COUNCIL MEETING MINUTES
May 3, 2010

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, May 3, 2010, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, John Gaskill, Susann Mills, David Sullivan and Ron Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Chuck Mickelson, and camera operator Erika Hopper.

Ron Verini led everyone in the Pledge of Allegiance.

AGENDA
Ron Verini moved, seconded by Charlotte Fugate, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA
Susann Mills moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 04/19/2010; Item B: Liquor License Application-New Outlet: Wholesale Malt Beverage and Wine; Item C: Ordinance #2643-2010: Rezone E-5 to E-2 (Poole)(Final Reading); and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

OLD BUSINESS

Ordinance #2644-2010: Impose Mandatory Garbage Service for Repeat Nuisance Properties (Final Reading)
Larry Sullivan, City Attorney, stated the proposed ordinance also included the requested changes from the Council from the previous meeting.

Susann Mills moved, seconded by Charlotte Fugate, to adopt Ordinance #2644-2010, AN ORDINANCE IMPOSING MANDATORY GARBAGE SERVICE FOR REPEAT NUISANCE PROPERTIES, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

NEW BUSINESS

Resolution #2010-120: Accept/Expend OWEB Grant Monies for Phase II of the Malheur River Bank Stabilization Project
Chuck Mickelson, Public Works Director, stated Bids were opened on October 1, 2009 at 2:00 PM for the project. The bidding documents included two phases of work, Phase 1 (Base Bid) and Phase 2 (Additive Alternate). The project was awarded to Steve Lindley Contracting from Union, Oregon, based on the low base bid. Steve Lindley Contracting showed good progress on Phase 1, thus the Public Works staff presented the addition of Phase 2 work to this construction project to the City Council via a Consent Agenda and the work was added to the contract-by-contract change order when it was approved. OWEB (Oregon Water Enhancement Board) also agreed with this recommendation.

On March 3, 2008, the Council adopted Resolution No. 2008-109 for acceptance of OWEB Grant funds and the approval of a transfer of Public Works Fund Sewer Contingency for City's In-Kind Match of $68,300.00. On June 15, 2009, the Council adopted the 2009-11 budget, which included funding for this project (SEW-6). On October 29, 2009, the Council approved contract agreement with Steve Lindley Contracting for Phase 1 of Malheur River Bank Stabilization Project, and on January 7, 2010, the Council approved the proposed award for the Malheur River Bank Stabilization Project Phase 2.

During the approval process for the Phase 1 construction contract, it was discussed at the Council meeting that should OWEB grant funding became available for the Phase 2 work, staff would bring another item forward for Council approval of Phase 2 construction.

The overall award for project Phase 1 and 2 was $276,626.00. Proposed Resolution #2010-120 identified an additional $152,951.00 in grant revenues within the Grant Fund, and appropriated project expenses to complete the Malheur River Bank Stabilization and Riparian Restoration project.

Susann Mills moved, seconded by Ron Verini, to adopt Resolution #2010-120, A RESOLUTION ACKNOWLEDGING RECEIPT AND AUTHORIZING EXPENDITURE OF ADDITIONAL OWEB (OREGON WATER ENHANCEMENT BOARD) GRANT FUNDS FOR PHASE II OF THE MALHEUR RIVER BANK STABILIZATION PROJECT. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-127: Setting Fines for Parking Violations

Larry Sullivan, City Attorney, stated the proposed resolution would set a uniform parking fine of $25 for parking violations under the Ontario Municipal Code.

Ordinance 2640-2010, enacted April 5, 2010, effective on May 5, 2010, created a new City Code Section 9-3-10 providing that the amount of the fines for parking violations was to be determined by resolution of the City Council. The standard parking fine used by the City had been $25. Resolution #2010-127 formally authorized that amount as a parking fine.

Charlotte Fugate moved, seconded by Norm Crume, to adopt Resolution #2010-127, A RESOLUTION SETTING FINES FOR PARKING VIOLATIONS. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ordinance #2642-2010: Consenting to the Assignment of the Malheur Home Telephone Company Franchise to Qwest Corporation (1st Reading)

Larry Sullivan, City Attorney, stated Malheur Home Telephone Company currently had a telecommunications franchise agreement with the City that was approved in 2009. That company has since consolidated with Qwest, and the proposed ordinance consented to the assignment of the telecommunications franchise to Qwest.

Malheur Home Telephone Company had a telephone franchise agreement with the City for 20 years, from 1981 until 2001. When that expired, its parent company, Qwest, was in litigation with several Oregon cities challenging the legality of the franchise fees charged by those cities. During that time, Malheur Home Telephone Company continued to pay the franchise fee due under the original 20-year franchise agreement. After that litigation was concluded, Malheur Home Telephone Company requested a new franchise agreement with the City, which was approved on March 3, 2009, in Ordinance 2626-2009. It was a ten-year agreement that included a 7% franchise fee on gross revenues earned within the City limits.

Later that year, the decision was made to shut down Malheur Home Telephone Company's independent operations and consolidate them into Qwest. The State of Oregon PUC approved the consolidation, effective December 14, 2009. The consolidation resulted in the transfer of Malheur Home Telephone Company's operations to Qwest Corporation, including the use of the City's rights of way for Qwest's telecommunications business.

Paragraph 10.8 of Ordinance 2626-2009 provides: **Transfer of Franchise**. PROVIDER shall not, directly or indirectly, transfer, assign, or dispose of by sale, lease, merger, consolidation or other act of PROVIDER, ownership or control of a majority interest in the telecommunications system, without the prior consent of CITY, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent. Qwest representatives have reviewed and approved the franchise assignment in Ordinance 2642-2010.

Staff is not recommending that the City impose any conditions on Qwest to obtain the City's consent to the transfer of the telecommunications franchise to Qwest; however, one issue that had been brought up was that the City had not been getting a response from Qwest with regard to the graffiti removal. They could add a provision that Qwest had to clean up the graffiti.

John Gaskill moved, seconded by Norm Crume, to table the issue of Ordinance #2642-2010 until the May 17th, 2010 regular City Council Meeting to allow time for the City Attorney to contact Qwest to discuss the Council's concerns regarding graffiti. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Crume reminded everyone of Serve Day, Saturday, May 15th. If anyone had any graffiti issues, contact him or the Ontario Police Department, sign a waiver, and the graffiti would be removed free of charge.

  Mayor Dominick stated the web address to register as a volunteer was serveday.info. There were 35 projects listed so far, and approximately 250-300 volunteers signed up.

- Councilor Verini stated May 15th Bob Boyd, an Ontario Middle School teacher, was putting on a free lunch/dinner beginning at 1pm for all veterans, active duty military, and national guardsmen, and their families, in the middle school cafeteria. Anyone wishing to attend could call with the number of persons attending.

- Councilor Gaskill stated the committee for the Leadership Award had met, and the 2 recipients for the 2010 scholarship had been selected. They would be honored at the Council meeting of May 17th, and the high school awards assembly of May 18th.

- Councilor Gaskill gave an update on the Amtrak project.

- Councilor Sullivan encouraged everyone to take a drive out to the golf course to see the improvements. It was greening up very nicely, and on the inside there was a lot of construction taking place.

- Councilor Fugate reminded everyone of the Feral Cat Program yard sale from 9am-7pm on Saturday, May 8th. It would be next door to the Four Rivers Veterinary Clinic, the old Back to the Ranch building.

- Tori Barnett stated there were two fundraisers taking place on the week-end. Saturday morning was the Fire Department's Annual Pancake Breakfast at City Hall, and that evening was the Field of Dreams softball noodle dinner and silent auction at the Community Methodist Church.

- Mayor Dominick reminded the Council to review the Aquatic Center study, and to forward questions to Henry.

- Mayor Dominick stated a note had been received from Sandra Lino, ODOT, indicating that the ConnectOregon3 grant for $4M+ continued to have the Ontario Airport project #4 on the list.

ADJOURN

John Gaskill moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder