

COUNCIL MEETING MINUTES
September 17, 2012

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, September 17, 2012, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ronald Verini.

Members of staff present were Jay Henry, Larry Sullivan, Suzanne Skerjanec, Lisa Hansen, Mark Alexander, Bob Walker, Dan Shepard, and Dawn Eden. Also present was Steven Schuback. The meeting was recorded on tape, and the tapes are available at City Hall.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

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

CONSENT AGENDA

Norm Crume moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of the Regular Minutes of 09/04/2012; Item B: Appointment to Planning Commission – Max Twombly; Item C: Appointment to Golf Committee – Ron Eden; and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

DEPARTMENT HEAD UPDATES

Mayor Dominick stated the new fire truck, Engine 103, was delivered last Sunday.

NEW BUSINESS

Bid Award: Rectangular Rapid Flash Beacon: Walkway/Pathway Project #27208

Dawn Eden, Engineering Technician, stated bids were due August 22, 2012 for the purchase of three RRFB systems for three locations in Ontario: Site 1: SW 4th Avenue and SW 7th Street – Skate Park; Site 2: SW 4th Avenue and SW 24th Street – Boys and Girls Club; and Site 3: North Oregon Street and NW 8th Avenue – Mallard's corner. Request for quotes were sent to four companies who have been in contact with the City over the past year. The response was as follows:

Company	Bid
Northwest Signal (Oregon)	No Bid
Coral Sales (Oregon)	No Bid
Spot Devices (Nevada)	\$49,390.00
Traffic Safety Supply (Oregon)	\$43,508.00

On April 18, 2011, the City Council approved the Intergovernmental Walkway/Bikeway Project Agreement No. 27208, 2012-2013 Pedestrian and Bicycle Program Grant for Ontario Enhanced Pedestrian Crossings between the City of Ontario and the State of Oregon. On August 30, 2012, the Council requested an update on the RRFB project.

This agreement would provide for funding Rapid Flash Beacons at three mid-block crosswalk locations. Funds were being provided by the State of Oregon in the amount of \$207,680 and the City would provide a match in the amount of \$32,300 in the form of removal and replacement of sidewalk, ADA detectable warning ramps, curb and gutter, center lane medians and asphalt. This past summer, the Public Works Committee asked City staff to make contact with property owners and tenants at all three locations. The responses were favorable overall. This agreement authorized up to \$207,680 of grant funds for the specialized pedestrian crossings. The City's share would be \$32,300 either in kind or funded from the Bike Path/Pedestrian Reserve Fund.

After the City received notice that it was successful in the grant application process last year, the police department reported a near miss with a child crossing SW 4th Avenue to get to the charter school. On August 30, 2011, after school started last fall, there was an accident reported in which an officer stopped for a pedestrian at SW 12th Street and another vehicle rear-ended the officer's car. The officer was taken to the hospital and released. The following week, on September 8, 2011, a child on a bicycle was hit in the crosswalk at SW 12th Street crossing SW 4th Avenue. The child was not seriously injured. On April 20, 2012, a pedestrian was crossing SW 4th Avenue at SW 7th Street, toward the Skate Park while walking her bicycle, when a vehicle travelling on SW 4th Avenue in the outside lane started to skid toward her. The child laid down her bicycle in an effort to get out of the way of the vehicle and the bicycle fell on top of her and the child injured her foot. The driver was issued a citation for failure to yield to a pedestrian in the cross walk.

Staff was recommending the Council award the bid to Traffic Safety Supply, located in Umatilla, Oregon, who was the lowest, responsive and responsible bidder, in the amount of \$43,508.00.

Councilor Sullivan asked about the possibility of purchasing a different type of crossing system, such as pushing the button, and the lights begin to flash. They seem much less expensive than building a median, and much less intrusive to the traffic flow.

Ms. Eden stated the grant would require the installation of the island.

Councilor Jones asked what the length of the island was.

Ms. Eden stated the island by Mallard's would be 15 feet, and the two on SW 4th Avenue would be 18 feet, and 10 feet wide. They were longer to allow for a different type of turn pattern. That was recommended a safer way.

Dan Jones moved to table the issue for 60 days; if he received a second, he would explain his reasons.

Councilor Sullivan asked for an explanation before a second.

Councilor Jones stated everyone was aware of his position on this project. First, he was all for safe crosswalks, he just didn't agree with the requirements put on them by ODOT, to put the center barriers in the streets. That didn't make sense to him. He agreed there was a need in the locations designated, but he felt there was a better way to do to it. He wanted to table it for 60 days because he thought there was a better use of the grant money. He knew there were strict requirements from ODOT, but the city had been granted \$200K+, and ODOT had just notified them that revenues were going to be decreasing from the gas tax. They were at a critical point, in a critical situation, at the Yturri Beltline and Washington. To him, he thought they needed to do everything possible, in working with ODOT, and to get the County Commissioners and the State Representatives involved, even the Governor's Office, to do whatever they could, to maybe get ODOT to bend the rules a little to allow the City to use this money to do something out there. There was going to be a major accident out there, where someone was going to be critically injured. To him, that was the most critical situation they had in this town, with regard to traffic and traffic control. With the construction of Washington Street, it was only going to increase. With the development land, it was going to increase. They already had the side lane figured in. He wanted to table the action for 60 days, put everyone to work on it, including the City Manager, to see if they could – he knew revenue was tight, and he knew ODOT was going to cut back on revenue – but the city had over \$200K coming from ODOT, and he knew it was a different department, but the thought they might be able to persuade them to look at that

project out there. He wouldn't even oppose a roundabout, but they had to tackle that issue. That was the reason for his motion to table this issue.

Councilor Fox asked Ms. Eden, if they tabled this issue for 60 days, would it jam the money up?

Ms. Eden stated if the city gave the state a good reason for postponing it, they might allow it.

Mayor Dominick asked if they needed to speak to the local ODOT officials, or those at the state level?

Ms. Eden stated it would be representative from Salem.

Mayor Dominick asked if these funds were completely and totally dedicated to crosswalks – the title read that it was for bicycle and pedestrian grants, or were they specifically dedicated to the proposed project?

Ms. Eden stated she had been told that the grant was specifically targeted towards pedestrians and bicycles.

Mayor Dominick stated it might be worth the question, then, as he agreed with Councilor Jones with regard to the danger at the Yturri Beltline, did Ms. Eden think Salem would be willing to listen to Ontario's concerns, and possibly channeling that money towards a pedestrian crossing at that area?

Ms. Eden stated yes.

Mayor Dominick stated maybe the 60 days was too long, and to push it more towards 30 days, as that was how long the bids were good for.

Councilor Sullivan stated he didn't believe it was a bicycle or pedestrian problem at the Yturri crossing; it was a traffic control issue. In looking at this project before, they had discussed putting cones up to see how much it would impede traffic. Was that something they could do – a due diligence on the impact before building the structures? In Payette, they hit a button and lights flashed on both sides and traffic stopped. It seemed to take care of the problem. He wished ODOT would be more open-minded. Their suggestion might work in downtown Portland, but out here it was a problem to drive around.

Councilor Fox asked if Councilor Jones would be willing to alter his motion to a shorter date, so they could have these questions answered, which could be done in 30 days.

Councilor Jones stated 30 days would be great. Also, to Councilor Sullivan, he agreed it wasn't a pedestrian problem on Yturri. He was saying they try to persuade ODOT to allow them to move the grant funds from the pedestrian program to a traffic light or traffic control situation. It was going to take more than one person asking one person at ODOT. It was going to take a group effort, with Council, Commissioners, State Representatives, etc., from around that area. They had to show ODOT how critical this situation was. He would be fine with a 30 day delay, to see what they could do.

Dan Jones moved to table the issue for 30 days, to the October 15, 2012 Council meeting, to work with ODOT to see if there was a possibility of transferring the grant funds to a project at Yturri and Washington.

Councilor Crume stated in reading the grant document, Sheila Lyons, State of Oregon Bike and Pedestrian Grant Administrator, one of the questions from the Council was if the grant money could be used for anything else besides the islands and ADA approaches, to maybe use the funds for traffic signals, and her answer was no, this money was specifically targeted to pedestrian and bicycle facilities. If they couldn't get past her, the answer was set.

Councilor Jones stated he believed this warranted the effort of a 30 day extension from the community's leaders, to identify the urgency that was out there. He believed there was a possibility of rules being changed in certain situations, and this warranted the tabling of this action for 30 days to see what they could do.

Councilor Verini stated if they did the 30 days, it would put them on the edge, and the bids could be in jeopardy. Maybe shorten that by five days to get under that deadline.

Dan Jones moved, seconded by Jackson Fox, to table the issue for 30 days, to the October 15, 2012 Council meeting, and the Study Session of October 11, 2012. Roll call vote: Crume-yes; Fox-yes; Fugate-no; Jones-yes; Sullivan-yes; Verini-no; Dominick-no. Motion carried 4/3/0.

PUBLIC HEARING(S)

Resolution #2012-120: Establishing a System Development Charge for Airport Hangars

It being the date advertised for public hearing on the matter of Resolution #2012-120, 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.

Larry Sullivan, City Attorney, stated the System Development Charges (SDCs) were one-time fees charged to new development to help pay a portion of the costs associated with building capital facilities to meet needs created by growth. The SDC fee schedule previously approved by the City Council included a fee for the construction of warehouses, but not for airport hangars. The Public Works Department proposed that a separate fee should be used for the construction of airport hangars, because the burden imposed on the city's transportation infrastructure was smaller (i.e. less traffic was generated) for airport hangars than it was for warehouses. The issue was reviewed by the Public Works Committee, who recommended that the City Council adopt an SDC fee of \$142 per thousand square feet gross floor area (TSFGFA) for airport hangars instead of continuing to impose the SDC fee for warehouses of \$708 TSFGFA. This new fee was based on a review of comparable SDC fees charged by other cities for airport hangars.

Because this was a modification of the city's SDC rate structure, Oregon law and the City Code required that the City Council hold a public hearing on the issue to take public input about the proposed modification. The city maintained a list of persons who requested notice about proposed SDC modifications, and notices of the proposed modification were given to those persons more than 90 days before the scheduled hearing.

Riley Hill, Public Works Committee Chair, stated this discussion took place within the Public Works Committee about 13 months ago. Contractors at the airport argued with the Public Works Director that traffic was not heavy enough to support the SDCs that were going to be charged. The Public Works Director brought it before the Public Works Committee, seeking direction. The PWC agreed with the PWD about the traffic impact being lower, but Mr. Hill couldn't recall how they reached the lower number. Hangars had been previously described as a warehouse, but a warehouse would have traffic in and out all the time, but with an airport hangar, that would not be the case. That's what warranted the lower number.

The Mayor opened the hearing for public testimony.

Opponents: None.

Proponents: None.

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

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council adopt Resolution #2012-120, **A RESOLUTION ESTABLISHING A SYSTEM DEVELOPMENT CHARGE FOR AIRPORT HANGARS**. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ordinance #2671-2012: Amend OMC 8-13-2 and 8-13-6 re: System Development Charge Exemptions for Real Property that was Subject to Previous Use (1st Reading)

It being the date advertised for public hearing on the matter of Ordinance #2671-2012, 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.

Larry Sullivan, City Attorney, stated Ontario City Code Title 13, Chapter 8 regulated the imposition of system development charges (SDCs) for new development within the city. The current Code provisions were enacted in 2008. The Public Works Committee recommended that certain changes be made in the City Code pertaining to SDC charges for development on real property that was subject to previous use. The effect of the ordinance changes to Section 8-13-2 and 8-13-6(c) would be to allow the Public Works Director to grant exemptions for sewer and water SDCs based on the previous use of the property, even if the property had not been used for the past 18 months, so long as the property has not been vacant for more than ten years.

Proposed Code Section 8-13-2 "Previous Use" Definition Amendment: As noted above, Section 8-13-6(c) gave the Public Works Director the discretion to grant an exemption from SDC fees if the new development would not create demands on city infrastructure greater than those of the previous use of the property. The definition of "previous use" was in Section 8-13-2. As currently defined, the Public Works Director was to consider what the property has been used for in the past 18 months to determine the "previous use" of the property for the purpose of granting the SDC exemption. Staff has had situations in which property had been vacant or unused for more than 18 months, and the Code hadn't provided a way to determine "previous use" under those circumstances. Staff was requesting, along with the Public Works Committee recommendation, an amendment that would allow staff to consider the last use of the property as the "previous use" even if the property had not been used for more than 18 months. In addition, the Public Works Committee also recommended that the "previous use" definition be clarified for certain properties, such as a mall, that might be used for more than one purpose.

Proposed Code Section 8-13-6(c) Amendment: Code Section 8-13-6(c) gave the Public Works Director the discretion to grant an exemption from SDC fees if the new development would not create demands on city infrastructure greater than those of the previous use of the property. The Public Works Committee recommended a modification of Code Section 8-13-6(c), to provide that a sewer or water SDC exemption be allowed only if the property had not been vacant for more than ten years. With the proposed change in Section 8-13-6(c), a property that was vacant for more than ten years would have to pay a sewer and water SDC for new development, regardless of what the property was used for previously.

A public hearing was scheduled for these ordinance changes, as they might arguably result in a modification of the City's SDC rate structure. The city maintained a list of persons who requested notice about proposed SDC modifications, and notices of the proposed modification were given to those persons more than 90 days before the hearing.

The Mayor opened the hearing for public testimony.

Opponents: None.
Proponents: None.

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

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council approve Ordinance No. 2671-2012, AN ORDINANCE AMENDING SECTIONS 8-13-2 AND 8-13-6 CONCERNING SYSTEM DEVELOPMENT CHARGE EXEMPTIONS FOR REAL PROPERTY THAT WAS SUBJECT TO PREVIOUS USE, on First Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Riley Hill stated the Public Works Committee passed a resolution for a recommendation to the City Council about the way the accounting was done, how Public Works might go out and work on the Golf Course or the Cemetery. The way it's been done in the past, materials were charged out to the different departments, but Public Works was absorbing the labor, so you wouldn't know what your costs truly were. They also discovered there was a Facilities Maintenance Manager, who had his own budget. When money was spent out of that department, there was not an accurate count of what each department cost to run. The Public Works Committee was recommending to the Council that they change their accounting procedures so when budget came around, they would know what the real costs were by department.

Mayor Dominick stated the City Manager had been given direction to put together a proposal to bring to Council.

- Jackson Fox stated he heard about last week's work session, and the handout about hand-raising and the five-minute rule, and wanted the Mayor or City Manager to provide him the documentation that gave the Mayor the power to scold or chastise a Councilor, or anyone. The way he read the Charter, it mandated that the Mayor protect everyone in this room from that happening, from anyone.

Mayor Dominick stated they would pull out the Council Rules and Procedures and go over them again.

- Charlotte Fugate stated they had been talking about the pool, and how the people in the community felt about it, and they had the Harvest Festival coming up, so she was thinking they could set up a card table and have a sign on it indicating people could talk to the Councilors about how they felt about things within the community. She didn't know if anyone else would be interested, but she would be willing to be there.

EXECUTIVE SESSION

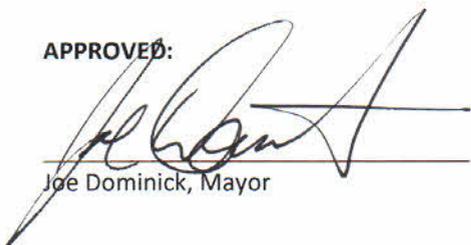
Executive Session: ORS 192.660(2)(d)

An executive session was called at 8:10 p.m. under provisions of ORS 192.660(1)(d) to discuss labor negotiations. The Council reconvened into regular session at 9:22 p.m.

ADJOURN

David Sullivan moved, seconded by Jackson Fox, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

APPROVED:



Joe Dominick, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder