

**ONTARIO CITY COUNCIL MEETING MINUTES
May 6, 2013**

The regular meeting of the Ontario City Council was called to order by Council President Dan Jones at 7:00 p.m. on Monday, May 6, 2013, in the Council Chambers of City Hall. Council members present were Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ron Verini.

Members of staff present were Jay Henry, Tori Barnett, Mark Alexander, Mike Long, Dan Shepard, and Bob Walker. The meeting was recorded, and copies are available at City Hall.

Mike Long led everyone in the Pledge of Allegiance.

AGENDA

Ron Verini moved, seconded by Charlotte Fugate, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 6/0/0.

CONSENT AGENDA

Norm Crume moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Minutes of the Regular Meeting of April 15, 2013; Item B: Request to Proceed: SRO Contract with 8C School District 2013-14 School Year; Item C: Fuel Bid Award: Fiscal Year 2013-14; Item D: Planning Commission Appointment: Craig Smith; and Item E: Approval of the Bills. Roll call vote: Crume-yes; Fox-no; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 5/1/0.

Norm Crume asked Chief Alexander, regarding Page 10 of the SRO Contract, under Financial Implications, would the Chief please explain the wording.

Chief Alexander stated that was the verbiage from the prior two contracts. He felt comfortable that the number wouldn't be reached; however, that could be looked into for future contracts.

DEPARTMENT HEAD UPDATES

Bob Walker, with assistance from Sean Maloney, OODT, stated the city checked out the utilization of leftover funds for Phase III of the underpass project to do actual construction; however it did not prove to be cost effective, and staff would like to proceed with Phase III as planned.

It was Council consensus to approve the action submitted by Mr. Walker.

PUBLIC COMMENT

Bill Thompson, Ontario, asked the Council if the city could help with replacing the American flag at Evergreen Cemetery. There was a nice 40 foot flag pole there, but no flag or rope. Several military groups, such as the American Legion and the VFW, had placed flags in the past, but currently had no funding available for restringing. He asked if the city had a bucket truck or something to assist in restringing the pole for them. The pole had originally been donated to honor a pioneer family, but it had never been lighted. Three or four years ago, they put up a new flag and a solar light. It was also backlit from the TVCC gym lights. The Legion would be happy to keep the flags if they could get the pole restrung.

Councilor Jones stated this item would be on the next Agenda, as the cemetery would already be scheduled for discussion. He believed the city could assist in this matter.

[Copied verbatim from hand-out]

Ruth Rolland, Ontario, stated "What about respect? Like any community, Ontario, exists for the benefit of the people who live here, buy and sell products and services in the community, and work here. The people living in the community elect their city council. – And every council person here has many admirable traits. All work hard, and are serious minded. The City is filled with hard-working, serious minded people – men and women who are working parents or grandparents, teachers, business owners, store clerks and waitresses, forklift drivers, and even employees of the city. They are all a part of this community, and they are also voters and tax payers. Most of us living in Ontario are working people – and we care about Fairness, and we think working people deserve Respect. My question here today is to Council President Jones and to each one of the members of the City Council – DO YOU APPRECIATE AND RESPECT ALL – OR ANY – OF THE CITY EMPLOYEES who make sure Ontario's City services and departments keep operating every day – to serve this community – all day long – EVERY DAY OF THE YEAR? And I just want to ask in addition, to each member of the City Council, do you respect ALL the working people who live and work in the Ontario community? –Working people, whether employed at a farm or packing shed, or an insurance office – or for the City – THEY ARE – AFTER ALL – the heart and strength that binds this community together. – They buy things, pay mortgages and rents, **they step up to do their jobs, they take care of their debts and take care of their families** – which is... -- that's the very bed-rock meaning of RESPECT. I would like to hear each member of the Council respond individually – DO YOU RESPECT THE CITY'S PUBLIC WORKS EMPLOYEES, AND DO THE CITY COUNCIL'S ACTIONS CONVEY THE RESPECT – OR LACK OF IT – that each of you holds for these employees? The Public Works employees deserve a fair Labor Agreement from this city's leaders.

