

**COUNCIL MEETING MINUTES
September 7, 2010**

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

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander, Rachel Hopper, Chuck Mickelson, and camera operator Delaney Kee.

Susann Mills led everyone in the Pledge of Allegiance.

AGENDA

Ronald Verini moved, seconded by Susann Mills, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

CONSENT AGENDA

John Gaskill moved, seconded by Norm Crume, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 08/16/2010; Item B: Proclamation: Alcohol and Drug Recovery Month-September 2010; Item C: Resolutions #2010-110C and #2010-111C: Corrections to Resolutions #2010-110 and #2010-111; and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Mayor Dominick read the Proclamation into the record:

- WHEREAS,** recovery from substance use disorders is possible through a variety of treatment resources and recovery support programs; and
- WHEREAS,** thousands of people across the United States are living happy, healthy, and productive lives in recovery; and
- WHEREAS,** stress can contribute to substance use disorders, and finding a positive outlet for dealing with stress is crucial as people continue to face stressful situations in their lives. Nearly half of Americans reported that their stress levels had increased over the past year in 2008, with as many as 30% rating their stress levels as extreme; and
- WHEREAS,** in 2008, an estimated 23.1 million people of every age, race, ethnicity, and socioeconomic status needed treatment for substance dependence or abuse in the United States; and
- WHEREAS,** substance use disorders are a treatable, yet serious health care problem, and our community must take steps to address it; and
- WHEREAS,** educating our community about how substance use disorders affect all people in the community, including public safety officials, the workforce, older adults and families, is essential to combat misconceptions associated with addiction.

NOW, THEREFORE, BE IT RESOLVED, that I, Joe Dominick, Mayor of the City of Ontario, do hereby proclaim September 2010 as

National Alcohol and Drug Recovery Month

and encourage the citizens of Ontario to join in this observance with appropriate programs, activities, and ceremonies supporting this year's theme "Join Voices for Recovery: Now More Than Ever!"

NEW BUSINESS

Resolution #2010-139: Approve Agreement with ODOT for East Idaho Railroad Underpass Rehabilitation and Reconstruction Planning and Preliminary Engineering

Chuck Mickelson, Public Works Director, stated this resolution approved an agreement with the Oregon Department of Transportation for \$292,150 of federal funding for the East Idaho underpass. The underpass was constructed in 1937 and there were a number of deficiencies including limited truck clearance, poor drainage, spalling of concrete, exposed rebar, erosion caused from runoff from adjacent properties, inadequate lighting, etc. This initial funding would identify all the issues with the existing facility, identify options for replacement or upgrade and develop cost estimates for the various alternatives to be utilized for future funding requests. An Oregon federal appropriations request was submitted in February 2009 to Senators Wyden and Merkley. The application requested \$500,000 and Congress ultimately approved \$292,150.

In 2001, ODOT and Ontario entered into agreement No. 697 where Ontario accepted maintenance responsibility for North Oregon Street, West Idaho including the underpass, Southwest 2nd Street and Southwest 4th Avenue; ODOT agreed to pay the City \$490,000 for future maintenance of these facilities; agreement superseded prior agreements made in 1975 and 1979; all right, title and interest in the above mentioned streets shall be transferred to Ontario upon completion of the Yturri Beltline, the agreement addressed various other elements including underpass lighting system maintenance, traffic signal maintenance, signage, snow removal and power costs for signals.

Since the early 1990's ODOT and Ontario had been discussing various transportation related issues within and adjacent to the City. During this period of time, ODOT reconstructed East Idaho, rebuilt the overpass over I-84, reconstructed the freeway ramps leading to East Idaho, constructed the Yturri Beltline bypass around the city, reconstructed the North Oregon overpass and ramps, constructed an overpass over the railroad on Southwest 18th Avenue, and other miscellaneous projects. As noted above, in 2001 Ontario formally agreed to take maintenance and operational responsibility for West Idaho, the railroad underpass, Southwest 2nd Street, Southwest 4th Avenue and North Oregon Street.

