

**ONTARIO CITY COUNCIL MEETING MINUTES
Monday, June 2, 2014**

Executive Session: ORS 192.660(2)(d)

An executive session was called at 6:30 p.m. under provisions of ORS 192.660(2)(d) to discuss labor negotiations. The Session ended at 8:01 p.m.

The Regular Meeting of the Ontario City Council was called to order by Council President Dan Jones at 8:12 p.m. on Monday, June 2, 2014, in the Council Chambers of City Hall. Council members present were Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ron Verini. LeRoy Cammack was excused.

Members of staff present were Tori Barnett, Larry Sullivan, Marcy Skinner, Kari Ott, Mark Alexander, Alan Daniels, Brad Howlett, Anita Zink, Jerry Elliot, Bob Walker, Mary Domby, and Dawn Eden. The meeting was recorded, and copies are available at City Hall.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Larry Tuttle, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-out. Motion carried 6/0/1.

CONSENT AGENDA

Norm Crume recused himself from voting as his company had an invoice for payment on Item C – Bills.

Ron Verini moved, seconded by Larry Tuttle, to approve Consent Agenda as amended Item A: Minutes of the Council Meeting of May 19, 2014; Item B: Liquor License Application – Ontario Mini Market & Produce (New Outlet); and Item C: Approval of the Bills. Roll call vote: Crume-abstained; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-out. Motion carried 5/0/1/1.

PUBLIC COMMENT

Nicki Hall, Ontario, stated that she wanted the youth of Ontario to be able to go to the Ontario Aquatic Center. Kids needed more to do than just go to the skate park. Other cities including Vale and Payette had programs for their kids and the City needed to look at the budget to be able to fund the Aquatic Center. Also, people were volunteering to clean trash around the city of Ontario and could also volunteer to mow in various locations.

PRESENTATION

Water Treatment Plant Performance Audit: Murray Smith & Associates, Inc., presented an overview of their findings to the Council. (See attached PowerPoint document).

Councilor Jones asked what adding a third unit would do to the existing system, and it was already designed to fit in there, correct?

MSA stated there was a building that had three pads on it. The first two had a treatment plant on it (a boxed unit). They would just put the same footprint of the existing two onto that location.

Dan Jones asked if that cost was in their presentation.

MSA stated it was; it was just over \$1M.

Councilor Fox asked how close the city had been to being in violation, and how long ago was that?

MSA stated that would have been back in 2010. It was just one out of the four sites.

Councilor Fox stated on the priority one improvements, best guess, how much time was there before the city needed to implement all of those.

MSA stated it was a roll of the dice. There was no way to know. The city needed to prepare to react now. The recommendations would lessen the likelihood that they would form. The city could reduce the formation potential that the contaminants would form in the distribution system by a number of different ways.

Councilor Fox verified that purchasing more of the filter media was just a Band-Aid solution.

MSA stated it was already being replaced on a pretty regular schedule. All the media the city currently had was four years old or less. It shouldn't have to be replaced for ten years; however, it was already coated enough that it wasn't functioning the way it should. But, there was a good chance that adding in the CO₂ and changing the chemistry of the water might get some of the percipient off.

Councilor Verini stated regarding the \$611K, to install the pH monitoring and control system with the CO₂ feed, could they do that in isolation of the other items listed as priority one, or was that all integrated into having to do all or none. Could that be phased in?

MSA stated the project could be stand-alone. Addressing one issue will create the domino effect. It would allow the city to take on other pieces, some in priority two.

The Council thanked Murray Smith & Associates, Inc., for their presentation.

NEW BUSINESS

Councilor Verini voiced his concern for the City of Ontario going with a for-profit organization, and hoped that CH2M Hill proved him wrong. He believed the city could run the department better than a for-profit company.

CH2M Hill Contract

Larry Sullivan, City Attorney, stated a report had been submitted which addressed the latest changes to the proposed contract. There weren't that many changes; however, a few were significant.

Section 4.1.1: Now includes language reading CH2M Hill will use its best efforts to begin services on July1, 2014, and in any event will begin services no later than July 7, 2014. CH2M Hill personnel understood the city's desire to have CH2M Hill take over Public Works operations by the beginning of the 2014-2015 fiscal year, but could not guarantee that there was sufficient time between final Contract approval and July 1, 2014, to complete the transition.

Section 5.1.1: This section was revised to include CH2M Hill's acknowledgement of the presence of asbestos cement material not only in the city's water mains, but also in the city's storm drainage and sanitary sewer systems. The City Attorney brought this to CH2M Hill's attention last week based upon comments from the Public Works staff. The changes in this Section made it explicit that any costs incurred by CH2M Hill in remediating asbestos as a result of the presence of material in those systems would be paid for either as a Repair or a Capital

Improvement, which might ultimately mean that the city might have to reimburse CH2M Hill for those costs if the repair budget in the Contract was exceeded or if the work was extensive enough to qualify as a Capital Improvement under the Contract.

(New) Section E.3.1: was added to Appendix E of the Contract, making it clear that an annual base fee adjustment was not automatic, but would be the subject of negotiation between CH2M Hill and the city. CH2M Hill's practice was not to unilaterally require a municipality to follow the base fee adjustment formula. Mike Moon [Ch2M Hill] informed the City Attorney that it was rare for CH2M Hill to raise the base fee by the amount specified in the base fee adjustment formula.

As to the city's request for a cap on the base fee adjustment formula, CH2M Hill was willing to place a cap of 5% on the annual base fee adjustment, as reflected in new Section E.3.2. In consideration for that adjustment, however, CH2M Hill proposed to revise Section E.7.1, to remove the language requiring CH2M Hill to pay for increases in electricity rates and chemicals up to 10% over the term of the Contract. The original language of Section E.7.1 read: *"In the event that the rates for electricity or price for any chemical increase by ten percent (10%) percentage Year over Year, City shall pay for any such electrical or chemical costs increases."* CH2M Hill was willing to leave the original Section E.7.1 language unchanged if the city withdrew its request for a cap in Section E.2.3. Staff has a version of the Contract with original Section E.7.1 unchanged and with no 5%, if the Council preferred that version.

Staff had no clear recommendation as to which version (i.e., the version with or without the 5% cap) to select, because there was no accurate way to gauge the financial impact on the city if it selected one version over the other. Keeping the 5% cap might save the city a substantial amount of money in a period of high inflation, particularly if electricity or chemical costs jumped 10% or more in the first year or two of the Contract. If there was a steep jump in electricity rates early in the Contract term, the financial impact of the two different versions of Section E.7.1 would be less than if it took several years for electricity rates or chemical costs to climb by 10% or more from the first year.

Councilor Crume asked if Idaho Power rates had increased 10% in any one year.

Brad Howlett, Facilities Manager, stated that one year ago, on average, 15.3%. Residential was 12%, and commercial exceeded 15%. There was no increase scheduled for the current calendar year they were currently in,

Councilor Crume stated with the drought in the area, the power rates were always high, and the regulatory issues being dealt with nationwide regarding chemicals, he could see chemical expenses raising more than 10% in a year.

Councilor Jones stated both sides would have to deal with inflation. They'd need to work together. He wasn't in favor of the cap.

Continuing on, Mr. Sullivan stated following an executive session, which Sean Haghghi was invited to attend, the Council expressed a concern that the current union employees be offered a position by CH2M Hill. There were 19 current union employees in the Public Works Department. CH2M Hill informed the city that there were 19 positions available, and those current union employees could be employed by CH2M Hill, as long as those employees applied for a job with CH2M Hill, and were qualified for the position. Those qualifications included their ability to pass a drug test, a background check, and a company physical.

Councilor Jones stated with regard to the July 1 vs. July 7 start date, there was nothing in the proposed budget for Public Works. He was also concerned that with the 4th of July falling on a Friday, staff would be limited, perhaps leaving the city at risk. In the seven days window, what could the city do to ensure the city could operate during the week of the 4th?

Sean Haghighi, CH2M Hill, stated a lot of things would need to happen with the employee in order to transition from city operations from July 1 to July 7. They would have to receive the applications, conduct interviews, extend offers, they didn't know if the union would be involved or not, and that all needed to be completed between now and July 1st. In four to four and half weeks, CH2M Hill felt it was important to say that was a compressed timeframe to transition from city operations to a private operation, and to have everything running. They made a commitment to do their best for July 1, but no later than July 7th. It was their full intent to be here on the 1st and operational. Either way, they would be around, supporting. They were not going to just show up on the first day. They would be highly visible, and would make sure everything was looked after. Whether they took physical charge or not, depended on many things that had to occur in a very short time. They believed it was important to discuss July 7th being the more reasonable time, but July 1st being their goal. There were a number of CH2M Hill employees currently in town, through tomorrow, if the vote was favorable, and they would meet with the Public Works staff to begin the process. There was a day-to-day, week-to-week schedule for the crews and support personnel to be ready to take care and responsibility of the system.

Councilor Fox stated as it was not in the budget for next year, with the knowledge of different staff resignations, that amount of money could be used towards temporary help from American Staffing. Worst case, it would be seven days.

Jackson Fox moved, seconded by Charlotte Fugate, that the City Council approve the May 30, 2014, draft of the CH2M Hill Contract that does not include a 5% cap on annual base fee adjustments, and that the Council authorize Dan Jones, as Council President, to sign the Contract on behalf of the City, in the absence of the Mayor. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-no; Cammack-out. Motion carried 5/1/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Tori Barnett said that the Fair Housing Presentation would be at the Cultural Center on July 9th, 10th or 14th, and wanted to know when the Council would be available for a presentation.
- Ms. Barnett stated staff had gotten together to address the request of the Budget Committee to reduce the budget an additional \$185,418.00. After working as a team, the Department Heads had reduced the budget for \$197,981.00. She thanked staff for working together to accomplish this goal.

Councilor Jones asked about the Golf Fund. The Golf Contract would end this December and there might be several months left to negotiate and possibly make budget cuts from that department. Every other department and/or program had cuts made. Was it legal to make cuts to the Golf Fund? It wasn't fair to leave that fund alone, untouched.

Councilor Tuttle stated the city was under a contract.

Kari Ott, Oster Group, stated the contract was until December. January through June was budgeted at half of that contract. That wasn't *in* the contract. It ran as a calendar year, not fiscal.

Councilor Jones asked if the Council agreed with him, that if there was some room in the Fund, maybe some money should be identified. Everything had been scrutinized and they had ignored the Golf Fund.

Councilor Tuttle stated he wanted to know where the cuts came from. Council might not agree with where the cuts were made, and possibly would be adding money back in. After that, have the Golf Fund as an alternative.

Councilor Jones stated as they would be discussing the 2014-15 budget at the next meeting, the Council needed to receive a copy of those cuts soon.

Ms. Barnett indicated she could provide that by tomorrow.

Ms. Ott stated she needed to have the budget published at least five days prior to the proposed budget adoption meeting of the 16th.

Councilor Jones asked how much would be in the Golf Fund from January to June?

Ms. Ott stated it would be around \$93,750.

Councilor Jones stated to him, there was \$15-20K that could be used. If everyone else made cuts, that money needed to be included in the information to the Council.

- Ms. Barnett stated the election packets for the November 2014 election would be ready on June 4th.
- Ms. Barnett stated she spoke with ICMA about the Public Safety study, and he indicated the final report would be ready mid-June. The contract had a section which indicated one on-site presentation at their cost, not ours.
- Ms. Barnett stated CH2M Hill would be at City Hall starting tomorrow to speak with all the Public Works staff. The fall and spring clean-ups the city took care of would continue under CH2M Hill.
- Chief Alexander stated there would be a Special Olympic even in Payette Saturday, and so the Law Enforcement Torch Run would be held prior to that. It involved law enforcement agencies from around the Treasure Valley. They would be stopping in Ontario and there would be participation with the athletes by officers from Ontario Police Department.
- Larry Sullivan stated Council had asked him to speak with Stephanie Williams about bonding to help the Aquatic Center. An email had been distributed which reflected Ms. Williams' response.
- Mr. Sullivan stated there had been discussion about including an addition agenda item in connection with an SDC waiver or reduction requested by a local businessman. After review, he concluded all the necessary forms hadn't been completed for an appeal. Those documents had been sent out to the individual for completion.
- Councilor Verini stated that Undersecretary of Benefits Hickey's presentation to the community had to be postponed. A lot going on in the Veteran's Administration. It was positive for this community as she controlled about \$71B of federal monies.
- Councilor Verini reminded everyone that America's Global Village was this Saturday in Lion's Park.
- Ms. Barnett stated some things had occurred and she was having some difficulty in dealing with them. As an Interim City Manager, there hadn't been any guidelines or parameters established for handling certain situations. She would be appreciative of some Council direction on what the Council's expectations might be. Per City Charter the Council wasn't supposed to tell the City Manager what to do or coerce the City Manager in regards to hiring and firing staff; however, if the City Manager asked the Council for assistance, that wasn't violating the Charter.

Mr. Sullivan stated that was true, but it couldn't be done in an executive session. If the Council was going to advise or offer suggestions to the City Manager on any issue affecting employment, that had to be done in a public meeting. Otherwise, it opened up individual Council members up to potential personal liability from city employees whose employment might be affected by the decisions.

Councilor Jones confirmed that meant to not talk privately.

Mr. Sullivan stated that was correct.

Councilor Crume verified that was only on the employment issues, nothing else.

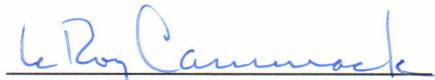
Mr. Sullivan stated that was correct. The City Manager had the right to get the Council's advice on any issue, but when it came to employment issues, if the Council wanted to avoid personal liability to anyone as a result of that, they had to do conduct it in an open meeting. That was by Charter.

Councilor Fox stated he had a conversation with the Interim City Manager that day, and she volunteered to him that she wasn't willing to do something like that without discussing it with the Council, and he liked that statement.

ADJOURN

Larry Tuttle moved, seconded by Jackson Fox, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-out. Motion carried 6/0/1.

APPROVED:



LeRoy Cammack, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder