

**ONTARIO CITY COUNCIL MEETING MINUTES  
Monday, October 20, 2014**

The regular meeting of the Ontario City Council was called to order by Mayor LeRoy Cammack at 7:00 p.m. on Monday, October 20, 2014, in the Council Chambers of City Hall. Council members present were LeRoy Cammack, Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ron Verini.

Members of staff present were Tori Barnett, Larry Sullivan, Marcy Siriwardene, Kari Ott, Cliff Leeper, Betsy Roberts, and Dan Cummings. The meeting was recorded, and copies are available at City Hall.

Ron Verini led everyone in the Pledge of Allegiance.

**AGENDA**

Norm Crume moved, seconded by Ron Verini, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

**CONSENT AGENDA**

Ron Verini moved, seconded by Norm Crume, to approve Consent Agenda Item A: Minutes of the Council Meeting of September 15, 2014; Item B: Minutes of Telephonic Meeting of October 3, 2014; and Item C: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

**PUBLIC COMMENT**

Stormy Ray, Ontario, stated her concern was with the ban of marijuana facilities. She wanted to have medicine available and thought that there would be plenty of income coming in without putting a tax and burden on people wanting medicine. A tax would penalize the patients, and she was opposed to Measure 91.

**NEW BUSINESS**

**Request Notice to Proceed: Professional Engineering Services for Water Treatment Plant Chemical Feed and Raw Water Supply Improvements Evaluations**

Betsy Roberts, Engineer, CH2M Hill/Public Works, stated the City of Ontario invited Murray, Smith and Associates, Inc., (MSA), to amend the City Water Treatment Plant Audit contract to include the first phase of design work to develop a set of construction documents in order to develop a construction project in this current fiscal year.

The scope of work was based on the conclusions of the August 2014 Water Treatment Plant Audit Report. Proposed work was anticipated to be completed in the first week of December 2014. Preliminary design efforts would be developed as a follow up phase. Extension of the MSA contract allowed immediate action to begin on critical Water Treatment Plant (WTP) improvements by a qualified engineering team with a deep understanding of the city's WTP challenges.

The City Council could choose to not authorize the Notice to Proceed for Murray, Smith and Associates, Inc., and postpone needed improvements. If authorization was denied, options would include either "No Action" where no improvements would be designed at all or a Request for Proposal (RFP) could be developed and selection of a qualified engineering firm would follow.

Work would be billed on a time and materials basis, in accordance with the schedule of charges. MSA would manage the work identified to the aggregate total budget amount (\$23,791), which was not be exceeded without prior written authorization from the city.

Councilor Fox asked why this had to go before the Council.

Kari Ott, Finance, stated she thought it might be due to this action possibly being considered as an extension of the contract.

Larry Sullivan, City Attorney, stated he needed to review the action. A new RFP should make the findings to allow the contract to be adopted.

Councilor Jones wanted to know if there was another extension of this project.

Ms. Roberts stated this was the preliminary step.

Mr. Sullivan stated that the requirement to have it approved would only arise if it had to be bid but since it was under the bid amount, the Council could waive the bid requirement, however he still wanted to review the document.

Action postponed for City Attorney review. *[See continued discussion and motion beginning on lower section of Page 10, continued onto Page 11]*

**Ordinance #2696-2014: Create 3-21 of Ontario Municipal Code regarding Establish Tax on Sale of Marijuana and Marijuana-Infused Products in the City of Ontario (1<sup>st</sup> Reading)**

Larry Sullivan, City Attorney, stated Measure 91, pending on the November 4, 2014 statewide ballot, legalized production, sale and use of recreational marijuana in Oregon, in addition to the already-legal (under state law) sale and use of medical marijuana. Measure 91 also established a state tax on marijuana sales: \$35 per ounce for flowers, \$10 per ounce for leaves and \$5 per immature plant. After certain deductions, ten percent of this tax revenue would go to cities. Until 2017, this would be divided among cities according to population. After that, it would be divided in proportion to the number of licensed producers and sellers in each city.

Measure 91 included language saying that *"no county or city of this state shall impose any fee or tax"* on marijuana. Nevertheless, in recent weeks a number of cities adopted or were considering their own gross receipts taxes on marijuana sales. There were some who intended to argue that the words *"shall impose"* are prospective and would not clearly preempt local taxes in effect before the effective date of Measure 91. Others speculated that the Legislature might consider amendments to Measure 91 if it passed, providing an opportunity for lawmakers to expressly *"grandfather"* pre-existing local marijuana taxes.

Enactment of Ordinance 2696-2014 would establish a tax on gross receipts from marijuana sales in Ontario, effective before the effective date of Measure 91 on December 4, 2014, so long as it was passed before November 4, 2014. There was a legal argument that a city could not pass an ordinance that imposed taxes by an emergency clause under the Oregon Constitution, so the city would not be able to waive the waiting period.

Ordinance 2696-2014 was modeled on, with much language identical to, ordinances adopted or being considered by Lake Oswego, Ashland, Hillsboro, Tigard, Milwaukie and others.

Like most of the reviewed city ordinances, Ordinance 2696-2014 imposed a tax of five percent [5%] of gross sales for medical marijuana, and ten percent [10%] of gross sales for recreational marijuana. There were some cities that had exempted medical marijuana from the tax, although it appeared that most ordinances taxed both types.

Sellers of marijuana were liable for the tax, and were required to submit quarterly returns specifying total sales with tax calculations. Sellers would be allowed to retain five percent [5%] of the tax to defray administrative costs. A ten percent [10%] penalty would be imposed on late payments, with an additional ten percent [10%] penalty after 60 days. If nonpayment was due to fraud, a 25 percent (25%) penalty was imposed. Interest accrued on unpaid taxes at the rate of one percent [1%] per month.

The City Manager or their designee was granted the authority to administer tax collection processes. Persons disputing the City Manager's decisions as to the amount of the tax, interest or penalties could appeal to the City Council.

Financial information submitted in connection with the tax was confidential, except under certain listed circumstances. The city would have the ability to audit the books and records of marijuana sellers to confirm the correctness of any tax return or to estimate taxes due.

Section 3-21-15 of Ordinance 2696-2014 stated that nothing in the ordinance shall be construed as establishing that marijuana sellers were authorized or licensed to sell marijuana or marijuana infused products in the city. The passage of this ordinance would not permit the sale of marijuana or marijuana infused products, and did not waive the moratorium placed on medical marijuana dispensaries by the city. If Ballot Measure 91 passed, it might have the effect of legalizing such sales. If Ballot Measure 91 did not pass, Ordinance 2696-2014 would still authorize the city to impose a tax on marijuana sales if the city chose to enforce the ordinance at any time.

Councilor Fox asked the difference between medical and recreational marijuana and who could sell it.

Mr. Sullivan stated there were two different sets of laws, and pharmacies would probably not be able to sell to recreational marijuana just other retailers.

Councilor Crume asked about any possible lawsuits, if the state did not grant cities the right to tax it.

Mr. Sullivan stated that recreational growers and/or sellers might try, but the city could choose to repeal the ordinance.

Councilor Verini asked if the public could be notified about the vote.

Mr. Sullivan stated the public would have the option to vote on the Measure.

Councilor Crume stated if Measure 91 passed, would it make it a moot point to have a ban on marijuana?

Mr. Sullivan stated that individuals could purchase recreational marijuana without relying on medical marijuana cards.

Councilor Verini stated the city had a bad experience with the 45<sup>th</sup> parallel situation in the past. He expressed favor for the tax in order to assist the police department.

Mr. Sullivan stated there was a case in Southwestern Oregon, possibly Klamath Falls, that was in the Circuit Court.

Councilor Fox asked Mr. Sullivan for a definition of "legal".

Mr. Sullivan stated it was legal under state law and the federal government was not taking a stand against state law, however it had to be enacted before November 4, 2014.

Councilor Fox stated that in some locations, marijuana was being added to candy and brownies, etc., which could potentially be consumed by children.

Mr. Sullivan stated the city could establish specific regulations.

Councilor Fugate stated the dispensaries tested the marijuana for strength, and that would be better than the black market.

Councilor Verini stated that the way the law read, if Measure 91 passed and the moratorium went through, the time span between lifting and obtaining public input, for recreational only, not medical, by then it would be in Ontario without any control.

Mr. Sullivan stated there was a specific time, place, and hours set for dispensing. On December 4, 2014, if Measure 91 passed, people would be able to get a license.

Ron Verini moved, seconded by Charlotte Fugate, that the Council adopt **Ordinance 2696-2014, AN ORDINANCE ADDING CHAPTER 21 TO TITLE 3 OF THE ONTARIO CITY CODE TO ESTABLISH A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF ONTARIO, on First Reading by Title Only.** Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-no; Tuttle-no; Verini-yes; Cammack-yes. Motion carried 5/0/2.

### PUBLIC HEARING(S)

#### **Ordinance #2694-2014: Modify Transportation System Plan to City's Comprehensive Plan – Reclass Reiter Drive to Local Street and its Connection to Malheur Drive (1<sup>st</sup> Reading)**

It being the date advertised for public hearing on the matter of Ordinance #2694-2014, 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.

Dan Cummings, City Planner, stated the applicant was proposing to reclassify the listing of Reiter Drive in the Transportation System Plan (TSP). Reiter Drive was constructed from NW 4<sup>th</sup> Avenue north for approximately 600 feet through the subdivision known as the Village Addition but was not constructed through the applicant's property. It was anticipated it would connect NW 4<sup>th</sup> Avenue and Malheur Drive. This segment was currently classified as a future collector street in the TSP. The applicant requested to reclassify this segment of Reiter Drive from NW 4<sup>th</sup> Avenue to a local street ending in a cul-de-sac and not continue over the crest of the hill to Malheur Drive.

In February, 2006, under Ordinance #2560-2005, the city adopted a new Transportation System Plan (TSP) within the City of Ontario Comprehensive Plan in which it designated Reiter Drive as a Collector Street and showed it connecting NW 4<sup>th</sup> Avenue north to Malheur Drive. In August, 2008, under Ordinance #2619-2008, the city approved the Annexation and Rezoning of this property to City RS-50 Zone.

On October 13, 2014, the Ontario Planning Commission recommended that Ordinance #2694-2014 be presented to the City Council for approval, as it was found to meet the goals of the TSP.

The Findings of Fact were incorporated into the record:

1. *The TSP identified Reiter Drive and NW 12<sup>th</sup> Street as collector roads. These roads were parallel and separated by approximately 515 feet.*
2. *Reiter Drive was approximately 790 feet east of North Verde Drive.*
3. *North of NW 4<sup>th</sup> Avenue, Reiter Drive currently existed for approximately 600 feet. It had front on housing with direct driveway access for 13 houses. There was approximately 36 feet of pavement from back of curb to back of curb. There was on-street parking.*
4. *Reiter Drive was currently constructed to local road standards with rolled curb and gutter.*
5. *If Reiter Drive was extended due north, it would intersect Malheur Drive very near an existing horizontal curve in Malheur Drive, which might create sight distance issues.*
6. *There was vertical topographic relief of approximately 20-25' that would create construction problems if Reiter Drive was extended to Malheur Drive.*

7. *The area could be served by one collector road in the north/south direction. It would also be served by Hunter Lane in the east/west direction.*
8. *NW 12<sup>th</sup> Street was more centrally located in the zone and would not have the horizontal alignment issues. There were also existing houses on NW 12<sup>th</sup> Street, but they were set back farther from the roadway than Reiter Drive.*
9. *Making Reiter Drive a local road would encourage walking and bicycling on the roadway due to the fact that the roadway would be narrower and friendlier to pedestrians and cyclists. This would be in compliance with Section 3.8 of the TSP.*
10. *Anticipated traffic: A traffic assessment letter dated January 21, 2014 was prepared by Thompson Engineers and submitted to the City of Ontario. This letter indicated that the proposed development and existing development would result in approximately 210 daily trips on Reiter Drive, which fell well below the maximum volumes recommended for local roads by most jurisdictions.*
11. *Eliminating Reiter Drive as a collector road would require the area bounded by North Verde Drive, Malheur Drive, NW 4<sup>th</sup> Avenue, and NW 10<sup>th</sup> Street to be served by NW 12<sup>th</sup> Street as a north/south collector and Hunter Lane as an east/west collector. The acreage of this area was approximately ¼ section, or 160 acres. A review of Google Earth indicated that approximately 43 acres was already developed and obtained access directly to existing arterial roads. The proposed development consisted of approximately 14 acres and would use Reiter Drive as the primary access. This left approximately 103 acres of theoretically buildable acreage. If the entire area were to be built out at four [4] units per acre, there would be less than 412 houses. Based on the ITE Trip Generation Manual rate of 9.57 trips per single family dwelling unit, staff estimated the area would generate less than 4,000 trips per day. With four connection points to the transportation system, neither Hunter Lane nor NW 12<sup>th</sup> Street should see volumes greater than 2,000 vehicles per day.*

The applicant and his engineering representatives met with city staff in several PDAC meetings regarding this action and it was staff's opinion that it would be in the best interest of the public to reclassify Reiter Drive to a local street, as well as not require the street section to continue over the hill and connect to Malheur Drive, and allowing for a cul-de-sac at the end of Reiter Drive. This request was also presented to ODOT, and it was their opinion that the street classification and spacing was a function of the city to approve.

The area between NW 4<sup>th</sup> Avenue, Malheur Drive, North Verde Drive, and North Park Boulevard could be adequately served by one north/south collector road. Reiter Drive was very close to North Verde Drive. NW 12<sup>th</sup> Street was more centrally located in the zone. Therefore, Reiter Drive could be reclassified as a local road as requested by the applicant without an adverse impact on the transportation system.

The following changes would need to be made to the Transportation System Plan:

1. *Page 3.8, Section 3.4.4: Delete "Reiter Drive from NW 4<sup>th</sup> Avenue to Malheur Drive" from list of major and minor non-highway collectors.*
2. *Figure 7-1a City of Ontario System Plan: Delete Reiter Drive as a future minor collector and show termination in a cul-de-sac.*
3. *Figure 7-9a Local Street Network Plan: Delete Reiter Drive as an improvement location.*

The Hearing was opened for public testimony.

Opponents: None. Proponents: None.

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

Dan Jones moved, seconded by Norm Crume, that the City Council adopt **Ordinance #2694-2014, AN ORDINANCE AMENDING THE TRANSPORTATION SYSTEM PLAN (TSP) OF THE CITY'S COMPREHENSIVE PLAN TO RECLASSIFY REITER DRIVE AS A LOCAL STREET AND TO ELIMINATE REITER DRIVE'S CONNECTION TO MALHEUR DRIVE ON THE TSP, on First Reading by Title Only.** Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

**Ordinance #2695-2014: Rezone 10 Properties from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on South Side of SW 4<sup>th</sup> Avenue (1<sup>st</sup>/2<sup>nd</sup> Reading by Emergency Passage)**

It being the date advertised for public hearing on the matter of Ordinance #2695-2014, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action or ex-parte contact, but there was one abstention due to a conflict of interest.

Councilor Jones recused himself from this action due to a conflict of interest. He was a named party on the proposed action.

Dan Cummings, City Planner, stated that during the regular meeting of October 13, 2014, of the Ontario Planning Commission, the Commission heard the rezone proposal contained in Planning File 2014-08-10 RZ, which was applicable to 10 properties located along the South side of SW 4<sup>th</sup> Avenue with three [3] of the properties known as Tax Lots 4100, 4200, and 4203 Assessor's Map 18S47E09BA which were between SW 11<sup>th</sup> Street and SW 12<sup>th</sup> Street and the other seven [7] properties known as Tax Lots 100, 200, 300, 301, 302, 303, and 500 Assessor's Map 18S47E09BB that were between SW 12<sup>th</sup> Street and Alameda Drive.

The parcel known as Tax Lot 500 was previously a conditional use permit to continue using the parcel as a Service Station/Convenience Store.

The applicants were requesting that these properties be rezoned to General Commercial (C-2) to allow for better use and development of the properties.

The Planning Commission addressed the proposed rezone from City Zone classification C-1 Neighborhood Commercial to a City Zone classification of C-2 General Commercial for Tax Lots 100, 200, 300, 301, 302, 303, and 500 Assessor's Map 18S47E09BB, and Tax Lots 4100, 4200, and 4203 Assessor's Map 18S47E09BA, multiple properties located along SW 4<sup>th</sup> Avenue, Ontario.

The Findings of Fact were incorporated into the record:

- 1. The Ontario Municipal Code implements policies contained in the City of Ontario Comprehensive Plan, which conformed to the Statewide Planning Goals; generally, if a proposed rezone met all criteria and standards contained in the OMC, the request would be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The applicants believe that these properties should have been originally zoned as C-2 as the properties on either side (West and East) along SW 4th Avenue were predominately zoned C-2.*
- 2. The majority of SW 4th Avenue was already zoned C-2 and existing businesses and future businesses would comply better in a C-2 zone.*
- 3. The surrounding area was predominately C-2 and with the change in the development of the city to the eastside of town, rezoning these properties to allow for new types of businesses would help entice new businesses to move or develop on the west side of town again.*
- 4. The area surrounding the subject property was predominately zoned C-2 all along the South side of and the majority of the North side and granting this request would not be granting a special privilege, but would be granting the same rights that the majority of the properties fronting SW 4th Avenue were allowed.*
- 5. The subject properties were largely developed with the exception of a few that had the area required for this zone and/or were under the same ownership.*
- 6. All the properties fronted on a public street or alley that provided public utilities and street access.*
- 7. Uses allowed by the current C-1 zone were basically the same type of use that would be used under the rezone, with the exception of a few properties that would be able to add new businesses that would not be detrimental to adjoining properties.*

The Planning Commission recommends approval of Ordinance #2695-2014 as presented before City Council, and had requested passage of the ordinance under the emergency clause.

The Hearing was opened for public testimony.

Opponents: None. Proponents: None.

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

Jackson Fox moved, seconded by Charlotte Fugate, that the City Council accept the Findings of Fact as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-abstained; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/0/1.

Jackson Fox moved, seconded by Ron Verini, that the City Council adopt **Ordinance #2695-2014, AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN AND ZONING MAP FROM CITY NEIGHBORHOOD COMMERCIAL (C-1) TO GENERAL COMMERCIAL (C-2) ZONE CLASSIFICATION FOR THREE PROPERTIES ON TAX MAP 18S47E09BA IDENTIFIED AS TAX LOTS 4100, 4200, AND 4203; AND FOR SEVEN PROPERTIES ON TAX MAP 18S47E09BB IDENTIFIED AS TAX LOTS 100, 200, 300, 301, 302, 303 AND 500; AND DECLARING AN EMERGENCY ON FIRST READING, BY TITLE ONLY.** Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-abstained; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/0/1.

Jackson Fox moved, seconded by Charlotte Fugate, that the City Council waive a second reading of Ordinance #2695-2014. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-abstained; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/0/1.

Jackson Fox moved, seconded by Ron Verini, that the City Council adopt **Ordinance #2695-2014, AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN AND ZONING MAP FROM CITY NEIGHBORHOOD COMMERCIAL (C-1) TO GENERAL COMMERCIAL (C-2) ZONE CLASSIFICATION FOR THREE PROPERTIES ON TAX MAP 18S47E09BA IDENTIFIED AS TAX LOTS 4100, 4200, AND 4203; AND FOR SEVEN PROPERTIES ON TAX MAP 18S47E09BB IDENTIFIED AS TAX LOTS 100, 200, 300, 301, 302, 303 AND 500; AND DECLARING AN EMERGENCY ON SECOND AND FINAL READING.** Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-abstained; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/0/1.

**Return to:**

**Request Notice to Proceed: Professional Engineering Services for Water Treatment Plant Chemical Feed and Raw Water Supply Improvements Evaluations**

Mr. Sullivan stated the city's Financial Policies imposed a requirement to get at least informal bids on services contract that were more than \$5,000. Therefore, the Department Head was supposed to have solicited informal bids in connection to this action. Unfortunately, the only way it could be approved was to remove it from the Agenda, bring it back to the next meeting, and give proper notice to have the Council act on this action in their capacity as the Local Contractor Review Board.

Councilor Fugate asked if this could be considered an emergency action.

Mr. Sullivan stated there was an emergency purchase provision in the law, but it might not apply to this situation, but he would let the Council decide if they wanted to move forward on this under the emergency clause. The Policy read, in part: "...In case of an emergency which required immediate purchase of supplies or services and time is of the essence, the City Manager shall have the authority to authorize such purchases up to \$50,000 if services were needed, without complying with procedures set forth above. Examples of an emergency requiring emergency purchases include sewer lines collapse, water system pump failures, and weather related damage requiring immediate repair. An emergency purchase constituted an immediate need of a service that was unable to be anticipated, which time was a crucial factor, and which would be a disservice to the citizens of the community of Ontario if the item were not purchased." If the Council wanted to authorize this as an emergency, they could.

Mayor Cammack asked Cliff Leeper his thoughts.

Cliff Leeper, CH2M Hill/Public Works Director, stated they needed to move on this.

Mayor Cammack confirmed if the Council did this action under the above-stated provision, it would not require any Council action, just the City Manager authorizing it.

Mr. Sullivan advised they should make a formal motion to authorize the City Manager to make that purchase as an emergency purchase to enter into this contract.

Jackson Fox moved, seconded by Ron Verini, that the City Council authorize the City Manager to move forward on the Notice to Proceed for Professional Engineering Services for the Water Treatment Plant Chemical Feed and Raw Water Supply Improvement Evaluations under the emergency clause. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-no; Verini-yes; Cammack-yes. Motion carried 6/1/0.

**CORRESPONDENCE/COMMENTS/EX-OFFICIO REPORTS**  
**OR DISCUSSION ITEMS**

- Councilor Fox asked about the Christmas tree down by the Depot – did the city do that, or was that done by the Downtown Merchants?

Councilor Fugate stated the Downtown Merchants no longer existed, so it would probably be up to the city.

Councilor Fox asked if the city was going to do anything, because his neighbor wanted to donate a tree. He had a beautiful tree he was going to cut down, if the city was interested in using it.

Tori Barnett stated she would look into it. In prior years, the Fire Department had assisted in hanging light son the tree at the bottom of Hospital Hill (4<sup>th</sup>/9<sup>th</sup>). She would ask if they would be willing to that again.

- Councilor Jones asked to bring back discussion to the next work session on the proposal submitted by Dennis Cornwall for the Golf Course.
- Councilor Fugate stated she had handed out two documents. First, there was the Oregon Main Street project, and she wanted Council to review it as she would be coming back before them to ask for support. Second, when she attended the LOC meeting in September, she obtained a copy of the proposed Strategic Plan for the LCDC 2015-2022 cycle. She wanted the Council to be aware of what they were planning, and any comments should be given directly to Representative Cliff Bentz.

Ron Verini asked if they still had the Downtown Revitalization study that had been done a few years back.

Councilor Fugate stated she had one, but hadn't read it all. Many of the things listed in the study had already been done. She had gone to Chamber, and they would be having their Board meeting on the 28<sup>th</sup>, and she was asking them to review it and hopefully support it. She would be getting in contact with other organizations, and they'd form a committee from that. Something needed to be done to the downtown area. Several consultants had stated it looked bad, and no economic development was going to be coming in until it was cleaned up.

- Dan Cummings, City Planner, stated last August – September, UPRR requested closure of the SW and SE 6<sup>th</sup> Avenue railroad crossing. One concern voiced by staff related to just dead-ending SW 6<sup>th</sup> Street, which was on the West side of the tracks. On the East side of the tracks, which was SE 6<sup>th</sup>, dead-ending that was not an issue because it could be dead-ended on 1<sup>st</sup> Street. That would result in a T-intersection, so traffic could turn right or left, and continue down 1<sup>st</sup> Street. On that side, they did not have ROW yet. The request to close the railroad crossing was due to a development occurring on the East side of the tracks, and if the crossing was to remain open, the city would request the development to dedicate the ROW to connect up the railroad property. Currently, the city operates the 6<sup>th</sup> Street just by permission from UPRR. No formal document had been found relating to that use. On that side, closing 6<sup>th</sup> Street was not an issue. Staff had a small issue on the West side of the tracks in that how would that be dead-ended, mainly, for fire services. The physical traffic was not a large issue with anyone other than fire and safety, and staff was also hesitant for pedestrian traffic.

In those earlier discussions, Council gave him authority to attempt to negotiate with UPRR to see if they'd donate ROW so a street connection could be made from 6<sup>th</sup> up the West side, to 5<sup>th</sup>. He heard from that just that day, but the answer was no, that UPRR believed the land was too valuable to them, in case the adjoining properties ever wanted spur tracks. They said no, and didn't want to mix the two actions together, i.e. the closure of the street and donating land. After that call, Ralph Poole, the developer, contacted him, who was most likely contacted by UPRR, and in his conversation with UPRR, he had been able to get the issue more clear. They still were not going to donate it, but they were possibly open – after this process – to sell it to the city. He told Mr. Poole that he didn't think the city was interested in purchasing ROW, but he wanted the Council to know of it. In his discussions with Mr. Poole, he let him know that the problem staff had related to what they were going to do on the West side of 6<sup>th</sup>. Mr. Poole stated if the city was willing to, and UPRR stated the city needed to pass a resolution that could be given to ODOT, who regulated the crossings, the closure of that, that Mr. Poole would work with Andrew's Seed to come up with a solution on the options of a T-turnaround, a vacation of a portion of the street, or whatever it took to make a safe turnaround on the West side of 6<sup>th</sup> Street. Mr. Poole was good with closing it off on the East side, and to do what the city wanted done there to make it safe. Mr. Poole was asking that the Council, at their next meeting, if possible, to act on a resolution to give to UPRR to begin the process of closing that crossing. He told Mr. Poole that with regard to planning and representing Public Works, they probably would recommend that as long as there was some type of Agreement to protect the city, indicating the developer would meet the codes for turnaround on the West side of the tracks. UPRR indicated to Mr. Poole that, since there was already a street there that was close to the 90-foot turnaround, they'd not have an issue with dedicating an easement [only] for the cul-de-sac. His suggestion would be that they have Mr. Poole look closely at putting a turnaround not in the railroad property so that in the future the city wasn't at UPRR's mercy, especially if the adjoining properties elected to have a spur line installed. If that happened, the city would lose the cul-de-sac.

Councilor Crume stated with regard to the Northeast side, who owned that property?

Mr. Cummings stated that currently, it was owned by Pooles'.

Mayor Cammack verified that the piece that UPRR wouldn't donate was the West side between 5<sup>th</sup> and 6<sup>th</sup>?

Mr. Cummings stated it was the East side. On the West side, if 6<sup>th</sup> closed, they might want to vacate the existing ROW that had already been donated. When they did that, that donated section was an easement that the city could release any time without going through a street vacation process. Anything further into the ROW that the subdivision platted, they'd have to do a regular street vacation process.

Mr. Cummings stated Mr. Poole asked if there was a way the Council could, at their next meeting, make a decision on that, and if yes, he'd need a resolution.

Councilor Tuttle stated if they wanted the Council to review this action, Pooles' needed to provide maps showing what they were proposing to do, to allow Council time to look at it and listen to their comments. He believed that was Pooles' responsibility to provide that. It wasn't the city's Planning Department place to spend the time and money to do that. Pooles' also needed to provide alternatives as to what could happen, particularly on the West side, so they could look into it. That was the developer's responsibility.

Mr. Sullivan stated there was a difference between closing a street and vacating one. The Council could elect to close the street at a particular location without necessarily going through a full vacation process. It might be possible to do a resolution to close the street, initially, even before the railroad went through the process. That would give the city the option of designing the traffic flow.

Councilor Fugate asked who would pay to put in the cul-de-sac.

Mr. Cummings stated it would come down to Council directing the developer on what the city was willing to do. He wasn't comfortable answering that question either way.

**EXECUTIVE SESSION**

**Executive Session: ORS 192.660(2)(a)**

An executive session was called at 8:21 p.m. under provisions of ORS 192.660(1)(a) to consider employment of an officer, employee, staff member or agent. The Council reconvened into regular session at 8:48 p.m.

**ADJOURN**

Larry Tuttle moved, seconded by Norm Crume, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

**APPROVED:**



LeRoy Cammack, Mayor

**ATTEST:**



Tori Barnett, MMC, City Recorder