

COUNCIL MEETING MINUTES

November 7, 2011

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, November 7, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan and Ron Verini.

Members of staff present were Henry Lawrence, Larry Sullivan, Suzanne Skerjanec, Anita Zink, Mark Alexander, Dan Shepard and Marcy Skinner. The meeting was recorded on tape, and the tapes are available at City Hall.

Charlotte Fugate led everyone in the Pledge.

AGENDA

David Sullivan 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

Ron Verini moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of the Regular Minutes of 10/17/2011; Item B: Water Line Easement Request: Keizer Enterprises, LLC; Item C: Airport Hangar Lease Agreements: Alan Daniels – 215/217 Golf; and Item D: Ordinance #2663-2011: An Ordinance Granting to Lightspeed Networks, Inc., the Right of Way to Maintain a General Telecommunications Business in the City of Ontario and to Use the rights of Way of the City of Ontario for its Telecommunications Operations; and Declaring an Emergency 2nd Reading by Title Only. Roll call vote: Crume-yes; Fox-no; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/1/0.

NEW BUSINESS

Resolution #2011-127: Declaring Necessity and Intent to Acceptance of Road Right-of-Way from Anchors Mini-Storage, LLC, H2MK, LLC, and 3DY, LLC

Dan Shepard, Engineering Technician III, stated Anchor Mini-Storage L.L.C. was requested to donate the right of way for SE 5th Avenue as part of their development requirements. Dan Cummings, working for CK3 LLC, contacted adjacent property owners to see if they wished to donate right of way along their properties also. Two of these property owners, Dale Yee of 3DY L.L.C. and Mike Hanigan, of H2MK, L.L.C., agreed to donate right of way at this time, prior to development occurring on their respective properties. Each of the three properties was donating an additional 10-foot of right of way that would meet the future development requirements for a street right of way width of 70-feet. H2MK, L.L.C. was also donating an additional five feet of right of way, for a total of 30 feet, on SE 10th Street. This would bring their property into conformance with the others on SE 10th Street.

During the building permit review process for the Anchor Storage development, it was noted that there was a 50-foot right of way dedication for SE 5th Avenue. The Transportation System plans classified SE 5th Avenue as a Major Collector with a right of way of 70-feet. Anchor Storage was requested to donate additional 10-feet of right of way that would make the south half of SE 5th Avenue 35-feet. Dan Cummings worked with adjacent property owner Yee to obtain a donation of right of way adjacent to and east of Anchor Storage for the south side of SE 5th Avenue and with Hanigan for donation of right of way for the north side of SE 5th Avenue. Both of these donations would also match the requirement for a 70-foot right of way. Anchor Storage would construct a storm sewer main and a sanitary sewer main. They would also sign an agreement to defer the street improvements until more

development occurred in the area. Hanigan and Yee would be obligated to do off-street improvements when their respective properties developed. Hanigan also agreed to donate additional right of way on SE 10th Street to match the existing right of ways of the adjacent properties. This portion of right of way was not picked up during the Eastside Development project in 1988.

Ron Verini moved, seconded by Dan Jones, that the Mayor and City Council adopt Resolution 2011-127, A RESOLUTION DECLARING THE NECESSITY AND INTENT FOR ACCEPTANCE OF ROAD RIGHT OF WAY FROM ANCHOR MINI-STORAGE L.L.C., H2MK L.L.C. AND 3DY L.L.C. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Student Resource Officer (SRO) Contract with Ontario 8C School District

Mark Alexander, Police Chief, stated the Police Department would like to enter into a contract with the Ontario 8C School District to provide two SRO's for the 2011-2012 school year. The Department had partnered with the Ontario 8C School District to provide SRO's for several years. The level of service and associated costs had fluctuated, depending upon budget conditions. There currently was no written contract between the City and the District for SRO services. The School District budgeted a maximum of \$125,000 to fund two SRO's for the 2011-2012 school year. The proposed contract outlined the services and associated costs, and also stated the budgeted maximum. Ontario 8C School District would pay the City fully burdened wages for actual hours performed by SRO's, up to \$125,000. The City would provide equipment and training for the officers. The City's approved 2011-2013 budget assumed revenues of \$124,462 per year from the SRO contract.

Councilor Sullivan requested the removal of the 30-day clause from the contract (Section 9). *Either party to this Agreement may terminate the Agreement with or without cause upon thirty (30) days written notice given to the other party. Should this Agreement be terminated, any funds paid under this Agreement shall not be prorated or returned to Ontario School District.*

Chief Alexander stated this was a year-to-year contact, so the School District followed the City's budget cycle; therefore they budgeted the costs through the school year. At the end of the school year, his intention was to renegotiate the contract for the following school year. He would take the elimination request back to the Board.

Councilor Verini questioned Section 2(a) and (b): *The District shall pay the City for law enforcement services to be rendered pursuant to this Agreement. Said sum shall be paid to the City upon receipt of invoices that will be submitted in the following manner: (a) The District shall pay the fully burdened cost for two SROs for hours worked for the District during the school year at a rate of \$49.87/hour, not to exceed \$125,000. It needed to read \$49.87/hour, **per officer.** (b) The District shall pay the fully burdened cost for overtime worked by officers during after-school activities when those hours are after the completion of a workday or workweek as defined in the Ontario Police Association bargaining agreement at a rate of \$68.39/hour. Billing for overtime hours shall be included in the above listed cap of \$125,000. Again, it should read \$68.39/hour, **per officer.***

Norm Crume moved, seconded by David Sullivan, City Council authorize the Mayor to sign a contract with 8C School District to provide two School Resource Officers for the 2011-2012 school year with amendments rewording Section 2(a) and 2(b) to list "per officer" and to eliminate Section 9 in its entirety. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Approval of the Bills

Henry Lawrence, City Manager, stated following some questions about the invoice from Hutchinson, it appeared that he might have violated the Financial Policies with regard to one of the charges. He had discussed the matter with the Mayor, and advised the Council they had to the option of entering into an executive session to discuss the matter. The policy he was referencing was the \$5000 limit the City Manager had the authority to approve.

Moving through the invoice in question, the Master Plan completed in 2009, was \$18,175, with reimbursables totaling \$20,933. With regard to the design phase, the question raised by Councilor Fox on Thursday, was in reference to the \$13,055.90 on the roster for Hutchison-Smith Architects. Councilor Fox asked if that was part of

the \$75,000, and had more than \$75,000 been expended. After sorting through the bills, it was noted that under the construction documents phase, design phase two construction drawings there was a line item contract price of \$72,834, and right below that was \$3,000 in reimbursables. That was the \$75,834 he believed Councilor Fox was referring to. The Council might recall that last year, in order to fund the first design contract with Hutchison-Smith, the City had allocated \$75,000 towards the design and bid documents. To fund that, the City reallocated some capital project funds, such as pool painting, etc., in the last budget cycle. Those were reallocated to pay for the \$75,000 design. The day before the Budget Committee hearings were to be, Yorick deTassigny, Facilities Manager, received a price to do additional phases from the architect. The bottom line with the Budget Committee, later adopted by the City Council, was that the City would have \$500,000 in the General Fund money to move forward with the project. It was his understating at that point, that staff was given a mandate to move the project forward, to finish up the bid documents, get it bid, and present actual numbers to the Council. It was his understanding that they had talked about a project date of shutting down the facility if the bids were alright, of October 1st. Mr. deTassigny stated there would be no way to get numbers on the safe waiting area design because it wasn't part of the \$75,000 contract. Mr. Lawrence then approved a purchase order for \$8,500 to add the safe waiting area. In hindsight, that was probably a violation of the Financial Policies. It wasn't an emergency, and they could have waited the two weeks to bring it back before Council. He offered his apologies to the Council for even having to address a policy violation issue. It had not been his intent to side-step the Council. Regardless, he had approved the invoice for \$8,500, and the actual cost for the safe-waiting area design and the bid documents, was at \$7,650. There were also surveying costs not in the contract, of \$535. The total billed on that item was \$8,185, at 100%. Mr. deTassigny approached Mr. Lawrence in July, and indicated they had not included the small mechanical room, as it had been pulled out when they were developing the scope in the original \$75,000 contract to save money. The small mechanical room serviced the hot tub spa, and the small wading pool. However, one of the boilers in that room was becoming critical, and was going to be failing soon. The piping was shot, and there was no ventilation in there. The chlorine hypochlorite was deteriorating the pumps and piping. It did not make sense to leave the small mechanical room out of the project. Mr. Lawrence told Mr. deTassigny to put it back in the project.

Further, there needed to be some structural engineering that needed to be done, that was not anticipated. Next, Energy Trust of Oregon, Mr. deTassigny had located an incentive grant program that provide a check for \$1,250, and the engineer wanted to be paid for his time on the structural engineering piece, which was \$540, netting the City a \$710 credit. The number provided by Mr. deTassigny at the Budget Committee meetings was \$53,170, but that was for bidding, negotiations, and construction administration, if the Council moved forward with the project. \$39,000 of that was part of the \$53,000, for the construction administration.

To get to the answer Councilor Fox wanted, the \$13,051.90 of the current bill was simply for bidding and negotiation. The bidding negotiation fees on the invoice were \$11,298.63. On top of that was the \$1,753.27 for travel mileage, photocopies, and postage. In the previous month, the City was charged for printing reproduction of the plans. Under the bidding and negotiation area, the total amount was \$13,292; reimbursables were mostly for plan sets reproduction, \$5,397, and no additional charges for the safe-waiting area. Lastly, additional items not in the contract were plan reviews and inspections. Inspections, Inc. charged \$488 for review of plumbing plans, paid as a reimbursable to Hutchins-Smith; advertising of bids in the Argus Observer and The Daily Journal of Commerce, \$934.63; and an asbestos test paid out for \$985. That should represent everything that was done.

Councilor Verini stated that with understanding the situation and the timing, as well as the scope of the project, the overages were addressed, and the Council was aware of the problems. He did not feel an executive session was necessary. It was apparent Mr. Lawrence reviewed it and admitted he made an error. It would have been better if it hadn't been spent, but that was a personal opinion.

Mr. Lawrence reiterated it was not his intent to violate policy, but he needed to set a good example for staff. He would not be offended if the Council wanted to take action on the issue.

Mayor Dominick cautioned the Council that they needed to address the current action, which was adopting of the bills. He agreed they needed to enter into executive session before further discussing the policy violation piece. He

confirmed that, to date, including design, all the way from February, \$129,145 had been expended. Amount remaining \$6,026.66, was that overage?

Mr. Lawrence stated yes, the reimbursables was \$5,397, so that would take a large chunk of that money.

Councilor Crume stated they had discussed the small mechanical room, was the room included in the reconstruction bids the City had recently received?

Mr. Lawrence stated that was included.

Councilor Fox asked for the exact amount that the Budget Committee and the City Council had approved to be spent on this project.

Mr. Lawrence stated all but the \$8,500 and the \$4,550, and \$360 and things like that.

Councilor Fox asked "things like what"?

Mr. Lawrence stated additional structural engineering \$360, was not specifically approved as it was not part of the original contract, along with the advertising was not included either.

Mayor Dominick stated the "unapproved" expenditures totaled approximately \$16,000.

Norm Crume moved, seconded by Charlotte Fugate, to approve the bills as presented. Roll call vote: Crume-yes; Fox-no; Fugate-yes; Jones-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

AMEND AGENDA

David Sullivan moved, seconded by Norm Crume, to amend the Agenda to include an Executive Session under ORS 192.660(2)(b). 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

- Mayor Dominick reminded the Council of the special study session on Thursday, November 10th, beginning at noon to discuss the Skyline Farm Sediment Removal issue. The HSA discussion had been moved to the 17th.

Mr. Lawrence stated Matt Mejia, Accounting Assistant, had contacted five of the seven Budget Committee members and they had indicated a preference for the 15th for the special meeting, beginning at 6:00 p.m. if that met with Council approval.

Councilor Jones verified that all the Councilors would be in attendance at the meeting on the 10th.

Mayor Dominick stated he understood Councilor Jones would be out of town, but would relay his comments for the record.

Councilor Verini stated he had conflict on the 15th, which he would try to work around.

Councilor Fox asked what the 15th was for.

Mayor Dominick stated it was for the Budget Committee meeting to discuss the Aquatic Center.

Councilor Fugate stated she would be out of town on the 15th.

Councilor Jones stated he would not be able to get his comments to the Mayor for the meeting on the 10th. Tomorrow was already the 8th, and he was going to be gone. He would state his comments later that night.

Mayor Dominick stated they had a majority for the meeting, so schedule it for Tuesday, November 15th, beginning at 6:00 p.m.

- Councilor Verini thanked the community for the turn-out for the Veteran's Day Parade last Saturday. Also, a reminder that November 11th was Veteran's Day, and there would be a service at Evergreen Cemetery at 11:00 a.m.
- Councilor Jones stated he had accompanied Bob and Chuck to the irrigation reservoir and the issue that had been brought forward to the previous work session. His first opinion was that they overreacted on the situation a bit. He didn't feel it was an emergency. There was soil sediment on the bottom of the reservoir. The reservoir was lined. They had probably ripped the tarp by going in there. There needed to be further investigation on it. Their first presentation and proposal with the bag system, and he wanted to caution the Council to be very careful about proceeding with this because, again, it was sediment, it was for irrigation, and he thought within the City, they could explore other possibilities. He didn't think they could have a decision, or a decent proposal, by the 10th, that made any sense, and/or that they didn't open Pandora's Box for an open checkbook. He believed it could get very expensive to try and remove the sediment. He cautioned the Council to be very careful. Get the facts, get a couple of different proposals, and get a couple different opinions. Again, there was sediment on the bottom of a reservoir coming from farm land. It was contained, it was not causing an issue, and that issue could be fixed pretty inexpensively if there was a pump problem, and he wasn't even sure there was a pump problem. Get all facts before proceeding and getting into the checkbook. It was going to get very expensive with what was being proposed.

EXECUTIVE SESSION(S)

Executive Session: ORS 192.660(2)(d)

An executive session was called under provisions of ORS 192.660(1)(d) to discuss labor negotiations. The Council convened into a second Executive Session.

Executive Session: ORS 192.660(2)(b)

An executive session was called under provisions of ORS 192.660(1)(b) to discuss consider discipline or dismissal or to hear charges or complaints. The Council reconvened into regular session.

ADJOURN

Norm Crume moved, seconded by Ronald Verini, 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