Councilor Jones denied Ms. Rolland's request to poll the Council on whether or not they respected the Public Works employees. Her request was ridiculous. Other Councilors could respond, but he would not.

Councilor Fox stated every member of the Council respected everyone on Earth.

Ms. Rolland replied that some turned a blind eye, and some would see all. That was her own personal observation.

NEW BUSINESS

Resolution #2013-116: Setting a Uniform Administrative Charge for Public Works Department Services

Bob Walker, Public Works Director, stated the City Council had approved various resolutions authorizing the Public Works Department to impose an administrative charge of 25% on fees charged by the Public Works Department for performing various services. For instance, Resolution 2004-118 imposed a 25% administrative charge, in addition to the City's actual staff costs, for repairing a service connection that was not damaged by the city. The purpose of the administrative charge was to compensate for the city's administrative overhead. He had investigated the administrative charge and determined that it was unnecessarily high, and was proposing that the administrative charge be reduced to 7% rather than 25%.

Proposed Resolution #2013-116 revised the administrative charge to 7% for all Public Works Department services, with the exception of system development charges (SDCs). SDCs were not charges for services performed by the Public Works Department, but were used to finance capital improvement projects.

The Public Works Committee, at their April 25, 2013 meeting, recommended that the City Council approve Resolution #2013-116.

Jackson Fox moved, seconded by Norm Crume, the City Council approve **Resolution #2013-116, A RESOLUTION SETTING A UNIFORM ADMINISTRATIVE CHARGE FOR PUBLIC WORKS DEPARTMENT SERVICE, effective immediately**. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 6/0/0.

Ordinance #2678-2013: Amending OMC 8-7-4 re Installation of Sewer Back Check Devices (Backwater Valves) 1st Reading

Bob Walker, Public Works Director, stated in December, 2012, staff brought the City Council proposed Ordinance 2672-2012, which amended the sewer back check requirements of Subsection (O) of City Code Section 8-7-4, which allowed the city to require the installation of backwater valves (back check devices) on old service connections in some circumstances. During Council discussion of the proposed ordinance, Councilor Fox questioned whether the ordinance language was consistent with the State Building Code. As a result of that discussion, consideration of Ordinance 2672-2012 was tabled.

Subsequent investigation by staff confirmed that the proposed language was inconsistent with Section 710.1 of the State Plumbing Specialty Code, which prohibited the installation of all backwater valves that were above the elevation of the next upstream manhole cover. Oregon Administrative Rule 918-750-0100(2) prohibited cities from enforcing any city code provisions that were inconsistent with the Oregon Plumbing Specialty Code.

The matter was brought to the Public Works Committee, who recommended at their April 25, 2013 meeting, that the reference to sewer back check devices in subsection (O) of City Code Section 8-7-4 be deleted entirely, in order to resolve the inconsistency between the state and city code provisions. Proposed Ordinance 2678-2013 would accomplish that.

Charlotte Fugate moved, seconded by Ron Verini, that the City Council approve **Ordinance No. 2678-2013, AN ORDINANCE AMENDING CITY CODE SECTION 8-7-4 REGARDING INSTALLATION OF SEWER BACK CHECK DEVICES (BACKWATER VALVES)**, on First Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

Ordinance #2679-2013: Amending OMC 8-1-1 re Specifications Adopted (1st Reading)

Dan Shepard, Engineering Technician, stated the City of Ontario adopted the 2002 edition of the Idaho Standards for Public Works Construction (ISPWC) in 2002. Since then, five editions had superseded one another. Each in turn was adopted by the Public Works Department. On July 1, 2002 the City Council adopted Ordinance 2497-2002, which amended OMC 8-1, to adopt Idaho Standards for Public Works Construction and City of Ontario Supplement to the ISPWC.

The ISPWC was a set of comprehensive specifications that governed Public Work projects and work that was done in the public right of way. Periodically the specifications were updated and a new edition was issued.

The adopting ordinance of the ISPWC specifically referred to the 2002 edition. As the ISPWC was the standard referenced in most Public Works contracts, it was important to stay current on the edition being used. By deleting the number "2002" from the ordinance, Public Works, with the recommendation of the Public Works Committee, could update the Idaho Standards for Public Works Construction more efficiently.

Ron Verini moved, seconded by Norm Crume, the City Council adopt **Ordinance 2679-2013, AN ORDINANCE AMENDING TITLE 8, CHAPTER 1, SECTION 1, OF THE ONTARIO MUNICIPAL CODE - SPECIFICATIONS ADOPTED**, on first reading, by title only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

PUBLIC HEARING

Resolution #2013-117: Adopting a Supplemental Budget for the General Fund, Golf Course Fund, and Capital Projects Fund for the Biennial Budget Year 2011-2013

It being the date advertised for public hearing on the matter of Resolution #2013-117, the Council President 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.

Mike Long, Finance Director, stated the City's Budget Committee met on January 29, 2013 to review and discuss the operations. They also passed a motion recommending the Council adopt the supplemental budget for 2011-2013. This Public Hearing was to discuss the Aquatic Center in the General Fund and the Golf Course Fund changes in operations and the Capital Projects Fund unanticipated revenue from the sale of surplus property. The financial implication was increasing the General Fund by \$100,862, the Golf Course Fund \$122,212, and the Capital Projects Fund \$100,000 for a total of \$323,074.

The Council President opened the hearing for public testimony.

Proponents: None.

Opponents: None.

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

Councilor Fugate asked if \$122,212 for the Golf Course included the \$25K authorized for the City Manager to spend for incidentals at the golf course.

Mr. Long state no. It only increased by what was discussed with the Budget Committee at their January meeting, or the \$122,212. That would be reviewed as they got closer to the end of the fiscal year. The \$122,212 should cover the \$25K.

Councilor Jones stated he believed they authorized the City Manager to spend that, but it wasn't in the budget

Mr. Long stated that was correct, but the proposed resolution would be increasing a number of line items. It would not increase any budget numbers. If something needed to be approved, it would come out of the already approved \$25K.

Councilor Fox stated this Public Hearing processes formalized what has already been done, according to law.

Mr. Long stated this had also been approved by the Budget Committee.

Jackson Fox moved, seconded by Larry Tuttle, that the City Council approve **Resolution #2013-117, A RESOLUTION ADOPTING THE SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2011-2013 AND TO APPROPRIATE THE ADJUSTMENTS**. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 6/0/0.

Resolution #2013-115: Amending Building Department Permit Fees

It being the date advertised for public hearing on the matter of Resolution #2013-115, the Council President 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.

Bob Walker, Public Works Director, stated in 2004 an ordinance authorized the City Council to set building permit and related fees. It was stated at that time that a review should be performed every three years to evaluate the permit fees. The last review performed was in 2005. The Building Department would like to remove some permit fees that were not deemed necessary and clear up some inconsistencies which were found when transferring from the old Permit Tracker permit software (an in-house, homemade program) to the new Sassy Software Solutions permit software. On Thursday, April 25, 2013, the Public Works Committee moved to recommend the request to the City Council.

The Council President opened the hearing for public testimony.

Proponents: None.

Opponents: None.

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

Councilor Fugate asked if this would raise any fees?

Mr. Walker stated he didn't believe so. There were more items on the schedule than before, but it wouldn't be increasing any fees, or if there were, it would only be marginal. The software allowed better clarification on the permits.

Councilor Tuttle asked on which ones.

Mr. Walker stated he didn't know exactly, mechanical, commercial, residential, etc. He knew there was more information on this new program than on the old.

Charlotte Fugate moved, seconded by Ron Verini, that the City Council approve **Resolution #2013-115, A RESOLUTION AMENDING BUILDING DEPARTMENT PERMIT FEES**. Roll call vote: Crume-yes; Fox-no; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 5/1/0.

NEW BUSINESS - CONTINUED

Kimley-Horn Contract for Engineering Services for FAA AIP 3-41-0044-011-FY'13

Jay Henry, City Manager, stated this contract was for engineering on an FAA funded project to rehabilitate and construct taxi lanes and to rehabilitate the beacon. This engineering contract was for \$145,352, of which 90% would be paid by the FAA. This project was supported by the Airport Master Plan and was on the city's Capital Improvement Projects list. It had been reviewed by the FAA and approved for funding. The entire project was expected to cost about \$600,000, with the FAA funding is 90%, leaving the city a match of approximately \$60,000. The city delay starting the project until next year, but this project was scheduled to be done this year and the FAA was somewhat inflexible. This contract would be paid out of the FAA reimbursement grant at 90%.

Norm Crume moved, seconded by Jackson Fox, that the City Council approve the contract with Kimley-Horn for engineering services for AIP project 3-41-0044-011. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

Ubiquitel Water Tower Lease Amendment No. 1

Jay Henry, City Manager, stated after the Council approved the UbiquiTel lease extension with a ten-year fixed term, UbiquiTel asked staff to consider whether it would present to the Council another alternative, namely, a lease with a ten-year fixed term, followed by three optional five-year terms. UbiquiTel proposed that the city would have the right to prevent renewal of the lease if the city gave UbiquiTel notice of non-renewal at least 12 months before the expiration of the ten-year term or before the end of the first or second five-year renewal term. UbiquiTel was requesting these additional five-year renewal options in order to help spread its costs for putting new equipment on the water tower as part of the lease extension. UbiquiTel informed staff that if the Council didn't approve UbiquiTel's requested change in the extension, UbiquiTel would sign the fixed ten-year lease extension approved by the Council on April 15, 2013.

Under the lease formula (\$1,500/month, increasing annually by 3%), renewing the lease for an additional five year term at the end of the initial ten-year term would generate \$128,431 in revenue; renewing it for a second five-year term would generate \$148,886 in revenue; and renewing it for a third five-year term would generate \$177,778 in revenue.

Jackson Fox moved, seconded by Ron Verini, to deny UbiquiTel's latest request. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

Crest Way and Horning Way Annexation: Set Public Hearing

Jay Henry, City manager, stated the purpose of this agenda item was to obtain the Council's permission to schedule a public hearing on the proposed Crest Way/Horning Way annexation. On April 16, 2013, staff had a meeting with nine residents of the proposed Crest Way/Horning Way annexation area to discuss whether they were willing to voluntarily annex into the city if the city did not require them to connect to city services at the time of annexation. The residents had a number of questions, but only one couple said they were opposed to annexation because they have more chickens and dogs than are allowed under the City Code. After that meeting, staff also contacted residents who did not attend the meeting.

Staff believed that there was enough interest among the residents to justify moving forward with the annexation process. The next step was to schedule a public hearing to allow the residents as well as voters in the city to comment on the proposed annexation. Prior to the hearing date, staff would circulate consent forms among the property owners and the registered voters who lived in the proposed Crest Way/Horning Way annexation area.

If, before the public hearing, the city received signed consent forms from property owners who owned more than one-half of the property by area, and signed consent forms from a majority of registered voters within the proposed annexation area (at least 12 of the 23 registered voters), the city could proceed with the next steps in the annexation process without holding an election for the people in the proposed annexation area. The public hearing must be advertised for two full weeks before it is held, which would mean that the earliest hearing date would be at the regular Council meeting on June 3, 2013.

If the city received the required number of signed consent forms, the city could proceed with the annexation and rezone of the annexation area into the city. This would mean starting the formal land use process through the Planning Commission and City Council for the enactment of annexation and rezone ordinances.

If the city failed to receive the required minimum number of consent forms, the City Council did not have to move forward on the annexation process. Various options would be presented to the Council at the time of the public hearing if an insufficient number of consent forms were received.

Norm Crume moved, seconded by Jackson Fox, that the City Council schedule a public hearing on the proposed Horning Way/Crest Way annexation on June 3, 2013, at 7 p.m. in the City Council chambers. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

Riley Hill – Request for Waiver of Building Fees

Jay Henry, City Manager, stated several years ago, Riley Hill began building two homes, but only completed the foundations. It had been approximately 6½ years since any work had been done on the properties. Mr. Hill was now asking for a waiver for the building permit costs. The Building Official did not feel the waivers were warranted. The City Manager reviewed all the documents and agreed with the Building Official, and issued a response letter to Mr. Hill explaining the city's decision. Issuance of new building permits would trigger SDCs; however, at the City Manager's recommendation, since the development was already in place, it would be excessively onerous to charge the SDCs. He recommended charging the permit fees, but to waive the SDCs. Following receipt of the City Manger's decision letter, Mr. Hill requested to address the Council. Basically, the Council options were to waive the building fees, to waive the SDCs, to waive both, to charge or one or the other, or to charge both. He was just looking for direction from the Council.

Mike Erlebach, Ontario, stated he had been a resident of Ontario for over 50 years, and owned a business in town. He had purchased a lot in a subdivision 15 or 20 years ago, and had planned to live there. He had plans to put in a townhouse and pulled the trigger on a permit. However, due to circumstances, he had not been able to begin his project until this fall. He had purchased a footing and found permit only, which was substantially less. His original permit was for \$2,016.14, and footings and foundation only would have only been \$150. If he had known of that option, he might have done that. He was before the Council asking that they not require him to buy a second permit for the same project. He appreciated the efforts of the Council in making this area a better place to live. He also thanked Councilor Crume for his efforts in taking care of graffiti.

Riley Hill, Ontario, stated he had purchased the permits in 2006, but then the economy tanked, so it wasn't prudent to move forward. His situation was that he purchased a full permit for each home, hooked up water and sewer to each foundation, and work commenced within the 180 time frame. He suspended work, and in reading the Code, he saw that he could, in writing, ask for an extension. He read that he didn't have to do that in succession. Barring that argument, if the Council didn't go that route, and the city did not do any inspections, there was no damage to the city. Had he, in the alternative, purchased just a footing and foundation permit, he would have paid \$155 or whatever, and this conversation wouldn't be taking place. He'd be picking up a structural permit. He wouldn't be paying again for something he hadn't benefited from. It appeared to him that it would be good policy - a precedent - and he was probably going to spend \$1,500 more if he was found the wrong way. He could afford it, but some couldn't. \$1500-2000 was a major expense for some - from buying, building, or moving forward. Here in Ontario, they were always talking about being business friendly, but was that always done? The precedent was the chance to set the right one. Forget his face. In addressing Jay's comments on the SDCs, that there were none, in fact, there were. He specifically remembered, as did other Public Works Committee members, that there were to be no SDCs on existing lots in Ontario. There were lawsuits over similar things back then. Somehow, that recommendation went out of the Public Works Committee, to the Public Works Director, and it obviously didn't go any further. However, the Public Works Committee didn't follow up either. Jay was right. If they would give him another minute to speak after the vote, he would appreciate it.

Councilor Jones asked in reference to Mr. Erlebach, had he purchased another permit?

Mr. Erlebach stated he had purchased a footing and foundation permit only, and was in the process of putting that in. That included the 200 lineal foot of city sidewalk he would put in.

Councilor Jones verified in 2006, Mr. Hill purchased a full building permit, but didn't do any building. A letter was received about the expiration, but he couldn't pull the trigger on the project.

Councilor Verini stated the letters contradicted each other. In the letter from staff, it read that there was a 180 day expiration timeline, but extensions could be granted, but not more than 180 days each, if requested within the 180 initial time frame. If that was true, the request for relaxation of the building permit fees would be detrimental in that other people could make the same request. At the work session, they had asked how many outstanding permits were currently on the books, not completed, and he understood it was substantial. They were setting a precedent. When staff issued the letter, relaxing the SDCs, that was beyond what probably should have done, but at the same time was making this a kinder and gentler group to work with regarding building permits. After reading the other letter and reflecting back to the Riley Hill letter, what would he say to the request for the permit waiver that the city hadn't proposed?

Mr. Hill stated his project was already under way. He suspended work due to lack of financing. It was before SDCs were in effect. It was causing no damage to the city. 50% would go to Fruitland, and the other 50% would have to stay in building. It couldn't be used anywhere else.

Councilor Fox stated in the letter from the city, he didn't see where Mr. Hill was given credit for the foundation. Those inspections were done, so why charge for those again? He tended to agree with both contractors. He didn't see the damage to the city. What was the "bad" precedent being set?

Mr. Henry stated if they agreed to waive the building fees, it would open the door for others to request the same. It might be right or wrong, but that was how staff interpreted it. They wanted to provide for consistency in the regulations.

Councilor Fox asked if staff looked into the 180 day trigger? The intent for the 180 day period was in case the building codes changed in that time. Then you would have to change to meet those codes. Had those changed in the past six years?

Councilor Tuttle stated it went back to that there was an ordinance in place. So, did they follow it, or continue to make exceptions. The ordinance was in place, and neither contractor had asked for an extension. If the Council granted an exception, that would open the door for everyone else. If the ordinance wasn't any good, then change it. It was on the books now, so they needed to follow it. He didn't believe they should waive the fees. He was in favor of following the ordinances that were on the books.

Councilor Fox stated he was also in favor of following ordinances on the books, but it got foggy how staff only wanted to follow certain ordinances, but not all.

Councilor Tuttle stated it was there, and that was the point.

Councilor Crume stated in a perfect world, they talked of no harm, no foul to the city, he understood that in theory and thought. If it was solely his own decision, and it wouldn't set a precedent over what was in an ordinance or what was fair, he would like to see, in Mr. Hill's situation, whatever he had paid, that money accounted for, and whatever those fees were six years ago, if there was a difference today, then he wanted to see a change in whatever was left to be done at today's cost, whether by inspection or SDCs, or whatever, and the same for Mr. Erlebach. He paid 100% but didn't do anything. The city got \$2K, but didn't expend anything. But, did a perfect world exist? He didn't have an answer. He had heard compelling statements from two people on the Council who were in the construction business. He was a layman - he didn't know what work was done, or what expenses were. But, he also heard what staff was saying, and he understood the need to stay consistent. Councilor Fox brought up the idea of being business friendly and trying to get people to build and live in Ontario. He strived to go in that direction, too. He just didn't know what would be the best route to take.

Dan Jones moved, seconded by Jackson fox, that the Council instruct staff to reduce these two current permits by ½ of the original, of today's costs, in order for these two to complete their projects, and put this to rest. Roll call vote – Crume-no; Fox-yes; Fugate-no; Jones-yes; Tuttle-no; Verini-no. Motion failed 2/4/0.

Mr. Erlebach agreed it was fair and equitable.

Councilor Crume asked what the fees were six years ago, excluding SDCs, against today's fees.

Mr. Hill stated building costs and sales were higher in 2006 than now. The fee structure they passed earlier, the fees were so minute, it wouldn't even be noticed.

Mr. Walker stated the fees were last increased in 2004.

Mr. Shepard suggested that the motion be clear that staff wasn't going to charge for footings and foundation again. It would be only for the foundation up.

Councilor Jones stated Mr. Erlebach has purchased a full permit, and then purchased a second one for footings and foundation only.

Councilor Fox asked what they would be doing if it was 181 days instead of six years.

Councilor Jones stated they probably wouldn't be talking about it; however, in regards to Mr. Shepard's request for clarification on the motion...

Councilor Verini stated with the motion on the floor, in regards to the SDCs, did that mean that if they approved the motion, that that in effect set a firm precedent for other builders to come before the Council and request a waiver of the SDCs?

Councilor Fox stated other builders could request a fair shake. The Council couldn't affect SDC law.

Councilor Verini stated he wanted to do the right thing, but didn't want to dig themselves into a hole.

Mr. Hill stated the fees had been paid, and there would be no damage to the city. The Council knew there was a group of them working hard on the From Poverty to Prosperity program, so would the Council consider instead of making their checks to the city, get the fee assessment from the building department, and make the check out to the From Poverty to Prosperity program instead of having to give half to Fruitland. The city would gain from this – no damage.