The railroad underpass was the gateway or entry to Ontario. While this 1937 structure was functional for moving traffic and carrying rail cars, there were a number of deficiencies as noted above. If this agreement was accepted by the City Council, the first step would be to select an engineering firm in cooperation with ODOT to identify all the issues (structural, institutional, environmental, legal etc) associated with the underpass and the surrounding properties. The agreement with the engineering firm would be with ODOT rather than the city. This limited the administrative burden of dealing with the federal procurement and reporting process.

Once an engineering firm was selected the full scope of the project would be negotiated. There were numerous options that would need to be considered due to the limited right of way and other physical constraints. Public input and environmental reviews would be solicited in the initial phase. Options would be identified and shared with the decision makers. Following the selection of the preferred option, detailed design would commence with construction following as funding became available.

The City of Nampa, Idaho had an underpass crossing under the Union Pacific Rail Road nearly identical to Ontario's although it was a two-lane facility with pedestrian pathways on both sides of the underpass similar to Ontario's. The underpass was widened a number of years ago to four lanes. A single sidewalk was constructed to replace the dual tunnel like crossings that previously existed. A pedestrian bridge was constructed to allow pedestrians to cross from north to south. The Nampa project cost about \$18 million a number of years ago.

I have utilized \$22 million as the overall project cost due to inflation, complexity, etc. This type of project normally would take several years to bring it to conclusion with the planning, funding, railroad negotiations, etc.

This phase of the project was fully funded by the federal government. There would be significant staff time involved in undertaking this project. Future costs were unknown at this time. Failure to accept the agreement would result in the City not receiving funds for this portion of the project.

Ronald Verini moved, seconded by Charlotte Fugate, to adopt Resolution #2010-139, A RESOLUTION APPROVING A LOCAL AGENCY AGREEMENT BETWEEN THE OREGON DEPARTMENT OF TRANSPORTATION AND THE CITY OF ONTARIO FOR THE EAST IDAHO RAILROAD UNDERPASS REHABILITATION AND RECONSTRUCTION PLANNING AND PRELIMINARY ENGINEERING. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Resolution #2010-140: Approval of Water Distribution Master Plan Update Addendum #1 and Sanitary Sewer Master Plan Update Addendum #1

Chuck Mickelson, Public Works Director, stated Keller and Associates developed the addendums to the master plans during 2008. A technical review committee comprised of staff members, some members of the Public Works Committee and the City Council met periodically to review the process and provide guidance. The primary purpose of the master plan updates was to address the expansion of the Urban Growth Area and the Urban Reserve Area. Proposed routing for water and sewer pipelines was identified within the addendum. Additionally, potential street layouts were identified for collectors and arterials in the Urban Reserve area.

When developing master plans, population growth and additional commerce was usually the reason that utility systems were expanded and roadways extended. Keller, with the guidance of the staff and technical review committee, selected the EcoNorthwest population projections for utilization in this report. EcoNorthwest projected an annual population growth of 1.6% for Ontario. The base year was 2005. Members of the PWC challenged this growth rate as being unrealistic. During the development of the addendums, the United States went into a deep recession and growth essentially stopped. Ontario was no exception. In order to secure loans and grants for construction however, master plans needed to be developed and or updated periodically and growth was normally the driving factor for expansion. Ontario was also in the position of having demands on the water system that were unique. Heinz and SRCI used well over 50% of the water that the city produced. A change in demand by either the prison or Heinz would have a far greater impact on the system than modest residential growth. Residential use was about 35% so a population increase had limited impact on the system demands.

A master plan was a guide or roadmap for future construction projects. The biennial budget and capital improvement planning efforts determined when capital projects would be built. Rather than going back and changing the population projections in the water and sewer addendums due to the recession, the Public Works Committee met on May 20, 2010 and agreed that a preamble to the reports was acceptable since the 2010 census was underway. When the 2010 census results were available, staff would review the tables and make modifications as appropriate.

The Public Works Committee approved the following Master Plans to be recommended to the City Council for adoption: Water Distribution Master Plan Update Addendum No. 1; Sanitary Sewer Master Plan Update Addendum No. 1; and Ontario 2008 Urban Reserve Area Traffic Circulation System Expansion Study dated February 2009 (to also include the Safe Routes to School) – This plan must be incorporated into the City's comprehensive plan and must be approved by DLCD.

In June 2007, the Council adopted the 2007-2009 Biennial Budget, including Projects 0809-2, Master Plan Updates, and 0809-16, Upgrade Aerial Photo of City's UGB, for a combined total of \$110,000. In March, 2008, the Council approved Resolution 2008-107 authorizing the City's contracting officer to enter into an agreement with Keller and Associates to update the City's mapping, water distribution, wastewater collection and transportation master plans. The Council approved Resolution 2008-108 authorizing a supplemental budget in the amount of \$30,000 for the update to the City's mapping, water distribution, wastewater collection and transportation master plans. There were no financial implications to adopting the master plans. Any capital improvements that were required would go through the budgeting process. Adoption of the master plans provided guidance for future expansion of the City's water and sewer utilities.

John Gaskill moved, seconded by Charlotte Fugate, to adopt Resolution #2010-140, A RESOLUTION APPROVING THE WATER DISTRIBUTION MASTER PLAN UPDATE ADDENDUM #1 DATED APRIL 2010 AND THE SANITARY SEWER MASTER PLAN UPDATE ADDENDUM #1 DATED APRIL 2010. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Ordinance #2649-2010: Amend OMC 7-4-8 re: Graffiti Issues (1st Reading)

Mark Alexander, Interim Police Chief, stated the Police Department wanted to amend Ontario Municipal Code Section 8, Chapter 4, Title 7, by making the crime of unlawfully applying graffiti a Class A civil violation rather than a Class B misdemeanor. The active ordinance had remained unchanged since its creation in 1996.

Many times, police officers were able to gather enough information through informants, intelligence, or evidence to strongly believe that a suspect has committed an act. The information could fall short of a standard that would enable the officer to file a criminal complaint; however, the standard might be at a level that would enable the officer to file a violation.

In Oregon, the standard of proof was less for a violation because a person convicted of a violation could not be sentenced to jail; however, a person convicted of a crime could be sentenced to jail. Therefore, the state would provide an attorney to someone charged with a crime if that person could not afford one.

CITY OF ONTARIO 444 SW 4TH STREET ONTARIO OREGON 97914

In order for the government to convict someone of a violation, it must be proven by a "preponderance of the evidence" that the defendant committed the act, which meant an officer would have to convince the Municipal Judge that it was more likely than not the defendant committed the act. In order to be convicted of a misdemeanor, the government had to prove "beyond a reasonable doubt", which was a much higher standard of proof and meant that the Jury or Judge had to be convinced beyond a moral certainty.

Some years ago the majority of penalties associated with city ordinance violations were changed from crimes to violations. The city did this mainly to save costs by not having to provide indigent attorneys. Some sections of the code were not changed during the transition and continued to be listed as a misdemeanor crime. Ontario Municipal Code 7-4-8, which provided the penalty for unlawfully applying graffiti, was one of those. Presently the penalties for violations within the city were a Class A violation- fine not to exceed \$720; Class B violation-fine not to exceed \$360; Class C violation-fine not to exceed \$180; and a Class D violation-fine not to exceed \$90. By reducing the unlawful application of graffiti to a violation, the department believed that it could successfully resolve additional graffiti cases. The court would continue to have the authority to order restitution for the victim.

Ron Verini moved, seconded by Charlotte Fugate, to adopt Ordinance #2649-2010, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTION 8, TO CHANGE THE ACT OF UNLAWFULLY APPLYING GRAFFITI FROM A CRIME TO A VIOLATION, on First Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

PUBLIC HEARING

Resolution #2010-142: Golf Course Supplemental Budget

It being the date advertised for public hearing on the matter of Resolution #2010-142, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Rachel Hopper, Finance Director, stated in June, 2009, the City Council adopted the 2009-11 Biennial Budget which included a Golf Fund Budget with a single-year operating budget and a large golf fund contingency set aside to revisit the golf fund needs following one year of city staff operations. The City has completed one year of City-run operations at the golf course and the Golf Fund budget was compared to first year actual revenues and expenses by Staff, resulting in the drafting of a supplemental budget. The City's Budget Committee reviewed by the proposed budget and passed a motion to recommend the Council adopt the Golf Fund Supplemental Budget. Due to the amount of change in the Golf Fund exceeding 20% of the original Golf Fund Budget, a formal Supplemental Budget was now before the Council to review and act upon following a public hearing.

The proposed resolution would reduce the General Fund Administrative Overhead Department Contingency by \$142,291 and increase transfers to the Golf Fund by the same amount, leaving a General Fund contingency balance of \$1,947,103. The resolution further approved a modified Golf Fund Budget in both revenues and expenses summarized as follows:

Account Number	Account Name	Adopted FY 09-11 Budget	Proposed Change	Revised FY 09-11 Budget
GENERAL FUND				
ADMINISTRATIVE OVERHEAD EXPENSE				
	TRANSFERS	290,508	142,291	432,799
	CONTINGENCY	2,089,394	(142,291)	1,947,103
GOLF FUND				
REVENUE				
	TOTAL REVENUE	617,401	133,188	750,589
EXPENSE				
	PAYROLL RELATED EXPENSES	137,150	143,425	280,575
	MATERIALS & SUPPLIES	202,514	157,500	360,014
	CAPITAL	125,000	(25,000)	100,000
	CONTINGENCY	152,737	(142,737)	10,000
	TOTAL EXPENSE	617,401	133,188	750,589

The proposed supplemental budget took into consideration estimated ending revenues and expenses from 2009-10, and projected revenue and expenses for 2010-11, assuming a similar level of service at the course. The City's Budget Committee met on August 24, 2010 and reviewed the proposed budget and passed a motion recommending the Council adopt the supplemental budget and to increase the transfer from the General Fund to the Golf Fund.

The Mayor opened the hearing for public testimony.

Opponents: None.
Proponents: None.

There being no Proponent and no Opponent testimony, the Mayor declared the hearing closed.

Susann Mills moved, seconded by John Gaskill, to adopt Resolution #2010-142, A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR THE GOLF FUND AND AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE GENERAL FUND ADMINISTRATIVE OVERHEAD DEPARTMENT TO REDUCE CONTINGENCY AND INCREASE GENERAL FUND TRANSFERS TO THE GOLF FUND. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.

EXECUTIVE SESSION

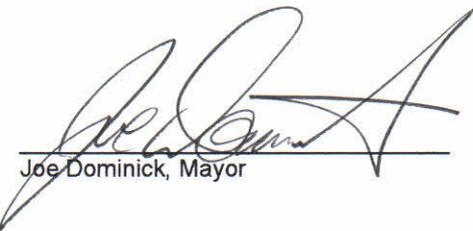
An executive session was called at 8:04 p.m. under provisions of ORS 192.660(1)(e). The Council reconvened into regular session at 8:56 p.m.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Neighborhood Watch Program meeting scheduled for Thursday, September 16, 2010, beginning at 6:30 p.m. at the Nazarene Church in Ontario.
- Neighborhood public meeting at the Calvary Church on Thursday, September 9, 2010, beginning at 7:00 p.m. to discuss a proposed LID for the extension of services on Nadine Drive and/or Alameda Drive.
- Keeping Our Kids Safe workshop being held at Nyssa High School on Friday, September 17, 2010, beginning at 6:00 p.m.
- Annual Ontario Air Fare on September 11, 2010. Breakfast would be served for \$6 per person; \$1 to get into the Air Fare. Breakfast starts at 8:00 a.m.
- September 17, 2010, Ontario High School's first home football game, 7:30 p.m. kick-off!

ADJOURN

Ron Verini moved, seconded by John Gaskill, that the meeting be adjourned. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-out; Verini-yes; Dominick-yes. Motion carried 6/0/1.



Joe Dominick, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder