

**ONTARIO CITY COUNCIL MEETING MINUTES**  
**Tuesday, September 8, 2015**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Tuesday, September 8, 2015, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Charlotte Fugate, Tessa Winebarger, Thomas Jost, and Larry Tuttle. Betty Carter was excused.

Members of staff present were Tori Barnett, Marcy Siriwardene, Pete Morgan, Mark Alexander, Dan Cummings, Kari Ott, Betsy Roberts and Dave Van Wagoner. The meeting was recorded, and copies are available at City Hall.

Larry Tuttle led everyone in the Pledge of Allegiance.

**AGENDA**

Charlotte Fugate moved, seconded by Norm Crume, to adopt the Agenda as presented. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**CONSENT AGENDA**

Councilor Fugate asked if the amount paid to repair the muffler of Rescue One was too much.

Kari Ott, Finance, answered that the amount was for an entire exhaust system, not just a muffler.

Norm Crume moved, seconded by Tessa Winebarger, to **APPROVE CONSENT AGENDA ITEM A: APPROVAL OF MINUTES OF REGULAR MEETING OF 08/17/2015; ITEM B: LIQUOR LICENSE CHANGE OF OWNERSHIP APPLICATION: KANPAI; ITEM C: PROCLAMATION: CITY OF ONTARIO AS A PURPLE HEART CITY; AND ITEM D: APPROVAL OF THE BILLS.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**OLD BUSINESS**

**Ordinance #2705-2015: Amend OMC 7-1-1, 4 re Abatements (Final Reading)**

Mark Alexander, Police Chief, presented.

The Police Department was requesting an amendment to Ontario Municipal Code Title 7, Chapter 1, Sections 1 and 4, relating to Nuisance and Health Regulations, in order to be more effective. On August 14, 2014, the Council passed the first reading of Ordinance #2705-2015.

Nuisances such as weeds, garbage and debris became unsightly, created fire hazards, reduced property values and inhibited attempts of economic development. On occasion, owners were not proactive in property care and in some cases, it went unaddressed. Ontario City Code identified noxious weeds and weeds over 10" as a nuisance. The City Code also defined a variety of conditions left upon a property as a nuisance.

Currently, the Code Enforcement Officer could notify a property owner or person in charge that a nuisance existed and gave them specified days to remove the issue. If not addressed, the city had the authority to abate the nuisance and charge the property owner or person in charge for costs incurred.

In the second quarter of 2015, Ontario Code Enforcement Officers issued 270 abatement notices, but only had to complete (17) seventeen actual abatements. Staff time was spent preparing the notices and confirming compliance. Even with compliant property owners or persons in charge, second or subsequent notices were still being sent.

Upon receiving an abatement notice or an assessment of fees, a property owner or person in charge could file an appeal, to be heard before the Ontario Municipal Court.

Ordinance #2705-2015 provided language changes and procedures to assess an administrative fee for second and subsequent abatement notices sent to the same person in charge of property after an initial abatement notice. Ordinance #2705-2015 also changed appeals to be heard before a hearings officer as opposed to the Ontario Municipal Court.

Property owners or persons in charge would receive a bill for second or subsequent abatement notices. This would initially result in more work for the Code Enforcement Officers and Finance Department for collections and liens. The city might see an increase in appeals and sustain costs for hearings.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council **APPROVE ORDINANCE #2705-2015, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 1, SECTIONS 1 AND 4, RELATING TO NUISANCE AND HEALTH REGULATIONS, on Second and Final Reading by Title Only.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**Ordinance #2706-2015: Cascade Natural Gas Franchise Renewal (Final Reading)**

Tori Barnett, Interim City Manager presented.

No changes had been made in Ordinance No. 2706-2015 since the first reading on August 17, 2015. The Franchise Agreement itself (Attachment A to the ordinance) was sent to a Cascade Natural Gas representative for review and comment. The City received the following email in response:

*The attached document has all the provisions that Cascade wishes to see. Cascade would ask for the franchise term for automatic renewal not be limited to 1 single instance but reoccurring every 5 years. This in no way limits either side from a review and sit down for discussion. I will attach our standard language we typically request and have adopted with the majority of our company franchises.*

***Evergreen term***

*Such right and authority, permission and power is hereby granted for a term of ten (10) years from and after the date of the final acceptance of this Ordinance by the Grantee, herein referred to as the primary term. This franchise will automatically renew for successive periods of five (5) years each unless cancelled at the end of a term by either party by written notice to the other party no less than 180 calendar days prior to the end of the primary term or the then current successive term.*

*Please change Section 15 for notices for the franchisee to read 'Attn: Region Director'.*

Staff made the "Region Director" change in Section 15 of the Franchise Agreement as requested in the email, but did not change the renewal term. If a majority of the Council was willing to agree to the change in the renewal term as requested by Cascade Natural Gas, staff recommended that the second reading of Ordinance 2706-2015 be tabled until the September 21, 2015, Council meeting, to allow staff to incorporate the requested language into the Franchise Agreement. Tabling the second reading would still allow the ordinance to be effective on October 1, 2015, when the current franchise agreement expired.

Charlotte Fugate moved, seconded by Tessa Winebarger, that the City Council **APPROVE ORDINANCE #2706-2015, AN ORDINANCE GRANTING A NATURAL GAS FRANCHISE TO CASCADE NATURAL GAS CORPORATION, AND DECLARING AN EMERGENCY, ON SECOND READING BY TITLE ONLY.** Roll call vote: Crume-no; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-no; Carter-out; Verini-yes. Motion carried 4/2/1.

**NEW BUSINESS**

**Resolution #2015-146: Update Fees for Code Enforcement Services**

Mark Alexander, Police Chief, presented.

The Police Department wanted to update fees for Code Enforcement services, specifically second and subsequent administrative fees for nuisance abatement notices. On August 17, 2015, the Council approved Ordinance #2705-2015, allowing the assessment of fees for second and subsequent abatement notice service, on First Reading.

Code Enforcement Officers could notify a property owner or person in charge that a nuisance existed and provide them specified days to remove the issue. If not addressed, the city had the authority to abate the nuisance and charge the property owner or person in charge for costs incurred.

In the first quarter of 2015, Ontario Code Enforcement Officers issued 270 abatement notices, but only had to complete (17) seventeen actual abatements. Staff time was spent preparing the notices and confirming compliance. Even with compliant property owners or persons in charge, second or subsequent notices were still being issued each year.

On September 8, 2015, the Council approved Ordinance #2705-2015, which allowed the assessment of administrative fees for the service of second and subsequent abatement notices. The designation of that fee was set by resolution. The Department recommended that \$100 be set as an administrative fee for the second service of abatement notices, and \$150 for every notice thereafter.

Tessa Winebarger moved, seconded by Norm Crume that the Mayor and City Council **ADOPT RESOLUTION #2015-146, A RESOLUTION UPDATING FEES FOR CODE ENFORCEMENT RELATED SERVICES**. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-no; Tuttle-yes; Carter-out; Verini-yes. Motion carried 5/1/1.

**Resolution #2015-147: Approval of Enterprise Zone Request: Energy Transport, LLC**

Tori Barnett, MMC, City Recorder/Interim City Manager, presented.

The presentation for this action had been made at the Thursday work session; as there were no changes, there were no representatives from Economic Development to address the Council. Energy Transport, LLC, was developing property along the Union Pacific Railroad. Further development would include new and remodeled structures, rail sidings, storage tanks and loading racks. The project would provide a facility that would help process/blend product and load rail cars for companies that owned new natural gas wells in Idaho. The facility was anticipated to create four new jobs, paying at least 150% of the county average annual wage, which was currently \$48,095. Project development would be located at 849 SE 1<sup>st</sup> Street in Ontario.

Energy Transport, LLC, submitted an authorization application to utilize the Malheur County Enterprise Zone. The applicant was requesting an extended abatement. The total abatement would equal five years. An extended abatement requires each zone to pass a resolution approving the extended abatement.

The Malheur County Enterprise Zone Manager and County Assessor held the required pre-authorization conference with the company after receipt of the authorization application. In reviewing the application and project, it was determined that the business met all qualifications.

Malheur County Economic Development worked with Ralph Poole on a business development project, which would include additional structures, such as rail sidings, storage tanks, and loading racks. Also, Union Pacific was working with Mr. Poole and MCED to do rail siding improvements, which would benefit all local industry utilizing rail transport.

It was important to note that Greg Smith, Malheur County Enterprise Zone Manager, had held the required pre-authorization conference with Ralph Poole and the Malheur County Assessor. During the meeting, it was explained that for an extended abatement, the company would have to meet job creation requirements (which the project did), and each job would have to pay at least 150% of the county average annual wage, which was \$48,095. The company agreed to do so. Two items of note were:

- The extended abatement would allow Energy Transport, LLC a five-year property tax abatement *on new investments only*. The property/equipment would be filed with the County Assessor, and the company would be required to submit documentation each year of the abatement; and
- The project would create four jobs, paying at least 150% of the county average wage of \$48,095.

Charlotte Fugate moved, seconded by Norm Crume, that the Mayor and City Council **ADOPT RESOLUTION #2015-147, A RESOLUTION APPROVING THE ENTERPRISE ZONE AUTHORIZATION APPLICATIONS OF ENERGY TRANSPORT, LLC.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

#### **Building Inspection Agreement with Fruitland**

Dan Cummings, Community Development and Economic Director, presented.

In October of 2005, the Council approved the Building Inspection Agreement with the City of Fruitland, and in December 2010, Council approved Addendum No. 1 to that Agreement.

In July of 2005, the Building Inspector retired with very short notice. Staff reviewed some options and noted that previously, when going through the hiring process for the Building Inspector position, the city had a difficult time attracting applicants that had all the certifications required for the position. At that time, the city considered a few options: turn the Building Department back over to the State of Oregon; continue looking for an Inspector; contract with Inspections, Inc., (now City County Inspection Services, Inc.) for services; or partner with the City of Fruitland for inspection services. The city chose to pursue an Intergovernmental Agreement (IGA) with Fruitland, and entered into the original Fruitland/Ontario Building Inspection Agreement on October 11, 2005.

The original Agreement expired June 30, 2010; on December 20, 2010, Council chose to continue the Agreement for another five year term under an Addendum, with minor revisions to the Agreement. On December 20, 2010, Council approved Addendum No. 1.

Ontario staff and the Fruitland staff proposed to extend the Agreement for an additional five years, with a few minor revisions, noted below:

1. *Paragraph 1(i) of the original contract is deleted in its entirety.*
2. *Paragraph 5 of the Agreement, entitled "Fee Schedule" is modified to read as follows:  
The fee schedule attached hereto, marked "Resolution #2013-115" is part of this agreement as though fully set forth herein. The fee schedule may be changed from time to time by mutual agreement of the parties, in accordance with state regulations governing such fees (OAR 918-020-0220). The City of Ontario reserves the right to charge fees that are higher than the attached fee schedule but in no event shall Ontario charge fees that are less than the adopted fee schedule.*
3. *Paragraph 6 of Addendum No. 1, entitled "Term" is modified to read as follows:  
This agreement shall continue until "June 30, 2020". It may be amended or modified upon the written approval of both cities. Either party upon 180 days written notice to the other may terminate this agreement. This is the entire agreement between the parties with respect to the services provided hereunder and superseded all prior agreements, proposals or understandings relative to inspection services.*

Financially, the city would continue the same payment arrangement as in the initial Agreement, which would be 50% of chargeable inspection fees.

The Council did have some options on this action. They could 1) Continue the IGA with Fruitland for another five years; 2) Negotiate an IGA with Malheur County for Building Department services; or 3) Enter into an IGA with City County Inspection Services, Inc., to provide Building Department services.

After investigating the four options, staff determined it was in the city's best interest to maintain the continued level of service to the citizens of Ontario, through an Agreement with Fruitland.

Councilor Tuttle commented that before a motion was made, someone should sit down with Mr. Ruddell to draft up a proposal.

Mr. Cummings agreed.

Councilor Fugate asked if plans had to be dropped off by customers in Nyssa.

Mr. Cummings stated that they would come over and pick plans up to take back to Nyssa.

Councilor Fugate asked if the Building Official would be required to attend the Preliminary Design Advisory Committee, (PDAC) meetings.

Mr. Cummings replied yes, that would be part of the job duties.

Councilor Crume asked what percentage of funding the Department would receive.

Mr. Cummings stated he did not have an answer for that.

Councilor Tuttle stated that City County Inspection Services, [CCIS], gave part of their profit to the County.

Councilor Fugate asked what would happen if the County decided to not continue after a year or so.

Mr. Cummings said that would put the city in a bind.

Councilor Crume asked what Mr. Cummings thought about the new Fruitland Building Official.

Mr. Cummings said that he liked him, and explained all the different certifications Mr. Little had obtained. He was still working to acquire his Fire and Life Safety and Manufactured Home certifications.

Councilor Tuttle asked if the city paid the state to come and inspect what the Fruitland Building Inspector could not inspect, because Fruitland did not have a certification.

Mr. Cummings said that the state was not going to charge the city this time, but would in the future.

Councilor Tuttle stated that in the contract, the one clause that says that the city is responsible if they can't furnish what they are supposed to under their contract.

Mr. Cummings said if the city had to pay the state, the city would not pay the City of Fruitland. He added that the Fruitland Building Inspector was working on getting his Manufactured Home certification.

Mayor Verini had two issues with CCIS. Bringing work back to their office was concerning and the 2018 end of contract date. Let's say for the sake of argument that the gentleman that was covering city and county inspections did retire in 2018 because of health reasons. He wanted to know how that would leave the city at that point in time, and who would the city have that it could go out to.

Mr. Cummings said the city would be in same predicament as the county. It was hard to find a qualified person to do the job for Ontario. Basically, the state would have to step back in.

Councilor Tuttle said if Mr. Ruddel did retire, and was doing the City of Ontario, it was going to be more attractive to bring someone into this county to run that inspection business then it would be if the City of Ontario was not involved. County wide, it would be a preference that you would have the City of Ontario involved.

Mayor Verini stated that the City of Ontario had been working very well with the City of Fruitland for a number of years.

Charlotte Fugate moved, seconded by Tessa Winebarger, that the City Council **APPROVE THE CONTRACT ADDENDUM NO. 2 OF THE FRUITLAND/ONTARIO BUILDING INSPECTION AGREEMENT AS PRESENTED, AND AUTHORIZE THE MAYOR AND CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF ONTARIO.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-no; Tuttle-no; Carter-out; Verini-yes. Motion carried 4/2/1.

**Update Building Inspection Program MOA**

Dan Cummings, Community Development and Economic Director, presented.

The City of Ontario had been operating a Building Inspection Program under ORS 455.040 and ORS 455.148(7), under the approval of the Building Codes Director. Under OAR 918-020-0090 (1)(l), each municipality that wanted to continue to operate a Building Inspection Program was required to sign an MOA during each reporting period. In May, 2014, Ontario entered into an MOA with the State of Oregon.

In August, 2015, staff received a letter from Brett Salmon, Manager of Policy and Technical Services, Oregon Building Codes Division, with an updated MOA. This proposed MOA was developed utilizing feedback received from several municipalities.

Charlotte Fugate moved, seconded by Larry Tuttle, that the City Council **TABLE THE BUILDING INSPECTION PROGRAM MOA UNTIL LARRY SULLIVAN, CITY ATTORNEY, HAD A CHANCE TO REVIEW THE PROPOSAL.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**Proposed Agreement with J-U-B Engineering for AIP 3-41-0044-012**

Pete Morgan, Airport Manager, presented.

In order to complete Airport Improvement Projects, an Agreement for Professional Services Engineering Services needed to be executed to allow J-U-B Engineers, Inc., to complete the required work. This had been done in previous years.

The city was awarded an FAA Grant to fund the FY 2015 Ontario Airport FAA Airport Improvement Project (AIP). J-U-B Engineers, Inc., would need an executed Agreement for Professional Services to complete that work.

The Agreement for Professional Services was for \$214,690.00. The FAA Grant would cover 90% of the costs, leaving the city responsible for 10%, or \$21,469.00.

Norm Crume moved, seconded by Charlotte Fugate that the Council **AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT FOR PROFESSIONAL SERVICES WITH J-U-B ENGINEERS, INC. IN THE AMOUNT OF \$214,690.00 FOR THE FY 2015 ONTARIO AIRPORT FAA AIRPORT IMPROVEMENT PROJECT (AIP).** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**PUBLIC HEARING(S)**

**Community in Action CDBG Application**

Mayor Verini stepped down due to a potential conflict of interest, and Council President presided.

It being the date advertised for public hearing on the matter of the Community in Action CDBG Application the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, one abstention, potential ex-parte contact, and one declaration of conflict of interest.

Kathy Markee, Program Representative, Community in Action, presented. It was a grant requirement that the public notice be read into the record in its entirety.

*The City of Ontario, Malheur County, is eligible to apply for the 2015 Community Development Block Grant from the Oregon Business Development Department. Community Development Block Grant funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements, primarily for persons with low and moderate incomes. Approximately \$11.3M will be awarded to Oregon, non-metropolitan cities and counties in 2015. The maximum grant that a city or county can receive is \$3M. The City of Ontario is preparing an application for the 2015 Community Development Block Grant from the Oregon Business Development Department for the Harney-Malheur Residential Housing Rehabilitation Initiative in Malheur County, to perform, repair, and do rehabilitation of existing single-family, owner-occupied units located in the City of Ontario and all of Malheur County for low to moderate income families. It is estimated that the proposed project will benefit at least 40 persons, of whom 100% will be low or moderate income. A public hearing will be held by the Ontario City Council at 7:00 p.m. on September 8, 2015, at the City Council Chambers at Ontario City Hall. The purpose of this hearing is for the City Council to obtain citizen views and can respond to questions and comments about community development and housing needs, especially the needs of low and moderate income persons, as well as other needs in the community that might be assisted with a Community Development Block Grant project, and the proposed project. Written comments are also welcome, and must be received by September 8, 2015, at 444 SW 4<sup>th</sup> Street, in Ontario. Both oral and written comments will be considered by the City Council in deciding whether to apply. The location of the hearing is accessible to persons with disabilities. Please contact Marcy Siriwardene, Planning Department Tech, at 541-881-3224, if you will need any special accommodations to attend or participate in the meeting. More information about Oregon Community Development Block Grants, the proposed project, and records about the City of Ontario's past use of Community Development Block Grant funds, is available for public review at 444 SW 4<sup>th</sup> Street, in Ontario, during regular office hours. Advanced notice is requested if special accommodations are needed please notify Marcy Siriwardene, Planning Department Tech at 541-881-3224 so that appropriate assistance can be provided. Permanent, involuntary displacement of persons or businesses is not anticipated as a result from the proposed project. If displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required reasonable benefits to those displaced. Any low and moderate income housing which is demolished or converted to another use, will be replaced. This was published in the Argus Observer, in both English and Spanish on August 30, 2015.*

Community in Action submitted a request for CDBG funding in August, 2014, but unfortunately, Ontario was denied funding during that round of disbursements. CinA was back, seeking approval from the Council to again submit an application for the Housing Rehabilitation Program for our area.

The Hearing was opened for public testimony.

Opponents: None.

Proponents: None.

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

Tessa Winebarger moved, seconded by Charlotte Fugate, that the City Council **APPROVE THE APPLICATION FOR THE 2015 COMMUNITY DEVELOPMENT BLOCK GRANT FROM THE OREGON BUSINESS DEVELOPMENT DEPARTMENT FOR RESIDENTIAL REHABILITATION PROJECTS.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-abstained. Motion carried 6/0/1.

Mayor Verini returned to his seat at the dais.

**Resolution #2015-145: Supplemental Budget for BLM Building Repairs**

It being the date advertised for public hearing on the matter of Resolution #2015-145: Supplemental Budget for BLM Building Repairs, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Kari Ott, Finance, presented.

As discussed in the special telephonic meeting on August 20, 2015, there were repairs that needed to be done to the city building rented by the BLM at the Ontario Airport. The repairs added up to \$19,520 which was greater than 10% of the original \$56,502 appropriated in the Airport Fund. Consequently, it was required that a supplemental budget hearing be held. The council approved the improvement bids at a special telephonic meeting on August 20, 2015.

The \$19,520 would need to be transferred to the Airport Fund from the General Fund Contingency. The \$19,520 would be paid back to the General Fund from the Airport Fund. The repayment plan would be presented to the Council at a later date, as would a proposed Lease/Rental Agreement with BLM.

Councilor Jost asked what was being repaired.

Mayor Verini answered that items being repaired were the bay doors, the HVAC system, some reframing, and roof repair.

Ms. Barnett stated she was in discussion with BLM about an increase in rent, as no increase had been done since the initial agreement 11 years ago.

The Hearing was opened for public testimony.

Opponents: None.

Proponents: None.

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

Norm Crume moved, seconded by Charlotte Fugate, to **APPROVE RESOLUTION #2015-145, A SUPPLEMENTAL BUDGET AUTHORIZING EXPENDITURES FOR IMPROVEMENTS TO THE CITY OWNED BLM BUILDING AT THE ONTARIO AIRPORT**. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**CORRESPONDENCE, COMMENTS, EX-OFFICIO REPORTS**

Tessa Winebarger commented that the city had cleaned up the downtown area recently and that it looked very nice.

Charlotte Fugate asked Chief Alexander about the vacant lot over by the Dollar Store that had been abated. Some large weeds had been overlooked on the property.

Dan Cummings stated there would be a site visit starting at 10:00am on September 17<sup>th</sup> before the City Council work session, and Councilors were invited to attend.

Mayor Verini suggested that due to several absences, that the next work session and meeting be canceled. It was the consensus of the Council to cancel the September 17<sup>th</sup> work session and the September 21<sup>st</sup> meeting.

Norm Crume stated with regard to the project taking place on SW 18<sup>th</sup> Avenue by the Rural Road District, and their request for financial support from the city, he believed that should go before the Public Works Committee before moving to the Council and requested that be how it was handled.

**ADJOURN**

Norm Crume moved, seconded by Charlotte Fugate, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-yes; Carter-out; Verini-yes. Motion carried 6/0/1.

**APPROVED:**



Ronald Verini, Mayor

**ATTEST:**



Tori Barnett, MMC, City Recorder