

ONTARIO CITY COUNCIL MEETING MINUTES
Monday, May 4, 2015

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, May 4, 2015, in the Council Chambers of City Hall. Council members present were Ron Verini, Norm Crume, Tessa Winebarger, Charlotte Fugate, Thomas Jost, Larry Tuttle, and Betty Carter.

Members of staff present were Tori Barnett, Larry Sullivan, Marcy Siriwardene, Kari Ott, Al Higinbotham, Mark Alexander, Corinna Hysell, Pete Friedman, Cliff Leeper and Dan Shepard. The meeting was recorded, and copies are available at City Hall.

Norm Crume led everyone in the Pledge of Allegiance.

AGENDA

Norm Crume moved, seconded by Charlotte Fugate, to adopt the Agenda as amended. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-no; Carter-yes; Verini-yes. Motion carried 6/0/1.

CONSENT AGENDA

Charlotte Fugate moved, seconded by Norm Crume, to approve Consent Agenda Item A: Minutes of the Regular Meeting of April 21, 2015; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Judith Kirby, Ontario, received a letter from Malheur County District Attorney Dan Norris, in response to her concerns regarding the prosecution of illegal activities surrounding medical and/or recreational marijuana sales or use. She also voiced concerns that the grow sites located in the City of Ontario were illegal. Ms. Kirby asked that the letter from Mr. Norris be added as part of the Council meeting record. *[Attached document]*

NEW BUSINESS

Bid Award: Water Treatment Plant Fence Project (Butte Fence, Inc. Meridian, Idaho)

Dan Shepard, CH2M Hill, Engineering Technician III, presented.

On April 17, 2015, CH2M opened bids for security fencing at the City of Ontario Water Treatment Plant. This project was based upon a security assessment of the water and sewer systems for the City. The security assessment was conducted in an effort to determine areas of vulnerability for the water and wastewater systems. Vulnerabilities could include matters such as access and intrusion issues associated with the Water Treatment Plant, water storage facilities, pump stations and Wastewater Treatment Plant. Based on an on-site assessment, CH2M prepared a report with recommendations and cost estimates for both policy and procedures and physical improvements to the individual facilities.

On January 20, 2015, the City Council gave approval to CH2M to solicit bids for fencing around the City of Ontario Water Treatment Plant and a mandoor at a pump station. Bids were solicited from the following companies:

Name	Bid
Vern's Custom Ranch Construction, Ontario	No bid submitted
Cascade Fence Company, Meridian, Idaho	\$78,970.00
Butte Fence Inc., Meridian, Idaho	\$66,843.50
Engineer's Estimate	\$65,500.00

Staff reviewed the bids, and found each bid to be complete and the companies were Oregon Registered Contractors.

If awarded as proposed to Butte Fence Inc., the apparent lowest responsive and responsible bidder, the cost of this project was \$66,843.50. The amount budgeted for in water line item 105-160-719280, was \$67,000, leaving a remaining balance of \$156.50.

Betty Carter moved, seconded by Larry Tuttle, that the Mayor and City Council award the Water Treatment Plant Fence Project 2015-02 to Butte Fence Inc., the apparent lowest responsive and responsible bidder, in the amount of \$66,843.50. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Resolution #2015-116: Remit \$2000 to Feral Cat Project for OPD Assistance

Mark Alexander, Police Chief, presented.

The Police Department was before the Council to request a reimbursement, payable to the Ontario Feral Cat Project, for expenses incurred for a criminal animal abuse investigation.

On Sunday, November 9th, Ontario Police began a homicide investigation following the discovery of a deceased Nampa, Idaho, man, located in the trunk of a vehicle behind West Park Plaza. This event used the department's at-hand resources. Concurrent to this situation, the department received a call of a suspicious van parked in Ontario with approximately 100 cats inside.

The Malheur County Sheriff's Office graciously covered the animal complaint, which resulted in the seizure of 73 cats under deplorable conditions. The investigation utilized a large amount of time, as it included, among other things, media exposure and court appearances by County Deputies. The owner of the van was prosecuted for Animal Neglect. The Police Department feels indebted to the Malheur County Sheriff's Office for their help, and to the Ontario Feral Cat Project, who were able to take a huge burden from the Sheriff's Office. The Feral Cat Program spent over \$30,000 for costs associated in caring for the cats.

Malheur County Sheriff Brian Wolfe recently advised Ontario Police that his office intended to pay the Ontario Feral Cat Program \$2,000 to assist with costs associated in this matter. Ontario Police believe the Malheur County Sheriff's Office should not have any further financial burden for agreeing to assist with a case that otherwise would have, and should have under normal circumstance, been investigated by OPD; however, the Police Department does not have funding within the police budget to cover the payment.

The reimbursement would require \$2,000 be taken from General Fund Contingency, unless another funding source was designated by Council.

Charlotte Fugate moved, seconded by Tessa Winebarger, that the Council adopt **Resolution #2015-116: A RESOLUTION AUTHORIZING THE REIMBURSEMENT TO THE ONTARIO FERAL CAT PROJECT FOR THEIR ASSISTANCE IN AN ANIMAL ABUSE INVESTIGATION WITHIN THE CITY OF ONTARIO.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Elimination of Position: Finance Department Supervisor

Ronald Verini, Mayor, presented.

To provide better fiscal and resource management, Council discussed eliminating a position from existing city staff in the Finance Department. As this was a “*position*” elimination, as opposed to a “*personnel*” cut, the City Council was the only body authorized to take such action.

On April 30, 2015, following discussion at the Study Session, Council directed the City Manager to bring documentation to the Monday Council meeting, providing information with regard to the elimination of a city staff position.

The Finance Department currently employed five full-time employees, and one part-time contracted employee, who acted somewhat in the capacity of Finance Director. Through the evaluation of the job description and associated duties, it was determined that the elimination of the Finance Supervisor position would be a fiscally responsible decision, and that the job duties of the Finance Supervisor could effectively be spread among the remaining staff. If the position were eliminated, the City Manager and contracted part-time Finance Director would work with a lead employee in the department, who would be responsible for the daily activities and responsibilities of the department, and who would report directly to the City Manager; however, the lead employee would not be a Department Head.

Financial savings from the elimination would be realized, of approximately \$76,152. This would also provide an opportunity to better streamline productivity within the department.

Councilor Jost asked about the date of elimination.

Mayor Verini stated it should occur immediately.

Thomas Jost moved, seconded by Charlotte Fugate, that the City Council authorize the elimination of the Finance Department Supervisor, effective immediately, and to have the City Manager work with the remaining Finance Department staff to establish job responsibilities and department structure. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

Establish Public Safety Fund Use Criteria

Tori Barnett, Interim City Manager, presented.

In October, 2013, the City Council approved allocating 26.5% of the Motel Occupancy Tax to establish and provide revenue to a Public Safety Fund. However, no set direction was developed as to the use of the funds or the criteria necessary to request any type of expenditure from the fund. Council was asked to establish guidelines and parameters for the use of funds within the Public Safety Fund, as well as the format for requesting expenditures from said fund. Any future changes to the criteria and/or parameters would be done by resolution action.

Staff proposed the fund be utilized through requests submitted by either the Fire Chief or Police Chief; however, that did not, or would not, preclude another Department Head with a justifiable need to make a request via either of the Public Safety Chiefs. Staff also proposed that any expenditure requests first be presented to the Ontario Public Safety Board, which consisted of seven members from throughout the community. This process was similar to what occurred with the Public Works Department discussing certain items with the Public Works Committee, prior to coming before Council for action.

Staff took the liberty of providing a few suggestions for Council review: 1) *Was the request included in any previous budget proposals? If yes, but eliminated, why was the request not in the current budget?* 2) *Are there any other funding sources available?* 3) *Are there any opportunities for coordination with another department or agency for the purchase?* 4) *Describe the priority for the purchase;* 5) *What is the magnitude for the project? Meaning, who will receive benefit from the project;* and 6) *The request should be for a capital purchase of \$5000 or more.*

Currently, the Public Safety Fund showed a balance of approximately \$130,000. The fund received monthly revenues of approximately \$14,000, based upon the 26.5% received from the Motel Occupancy Tax.

