

COUNCIL MEETING MINUTES

May 16, 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 16, 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, David Richey, and camera operator Delaney Kee. The meeting was recorded on tape, and the tapes are available at City Hall.

Councilor Fugate led everyone in the Pledge.

AGENDA

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

CONSENT AGENDA

Councilor Crume recused himself from voting on the Consent Agenda as he had an invoice on the bills.

Charlotte Fugate moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 05/02/2011; Item B: Approval of Minutes of Study Session of 04/28/11; Item C: Resolution #2011-110: Adopt Updated Council Rules and Procedures; and Item D: Approval of the Bills. Roll call vote: Crume-abstain; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/0/1.

PRESENTATION

Mayor Dominick stated the City of Ontario developed the City Government Award for Excellence in Leadership in 1998, with the first award being presented in May, 1999. This award was established to recognize student leaders for outstanding service to school and community. In previous years, the recipient has received a commemorative plaque, along with a \$500 stipend for use towards books, housing, or tuition. Also, in previous years, local firm CK3, LLC, has provided an additional award for \$250 towards this scholarship. As CK3, LLC, has once again donated those funds for 2011, the overall scholarship award will be for \$750.

To qualify for this award, the applicant must be a member of good standing in the senior class at Ontario High School; be a student with post-graduation plans for schooling or career development; and be a student who has demonstrated leadership in a variety of settings. The students must complete an application, which outlines their accomplishments, as well as complete an essay outlining why they feel they should receive the award. Also, at least one letter of recommendation must also accompany the application.

Representatives from the City staff, the City Council, and an OHS staff member reviewed the applications and selected the most deserving recipient. All applications submitted this year were from outstanding students, making the selection very difficult task. However, there are always those who seem to stand out, and this year was no exception. This year's recipient represents involvement within the community, church, and school, and exemplifies what this City should see from its high school graduates.

Councilor Fugate presented the award to Rachel Corn as the recipient of the 2011 Excellence in Leadership Award from the City of Ontario and CK3, LLC.

Rachel thanked everyone who contributed to the award. Tuition was very frightening to see, and every dollar counted. She planned to attend Brigham Young University Provo, Utah, to major in Nursing.

OLD BUSINESS

Ordinance #2657-2011: Amend OMC 7-4-6, add (D) re: Graffiti Issues (Final Reading)

Mark Alexander, Interim Police Chief, stated the Police Department wanted to amend Municipal Code Chapter 4, Title 7, Sections 6 and 7, by adding an emergency clause for graffiti removal when graffiti contained obscenities, and to decrease the time for abatement to occur. On May 2, 2011, the Council approved the proposed ordinance on First Reading.

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 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 that was sexual in nature. The Police Department proposed changes to Ontario Municipal code Title 7, Chapter 4, Section 6, by allowing abatement to occur within 48 hours from the time notice was received by a property owner.

The Police Department would like to decrease the time it takes to abate graffiti when a property owner was unwilling or unresponsive. The Police Department was proposing changes to Ontario Municipal Code Title 7, Chapter 4, Section 7, by decreasing the abatement period to 15 days without having to send a second notice.

Property owners had the right to appeal notices given to abate graffiti; there could be an increase in those appeals after abatements were done.

Councilor Fugate asked if there was a cost to the property owner for the graffiti removal.

Chief Alexander stated they could be, but he didn't believe it had ever occurred. The property owners were the victims, and the graffiti was not their fault.

Councilor Crume stated for those who had properties hit with graffiti, please get the waivers completed and turned in to the police department. Receiving those waivers was the issue that seemed to take the longest. He would be able to clean up as soon as he received the waivers.

Norm Crume moved, seconded by Ron Verini, that the Council adopt Ordinance #2657-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTIONS 6 AND 7, on second and final 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.

NEW BUSINESS

Resolution #2011-109: Ontario Sanitary Service, Inc., Fees

Henry Lawrence, City Manager, stated Ontario Sanitary Service, Inc. (OSS), through the franchise agreement with the City, was the designated waste hauler within the City limits. Waste collection fees collected by OSS were established through Ordinance #2328, and amended by Ordinance #2435. OSS now desired to amend the rate schedule approved September 1, 2008 by eliminating the Medical Waster 40-Gallon plastic container collection and adding Every-Other-Week Yard Debris Collection.

Scott Wilson, OSS, believed this would be a great benefit to the community. It would assist in the recycling numbers, and would reduce the waste going to the landfills in the area.

Councilor Fugate asked how someone would sign up for the additional service.

Mr. Wilson stated OSS would send out a letter, or a person could call. The carts were being completed, and they anticipated delivery next week. They would be bright yellow, with black lettering outlying that they were for yard debris only, and what could or could not be placed in the bin.

Councilor Fox asked about stopping service once started.

Mr. Wilson stated they were asking for a year commitment, but there were situation such as moving out of the area, where that would not apply. This was meant to be a requested service, not a mandatory one.

Charlotte Fugate moved, seconded by David Sullivan, to approve Resolution #2011-109, A RESOLUTION DOCUMENTING FEES ESTABLISHED BY ONTARIO SANITARY SERVICE, INC., AND AUTHORIZED BY THE FRANCHISE AGREEMENT BETWEEN THE CITY OF ONTARIO AND ONTARIO SANITARY SERVICE, INC. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2011-111: Add to List of Prohibited Intoxicating Chemicals - Kratom

Mark Alexander, Interim Police Chief, stated the proposed resolution would add to the list of prohibited intoxicating chemicals established under Ordinance #2651-2010. Section 1 (B) of the ordinance allowed additional intoxicating chemicals to be added by resolution. On October 4, 2010, the City Council passed Ordinance #2651-2010, which prohibited the possession, sale, distribution and consumption of certain intoxicating chemical compounds.

The creation of Ordinance #2651-2010 was the result of certain businesses selling or opening to sell synthetic cannabis, or more commonly known as "Spice". The ordinance banned the use, possession, sale, distribution and display for sale a list of intoxicating compounds. At the time, some of those compounds were not considered illegal by the Drug Enforcement Administration or by the Oregon Pharmaceutical Board. Some of those compounds could even be bought over the Internet.

Law enforcement had been challenged with the control of legal substances being used in ways that contributed to illegal behavior and that was detrimental to the health and welfare of the user. The identification, creation, sale and promotion of legal substances that created similar effects to illegal drugs were always being sought. The police department recently became aware of such a substance: Kratom. Kratom was a medicinal plant that was grown and harvested in Southeast Asia, processed like marijuana from a leafy material. Kratom was being found at head shops and on the Internet, and was being sold in a similar manner as Spice, K2, bath salts and plant food as drugs of abuse. Under Section 1 (B) of Ordinance #2651-2010, the Council could add to the list of prohibited intoxicating chemicals by resolution; therefore, the police department recommended adding Kratom to that list.

David Sullivan moved, seconded by Norm Crume, that the Mayor and City Council approve Resolution 2011-111, A RESOLUTION ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC HEARING

Ordinance #2658-2011: Annex/Rezone Brown (Hunter Lane)(1st 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. On May 2, 2011, the City Council tabled the action until the May 16, 2011 meeting pending further research.

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RD-40 Duplex Residential for Tax Lot 1000, Assessor's Map #18S 47E 05AC, for a piece of property ¼ acre in size.

Councilor Fox asked if it was zoned duplex.

Mr. Richey explained the original county jurisdiction was Urban Grown Area Residential. It was his choice to recommend it as a duplex zone.

Councilor Fox stated if the other properties were zoned single family, why have this one piece multi-family?

Mr. Richey agreed it appeared to be a conflict; however, other properties zoned single family, had duplexes in the area. There was no issue with planning and zoning because no hardships resulted from mix. There was some give and take in the zoning rules.

Councilor Fox stated the adjoining properties should expect the same type of residences in the neighborhood they started with.

Mr. Richey stated a unique path was taken to annex the adjoining properties, by a duplex zone to the South. That's the reason for the class recommendation.

Councilor Crume asked why they wouldn't go with single-family.

Mr. Richey stated in this case, the Brown parcel would be legitimate as a single-family, but that would make two spot zones in the area.

Councilor Fox stated all the other parcels in the area were single-family, and those residents fought against having any other zone out there.

Mayor Dominick stated the map showed an area on Hunter zoned UGA, not as RD40 or RS50. If it wasn't annexed, no designation existed out there.

Larry Sullivan, City Attorney, stated when people purchased homes near the city limits, they should've been aware of the likelihood that they would come into the city at some point, which would invariably change the zoning. The decision of the public body to designate the zone was intended to take into account how the remaining property in the UGA might develop. If this zone applied to this one home, and the adjoining RD40 applied to one property, they would disrupt the orderly pattern of the zoning when it was brought in; however, the Council had discretion in that area.

Councilor Fox asked if the Brown's had requested to go multi-family.

Mr. Richey stated no, they just filed an application so they could receive sewer.

Councilor Jones asked what the property south of the Brown's was zoned.

Mr. Richey believed it was zoned for modular home, but he wasn't sure.

Councilor Jones stated it made sense to have the whole block zoned RD50.

Councilor Crume asked if there would be a value change between 40 and 50.

Mr. Richey stated yes, if the area deteriorated; in this particular area, no.

The Mayor opened the hearing for public testimony.

Opponents: None

Proponents: None

Dan Cummings, Ontario, stated he was not against the annexation; however, he did question what was happening out there. The reason Ridge View subdivision was not annexed in was because the Development Agreement with the city had not been signed or recorded by the city. If the property was not annexed, was the approval no good then? The Plat and right-of-way was accepted by city, but if it wasn't annexed, how could they approve the subdivision? The whole process had to be zoned RS50. He questioned the jurisdiction of the city to attach tax lot 8800 if it wasn't annexed.

Mayor Dominick confirmed that was in January, 1996, with approval in 1998.

Mr. Cummings stated it was October 10, 1996, for single-family residential lots. If the zoning plat was no good, then didn't that make the subdivision no good as well? That entire subdivision fought hard against an RD40 zone. There was a Development Agreement that stated they would be annexed later, and the later date would be 80% of development or a duration of five years. But, that Agreement had never been recorded. There were other Agreements, such as with the irrigation company, and that was completed and recorded in May 1998, so where was the city's Development Agreement? The Brown's were previously against the RD 40 zone, but now they needed water and sewer, so they might not be arguing as much. But, if this wasn't in the city, this action wasn't within the city's jurisdiction, and that included 17th Street. Could the city own right-of-way outside of the city limits?

Councilor Fox asked if the Public Works Committee had reviewed this action.

Mr. Cummings asked why they would?

Councilor Fox stated if there was water, sewer, streets...

Mr. Sullivan stated he hadn't spoken with any staff on the above mentioned area, and it might be prudent to circulate these documents and speak with staff before continuing on with this issue.

Mayor Dominick stated in 2003, a full annexation should have taken place. They needed to follow through on the Agreement to make the subdivision complete.

Mr. Sullivan stated it was legal and binding between the city and the developer, but would not be binding on the landowners. The city might have some legal obligations to follow thru on zoning. He really needed to review the Agreement.

Mr. Cummings had a draft copy of the Agreement, with no signatures. One finding of note was the traffic study. Also, there had always been an issue of keeping that area single-family residential. The previous owners – the Wettsteins – had been foreclosed on and no longer had any financial interest in the property.

Mayor Dominick asked how serious the sewer needs were in that area.

Mr. Richey stated they were already connected, on a provision that they would apply for an annexation. They had complied with all the city's requirements.

Dave Duncan, Ontario, apologized for last's week's debate. Getting their parcel annexed on Hunter Lane was quite an ordeal. He wanted single family areas to remain that way. How far out were notices sent for this hearing?

Mr. Richey replied for this issue, it was 300 feet; sometimes it was only 100 feet.

Mr. Duncan stated that could account for the lack of attendance at the meeting. Was that piece of property off Thomas Circle annexed and zoned RD40?

Mayor Dominick stated he believed it was.

Mr. Duncan asked how the city could annex a piece like that, and not address the area surrounding it.

Mayor Dominick stated they could annex singular lots based on need or request.

Mr. Sullivan asked if Mr. Duncan was against the proposed RD40 zoning, and would he rather see it go to RS50?

Mr. Duncan stated he was not opposed to annexation.

There being no further Opponent or Proponent testimony, the Mayor declared the hearing closed.

Councilor Fox asked Mr. Richey if all the people inside the 300 foot circle received notice of the hearing. Did they realize it was a multi-family zone proposed? He couldn't believe there was no one in attendance.

Mr. Richey replied yes, the proposed zone change was in the legal advertisement in the paper, as well as in the letters mailed out. It clearly stated the proposed zone would be RD40 duplex residential upon annexation, and indicated the physical address of 2040 Hunter Lane, and the owners as Michael and Marion Brown.

Mr. Sullivan stated his concern that if the Council were to decide upon a different zone than currently identified for the property, it would need to be renoticed, and the property owners would also need new letters. It might be premature to do so until he could review the documents that Mr. Cummings had mentioned, if it wouldn't cause a hardship on the owners.

Mayor Dominick suggested bringing the action back on June 6th to allow time for research on the issue.

Mr. Sullivan stated he would be unavailable during the week prior, making him unable to attend the work session on June 2nd.

Norm Crume moved, seconded by Ron Verini, to continue the Public Hearing until June 20th, in light of outstanding questions. 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

- Norm Crume reminded everyone that this Saturday was "Serve Day" and encouraged participation. Everyone would meet at the OHS parking lot at 8:00 a.m.
- Charlotte Fugate stated she had her home's backflow device installed by her husband, and the labor alone if they would have had to pay someone else would have been over \$600. They also helped a neighbor, ad that would have been nearly \$350. When mandatory items were required, which would affect the entire community, more research should be done. Many residents could not afford such a costly fee.

Jack Fox stated he had seen a device for about \$70. Maybe the Council should have a presentation at a work session to go over some options for the device.

Joe Dominick stated there were stringent rules for the device, and the city had to comply with them. Kinney & Keele Hardware had some good quality backflow devices, but they weren't approved by the state, and were therefore unusable.

- Joe Dominick stated the Sister City group was taking applications for representatives from Ontario to travel to Osakasayama. Anyone interested could contact him.
- Joe Dominick stated he, Chief Alexander, and Officer Elizondo were invited to attend the NW Advisory group, encouraging a no border cooperation on the fight against gangs and guns. It would be on Monday, May 23rd. The Idaho AG would be there, and the Oregon AG would be attending via teleconference.
- Joe Dominick discussed the regulations for illuminated hanging and flashing signs. More and more requests to install the signs were being seen, so more work needed to continue on the issue.

ADJOURN

Ron Verini moved, seconded by David Sullivan, 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