Mr. Henry stated he wasn't opposed to that suggestion, but didn't know if the building contract would allow that to happen. It might put them in violation of that contract. Also, whatever the Council decided, staff would follow, but either way, he respectfully asked that a decision be made. Mr. Hill was continuing on his construction of the homes, and they needed to be inspected.

Mr. Hill stated nothing was covered up, and he appreciated the city working with him on the projects.

Councilor Tuttle stated Mr. Hill didn't have a permit, so he couldn't request an inspection.

Councilor Crume verified that Mr. Hill wanted to pay half the fees, and none to Fruitland.

Mr. Hill stated the fees were already paid.

Jackson Fox moved that the Council agree to Riley Hill's proposal regarding charges going to the Malheur County - From Poverty to Prosperity program, if that action didn't violate the Building Inspection contract. Motion died for lack of second.

Mr. Henry stated in reading through the contract, it did read that Ontario would be required to pay 50% of all chargeable fees, collected and uncollected, in Ontario for which inspections were requested, so it appeared the city would be on the hook to pay 50% of the fees collected.

Norm Crume moved that the Council waive the 180 day regulation time frame and accept the permit fees paid for building inspections as complete payment for inspections. Motion failed for lack of second.

Mr. Henry asked for direction from the Council.

Councilor Jones stated staff was to follow the existing ordinance.

Washington Street Bid Award

Bob Walker, Public Works Director, stated at the Council work session on May 3, 2013, he had distributed a May 1, 2013 memorandum from Bret Turner, the City's Project Manager for the NW Washington Realignment Project. Among other items, the Memorandum discussed a bid opening on March 27, 2013, for general contractors to complete the final details of the project. Of the six bids received, three were disqualified. The lowest responsive and responsible bidder was Granite Excavation, Inc. with a bid of \$2,844,369.68. As stated in the memorandum, on April 4, 2013, staff gave Granite Excavation a Notice of Award along with a contract. The purpose of this agenda item was for the Council to ratify the low bid award to Granite Excavation and authorize the City Manager to execute the resulting contracts on the city's behalf.

Jackson Fox moved, seconded by Ron Verini, that the City Council ratify the City of Ontario's acceptance of the low bid award from Granite Excavation in the amount of \$2,844,369.86 for a portion of the NW Washington Realignment Project, as well as the City Manager's execution of the contract documents in connection with that award. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

Fourth Amended Purchase and Sale Agreement with Chris Hardin of CDH Consulting for the Stelling Property

Jay Henry, City Manager, stated the city was under contract to sell 74.72 acres of undeveloped property (the Stelling property) to Chris Hardin, dba CDH Consulting, for construction of a data center. The latest escrow closing date expired on May 5, 2013, and Mr. Hardin has now requested a one year extension while he continues to work with potential user clients.

Mr. Hardin requested a one-year extension of the Agreement, but has not offered to pay any additional funds to the city for the privilege. The Council consensus at the work session on May 2, 2013, appeared to be to require Mr. Hardin to pay the same amount (\$50,000) as was paid for the last one-year extension. The proposed Fourth Amended Purchase and Sale Agreement provides for the following: Closing date extension to May 5, 2014; and \$50,000 payable to the City of Ontario solely as a fee for extending the closing date, with none of the money credited to the purchase price.

The City currently holds \$208,300 in non-refundable earnest money under previous agreements with Mr. Hardin. Mr. Hardin paid \$50,000 to the City for the previous one-year extension through May 5, 2013, in the Third Amended Purchase and Sale Agreement.

It was also possible that he pay another \$50,000 to the City of Ontario as additional non-refundable consideration for extending the escrow period.

Councilor Tuttle verified that gave a total of \$208,300?

Mr. Henry stated it was the total credit against purchase price; he had actually paid \$233,300, but some of that did not apply towards purchase price.

Councilor Tuttle stated the figures didn't add up. The city had \$75K that wasn't given back, but \$208,300 would apply to the purchase. None was returned – it was all non-refundable earnest money?

Councilor Fox stated it was not all earnest money. Some was for an extension on the time, to renew for a year. He might be in agreement to have some of that \$50K apply to the purchase prices, but he wanted to motivate Mr. Hardin.

Councilor Verini stated that \$25k as non-refundable, and \$25K against the purchase price, would be fair to Mr. Hardin. If Mr. Hardin truly had someone interested in the property that would be a small enough fee. He hadn't heard anything from economic development.

Councilor Fox agreed. When would the new time limit expire?

Mr. Henry stated it would expire May 5, 2014.

Councilor Fox stated some other developer might have landed a company, if this wasn't tied up by Hardin. He agreed with the 25/25 split.

Ron Verini moved, seconded by Norm Crume, that the City Council authorize the City Manager to sign the Fourth Amended Purchase and Sale Agreement with Chris Hardin of CDH Consulting, upon condition that Chris Hardin agree to pay the City an additional non-refundable \$25,000, and another \$25,000 which would be credited to the purchase price (Total to be paid \$50,000). Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-Yes. Motion carried 6/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Jay Henry presented a Certificate for Outstanding Service, to Mike Long, Finance Director. The Certificate read: "Outstanding Service" In honor of your outstanding performance and dedication, we gladly present Michael Long with this certificate of recognition for your high standards of excellence in work ethic, performance and integrity. Presented May 6, 2013.
- Ron Verini informed everyone there had been five soldiers killed in action last week in Afghanistan. One was a local boy from Meridian.

- Jackson Fox stated he had received a call from a citizen talking about how awful Evergreen Cemetery was looking. He drove out there and took photos, and it did look horrible. He also went to the Payette Cemetery, and took pictures. It was a world of difference. Our cemetery was appalling.
- Jackson Fox stated on the Rachel Hopper issue, he wanted it placed on the next Agenda for discussion. He had received a letter from MCDA Dan Norris, copies of which he distributed to the Council. The letter seemed to change everything from how it was previously left, and he wanted something done.

Consensus to add to next Work Session.

- Norm Crume reminded everyone that Serve Day was this coming week-end, and they were still looking for volunteers to help with the projects.
- Norm Crume stated he had seen the pictures from the cemetery which Councilor Fox had mentioned, and he was also appalled. About this time of year, every year, he had been contacted by citizens complaining about this problem. The pictures were nothing new, and seemed pretty common. He wished that wasn't the case.

Councilor Fox stated maybe the city needed to privatize. He owned plots out there, and his people were buried there. Many of our citizen's people were buried there. Before they could buy and receive a Deed, they had to pay Perpetual Maintenance on each lot. He understood that some weeds could occur, but it looked like someone was practicing on their mowing skills. He wanted to be proud of that cemetery. If that was at his home, he'd change the lawn care people.

Mr. Henry stated after receiving complaints, he had contacted Kathy Daly, [cemetery Sexton] and was told the work crew would be out on Wednesday cleaning it up.

Councilor Jones asked that a detailed report be given at the next Work Session.

Councilor Fox asked that they be provided a copy of the Perpetual Maintenance agreement. He had no idea we used prison work crews for upkeep. He had also been told the cemeteries would be mowed weekly.

Councilor Jones stated there had also been some issues regarding boundary lines at Evergreen. He wanted to see that addressed in the report to the Council.

- Councilor Jones stated the Golf Course Committee would be meeting next week; however, at the previous meeting they had discussed dissolving the Committee and to no longer be a part of the course. He had asked that they remain a Committee, but he had been asked to identify their role at the course. He wanted to see this on the next Agenda for discussion. This Committee was very valuable, and he hated to see them become disenchanted and walk away. He also wanted an overall update on the course.

Councilor Fox stated he had played 9 holes last Sunday, and had been approached by someone to discuss city issues. He didn't want to discuss city issues on his personal time, and informed them to speak with the Golf Course Committee.

ADJOURN

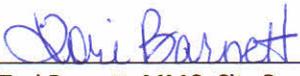
Jackson Fox moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes. Motion carried 6/0/0.

APPROVED:



Dan Jones, Council President

ATTEST:



Tori Barnett, MMC, City Recorder