The Council could elect to not create criteria or establish parameters for requesting funds from the Public Safety Fund, and continue to have staff make requests on a case by case basis.

Mayor Verini thought that TOT fund was set up with the intention of being utilized for the safety of the community. It should not be used for a specific purpose, and not be limited to such a narrow field of expenses.

Ms. Barnett clarified that there was a point of contact in each department to bring things forward but not limited to only the Police and/or Fire Chief.

Charlotte Fugate moved, seconded by Betty Carter, to table it for two weeks until the next meeting, as they'd like an opportunity to review the suggestions presented by staff, and to also make their own recommendations. [No vote].

Councilor Tuttle wanted to know specific information about the Ontario Public Safety Board.

Mayor Verini answered that he was on the Board, and asked Chief Alexander to provide a brief summary of who was on the Board, and what their role was.

Chief Alexander stated the Board was comprised of seven members from around the community, who had an interest in the safety of our city and the surrounding areas. It had been in operation since 2002. It was not established by ordinance or resolution, but more of a committee just interested in bettering the city. It was the springboard for the Cops on Patrol group, too. They had tours of various facilities, and provided education to the community. They met once a month at City Hall for about an hour, depending on the topic of the day.

Larry Sullivan said that it would fall under the parameters and regulations of a public meeting if a recommendation is being brought to the Council by the group.

Councilor Crume reminded them that the fund was a replenishing account and had been managed well and felt that a decision could be made that night instead of pushed out a few weeks.

Councilor Jost voiced his agreement with Councilor Crume.

Ms. Barnett stated the proposed guidelines were just an example, and could be changed. Tori said that the guidelines could be changed.

Mayor Verini suggested tabling this action until the next work session to give more time for review.

[Retyped motion from above]

Charlotte Fugate moved, seconded by Betty Carter, to table it for two weeks until the next meeting, as they'd like an opportunity to review the suggestions presented by staff, and to also make their own recommendations. Roll call vote: Crume-no; Winebarger-no; Fugate-yes; Jost-no; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 4/3/0.

Poverty to Prosperity

Riley Hill, Poverty to Prosperity Board member, spoke of the \$5,000 received for the Poverty to Prosperity program given by the city when this was first established. A class was started with an automated systems program. They were working with employers and had companies ready to hire participants. Mr. Hill had the first phase of the update to give to the Council members. Land had been brought in as industrial, but would also need to be serviced with infrastructure being added. Currently, only 8.4 million gallons of water could be produced reliably. This would need to be addressed by the state. The sewer ponds would need more capacity to be useable and needed to be upgraded.

Mayor Verini commented that he was impressed with his conversations regarding the Poverty to Prosperity program. He reminded the Council the initial \$5,000 provided to Poverty to Prosperity came from the interest from the Business Loan Fund. It was a grant, not a loan.

Councilor Fugate believed that granting the \$5,000 would establish a precedent and might not be fair for the other non-profit organizations.

Mayor Verini felt that it was a good investment in the community and would be granted to other non-profit organizations if it helped with employment and bettered the community like the Poverty to Prosperity program.

Ms. Barnett stated that both SREDA and Snake River Transit applied for fund through the formal application process.

Kari Ott, CPA, Finance Department, stated those funds had come from the Economic and Community Enhancement Fund, was funded through the interest received by the payments made to the Revolving Loan Fund. In the upcoming FY 2015-16 budget, they had anticipated SREDA receiving \$10,000 and SRT \$15,000. It would be in the Administration Overhead budget.

Councilor Tuttle said that it should be passed through the Business Loan Committee.

Ms. Ott stated it was all together in one fund. The interest could be spent on other things.

Mr. Hill stated that he had solicited money from other businesses in the community. He wasn't just coming to the city.

Ms. Barnett provided Mr. Hill with the application for requesting grant funds from the city, and he was asked to submit the completed application back to the city by May 11th so it could go before the Business Loan Fund Committee, who had already scheduled a meeting for that day.

PUBLIC HEARING(S)

Informational Public Hearing for Anchor Mini-Storage LLC Reimbursement District

It being the date advertised for public hearing on the matter of the informational Public Hearing for Anchor Mini-Storage LLC, Reimbursement District, the Hearing was declared 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.

Dan Shepard, CH2M Hill, Engineering Technician III, presented.

Jeff Petry owns Anchor Mini Storage, a storage rental business located on the south side of SE 5th Avenue. He developed Anchor Mini Storage in 2011 and installed public utilities which serviced both his property and four adjacent properties. Mr. Petry would like to be reimbursed for the portion of the utilities used by his neighbors, and to do so, it was necessary to form a Reimbursement District. The Director's Report for Reimbursement District was presented at the City Council meeting March 2, 2015. An Informational Public Hearing was required within 45 days after the report was presented and it was set for April 20, 2015; however, it was postponed until May 4, 2015, due to a change in the Council meeting dates. At the informational public hearing, anyone had the opportunity to comment on the Reimbursement District. Because formation of the Reimbursement District would not result in an assessment against property or lien against property, the public hearing was for informational purposes only and was not subject to mandatory termination because of remonstrance's. Notices of the public hearing were sent out ten (10) days prior to any public hearing. No formal Council action was required.

On March 16, 2015, the Council adopted Resolution #2015-111, which adopted the Public Works Director's Report and created a Reimbursement District in favor of Anchor Mini Storage LLC for installation of sanitary sewer and storm sewer improvements on SE 5th Avenue.

Mr. Petry's cost of improvements totaled \$75,779.00. According to Ontario Municipal Code, there was no reimbursement for design engineering, financing costs, permits or fees, land or easements dedicated by the developer. The cost proposed to reimburse is \$44,712.01, which was the balance of \$75,779.00, less the improvements along Mr. Petry's property and a portion of the total construction engineering costs.

Mayor Verini asked if all the property owners had been informed of the hearing.

Mr. Shepard stated they had all been mailed the information.

Mr. Sullivan commented that there was no requirement that an owner vote for or against the project.

Mike Hanigan, Fruitland, owned property in Ontario. He had been reviewing the report, and indicated the numbers didn't make sense.

Mr. Shepard stated a portion of the public improvements were done and not included. The total project was \$77,000 but a portion was disallowed, so the overall cost was \$44,000.

Mr. Sullivan commented that annexation wouldn't trigger Mr. Hanigan paying his portion.

Mr. Shepard stated that when a property developed in the city, they would be required to extend their sewer across the frontage of their property.

Jeff Petry, Baker City, stated he wanted his neighbors to give him their portions of the amount that he paid.

Mr. Hanigan asked if it this was open ended.

Mr. Shepard stated it was for a 25 year term.

Mr. Sullivan stated that by ordinance, a resolution would be developed to set an interest rate for interest accumulated by city ordinance.

Mr. Petry said that the interest rate should be set as 0%.

The Hearing was opened for public testimony.

Opponents: None.

Proponents: None.

There being no Proponent and no Opponent testimony, the Hearing was closed. No Council action was necessary.

Ordinance #2701-2015: Amending Title 10A to Permit Medical Marijuana Facilities as a Conditional Use in the C-2-H Zone and Prohibit Them in All Other Zones (1st Reading)

Pete Friedman, Interim Planner, presented.

The State of Oregon, by legislative enactment, established a process for the licensing and registration of medical marijuana facilities and dispensaries. Currently, the city zoning regulations did not address or allow these uses. The City Council directed the drafting of appropriate regulations and standards governing the time, manner and place where medical marijuana dispensaries might be allowed within the Ontario city limits.

As recommended, the proposed amendments would:

- Amend Title 10A adding a new chapter 10A-58 entitled “Medical Marijuana Facilities” and providing general and specific conditions for the establishment of these uses.
- Amend Chapter 10A-03 to adding a new section 10A-03-134.5 to provide a definition for a medical marijuana facility.
- Amend Title 10A by prohibiting medical marijuana facilities in all zone districts unless explicitly designated as a conditional use in specific zone districts.
- Amend Chapters 10A-31 to designate medical marijuana facilities as a conditional use in the C-2H (Heavy General Commercial) zone district.

At the April, 2015, Planning Commission Meeting, the Planning Commission recommended approval of Ordinance #2701-2015 by the City Council.

The zoning amendments in the proposed zoning ordinance mirrored the location restrictions imposed in Ordinance 2700-2015, the medical marijuana facility business license ordinance, with one exception. Ordinance 2700-2015 prohibited medical marijuana facilities in a TRO (Transitional Residential Overlay) zone and established a 200 foot buffer from a TRO zone. Proposed Ordinance 2701-2015 did away with those restrictions for TRO zones.

A TRO zone was an overlay zone that allowed manufactured homes to be located in the city’s C-2-H zones, as well as in other zones. A TRO zone did not appear on the city’s zoning maps because it simply “overlays” the C-2-H zones. Section 10A-23-01 of the City Code described the purpose of a TRO zone as follows:

To provide for the placing of manufactured homes on a long term, but temporary, basis in areas zoned C-2-H or where is presently a dominant residential presence, but so located that in the long term, and with an adequate market, the land will be in demand and suitable for heavy commercial or light industrial use.

If medical marijuana facilities were prohibited in a TRO zone, or if there was a 200 foot buffer from a manufactured home in a C-2-H zone, it could have the effect of eliminating large areas of a C-2-H zone as a site for a medical marijuana facility if there were manufactured homes nearby.

Under the TRO zoning regulations, residents who chose to live in manufactured homes in a C-2-H zone lost many of the zoning protections normally provided to residences in other zones. They should have no expectation that they would be insulated from the kind of commercial and industrial development otherwise allowed in a C-2-H zone. Therefore, it was staff’s recommendation that the presence of one or more manufactured homes in a TRO zone should not affect the location of a medical marijuana facility that would otherwise be properly located in a C-2-H zone. Section 10-58-05 of the proposed ordinance removed the prohibition on locating a medical marijuana facility in a TRO zone that was also located in a C-2-H zone. Section 10-58-15(A)5 of the proposed ordinance specifically exempted TRO zones from the 200 foot buffer required for other residential zones.

If the Council accepted this change in the treatment of TRO zones, staff would bring the medical marijuana business license ordinance back to reconcile the language of the two ordinances through proposed amendments.

Findings of Fact:

1. The Oregon Legislature enacted House Bill 3460 in 2013 (ORS 475.314), which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities.
2. Under Oregon law, local governments may regulate the operation and location of certain types of businesses within their jurisdiction except when such action is specifically preempted by state law.
3. The City of Ontario substantive zoning regulations and administrative requirements are contained Titles 10A and 10B of the Ontario City Code.

4. Amendments to Titles 10A and 10B have been initiated by the City Council in accord with Section 10B-15, Ontario City Code.
5. The amendment action was referred to the Ontario Planning Commission for a legally advertised public hearing.
6. After reviewing the staff report and taking public testimony, the Planning Commission voted to recommend to the City Council approval of the proposed amendments with certain changes to the draft ordinance.
7. The appropriate legal notice has been provided for this hearing.

The Hearing was opened for public testimony.

Opponents: None.

Proponents: None.

There being no Proponent and no Opponent testimony, the Hearing was closed.

Tessa Winebarger moved, seconded by Norm Crume, that the City Council adopt **Ordinance #2701-2015, AN ORDINANCE AMENDING THE CITY ZONING AND DEVELOPMENT CODE, TITLE 10 ONTARIO MUNICIPAL CODE TO ESTABLISH STANDARDS AND LOCATION FOR MEDICAL MARIJUANA FACILITIES**, on First Reading by Title Only. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-yes; Verini-yes. Motion carried 7/0/0.

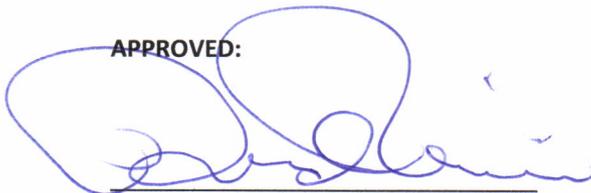
COMMENTS

Councilor Fugate mentioned that the Feral Cat Program was looking for a building to relocate to, and had asked Ms. Barnett to look into options for an office at the golf course.

ADJOURN

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

APPROVED:



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder