COUNCIL MEETING MINUTES
June 7, 2010

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, June 7, 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, Al Higinbotham, Mike Kee, Yorick deTassigny, Allen Montgomery, Mark Saito, Frank Grimaldo, Alan Daniels and camera operator Erika Hopper.

Charlotte Fugate 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

Councilor Crume recused himself from taking action on the Consent Agenda as his corporation had a payment due under the bills.

Susann Mills moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 05/17/2010; Item B: Appointment to Airport Board: Shawn Coleman; Item C: Resolution #2010-132: City's Election to Receive State Revenues; Item D: Resolution #2010-133: Imposing and Categorizing Taxes for the Second Half of the 2009-2011 Biennial Budget Period; Item E: Ordinance #2645-2010: Requiring Telecommunications Franchisees to Maintain their Facilities Free from Nuisances, Including Graffiti (Final Reading); and Item F: Approval of the Bills. Roll call vote: Crume-abstain; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/0/1.

NEW BUSINESS

Resolution #2010-130: Transfer Funds to Purchase Dog Lodging Services

Mike Kee, Police Chief, stated Kim and Ross Henricks made an offer to purchase Atherton Kennels. The City had had a long-standing relationship with Atherton Kennels using them to lodge stray and vicious dogs. In recent years the quality of care at Atherton Kennels had become a concern of many of their customers, including the police department. Included in the packet was a proposed contract from the Henricks in which the cost of lodging dogs for the first year was proposed to increase 20%, with an increase of 7.5% for each year after for a total of five years. Staff felt that some changes needed to be made to the proposed contract in order for the City to sign. The monthly cost of lodging was proposed to increase from $975 to $1,170 or $2,340 for the remaining year of the budget. As this was an unbudgeted cost, a transfer of funds from contingency into police dog lodging would be necessary. City staff was in support of the Henricks' proposal, and was excited about the improvements outlined. Staff would work with the Henricks and Larry Sullivan to reach a mutually agreeable contract.

Kim Henricks stated she and her husband were in the process of purchasing Atherton Kennels, and would be changing the name to Ani-Care Animal Shelter. Over the past year, the Ontario Police Department had delivered 148 dogs to the kennel, and citizens had brought out 35 for the year, for about 16 dogs a month on average.

Councilor Fugate asked about the 20% increase in fees. Also, would there be someone available at the kennel 24 hours a day?

Ms. Henricks stated the increase would be used partially for the installation of an incinerator, but also the facility overall was outdated and needed repairs made throughout. As for the coverage, there would be set hours, but she would make herself available for the off hours.

Mayor Dominick stated that based upon the increase requested, Ms. Henricks was estimating abut $80 a day, per dog, for housing.

Mr. Henricks stated it was hard to judge how much was needed, specifically.

Councilor Sullivan stated it appeared very high. How much was she charging to lodge an animal?

Ms. Henricks stated a boarded animal was about $22 per day.

Councilor Sullivan stated the city was paying quite a bit more, and paying up front, and would also have a contract.

Ms. Henricks stated it was all perception. She didn't believe they could calculate out on a per dog basis, but more the number of kennels she would provide.

Councilor Sullivan stated it would seem the city would get closer to the cost being charged to people boarding their animals. Why would the city be charged three times that amount?

Ms. Henricks stated there was also maintenance provided; however, she didn't really have an answer.

Chief Kee stated that also provided access to the city 24-hour a day.

Ms. Henricks stated she would have no background on the strays, but she'd have all information on pets being boarded.

Councilor Sullivan suggested a shorter contract term in order to review a year's worth of statistics.

Ms. Henricks stated she would probably be okay with that, but wanted to speak with her attorney.

Mayor Dominick asked for clarification on the $10 fee per animal subject to a "bite" hold.

Chief Kee stated the city's ordinance required a 3-day "bite" hold on an animal questionable for rabies.

Councilor Crume asked for an explanation on the price increase of 20% initially, then 7.5% per year for the next 5 years. That equated to a total 60% increase over the next five years.

Ms. Henricks stated no increase had been taken over the past 6 years, so it was to catch up to current financial needs. Also, the initial 20% was to help put in upgrades at the facility.

Mr. Sullivan stated he had spoken with County Counsel Stephanie Williams, and he had also seen the contract for what the county was paying to the kennel, and he believed it to be several hundred dollars more than the city was paying. Also, the Sheriff didn't transport dogs to the shelter, so they were paying a fee to the kennel without the county using it. The rationale was that they were paying it as a subsidy to allow a shelter to be available for local residents.

Mayor Dominick suggested to Larry Sullivan a change in the contract on page 21, the section regarding transferring the shelter without consent of the other party. That needed to be addressed. That section needed to be written to require the consent of the Council. He also agreed with a 1-year term right now, then readdressing it later after seeing the numbers for that one year.

Councilor Verini suggested a 2-year initial contract.

Mr. Sullivan stated the issue before the Council was the adoption of the resolution to transfer money for the increased payment to the kennel for the budget cycle. They did not have to discuss the contract at this point.

Chief Kee confirmed the money was for a 12-month period, or until the end of the 2011 budget.

Norm Crume moved, seconded by David Sullivan, to adopt Resolution #2010-130, A RESOLUTION APPROVING THE REALLOCATION OF $2,340 WITHIN THE GENERAL FUND FOR THE PURCHASE OF DOG LODGING SERVICES. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ordinance #2646-2010: Granting a Franchise Agreement to Idaho Power (1st Reading by Emergency Clause)

Larry Sullivan, City Attorney, stated Idaho Power Company had a 20-year franchise agreement with the City that was set to expire on June 30, 2010. The most significant changes in the new agreement were to shorten the length of the franchise term from 20 years to five years (Section 2); and to increase the franchise fee from 5% to 7% of Idaho Power Company's gross revenues (Section 13). The purpose of the shorter term was to allow the City to adapt more

quickly to changes in the utility business and in technology by allowing for more frequent negotiations. The reason for the increase in the franchise fee was to increase the revenues to the City.

Under the rules of the Oregon Public Utility Commission, an electric power franchisee must pay the first 3.5% of any franchise fee and must bill any additional amount to its customers within the jurisdiction. Therefore, under the current agreement's 5% franchise fee, the Idaho Power customers in the Ontario city limits paid 1.5% of the franchise fee. Under the proposed agreement's 7% franchise fee, those customers would pay 3.5% of the franchise fee.

Idaho Power Company provided a "template" contract form that it encouraged cities to use. Although the template was generally complete and fairly neutral, and many of the provisions were added in the new ordinance, there had been some changes made in the template for the Ontario ordinance. Changes included the requirement that the franchisee comply with the provisions of the City's right-of-way standards imposed in Chapter 8 of Title 8 of the Ontario City Code (Section 10); that the franchisee comply with the nuisance and anti-graffiti provisions of the City Code (Section 5); and that the franchisee allow the City to use its power poles and other facilities without charge so long as the City's use did not interfere with the franchisee's operations (Section 16).

The ordinance also included an emergency provision to allow the ordinance to take effect in less than 30 days, so that there would not be a gap between the expiration of the current franchise agreement on June 30, 2010, and the new agreement, assuming that the second reading took place before then.

As a side note, as of May 28, 2010, Idaho Power had not reviewed or commented on the proposed agreement.

Councilor Crume stated he would prefer a 5-year contract, but did not have an issue with a 10-year contract. He did, however, not agree with the 2% increase. Based on the current economic times, he did not believe it fair to add another burden on to the backs of the taxpayers.

Joe Dominick moved, seconded by David Sullivan, that the Mayor and Council declare the need to approve Ordinance #2646-2010 on an emergency passage. Roll call vote: Crume-no; Fugate-yes; Gaskill-yes; Mills-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

Ron Verini moved, seconded by John Gaskill, to approve Ordinance #2646-2010, AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH FRANCHISE, AND DECLARING AN EMERGENCY, on First Reading by Title Only. Roll call vote: Crume-no; Fugate-yes; Gaskill-yes; Mills-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

Fire Station Storage Building Design Build Award

Chuck Mickelson, Public Works Director, stated the memorandum reviewed the process to date for the design and construction of the Fire Station Storage Building. Staff was recommending that the City Manager be authorized to sign a design-build agreement with MVCI, LLC of Ontario, Oregon for the design and construction of a Fire Station Storage Building on city-owned airport property located at the corner of Southwest 4th Avenue and Southwest 33rd Street. The project was needed to address the considerable space shortage issue facing the Ontario Fire Department and the Rural Fire Protection District that was resulting in the inability to adequately store critical emergency response equipment. Costs had been received for both a four bay facility and a five bay facility. Staff recommended proceeding with the construction of a five bay facility as that was the most economical option.

In October 2009, the Council approved a resolution to hire an architectural firm to prepare plans and specifications for the design of a storage building. At the subsequent Council meeting, that resolution was rescinded in order to pursue the design-build process as an alternative to the traditionally used design-bid-build method for completion of the work.

Following the Council's decision, the Mayor created a committee comprised of council members and local citizens to review and study the design build process as outlined in the Oregon code for municipalities. Several members also visited similar fire facilities in the area. In mid January, city staff became involved in the committee process. The decision was made to proceed with a design build package and public works and fire staff spent a considerable amount of time developing the solicitation documents for the project. Oregon statutes and adopted rules required a very specific process when pursuing design-build that was considered an alternative contracting method from the normal process of design-bid-build. Due to the city's lack of precedent employing this procurement methodology, a variety of resources were sought to assist in the process, including documents prepared by other cities for similar projects, guidance from the city's legal counsel and recommendations from the Mayor's committee. A design-build process not only considered price but also qualifications, schedule, previous work experience and other parameters that the owner considered important in the selection process.

In March 2010, the city released the bid proposal for the project with a response deadline that was extended into early May as staff addressed concerns raised by interested parties through the addendum process. The solicitation yielded a total of five proposals to be considered by a selection committee that included Mayor Joe Dominick, Council President Susann Mills, Council Member John Gaskill, Public Works Director Chuck Mickelson, Deputy Public Works Director Bob Walker, Fire Chief Al Higinbotham and Facilities Manager Yorick de Tassigny. Non-voting attendees invited to provide expertise at various stages of the selection process included Anderson Perry Engineer Allen Riecki, who was involved in a similar project for the City of La Grande, and the city's Building Official Dwayne Holloway, to provide insight on code issues arising from candidates' responses to interview questions. Respondents to the design build proposal included Sid Johnson and Co. (Baker City), Holcomb Construction Inc. (Nyssa), Guho Corp (Eagle Idaho), MVCI, LLC (Ontario) and Wellens-Farwell (Enterprise).

The selection committee rejected two of the five proposals (Holcomb Construction and Wellens-Farwell) for non-compliance with the pass/fail portion of the proposal submission requirements. The committee felt it was important to adhere to the submission terms clearly outlined in the solicitation documents in order to lend credibility to the selection process.

Costs for the remaining proposers were as follows:

Proposer	Base Bid	Additive Alternate No. 1	Total with Additive Alternate
Sid Johnson and Co.	672,062	55,192	727,254
Guho Corp.	456,666	55,200	511,866
MVCI, LLC	448,500	65,300	513,800

The base bid included a building with 4 drive-through bays and the additive alternate was for the construction of a 5th bay. These three proposals were evaluated and scored independently by each committee member following the scoring criteria published within the design build document. Price represented 30% of the score of the written proposal. A tally of the points resulted in the following ranking listed in order of highest to lowest score: 1. Guho Corp. 2. MVCI, LLC 3. Sid Johnson and Co. All committee members had independently ranked the three firms in the same order.

Guho Corp. emerged as the clear favorite of the committee based on price, understanding of the project, quality of their submissions and proposal content, and were invited to take part in an interview as a result. The decision was also made to interview the runner-up, MVCI, LLC. The selection committee compiled a list of questions to assist in evaluating each firm's presentation and responses.

It was discovered the day of the interviews that Guho Corp.'s Oregon contractor's license had expired, and had not yet been renewed. The firm's representatives were informed of this finding prior to the start of their allotted time and given the opportunity to look into the matter in case it was an administrative lapse at the state level. They elected to move forward with their presentation and interview in hopes the situation would be resolved in their favor.

During the interviews, both firms demonstrated they were capable of successfully completing the project. However, it was later determined that, despite their high level of professionalism and outstanding proposal quality, Guho Corp. was ineligible for further consideration for this project due to unresolved licensing issues. MVCI, LLC was identified as the successful firm, and was being recommended for the project by the selection committee.

One of the benefits of the design build process was to have the contractor and their representatives identify cost saving options. Each of the proposers had various suggestions as to how the project could be modified to save money without compromising the intent of the project. On June 1st, staff met with representatives of MVCI, LLC to see what cost saving measures could be considered in order to bring the project closer to the budgeted funds. Items that were identified included reorienting the building on the site to improve the ingress and egress; reducing the size of the concrete aprons in the front and back of the building saving on concrete and utilizing more asphalt which was less expensive on a per square foot basis; lowering the eave height from 20' to 17' which would still allow the fire department staff to stand on the top of the trucks when loading hoses and doing maintenance; eliminating the shower and urinal in the bathroom. As this building was intended to become a future fire station, showers would be provided during that construction; eliminating the translucent panels from the roof system - this was intended to save on energy costs. There would be significant natural light from the windows in the rollup doors and the exterior windows; and eliminating the vinyl composition tile in the bathroom and applying a sealant on the cement floor as an alternate finish.

During the meeting, a tour of the fire bays in City Hall was done. Following discussion, all were in agreement that the entry bay doors could be reduced in size from 14' to 12'. That would allow the length of the building to be reduced resulting in a smaller structure, less interior and exterior concrete, and less expensive doors.

The Council could choose not to approve this design-build agreement with MVCI, LLC and direct staff to re-release the solicitation documents to see if more respondents could be lured by the project. Council could also instruct staff to pursue the services of a qualified firm for the design and development of bid documents for the project.

A $400,000 budget was approved for this project which included a $50,000 contribution from the Rural Fire District. The city intended to finance its cost over a period of 7 years. The placeholder in the budget now was for the debt service repayment of $69,128 per year, and $138,256 was in the 2009-2011 Biennial Budget. That was within the Fire Department budget in the debt service category. Staff recommended using the existing funds in the budget to partially pay for the construction and borrow the balance.

After further discussions with MVCI on June 3rd regarding the above cost saving measures, construction costs were reduced to $430,000 from $448,500 for the 4 bay facility and $485,000 from $513,800 for the 5 bay facility. The Fire Department would fill the 4 bay facility with existing equipment once it was constructed. The 5 bay facility provided additional capacity for future equipment and room for growth. It would be far more economical to construct the additional bay with this contract rather than adding onto it in the future.

In the work session on June 3rd, Council reviewed the finances for both scenarios (4 bay and 5 bay). A summary of costs and annual payments are as follows:

MVCI, LLC	4 - BAY	5 - BAY
Original Bid	448,500	513,800
Cost Saving Measures	(18,500)	(28,500)
Proposed Cost (MVCI)	430,000	485,300
Additional Costs (Permits, SDC's, Bills, Contingency, etc.)	50,000	50,000
TOTAL COST	**480,000**	**535,300**
Rural Fire District Contribution	(50,000)	(50,000)
	430,000	485,300
Debt Service 2009-2010 (use as cash)	(69,000)	(69,000)
Balance To Borrow	**361,000**	**416,300**
Annual Payments 5% Interest 7 yr Amortization	62,388	71,945

Staff was recommending approval of an agreement with MVCI, LLC for a guaranteed maximum price of $430,000 for a 4 bay facility or a guaranteed maximum price of $485,500 for a 5 bay facility. Following the decision of the Council, staff would issue a Notice of Award and MVCI could submit the necessary insurance certificates, performance and payment bonds and sign the contract. Final design drawings would be prepared following these actions.

Mayor Dominick informed the Council that he and Councilor Mills had met with the Rural Fire District Board, and there was a possibility that they would be willing to increase their contribution towards the Fire Substation by an additional $55,000. That would be before Council at the next study session.

Joe Dominick moved, seconded by Charlotte Fugate, to authorize the City Manager to sign a design build agreement with MVCI, LLC, of Ontario, Oregon, for the construction of a 5-bay fire station storage building for a guaranteed maximum price of $485,300. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-118: Transfer Funds to Extend Sewer Service to SW 4th Avenue and SW 33rd Street

Chuck Mickelson, Public Works Director, stated a new Fire Station Storage Building was to be built on city property near the intersection of SW 4th Avenue and SW 33rd Street. The building would be used for storage of fire trucks, the hazardous materials response vehicle with trailers, and various other pieces of fire equipment. The building was intended to have a nominal dimension of 72' x 85' (6,120 square feet). Approximately 820 feet of 8-inch sanitary sewer line was needed to accommodate and provide service to the proposed new Fire Station Storage Building.

The only alternative to this was to construct a septic tank and drain field. After significant discussion with the Mayor's committee, it was determined that an extension of the sanitary sewer would be a better solution. The sewer line would also provide service to undeveloped property on the north side of SW 4th Avenue. The proposal would reduce the Sewer Fund contingency balance by $90,000 and increase capital outlay in the Sewer Fund by the same amount, leaving a Sewer Fund contingency balance of $1,318,542.

Susann Mills moved, seconded by Norm Crume, to approve Resolution #2010-118, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND TO EXTEND SEWER SERVICES TO SW 4TH AVENUE AND SW 33RD STREET. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-135: Destination Resort – Burns-Paiute Tribe

Henry Lawrence, City Manager, stated at the work session last Thursday, they had discussed that the Burns-Paiute Tribe was still interested in putting in a destination resort in Ontario, including a hotel, gaming facility, and possibility a golf course. There was a 2006 resolution on the books passed by a previous Council, supporting the effort of the Tribe. Before the Council was a new resolution that he, at the direction of the Council and with input from Councilor Sullivan, had developed to replace the 2006 resolution. It was also proposed that a letter, signed by the entire Council, be written and submitted along with the resolution to the elected officials at the state and federal level.

Councilor Sullivan asked the City Attorney to address the question that had been raised at the study session regarding conflicts of interest on this matter for members of the Council.

Larry Sullivan stated any time there was an out of town business relocating into a community, it was going to have both positive and negative impacts. Councilors who were also business owners might believe that there would be a positive impact on their business, but others might believe there would be a negative impact. Regardless, in ether situation, that would not prevent any Councilor from voting on the issue. There was nothing in the proposed resolution that would prohibit any Councilor from participating or voting. There were very strict rules in Oregon that prohibited Councilors from voting on measures that would have a direct financial impact on their business, but in his review of the resolution, and having read the articles in the newspaper, he did not see anything that would give rise to a conflict of interest in this situation.

Mayor Dominick read some sections of the proposed resolution into the record: *Whereas the Burns-Paiute Tribe has approached the city with a tentative proposal of a destination resort and casino development, and the city has just started the process of gathering information and input from interested parties, the city was waiting to receive additional information from the Burns-Paiute Tribe. Because the City Council was still in the fact finding process, we are not prepared to offer our full support to the project at this time. The City Council encourages the continued efforts of the Burns-Paiute Tribe to improve the economic prospects of our region through the exploration of the possibility of locating a destination resort in the Ontario area. As more information about the proposed project becomes available and the City Council has been able to review the requested community impact analysis and hold public hearings, the City Council will amend this resolution as appropriate. As the process moves forward, the City Council encourages the Burns-Paiute Tribe to engage in a significant public effort to provide increased information as it becomes available and seek public input to ascertain the degree of public support for this project. The City Council requests that the Burns-Paiute Tribe work cooperatively with the City Council to choose a mutually agreed third-party consultant to complete the community impact analysis.*

Councilor Sullivan stated he was pleased that they had something in writing that would slow the process down and to allow for public input. He was under the impression that things were moving at the federal level that would impact the city's ability to have input into the process. He wanted the Council to consider the proposed resolution, as it reflected the position of the city currently, while still allowing for the input of information and discussion of the matter in a public form.

Councilor Verini didn't know if everyone had received a copy of the 96-412, the Indian Trust Land Acquisition Summary. The Burns-Paiute Tribe were not going through congress to secure land in this area. What they appeared to being doing was attempting to get congress to approve a trust. Eventually, wherever they did purchase property, whether in Ontario or somewhere else, that property would go into the trust. In the paperwork the Council received that evening, it stated "…where land was being acquired for business purposes, the Tribe shall provide a plan that specifies the anticipated economic benefits associated with the proposed use. Contact with state and local governments pursuant to 151-10, shall be completed at follows upon receipt that the Tribe's written request to have the lands taken in trust." The important piece to note was that nothing happened until they got the land. Once they got the land, then the discussions would begin. He did not think they could have an impact study if they didn't know where the piece of property was going to be. And it read quite clearly in the summary,…"the secretary shall notify the state and local governments (Ontario) having regulatory jurisdiction over the land to be acquired. The notice shall

inform the state and local governments that each would be given 30 days in which to provide written comment as to the acquisitions potential impacts on regulatory jurisdictions, real property taxes, and the special assessments." He was thinking that if the city passed the proposed resolution, it would seem that it would stop the Burns-Paiute Tribe right in their tracks. They wouldn't be able to go forward and create a trust. When the trust was put together and they obtained the land, that's when the city would become involved.

Councilor Sullivan stated what Councilor Verini was speaking of was if the Tribe went through the Department of Interior Standards, which were put in place during the Bush administration. The Burns-Paiute Tribe did not qualify under that because their land was located more than 100 miles from their current established reservation. Therefore, the 96-412 rules did not apply. They were requesting, through our congressional delegation, was to have it passed in the form of a Bill to give them congressional approval, which would go outside of the 96-412 guidelines.

Councilor Verini stated if the land was in trust, was Councilor Sullivan telling him that 96-412 was for naught?

Councilor Sullivan stated that was correct, that 96-412 was for if they moved under the provisions of the Department of Interior structure put in place by the Bush administration, which specifically stated that in order for it to qualify for those guidelines, it would have to be within a 100 mile radius of the current location. Because it was not, they were moving forward outside of the guidelines to get a congressional Bill that would allow them to acquire land that was more than 100 miles away from their land.

Councilor Verini stated that was all they were doing. They were trying to get congress to approve the move more than 100 miles from the reservation.

Councilor Sullivan stated as such, the only way that congress could do that was by placing it outside of the guidelines of the agreement. So once they received congressional approval, they had the right to build whatever they wanted on the land they purchased, without any input. What Councilor Verini was reading was not applicable because the Tribe did not fall within the guidelines.

Mayor Dominick stated there were two tracks that all Tribes could explore for land acquisition or land trading. One being 96-412, but the Burns-Paiute Tribe was working on the other track. None of that information regarding the second track had been received by the city.

Councilor Verini stated if the Tribe didn't have the land, and all they were doing was going for the trust, if they didn't know where the land was, how could they do an impact study?

Councilor Sullivan stated they were done all the time. He believed that Councilor Verini was mistaken in that the establishment of a trust was not recognizing the land as to where it was going to go, and saying all they were trying to do was establish a trust. That's irrelevant to this process because they weren't required to establish a trust when getting congressional approval, they could simply move forward with the purchase of the land that would be placed within their jurisdiction and outside of the city's. At that time, the city would have no say on what they built on the land.

Councilor Verini stated once they put the land in trust through congress…

Councilor Gaskill stated if Councilor Sullivan was correct, the track the Tribe was taking, to go through congress to have a Bill passed, supplanted the provisions issued by the Department of the Interior. It would not be a trust process. It would be a grant to the Tribe to do something outside of the guidelines. It would appear they were attempting to bypass every rule established by the Department of the Interior, which effectively stopped the process that was begun in 2004 when they first looked around Ontario. He wanted to see from Senator Merkley's office, the documentation that the Tribe was proposing, whatever it was named, to see what it said. That's if Councilor Sullivan was right.

Councilor Verini stated if Councilor Sullivan was wrong, it was doing a disservice to the Tribe.

Councilor Gaskill disagreed. In the resolution and letter, they were asking to be included in the process. If the Tribe was trying to politicize this by using congress to get an exemption, the potential was there for the Council and community to be shortcut in the process of determining if it would be good for the community or not.

Mayor Dominick stated that was why the comments about the impact study were such a vital part of the proposed resolution.

Councilor Sullivan stated they also needed to be involved in the strategic location of the complex. It could have a huge impact on the growth patterns of the city.

Councilor Verini agreed, but he had a problem with the resolution, The 2006 resolution stated, in part, "...as the process moves forward, the City council also supports a significant public effort by the Burns-Paiute Tribe to provide increased information as it becomes available, and to obtain public input and ascertain the degree of public support for this project." In the new resolution, it read, and it was the piece he had an issue with, "...because the City Council is still in the fact-finding process, we are not prepared to offer our full support to the project at this time." That one statement would stop...

Councilor Sullivan asked what was inaccurate about the statement?

Councilor Verini stated there was nothing inaccurate about it.

Councilor Sullivan asked if there was anything outlined in proposed Resolution 2010-135 that Councilor Verini disagreed with?

Councilor Verini stated he disagreed with it, he didn't say it was inaccurate. He disagreed with it because it was already addressed in the 2006 resolution.

Councilor Sullivan asked Councilor Verini if he agreed with what was addressed in the 2006 resolution, and he wanted to keep it, why did he disagree now?

Councilor Verini stated it was the wording. They were throwing it in the face of the Tribe. Without the facts in front of them, they had no idea what was being brought forth.

Councilor Sullivan stated that was exactly the point of the resolution. It was to stop the process until they could find out what was going on at the congressional level, and to state the Council could not give support until studies had been completed, they had received public input, and they had an opportunity to speak with all the interested parties.

Mayor Dominick added it stated in the title of the resolution that the city was encouraging the Tribe to continue exploring the concept by providing the community impact analysis and working with the Council.

Councilor Sullivan stated he did not see anything in the proposed resolution that would present a roadblock to the Tribe proceeding.

Councilor Verini disagreed. The first sentence of the resolution, "Because the City Council was still in the fact-finding process, we are not prepared to offer our full support to the project at this time."

Councilor Sullivan stated the resolution read "As the process moves forward, the City Council encourages the Burns-Paiute Tribe to engage in significant public effort to provide increased information as it becomes available and seek public input to ascertain the degree of public support for this project. The City Council requests that the Burns-Paiute Tribe work cooperatively with the City Council to chose a mutually agreed upon third party consultant to complete the requested community impact." Maybe #3 was more appropriate "As more information about the proposed project becomes available, and the City Council has been able to review the requested community impact analysis and hold public hearings, the City Council will amend this resolution appropriately."

Councilor Gaskill stated following review, the Council would be in a better position to determine the level of support.

Mr. Sullivan suggested taking out the first paragraph and putting in that the City Council affirms that the position was stated in the resolution.

Councilor Sullivan stated the problem was that the resolution was taken as a support document from the City.

Councilor Gaskill asked if there was a plan presented at last Wednesday's meeting?

Mayor Dominick stated no plans had been shown.

Councilor Sullivan stated at the meeting last Wednesday, the Tribe stated the first level was going to include a truck plaza, which was something not mentioned in their press statement. It was confusing to find out what they wanted to put in there, as they've changed between that meeting and the press release. The press release did not accurately reflect what was said in the meeting.

Councilor Gaskill confirmed that Councilor Sullivan had spoken with someone in Senator Merkley's office.

Councilor Sullivan stated he had.

Councilor Gaskill asked if Councilor Sullivan had asked if they could provide the Council with the bill or resolution that was being discussed.

Councilor Sullivan stated he did not ask, but he would.

Councilor Gaskill stated he wanted to see what they were proposing and how it related to what was done and what rules and regulations were in place before, to see if building on this, which were the rules for everyone else, or if they were trying to get a special provision.

Mayor Dominick encouraged each Councilor to do their homework. It was the Council's responsibility to become informed and educated on what was going on so they could speak with the public and get their input also. He was pleased to see the proposed resolution; it was not stopping anything, it was asking for more.

Councilor Sullivan stated he believed one of the biggest reasons that the Council wanted the resolution in place was to state specifically what the City's position was now. He had no problem stating the City was not prepared to offer full support at this time.

Councilor Crume stated in reading the proposed resolution, there was no question on where the Council stood on the issue. They were arguing about this because they still didn't have the answers they wanted. It was his understanding that on the federal side, they were trying to circumvent the rules that were put in place, to have the ability to find the piece of property and eventually put it into trust, which put it into the hands of the federal government, to where they could place a gaming facility on it. To get to that pint, there were many things that had to occur. The city had to support the project, the Tribe had to have an environmental impact study done, they had to have the ability to purchase the property, they had to have a community impact study completed, etc., all which had to be completed so they could put it into the federal act to get it changed over. With all the different things that had to be done, even if they picked a specific piece of property, they could not purchase that land, but they might set it aside to purchase, or "maybe" purchase, but it would be set aside on the provision that they could get the impact studies done.

Councilor Sullivan stated he knew the Tribe was required to do the environmental study, and another study to make sure the property wasn't on a burial ground. Bottom line, did the Council want to have input into the project? Norm?

Councilor Crume stated absolutely.

Councilor Sullivan asked Councilor Verini if he wanted to have input into the development of this project?

Councilor Verini stated he believed they would have input.

Councilor Sullivan stated he didn't ask him if he thought they would, did he WANT to?

Councilor Verini stated absolutely.

Councilor Sullivan asked Councilor Gaskill?

Councilor Gaskill replied absolutely.

Councilor Sullivan asked Mayor Dominick?

Mayor Dominick replied absolutely.

Councilor Sullivan asked Councilor Mills.

Councilor Mills replied yes.

Councilor Sullivan asked Councilor Fugate.

Councilor Fugate replied yes.

Councilor Sullivan stated then they needed to put a document out there that stated the city wanted to have input into the process. They were not trying to outthink the government; they were just putting the city's provision in to enable them to support the project. It would be irresponsible of the Council to do anything of this project's nature without impact studies, public hearings, and discussions with the community of Ontario. That was all the resolution would do.

Councilor Verini stated it was under discussion because of how it was worded. If the original resolution was read, it was not a resolution that said the city gave 100% support for the Paiute Tribe.

Mayor Dominick agreed, and the disagreement was not with that; however, somewhere, the resolution had been represented differently, and the Council needed to ask Senator Merkley's office how they were using it, and get a copy of the bill. The Council needed make it clear, and let the business that wanted to come to Ontario, know that the Council wanted them to continue looking, but more information was needed. The Council wanted to be a full partner, just as the Burns-Paiute Tribe wanted to be. He did not see anything in the proposed resolution that should be offensive to the Tribe in any way. The Council just wanted information. Following a conversation he had that day, the city was going to receive as much information as was out there. The Council needed, and wanted, the public's input, because the seven of them should not decide the fate of the community – it should be a community decision.

Mr. Lawrence stated staff had been meeting with County Counsel Stephanie Williams to discuss the possibility of finding a specialty attorney to advise the city. The City's Attorney, Larry Sullivan, did not specialize in this type of issue. The idea was to stay ahead of this on the legal side, and to share the cost of the specialty attorney between the city and the county. Following a discussion between Larry Sullivan and Stephanie Williams, the next step would be to have an executive session to discuss retaining the attorney, and then bringing that attorney before the Council and the public about the process. The Council also might want to form an ad-hoc committee. Another issue was that a representative from the Burns-Paiute Tribe had offered to come to Ontario to make a presentation before the Council, but it wouldn't be for a few weeks.

David Sullivan moved, seconded by Norm Crume, to approve Resolution #2010-135, A RESOLUTION ENCOURAGING THE BURNS-PAIUTE TRIBE TO CONTINUE EXPLORING THE CONCEPT OF A DESTINATION RESORT/CASINO IN THE ONTARIO AREA BY PROVIDING A COMMUNITY IMPACT ANALYSIS AND WORKING WITH THE CITY COUNCIL TO SEEK PUBLIC INPUT. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Mr. Lawrence stated that Councilor Sullivan would be going to Washington, DC later in the week, and would be hand-delivering the resolution and a cover letter to three individuals there.

Councilor Gaskill read the cover letter into the record:

> *The City of Ontario would like to ask our federal delegation to please defer consideration of all federal legislation regarding the proposed move by the Burns-Paiute Tribe to the Ontario area. This will give the City an opportunity to properly underwrite and assess the impact to the City of the proposal.*
>
> *This time will allow us to:*
> 1. *Acquire and review the requested impact study;*
> 2. *Investigate the impact of gaming operations on the municipalities within Oregon and Idaho;*
> 3. *Discuss the findings with all interested parties; and*
> 4. *Conduct a series of public meetings with the citizens of Ontario.*
>
> *After completing our due diligence, we will make our intentions known to all parties and we can take appropriate action to approve or disapprove the Burns-Paiute proposal.*

Councilor Verini stated if that didn't cease and desist all congressional matters, nothing would.

Councilor Sullivan stated if someone entered a bank for a loan, but didn't provide any information, what would the banks say?

Councilor Verini stated Councilor Sullivan didn't even have the information.

Councilor Sullivan agreed, no one had the information. That was the issue. They needed information before a decision could be made. He didn't understand why Councilor Verini was having such difficulty saying that at this time, the city did not have enough information to make a decision.

Councilor Crume stated the first sentence was rough. He suggested *"The City of Ontario would like to ask our federal delegation to please temporarily defer consideration..."*

Councilor Sullivan asked what that meant?

Councilor Crume stated it was asking them to defer consideration.

Councilor Sullivan stated the word "temporarily" would have no impact.

Councilor Verini stated they might not even need the impact study if it was not located in this area.

Councilor Sullivan stated they certainly did.

Councilor Verini stated yes, if they were going after a trust. The problem was, according to Councilor Sullivan, the Indian Trust Land Acquisition Act was thrown out.

Mayor Dominick stated it wasn't thrown out. There were two avenues available to go through. One was federal, and the other under discussion was route two. If the federal one didn't work, they could try route two.

Councilor Sullivan stated that was what they said in their meeting. The Tribe represented that.

Councilor Verini stated that was the first time he had heard that, that the Tribe didn't qualify under one of the processes, so the only other way for them to get it was to go through congressional approval. He believed it was still a slap in the face.

Councilor Sullivan asked where it was slapping anyone?

Councilor Gaskill stated they might be slapping Senator Merkley for presuming too much based on the 2006 resolution.

Councilor Sullivan stated all they were trying to do was communicate the position of the Council. There would be public meetings, they would have impact studies, and the Council would discuss it. The resolution was simply asking to go through the process, to not make a decision until the process had been done. That was why the Council defined exactly what they wanted to do. They didn't want to put forward a document that was grey, that wouldn't allow the Tribe to see what the path was to get the Council's approval. It was very specific, but at the same time, the Council needed to communicate where they were at currently so that the process went to the city prior to going to the federal government.

Councilor Gaskill stated that whoever was helping with this process on behalf of the Tribe needed to understand that the 2006 resolution should not be misused. It should be used for what it was, a statement much like the proposed one, that indicated the Council supported the continued investigation, etc.

Mr. Sullivan stated what he was hearing, was that the letter was sent out, and someone misinterpreted the letter in Merkley's office, the same way they misinterpreted the earlier resolution, and read it to mean that the City of Ontario did not want the project, so they would then take that letter and use it as proof that the City didn't want the Tribe to locate here.

Councilor Sullivan stated that would be handed out with the resolution, specifically stating that there would be a further resolution providing approval or disapproval. His goal was to get the process started here, not Washington, DC. Start it here, discuss it here, with the people who would be affected. What in that letter indicated there was anything else?

Councilor Verini just didn't want the new document misconstrued as the original had been.

Councilor Sullivan stated they were dealing with a $500,000,000 project. Did Councilor Verini really think that a word in a letter was really going to stop that process?

Mayor Dominick suggested rewriting the letter, and restating the information from the resolution, would that work?

Council consensus to do that.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Chief Higinbotham thanked the Council for moving forward on the new Fire Station Storage Facility. Also, they had responded to a mutual aid to Payette for sandbagging.

- Chuck Mickelson stated he had been working with the health department and the residents of Nadine Drive, a cul-de-sac off Alameda, just outside of the city limits. They were on private wells and septic tanks, but a number of the residents were interested in obtaining city water and sewer. That would require annexation of the property. The line extension would likely be done through an LID.

- Henry Lawrence stated there would be an executive session on Wednesday, the 16th, to discuss labor negotiations, with a special meeting to follow.

- Councilor Verini provided an update on the local Suicide Hotline.

- Councilor Fugate provided an update on the city's website.

- Mayor Dominick thanked the Chief for his involvement in the Buck-a-Roo supper. Also, the Global Village had taken place over the week-end, and it had been well attended, along with the Kid's Fair. He had also buzzed up to the Cambridge Show and Shine Car Show, and then moved on to Marsing for the Jet Boat Races. On June 11-12, the annual Relay for Life was scheduled in Ontario.

ADJOURN

John Gaskill moved, seconded by David Sullivan, 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.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder