

**ONTARIO CITY COUNCIL MEETING MINUTES  
Monday, November 2, 2015**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, November 2, 2015, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Betty Carter, Charlotte Fugate, Tessa Winebarger, and Thomas Jost. Larry Tuttle was excused.

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

Tessa Winebarger led everyone in the Pledge of Allegiance.

**AGENDA**

Mayor Verini reminded everyone that they had moved Item 8A [*Resolution #2015-150: Intent to Establish LID #48 – West Idaho Avenue into Plaza Subdivision*] up to the first action under New Business during the Thursday work session.

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

**CONSENT AGENDA**

Norm Crume moved, seconded by Tessa Winebarger, to approve the Consent Agenda, which included the Minutes from the Regular Meeting of October 19, 2015, and Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

**NEW BUSINESS (Moved up from 8A)**

**Resolution #2015-150: Intent to Establish LID #48 – West Idaho Avenue into Plaza Subdivision**

Mayor Verini stated there had been quite a bit of discussion on this action at the Thursday work session, and asked if there was any additional information that needed to be provided to Council?

Dan Shepard, Engineering Technician, stated he had been asked at the work session if he was sure there was adequate right of way on the North side of the Oakes property. Following his research, it was discovered that the Oakes property was in the Ire Rose Subdivision, so it was not 20' off that property, it was just a total of 40' between the two properties. Therefore, the right-of-way was as shown.

Mayor Verini asked if there was any additional information from the public, that could be added to the record?

Charles Oakes stated he had a summary of the arguments discussed prior to the work session, and then at the work session. He had identified them and enumerated them. He would be happy to present that.

Mayor Verini stated they had it word for word already, but he would accept the summary into the record. [*Attached and incorporated into the permanent record of this proceeding*].

Norm Crume moved, seconded by Thomas Jost, to **deny Resolution 2015-150**. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

**\*\*For the record, below is the presentation by Dan Shepard, Public Works Engineering Tech, which was presented to Council for discussion at the Thursday work session. This presentation was NOT given during the Monday night meeting, but in the interest of future readers, it seems prudent to include his report.**

*Public Works staff received a request for the formation of a Local Improvement District (LID) to construct an extension of West Idaho Avenue from Dorian Drive to Plaza Subdivision. The proposed LID would construct a paved street with curb and gutter, storm water improvements and relocation of the existing irrigation system. Sanitary sewer and water mains were already in place. A total of three property owners were affected. A request for interest in the formation of the LID was sent out to all property owners.*

*West Idaho Avenue was not improved between Dorian Drive and Plaza Subdivision. There is an existing right of way that is forty feet wide. There are three property owners that have frontage on this portion of West Idaho Avenue. The three properties are within the city limits. Two of the three properties have a Deferred Improvement Agreement (DIA) with the City of Ontario. This agreement committed the property to participate in an LID, but also reserved the owner's right to protest the formation of the LID. One of the two properties that had a DIA also had a settlement from a law suit that resulted in an amount of money to be deposited with the city for their share of the LID costs. Water and sanitary sewer are currently in place in the right of way. A request for an additional ten feet of right of way off of all properties would be part of the LID. That would meet the standard for a Neighborhood Collector from the City of Ontario Transportation Plan. Plaza Subdivision was fully built out with 48 single family residences. SW 2<sup>nd</sup> Avenue provided only access/egress to the subdivision. The construction of West Idaho Avenue would provide a second point of access/egress.*

*City staff prepared preliminary cost estimates for the extension of West Idaho Avenue with curbs, gutters and sidewalks. Of the three property owners, two responded back to a request of interest in forming an LID as being against formation of the district. The letter of request to form the district and the two letters against forming the district were included in the file.*

*Title 8, Chapter 2, Section 8-2-2 of the City Code, required City Council authorization by resolution to declare the intent of forming an LID and to authorize the Public Works Director to submit a written report. As noted on the procedure, this was the first step in the process. There are numerous steps that must be followed in order to create a LID*

*In the past, the city hired a consulting engineering firm to create the Director's Report as Step 2 of the procedure. Public Works staff would be preparing this report in lieu of hiring an outside firm. Costs for the engineering should be included in the final assessment cost should this project go forward. The City of Ontario would provide interim construction financing. The estimated cost of the improvements was \$405,339. The settlement costs deposited with the city was \$137,977.20, leaving a total estimated cost of \$267,361.80 for interim financing by the city.*

#### **PUBLIC COMMENT**

**Roger Watts, Ontario**, commented that the newspaper did not state what street the above action was about, and that seemed important. He also requested that a ditch be fixed near Dorian Drive. Further, he wanted to know what size the road would be made into in the future, if this action were to continue.

Tori Barnett, Interim City Manager, clarified for Mr. Watts that the action he was questioning had been denied, not approved.

Mayor Verini asked City Planner Dan Cummings to research the ditch question for Mr. Watts, and to verify if it was even located within the city limits.

Mr. Watts stated he hadn't realized the action had failed, that no LID would be forming, and that had been why he wanted to speak. He thanked the Council for their time.

**OLD BUSINESS**

**Ordinance #2711-2015: Amend OMC Chapter 4, Title 3: Limiting Business Registration Requirements to Businesses with a Fixed Location (Final Reading)**

Tori Barnett, Interim City Manager, presented, in the absence of the City Attorney.

In 2015, the City Council enacted Ordinance No. 2702-2015 to establish a business registration requirement for businesses operating in the City. The ordinance required many businesses to complete a registration application with the city, whether or not those businesses had a physical location in the city. The purpose of proposed Ordinance No. 2711-2015 was to change the business registration requirements to exclude all businesses that were not operating from a fixed business location in the city. One of the stated purposes for enacting Ordinance No. 2702-2015 was to provide the Fire Department with information about the physical layout of businesses, as well as potential fire hazards. This would not apply to businesses that had no fixed location in the city.

In addition, if a business had no fixed location in Ontario, it was difficult to determine what business activities were being conducted, except by word of mouth. This made it difficult to uniformly enforce the business registration requirement.

On October 19, 2015, the Council passed Ordinance 2711-2015 on First Reading.

Tessa Winebarger moved, seconded by Charlotte Fugate, to **approve Ordinance No. 2711-2015, AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 OF THE ONTARIO CITY CODE TO LIMIT THE CITY'S BUSINESS REGISTRATION REQUIREMENTS TO BUSINESSES WITH A FIXED LOCATION IN THE CITY, on Second and Final Reading by Title Only.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

**Ordinance #2712-2015: Amend Comprehensive Plan & Zoning Map Rezoning Old Armory to C-1, City Light Commercial (Final Reading)**

Dan Cummings, City Planner and Economic Development Director, stated at its regular meeting of October 12, 2015, the Planning Commission heard the rezone proposal contained in Planning File 2015-08-13 RZ, which was applicable to two properties located along the south side of NW 8<sup>th</sup> Avenue, known as Tax Lot 201, Assessor's Map 18S47E04AC, which was on the west side of NW 8<sup>th</sup> Street, and Tax Lots 2600 and 2700, Assessor's Map 18S47E04AD, lots that were between NW 7<sup>th</sup> Street and NW 8<sup>th</sup> Street and the south side of NW 8<sup>th</sup> Avenue. Based upon that Hearing, a recommendation for approval was provided to the Council by the Commission.

On October 19, 2015, the Council heard the First Reading of Ordinance #2712-2015, and passed it on by Title Only.

Betty Carter moved, seconded by Thomas Jost to **approve Ordinance #2712-2015, AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN AND ZONING MAP FROM CITY PUBLIC FACILITY (PF) TO NEIGHBORHOOD COMMERCIAL (C-1) ZONE CLASSIFICATION FOR TWO PROPERTIES (THREE TAX LOTS) ON TAX MAP 18S47E04AC IDENTIFIED AS TAX LOT 201; AND TAX MAP 18S47E04AD IDENTIFIED AS TAX LOTS 2600 AND 2700, on Second and Final Reading by Title Only.** Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

**NEW BUSINESS**

**Appointment to Recreation Board**

Tori Barnett, Interim City Manager, presented.

There was currently a vacancy on the Ontario Recreation Board. Eric Evans, Ontario, submitted a letter of interest in filling the position. Mr. Evans' letter was received subsequent to the October Recreation Meeting; however, after speaking with Recreation Manager Debbie Jeffries, it was believed Mr. Evans' request for appointment would see no opposition from the other committee members. If appointed, Mr. Evans would complete the term of the vacated position, December 31, 2018, and would be eligible for reappointment at that time.

Charlotte Fugate moved, seconded by Norm Crume, that the City Council appoint Eric Evans to the Recreation Board, with a term to expire December, 2018. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-Yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

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

Ms. Barnett stated she had no items that were for discussion, but noted the Katherine Collins was in the audience, who was probably there to address the Children's Relief Nursery property issue.

Betsy Roberts, CH2, Engineer, stated they had been asked about costs last Thursday, so they had asked Ms. Collins to attend the meeting. After review of the proposal, questions had been asked about costs. It came to them in July of last year, when they had just started working with the city, managing Public Works. They had been told that city staff had agreed to construct the water line. But then the project went away. What they did, was look at the cost of a water line. The map showed the area, and what it showed was the full length. The yellow squares were the properties that were being discussed. In 6<sup>th</sup> Street, in the middle block, between 7<sup>th</sup> and 8<sup>th</sup> Avenues, there was a dashed blue line, representing "full length", which was 370' of water line installation. It would create a loop for the city, which was nice to have. When they researched the Water Master Plan, it was not planned to be looped, but obviously somebody was planning it because the water line had come up from down at 9<sup>th</sup>, up to 8<sup>th</sup> already, so it was heading that direction, coming down to 7<sup>th</sup>. There was one block missing. Pricing that out, the numbers were almost \$14K worth of materials, which was understood that Treasure Valley Children's Relief Nursery would be paying for. But, the labor would fall to Public Works staff, and that was approximately \$19,200, when they computed all the hours calculated at the standard hourly rate, which was a pretty significant chunk that CH2 had not anticipated. In looking at alternatives, and speaking with the City Planner, and with CK3, and with Kathy Collins, to see where the funding could possibly come from, and to better understand the history of the project. The Council could see that in the second box down, where it read "partial length 210'", it pointed to a red dash line. That was to get them to the extent of their proposed property. There were two black lines that ran across the yellow, as they were planning to do a lot line shift to redivide these properties into three chunks, going east/west. This would extend to the full length of their middle section of property, which was where they were developing. That fit with one of the codes that spoke to the extension of utilities up to the farthest point of the property, but it also indicated that all should be completed before the road was surfaced. Obviously, it hadn't been, as it wasn't in the Master Plan. That price would be roughly \$8K in materials, and \$11K in labor, so \$18K. Better, but still the \$11K on the labor issues would pose a challenge. In looking at the minimal amount of work that could be done, while still servicing the property. On the bottom corner of the map, it read "no water line extension at this time. Fire hydrant and water service extended from here". They did need a fire hydrant, which could be installed by CH2 for around \$560 in labor. They'd all agree that where they fit within the city's codes and requirements, there was some intent to create a looped line, and would still be a good idea to do. As the Fire Chief was not in attendance that night, it would be important to ensure, she had checked with the Engineers, there had not been any models run, no fire hydrants for flow testing, to ensure the 1,500 gallons per minute minimum, which was a low fire need, so that wasn't bad. They'd probably still need to check on some items to make sure they were comfortable, and in agreement that this was well served and there was adequate fire flow. There were three different arenas, with a total of almost \$34K for the full-meal deal, with labor and materials, \$19K for the 210', and then down to about \$560 for just the hydrant location.

Councilor Fugate asked about the materials on the \$560.

Ms. Roberts stated that was with all materials being paid for by TV Nursery.

Ms. Roberts stated they had a few alternatives to look at and think about. It was good that they found out, in speaking with their contractor, that the installation of the water line was not critical at this time. He could begin on the construction of the building, but they'd need to know what their project costs were going to be soon.

Mayor Verini asked what they needed from the Council.

Ms. Roberts stated they were asking what direction the Council would like them to go. She did not see where CH2 had budgeted, nor anticipated, a \$20K donation, and the \$11K was probably still more than they had anticipated. Those were some big hits for CH2 that they'd need to speak with the city about.

Councilor Jost asked Ms. Roberts if tying off with the hydrant on 8<sup>th</sup> Street would be sufficient water for the building?

Ms. Roberts stated that was their belief. That's where they could do a flow test on a hydrant nearby, run at 1,500 gallons a minute, and do some pressure testing elsewhere to gauge any drops in flow. There would be adequate water, for typical daily, domestic use and for the facility's use.

Cliff Leeper, CH2, PW Director, stated it was relatively close to an RV site complex, so there was going to be plenty of water and water pressure there.

Mayor Verini stated asked for the cost if they ran it from the hydrant only?

Councilor Fugate stated that was the \$560.

Ms. Roberts confirmed the \$560, and indicated that CH2 crews would install that. It was when the project increased to the elevens and twenties, that was a big chunk of time for staff to be out doing other than what they would normally be doing.

Councilor Jost noted with regard to the plans the Council received last Thursday, that would put the hydrant off to one side?

Ms. Roberts stated that was correct, and they'd have adequate water.

Councilor Fugate asked why they didn't just make the decision that evening; why wait until spring?

Ms. Roberts stated that would be ideal.

Mayor Verini asked if there was a consensus on the Council, or was there further discussion?

Councilor Crume verified that just putting in the fire hydrant was called a minimum way of getting this done? And the other two proposed ideas were more complex, more money, and what would they do different?

Ms. Roberts stated it covered two different areas. The full meal deal provided a loop, which was always the best thing to have in a water system. The engineers and staff were heading that direction, since they could see a water line coming in from both directions. At some point, it would be ideal to get those connected.

Councilor Crume stated if they were to do just the hydrant, the least expensive action, what risk was placed on the neighborhood, or the city, for two or more years down the road. Was anything getting hurt by this?

Ms. Roberts stated she didn't think so. That's where it was difficult to say without any water models, but as Cliff [Leeper] noted, this was close to the Eastside tanks, and that was a great source of water. The 210' line fell closer to Planning Code, 10A-60-25, where it read that *"...the developer shall be required to extend water, sewer, and storm drainage lines in the public right of way to the further most point of their property."* The 201' got them up to the further most point of their proposed developed section of property. There were other Codes, as Dan pointed out, that suggested yes, but all those improvements should have been done before it was surfaced, i.e. planned out ahead of time. It wasn't that maybe that didn't apply here, but it was also how they chose to interpret it.

Councilor Crume stated if the city would have followed their own guidelines before that area was paved, would the new developer be required to repay the expenses the city incurred for the installation?

Mr. Shepard stated if the city installed the line, yes; if a private developer put the line in, then only if they had some type of recapture agreement.

Councilor Crume stated if a private person put it in, they'd have to pay their portion of it back to the person who initially installed it.

Mr. Shepard stated that was correct. Much like they had done with Anchor Mini Storage.

Councilor Crume stated for whatever reason it hadn't been done. He wanted to make sure the proper procedures were followed, so the Council wasn't setting a precedent they didn't want to get into.

Kathy Collins, Treasure Valley Children's Relief Nursery, stated the person who sold them the lot, bought it as investment property, and the map showed where those two streets, one that needed to have a vacated right of way, but they could see where one was already cut in half. The whole idea was to be a subdivision of low income, HUD housing. She didn't know if something was done with the previous owner, or if the city was involved, but it was determined that HUD housing was maxed out, and the owner was continually losing money and paying property taxes. So the Relief Nursery purchased all three tax lots. The middle one was where they would construct their building, with the hope of selling off the remainder of the property, to perhaps develop an early childhood campus. But she didn't know who did what before.

Councilor Crume asked Dan Cummings if hooking on to the fire hydrant, the lesser way of doing things, did that meet the requirements without bending the city's own rules?

Mr. Cummings stated yes. Point of interest – the City of Ontario owned that land and they were the ones who sold it to the individual the Nursery purchased the property from. The city owned the land, probably when that street was paved. What the new owners needed to understand was the reason that water was probably not connected, was because in that part of town, the water lines used to run up the alleys. That's why it wasn't in the street. But, the new owners needed to think about if they wanted...right now, doing just the fire hydrant would meet the city's codes for this development site. They were proposing to break it into three parcels, with the new building being on the middle lot. So, that would be alright if the Council granted the request and moved forward that way. The South parcel would be okay because it had sewer and water on 9<sup>th</sup>. The North lot was the parcel they'd have to think about. When that was developed, if the building was large enough and there was a need to hook into a water line, the water line to the North, not looped, would not support the need. They'd have to loop the line, and that could create a problem if the water line was not half way up through "this" development, or if they sold it off to someone else. They needed to think about what they wanted to do with that North lot, because it could create the need for the looped line.

Mayor Verini stated that eventually, that would have to be addressed.

Mr. Cummings stated yes. They just needed to think about that because when they came in for the partition, that's when the code was going to kick in again, and they'd probably be required to do a Development Agreement with the city, stating that they'd put in the water line if and when it was required. But, it might never be needed. At this point, why have both parties expend the money when it wasn't needed.

Councilor Crume verified the only thing Mr. Cummings saw, based on what they learned, the only problem would be on the North parcel. When it was developed, something different would have to be done.

Mr. Cummings stated it "could" require a looped line. It depended on what went in there. He just wanted to make them aware.

Mr. Leeper stated it was desirable to loop a water line because if there was any kind of issue resulting in a water outage on a single line, there was no secondary feed, so it couldn't be fed from the opposite direction. Also, in water system distribution, dead end lines were notorious for having problems, maintaining disinfection and disinfection byproducts. In a loop line where water was constantly running through it, those issues didn't exist. Those were just two big reasons they'd like to see a line looped.

Mayor Verini asked for a consensus to move forward with Option C, just the connection at the fire hydrant.

Consensus to move forward with Option C.

Ms. Collins asked if the Council could, that night, vote to officially vacate the right of way for those two streets?

Mayor Verini stated no.

Ms. Collins asked how long before that could be done?

Ms. Barnett stated the next scheduled meeting was set for November 16<sup>th</sup>, but deferred to Mr. Cummings for the timing of things as it would be a planning department issue.

Mr. Cummings stated there were two options. A street vacation could get very complicated. If the proponents did it on their own, there was a lot of contact and letters they'd need to collect from all the utility companies and basically get approval from everyone. If the city handled the action – but there had to be a good reason why the city would do it – then a lot of that was handled through the public hearing process itself, and it was a matter of notifying those people, and not having to wait months to get letters back. The operation was simple if the city did the action, but pretty complicated if the proponent did it.

Ms. Barnett informed the Mayor that for the city to do the action, it would take direction to staff from the Council.

Mayor Verini asked what the expense would be to the city.

Mr. Shepard stated it would include staff time, mailing notifications, but other than that, there wasn't really anything...

Mr. Cummings stated the last time that he asked the Council to help on a right of way, was on strip next to Winger's Restaurant. The property owners agreed to pay all the out of pocket expenses for the city, including all advertising, mailings, etc., on that. The same deal might be an option in this current proceeding. It still had to be advertised as a public hearing, with notices going out. As an example, with Idaho Power, you couldn't even talk to anyone, or get an answer. You completed an application, send them \$150, so a few months later they might get back with someone. He knew that first hand, as he'd waited two and a half months on them, and their response after all that waiting was that they didn't want to do it. After about three or four months of dealing with that type of response, he had approached the Council, asking for help, because he couldn't get answers. The Council only had to send notice, giving a set amount of time to respond, and if they didn't respond, the action moved forward. While he couldn't speak for the Nursery, but at the time he was dealing with this similar action, his client offered to pay for all the expenses involved with the process, if the city would just handle it.

Ms. Barnett stated it was timelier if handled by the city, but there would be costs associated with it.

Mayor Verini stated it appeared to be a minimal cost.

Councilor Crume asked Dan if this type of action should be something the Public Works Committee should be reviewing and providing a recommendation to the city?

Mr. Cummings stated they should. He believed this one had already been in front of the PWC, as it had started about a year and a half ago, and he'd received a letter from Public Works. One of the first steps in the process of a vacation was getting the city's consensus, and getting Public Works to okay it. There was a letter in the file indicating the city was okay with the proposed action. It wouldn't hurt to take it back through, if that was what Council wanted, but he was 99.9% sure it had already been done about 18 months ago.

Mayor Verini stated he didn't see any reason the Council shouldn't direct staff to move forward on this action, and to have discussions with the Relief Nursery to see if there could be some expenses paid by them. If not, at least move forward with the issue. Consensus to move forward as indicated.

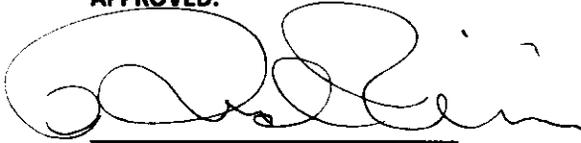
**CORESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS**

- Councilor Fugate announced that the Feral Cat Project was having a fundraiser at the Elk's Club on Saturday, November 7<sup>th</sup>, beginning at 5:30 p.m. There would be items to bid on, and good food. They had just purchased a new building, and they needed community support.
- Tori Barnett stated she had received an email from Nicole Albisu, School District Superintendent, with an invitation to attend a school district board meeting. They were going to be discussing their long range facilities plan and how the passage of SB447 could assist in funding the next phase. The Bill authorized \$125M in state bonds for K-12 matching grants to school districts. They would also be discussing community participation in future planning. The meeting was scheduled for Thursday, November 5<sup>th</sup>, at 6:00 p.m. in the board room in the school district building.

**ADJOURN**

Norm Crume moved, seconded by Tessa Winebarger, that the City Council adjourn. Roll call vote: Crume-yes; Winebarger-yes; Fugate-yes; Jost-Yes; Tuttle-out; Carter-yes; Verini-yes. Motion carried 6/0/1.

**APPROVED:**



Ronald Verini, Mayor

**ATTEST:**



Tori Barnett, MMC, City Recorder