COUNCIL MEETING MINUTES
September 20, 2010

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, September 20, 2010, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, John Gaskill, Susann Mills, and David Sullivan. Ronald Verini was excused.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander, Bob Walker, Yorick de Tassigny, and camera operator Hailey Skinner.

John Gaskill led everyone in the Pledge of Allegiance.

AGENDA

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

LOCAL CONTRACTOR REVIEW BOARD ACTION

Award Personal Service Contract to Miller Nash, LLP, for Legal Services
Larry Sullivan, City Attorney, stated the purpose of this agenda item was for the Council to consider hiring Miller Nash LLP as its attorneys to consult with and represent the City in future negotiations with the Burns Paiute Tribe. On August 26, 2010, the City Council met with Christine M. Masse of Miller Nash LLP in executive session, but no action was taken at that time. Following the executive session, Ms. Masse was invited to send a representation letter to the City for the Council's consideration.

The City could hire Miller Nash LLP to represent it in negotiations with the Burns Paiute Tribe without soliciting proposals from other law firms if the City followed the procedure in Section 7.1 of the Ontario Financial Policies Manual. That Section exempted personal services contracts from the public bidding process. Personal services contracts included those between the City and attorneys. Section 7.1 allowed the City Council to enter into such contracts if it sat as a Local Contract Review Board and declared the particular contract to be a personal services contract and waived the City's solicitation requirements for the contract.

Charlotte Fugate moved, seconded by John Gaskill, that the Mayor and City Council, sitting as a Local Contract Review Board, declare the Miller Nash LLP representation letter of September 7, 2010 a personal services contract under Section 7.1 of the Ontario Financial Policies Manual. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

Susann Mills moved, seconded by Norm Crume, that the Mayor and City Council, sitting as a Local Contract Review Board, approve the personal services contract with Miller Nash LLP without soliciting proposals from other law firms. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

Award Personal Services Contract to CH2M Hill for City Hall Seismic Assessment
Yorick deTassigny, Facilities Maintenance Manager, stated in 2005, the legislature passed Oregon Senate Bill 2 that directed the Department of Geology and Mineral Industries to conduct a statewide seismic needs assessment of schools and emergency facilities using rapid visual screenings (RVS) in accordance with FEMA-154. The bill provided the first step in a statewide pre-disaster mitigation strategy. City Hall was evaluated as part of the process and the final RVS score placed the facility in a category of buildings having a very high collapse potential.

In a secondary step to their pre-disaster mitigation strategy for emergency facilities, the State of Oregon's Office of Emergency Management (OEM) made available, through its Seismic Rehabilitation Grant Program (SRGP), $7.5 million for seismic-related activities that included structural improvements, architecture and engineering services, and project management. There was a $1.5 million cap per project with no match requirements. Only portions of the building *directly* related to emergency services were eligible for funding.

In order to meet the application requirements, the city needed to have completed a preliminary engineering assessment with a cost estimate for all measures identified. Having reviewed the final RVS score for the building, staff deemed it appropriate to hire a firm well versed in FEMA's Tier 1 evaluation methodology. Staff selected CH2M Hill of Boise based on their extensive experience in completing these types of assessments and recommended a partnership with local engineering firm CK3 to reduce costs by taking advantage of their proximity to the facility. This arrangement was put in place expeditiously in order to meet an application deadline of October 15, 2010.

John Gaskill moved, seconded by Susann Mills, that the City Council, acting as the Local Contract Review Board, declare that the contract for the seismic evaluation of City Hall is a personal services contract that is exempt from the competitive bidding process. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

Susann Mills moved, seconded by Norm Crume, that the City Council waive all solicitation requirements for the personal services contract for the seismic evaluation of City Hall. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

CONSENT AGENDA

Mayor Dominick recused himself from voting on the Consent Agenda (excluding Item B) due to a conflict of interest as his business had an invoice for payment on the bills. Councilor Sullivan recused himself from voting on Item B as he was not present at the meeting.

Susann Mills moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 09/02/2010; Item C: Approval of Liquor License Application: Greater Privilege (Full On-Premises Sales); and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-recuse. Motion carried 5/0/1/1.

Charlotte Fugate moved, seconded by Susann Mills, to adopt Consent Agenda item B: Approval of Minutes of 09/07/2010. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-recuse; Verini-out; Dominick-yes. Motion carried 5/0/1/1.

PUBLIC COMMENT

Larry Heidbrink, Ontario, again stated his proposal for an ordinance to assist businesses in controlling unwanted solicitors from operating near their establishments. The City currently had an ordinance in place for door-to-door sales, garage sales, and other types of like businesses.

OLD BUSINESS

Ordinance #2648-2010: Amend OMC 7-1 re: Nuisance Provisions (1st Reading)

Mark Alexander, Interim Police Chief, stated the Police Department would like to amend Municipal Code Chapter 1, Title 7, by adding three weeds to the list of noxious weeds and changing all reference to a 14-day abatement period to a ten-day abatement period. In December 2009, the Council amended the existing nuisance ordinance to include a list of noxious weeds and to shorten the period for nuisance abatements from 14 to ten days; however, during the September 2, 1010, work session, staff tabled this proposed ordinance change in order to gain further information before proceeding.

The 2009 changes to the Municipal Code came about as a result of recommendations of a committee reviewing city nuisances. The committee recognized that by only allowing the city to abate weeds that exceeded ten inches in height, it would not allow abatement of low growing noxious weeds. The police department consulted with the County Weed Department and developed a list of eight noxious weeds, which at that time were growing within the city. The City Ordinance Officer had now identified three additional noxious weeds within the city, which should be specifically mentioned on the list. They were Purple Loosestrife, (Lythrum Salicaria); Yellow Starthistle, (Centaurea Solstitialis L); and Rush Skeleton, (Chondrilla Juncea). The ordinance currently allowed the Council to change the noxious weed list by resolution, however because other changes to the ordinance were proposed, the changes to the noxious weed list were being included in the proposed ordinance.

In December 2009, staff recommended to the Council that the time given a property owner to abate a nuisance be extended from ten to 14 days, to allow the Ordinance Department the opportunity to notice a property owner by posting the property and not mailing a certified letter; however, the department had not done this and had no plans to. The interest in not mailing a certified letter was financial and upon reflection could cause the City problems when trying to prove that notice was served. The period to abate usually extended beyond the number of days noted as the Ordinance Officer made attempts to contact someone to abate the nuisance. Ten days historically provided ample time for the property owner to receive notice and take appropriate action.

The police department would like to amend the 14-day period to abate a nuisance back to a ten-day period. The department was also recommending that Subsection 2 of the abatement procedure be removed and all notices either be personally served or served by certified mail.

Susann Mills moved, seconded by David Sullivan, to adopt Ordinance #2648-2010, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 1, ADDING NEW PROVISIONS AND REPEALING OTHER PROVISIONS, on First Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

Ordinance #2649-2010: Amend OMC 7-4-8 re: Graffiti Provisions (Final Reading)

Mark Alexander, Interim Police Chief, stated the Police Department would like 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. On September 7, 2010 Council passed Ordinance #2649-2010 on first reading.

There were occasions when police officers were able to gather enough information through informants, intelligence, or evidence, to strongly believe that a suspect had 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 couldn't be sentenced to jail, however, a person convicted of a crime could be. Therefore, the state would provide an attorney to someone charged with a crime if that person couldn't afford one. 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. This meant that an officer would have to convince the Municipal Judge that more likely than not the defendant committed the act.

By reducing the unlawful application of graffiti to a violation, the department believed that they could successfully resolve additional graffiti cases. The court would continue to have the authority to order restitution for the victim.

David Sullivan moved, seconded by Susann Mills, 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 Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Mark Alexander stated that on Saturday, September 25, from 10-2, at City Hall, there would be a "Take Back the Drugs" program for prescription drugs. This was a national program sponsored by the DEA. OPD would receive the drugs and submit them to the DEA for permanent disposal.

- Councilor Crume stated new graffiti had been placed over the top of a newly completed Eagle Scout project. The public needed to be on watch, using neighborhood eyes and ears to catch the vandals who were defacing property. He encouraged everyone to be on the watch and to report suspicious activity.

- Tori Barnett reported that she had been at her annual recorder's conference last week, and had been successful in getting the OAMR Conference held in Ontario in 2012.

- Mayor Dominick informed everyone that on Tuesday, September 21, beginning at 7:00 pm people would be lining the overpasses along the freeway, waving flags as the troops deployed from La Grande, through to Boise, for deployment overseas. He encouraged everyone to show up. The Lion's Club would be providing flags for those who wanted/needed one.

ADJOURN

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

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder