

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Monday, January 7, 2013, 7:00 p.m., M.T.

- 1) **Call to order**
Roll Call: Norm Crume _____ Jackson Fox _____ Charlotte Fugate _____ Dan Jones _____
David Sullivan _____ (Larry Tuttle) _____ Ron Verini _____ Mayor Joe Dominick _____

2) **Pledge of Allegiance**

This Agenda was posted on Wednesday, January 2, 2013, and a study session was held on Thursday, January 3, 2013. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) **Motion to adopt the entire agenda**

4) **Consent Agenda: Motion Action Approving Consent Agenda Items**

- A) Approval of Minutes of Regular Meeting of 12/17/2012 1-4
B) Approval of the Bills

- 5) **Public Comments:** Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) **Department Head Updates**

7) **New Business**

- A) Outgoing Councilor: David Sullivan 5
B) Swear in Councilors Norm Crume, Charlotte Fugate, and Larry Tuttle 6-9
C) Tentative Approval of System Development Charge for Data Centers 10-15

8) **Discussion Items**

- A) Select Dates for a Joint Meeting with Ontario City Council, Malheur County Court, Malheur County Planning Commission, Ontario Planning Commission, and Winterbrook to Discuss Land Issues

9) **Correspondence, Comments and Ex-Officio Reports**

10) **Executive Sessions**

- A) ORS 192.660(2)(d) - Labor
B) ORS 192.660(2)(h) - Litigation

11) **Adjourn**

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

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COUNCIL MEETING MINUTES

December 17, 2012

The regular meeting of the Ontario City Council was called to order by Council President Norm Crume at 7:00 p.m. on Monday, December 17, 2012, in the Council Chambers of City Hall. Council members present were Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini. Joe Dominick was excused.

Members of staff present were Jay Henry, Tori Barnett, Larry Sullivan, Mark Alexander, and Mike Long. The meeting was recorded on tape, and the tapes are available at City Hall.

Also present: Councilor-Elect Larry Tuttle.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

David Sullivan moved, seconded by Charlotte Fugate, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

CONSENT AGENDA

Norm Crume recused himself from voting as his business had an invoice on the bills.

Ron Verini moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Approval of the Regular Minutes of 11/29/2012; Item B: Meetings Calendar: Jan-Jun, 2013; and Item C: Approval of the Bills. Roll call vote: Crume-recused; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 5/0/1/1.

PUBLIC COMMENTS/PRESENTATIONS

Ruth Rolland, Ontario, stated: *[Typed verbatim from written statement] It is disturbing to continue to attend City Council Meetings where the Councilors continue to appear like they do not know where the financials of the City are...As a matter of fact, others have spoken asking why the City Council is either not using funds appropriately or applying funds correctly. This seeming lack of knowledge has impacted how the City Council addresses employee's benefits, wages and working conditions in such a negative manner. I believe it also explains why the City Council has so little consideration of its employees and refuses to bargain over a better health plan than a high deductible plan that does not meet the needs of its employees. Most employers take into consideration the well-being and morale of their employees, and what the employer can afford, and what is it going to take to have a continuity in its workforce, not to mention, what are other communities offering their employees. However, this Council appears to not take that into consideration, and appears to be overly concerned about cutting costs for the sake of cutting costs. This approach is not fair to the City's employees or to its citizens. Furthermore, it is detrimental to the City and its citizens, not to mention that it harms employees in the long run. Decisions are being made under the guise of cutting costs, but the City has not provided a basis for these actions. The City of Ontario management staff (non-represented) has operated like a revolving door for too long. This revolving door would indicate a total lack of satisfaction by the management employees and/or that morale is so low that people do not want to stay in their jobs. They move on elsewhere. Normally, small cities serve as a training ground for represented employees, i.e. police officers, fireman, etc. to get the needed experience to move into higher paying positions elsewhere – but not Management. Management is normally made up of the people who want to live and raise their children in a particular Community. Most smaller Cities take care of their employee's with excellent benefits, and working conditions to entice the employee to stay. This is not the case with the City of Ontario. It is time the City Council*

asked themselves why they have so much turnover in their management team and why their hand selected management employees are not happy to say in their jobs. I believe, if you were being honest with yourselves, that your answer would be that the City Council and how this City is being run is a big part of the problem... Each of you are the only ones that can fix this problem...what are you going to do to resolve it?

Councilor Jones asked Ms. Rolland where she was employed.

Ms. Rolland stated she worked at Local Union #670, as their secretary, and asked if Councilor Jones had a problem with the union.

Councilor Jones stated he did not; he just asked where she worked.

DEPARTMENT HEAD UPDATES

Mark Alexander, Police Chief, stated the department was investigating a sexual assault and attempted murder to a 78 year old resident which occurred last Friday. She was being taken care of by family, and the department was still looking for a suspect. Also, they worked with the Canyon County Sheriff's Department on a composite sketch of the suspect.

Chief Alexander stated two or three months ago, the department began investigating a hit and run of an elderly woman on Alameda Drive. That offender had gone to trial last week, and received 20 years in prison for a felony hit and run.

Chief Alexander stated he hoped to have an update on the two students who had been stuck in the crosswalk by the hospital a few weeks ago sometime next week.

Mike Long, Finance Director, stated they were working on numbers for the Aquatic Center and Golf Course, and would be bringing that back to Council at the next work session. They would have to advertise for a public hearing because of the supplemental budget. The Golf Course would be exceeding their budget over the 10% threshold, and the Aquatic Center needed to recognize some additional revenue that needed to be appropriated. Councilor Sullivan had agreed to keep working with staff on the Golf Course issues.

Bob Walker, Public Works Director, stated he had met with the consultants to discuss the SDCs for data centers, and would next be presenting it to the Public Works Committee, followed by the City Council.

NEW BUSINESS

Ordinance #2672-2012: Amend OMC 8-7-4 re Installation of Sewer Back Check Devices (1st Reading)

Larry Sullivan, City Attorney, stated on April 2, 2012, the City Council approved Ordinance 2667-2012, which was a comprehensive revision of the City Code provisions dealing with sewer and water connections. Among the changes was the following sentence in subsection (O) of City Code Section 8-7-4, which read: *"The City shall require a Sewer Back Check device on all new construction or the rehabilitation of an old service connection when there is any occupied space below the elevation of the street."*

This language wrongly implies that Sewer Back Check devices were only required on old service connections when they were connected to occupied space below the level of the street. Instead, the intent of the ordinance was to require Sewer Back Check devices in any of three circumstances: 1) When there was a new sewer connection; or 2) when an old service connection was rehabilitated; or 3) whenever the City encountered a situation where there was space below the level of the street which was occupied. In other words, if during the course of a sewer inspection, City staff learned of any below-street-level space which was occupied by people, staff wanted to be able to require the installation of a Sewer Back Check device. Ordinance No. 2672-2012 revised the quoted language to fulfill this intent.

Councilor Fox asked why they would want stronger language in the ordinance.

Mr. Sullivan stated it was to protect the city on liability issues.

Bob Walker stated the cross connections were related to water systems, and this ordinance was not dealing with that.

Councilor Jones stated on item 3, was staff inspecting all below surfaces?

Mr. Walker stated no, it was on an "as found" basis.

Mr. Sullivan stated as this was only the first reading, if the Council wanted different language in the ordinance that could be done before the second reading. Another option was to table this action completely pending a review by the Public Works Committee.

Councilor Verini asked why there wasn't a backflow device off the main sewer lines of the city. That would take care of the problem, and prevent liability on the city.

Mr. Walker stated it would be in the middle of the street. For all new construction or remodeling, they were required to put in the backflow device. As a preventive measure, for the city, regarding the older, existing homes, they could be installed as found.

Councilor Verini asked if it made sense for the city to take partial responsibility and to share the costs of installation.

Mr. Walker stated they would have to do that for everything – new, old, remodels, etc.

Jackson Fox moved, seconded by Charlotte Fugate, to table this action pending a review and recommendation by the Ontario Public Works Committee. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

PUBLIC HEARING

Resolution #2012-127: ROW Dedication – Dutch Bros Coffee House

It being the date advertised for public hearing on the matter of Resolution #2012-127, the Council President 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.

Larry Sullivan, City Attorney, stated Keizer Enterprises, LLC applied for and received a partition through a Hearings Officer decision which had been approved. On that plat was shown dedication of right of way on East Lane. It was necessary to accept this property as road right of way. The Hearing's Officer recommended approval of the findings of fact of the partition.

The Council President opened the hearing for public testimony.

Proponents:

Dan Cummings, CK3, representing Keizer Enterprises, stated they [Dutch Bros.] was dedicating a right of way because during the construction at the strip mall, it appeared they needed more stacking distance at the right hand turn lane, so Keizer agreed to dedicate more right of way for that. They wanted it on the plat instead of a written document. Staff approved the partition, and the action now needed was for the City to accept it.

Opponents: None.

There being no further Proponent and no Opponent testimony, the Council President declared the hearing closed.

Jackson Fox moved, seconded by Ron Verini, that the City Council accept the Findings of Fact as presented in the staff report 2012-10-12PTN and approved by the Hearing's Officer on October 29, 2012. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

Jackson Fox moved, seconded by Ron Verini, that the City Council adopt Resolution #2012-129, A RESOLUTION DECLARING THE NECESSITY AND INTENT FOR ACCEPTANCE OF ROAD RIGHT OF WAY FROM KEIZER ENTERPRISES, LLC. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

ADJOURN

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

APPROVED:

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

AGENDA REPORT
January 7, 2013

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Jay Henry, City Manager

SUBJECT: OUTBOUND CITY COUNCILOR: DAVID SULLIVAN

DATE: January 2, 2013

SUMMARY:

David Sullivan will be stepping down from his seat as an Ontario City Councilor on January 7, 2013. He will be presented with a plaque of appreciation, and offered an opportunity to say some parting words.

AGENDA REPORT
January 7, 2013

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Jay Henry, City Manager

SUBJECT: SWEARING IN COUNCILORS NORM CRUME, CHARLOTTE FUGATE, AND LARRY TUTTLE

DATE: January 2, 2013

SUMMARY:

Attached are the following documents:

- Oath of Office – Councilor Norm Crume
- Oath of Office – Councilor Charlotte Fugate
- Oath of Office – Councilor Larry Tuttle

As a result of the November 6, 2012 General Election, the Ontario City Council will welcome and the City Recorder will swear into office re-elected Councilors Norm Crume and Charlotte Fugate, and newly elected Councilor Larry Tuttle. Following the swearing in process, the Councilors will take their appointed seats at the Council dais.

CITY OF ONTARIO

Oath of Office

STATE OF OREGON)
County of Malheur) ss.
City of Ontario)

*I, **Norm Crume**, hereby swear on my oath to honestly and faithfully discharge the duties of **City Councilor** of the City of Ontario and that I will support the laws and the Constitution of the State of Oregon and of the United States of America and the Charter and Ordinances of the City of Ontario to the best of my ability. So help me God.*

Signed: _____

Sworn to before me this 7th day of January, 2013.

Tori Barnett, MMC, City Recorder

CITY OF ONTARIO

Oath of Office

STATE OF OREGON)
County of Malheur) ss.
City of Ontario)

*I, **Charlotte Fugate**, hereby swear on my oath to honestly and faithfully discharge the duties of **City Councilor** of the City of Ontario and that I will support the laws and the Constitution of the State of Oregon and of the United States of America and the Charter and Ordinances of the City of Ontario to the best of my ability. So help me God.*

Signed: _____

Sworn to before me this 7th day of January, 2013.

Tori Barnett, MMC, City Recorder

CITY OF ONTARIO

Oath of Office

STATE OF OREGON)
County of Malheur) ss.
City of Ontario)

*I, **Larry Tuttle**, hereby swear on my oath to honestly and faithfully discharge the duties of **City Councilor** of the City of Ontario and that I will support the laws and the Constitution of the State of Oregon and of the United States of America and the Charter and Ordinances of the City of Ontario to the best of my ability. So help me God.*

Signed: _____

Sworn to before me this 7th day of January, 2013.

Tori Barnett, MMC, City Recorder

AGENDA REPORT

January 7, 2013

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

SUBJECT: TENTATIVE APPROVAL OF A SYSTEM DEVELOPMENT CHARGE FOR DATA CENTERS

DATE: December 27, 2012

SUMMARY:

Attached are the following documents:

- Proposed SDC Rate Resolution for Data Centers
- Memorandum dated December 14, 2012, from FCS Group

BACKGROUND:

System Development Charges (SDCs) are one-time fees charged to new development to help pay a portion of the costs associated with building capital facilities to meet needs created by growth. The SDC fee schedule previously approved by the City Council includes a fee for the construction of warehouses but not for data centers. The Public Works Department proposes that a separate fee should be used for the construction of data centers, because the burden imposed on the City's transportation infrastructure is smaller (i.e. less traffic is generated) for data centers than it is for warehouses. The City hired a consultant, FCS Group, to develop a methodology to calculate a data center SDC rate consistent with the methodology used by the City for other transportation SDCs. The attached memorandum has that methodology, which determined that the rate should be \$141 per thousand square feet gross floor area (TSFGFA). The memorandum was reviewed by the Public Works Committee, which recommended that the City Council adopt an SDC fee of \$141 TSFGFA for data centers instead of continuing to impose the SDC fee for warehouses of \$708 TSFGFA.

Before a formal resolution is adopted by the City Council to establish an SDC rate for data centers, a minimum 90 day notice has to be given to those people requesting notice of any modification of the City's SDC rates. Staff recommends that the attached proposed resolution be sent to those on the City's SDC notice list. After the passage of 90 days from the date of the notice, a public hearing will be held and a formal SDC rate resolution will be brought back to the Council for adoption. Staff will calendar this matter for further action by the Council at its April 15, 2013, meeting.

RECOMMENDATION:

Staff recommends that the Council authorize staff to follow the procedure for establishing a transportation SDC rate for data center construction.

PROPOSED MOTION:

I move the Mayor and City Council tentatively approve a transportation SDC rate for data centers of \$141 per thousand square feet gross floor area, based upon the methodology set forth in the December 14, 2012, memorandum from the FCS Group, and authorize staff to give the required notices before that rate is formally adopted by the City.

Resolution 2013-***

**A RESOLUTION ESTABLISHING
A SYSTEM DEVELOPMENT CHARGE
FOR DATA CENTERS**

- WHEREAS,** Section 8-13-4(c) of the Ontario City Code authorizes the City to establish an improvement fee system development charge (SDC) by resolution; and
- WHEREAS,** Under the City's SDC current rate resolution, data centers are categorized as warehouses, which generate substantially more vehicular traffic than data centers and create more of a burden on the City's transportation system; and
- WHEREAS,** The Public Works Committee recommended that the City Council establish a transportation SDC for the construction of data centers based the methodology set forth by the FCS Group in a memorandum provided to the City and dated December 14, 2012 ; and
- WHEREAS,** The City gave the notice required by ORS 223.304(7)(a) by providing written notice to persons requesting such notice more than 90 days before the establishment of an SDC; and
- WHEREAS,** The City satisfied the requirement of ORS 223.304(7)(a) that the methodology supporting an SDC be made available at least 60 days before the first hearing preceding the establishment of the SDC.

NOW, THEREFORE, BE IT RESOLVED by the Ontario City Council as follows:

- 1) A transportation SDC is hereby established for data centers as a new category of development at the rate of \$141 per thousand square feet gross floor area (TSFGFA).

EFFECTIVE DATE: Immediately upon passage.

Passed and adopted by the Ontario City Council this ____ day of _____, 2013.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of _____, 2013.

ATTESTED:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

To: Bob Walker, Public Works Director
From: Doug Gabbard, Project Consultant
CC: John Ghilarducci, Project Manager
RE: Data Center Trip Generation

Date: December 14, 2012

On December 3, 2012, the City of Ontario engaged the FCS GROUP to compute and document an equitable transportation system development charge (SDC) for a proposed data center. This need arises because the Institute of Transportation Engineers (ITE) did not consider data centers to be a separate land use when the City published its last SDC methodology in 2008. Now, in the 9th edition of the *Trip Generation Manual*, data centers have their own trip generation statistics. Our findings and recommendation below are based on these statistics.

1. AVERAGE MOTOR VEHICLE TRIP-ENDS

Based on two studies, the ITE has assigned data centers (land use code 160) an average weekday trip generation of 0.99 trip-ends per 1,000 square feet of gross floor area (*Trip Generation Manual*, 9th edition [2012], volume 2, page 283).

2. AVERAGE PERSON TRIP-ENDS BY MOTOR VEHICLE

The City's current transportation SDC methodology multiplies average trip-ends by 1.44 for all land uses to determine average person-trips by motor vehicle. This adjustment accounts for the average number of occupants per motor vehicle. In the case of data centers, multiplying 0.99 motor vehicle trip-ends by 1.44 person trip-ends per motor vehicle trip-end results in a product of 1.43 motor vehicle person trip-ends.

3. AVERAGE PERSON TRIP-ENDS BY ALL MODES

The City's current transportation SDC methodology multiplies average person trip-ends by motor vehicle by 1.05 for all land uses to determine average person trip-ends by all modes of travel. This adjustment accounts for trips by foot and bicycle. In the case of data centers, multiplying 1.43 motor vehicle person trip-ends by 1.05 results in a product of 1.50 average person trip-ends by all modes of travel.

4. AVERAGE NEW PERSON TRIP-ENDS

The City's current transportation SDC methodology deducts pass-by and diverted-linked trips for land uses where such an adjustment is appropriate. Among the methodology's Port/Industrial land uses, only utilities (land use code 170) are adjusted in this way. Because no such adjustment is warranted for data centers, the product above (1.50 average person trip-ends) is also the number of average new (or primary) person trip-ends.

5. ADJUSTED AVERAGE NEW PERSON TRIP-ENDS

The City’s current transportation SDC methodology applies a trip length factor to the average new person trip-ends. For most of the Port/Industrial land uses and all of the Office land uses in the current methodology, this factor is 1.06. We therefore apply this factor to data centers as well. Multiplying 1.50 average new person trip-ends by 1.06 results in 1.59 adjusted average new person trip-ends.

6. CHARGE PER UNIT

The City currently charges a transportation SDC of \$89 per adjusted average new person trip-end for Port/Industrial land uses. Multiplying 1.59 average new person trip-ends by \$89 results in a charge of \$141. **We therefore recommend charging data centers a transportation SDC of \$141 per 1,000 square feet of gross floor area.**

7. SUMMARY AND COMPARISON

The table below summarizes the calculations described above for both data centers and other Port/Industrial land uses:

SDC Comparison for Port/Industrial

ITE Land Use	Unit	Average Motor Vehicle Trip-Ends	Average Person Trip-Ends by Motor Vehicle	Average Person Trip-Ends	New Trip Factor	Average New Person Trip-Ends	Trip Length Factor	Adjusted Average New Person Trip-Ends	Charge per Unit
			1.44	1.05					\$89
030 Truck Terminals	TSGFA	9.85	14.18	14.89	1.00	14.89	1.06	15.79	\$1,405
090 Park and Ride Lot with Bus Service	Parking space	4.50	6.48	6.80	1.00	6.80	0.84	5.74	\$511
093 Light Rail Transit Station with Parking	Parking space	2.51	3.61	3.80	1.00	3.80	0.84	3.20	\$285
110 General Light Industrial	TSGFA	6.97	10.04	10.54	1.00	10.54	1.06	11.17	\$994
120 General Heavy Industrial	TSGFA	1.50	2.16	2.27	1.00	2.27	1.06	2.40	\$214
130 Industrial Park	TSGFA	6.96	10.02	10.52	1.00	10.52	1.06	11.15	\$993
140 Manufacturing	TSGFA	3.82	5.50	5.78	1.00	5.78	1.06	6.12	\$545
150 Warehouse	TSGFA	4.96	7.14	7.50	1.00	7.50	1.06	7.95	\$708
151 Mini-Warehouse	TSGFA	2.50	3.60	3.78	1.00	3.78	1.06	4.01	\$357
160 Data Center	TSGFA	0.99	1.43	1.50	1.00	1.50	1.06	1.59	\$141
170 Utilities	TSGFA	7.60	10.94	11.49	0.83	9.54	1.06	10.11	\$900

TSGFA = thousand square feet of gross floor area.
 Source: ITE, Trip Generation Manual, 9th edition (2012); City SDC brochure (October 28, 2009).

Note that the charges above reflect the level of SDCs currently charged by the City. Had these charges been made consistent with the 2008 methodology, they would have been doubled to reflect a total cost of \$178 per adjusted average new person trip-end.