

**ONTARIO CITY COUNCIL MEETING MINUTES
Thursday, August 1, 2013**

The meeting of the Ontario City Council was called to order by Council President Dan Jones at 1:10 p.m. on Thursday, August 1, 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, Larry Sullivan, Al Higinbotham, Mark Alexander, Mike Long, Marcy Skinner, John Bishop, Brad Howlett, Jerry Elliot, Suzanne Skerjanec, Dan Shepard, Jared Gammage, Mark Saito, Justin Allison, and Anita Zink. The meeting was recorded, and copies are available at City Hall.

Dan Jones led everyone in the Pledge of Allegiance.

AGENDA

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

CONSENT AGENDA

Councilor Crume recused himself from voting as his business had an invoice on the bills.

Councilor Tuttle stated he had a problem with one of the bills. It went back to the \$81K on the airport issue. In the budget, it was \$60K, and he knew it was part of a grant, but he was concerned about that amount of money, and how they arrived at that amount. He wanted to have that researched before it was approved. It was over \$20K more than what was budgeted.

Mr. Henry stated maybe the Council could authorize staff to meet with Councilor Tuttle, and once he was alright – or not - with that bill, it could be paid, or not, and they would inform the Council.

Council consensus to do that.

Councilor Fox moved, seconded by Charlotte Fugate, to approve the bills, with the exception of the bill for \$81K+ that Councilor Tuttle had concerns about, and to take Mr. Henry's recommendation to give Councilor Tuttle an opportunity to look into it, and then get back to the Council. They could approve that bill at that time, but they could approve all the remaining bills now.

Councilor Verini stated what he believed what was asked for was different than what Councilor Fox's motion stated.

Councilor Fox stated his intent was to approve all the bills except the one in question.

Mr. Sullivan, City Attorney, stated that should be a stand-alone motion.

Councilor Fox moved, seconded by Charlotte Fugate, to approve the bills, with the exception of the bill for \$81K+ that Councilor Tuttle had concerns about. Roll call vote: Crume-abstain; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 5/0/0/1.

Ron Verini moved, seconded by Jackson Fox, to approve the bill [*Kimley-Horn Associates for \$81,955.53*] with the stipulation that Councilor Tuttle reaches an agreement with staff to his satisfaction which would be the full satisfaction of the Council and then approve the bill as if it was approved today. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Jackson Fox moved, seconded by Larry Tuttle, to approve Consent Agenda Item A: Minutes of the Regular Meeting of July 15, 2013; and Item B: Approval of the Bills *(as indicated above)*. Roll call vote: Crume-abstain; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 5/0/0/1.

DEPARTMENT HEAD UPDATES

Jerry Elliot, City Engineer, stated in the budget, the Westside Reservoir Rehabilitation Project had been approved. That reservoir had not had any work done to it since 1987, and had been constructed in 1979. They had done some minor rehab on the interior, they had put water back into it, and it was back in service. They were now working on the exterior, and prepping it. There was some steel leaching out of it that needed some work, and some fairly significant work needed to be done on the roof. Overall, they were running a successful project that was coming in on budget.

PUBLIC COMMENT(S)

[Copied from hand-out]

Ruth Rolland, Ontario, stated: *"I'm here to encourage the Council to consider the issue of Ontario Public Works Employees, who are still working under the conditions of an unfair implemented offer, instead of a mutual, respectfully negotiated Labor Contract. People who support them and believe they should have a fair Labor Agreement have been carrying signs outside City Council Meetings for months, calling on the City Council and City Manager to put an end to this unfairness. It is their hope that the City Council will decide it's time to say to these employees that you understand and recognize that they have good reason to feel disrespected by the City Council. Your city public works employees are solid citizens, men and women who as employees know and do their work with dignity – and they deserve consideration and fairness from the men and women who manage the City's business. Wrongs can be righted. And they need to be righted. The sooner the better. The City employees still believe as I do, how important it is that these City employees have a chance to revisit and finish the negotiations that were begun months ago, and were still in progress until the City Council shut down the talks, and declared a one-sided "implemented offer" that was not acceptable to the employees. But wrongs can be righted. And I hope you will look into righting your relationship with the Public Works employees. Before I return to my seat, I recall that I said I would get back to Mr. Jones on the matter of getting the playground equipment assembled. – Mr. Jones, if you could find a way to get these Public Works employees a fair negotiated Labor Contract, I'll go set up all that playground equipment myself!"*

OLD BUSINESS

Ordinance #2681-2013: Amend OMC 2-3-6 re: Golf Committee (Final Reading)

Larry Sullivan, City Attorney, stated on June 4, 2013, the Golf Committee recommended to the Council that City Code Section 2-3-6 be amended to allow the duties of the Golf Committee to be determined by Council resolution rather than being set forth specifically in the City Code. This would allow the Committee to address current issues with the golf course without amending the Code. Staff recommended that the ordinance also allow those duties to be determined by motions approved by the Council. On July 15, 2013, the Council adopted Ordinance #2681-2013 on First Reading. There had been no changes since First Reading.

Ron Verini moved, seconded by Jackson Fox, that the City Council approve Ordinance #2681, AN ORDINANCE AMENDING CITY CODE SECTION 2-3-6 CONCERNING THE DUTIES OF THE GOLF COMMITTEE, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

NEW BUSINESS

Appointment to Recreation Board: Sarah Poe

Tori Barnett, City Recorder, stated there were currently two vacancies on the Recreation Board. Sarah Poe submitted a letter of interest in filling one of the openings. Ms. Poe's letter went before the Recreation Board at their July 17, 2013 meeting, and received a positive recommendation for appointment.

Norm Crume moved, seconded by Charlotte Fugate, to appoint Sarah Poe to the Recreation Board, with a term to expire December, 2015. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Resolution #2013-128: Accept/Expend Various Donations

Mark Alexander, Police Chief, stated the Police and Fire Departments received unexpected revenues from donations and a property sale and would like to expend those funds. The Police Department also managed an ODOT grant for occupant protection and was unable to complete the project in FY 2011-13, and would like to continue with the project. A budget change would be required for both projects.

Chief Alexander stated that James "Ted" Molder had been a long-time resident of Ontario. He served several years on the Ontario Police Board and his grandson is an Ontario Firefighter. Ted battled cancer for several years and passed away on June 8, 2013. Family and friends made donations to the Police and Fire Department in the amount of \$765. The Departments would like to jointly purchase and install a 9/11 Memorial at City Hall in memory of Ted Molder. This was not budgeted, and a budget amendment would need to be done to initiate the project.

The Police Department also managed an ODOT grant that was used to purchase child safety seats and operate fitting stations. The grant period ran from October 2012 to September 2013. It was the intent of the grant manager to expend funds during FY 2011-13, but due to other projects, that was not possible. The Police Department would like to recognize \$497 in funds to complete the project in the current fiscal year.

Finally, the Police Department sold a surplus patrol car to Lifeways for \$1500 and would like to apply that revenue to an on-going technology project.

Councilor Verini thanked the family and friends of Mr. Molder for their very generous offer to the city, and he believed the city would be proud of the memorial.

Chief Alexander would let the Council know when the project was completed, and would issue a press release.

Jackson Fox moved, seconded by Norm Crume, that the Council adopt Resolution 2013-128, A RESOLUTION ACKNOWLEDGING RECEIPT OF REVENUE FUNDS AND APPROPRIATING EXPENDITURES WITHIN THE GENERAL FUND. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Bid Award: DLT Solutions – AutoCAD 2014

Dan Shepard, Engineering Technician III, stated, AutoCAD was a software application for computer-aided design (CAD) and drafting. The software was developed and sold by AutoDesk, Inc. AutoCAD was compatible with ArcGIS, the city's mapping software. AutoCAD was used by all three engineering technicians to draw water, sewer and street plans, in addition to interior remodeling plans. It was also utilized by the Facilities Manager for facility and equipment drawings. On June 17, 2013, the Council adopted Resolution #2013-123, the adoption of the Annual Budget, which included three AutoCAD licenses.

DLT Solutions was AutoDesk's master government reseller. AutoDesk has teamed up with DLT Solutions to deliver preferred contracting to U.S. government customers. Staff currently shared one outdated AutoCAD license; only one computer could open AutoCAD at a time, therefore, staff had projects which were on-hold until more licenses could be purchased.

Councilor Crume asked how long this would be current.

Mr. Shepard said it would be hard to guess. The last was 2012, so maybe every two years they'd need an upgrade. The city didn't necessarily follow that upgrade schedule. Quite often, the changes aren't so severe that it would affect their ability to do drawings.

Councilor Crume stated with an upgrade, in two years, was it something similar to this \$16K or was a simple upgrade cheaper?

Mr. Shepard stated the only one they were upgrading was for basic licensing. It appeared upgrades were cheaper, but in doing the upgrades, they were still paying \$760 per year, per license, for Gina's machine. It was \$582 for the other two machines (his and Dawn's).

Councilor Fox asked if that stayed within budget.

Mr. Shepard yes, it was just slightly under.

Councilor Jones stated in looking at the price quote, the existing software of 2012 was \$3200 to upgrade, and adding two more licenses, for a total of three licenses and in two years, there would be three licenses up for upgrade or renewal.

Jackson Fox moved, seconded by Ron Verini, that the City Council award the bid to DLT Solutions in the amount of \$16,215.01 for the purchase of two licenses, one upgrade, and three technical support subscriptions and authorize the City Manager to sign a Large Purchase Order in that amount. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Bid Award: DeCroo Masonry – Column Repairs at Evergreen Cemetery

Jerry Elliot, City Engineer, stated on June 26, 2013, Dr. Jim Mann inquired about when the city was going to repair the column and chain fence that was damaged at the south entrance to Evergreen Cemetery. Staff requested proposals from several contractors and had two responses; One from DeCroo Masonry for \$1,750 and one from Glenn Brothers Construction, Inc. for \$5,600. Staff was concerned at the large difference between these two proposals and reviewed the proposals with the contractors and checked their references. Staff was comfortable with the proposal from DeCroo Masonry and was requesting approval from the City Council to proceed with the award.

Bid Summary:

CONTRACTOR	TOTAL
DECROO MASONRY	1,750.00
GLENN BROTHERS CONSTRUCTION, INC.	5,600.00

Councilor Crume asked what damaged the columns.

Mr. Elliot stated it could fall under the 80/20 rule - 80% vandalism and 20% degradation.

Jackson Fox moved, seconded by Larry Tuttle, that the City Council award the bid to DeCroo Masonry in the amount of \$1,750 for the column repair project at Evergreen Cemetery and authorize the City Manager to sign a Large Purchase Order in that amount. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Bid Award: Vale Electric – Upgrade at WWTP Headworks Building

Jerry Elliot, City Engineer, stated the current electrical service to the Headworks Building at the Wastewater Treatment Plant was inadequate and was not compliant with the electric codes. There were currently nine service disconnects being served from a service panel which, according to the electric code, should only be utilized for six service disconnects. In addition, some of the wiring inside the Headworks Building did not meet electric code and needed to be replaced. The current situation did not provide a safe environment for employees and visitors. Also,

there was no opportunity to add to the capability of the current panel for needed electrical service to the chlorine contact chamber (electrically activated valve openers), nor for providing electrical service to the septage facility.

There were two options for updating the electrical service to the Headworks Building:

- The existing electrical service at the Headworks Building came from the west end of the center dike and utilized 2/0 wires installed in a conduit. If the 2/0 wires could be pulled out of the conduit, it was proposed to replace them with 4/0 wires. Staff was not certain if the 2/0 wires could successfully be pulled out of the conduit. If not, then a new conduit with 4/0 wires would have to be installed. The price quote for installing new 4/0 wires in the old conduit, installing a new 100 amp disconnect, and a 100 amp service panel in the Headworks Building along with associated wiring, was \$40,300.
- The second option was to serve the Headworks Building from the electric transformer located south of the Wastewater Treatment Plant Control Building. This would require installing a conduit from this transformer which would accommodate 4/0 wiring, installing a new 200 amp, 480 volt, 3-phase service panel in the Headworks Building, associated wiring updates, and installing a conduit from the service panel to the chlorination chamber for future electrically activated valve openers. The price for this option was \$19,700.

After discussions with the Finance Director, staff was proposing to fund the \$19,700 from the Public Reserve Site Improvement Sewer Fund which had a budgeted amount of \$100,000.

Councilor Jones asked if any of this worked for the septic receiving station.

Mr. Elliot stated none of this was related to preparing things for the station. It was simply to get that electrical mechanism into compliance.

Councilor Fugate asked how long before they had to add more boxes.

Mr. Elliot stated there was a 60 amp service, and a typical home today had 100 amps, so it was a pretty low service. When they brought in the other circuit to feed these disconnects, it would be upgraded to 100 maybe a 200 amp service, giving them internal capacity. They would have the capability to add three more under current code.

Councilor Tuttle asked if this was advertised for bid.

Mr. Elliot stated no, they used the current vendor. The vendor's contract ran in a two-year cycle.

Councilor Tuttle verified they were under contract to do this work.

Mr. Elliot stated he was under a service contract to be the city's on-call electrical service person. When they bid it out, they solicited competitive prices. In that sense, it was a competitive bid because when they got the contract that was the low bidder for that.

Councilor Tuttle asked if this work was included in the overall...

Mr. Elliot stated they didn't know this work existed when they did the contract when they signed the contract with the qualified vendor, and received their rates. Vale Electric was the lowest hourly rate vendor when they did the contract. That's why they went to Vale Electric for this project. It was the same process they did for the mechanical contract and the janitorial contract.

Councilor Tuttle asked who did the oversight.

Mr. Elliot stated he and Bret Turner reviewed them.

Councilor Tuttle asked if he, or Mr. Turner, were electrical.

Mr. Elliot stated neither was, which was why they had service contracts.

Charlotte Fugate moved, seconded by Norm Crume, that the City Council authorize the bid to Vale Electric in the amount of \$19,700 for the electrical service upgrade at the Wastewater Treatment Plant Headworks Building and authorize the City Manager to sign a Large Purchase Order in that amount. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Bid Award: Granite Excavation – WTP #3 Pond Liner

Jerry Elliot, City Engineer, stated this project was initially included in the 2011-2013 Budget as 11 WAT-09, Water Treatment Plant Pond #3 Upgrade, for \$53,400. On June 17, 2013, the Ontario City Council adopted the 2013-2014 Budget which included \$126,488 for the Water Treatment Plant Sludge Pond #3 Upgrade project.

Bids were opened for this project on February 6, 2013. After review of the proposals, Granite Excavation was the apparent lowest-responsive bidder.

Bid summary:

NAME	City, State	TOTAL
RSCI	Meridian, ID	\$232,429.00
Knife River	Boise, ID	\$145,408.15
Granite Excavation	Cascade, ID	\$123,044.91
Eastern Oregon Construction, LLC	Ontario, OR	\$133,805.00
Legacy Contracting, Inc	Stayton, OR	\$296,783.00

As the cost of \$123,044.91 exceeded the budgeted amount of \$53,400, staff delayed the project and included it in the 2013-2014 Budget. The Contractor was agreeable to this delay and agreed to perform the work for the amount of \$124,845.68. The project was presented to the Public Works Committee during the 2013-2014 Budget review.

The city was under an NPDES Permit with the Oregon Department of Environmental Quality (ODEQ), which regulated the quality of the water discharged to the Snake River. During high demand periods (usually Summer months) the city was producing enough water from sludge (the sediment drained from the Clarification and Sedimentation Basins as the treated raw water moved through the Treatment Plant) and Backwash (the waste water produced while the filters were being back-flushed during the operation of cleaning) to overload the existing sludge ponds. Lining and upgrading Sludge Pond #3 had been planned since the building of the new plant to give extra waste water holding and treating capacity. Including a manually operated valve to drain the water from the sludge holding ponds would allow staff to discharge water to the Retention Cells instead of the swale which discharged to the Snake River, thereby reducing the risk of an ODEQ violation for Suspended Solids or Chlorine residual.

This project would install a new liner with a sump pump and concrete structure to hold the pump and valve system in Sludge Holding Pond #3 plus the necessary piping to run from the pond sump pump to the drying beds. Also included was installing a 16" pipeline to the Decant Pump Station and a low flow Check Valve for manually draining this pond to Retention Pond #1 in case the Decant Pump was inoperable.

Councilor Fox questioned that Granite Construction wasn't given a break on mobilization, even though they working on the Washington Avenue project.

Mr. Elliot stated they were not. His personal opinion was that this was the number they bid before they had the Washington Avenue project.

Councilor Fox stated he understood that, but they were going up 3% or 5% in other stuff. Did anyone try to negotiate the mobilization out of it?

Mr. Elliot stated he didn't believe Oregon Contract Law would allow that. They had a bid, and if they tried to renegotiate it, it would have to be opened up to *all* the bidders for renegotiation.

Councilor Fox asked how Granite could go up in price?

Mr. Elliot stated it was because the material prices changed, and the city didn't meet their contractual obligation to sign the contract within 60 days of build, which the city wasn't in a position to do because the funds weren't available.

Mr. Sullivan stated the city was allowed to negotiate with the lowest responsible bidder only if the bid exceeded the amount the city had set aside for the project.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council award the Water Treatment Plant Pond #3 Upgrade project to Granite Excavation, Inc. in the amount of \$124,845.68, and authorize the City Manager to be signatory to an agreement with Granite Excavation, Incorporated. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Purchase Authorization: 1992 Hyster Forklift

Jay Henry, City Manager, told the Council he was impressed with the actions of the Public Works Department. They weren't looking for the newest and best equipment, and took the time to research the market to find some good, used equipment at a substantial savings to the city. They went the extra mile and took the extra effort to save money.

John Bishop, Public Works Operations Supervisor, stated staff was requesting Council's approval to purchase a used 1992 Hyster Forklift with 382 hours from the Idaho Federal Surplus Property Department of Administration. This was being done to replace the 1957 Clark Forklift currently being used by the Water Treatment Plant staff. On June 17, 2013, Council adopted the Fiscal year 2013/2014 budget which included funding of \$14,000 to purchase a forklift for the Water Treatment Plant Facility.

The Water Treatment Plant staff currently had a 1957 Clark Forklift, purchased from military surplus many years ago, to use for unloading truckloads of chemicals for the Water Treatment Plant operations. The current forklift had served well over the years, but because of its age it was becoming obsolete and expensive to maintain. Also due to the height of its mast, it was not convenient when wanting to store chemicals in a storage area with a lower overhead door. Pallets of chemicals had to be handled numerous times by employees using a pallet jack when storing or removing chemicals for use in the plants. Therefore, it would be very beneficial and would enhance productivity if approval was given to purchase used Hyster which met load requirements and height restrictions needed for the Water Treatment Plant operations.

Councilor Fox asked if it was a misprint on the hours.

Mr. Bishop stated he had some concerns on that, too, but that's what they were told. He believed they'd be okay. They were also going to keep the old Hyster in the fleet until it died.

Ron Verini moved, seconded by Jackson Fox, that the City Council authorize the purchase of the used 1992 Hyster Forklift for \$10,500 from Idaho Federal Surplus Property Department of Administration from the Equipment Purchase Water Fund 105-160-712100. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Purchase Authorization: 2010 Pacific-Tek Long Reach Valve & Vac System

John Bishop, Public Works Operations Supervisor, stated staff was requesting Council approval to purchase a used 2010 Pacific-Tek Valve Exerciser and Vac unit with 74 hours on it from MetroQuip Equipment Solutions of Meridian, Idaho. This unit would replace the currently used hand-held hydraulic turner that was 20+ years old and was failing mechanically. June 17, 2013, the Council adopted the 2013/2014 Budget which included funding of \$45,000 to purchase a new Hydraulic Valve Turner for the Public Works Operations Department.

The City of Ontario Water Distribution System had approximately 1,700 valves that needed to be exercised annually. A six inch valve required 36 revolutions to open and close it. The Public Works Operations Utility crew currently had an older hand-held hydraulic valve turner that had been rebuilt at least one time and currently had mechanical issues. When this piece of equipment was broken down, it became a major problem for crews when they had to manually turn valves when doing emergency repairs. Staff had several injuries due to over extending elbows and necks when the water valves broke loose during operation. Therefore, it would be beneficial to purchase a newer hydraulic valve turner and vac unit which could be safely operated by staff for annual maintenance of the water valves in the distribution system as well as during emergency repairs on the system.

Councilor Crume asked about the \$2000 charge for freight – was that realistic?

Mr. Bishop indicated that was the charge for having it shipped to Ontario; however, staff would pick it up and save on freight.

Jackson Fox moved, seconded by Ron Verini, that the City Council authorize the purchase of a used 2010 Pacific-Tex Valve Exerciser and Vac Unit for \$26,000 from MetroQuip Equipment Solutions from the Capital Improvement Project Fund 14WAT-19, 105-160-719214. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Tree Maintenance Agreement w/Meadow Outdoor Advertising

Marcy Skinner, Planning Technician, stated the city was approached by Meadow Outdoor Advertising with a proposal to eradicate the diseased trees along East Idaho Avenue. This project was estimated to run approximately \$24,150, and Meadow Outdoor Advertising was asking that the city contribute \$10,000 towards the project. The Public Works Director suggested the city's contribution be half the cost of the concrete work and the base material installation which would be \$5,000.

The project included the removal of ten Green Ash street trees in a row on the north side of East Idaho Avenue from the KFC/A&W Restaurant (#1639) to the Verizon store (#1671). These trees were recently evaluated from an Arborist and were found to be in a poor, diseased condition. The Arborist report was on file with the Planning Technician. Since being planted, the trees and shrubs surrounding the diseased trees were sprayed and maintained by the City of Ontario. Costs of the removal of trees, replanting of better species, stamping concrete, and regular maintenance would be saved. It was calculated that the total maintenance cost per year saved would be \$689 per year.

Councilor Jones asked if Mr. Lehman had anything he wanted to add.

John Lehman, Meadow Outdoor Advertising, stated one thing was the cost. They worked at getting the lowest bid through Brian Shepard Construction, and it came out to \$24,150, to do the concrete work that was requested and the tree extraction and replacement they were originally looking at. They were prepared before today to cover the residual of the \$10K that the city had originally mentioned. He found out recently that \$5K was now what the city proposing. With the landowners there, they were prepared to split that \$14K between three landowners and his company. He didn't know how they'd feel about splitting more of that. It was a good project for the landowners, for his business, and of the city and all the residents. He was concerned it might take longer if they needed to find more funds to cover the extra amount. He didn't believe it would kill the project, and they did want to get moving on it. He wasn't saying it had to be the \$10K, but was looking for what the city could provide.

Councilor Fox asked for the minimum they could get by with. The city's budget was tight, and they hadn't budgeted for things of this type. Was there a lower amount than the \$5K?

Mr. Lehman stated his mind was still on the \$10K, so he'd be looking at \$7,500. He left it to the Council's discretion.

Councilor Tuttle asked who was doing the water system?

Mr. Lehman stated it would be the city.

Councilor Tuttle verified on the trees, Mr. Lehman had 100% yes on those who were lined up next to East Idaho – they were all in favor of this type of tree? They weren't going to come back in 10 years and say the trees were blocking their signs and businesses?

Mr. Lehman stated yes, and part of that was the maintenance to keep the heights to where they wouldn't block the businesses for the next 60 years.

Councilor Tuttle asked why the contracts were 20/20/20. Why so long?

