

**ONTARIO CITY COUNCIL MEETING MINUTES  
Monday, November 17, 2014**

The regular meeting of the Ontario City Council was called to order by Mayor LeRoy Cammack at 7:00 p.m. on Monday, November 17, 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. (Councilor Fox departed just before Resolution #2014-134.)

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

Charlotte Fugate led everyone in the Pledge of Allegiance.

**AGENDA**

Mayor Cammack informed those in attendance that the originally scheduled joint meeting between the City Council and the Planning Commission had to be rescheduled. The Planning Commission would now meet on December 8<sup>th</sup>, and that action would come before the Council on December 15<sup>th</sup>.

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

**CONSENT AGENDA**

Charlotte Fugate moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Minutes of the Council Meeting of November 3, 2014; Item B: Liquor License Request – Change of Location – Long’s Sports Pub; 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**

**Kyle Wieland, Ontario**, stated his concern with public safety in Ontario, and with the Police Department regarding criminal activity. He was extremely concerned over the proposed closure of the tracks at 6<sup>th</sup> Avenue. He believed it would be detrimental to the city to have that closed, and believed it would be a hindrance to the Police Department for dealing with criminals.

Mayor Cammack stated the city really didn’t have much to say on the subject. They could make a recommendation, but the actual decision was made by ODOT and Union Pacific Railroad. The city didn’t have any recourse, if the city even wanted to object to the closure.

**Judy Sherman, Ontario**, voiced her concern with closure of the railroad crossing. She lives nearby and crosses the tracks several times a day. She would like to see more information on traffic counts and the increased maintenance needed.

**Glenn Banner, Ontario**, stated his concerns regarding closure of the 6<sup>th</sup> Avenue Railroad crossing. He believed there were several reasons to keep that crossing open. He urged the city to not close the crossing.

**NEW BUSINESS**

**Request Notice to Proceed: Professional Engineering Services for Water Treatment Plant Pilot Testing**

Betsy Roberts, CH2M Hill, City Engineer, stated Murray, Smith and Associates, Inc., (MSA), recently completed 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.

On October 20, 2014, the Council approved the Notice to Proceed for MSA for Professional Engineering Services for Water Treatment Plant (WTP) Chemical Feed and Raw Water Supply Improvements Evaluation. The scope of work was based on the conclusions of the August 2014 Water Treatment Plant Audit Report. The proposed pilot study would provide critical design element information necessary for MSA team to complete their preliminary engineering work.

If the City Council chose not to authorize the Notice to Proceed for the pilot study, the preliminary engineering effort by MSA would have to be developed with less than adequate information to properly design and size features of the new chemical feed system at the WTP. Postponement of the study would result in delay of the preliminary engineering work.

Work would be billed on a time and materials basis, in accordance with the schedule of charges. CH2M HILL would manage the work identified to the aggregate total budget amount (\$16,000), which should not be exceeded without prior written authorization from the City.

Ron Verini moved, seconded by Charlotte Fugate, that the City Council authorize a Notice to Proceed for Professional Engineering Services for the Water Treatment Plant Pilot Study. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

Councilor Fox departed the meeting.

**Resolution #2014-134: Request to Transfer Funds for Annex Building Repairs**

Marcy Siriwardene, Planning/Building Technician, stated the Building Department office building, commonly referred to as the Annex Permitting Center, was desperately in need of improvements. A Request for Bids was sent out, with a return date of e date of as due on October 10, 2014, and no quotes were received. Due to that, three local general contractors were contacted, along with three local flooring contractors. Only one local general contractor and one local flooring contractor submitted bids.

The Building Department (Annex Permitting Center) was currently in need of interior repair and upgrades, and a small amount of repair on the addition. If approved, these repairs would consist of painting the interior, concrete floor repair, carpeting, window covering, restroom upgrades, fixing the metal siding and roofing of the addition, and replacing some of the broken ceiling tile. Cost estimates were obtained for the remodel project and were estimated at \$29,300. A small contingency was added to bring the total request to \$35,000. The purchase of the labor and materials would be allocated from the Building Department Contingency Funding.

Councilor Jones asked if the Goodman Oil site could be included in the Annex Building Repair project.

Tori Barnett, Interim City Manager, responded that CH2M Hill had been contacted regarding that site. Further research was underway regarding the DEQ studies on that parcel, and following receipt of that information, they would have an idea of what could be done to the property. They'd all like to see that piece cleaned up.

Charlotte Fugate moved, seconded by Norm Crume, that the Council adopt **Resolution #2014-134: A RESOLUTION REDUCING BUILDING DEPARTMENT CONTINGENCY TO PURCHASE MATERIALS AND LABOR FOR THE BUILDING DEPARTMENT AND AUTHORIZING EXPENDITURES OF THOSE FUNDS.** Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/1.

**Resolution #2014-135: Request Closure of Railroad Crossing on 6<sup>th</sup> Avenue Tracks**

Dan Cummings, City Planner, stated a request has been submitted by Energy Transport, LLC for the closure of the at-grade street crossing of SE 6<sup>th</sup> Avenue between the East Alley right-of-way between Blocks 8 and 9 of the Original Town Site of Ontario and the West Right of Way of SE 1<sup>st</sup> Street.

At several City Council meetings over the past few months, this closure was discussed. At the last meeting on this matter, the City Council gave direction for Energy Transport to supply the documents required for the closure of the above stated section of SE 6<sup>th</sup> Avenue.

Councilor Crume stated it was his recollection that the 18<sup>th</sup> Street overpass crossing that was put in by ODOT was in an effort, partially, to make it easier to close the 6<sup>th</sup> Avenue crossing in the future.

Mr. Cummings replied that he couldn't confirm that was why they constructed that, but when 18<sup>th</sup> was put in was because of emergency response units using that as a way to get to the other side of town if there was a train tying up the tracks. Both the police and fire Chiefs stated they did not use the 6<sup>th</sup> crossing, or attempted to use that crossing if no other option was available. The 18<sup>th</sup> construction was funded partially for the farmers hauling produce, as well as for public safety; to provide another "below-grade" crossing.

Councilor Crume asked Mr. Cummings' opinion as to what would occur if the Council voted to not close the 6<sup>th</sup> Avenue crossing.

Mr. Cummings stated it was his understanding, following a conversation with ODOT, if the city were to oppose the closure, the action would go to ODOT as a legislative hearing to debate the closure. However, current legislation encouraged ODOT to close every possible crossing. While the city could tie things up for several months, the outcome would be the same.

Larry Sullivan, City Attorney, said that some cases had gone before the Appellate Court dealing with this issue. In Klamath Falls, the railroad wanted to close a crossing, by the city requested a public hearing on the matter. At that public hearing, held in front of ODOT, with universal opposition to close that crossing, ODOT still approved the crossing and the court agreed. Basically, the burden was on the city to show why the crossing should remain open, and that simply the inconvenience to some people to have the crossing closed was not sufficient reason to keep it open. Even if the city refused to approve the request to close that crossing, regardless of the opposition and/or concerns of anyone testifying, the likelihood was that ODOT would approve the closure, and the city didn't have any legal recourse.

Mayor Cammack reminded everyone that the city had no legal ownership or control of that crossing.

Councilor Tuttle stated they had been previously told that Union Pacific had complete control over whether or not the crossing was closed. The ODOT involvement information came in later. He verified that there were no easements and no rights-of-way, so what control did ODOT have over UPRR related to that crossing?

Mr. Sullivan answered that state law said that every closing of a crossing had to be approved by ODOT.

Councilor Tuttle stated that if the Council voted to close the crossing, that would still go to ODOT.

Mr. Sullivan stated yes, but if the city waived its right to object, then ODOT would not be required to hold a public hearing. They could just issue the closure. The final decision was up to ODOT, not UPRR.

Mr. Sullivan stated that was correct. As Mr. Cummings' had stated earlier, the law did everything it could to encourage ODOT to grant those closures.

Councilor Crume asked Chief Alexander, what effect the railroad closure would have on the police department.

Chief Alexander replied that the police department used all three crossings, but would be fine using only two crossings and it would be one less road for people to flee from the police.

Dan Jones moved, seconded by Charlotte Fugate, that the City Council adopt Resolution 2014-135, **A RESOLUTION WAIVING THE CITY OF ONTARIO'S RIGHT TO OBJECT TO THE CLOSURE OF THE UNION PACIFIC RAILROAD CROSSING AT SE 6<sup>TH</sup> AVENUE, AND AUTHORIZING THE PERMANENT CLOSURE OF SE 6<sup>TH</sup> AVENUE ADJACENT TO THE RAILROAD CROSSING.**

Councilor Tuttle stated he didn't believe the resolution was worded correctly. The city couldn't authorize the closure of SE 6<sup>th</sup>. The city could waive their right to object, but the resolution read "...and authorizing the permanent closure of SE 6<sup>th</sup> Avenue, adjacent to the railroad crossing".

Mr. Sullivan stated the city didn't have the authority to close the crossing itself, but the city could authorize the closing of the streets adjacent to the crossing.

**Restated Motion**

Dan Jones moved, seconded by Charlotte Fugate, that the City Council adopt Resolution 2014-135, **A RESOLUTION WAIVING THE CITY OF ONTARIO'S RIGHT TO OBJECT TO THE CLOSURE OF THE UNION PACIFIC RAILROAD CROSSING AT SE 6<sup>TH</sup> AVENUE, AND AUTHORIZING THE PERMANENT CLOSURE OF SE 6<sup>TH</sup> AVENUE ADJACENT TO THE RAILROAD CROSSING.** Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/1.

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

- Dan Jones stated with regard to the golf course, which had been discussed at the Thursday work session, what was being done at the course? Was the city accepting applications or proposals?

Tori Barnett stated the city would be accepting proposals from interested parties through the end of December, to see if there were any viable options to keep the course running. She had been approached by Dennis Cornwall following the Thursday meeting, and he requested the names and contact information from others she had been contacted by, to perhaps put a proposal together from them all together instead of separate ones. Nothing would be liquidated, nothing would be removed from the course, unless there was something that could be utilized by city staff. For example, the Parks Department was interested in some of the mowing equipment. The carts could be left in storage through the end of February. Gas and electricity would be left on, at a minimal level, to keep the pipes from freezing and to keep the security system activated. Staff would be blowing out the water lines on the course and the clubhouse, but water would remain on in the basement section for the fire prevention system. They were moving forward as directed by Council, but not completely, because if someone presented a proposal that the Council wanted to work with, that would remain an option. It had been made clear to any possible proposers that regardless of what occurred, the city was done subsidizing the course in any amount, and on December 31, 2014, the city was out of the golf course business, but that didn't mean someone else couldn't come in and run it. If that occurred, they'd have a lot of new things to discuss, such as what to do about the equipment – rent, lease, purchase – and who would be responsible for the upkeep on equipment and buildings.

- Norm Crume stated he noticed after the snowstorm that people were walking on the street portion of East Idaho going across the freeway. It was because the sidewalks were not bladed, and were covered with snow. He believed it was the city's responsibility to keep the sidewalks clear. He wasn't sure of the length of the city's responsibility, it needed to be done. The city asked citizens to take care of their sidewalks, so the city should do that same. He wasn't sure if that had ever been done.

Consensus to clean up the sidewalks, and that it was the city's responsibility to keep them free and clear.

**ADJOURN**

Norm Crume moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 6/0/1.

**APPROVED:**



LeRoy Cammack, Mayor

**ATTEST:**



Tori Barnett, MMC, City Recorder