get permission from the owner to at least teardown the canopies, to get rid of the pigeons.

- Councilor Verini stated they lost a solider from the 116<sup>th</sup>, Foxtrot Company. While not from combat, but a soldier none the less. Also, a solider from Charlie Company had received a purple heart.
- Mayor Dominick reminded everyone of the upcoming budget meetings starting tomorrow at 6pm.
- Mr. Duncan stated with regard to the graffiti item on the agenda – what provisions did the city have for removing graffiti quickly, or to prevent it initially?

Captain Alexander stated the police were working on it, and neighbors helped.

Mr. Duncan asked what incentive was out there to turn in a graffiti artist.

Mayor Dominick stated there was no reward, maybe self-satisfaction.

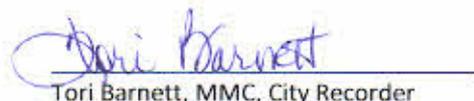
Mr. Duncan suggested that the Council entertain the idea of a monetary incentive, and maybe businesses could contribute, especially those that had been hit.

**ADJOURN**

David Sullivan moved, seconded by Ron 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.

  
Joe Dominick, Mayor

ATTEST:

  
Tori Barnett, MMC, City Recorder