Mr. Lehman stated when his business got involved, it was for a sign they were going to put on Jeff Casey's site [Sprint] and the lease with him was for that duration, so they thought it prudent to match that in the agreement so everything was for the same length of time.

Councilor Fugate stated she recalled the Visitors & Conventions Bureau Board purchased the original trees, from the TOT funds. They could probably go back to the V&C and look for money for the tree replacement as it was tourism and the V&C had a pot of money.

Councilor Fox stated he thought Idaho Avenue was a trade with ODOT.

Mr. Henry stated he didn't know, but he would look into it.

Councilor Fugate stated it was \$34K to purchase those trees about 12 or 15 years ago.

Councilor Jones stated Mr. Lehman's client was the building on NE Lane, but was he also representing that gentleman from Taco Time?

Mr. Lehman stated yes, as well as Kentucky Fried Chicken.

Councilor Jones verified they were agreeable? He was surprised they were even agreeable to have the word "tree" in this.

Mr. Lehman stated it was a comparison thing. They had trees there now.

Councilor Jones asked why they needed to compare? He suggested this action be tabled, and then come back with two options – one with a tree and one without. And also with regard to Mr. Lehman's clients – maybe include Mr. Zimmer and Burger King and McDonald's. There was an opportunity to do this right, and something was telling him that they thought they had no options other than to replant a tree, and he believed there was another option. He wanted to explore that. Maybe the next Council Agenda, or postpone it for 15 days to get more information, at least offer his clients the opportunity for Plan B. He honestly thought they didn't realize there was the option of not having a tree there.

Mr. Lehman stated he didn't know they had that option. When he appeared before Planning and Public Works, it was that the trees were put there because of code or what ODOT required, it was unclear what the reasons were. Usually street trees were placed based on some recommendation. He hadn't felt there were other options. There needed to be some trees there like those to the East of the intersection, which ODOT put in. If they matched that, they'd be okay. If they took out half the trees, was that enough? If they took out all the trees and put in shrubs, was that enough? How would that affect future development or changes that the next guy wanted to do down the street? They hadn't gotten into that because they knew this was acceptable with small changes.

Councilor Jones asked if Ms. Skinner had any comment - what was available to them?

Ms. Skinner stated the ordinance required landscaping along the frontage, 66% being green and growing. It didn't specify trees or shrubs. As the gateway to Ontario, different canopy levels would be aesthetically appealing. That was her personal opinion; however, it was whatever the Council wanted to do, but according to Code, it had to be green and growing.

Councilor Verini stated he liked the project, but it did open an avenue that maybe less would be better. It might end up saving money. Did tabling this action and doing some research jeopardize the project?

Mr. Lehman didn't believe so. It made sense to do it right the first time. He was okay looking at different options.

Councilor Fugate stated she saw one type of shrub used in another project, in California, – the pink flowering ones – those caught a lot of trash and people were actually living in them.

Councilor Fox stated those were Oleanders, and he didn't believe they would grow here.

Councilor Crume stated where Mr. Lehman was talking about putting in the trees, did his clients own the property adjacent to that?

Mr. Lehman stated they did.

Councilor Crume verified that Mr. Zimmell was out of the discussion.

Mr. Lehman stated not necessarily. They were part of it because of proximity. If Mr. Zimmell owned the property right behind, and he wanted a better view, he could be a part of it.

Councilor Crume stated he was trying to envision where the trees were and the new section by Panda Express with better trees and sidewalk, the section in the middle with shrubbery, in trying to envision it with shrubbery in the middle section, his interpretation was that in discussing canopy height difference, that wouldn't look good. Some type of tree somewhat closely matching what was there, sounded like a better option, especially if they wanted to keep the canopy at 15 feet to allow the signs to be seen. He wasn't against asking more questions, and letting them know of different options.

Councilor Fox asked if they should be reviewing past history? If the city supplied the trees, or someone else, or ODOT, usually there would be a Development Agreement, and the city would be required to maintain that. It needed to be researched.

Mr. Lehman stated if the trees went in to match the existing trees East of the intersection, and it was later decided it was too many trees, and the other side could be done to match, it could be amended that some of the small ones would be removed.

Councilor Jones stated Mr. Lehman needed his clients to sign off on a plan. Who maintained the sidewalk?

Ms. Skinner stated the city currently maintained it.

Councilor Crume stated he recommended verifying with ODOT and Mr. Zimmell if there were requirements on the landscaping.

Councilor Jones stated the city owned it, having received it from ODOT. They needed to research the ordinances and research the contracts. He suggested tabling this and putting it on the Agenda in two weeks, to get answers from the city in regards to the city's responsibilities with that street, and perhaps Mr. Lehman would have some answers from his clients.

Councilor Tuttle also wanted to see an estimated cost of what it was going to cost to redo the water system.

Dan Cummings, CK3 LLC, stated unless something had happened recently, ODOT still owned the property. ODOT tried to get the city to take it over, but the city refused due to the high cost of maintenance. He recalled that ODOT put in the trees, and traded all the landscaping in exchange for doing that. The city should have an Agreement with ODOT to maintain the landscaping, but ODOT still owned it.

Jackson Fox moved, seconded by Ronald Verini, to table this item for two weeks, giving staff time to do research on the Agreement between the City of Ontario and ODOT; and also to allow Meadow Outdoor Advertising an opportunity to present alternative plans, and to provide a cost break-down on the water system. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

PUBLIC HEARING

Ordinance #2680-2013: Airport Annexation and Rezone (1st Reading)

It being the date advertised for public hearing on the matter of Ordinance #2680-2013, 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.

Marcy Skinner, Planning Technician, stated the proposed Ordinance addressed a request for Annexation and Zoning of city owned Tax Lots 3001, 3200, 3300, and 3400, totaling 48 acres. The lots were currently zoned Urban Growth Area (UGA) Commercial and would be rezoned to City AD, Airport Development Zone. This was a Comprehensive Plan and Zoning Map amendment, Map Number 18S4733D. On July 8, 2013, the Ontario Planning Commission made the recommendation to approve the request for Annexation and Zoning of city owned tax lots currently zoned UGA Commercial to City AD, Airport Development.

Councilor Crume asked for clarification on the Airport Development zone.

Ms. Skinner stated it was more restrictive on air traffic, height limitations, etc. The classification was special to the airport.

Councilor Fox asked what it did.

Mr. Sullivan stated this was for a piece of property currently owned by the county. This change brought the piece into the city and under city zones so the city had ownership and control of that 48 acres.

The hearing was opened up for public testimony.

Opponents: None.

Proponents: None.

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

Norm Crume moved, seconded by Jackson Fox, that the City Council adopt Ordinance #2680-2013, AN ORDINANCE ANNEXING APPROXIMATELY 48 ACRES OF LAND NORTH OF SW 18TH AVENUE AND SOUTH OF THE ONTARIO MUNICIPAL AIRPORT, ASSIGNING CITY ZONING, BASED ON THE INFORMATION AND FINDINGS OF FACT AS SET FORTH IN ACTION 2013-05-04CPAMD AND THE PLANNING COMMISSION AND CITY COUNCIL STAFF REPORT, TO APPROVE THE REQUEST TO ANNEX AND REZONE CITY OWNED TAX LOTS 3001, 3200, 3300, AND 3400 OF MAP 18S4733D FROM UGA COMMERCIAL TO CITY AD, AIRPORT DEVELOPMENT, on First Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

DISCUSSION ITEMS

Golf Committee Resignation: Rod Eden

Letter received and accepted.

Councilor Fox thanked Mr. Eden for his service on the committee.

Mayor Vacancy:

Councilor Jones stated the Council needed to determine how they wanted to proceed in this process. Also, he had received a letter that day from Susann Mills, dated August 1, 2013, regarding the vacant Mayor seat. Ms. Mills wrote: *Please consider my name for the Mayor position. I am willing to help and serve. Knowing that all the Council members know me and my record, I will not go into my credentials. Please let me know if I can be of service. Sincerely, Susann Mills.*

Councilor Verini stated the process was already set up. They had received letters from the community and they should have an interview with all the people who were still interested in keeping their names in for the seat. He thought they should do that prior to a Monday Council meeting, where, on whatever Monday came after that, they should then vote to approve, disapprove or hold discussions. It made sense, as they had done in the past, to hold a special meeting of the Council and the candidates.

Councilor Crume stated four people sent in legitimate resumes for the Mayor position - Myrna Anderson, Darin Bell, LeRoy Cammack, and Susann Mills. He didn't know who was still interested, as the deadline for submitting letters had passed. He thought it would behoove them to move in a direction to see if any or all were still interested, and to set up a public meeting to see and hear the questions asked and answered for each candidate in a format a government should operate in. It was very important to the community, and needed to be in the public view to hear the answers given. However it shook out, it needed to be done soon. If they were able to select one from those still interested, great!

Councilor Fugate stated her agreement with Councilor Crume.

Councilor Fox stated he was in favor of giving the candidates the option of interviewing one-on-one or with the full Council. He didn't think it should matter on how they were interviewed.

Councilor Tuttle agreed with Councilor Fox in one respect. Just give the candidates the option of either the one-on-one, or a meeting for an interview with them all present. It should be whatever made the candidate most comfortable. Before he would entertain a meeting with six Councilors asking questions, he would want to know how those questions would be asked and by whom. He wanted Council input on those questions as to how many, who would ask, and they needed to agree upon the questions. They needed to know who was still interested, and how they would like the interview conducted. Some might not be comfortable being in front of all six. If going with an interview, get the format set. Set a time limit on the process, too.

Councilor Fugate stated the Council would benefit if they heard the interviews all together, as opposed to individually. They needed to hear all the answers at one time.

Councilor Tuttle stated he respected that, but disagreed. He believed they should give the candidates the option.

Councilor Verini stated past practice had interviews in the Chambers for all the candidates, and the Council asking questions. Maybe there should be a time limit or a restriction on number of questions, to keep it brief, but at the same time, he wanted to hear from each candidate in the same forum, to keep it equal.

Councilor Crume stated last time this happened, about five or six years ago when Councilor Jim Mosier had to resign, the Council presided over an open public meeting with three candidates to fill that vacant position. It was done in the public view, and it worked out fine. Following that procedure was appropriate today. He added that Councilor Tuttle's ideas about guidelines were appropriate.

Councilor Jones asked if they would invite the public, or if this would be a public meeting in the Council Chambers.

Councilor Crume stated yes.

Councilor Verini stated it wouldn't be formal; just have the Council sit down with candidates around the table. They would have individual interviews, ask questions, and allow the candidates to ask the Council questions. That process worked. At the end of the entire process, the Council could discuss the qualifications of the candidates, and see how the Council wanted to move forward. At the next meeting, appoint the successful candidate to fill the seat. That was how it had been done in the past, and it worked.

Councilor Crume stated it was a fair process. The public was able to be involved, if they wanted to be.

Councilor Fox stated he didn't understand how it was unfair to individually interview the candidates.

Councilor Fugate stated there was a benefit of the interviewing with the entire Council. If Councilor Fox met with candidate LeRoy Cammack, and then she also spoke with Mr. Cammack, the questions would be heard from a different perspective. She didn't say it was unfair, it was simply a better process to do it all together.

Councilor Crume stated instead of fair, how about open to the public to see what the Council did. The public would be able to hear the answers of the candidates, and see the Council work together.

Councilor Fox stated he wanted to heal the city. He didn't see how it was unfair, or why the public needed to see the questions he asked. If anyone wanted an individual interview, he wasn't opposed to that.

Councilor Jones suggested they develop an outline. First, notify the candidates. Second, in that notification, ask if they were still interested and would they be willing to appear before the Council for an interview. Don't intimidate them or run them off, but explain it would be in a formatted, structured interview setting. Describe that setting to them. When they heard back from the candidates, third, would be to set the time of the interview. The deadline should be the next meeting. They needed to respond by the next meeting, by August 15th. Then, with those names before them, they could discuss the potential questions. Then, if someone was not willing to do that, the Council would discuss that on Thursday, and they would either dismiss that person and continue on, or revamp the process.

Councilor Jones asked the City Recorder to put that together and get it sent out.

Ms. Barnett stated she would do that, and would work with the City Manager on it.

Councilor Fox stated he had only brought that up because he had received word from one of the candidates that they were not interested in an overall interview as they felt they'd be beat up.

Councilor Fugate stated they were not going to beat them up; they were going to act professionally.

Councilor Crume stated they needed to be transparent with the public.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Crume stated Councilor Fox handed the Council a three page letter at the close of the previous Council meeting, labeled "*Ontario City Finances, 'These Facts are Undisputed'*". He was ready to dispute some facts. In an overview, it divided the Council more than they had been, and made things harder to deal with because of some of the wording used in the document. For example, from The Oregonian, "*Fox's efforts to win an investigative audit that would stand up in court if necessary have been frustrated by the ongoing 3-3 divide on the Council. Fox said audit supporters, Fox, Larry Tuttle and Council President*

Dan Jones, are pitted against audit opponents Verini, Charlotte Fugate and Norm Crume." The problem he had with that was this current Council had never talked about a forensic audit, ever, not once. The previous Council had, he believed, and he was hesitant to discuss it because he wasn't sure when or where it took place because it may have been in an Executive Session. He had the City Clerk look it up in the minutes, and it wasn't found, but she had not had the time to listen to all the Executive Session tapes to pinpoint the exact time it was discussed. If it was done during an Executive Session, then some rules had been broken. However, this Council had not talked about it, but Councilor Fox labeled three people being for and three against, and it was their job as a Council, as a collective unit, to discuss it as a unit to make those decisions, yet it was labeled that way when it hadn't been done.

Next, it read *"Please note, in speaking of the previous Council, it said three of these five remain, Ron Verini, Charlotte Fugate, and Norm Crume. Three of these have gone on record in support of both the former Finance Director Rachel Hopper and the former City Manager Henry Lawrence.* He wouldn't speak for anybody else, but he wanted to see proof of where he supported Rachel Hopper. If he had, he made a mistake. He didn't recall doing it, but he wanted it on record as saying he didn't recall. He did support previous City Manager Henry Lawrence, and he still supported him today, with the acknowledgement that some things were done that weren't caught. Everyone made mistakes.

Next, it read that *\$2.4M Transient Occupancy Tax dedicated to streets misspent in General Fund Contingency contrary to city ordinance.* That was correct. *That money had not been repaid, as per ordinance, thereby violating the city Charter.* Correct. *Thus violating Oregon Statute.* Correct. *The intent of the statutes was clearly to promote tourism. Verini, Crume and Fugate want not to repay the Street Fund. Fox, Jones and Tuttle favor following the ordinance and law and repaying the streets.* That was all correct, with the exception of not telling the whole story. That was that the Council had the ability, not the desire, but the ability to change that by passing an ordinance. That wasn't written there, so when people read it in the community, they didn't have the full knowledge of what was occurring with the Council, thereby only seeing one side of the story. It was correctable with a simple passage of an ordinance.

Next, *\$600K from the General Fund misspent on the Golf Course. This has recently been repaid, but from where for sure?* First, \$3K of that was spent to pay off the sprinkler system early, which was a debt that had to be paid. All of it was from the General Fund. Not "from where for sure", but 100% from the General Fund.

Next, *\$1.4M Public Works Sewer and Water Contingency was reported missing. This may have been overstated/understated in the budget. Mike Long was working to clear it up.* Actually, no money was ever missing. Contingency was overstated, and Capital Outlay was understated. The money was there the whole time, just not in the correct place. It had since been fixed.

Next, *the Aquatic Center received money several years from the General Fund. City documents show a subsidy close to \$230K per year. Over the course of ten years, this would be a very similar amount to the \$2.4M TOT tax that was dedicated to Streets, but misspent when mingled in the General Fund. This is contrary to ordinance.* How he read this, this statement implied that the money that was misspent that was supposed to go to the Street Fund was used solely on the Aquatic Center, and that was not the case. It was spent on Administration, Fire, Police, and anything else in the General Fund, over a ten-year period of time.

Next, *the Aquatic Center also received the portion of TOT tax allotted to the Parks & Recreation Department. This seems to be contrary to ordinance.* It is not contrary to ordinance. It is exactly what it was supposed to go to. He believed 1% was dedicated to that area, and that's where it had been going.

Next, *the Public Works Department worked on the pool and was never repaid. The Public Works Department also made chlorine for the pool and was never repaid.* Correct. However, this had been an ongoing policy that had been in place forever. It was not adequate, nor equitable, to all departments. It had been discussed for some time, and the Finance Director was working to correct the issue.

Next, on the Fire Station build. The 2010 Budget Committee approved borrowing money from a bank. Instead \$350K was taken from Public Works. No repayment ever made. The \$350K from Public Works was never approved by the Budget Committee or Council. Mike found the problem, it was being paid back, and the Public Works Department was making 3.5% interest at a total profit of \$41,678.51 back to the Public Works Department over the life of the loan. What appeared to have happened was just another thing related to the former Finance Director. In his time on the Council, he recalled discussions about doing exactly what was done, using the Public Works Department funds instead of a bank. Talk was that there was no reason to go through a bank, and paying the bank the profit. The former Finance Director didn't ever bring it back to the Council, and payments were never made. Mike had taken care of that.

Next, Sewer billing not done correctly for years. State portion \$1.9M, public portion \$4.1M. Again, the problem was that it was fixed. Delhie found it last year, and it had been taken care. He had heard in the public that they needed to charge the prison the \$1.9M. He struggled with that because, for example, if he sold someone a starter 18 years ago, (when this sewer issue started), and sold it for \$100, and 18 years later he came back and said he was supposed to sell it for \$150, he couldn't ask for that other \$50 now.

Councilor Jones asked Councilor Crume to wrap it up.

Councilor Crume stated he had been told he had the time to get it done.

Councilor Jones stated his points were well-taken, but if he could, he just needed to move it along.

Councilor Crume stated he had asked if he had the ability to talk about it.

Councilor Jones just wanted to give a little warning, to please, his points were well taken.

Councilor Crume continued with the Facilities Maintenance Supervisor was paid incorrectly for years with Public Works' monies. He worked on all departments. The money was not repaid to the Public Works debt, the \$572K over the time he was here. Again, the Finance Director was working on this for the new employee to be paid from out of the proper funds. It was being taken care of.

Next, half of the Ordinance Officer's fully-burdened wages was taken incorrectly out of the Public Works Department at \$31,645 per year. Mike long could not say for how long. Mike has already fixed it. This was something he had mentioned to Mr. Lawrence numerous times, but it was never fixed, until now.

Next, only the Public Works Department paid Administrative charges amounting to 12% of Public Works, and actually amounted to 60% of all the city Administration money. These numbers are alike because no credit was given the Public Works Department for paying for their own department's administration at the time of paying 12% to the General Fund for the same services. The Auditor's pointed out that only the Public Works Department was paying administration fees to the General Fund. This was a violation. He checked with the Finance Director, and was told it was not a violation, but changes were currently being made to make it more equitable.

Councilor Jones asked Councilor Crume to wrap it up.

Councilor Crume continued with the Storm Drain Fund reported April 2013 balance negative of \$235K; Storm Drain Fund balance on 6/12/13 positive \$176K. This was found after the audit. What Journal Entries are affected, and did it alter the audit? Oster was currently working to adjust prior year's audits to correct this, which was found by Mike Long.

Next, both Oster audits repeatedly pointed out a number of credit cards issued to city employees, and advises these amounts. Why not follow the recommendations? This issue was currently being addressed.

Councilor Fox stated at the last Council session he gave a report because he was the Liaison to Finance, and had been for over two years. He felt it important to get those facts in front of the Council so they could see them. At the same meeting, he asked for a forensic audit. He had asked for them before. They knew there was wrongdoing inside the credit cards. At minimum, he wanted a forensic audit to look at that. He also asked for, on the \$1.9 that the state prison owed the City, they should go against the former City Manager's bond and against the former City Finance Director's bond, because that was why the city paid for those bonds, on the errors and omissions, when they made mistakes like that. It was to protect the city if it wasn't billed correctly, if they omitted things. That was intended to get the Council's attention, and he was glad it did. Many of those things were reported in the last two audits, and he couldn't get the Council off dead center. Many of the problems Councilor Crume mentioned, were mentioned under Internal Controls, over and over in each audit he'd looked at, at least four years back. All he wanted to do was get the attention needed. That report detailed over \$10M worth of misspent, misappropriated, and miss-billed money. In any city, they should be looking into that and not attacking each other because someone wanted to point it out, and asked for it to be straightened out. He also spoke with Mr. Long and Mr. Henry, who were both new to Ontario, and asked them if they would like a clean slate so that five years from now a new Council didn't say that it must have been their problem. They would both like a forensic audit giving them that clean slate. The Council had to know the balance of the city before they knew how to fix it. That's what he was asking for, and he had been asking for a forensic audit, and he still wanted one.

Councilor Fugate stated she hadn't known that both the City Manager and the Finance Director wanted a forensic audit, too. Also, what was Councilor Fox's purpose in contacting The Oregonian and talking about all this? What was his reason behind that?

Councilor Fox stated and The Argus Observer didn't print it, and the public needed to know.

Councilor Fugate stated he had misstated a lot of things in the document. She had spent three hours with Mike Long going over Councilor Fox's list, and believed most of the issues had been resolved.

Councilor Tuttle stated this was a time for comments, not a debate. Say your comments and move on. This type of debate shouldn't be done now. Put it on an Agenda for discussion, but not now. However, he did want to know under whose watch all these mistakes were made.

Councilor Verini stated they were making progress in communicating with each other and the public. They now had a chance to move forward with realistic numbers and to correct past mistakes.

- Councilor Verini offered a thank you to city employees John Bishop and Jay Hysell for the success of the Car and Bike Show at Lion's Park. The cars were magnificent and the crowds were big. He complemented all those who worked to make it happen.
- Councilor Verini stated there was going to be an event at the Wild Horse Casino August 9-11, 2013, honoring the fallen. One local man, Josh Brennan, who had been killed in Afghanistan, would be one of the honorees.
- Councilor Jones stated with regard to the correspondence piece, this was not the first time this had happened. From now on, if there was an issue with a topic, if something that large of a concern came up again, it would be on the Agenda under Discussion Items. Those could be added by the Council, and would not be removed. They needed to keep the Correspondence, Comments and Ex-Officio reports as they should be.

Councilor Fox stated he had asked last Monday for this to be put on the Agenda, and it hadn't been.

Councilor Jones stated then he was owed an apology, as it had slipped through the cracks.

EXECUTIVE SESSION(S)

ORS 192.660(2)(f)

An executive session was called at 3:14 p.m. under provisions of ORS 192.660(1)(f) to consider records that are exempt from disclosure under the Public Records Law, including written advice from the City's attorney. The Council reconvened into regular session at 4:02 p.m.

ORS 192.660(2)(e)

An executive session was called at 4:03 p.m. under provisions of ORS 192.660(1)(e) regarding real property transactions. The Council reconvened into regular session at 4:10 p.m.

ORS 192.660(2)(h)

An executive session was called at 4:10 p.m. under provisions of ORS 192.660(1)(h) regarding litigation. The Council reconvened into regular session at 4:14 p.m.

Council reconvened back into regular session. There was no action taken following the executive sessions.

ADJOURN

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

APPROVED:



Dan Jones, Council President

ATTEST:



Tori Barnett, MMC, City Recorder