

**ONTARIO CITY COUNCIL MEETING MINUTES  
Monday, October 21, 2013**

The meeting of the Ontario City Council was called to order by Mayor LeRoy Cammack at 7:00 p.m. on Monday, October 21, 2013, 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, Mark Alexander, Larry Sullivan, Bob Walker, and Mike Long. The meeting was recorded, and copies are available at City Hall.

Dan Jones 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; Tuttle-yes; Verini-yes; Jones-yes; Cammack-yes. Motion carried 7/0/0.

**CONSENT AGENDA**

Norm Crume moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Minutes of the Regular Meeting Minutes of October 7, 2013; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes; Cammack-yes. Motion carried 7/0/0.

**PUBLIC COMMENTS**

Riley Hill, Public Works Committee Chair, stated it didn't appear the recommendations provided by the Public Works Committee were making it to the Council for consideration. This issue had been addressed before, and the Committee was still hoping to see a change. This membership felt very serious in their position on the Committee, but some were beginning to wonder why they even attended the meetings. Also, another issue, the committee had asked for costs for certain things, including projects, etc., and had been told those costs were tracked, but the Committee couldn't get that information. Doing some research, he had located Resolution 82-109, which mandated the city do an accounting of projects, and that's what the Committee was asking for. They wanted to track the large projects, and where the employees were being used. It was hard for the Committee to do what they felt they needed to do without those answers and that information. He was again asking the Council and staff for help in getting that data. He didn't want the Committee to continue to feel as if they were wasting their time.

Yessenia Herrera, Ontario; Judi Trask, Caldwell; Ken Hart, Ontario; Stewart Cope, New Plymouth; Melanie Cope, New Plymouth; Patrick Haun, Ontario; and Bill Trask, Caldwell, were swimmers on the Ontario Swim Team, the OASCARS, or were parents of swimmers. They each spoke in support of funding the necessary repairs at the swimming pool, and implored the Council to keep the pool open. They were all in support of the pool, even if it meant going into debt. Many members couldn't afford to travel to another center, and this was the only option available.

Bruce Hunter, Ontario, Ontario Budget Committee member, stated he was not against the pool, but having been on the Budget Committee for 14 years, he knew the Aquatic Center came up every year. With lack of funds, there had always been problems in doing needed and necessary repairs. The Argus had printed it would take between \$1.5-2M for fixing, depending on what was fixed. Over the past several years, Ontario citizens had voted in a school bond, a library district, a vector district, and the Malheur Extension Service, and he had great concerns about a bond that would raise taxes again. With that said, he again wanted them to know he wasn't against doing something with the pool. He was a Scout Master, and had taken kids to the pool over the winter, and there was

absolutely no entertainment there. That needed to be addressed. Also, while this was being considered, instead of a water park, maybe a heated pool, fix it up right, and put an outside pool with diving boards, and/or slides. Kicking a ball around in the pool wasn't that fun. This was a lot for the Council to take on, and the Budget Committee, too, to see what the tax payers wanted.

Ruth Rolland, Ontario, [from written document] stated: *Pretty much everyone in the surrounding areas of Malheur, Washington, and Payette Counties thinks about Ontario as somewhat an extension of their own communities. A lot of people from all three counties, and even from farther – Gem and Canyon counties, commute to Ontario for work. And the exchange goes both directions of course. Even greater numbers travel into Ontario for our stores and restaurants, and spend money here that helps our City's economy. Here in Ontario, there is so much talk – and rightfully so – about the need to have more businesses establish and locate in and near Ontario, that we need to draw in new customers, new residents and new jobs. But of course, there are jobs, and then there are jobs. All jobs are important, but preferably, more good jobs in the region should be encouraged by the City. The region and the City needs more jobs that pay a living, saving wage – not fewer of those jobs. And certainly, the good jobs already existing here should be recognized as a good thing in the community. And no workers or working families, anywhere, should ever be disrespected by their employers or by City leaders. The City unilaterally implemented a so-called “implemented offer” on the City's Public Works employees. That's why there were people outside City Hall, carrying signs again this evening. They are looking for the City's return to fairness. The City's Public Works employees want to complete the unfinished negotiation of their labor contract, to reach a mutually agreed contract offer, that can be ratified and accepted by the workers. Ontario residents and leaders should all be pulling in the same direction for the successful future for the City of Ontario. And a successful future means successful for everybody. We do it by offering inclusive respect, and being fair – to recognize the dignity of every citizen, every worker, and every participant in the Ontario community.*

#### **NEW BUSINESS**

##### **Resolution #2013-131: Establish Grant/Donation Procedures**

Mike Long, Finance Director, stated this agenda item was to establish procedures when entities requested grants or donations from the City of Ontario. Upon occasion, the City Council received requests from entities for a grant or donation of the city's funds. There were not any procedures for the process and accountability by the entity when requesting those funds. The City Council needed to have a report from the entity regarding accounting and recording of results for how that grant or donation provided was used. The City Council should receive a report and have it on record as to how the proceeds were used.

Councilor Fugate asked if the person would have to appear in person each time, or if a written report could be submitted.

Mr. Long stated it could be written, which would be submitted to Council.

Mayor Cammack stated not all would be required to submit a report, either. Some would be excluded, following the resolution guidelines.

Dan Jones moved, seconded by Jackson Fox, that the City Council adopt Resolution #2013-131, A RESOLUTION ESTABLISHING THE CITY OF ONTARIO GRANT AND DONATION PROCEDURES. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

##### **Ordinance #2685-2013: Amend OMC 3-11-4 re TOT Allocations: Percentage Set Aside for Public Safety (First Reading)**

Larry Sullivan, City Attorney, stated proposed Ordinance No. 2685-2013 implemented the two motions unanimously approved by the Council to amend Code Section 3-11-4 dealing with transient revenue tax distributions. The first amendment was to Section 3-11-4(A). It reduced the percentage distributed to street maintenance activities from 52.5% to 26.25%, and reallocated that same percentage, 26.25%, to a public safety account, to be spent as directed by the Council.

The second amendment created new subsection (B) to Code Section 3-11-4, to correct misallocations to transit room taxes that occurred between 2005 and 2012. Finance Director Mike Long calculated the amount misallocated, which was \$2,026,480. This was less than the amount discussed with the Council at the October 7, 2013, meeting. It reduced the amount necessary to be set aside for street maintenance activities each year of the ten-year repayment period to \$202,648.

On October 7, 2013, the City Council approved two motions to amend OMC 3-11-4, to include public safety as a transient room tax expenditure, and to set aside street maintenance funds annually to correct prior misallocations.

Councilor Jones asked when the payments would be made.

Mr. Long stated it would be paid out after November 15<sup>th</sup> each year, following the receipt of property taxes. The motels paid monthly, but taxes were not paid that way.

Councilor Jones asked if they needed to set a specific timeline for that payment to go into the Street Fund. Was that just being left up to the discretion of the Finance Director? Once it was in the fund, it would be available for use, and he would like to see a date specific.

Councilor Fox stated the ordinance indicated only that it be paid annually.

Mayor Cammack stated it wasn't really a "payment", just a Journal Entry.

Councilor Tuttle stated it was in the 2013-14 budget, so there would be a payment made this coming November.

Mr. Long stated regarding the TOT split, a fund would be established for a monthly payment.

Jackson Fox moved, seconded by Larry Tuttle, that the City Council approve Ordinance No. 2678-2013, AN ORDINANCE AMENDING CITY CODE SECTION 3-11-4 TO ALLOCATE A PERCENTAGE OF FUTURE TRANSIENT ROOM TAX REVENUES FOR PUBLIC SAFETY AND TO CORRECT PAST TRANSIENT ROOM TAX MISALLOCATIONS, 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.

#### **Sewer Utility Misbilling for SRCI**

Larry Sullivan, City Attorney, stated in 1990 and 1997, the city entered into contracts with the Department of Corrections (DOC) to construct and maintain sewage delivery and sewage treatment systems for SRCI. The original 1990 contract was amended in 1997 to accommodate SRCI's expansion.

On page 5 of the 1997 contract, Section 3.1(b) obligated DOC to pay to the city a monthly sewer payment based on the residential equivalent rate (ERU) charged to city residents for sewer service established by a city ordinance enacted in 1994, including any subsequent changes to that rate; and an annual "BOD and TSS surcharge" calculated using the formula in Exhibit A to the 1997 contract.

In January 2013, Public Works employee Delhie Block circulated an email among city staff estimating that the city had under-billed DOC by \$1.9M in the years 1994-2012, for its monthly bills and its annual surcharge bills. The method used by Ms. Block was not intended to provide a precise number; it primarily relied on averages calculated over a period of months and years, rather than relying on the city's actual monthly bills sent to DOC for the months and years in question. In addition, there were no billing records for the years 1994 through 2001, so Ms. Block used averages obtained from more recent records, on the assumption that the city also under-billed DOC during those earlier years.

Ms. Block's calculations strongly suggested that the city substantially under-billed DOC for its sewer charges over a long period of time. In his legal opinion, as City Attorney, DOC is liable for those under-billings and the city may send corrected bills to DOC for any months and years in which DOC was under-billed. However, it was also his opinion that Ms. Block's email did not provide a sufficient legal basis for making a formal demand upon DOC because the email was not intended to provide a precise calculation showing the amount that DOC owed to the city. He recommended that corrected bills be prepared showing the amounts that should have been paid in each of the relevant months and years. Finance Department staff members were working on calculating the actual amounts under-billed for each of the relevant months and years.

The city no longer has the billing records for the years 1994 through 2001, and would have to obtain those records from another source if it was going to make a claim against DOC for any under-billing during those years. The city might be able to obtain those billing records by doing a public records request on the State of Oregon. If the city obtained those billing records, it would do the same calculations as were being done for later years.

It was staff's recommendation that the Council authorize staff to take steps reasonably necessary to produce correct sewer utility billings for the Department of Corrections for the years 1994 through 2012, to the extent records are available to do so.

Councilor Verini asked if there was an alternate plan if records were not available from the state.

Mr. Sullivan stated the city would have to prove the debt, stating the city hadn't received the correct amount of payment. Without documentation, it would be difficult to ask for payment. They would have to discuss later what to do next if the records were not available.

Ron Verini moved, seconded by Jackson Fox, that the Mayor and City Council authorize staff to take steps reasonably necessary to produce correct sewer utility billings for the Department of Corrections for the years 1994 through 2012, to the extent records are available to do so. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

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

- Councilor Fugate stated with regard to the Feral Cat project, over the past three years, they had serviced 1850 cats. They were hosting a fund-raiser – the "Nab and Neuter" on November 2, beginning at 6:00 p.m. at the Elk's Lodge. There would be music, dancing, and there were a lot of great prizes, including 2 tickets to wherever SW Airlines flew, a rifle, and many other items up for auction. Everyone had been very generous and she encouraged everyone to attend to support this worthwhile project.
- Councilor Crume stated over the past summer he heard comments that the condition of the street striping in town was disappearing more quickly, and he asked that Public Works bring the Council a cost factor on doing the striping twice a year instated of only once. He'd like that information presented at the next meeting.

Councilor Tuttle agreed with Councilor Crume's comment. The paint wasn't even lasting a year.

- Councilor Verini reminded everyone of Veteran's Day on November 11<sup>th</sup>, and of the parade on Saturday, November 9<sup>th</sup>, being sponsored by Legion 67. Anyone interested in being in the parade needed to contact the Legion, or they could also contact Veteran's Advocates of Ore-Ida.

**9-1-1 and Dispatch Service Intergovernmental Agreement with Malheur County**

Larry Sullivan, City Attorney, stated city staff had been working for several months with Brian Wolfe, the Malheur County Sheriff, and Stephanie Williams, the County Counsel, on a consolidation plan to consolidate the city's 9-1-1 and dispatch services under the Malheur County Sheriff. One aspect of the consolidation was the preparation of an Intergovernmental Agreement (IGA) between the city and county to fund and operate the consolidated center. Several drafts of the IGA had been prepared and discussed with the City Council. The latest draft was based on revisions prepared by the City attorney.

This latest draft had not been reviewed or approved by Malheur County. If the county made any revisions in this draft, those revisions would be brought back to the Council.

The IGA provided that the city would pay the county \$237,090 for the first year of the Agreement, and the county had the right to change that annual fee by April 1<sup>st</sup> each year. (*Paragraph 4b*). The Agreement renewed annually unless terminated by May 1<sup>st</sup> of any year (*Paragraph 6*). These were not new provisions, but had been carried over from previous drafts. The first year fee was given to the city by the Sheriff several months ago in a spreadsheet.

He, as City Attorney, had added language in Paragraph 4b of the draft requiring the county to give the city notice as soon as possible of any anticipated increases in the annual fee, and to explain the basis for those increases. This language was intended to make the city aware of potential 9-1-1 budget problems as soon as they arose, not just by April 1<sup>st</sup>. Paragraph 4b also required the county to negotiate in good faith over any anticipated increases.

Paragraph 9 added new language requiring the Sheriff and the County Court to meet with city representatives to resolve any concerns with the Agreement. This language was added to give the city another avenue for resolving disputes other than relying solely on the 9-1-1 Users Board, which was an advisory board to the Sheriff with no authority other than to make recommendations.

Before a final draft of the IGA could be approved, there were other issues that had to be resolved between the city and the county, including union agreements for the transfer of city dispatch employees to the county. In addition, no firm date had been set for making the transition to a consolidated 9-1-1 and dispatch center. That date would be set in the final draft of the IGA.

Therefore, at this stage, staff was requesting a consensus from the Council approving this draft of the IGA, so that this draft could be forwarded to the county for review.

Councilor Verini stated the city would now have some teeth in the contract.

Mayor Cammack stated the contract would come back to the city after review by county.

It was Council consensus to send to county.

**ADJOURN**

Norm Crume moved, seconded by Ron Verini, 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