

**AGENDA**  
**CITY COUNCIL - CITY OF ONTARIO, OREGON**  
May 16, 2011, 7:00 p.m., M.T.

- 1) Call to order  
Roll Call: Norm Crume \_\_\_\_\_ Jackson Fox \_\_\_\_\_ Charlotte Fugate \_\_\_\_\_ Dan Jones \_\_\_\_\_  
David Sullivan \_\_\_\_\_ Ron Verini \_\_\_\_\_ Mayor Joe Dominick \_\_\_\_\_

2) **Pledge of Allegiance**

This Agenda was posted on Wednesday, May 11, 2011, and a study session was held on Thursday, May 12, 2011. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at [www.ontariooregon.org](http://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 05/02/2011 ..... 1-13  
B) Approval of Minutes of Study Session of 04/28/2011 ..... 14-15  
C) Resolution #2011-110: Adopt Updated Council Rules & Procedures ..... 16-28  
D) 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) **Presentation: 2011 Excellence in Leadership Scholarship Award – Rachel Corn**

7) **Old Business:**

- A) Ordinance #2657-2011: Amend OMC 7-4-6, add (D) re: Graffiti Issues (Final Reading)..... 29-34

8) **New Business**

- A) Resolution #2011-109: Ontario Sanitary Service, Inc. Fees ..... 35-37  
B) Resolution #2011-111: Add to List of Prohibited Intoxicating Chemicals – Kratom. .... 38-42  
C) Approval of revised Cooperative Agreement (#27785) between ODOT and City (House Bill 2001) for Signal Upgrades and Lane Modifications at East Idaho and East Lane; Resurfacing of East Idaho Avenue (Highway 30) between Snake River and NE 4th Street ..... 43-45

9) **Public Hearing(s)**

- A) Ordinance #2658-2011: Annex/Rezone Brown (Hunter Lane) (1<sup>st</sup> Reading)..... 46-52

10) **Topics for Discussion (Thursday):**

- A) Underpass Update: Chuck Mickelson  
B) Rehabilitation of Well #6: Bob Walker  
C) City Council Security Plan: Mark Alexander  
D) City Hall Construction Project Update: Yorick de Tassigny

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

12) **Adjourn**

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

**COUNCIL MEETING MINUTES**

**May 2, 2011**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, May 2, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander, Alan Daniels, Kathy Daly, Jordan Barnett, Tony Abney, Mo Carpenter, Chuck Mickelson, Bret turner, and camera operator Delaney Kee. The meeting was recorded on tape, and the tapes are available at City Hall.

Councilor Verini stated in light of the killing of Osama Bin Laden, he wanted to dedicate the Pledge of Allegiance to the service men and women. He then led everyone in the Pledge.

**AGENDA**

Mayor Dominick requested that the bills be moved to New Business.

David Sullivan moved, seconded by Ron Verini, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones- yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**CONSENT AGENDA**

Charlotte Fugate moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 04/18/2011; Item B: Approval of Minutes of Study Session of 03/31/11; and Item C: Proclamation: National Water Safety Month – May 2011. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Mayor Dominick read the Proclamation into the record:

**WHEREAS,** *Citizens of Ontario recognize the vital role that swimming and aquatic-related activities relate to good physical and mental health and enhance the quality of life for all people; and*

**WHEREAS,** *Citizens of Ontario understand the essential role that education regarding the topic of Water Safety plays in preventing drowning and recreational water-related injuries; and*

**WHEREAS,** *Ontario is aware of the contributions made by the recreational water industry, as represented by the Association of Pool & Spa Professionals, the National Recreation & Park Association and the World Waterpark Association in developing safe swimming facilities, aquatic programs, home pools and spas, and related activities providing healthy places to recreate, learn and grow, build self-esteem, confidence and sense of self-worth which contributes to the quality of life in our community; and*

**WHEREAS,** *Citizens of Ontario recognize the ongoing efforts and commitments to educate the public on pool and spa safety issues and initiatives by the pool, spa, waterpark, recreation and parks industries; and*

**WHEREAS,** *Citizens of Ontario understand the vital importance of communicating Water Safety rules and programs to families and individuals of all ages, whether owners of private pools, users of public swimming facilities, or visitors to waterparks.*

**NOW, THEREFORE, I, Joe Dominick, Mayor of the City of Ontario, Oregon, do hereby proclaim the month of May, 2011 as National Water Safety Month.**

Kathy Daly, Aquatics and Recreation Director, introduced her three lifeguards in attendance – Mo, Jordan, and Tony. The primary reason behind water safety month was to promote it both in and out of the water. Parents needed to watch their kids, and parents and kids both needed to be educated on water safety. The Ontario pool would be hosting over 1,000 kids for end-of-year parties, and one thing they would all do is take the water safety pledge.

### **OLD BUSINESS**

#### **Liquor License Application: New Outlet - Vegas Country (Full On Premises Sales)**

Issued handled at the Thursday, April 28, 2011 Study Session. Motion passed 7/0/0. See minutes.

#### **Approval of Engineering Contract with Anderson Perry for SE 2<sup>nd</sup> Street**

Chuck Mickelson, Public Works Director, stated this agreement with Anderson Perry and Associates of La Grande, Oregon provided for the preparation of plans and estimates for the rehabilitation/reconstruction of SE 2<sup>nd</sup> Street from East Idaho Avenue to SE 18<sup>th</sup> Avenue. The roadway was the number one priority within the city for reconstruction, and completion of these plans would enable the city to be in a position to take advantage of potential state or federal funding. It would allow the city to receive engineering designs for rebuilding that portion of street section to a standard that would allow support of the truck traffic loading that it was currently supporting.

The June 2009 budget adoption approved expending the funds for the design; however, at the March 17, 2011 Study Session, Council tabled the award pending a response from the Rural Road Assessment District No.3 soliciting participation in the design costs.

At present, SE 2nd Street was experiencing deterioration of the structural integrity of the street section due to inadequate road base material and pavement depth that was needed to support the loading it was receiving. The roadway was built many years ago with inadequate sub-grade, sub-base and pavement for the current truck weight limits. By rebuilding this section of street, the north /south freight route would become more user accessible and user friendly and would be built to withstand the volume of traffic that was traveling on it for local business, and for access to the south bypass. The design would provide for upgrades to the existing utilities (sewer, storm and water), replacement of curbs, gutters and sidewalks, and the installation of an upgraded road section along SE 2nd Street from Idaho Avenue to SE 14<sup>th</sup> Avenue. In addition, it would also provide for centerline elevations and storm drainage design from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue.

Public Works staff received formal responses to the RFP for this project from six firms on December 22, 2010. The formal responses were from Anderson Perry Associates of La Grande, Oregon, CH2M-Hill of Boise, Idaho, Engineering & Waste Solutions of Boise, Idaho, Ferguson Surveying & Engineering, of Mt. Vernon, Oregon, Holladay Engineering of Payette, Idaho, and Keller Associates of Meridian, Idaho. Chuck Mickelson, Bob Walker, Bret Turner and Norm Crume each reviewed the proposals. Each of the firms presented an excellent proposal and it was obvious that each of them could be successful in preparing the plans and specifications. However, after ranking each firm based on schedule, resumes (qualifications of the personnel to be assigned to the project), references and similar projects completed, and locations where the work will be completed, the committee unanimously selected Anderson Perry as the highest ranked firm based on their proposal.

The project would be designed to Federal Highway Administration and ODOT standards. Anderson Perry and Associates had significant experience in preparing plans and specifications to those standards and performed very effectively in Phase 1 of North Oregon Street project. CK3, LLC, would conduct the surveying for the project.

The City Council requested that the Public Works staff contact Rural Road Assessment District No. 3 to request their participation in the design costs from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue, which was the portion of SE 2<sup>nd</sup> Street which was in the county. The cost for a complete design of this section of SE 2<sup>nd</sup> Street was \$22,500. As an alternative, the consultant could provide centerline elevations and storm drainage design from SE 14<sup>th</sup> Avenue to SE 18<sup>th</sup> Avenue for \$4,500. Bob Walker and Councilor Norm Crume met with the Directors of Rural Road Assessment District No. 3 on April 19<sup>th</sup> and the RRD agreed to fund the \$4,500 for the reduced design on this portion of SE 2<sup>nd</sup> Street. Therefore, the overall design project had been reduced to \$125,000 with \$4,500 to be provided by the Road District. The motion was for the approval of the agreement with Anderson Perry in the lump sum amount of \$125,000.

This project was included in the 2009 – 2011 budget as STR-7 in the amount of \$175,000. When, and if, this project was approved for construction funding, there would need to be an amendment to this Agreement for completion of the specifications, preparation of an environmental study, if needed, and other additional services during construction to include inspection.

Councilor Sullivan asked if there was a written agreement, and would the city receive the county's money up front.

Mr. Mickelson stated yes to both questions.

Norm Crume moved, seconded by Dan Jones, that the City Council approve the Agreement between the City of Ontario and Anderson Perry and Associates, Incorporated of La Grande, Oregon, for the professional engineering services for the design of the reconstruction of SE 2<sup>nd</sup> Street from Idaho Avenue to SE 18<sup>th</sup> Avenue, in the amount of \$125,000 and authorize the City Manager to sign the Agreement on behalf of the City of Ontario. Roll call vote: Crume-yes; Fox- no; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/1/0.

### **NEW BUSINESS**

#### **Approval of the Bills**

Mayor Dominick recused himself from voting on the bills as his corporation had an invoice for payment.

Norm Crume moved, seconded by Charlotte Fugate, to approve the bills as presented. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-abstain. Motion carried 6/0/0/1.

#### **MCOA Bus Shelter Agreement**

Larry Sullivan, City Attorney, stated Malheur Council on Aging and Community Services (MCOA) was an Oregon public benefit corporation with 501(c)3 tax exempt status. It had received grant funds from Malheur County to purchase and install benches and bus shelters for use by customers of the Snake River Transit bus system. The proposal was to install those benches and shelters at the locations within the City specified in Exhibit "A" of the Agreement. The benches and shelters would be designed in accordance with Exhibit "B" of the Agreement.

The specified locations were within the city rights-of-way, on public sidewalks. The proposal was to authorize MCOA to install and maintain the benches and shelters without the payment of a fee to the city, because the installation of the benches and shelters would be a benefit to the city residents who used the bus service.

MCOA requested that it be allowed to put advertising on the benches and bus shelters. This was allowed under the City Code if done with the city's permission, through a franchise agreement. The content of the advertising would be within MCOA's discretion. The Oregon courts determined that cities may not constitutionally regulate or restrict the content of commercial advertising, so the city would not be able to control the advertisements that were

placed on the benches or shelters. However, MCOA intended to adopt a written policy informing advertisers of the kinds of advertising MCOA would accept, which MCOA would provide to the Council at the Council's request.

The Agreement required MCOA to keep the benches and shelters in good condition and free from graffiti. The Agreement also required MCOA to indemnify the city from any claims arising from the use of the benches and shelters, as well as the advertising that was done. The city could terminate the Agreement for cause within 30 days, or within 180 days without cause.

Councilor Fugate asked for a full disclosure of the budget, not just Oregon, but Idaho as well.

Jim Smith, Chairman, SRT, was looking for ways to enhance revenues from the bus system. They were going to dedicate someone to deal with advertisements, and assumed Larry Sullivan would work with Loni [Debban] on the ads. They had already received some benches, but were in the process of obtaining right-of-way permission from the land owner for placing benches on their property.

Fritz Halliberg, SRT Liaison, stated when this began in 2007, they had 34,000 riders, covering 194K miles. Today's numbers showed 70,000 riders.

Councilor Fugate state that Ms. Debban had only presented the numbers for Oregon; she wanted Idaho numbers.

Mr. Smith stated he would coordinate that with Ms. Debban and Teri Lindburgh.

Councilor Fox stated it was a double-edge sword. Saw the numbers, but the economy was down, and the City didn't even know if they would be funding the bus again, but the Council was being asked to move on purchasing benches.

Mr. Halliberg stated the senior centers used it, and the center in McCall came down once a month. They all shopped and ate in Ontario. Also, Ms. Debban would be approaching Vale and Nyssa to try and get them on board with this system. And, the benches were coming from a grant from the state, and eight of them would be in Ontario.

Mr. Smith stated gas prices increased, more riders would use the system.

Councilor Sullivan questioned why ridership was increasing, but there was no increase in revenues. They needed to alleviate the pressure on the community, maybe increase the cot to ride.

Councilor Fox stated as of now, he would probably vote no on the benches, because he would be voting no on the transit system.

Councilor Verini stated the bus was important for economic development in this area. That \$30,000 in the city's budget was for a system that brought a lot of riders into the area. Also, corporations looked at those types of things when considering whether to locate somewhere.

Councilor Crume stated he didn't know about the budget yet, but one thing he did know was that the City Manager was proposing to cut 3.5 employees from staff. That bothered him deeply. He struggled with laying off 3.5 people, but subsidizing a bus. They needed to really think about where they were spending the money.

Councilor Fox stated he would really need to be convinced to vote yes.

Mr. Smith stated they needed to look at this as an investment, showing that the city care about the youth, the seniors, the vets, or whomever needed the system. Ontario pulling their \$30,000, would be a \$180,000 match loss.

Councilor Fugate stated they had been told there would be advertising and marketing, but that hadn't happened yet, and it had been two years.

Councilor Jones asked when the grant would expire.

Mr. Hallibert replied it would at the end of July. [sic]

Councilor Jones suggested tabling the issue until the end of June.

Mayor Dominick stated the Contract termination was September 1, 2011; however, the agreement before them was only allowing them to purchase the benches and shelters. This did not show intent to fund the bussing, but to get the benches and shelters at no cost to Ontario.

Councilor Sullivan asked why Ontario would only receive 8 benches, while Payette would receive 22.

Mr. Hallibert stated there were more stops in Payette and Fruitland, because everyone was riding to Ontario. Those 22 benches would be split with Payette and Fruitland. Also, he was working on putting together a video relating to ridership.

Councilor Sullivan confirmed this action did not commit the city to funding the bus later.

Ron Verini moved, seconded by David Sullivan, that the City Council approve the Malheur Council on Aging and Community Services Franchise and License Agreement. Roll call vote: Crume-yes; Fox- no; Fugate-yes; Jones-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

**PUBLIC HEARING(S)**

**Ordinance #2655-2011: Annex/Rezone Nadine Drive (1<sup>st</sup> Reading)**

It being the date advertised for public hearing on the matter of Ordinance #2655-2011, 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.

David Richey, Planning & Zoning Administrator, stated at this action was to annex and rezone property generally known as the Nadine Drive Neighborhood, located north of 18<sup>th</sup> Ave, along Alameda Drive and found on Assessor's Map 18S 47E -09C. The applicant, a combination of property owners, and the city, in response to a public health hazard from domestic wells and septic systems, were proposing the annexation to facilitate a local improvement district to extend City services into the area.

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RS-50 Single Family Residential at its regular meeting of February 14, 2011, and recommended Council approval of Ordinance #2655-2011.

There had been some discussion to modify the proposed ordinance to take into consideration storm drainage or other issues, but those should have no bearing on the ordinance before them.

Councilor Fox stated if this was zoned single family, what about the duplex or group home.

Mr. Richey stated as those were already there, they would be grandfathered in, and that was legal.

Councilor Fox asked if the group home was commercial.

Mr. Richey stated that Oregon law, and Ontario codes, indicated it was exempt.

Mayor Dominick indicated he had a group home about 5-6 blocks from his house, and it was legal.

Councilor Fox argued that these homes were not in the city limits yet.

Mayor Dominick stated if they already existed in the subdivision, and it was annexed, those were allowable uses.

Larry Sullivan, City Attorney, stated that was correct. There were rules against spot zoning. They could not change the zone for just one property. The provision in the Ontario Code was for a non-conforming uses.

Councilor Sullivan asked about the church.

Mr. Richey stated it was an outright use in a single family zone.

Mr. Mickelson provided a summary on where the city was on the project. In February 2010, it started with a failed drain field. A number of meetings were held, a Director's Report was prepared, filed with the City Recorder on January 11, 2011, Council approved on January 18<sup>th</sup>, and on February 7<sup>th</sup> the Council approved the creation of an LID. Concurrent with this process the Planning and Zoning Commission recommended zoning to the City Council upon annexation. At a March 31<sup>st</sup> study session, certain code issues were discussed, particularly using Horning Way and Crest Way as historic examples, and what they had been asked to do on their project when sewer and water was extended. It was very similar to the action on Nadine Drive. There was an existing 40' right of way, the neighborhood sought private funding for the project, and had put in 24' of pavement, 5' sidewalks and swales for drainage. At the conclusion of the March 31<sup>st</sup> study session, the Council made a motion *"...to direct staff to reset the public hearing for annexation and rezone and continue on with the sewer and water project and add a concrete ribbon on Nadine Drive with a width of 4'6" if it can be accomplished without increasing the assessments to the LID property owners beyond the amounts currently budgeted. There would not be a concrete ribbon on Alameda."* That motion passed 6/1/0.

During April, staff evaluated the options for the Nadine right of way. What had been done on Horning Way would impose serious encroachments on the Nadine properties. The fire chief indicated that the allowable minimums for a residential street are 20' with no parking allowed or 26' with parking on one side only.

On April 27<sup>th</sup>, staff met with the Public Works Committee to present several paving width options. As there were a limited number of homes in that area, staff didn't believe a sidewalk was necessary, and a 20-foot cross section with no parking met fire code. Or, 16-foot pavement with a 5-foot concrete ribbon on each side would also be sufficient.

After discussion, a motion was made by Mr. Tuttle that the Public Works Committee recommend to the City Council the following: approve the construction of a 26 foot street width on Nadine Drive, 24 feet of paving with 1 foot ribbon curb on both sides; that the property owners on Nadine Drive participate in any storm drainage costs or problems that arise when Alameda Drive is fully developed; that the 17 property owners be responsible for the 155 feet of sanitary sewer and 110 feet of water mainline extension on Alameda Drive. Motion carried 6-0-1.

Costs will be increased with the additional width of pavement over what presently exists along with the sewer and water line at the north end of Nadine. Mr. Mickelson looked at the previous estimates and indicated that costs might increase as much as 18.6%, however we are in a positive bidding climate and contractors are likely to be very aggressive in their bids.

Currently the drainage runs onto private property. They could install a depressed swale behind a 1-foot ribbon curb; however that had been done initially on Horning Way and Crest Way, and they no longer existed. The home owners had filled them in with landscaping, driveways etc. Also, the PWC wanted the Nadine Drive neighborhood to participate in the costs when Alameda widened. That would be in the future, and it would be an entirely different issue.

Ontario Municipal Code 8-7-2-d spoke to sewer. In regards to that issue, staff would need a Notice of Completion and if someone were to ask for a waiver for the connection, he would work with that applicant.

If the Council accepted the PWC's recommendation, some action would be needed by Council to rescind the original motion, and a new one would need to be made.

Councilor Sullivan asked about the cost per person, and the possibility of the prices coming in at 80% of the estimate. It would obviously be affected by the oil prices, but using the most recent specifications, would it potentially come in at the same price as originally quoted?

Mr. Mickelson stated he had reviewed a recent sewer extension project on SW 4<sup>th</sup>. Looking at the average bid, the low bidder was 25% lower than the average. On sewer, it was substantially lower. Contractors were hungry, but he couldn't guarantee prices would come in lower than estimated. They needed to finish the design and go out for bid. However, another option for the city to consider was instead of a 26-foot section, to meet fire code, they could put in a 20-foot roadway section with no parking. That would be more in line with original estimates.

Councilor Sullivan verified a 26-foot road would allow parking on one side.

Mr. Mickelson stated 24-foot asphalt, with 1-foot of concrete on each side.

Councilor Sullivan asked if they could bid the 26-foot, and change the width without having to rebid the entire project.

Mr. Mickelson stated that rather than have to rebid, they could have two alternatives in one bid – a 26-foot and a 20-foot option. That would be 26-foot with parking on one side, or 20-foot with no street parking. Currently, they had about 18-foot of asphalt.

Councilor Fox asked if it was practical to assume no one would park on the street. Did the PWC make any comment regarding the narrow street, or the fire code issues? Did those same rules apply to the alleys in Ontario?

Mr. Mickelson stated he could not answer the fire questions, and wanted to defer those to the Fire Chief.

Mayor Dominick stated they had talked to the Fire Chief about the 20-foot minimum, and also about how the garbage trucks maneuvered in there. Parked cars got honked at. A minimum of 20-feet with a parked car on the side would cause problems.

Mr. Mickelson stated that Scott Wilson, Ontario Sanitation Service, was a member of the PWC and was in attendance at the meeting. The garbage trucks used the cul-de-sac area to back up and get turned around. The PWC recommended the 26-foot street with parking on one side.

Mr. Sullivan stated what staff was doing was proceeding forward with annexation and rezone. The Council didn't have the responsibility today to decide the specific scope of work to be done. That would come at some point, but right now, one whereas clause in the ordinance indicated the purpose was to extend utilities in the area to protect if from failing septic systems. The discussion held by the Council was that as long as the Council had the goal of doing the work following the annexation, it wasn't necessary for the Council to designate the scope now. That would be done following the annexation and the bids received for the project. The discussion was beneficial to the residents, but unnecessary today to decide on the particulars.

Mayor Dominick stated once a section of the community annexed, there was no provision to unannex. He wanted everyone to be aware that OMC 8-7-2(d) required them to hook up to sewer after they were annexed.

Mr. Sullivan stated they could rescind the motion made on March 31, 2011, that portion dealing with dimensions. Not because it had to be replaced by other dimensions, but because that piece wasn't necessary as part of the annexation process. However, it might be beneficial to do that now. The motion could be made before the public hearing to allow for discussion.

Councilor Jones asked what happened when the area was annexed and the residents were required to abide by the code.

Mr. Sullivan stated annexation first, then form the LID to decide the scope of work. They would bring the properties in, recognizing that the primary reason for the LID was to hook into city utilities.

Councilor Crume asked what happened if they approved the annexation that night, and the bids came in \$100,000 over, and the residents refused to do the LID – what would happen to the annexation?

Mr. Sullivan restated that they could not unannex. The Council could see what could be afforded, what the residents were able to do. Sometimes there were situations where the residents had to solve their own problems. Once inside the city, they could ask for city assistance once the bids were received from the contractors. Basically, did the Council feel it was in the best interest to move forward with the annexation? It would allow the city to extend utilities to the residents of Nadine Drive. The question for the residents was whether or not, recognizing the uncertainty of the actual costs, where did they stand on the annexation.

Councilor Verini stated it made more sense to bid first to see what the numbers would be from the contractors, before the city did the annexation.

Mr. Sullivan stated that wasn't really fair to the contractors.

Councilor Fox stated he wanted to move on this project, but still had more questions than answers.

Mr. Sullivan stated it was up the Council to decide how they wanted to spend the money. Mr. Mickelson had provided all the information available, and that same information had been shared with the Nadine Drive residents.

Mayor Dominick stated he wanted to hear from the residents, now that all the information was before them.

Joe Dominick moved, seconded by Charlotte Fugate, to rescind the motion made on March 31, 2011, which required the 4.6-foot of concrete ribbon on Nadine Drive. (No roll call – discussion follows)

Councilor Fox asked if they were going to require any curb.

Mr. Sullivan stated that Councilor Fox could ask for consensus for the recommendation from the Public Works Committee to put a motion in final project, but he didn't recommend that. It could be bid with the design in, but the Council would have to define the final scope.

Councilor Fox stated it seemed they were bending the rules.

Mayor Dominick disagreed. They were on track and not breaking any rules.

Councilor Crume asked for clarification on the annexation. What position did that put the city and the residents in if there was an impasse due to costs?

Mr. Sullivan reminded them again that once annexed, it couldn't be undone. It was going to be the city's problem to resolve the issue. Properties that were within the city limits, that were health risks due to septic issues, an annexation would put the burden on the city to get it resolved.

Councilor Sullivan asked if bids could be received prior to doing the annexation.

Mr. Sullivan stated they could with sewer, but there was no provision for an LID for water for property outside the city limits, no city or state code.

Councilor Sullivan agreed they should move forward with the LID.

Mr. Sullivan stated any signed documents for an LID outside the city limits were not binding with respect to water lines, and there would be no meat for enforcing connection once they were annexed in.

Councilor Crume confirmed that once that area was annexed, if the residents didn't want to pay for anything, the city was stuck.

Mr. Sullivan stated the city could move forward with an LID over objections as long as there weren't 2/3 of the majority objecting. There were sufficient numbers of signed documents to guarantee that the LID would be successful.

Councilor Crume asked if that was regardless of the cost that came in.

Mr. Sullivan stated that was more of an issue with the consent to annexation. Residents signed a consent which gave the city the right to control the connection of the properties to sewer and water in perpetuity. The city could only do that through annexation. To move forward, the city could rely on the consents, but had to be doing it in the good faith belief that it would fulfill the purpose of what the residents signed the consents to annex for.

The Mayor opened the hearing for public testimony.

Proponents: None

Opponents: None

Bobby Puckett, residing at the corner lot on Nadine and Alameda, stated *it was his understanding with talking with Mr. Mickelson twice, he was one who hadn't signed the consent the first time, but he had been contacted at work, and was told the while the consent wasn't needed, it would be nice to have. So, Suzanne took it to him, and he signed it. It was explained to him that he was consenting to being annexed for water and sewer for approximately \$15,000. At the first meeting, when they tried to get the city to stick to their agreement, Mr. Sullivan said there was no deal on the table because either side could back out. Now it sounded like they were going to annex first and then whatever the cost was, the residents would have to absorb it. People were now confused. That waiver was signed for approximately \$15,000 each, plus annexation fees. That was the cost at that time. He had now spoken with two neighbors who refused to attend anymore meetings. They didn't want any part of this if it was going to be different, if they were going to be annexed first, and then told the cost. The request came in basically because two residences were having trouble, but none of the rest of them were. Two or three had relatively new drain fields that were about 12-15 years old. His ran uphill, and the duplex ran onto his, running under his property. He wasn't having any trouble, and neither were the other two he spoke with. Unless they could get the water and sewer for the quoted \$15,000, they could back out, just like the city could. That was where the three of them stood on the issue.*

Ian Fisher, Calvary Chapel, stated with no LID, then no annexation. They were not interested in annexing if there would be no water and sewer. Now it was backwards. Do the annexation first, and then an LID that might or might not go forward. Would any attorney recommend that move? That was a balmy way to do things.

Mayor Dominick stated the Council was learning as they moved forward. This was the first LID in his four years on the Council. Mistakes were being made, and one made was not understanding the Code correctly. One increase in

cost was the \$28,000 they thought Public Works could pay for, but that went against code. That had to be imposed on the residents of the area. The Council couldn't violate their own ordinances. It was unfortunate.

Mr. Fisher stated they were quibbling over being told no LID, no annexation. It had now been flipped and was now annexation first and then whatever happened, happened.

Mayor Dominic stated that was a concern of the Council. They could annex without an LID, but then there was no way to unannex.

Councilor Sullivan suggested moving forward with the bids to see the numbers to see if it would be over the \$15,000.

Mr. Sullivan stated they could, but to make is very clear to the bidders that their bids were contingent upon the actual annexation of the property. If the Council wanted to move forward, he didn't see an issue as long as the bid documents were drafted clearly, recognizing that contingency. Even if a bid was accepted, it had to be contingent upon the city doing the annexation, and that might discourage some bidders. Maybe they could do the actions simultaneously, having the bid opening along with the 2<sup>nd</sup> reading of the annexation ordinance. Once the bids came in and the Council saw the prices, they could move forward with the annexation. It could be structured that way, as long as the bidders were made aware.

Mayor Dominick asked how many days a bid would be good for.

Mr. Mickelson stated the city set the length of time, typically 60 days. It should be structured with two alternatives. It wouldn't take long, as certain costs wouldn't change, but the ultimate number could be redistributed. They would know if the original \$15,000 was good. They could move forward, finalize the plan, go with two options for bidding, open the bids on July 1<sup>st</sup>, and proceed from there. There was never a guarantee to contractors that any project was ever going to be awarded. The city could reject all bids. All of those issues could be addressed in the preamble.

Mr. Puckett stated he was in support if they stuck to the original option, but opposed if it changed.

Mr. Sullivan stated they needed to make a motion to continue the public hearing until after the bid opening.

David Sullivan moved, seconded by Charlotte Fugate, to continue the public hearing for Ordinance #2655-2011 until after bid openings. (no vote)

Mayor Dominick stated that meant they were going to leave the annexation hearing open; they were not going to vote on whether to annex them in that night or act on the first reading. It would be open until they heard further from the Public Works staff.

Jackson Fox moved, seconded by David Sullivan, to amend the previous motion to continue the Public Hearing until June 20<sup>th</sup>, following the bid opening. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

David Sullivan moved, seconded by Charlotte Fugate, to continue the public hearing for Ordinance #2655-2011 until after bid openings. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Ordinance #2658-2011: Annex/Rezone Brown (Hunter Lane)(1<sup>st</sup> Reading)**

It being the date advertised for public hearing on the matter of Ordinance #2658-2011, 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.

David Richey, Planning & Zoning Administrator, stated the applicants, Michael and Marion Brown, 2040 Hunter Lane, needed to connect their house to city sewer. To accomplish that, it required approximately 500 feet of service line. The Planning Commission addressed the proposed annexation and rezone from Urban Growth Area Residential to a City Zone classification of RD-40 Duplex Residential at the April 11, 2011 meeting, and was recommending approval of Ordinance #2658-2011.

The Mayor opened the hearing for public testimony.

Opponents: None  
Proponents: None

Dave Duncan, Ontario, stated he and his wife had ownership in the recent annexation adjoining Hunter Lane, up on 19<sup>th</sup>, about 6 acres. What was that zoned when those parcels were annexed? The Brown property was on the NW corner. Everything else was rezoned.

Mr. Richey stated most to the South was zoned RD-40, to the East was single family.

Mr. Duncan stated he believed they were single family. Those on Sandy Way were quite adamant that the Duncan property would not allow duplexes, as duplexes devalued property. They bought it from Erlebach and wanted to know what it had been rezoned to.

Mayor Dominick confirmed the Duncans wanted it all annexed the same.

Mr. Duncan stated no duplexes were allowed in the single family zone, so would Mr. Brown's annexation be into a duplex zone.

Mayor Dominic verified that RD-40 was single family, and RD-50 was duplex.

Mr. Richey stated a less restrictive zone could be upgraded to a more restrictive zone. The property was attached as a shoestring annexation going down the streets. Butting against the Brown property was zoned duplex. Two properties were zoned RD-40 and everything surrounding to the South was urban growth, which was not annexed in. Annexation for that would be classified as single family or duplex.

Mr. Duncan stated to the South of Hunter Lane was the property referenced in the proposed ordinance, and it was already annexed. Everything on Hunter, South to the structures, was annexed under RD-50, single family. Sandy Way West to 19<sup>th</sup>, with the exception of the Brown parcel, was zoned RD-50 single family. He couldn't have duplexes, but manufactured homes were allowed, because those couldn't be excluded in RD-50. Mr. Brown was a single family quarter acre lot – why would they consider a duplex on a single lot?

Mr. Richey stated the Brown's property had the Urban Growth Boundary between his property and the area Mr. Duncan was speaking of.

Mr. Duncan stated that was West of 19<sup>th</sup>. He was talking about parcels South of Hunter Lane, over to 19<sup>th</sup>, on the West boundary. What was that zone?

Mr. Richey stated that was zoned RS-50, single family.

Mr. Duncan asked why they would consider a single parcel with a single building as a duplex zone.

Mr. Richey replied because his only attachment to the city was the RD-40 piece, not RS-50. His attachment was through the duplex property. The street right of way was used as a route to put a specific piece of property in the city limits. It was appropriate to upgrade it to RS-50.

Mr. Lawrence suggested continuing this action to the next meeting.

Mayor Dominick stated he wanted to continue the public hearing to do further research on the properties in question.

David Sullivan moved, seconded by Jackson Fox, to continue the Public Hearing for Ordinance #2658-2011 until May 16, 2011. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**BACK TO NEW BUSINESS**

**Ordinance #2657-2011: Amend OMC 7-4-6, add (D) re: Graffiti (1<sup>st</sup> Reading)**

Mark Alexander, Interim Police Chief, stated the Ontario Police Department would like to amend Municipal Code Chapter 4, Title 7, Section 6, by adding Subsection (D), an emergency clause for graffiti removal when that graffiti contained obscenities.

Graffiti on properties that could be viewed by the public from a city right of way attributed to visual pollution and detracted from having a clean, safe, healthful and economically sound community. Ontario Municipal Code required property owners to remove graffiti within a specified time after receiving notice to remove such graffiti. If not addressed, Ontario Municipal Code provided for an abatement process at the cost of the property owner. The Police Department tried to work with property owners, realizing they were victims of crime. Graffiti was a community problem that required cooperation between the police and the citizens. There were resources available for property owners to have the graffiti removed for them.

The Police Department had recently seen graffiti that had profanity and sexual graphics associated with it. An abatement process could take up to 23 days when a property owner was unwilling or unavailable to work with the Police Department for removal. The Police Department would like to have emergency provisions for abatement in the event graffiti contained profanity, obscene graphics, racial comments or was sexual in nature, and therefore proposed changes to Ontario Municipal code Title 7, Chapter 4, Section 6, by adding Subsection (D) which would allow abatement to occur within 48 hours from the time notice was received by a property owner.

Property owners had the right to appeal notices given to abate graffiti; therefore, there could be an increase in those appeals after an abatement had been done, and the department had the means to provide an abatement within 24 hours

Mr. Sullivan stated he wanted to make additional working changes, to make the overall ordinance read better with the new modification. The Council could table the action until May 16 when he could provide a those changes in an updated ordinance, or they could hold the first reading, recognizing there would be changes in the ordinance that came forward for the second and final reading.

David Sullivan moved, seconded by Ron Verini, the Council adopt Ordinance #2657-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTION 6, ADDING SUBSECTION (D), on first reading by title only. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Change Order #1 Contract Award for ConnectOregon 3 FAA Project #3-41-0044-008/009/010: Runway, Taxiway, and Apron Rehabilitation and Runway Lighting**

Alan Daniels, Airport Manager, stated the proposed change order was required to fully utilize the grant. This change order total was \$550,236.60 for a revised contract total of \$3,596,691.76. The Council approved the award to Valley Paving & Asphalt on April 4, 2011.

Ron Verini moved, seconded by Norm Crume, that the City Council authorize the City Manager to be signatory on change order #1 to the contract with Valley Paving & Asphalt for the Airport Improvement Project FAA #3-41-0044-008/009/010. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS**

- Councilor Fox stated Mr. Daniels had brought something up at the work session, and asked if that issue had been completed.

Mr. Daniels stated it had.

- Councilor Jones stated the abandoned gas station was getting worse. Where were they at on that process?

Mr. Sullivan replied that was something that they needed to get back on the Agenda. The time given for DEQ to submit a grant request for funds to do clean up was getting close. He would contact his contact to see if the Council could move forward.

Councilor Jones stated if it was stalling, then maybe they could get permission from the owner to at least teardown the canopies, to get rid of the pigeons.

- Councilor Verini stated they lost a soldier from the 116<sup>th</sup>, Foxtrot Company. While not from combat, but a soldier none the less. Also, a soldier from Charlie Company had received a purple heart.
- Mayor Dominick reminded everyone of the upcoming budget meetings starting tomorrow at 6pm.
- Mr. Duncan stated with regard to the graffiti item on the agenda – what provisions did the city have for removing graffiti quickly, or to prevent it initially?

Captain Alexander stated the police were working on it, and neighbors helped.

Mr. Duncan asked what incentive was out there to turn in a graffiti artist.

Mayor Dominick stated there was no reward, maybe self-satisfaction.

Mr. Duncan suggested that the Council entertain the idea of a monetary incentive, and maybe businesses could contribute, especially those that had been hit.

**ADJOURN**

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

ATTEST:

\_\_\_\_\_  
Joe Dominick, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

**SPECIAL STUDY SESSION MINUTE EXERPT  
Liquor License Application: New Outlet  
Vegas County (Full On Premises Sales)  
April 28, 2011**

During the regularly schedule study session of April 28, 2011, Agenda item 7A, Liquor License Application: New Outlet – Vega Country (Full On Premises Sales) was opened up for discussion and action. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, Dan Jones, Jackson Fox, David Sullivan, and Ronald Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Al Higinbotham, Larry Sullivan, Lisa Hansen, Alan Daniels, Kathy Daly, Chuck Mickelson, Mark Alexander, David Richey, Suzanne Skerjanec and Rachel Hopper.

Also present: Larry Meyer, Argus Observer; Loni Debban, MCOA; Dan Cummings, CK3 LLC; Tony Kahman and Dave Waldo, Waldo Insurance; and Stefan Schachtell, Vegas Country.

**OLD BUSINESS**

**Liquor License Application: New Outlet – Vegas Country (Full On Premises Sales)**

Mark Alexander, Interim Police Chief, stated after the County meeting of Monday, April 18<sup>th</sup>, and the questions and comments arising from that meeting, he had conducted further research into the applicants and the application for a new outlet, primarily the comments regarding the potential adult entertainment that might take place in the establishment. Chief Alexander had spoken personally with the applicant, Mr. Stefan Schachtell, and Mr. Schachtell had assured the Chief that he would NOT be any adult entertainment of any type at his business.

Councilor Sullivan asked if Mr. Schachtell would e the sole owner of the business.

Stefan Schachtell stated he would be.

Councilor Fox asked who Mike McGinnis was.

Mr. Schachtell stated that Mr. McGinnis was a personal friend, and a resident of Boise with experience in this type of business. He was helping Mr. Schachtell with the details of opening his business.

Councilor Fox stated he had heard rumors that Mr. McGinnis was an owner.

Mr. Schachtell stated that was incorrect. He was the only owner; Mike was just helping.

Councilor Sullivan asked if Mr. McGinnis should be on the application, or was he not qualified.

Mr. Schachtell stated he didn't want him on the application, and he didn't need to be on it.

Councilor Sullivan stated he might reconsider adding Mr. McGinnis.

Councilor Jones verified that Mr. Schachtell had not intention of adding adult entertainment to his establishment.

Mr. Schachtell stated absolutely not, his wife would kill him!

Councilor Crume asked if Mr. Schachtell sold his business, would it be necessary to file a new liquor license application, or would this one remain.

Chief Alexander stated a new application would have to be filed for the new owner. Further, in the interested of the location of Mr. Schachtell, who resided in Boise, and due to the fact the matter had been tabled from the earlier meeting, he requested that if the Council was inclined to pass this request, to do so at the current study session, as opposed to having Mr. Schachtell wait until after Monday's meeting.

Councilor Fox questioned taking action now, as opposed to Monday. What was the rush?

Chief Alexander stated he believed it was a time-sensitive issue as the application had to be approved and moved on through two other locations (Nyssa, locally, and Salem, for the state) for approval. Mr. Schachtell wanted to get moving on his business.

Councilor Fox still believed the action should wait until Monday's televised meeting.

Councilor Sullivan asked what Mr. Schachtell's current employment was.

Mr. Schachtell stated he was retired from Albertson's, and was currently a wine distributor in Idaho.

Councilor Sullivan questioned Mr. Schachtell's response to question 12A on the liquor license application.

Mr. Schachtell stated he had contact OLCC in Salem and asked about that, and he believed he answered it according to OLCC requirements.

Councilor Jones voiced his agreement that Mr. Schachtell had answered his concerns from the Monday meeting, and felt the action should be addressed at the current study session.

Councilor Fugate stated she had concerns with the comments made based on rumors at the Monday meeting. It would appear it was defamation of character based solely on rumors and hearsay. Ontario needed to put out a welcoming reputation.

Councilor Jones disagreed. The Council had concerns over some things they had heard, and Mr. Schachtell had come forward and put those concerns to rest.

Councilor Fugate stated that should not have happened, if based solely on rumors.

Councilor Fox voiced his disagreement, again, of voting on an action at the study session. They should wait until the Monday meetings that were televised.

Dan Jones moved, seconded by Charlotte Fugate, that the City Council approve the application for New Outlet / Full On Premises Sales liquor license for Vegas Country. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**ADJOURN**

Meeting adjourned back into a regular study session.

ATTEST:

\_\_\_\_\_  
Joe Dominick, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

## CONSENT AGENDA REPORT

May 16, 2011

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION #2011-110: ADOPTING THE AMENDMENTS TO THE RULES AND PROCEDURES OF THE ONTARIO CITY COUNCIL**

DATE: May 4, 2011

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### **SUMMARY:**

Attached is the following document:

- Resolution #2011-110 w/Exhibit "A"

The Ontario City Council voiced the need to update the Rules and Procedures of the Ontario City Council, to include some language modifications, additions, and the insertion of Robert's Rules of Order as the specified provider of the governing rules for this elected body.

### **PREVIOUS COUNCIL ACTION:**

09/05/95 Council adopted the Rules and Procedures of the Ontario City Council.  
01/04/05 Council adopted the updated Rules.  
03/21/05 Council adopted the updated Rules.

### **DISCUSSION:**

During the March 3, March 17, April 14 and April 28, 2011 study sessions, the City Council discussed and reviewed the individual changes requested by Council members for inclusion in the Council Rules. At the direction of Council, staff implemented the changes into the Rules, and the revised edition was now before Council for adoption through Resolution #2011-111.

The Sections specifically addressed are as follows:

### **SECTION III – AGENDA:**

Section III shall now include the following paragraph, in addition to existing language in the section:

*The Mayor, Councilor, or the City Manager may place an item on the agenda. The Mayor, a Councilor, or the City Manager, may submit emergency items to the Council during the Council meeting at the time provided in the order of business. Excepting*

*emergency actions necessary in the furtherance of the public health, safety, or general welfare, other than time-sensitive issues, no Council action shall be taken on any item not included on the published agenda. To keep an informed public, all efforts shall be taken to vote on agenda items during regular Council meetings with video/audio equipment operating.*

**SECTION XI - DECORUM:**

Section XI(c) shall now read:

*The Mayor or Presiding Officer has the authority to stop a personal attack on any Council member, person of the audience, or member of the public; stop all debate on any matter that is not pertinent to the issue currently before the Council; or stop any loud and/or obnoxious conduct from, or by, a Councilor or member of the public. If that person does not stop upon the Mayor or Presiding Officer's order, that individual will be removed from the Council meeting.*

**SECTION XII - ENFORCEMENT OF DECORUM:**

Section XII shall now read in its entirety:

*The City Manager shall appoint a Sergeant-at-Arms at the Council meetings. The City Manager or the City Manager's designee(s) shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting. Upon instructions of the presiding officer, it shall be the duty of the Sergeant-at-Arms to remove any person or Councilor who violates the order and decorum of the meeting.*

**SECTION XIV - PROCEDURES FOR DEBATE DURING THE PUBLIC HEARING:**

Section XIV(10) shall now read in its entirety:

*Discussion by Council members: The order of recognition of Council members desiring to speak shall be determined by the presiding officer. Each Council member shall be allowed at least one opportunity to speak. **The Council member shall limit his or her comments to a reasonable period of time.** Any comments of a member in excess of five minutes may be limited by a motion to limit comment and immediate majority vote of the members present.*

**SECTION XVI - SPECIAL COMMITTEES:**

Section XVI(g) has been added to read in its entirety:

*Upon completion of action necessary by an appointed Ad-Hoc Committee, said Committee will cease to be active and shall become obsolete.*

**SECTION XXI - RULES OF ORDER:**

Section XXI shall now read in its entirety:

*All cases not specifically provided for herein or in the Charter of the City of Ontario shall be governed by Robert's Rules of Order.*

**RECOMMENDATION:**

Staff recommends passage of Resolution #2011-110.

**RESOLUTION #2011-110**

**A RESOLUTION ADOPTING THE AMENDMENTS TO THE  
RULES AND PROCEDURES OF THE ONTARIO CITY COUNCIL**

- WHEREAS,** the Ontario City Council expressed the need to update the existing Council Rules, last updated March 21, 2005; and
- WHEREAS,** each City Councilor was afforded the opportunity to review and submit modifications to the document; and
- WHEREAS,** Section III – Agenda, Section XI(c) – Decorum, Section XII – Enforcement of Decorum, Section XIV(10)– Procedures for Debate During the Public Hearing, Section XVI(g) – Special Committees, and Section XXI – Rules of Order, have now been updated with the requests presented by the Council (Attachment A complete document).

**NOW THEREFORE, BE IT HEREBY RESOLVED** by the Ontario City Council that the Rules and Procedures of the Ontario City Council be adopted as updated.

**EFFECTIVE DATE:** Effective immediately upon passage.

**PASSED AND ADOPTED** by the City Council of the City of Ontario this \_\_\_\_\_ day of May, 2011, by the following vote:

AYES:

NAYES:

ABSENT:

**APPROVED** by the Mayor this 6<sup>th</sup> day of December, 2010.

\_\_\_\_\_  
Joe Dominick, Mayor

**ATTEST:**

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

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# **Rules and Procedures of the Ontario City Council**

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**City of Ontario, Oregon  
Adopted September 5, 1995  
Updated May 16, 2011**

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# CITY COUNCIL RULES AND REGULATIONS CITY OF ONTARIO, OREGON

## PREAMBLE:

These rules and regulations are promulgated pursuant to the Charter of the City of Ontario.

## SECTION I - RULES OF JOURNAL:

The Council shall determine its own rules, order of business, conduct of public meetings, and shall provide for keeping a journal of its proceedings. This journal shall include minutes of each and every open public meetings of the Council and shall be a public record.

Executive Sessions shall be advertised on the adopted Agenda, stating ORS authority, but no formal minutes will be taken. Members of the media are allowed to remain, but are strictly prohibited from reporting on any issues discussed. Copies of transcribed minutes may become available upon written request from an attorney when the minutes pertain to a pending or potential legal action. Availability of Executive Session minutes will be determined by the City's legal counsel. No formal action shall be taken during an executive session.

## SECTION II - MEETINGS:

**Regular Meetings** shall be held at least once each month. Regular meetings will normally convene on the first and third Mondays of the month at 7:00 p.m. in the Council Chambers, or other properly noticed location. If a regular meeting day falls on a legal holiday, the meeting shall be held on the next following business day. Written communication can be attached into the record following submission of document(s).

**Work Sessions** will be scheduled by minute action as needed, with at least 24-hours advance public notice. No formal action shall ordinarily be taken during a work session. Council may invite public comment during the work session.

**Special Meetings** may be called by minute action of the Council or upon request of the Mayor or City Manager on at least 24-hours notice to each member of the Council. Simultaneous notice to the media shall be required for all special meetings.

**Executive Sessions** may only be held for the purposes allowed by ORS 192.660, Oregon Public Meetings Law. No formal action shall be taken during an executive session.

**Notice of Meetings** will include the time, place and agenda and will be provided to the media and posted in a public place at least 24-hours in advance of a scheduled meeting. In case of an emergency, notice will be as long as is reasonable under the circumstances.

Excepting executive sessions, authorized to be closed pursuant to ORS 192.660, all meeting shall be public.

### **SECTION III - AGENDA:**

The Mayor, Councilor, or the City Manager may place an item on the agenda. The Mayor, a Councilor, or the City Manager, may submit emergency items to the Council during the Council meeting at the time provided in the order of business. Excepting emergency actions necessary in the furtherance of the public health, safety, or general welfare, other than time-sensitive issues, no Council action shall be taken on any item not included on the published agenda. To keep an informed public, all efforts shall be taken to vote on agenda items during regular Council meetings with video/audio equipment operating.

The City Department Managers shall submit requests for items for consideration on the agenda to the City Recorder in such form and in accordance with the schedule established by the City Recorder. All reports, communications, ordinances, resolutions, contract documents, and other matters to be submitted to the Council shall be delivered to the City Recorder for submission to the City Manager for approval in accordance with the agenda schedule. The City Recorder shall list the matters according to the order of business and furnish each member of the Council, the City Manager, the media, and department heads with a copy of the agenda prior to the Council meeting. No item shall be submitted to the Council, except through the City Manager and City Recorder; however, any member of the public, member of the Council, or the City Manager may submit emergency items to the Council during the Council meeting at the time provided in the order of business. Excepting emergency actions necessary in furtherance of the public health, safety, or general welfare, no Council action shall be taken on any item not included on the published agenda.

### **SECTION IV - CALL TO ORDER - PRESIDING OFFICER:**

The Mayor, or in the Mayor's absence the President of the Council, shall call the Council meeting to order at the scheduled meeting time. In the absence of the Mayor or President of the Council, the City Recorder shall call the Council meeting to order. A temporary presiding officer shall then be elected by the members of the Council present. When the Mayor or President of the Council arrives, the temporary presiding officer shall relinquish the chair when the business immediately before the Council is finished.

The Mayor shall be the presiding officer of the Council. The presiding officer shall preserve strict order and decorum at the regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order. Any decision or ruling of the Mayor may be appealed to the Council as a whole by request of any member. The Mayor shall call for a roll call vote to see if the chair shall be upheld; if the roll call vote loses, the Mayor is reversed.

### **SECTION V - ROLL CALL:**

Before proceeding with the business of the Council, the City Recorder shall call the roll of the members, and the names of those present shall be entered into the minutes.

## **SECTION VI - QUORUM:**

A quorum shall consist of a majority of the members of the Council; however, excepting those actions where the minimum number of affirmative votes is specifically set forth in ORS or by City Charter, no action of the Council shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

## **SECTION VII - ORDER OF BUSINESS (Regular Meetings):**

The Mayor, on the Mayor's own initiative, or the Council by majority vote, may consider items out of sequence from the printed agenda.

- a) Consent agenda matters are routine and may be adopted by one motion. There will be no discussion of separate items, unless members of the City Council, staff, or the public requests that a specific item be discussed or removed from the consent agenda for individual consideration.
- b) Public Meetings Law does not require the Council to give opportunity for public input. Time for unscheduled public appearances may be provided at Council discretion to address matters not on the agenda. In such instances, the guidelines in Section X(b) and XI(b) shall apply. No Council response to such comments are allowed under State Statute.
- c) Procedure for public hearings are discussed in Section XIV.
- d) Procedures for submitting petitions are discussed in Section XV.
- e) If the City Council wishes to adjourn to a later time, the Council must pass a motion specifying the date and time to which the regular meeting is being adjourned. A motion to adjourn shall always be in order except during the attendance roll call vote. When a motion is made and seconded to adjourn, any member of the Council may state why it is improper for the Council to adjourn. That statement, however, shall not be debatable and shall not take more than two minutes.

## **SECTION VIII - PROCEDURES FOR DEBATE:**

On those issues requiring debate, the presiding officer shall state the issue before the Council. Unless Council by consensus determines no request is necessary, staff shall have an opportunity to report on the issue and will respond to Council questions. Council members shall be allotted time to present their positions and concerns. Public Meetings Law does not require the Council give opportunity for public input. Interested members of the community may, at Council discretion, also have an opportunity to express their positions on any issue coming before the Council. Council may limit the amount of time allotted for discussion.

A motion and second on the issue will be allowed after all interested parties have had an initial opportunity to express their views. Discussion can continue after the motion is made; however, after a motion is on the floor, except for questions from the Council, discussion shall be restricted to Council

**SECTION IX - RULES OF DEBATE:**

- a) **PRESIDING OFFICER MAY DEBATE AND VOTE, ETC.:** While the primary role of the presiding officer is to facilitate deliberations, the Mayor or member of the Council who is presiding may move, second, and debate from the chair, subject only to such limitations of debate as are imposed on all members. The presiding officer shall not be deprived of any of the rights and privileges of the Council members.
- b) **GETTING THE FLOOR - IMPROPER REFERENCES TO BE AVOIDED:** Every member desiring to speak, upon recognition by the presiding officer, shall confine him or herself to the question under debate, avoiding all personalities and indecorous languages.
- c) **INTERRUPTIONS:** A member, once recognized, shall not be interrupted when speaking unless it is to call the member to order. If a member, while speaking, is called to order, the member shall cease speaking until the question of order is determined, and, if in order, shall be permitted to proceed.
- d) **PERSONAL PRIVILEGE:** The right of a Council member to address the Council on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are questioned, or where the welfare of the Council is concerned. A Council member may interrupt another speaker if the Mayor recognizes the "privilege."
- e) **PRIVILEGE OF CLOSING DEBATE:** The Council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

**SECTION X - ADDRESSING THE COUNCIL:**

Oregon's Public Meeting Laws require the meeting be open to the public; however, nothing in those laws require that the public be allowed to speak or participate in a meeting. Any person wishing to address the Council shall first secure permission of the presiding officer to do so. The Council may limit the length of time that a person is permitted to address the Council.

- a) **WRITTEN COMMUNICATIONS:** Interested parties or their authorized representatives may address the Council by written communications in regard to matters under discussion.
- b) **ORAL COMMUNICATIONS:** Citizens attending a regular meeting may address the Council on any matter concerning the City's business, or any matter over which the Council has control, provided there is time allotted on the Agenda. Each person addressing the Council shall read his or her name and city of residency into the public record. Oral presentations shall not be repetitious and shall be confined to three minutes maximum duration.
- c) **AFTER MOTION MADE:** No person shall address the Council after a motion is made without first securing the permission of the Council to do so.

**SECTION XI - DECORUM:**

- a) **BY COUNCIL MEMBERS:** While the Council is in session, the members must preserve order and decorum. A member shall neither by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any member while speaking, or refuse to obey the orders of the Council or its presiding officer, except as otherwise herein provided.

- b) **BY PERSONS:** Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Council, or who interferes with the order of business before the Council, and who fails, upon request of the presiding officer to cease such activity, shall be barred from further audience before the Council, unless permission to continue is granted by a majority vote of the Council.
- c) The Mayor or Presiding Officer has the authority to stop a personal attack on any Council member, person of the audience, or member of the public; stop all debate on any matter that is not pertinent to the issue currently before the Council; or stop any loud and/or obnoxious conduct from, or by, a Councilor or member of the public. If that person does not stop upon the Mayor or Presiding Officer's order, that individual will be removed from the Council meeting.

#### **SECTION XII - ENFORCEMENT OF DECORUM:**

The City Manager shall appoint a Sergeant-at-Arms at the Council meetings. The City Manager or the City Manager's designee(s) shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting. Upon instructions of the presiding officer, it shall be the duty of the Sergeant-at-Arms to remove any person or Councilor who violates the order and decorum of the meeting.

#### **SECTION XIII - VOTING:**

- a) **ROLL CALL:** All votes shall be by roll call.
- b) **PRECEDENCE OF MOTIONS:** When a motion is before the Council, no motion shall be entertained except (1) to limit comment; (2) to adjourn; (3) to fix hour of adjournment; (4) to lay on the table; (5) to call for the previous question; (6) to continue to a certain day; (7) to refer; (8) to amend; (9) to postpone indefinitely; or (10) to divide the question. These motions shall have precedence in the order indicated.
- c) **AMENDMENTS:** No more than one amendment to an amendment is permitted. When an amendment is before the Council, the Council shall vote first on the amendment. After the amendment has passed or failed, the Council shall vote on the main motion.
- d) **MOTION TO ADJOURN:** If the City Council wishes to adjourn to a later time, the Council must pass a motion specifying the date and time to which the regular meeting is being adjourned. A motion to adjourn shall always be in order except during attendance roll call vote. When a motion is made and seconded to adjourn, any member of the Council may state why it is improper for the Council to adjourn. That statement, however, shall not be debatable and shall not take more than two minutes.
- e) **MOTION TO TABLE:** The purpose of this motion is to temporarily by-pass the subject. A motion to lay on the table is undebatable and shall preclude all amendments or debate of the subject under consideration. If the motion prevails, the matter may be "taken from the table" at any time prior to the end of the next regular meeting. A matter taken from the table cannot be acted upon if it does not appear on the published agenda.
- f) **MOTION TO CONTINUE:** The purpose of this motion is to delay consideration of a subject until a future time. A motion to continue shall include the specific date when the subject shall again be considered.

- g) **MOTION FOR PREVIOUS QUESTION:** The purpose of this motion is to close debate on the main motion. It is undebatable, and no further discussion shall be permitted until the motion is acted upon. If the motion fails, debate is reopened; if motion passes, then the Council shall vote on the main motion.
- h) **DIVISION OF THE QUESTION:** This may be used when a motion or resolution contains several parts, and the group wishes to vote on each part separately.
- i) **WITHDRAWAL OF MOTION:** When a motion is made and seconded, it shall be so stated by the Chair before debate commences. A motion may not be withdrawn by the mover without the consent of the member seconding it.
- j) **CONFLICT OF INTEREST:** Council members shall abide by the provisions of ORS 244.010. When a Council member determines that he or she has a conflict of interest, the member shall announce such conflict and refrain from discussing or voting upon the matter. Council members shall step down from the dais and join the audience until action is completed, when they shall return to their seat.
- k) **EX-PARTE CONTACT:** Council members shall abide by the provisions of ORS 227.180 regarding pre-hearing or ex-parte contacts.
- l) **COUNCIL MEMBER REQUIRED TO VOTE:** Council members are required to vote on all issues placed before them unless excused under provisions of subsection (j) above.
- m) **RECORDING VOTE - THE VOTES:** The journal of the proceedings of the Council shall record each individual Council member's vote on all ordinances, resolutions, and franchises. In the case of a tie in votes on any motion, the motion shall be considered lost; however, in the case of a tie vote the questions shall automatically be placed on the next regular meeting agenda.
- n) **MOTION TO RECONSIDER:** A motion to reconsider any action taken by the Council may be made only on the day the action was taken or at the next regularly scheduled meeting following the day when the action was taken. It may be made during the same session or at an adjourned session. A motion to reconsider must be made by one of the prevailing side, but may be seconded by any member. A question failing by virtue of a tie vote may be reconsidered by motion of any member of the Council. The motion may be made at any time. It shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council, except that no action shall be taken on any subject not included in the published agenda.

**SECTION XIV - PROCEDURES FOR DEBATE DURING THE PUBLIC HEARING:**

The following shall be the procedure during public hearings:

- 1) Presiding officer asks members of the Council to state for the record any instance of ex-parte contact, any conflicts of interest, or if there are any objections to the Council's jurisdiction over the action that could be pertinent to the public hearing.
- 2) A staff report will be given by the appropriate staff member, followed by relevant questions by Council members.

- 3) Presiding officer opens the public hearing.
- 4) Brief opening statement by the proponent initiator, if any, explaining and advocating the item (of approximately five (5) minutes, or such time as is stipulated by the presiding officer).
- 5) Testimony by members of the public who support the item the time limit for such testimony to be determined by the Council as reasonably necessary to elicit testimony concerning the matter under consideration.
- 6) Testimony by members of the public who oppose the item, the time limit for such testimony to be determined by the Council as reasonably necessary to elicit testimony concerning the matter under consideration.
- 7) Written communication filed with the City Recorder read into the record.
- 8) Brief closing statements by the proponent initiator, if any, (limited to approximately five (5) minutes).
- 9) Presiding officer closes the public hearing.
- 10) Discussion by Council members: The order of recognition of Council members desiring to speak shall be determined by the presiding officer. Each Council member shall be allowed at least one opportunity to speak. **The Council member shall limit his or her comments to a reasonable period of time.** Any comments of a member in excess of five minutes may be limited by a motion to limit comment and immediate majority vote of the members present.
- 11) Motion and second.
- 12) Vote.

#### SECTION XV - PETITIONS:

Any citizen may appear before the Council at any regular meeting and present a written petition. The petition shall be acted upon by the Council, in the regular course of business, within thirty days. Petitions, remonstrances, communications, and comments or suggestions from citizens present shall be heard by the Council. All such remarks shall be addressed to the Council as a whole, and not to any member thereof. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. No question shall be asked of a Council Member except through the presiding officer. Absent an emergency, the Council shall neither deliberate toward a decision, nor vote on any matter not included on the printed agenda.

#### SECTION XVI - SPECIAL COMMITTEES:

When the Council determines that a board, commission, task force, or citizen's committee is needed, the following procedure shall be used:

- a) The party proposing the creation of the board, commission, task force, or citizen's committee will prepare the appropriate Council action (either an ordinance or a resolution) defining the purpose, duties and objectives of the committee and whether it is to be an ad hoc or continuing committee. If proposed as an ad hoc committee, the Council action shall specify when the committee's work is to begin and to conclude.

- b) The ordinance or resolution will be submitted to the City Recorder for placement on an agenda for Council discussion.
- c) The Council shall approve, modify, or reject the ordinance or resolution.
- d) Once a board, commission, task force, or citizen's committee is approved, the City Recorder shall publish notice soliciting interested and qualified volunteers to file letters of interest for appointments.
- e) The Council shall interview all applicants and announce its selections and appointments at a regular meeting.
- f) Terms of appointment to any board, commission, task force, or citizen's committee shall not exceed five years. Council may, by ordinance, establish a limitation on the number of terms appointees may serve. All permanent boards and commissions including advisory and appeal boards shall be created by ordinance which ordinance shall set forth the policies and duties delegated to such boards and commissions. Temporary and ad hoc committees may be created by resolutions.
- g) Upon completion of action necessary by an appointed Ad-Hoc Committee, said Committee will cease to be active and shall become obsolete.

**SECTION XVII - ABSENCE / ATTENDANCE:**

Councilors shall endeavor to attend all noticed meetings of the City Council.

**SECTION XVIII - VACANCIES - FORFEITURE OF OFFICE:**

- 1) A Council office shall become vacant upon a Councilor's:
  - a) Death;
  - b) Adjudicated incompetence;
  - c) Conviction of a crime pertaining to the office, conviction of a felony, or conviction of a crime involving moral turpitude;
  - d) Unlawful destruction of public records;
  - e) Resignation;
  - f) Recall from office;
  - g) Ceasing to possess the qualifications for office;
  - h) Failure, following election or appointment to the office, to qualify for the office within 10 days after the time for the term of office to commence;
  - i) Violation of any provision of the City Charter;
  - j) Un-excused absence from three consecutive noticed meetings, including any special meetings called pursuant to these rules.
- 2) The Council shall judge when a Council office has become vacant.

**SECTION XIX - USES OF STAFF:**

Except for the purpose of accessing public information, Council members shall deal with the City's administrative services solely through the City Manager. No Council member shall request from the City Manager any staff project that entails over two hours of staff work without first seeking approval of the full City Council.

## OLD BUSINESS - AGENDA REPORT

May 16, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Chief of Police

Through: Henry Lawrence, City Manager

**SUBJECT: ORDINANCE #2657-2011: AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTIONS 6 AND 7, OF THE NUISANCE PROVISIONS, (Final Reading)**

DATE: May 4, 2011

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### **SUMMARY:**

Attached is the following document:

- Ordinance #2657-2011

The Police Department would like to amend Municipal Code Chapter 4, Title 7, Sections 6 and 7, by adding an emergency clause for graffiti removal when graffiti contains obscenities and decreasing the time abatement may occur.

### **PREVIOUS COUNCIL ACTION:**

May 1, 2011 Council approved Ordinance #2657-2011 on First Reading.

### **BACKGROUND:**

Graffiti on properties that can be viewed by the public from a city right of way attributes to visual pollution and detracts from having a clean, safe, healthful and economically sound community.

Ontario Municipal Code requires property owners to remove graffiti within a specified time after receiving notice to remove such graffiti. If not addressed, Ontario Municipal Code provides for an abatement process at the cost of the property owner.

The Police Department has recently seen graffiti that has profanity and sexual graphics associated with it.

An abatement process can take up to 23 days when a property owner is unwilling or unavailable to work with the Police Department for removal.

The Police Department would like to have emergency provisions for abatement in the event graffiti contains profanity, obscene graphics, racial comments or that is sexual in nature. The Police Department proposes changes to Ontario Municipal code Title 7, Chapter 4, Section 6, by allowing abatement to occur within 48 hours from the time notice is received by a property owner.

The Police Department would like to decrease the time it takes to abate graffiti when a property owner is unwilling or unresponsive. The Police Department proposes changes to Ontario Municipal code Title 7, Chapter 4, Section 7, by decreasing the abatement period to 15 days without having to send a second notice.

**FINANCIAL IMPLICATIONS:**

Property owners have the right to appeal notices given to abate graffiti. We could see an increase in those appeals after abatement has been done.

**RECOMMENDATION:**

Staff recommends the City Council adopt Ordinance #2657-2011.

**PROPOSED MOTION:**

I move the Council adopt Ordinance #2657-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 7, CHAPTER 4, SECTIONS 6 AND 7, on second and final reading by title only.

After recording, return to:  
City Recorder  
City of Ontario  
444 SW 4<sup>th</sup> Street  
Ontario, OR 97914

**ORDINANCE NO. 2657-2011**

**AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE  
TITLE 7, CHAPTER 4, SECTIONS 6 AND 7**

- WHEREAS,** the City Council of Ontario is authorized through its legislative authority to define nuisances, specifically graffiti, within the City of Ontario; and,
- WHEREAS,** the City Council of Ontario has an interest in providing a clean, safe, and healthy City for its residents; and,
- WHEREAS,** in order to accomplish this mission, there must be a procedure to quickly abate graffiti that is offensive in nature and quickly abate any other graffiti; and
- WHEREAS,** the procedure for giving multiple written notices in City Code Sections 7-4-6 and 7-4-7 is unduly cumbersome and time consuming and should be eliminated.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Ontario, Oregon, as follows:

Section 1. Section 7-4-6 of the Ontario City Code is hereby amended by adding those portions, which are underlined:

7-4-6 Graffiti notice to remove.

(A) Whenever the Chief of Police or his designated representative discovers graffiti on any public or private property or any surfaces visible to persons utilizing public rights-of-way within the City, he shall, whenever seasonal temperatures permit the painting or cleaning of exterior surfaces, cause a notice to be issued to the owner or person in control of the premises to abate the nuisance and remove the graffiti or cover it with paint or other suitable substance.

(B) Said notice shall be served upon the owner(s) of the affected premises, as shown on the last property tax assessment rolls of Malheur County, Oregon, with a copy to the occupant of the premises. If there is no known address for the owner, the notice shall be served at the property address. Service of the notice may be accomplished through personal service on the owner, occupant, or person in charge or control of the property or by certified mail.

(C) Notice shall be in writing and shall clearly state that the owner or person in charge or control of the property is required by this Chapter to remove from public view or paint over the graffiti within fifteen (15) days of receipt of the notice; that failure to so abate will cause the City to abate the nuisance and to assess the costs to the owner; that if the costs of the abatement are not paid within thirty (30) days of the date the billing is sent, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of City liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated. The owner or person served may within ten (10) days of receipt of the notice, deliver in writing to the City Manager his objections to the removal requirement and request a hearing before the City Council.

(D) In the event graffiti contains profanity, obscene graphics, racial comments or is of a sexual nature, the written notice shall require removal within 48 hours from time of receipt of the notice.

(E) If the property owner requests a hearing to show cause before City Council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled City Council meeting. The decision of the City Council shall be final. A ten (10) day period shall be given the property owner after the Council decision so that the property owner shall have additional opportunity to abate the nuisance or to pursue any legal remedies or defenses at the Circuit Court level.

Section 2. Section 7-4-7 of the Ontario City Code is hereby amended by adding those portions, which are underlined and eliminating those portions which are stricken:

7-4-7 City abatement option.

Nuisances which remain unabated after the expiration of the 15-day notice without the filing of an objection by the owner under Section 7-4-6(C), may, ~~at the option of the City,~~ be removed, abated or destroyed by the City or its agents, ~~after the following steps have been taken:~~

~~(A) If after thirteen (13) calendar days from the date a written notice is personally delivered to the property owner, or mailed to the property owner's address as shown in current official Malheur County assessor records, no abatement of the nuisance has occurred, the designated enforcement officer shall provide a second ten-day notice to be delivered to the property owner by certified mail or personal service, which indicate the following:~~

- ~~1. That if the property owner fails to abate the nuisance, the City shall take steps to abate the same.~~

~~2. That the property owner may contract with the City to abate the nuisance and pay costs of the same.~~

~~3. That if the City abates the nuisance, all costs and expenses of abatement shall be billed and assessed against the property owner, and if unpaid, shall become collectable as a special assessment with the annual property tax bill.~~

~~4. That the property owner has a right to appear before the City Council to show cause as to why he or she should not be required to abate or pay for abatement of the nuisance; furthermore, that if the property owner desires such a hearing, a request for hearing, in writing, shall be filed with the Office of the City Manager prior to expiration of the ten (10) day notice, and that abatement by the City shall proceed if the property owner has not exercised this option to request a hearing.~~

~~5. If said certified notice is returned as undeliverable, or is unclaimed by the property owner, nothing shall preclude the City from exercising its abatement option as specified herein.~~

~~(B) When the ten (10) day notice has expired without a request for hearing, the City Manager is authorized to remove, abate or destroy the nuisance. The City Manager may use City personnel to abate the nuisance or may contract with an outside party to abate the nuisance, at the City Manager's discretion.~~

~~(C)(A) If the City abates any nuisance under the provisions of this Chapter, a statement of charges billed to the property owner shall be mailed or personally delivered to the property owner.~~

~~(D)(B) If payment is not received from the property owner within thirty (30) days of the date the billing is sent, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of City liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated; and the lien shall be enforced in the manner as provided in ORS 223.605 through 223.650.~~

~~(E) If the property owner requests a hearing to show cause before City Council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled City Council meeting. The decision of the City Council shall be final. A ten (10) day period shall be given the property owner after the Council decision so that the property owner shall have additional opportunity to abate the nuisance or to pursue any legal remedies or defenses at the District Court level.~~

**APPROVED AND ADOPTED** by the Common Council of the City of Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote.

AYES:

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

\_\_\_\_\_  
Joe Dominick, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

**AGENDA REPORT**  
May 16, 2011

TO: Mayor and City Council

FROM: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION #2011-109: A RESOLUTION DOCUMENTING FEES ESTABLISHED BY ONTARIO SANITARY SERVICE, INC. AND AUTHORIZED BY THE FRANCHISE AGREEMENT BETWEEN THE CITY OF ONTARIO AND ONTARIO SANITARY SERVICE, INC.**

DATE: May 10, 2011

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**SUMMARY:**

Attached is the following document:

- Resolution #2011-109

Ontario Sanitary Service, Inc. (OSS) by franchise agreement with the City is the designated waste hauler within the City limits. Waste collection fees collected by OSS were established through Ordinance #2328, and amended by Ordinance #2435.

OSS desires to amend the rate schedule approved September 1, 2008 by eliminating the Medical Waster 40-Gallon plastic container collection and adding Every-Other-Week Yard Debris Collection.

The attached Resolution incorporates the above-noted changes into the fee schedule.

**FINANCIAL IMPLICATIONS:**

None for the City of Ontario.

**RECOMMENDATION:**

Staff recommends approval Resolution #2011-109.

**PROPOSED MOTION:**

**I MOVE TO APPROVE RESOLUTION #2011-109, A RESOLUTION DOCUMENTING FEES ESTABLISHED BY ONTARIO SANITARY SERVICE, INC. AND AUTHORIZED BY THE FRANCHISE AGREEMENT BETWEEN THE CITY OF ONTARIO AND ONTARIO SANITARY SERVICE, INC.**

**RESOLUTION #2011-109**

**A RESOLUTION DOCUMENTING FEES ESTABLISHED BY ONTARIO SANITARY SERVICE, INC.  
AND AUTHORIZED BY THE FRANCHISE AGREEMENT BETWEEN THE CITY OF ONTARIO  
AND ONTARIO SANITARY SERVICE, INC.**

- WHEREAS,** Staff requests that fees established be accountable by resolution; and
- WHEREAS,** Currently, the waste collection fees collected by Ontario Sanitary Service, Inc., were established through Ordinance #2328, amended by Ordinance #2435, and are therefore not in the Ontario Municipal Code book; and
- WHEREAS,** Ontario Sanitary Service, Inc., desires to amend the rate schedule approved September 1, 2008 by eliminating the Medical Waste 40-Gallon Plastic Container collection and adding Every-Other-Week Yard Debris Collection.

**NOW, THEREFORE, BE IT RESOLVED** by the Ontario City Council that rates for the Ontario Sanitary Service, Inc., shall be:

**Residential Collection and Recycling Rates:**

90-Gallon Roll Cart	Weekly	\$21.15 per month
90-Gallon Roll Cart	Every-Other-Week	\$16.80 per month
	Yard Debris Pick-Up Charge	\$5.00 per month for every-other-week pick up
	Overfull Cart Charge	\$2.70 per occurrence
	Return Trip Charge	\$5.50 per occurrence
	Dump Off Week Charge	\$5.50 per occurrence
	Requested Extra Dump	\$5.50 per occurrence

**Commercial Collection and Recycling Rates:**

Size	1x Week	2x Week	3x Week	4x Week	5x Week	6x Week	Per Dump
1 Yard	\$59.17	\$94.41	\$129.56	\$164.21	\$199.79	\$235.40	\$8.05
1.5 Yard	\$76.98	\$130.10	\$183.09	\$236.23	\$289.29	\$342.61	\$12.10
2 Yard	\$94.40	\$164.86	\$235.45	\$305.88	\$376.43	\$446.88	\$16.12
3 Yard	\$133.75	\$239.55	\$345.24	\$452.22	\$556.74	\$662.55	\$24.15
4 Yard	\$174.93	\$314.04	\$454.04	\$595.98	\$737.00	\$878.08	\$32.25
6 Yard	\$255.61	\$467.04	\$787.10	\$890.08	\$1,112.40	\$1,313.08	\$48.35
8 Yard	\$326.01	\$608.12	\$890.08	\$1,172.16	\$1,454.09	\$1,720.79	\$64.50

**Special Use Containers:**

Delivery Charge	\$20.00	Includes first 2-weeks rent
	\$20.00	Every 2-weeks rental charge (4 weeks maximum)
		Per Dump Charge, by Size

**Drop Box Rates:**

Delivery	No Charge
Haul Charge Drop Box	\$131.70 per haul
Haul Charge Compactor	\$158.00 per haul
Disposal Charge	\$25.00 per ton
Rental Charge	\$5.50 per day (after 3rd day)

**Other Charges:**

Appliances	\$30.00 per appliance
Tires	\$5.00 passenger car tire
	\$15.00 truck tire
	\$35.00 equipment tire
Stop Service/Reconnect Fee	\$25.00 per occurrence

**Medical Waste:**

Sharps Containers	\$2.50 per gallon (one gallon minimum)
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**PASSED AND ADOPTED** by the Ontario City Council this \_\_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

Ayes:

Nays:

Absent:

APPROVED by the Mayor this \_\_\_\_\_ day of May, 2011.

\_\_\_\_\_  
Joe Dominick, Mayor

Attest:

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

## AGENDA REPORT

May 16, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION #2011-111: A RESOLUTION ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS**

DATE: May 4, 2011

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### **SUMMARY:**

Attached are the following documents:

- Resolution #2011-111
- Info sheet on Kratom

This is a Resolution adding to the list of prohibited intoxicating chemicals established under Ordinance #2651-2010. Section 1 (B) of this Ordinance allows additional intoxicating chemicals to be added by Resolution.

### **PREVIOUS COUNCIL ACTION:**

Oct 4, 2010 City Council passed Ordinance #2651-2010, which prohibits the possession, sale, distribution and consumption of certain intoxicating chemical compounds.

### **DISCUSSION**

The creation of Ordinance #2651-2010 was the result of certain businesses selling or opening to sell synthetic cannabis, or more commonly, "Spice". The Ordinance bans the use, possession, sale, distribution and display of sale of a list of intoxicating compounds. At the time, some of these compounds were not considered illegal by the Drug Enforcement Administration or by the Oregon Pharmaceutical Board. Some of these compounds could even be bought over the Internet.

Law enforcement has been challenged with the control of legal substances being used in ways that contribute to illegal behavior and that is detrimental to the health and welfare of the user. The identification, creation, sale and promotion of legal substances that create similar effects to illegal drugs are always being sought.

The police department recently became aware of such a substance, Kratom. This is a medicinal plant that is grown and harvested in Southeast Asia. It is processed like marijuana from a leafy material.

Kratom is being found at head shops and on the Internet. Kratom is being sold in a similar manner as Spice, K2, bath salts and plant food as drugs of abuse.

Under Section 1 (B) of Ordinance #2651-2010, the Council can add to the list of prohibited intoxicating chemicals by Resolution.

The police department recommends adding the following to the list of prohibited intoxicating chemicals:

- Kratom

**STAFF RECOMMENDATION:**

Staff recommends the Council approve Resolution 2011-111.

**PROPOSED MOTIONS:**

I move that the Mayor and City Council approve Resolution 2011-111, **A RESOLUTION ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS.**

**RESOLUTION # 2011-111**

**A RESOLUTION ADDING TO THE LIST OF UNLAWFUL INTOXICATING COMPOUNDS ASSOCIATED WITH THE REGULATION OF THOSE COMPOUNDS UNDER ORDINANCE 2651-2010**

**WHEREAS,** the Ontario City Council adopted Ordinance 2651-2010, which deals with the regulation of non prescription intoxicating compounds; and

**WHEREAS,** the Police Department has identified additional intoxicating compounds with no medical use and is deemed harmful to public health;

**WHEREAS,** the Ontario City Council is authorized in Section 1 (B) of Ordinance 2651-2010 to add these identified compounds to the list of prohibited compounds by Resolution.

**NOW THEREFORE, BE IT RESOLVED** by the Ontario City Council for the City of Ontario:

The following be added to the list of prohibited compounds: Kratom

**EFFECTIVE DATE:** Effective immediately upon passage.

**PASSED AND ADOPTED** by the Ontario City Council this \_\_\_\_ day of May, 2011.

Ayes:

Nays:

Absent:

**APPROVED** by the Mayor this \_\_\_\_ day of May, 2011.

\_\_\_\_\_  
Joe Dominick, Mayor

**ATTEST:**

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

# Kratom Use Is on the Rise

Be On The Lookout

For Immediate Release

The MEDTOX DAR Hotline has experienced a surge in inquiries about Kratom abuse. The DARS Journal has previously reported on the emergence of this drug as an abused substance. Kratom is a medicinal plant that is grown and harvested in Southeast Asia. Thailand and Malaysia are principle sources for this drug; Bali is the genesis for the most potent Kratom in the world. Processed like marijuana, Kratom leaves are plucked and then dried before being prepared as a powder or oily resin.

Kratom crushed leaves or powder can be prepared as a tea or warm beverage, or can also be in capsule form. The drug can be sour tasting, and as a result, Kratom tea drinkers must add flavoring to the beverage to offset the bitterness. The effects of Kratom are dose dependent; with 3 to 5 grams of crushed Kratom leaf (or ½ teaspoon of Kratom 15X powdered extract) needed to get high. Some Kratom users choose to smoke the crushed leaf material in a hand-



rolled cigarette. Burning Kratom smells similar to burning marijuana. A Kratom high will last some 2-3 hours with the euphoric effects coming in waves. The initial effects from Kratom are exhilarating and motivational; a later phase is more sedating and relaxing. The drug has qualities as a social lubricant. Some users cite Kratom as having aphrodisiac powers as well.

Kratom's biochemistry is unique. As a member of the *Mitragyna* plant family,

Kratom is believed to exert its effects through interaction with *delta* and *mu* opiate receptor sites. To that extent, Kratom displays pharmacological similarities to *Salvia divinorum*, but the ultimate psychoactive effects are noticeably different. *Mitragynine* is the major alkaloid found in Kratom, 7-hydroxymitragynine is a minor alkaloid in Kratom that exhibits opiate-like analgesic effects that are similar or greater than morphine. The effects described as relaxing, anxiety reducing, and euphoric are most likely attributable to Kratom's activity at the *delta* and *mu* opiate receptors. In fact, there are anecdotal reports from many users that Kratom is an effective therapy for treating the symptoms of opiate withdrawal. Many users have successfully weaned themselves off of prescription opiates through the use of Kratom. It stands to reason however that if Kratom is effective in ameliorating the effects of opiate withdrawal, then it is likely to cause opiate dependency if it is used over an extended period of time. Although there have been sporadic reports of users who have developed Kratom addictions, it is unclear whether or not true opioid mediated dependencies have occurred.

For DAR and DRE trained readers, symptoms of Kratom intoxication include the following:

- Pulse- **near normal**
- Blood pressure- **near normal**
- Body temperature- **near normal**
- Romberg internal clock- **distorted**
- Pupil size- **near normal** (constriction in high doses)
- Pupil reaction to light- **slow**

Kratom's effect on pupil size is difficult to gauge. In lower doses of 1-3 grams there appears to be little impact on pupil size. But when the dose of the drug reaches 5 or more grams, it is possible for there to be a noticeable slowing of the pupil's reaction to direct light. These effects are probably attributable to Kratom's interaction with *delta* and *mu* opiate receptor sites.

Like *Salvia divinorum*, Kratom is considered a dietary supplement. It is not a controlled substance; it is legal to possess. Head shops and Internet Kratom stores are experiencing brisk sales of its various Kratom products. Kratom is exhibitivie of an emerging trend that transcends methods of modern toxicological monitoring. Kratom has been around for nearly 10 years, but only in the last year or two has it attracted widespread attention. With the emergence of K2 and Spice, bath salts, and plant food as drugs of abuse, Kratom's popularity has surged. And because it is viewed as a legal, safer alternative to other more caustic designer drugs, Kratom use will continue to grow and spread.

## AGENDA REPORT

May 16, 2011

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: APPROVAL OF A REVISED COOPERATIVE IMPROVEMENT AGREEMENT NO. 27785 BETWEEN THE CITY OF ONTARIO AND THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, AND AS AUTHORIZED BY THE OREGON JOBS AND TRANSPORTATION ACT OF 2009, ALSO KNOWN AS HOUSE BILL 2001 FOR SIGNAL UPGRADES AND LANE MODIFICATIONS AT EAST IDAHO AND EAST LANE AND RESURFACING OF EAST IDAHO AVENUE (HIGHWAY 30) BETWEEN THE SNAKE RIVER AND NE 4<sup>TH</sup> STREET**

DATE: May 9, 2011

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### SUMMARY:

Attached is the following document:

- ODOT Misc, Contracts and Agreements No. 27785

This agreement allows the City to partner with ODOT in combining funding to allow for the rehabilitation of East Idaho (ODOT responsibility) along with improvements to the East Lane intersection (City responsibility).

Conceptual presentations have been made to the Public Works Committee and the Mayor and City Council and all parties indicated informally that we should proceed. This agreement formalizes the relationship between ODOT and the City of Ontario.

Agreement No. 26638 was originally approved on November 15, 2010 by the city council after revisions to an original draft from ODOT. The City signed the City's version and ODOT signed their original draft. This agreement supercedes the 26638 agreement and incorporates language satisfactory to both parties.

### PREVIOUS COUNCIL ACTION:

- 2003-2004-The City hired the firm of Meyer Mohaddes Associates to prepare a traffic study for the "East Ontario Commercial Area." This study resulted in the recommendations for improvements to the roadway and intersections as well as establishing fees per vehicle trip. The City then passed an ordinance requiring the payment of traffic impact fees from the various developers in the area.
- 2008-2009-ODOT requested that the City take responsibility for maintenance of the East Idaho Avenue from the Snake River to NE 4<sup>th</sup> Street. The City rejected this proposal and ODOT remains responsible for the structural integrity of this section of State Highway 30.

- 2009-Council adopted a two-year budget that included upgrades to East Idaho intersections in the amount of \$750,000.
- November 15, 2011
  - City Council approved Resolutions 2010-153 and 154 which reallocated funding and modified the project budget from \$750,000 to \$800,000.
  - City Council approved Agreement Number 26638 with ODOT for this project.

**BACKGROUND:**

The Oregon Jobs and Transportation Act of 2009 (HB 2001) provided funding for preservation and modernization projects chosen by the Oregon Transportation Commission. East Idaho Avenue between the Snake River and NE 4<sup>th</sup> Street has experienced significant rutting. The Oregon legislature allocated \$1.2 million to ODOT for resurfacing this state highway.

The City commissioned a traffic study in 2003 to identify improvements necessary to meet the increasing demand on East Idaho from the river to the freeway. Improvements recommended included adding turning lanes at East Lane and Goodfellow, adding an additional lane to East Idaho and modifying the signals. During peak traffic periods the eastbound traffic wishing to turn left onto East Lane into the Walmart and Home Depot area backs up to and through the Goodfellow intersection. The overall improvements have an estimated current cost of \$2.2 million, which is significantly more than the city has collected.

The City and ODOT staffs have been working collaboratively to identify a single project that would combine our funding for construction. This project will allow us to proceed with construction in 2011 which will include the resurfacing of East Idaho as noted above as well as the modification of signals at the intersection of East Lane and East Idaho along with lane and striping modifications. This will improve the traffic flow into the Walmart and Home Depot area and will be compatible with future upgrades of East Idaho when additional funding becomes available. There is a limited amount of right of way that must be acquired as well. ODOT staff is taking the lead in design of the project.

The agreement also provides for the transfer of right of way from ODOT to the City for a portion of East Lane, Goodfellow and Tapadera. This transfer has been contemplated by both agencies for many years and this concludes that issue.

**ALTERNATIVE:**

The City could not approve this agreement and the project will not go forward.

**FINANCIAL IMPLICATIONS:**

This agreement requires the City to contribute the necessary funding to ODOT for the City's share of design and construction. The project will be designed to limit the cost to the City based on available funds.

**RECOMMENDATION:**

Staff recommends the City Council authorize the Mayor to sign the ODOT Misc. Contract and Agreement No. 27785, which replaces Agreement No. 26638.

**PROPOSED MOTION:**

I move the City Council approve A COOPERATIVE IMPROVEMENT AGREEMENT NO. 27785 BETWEEN THE CITY OF ONTARIO AND THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, AND AS AUTHORIZED BY THE OREGON JOBS AND TRANSPORTATION ACT OF 2009, ALSO KNOWN AS HOUSE BILL 2001 FOR SIGNAL UPGRADES AND LANE MODIFICATIONS AT EAST IDAHO AND EAST LANE AND RESURFACING OF EAST IDAHO AVENUE (HIGHWAY 30) BETWEEN THE SNAKE RIVER AND NE 4<sup>TH</sup> STREET AND AUTHORIZE THE MAYOR TO SIGN THIS AGREEMENT ON BEHALF OF THE CITY. AGREEMENT NO. 27785 SUPERCEDES AND REPLACES AGREEMENT NO. 26638.

## PUBLIC HEARING – AGENDA REPORT

May 16, 2011

TO: Mayor and City Council

FROM: City of Ontario Planning Commission

THROUGH: Henry Lawrence, City Manager  
David Richey, Planning & Zoning Admin.

**SUBJECT: ORDINANCE #2658-2011: A DE NOVO PUBLIC HEARING IN THE MATTER OF ANNEXATION OF ¼ ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO RD-40 DUPLEX RESIDENTIAL. THE PROPERTY IS GENERALLY KNOWN AS TAX LOT 1000, ASSESSORS MAP 18S 47E-05AC, LOCATED AT 2040 HUNTER LANE, ONTARIO - PLANNING FILE 2011-02-04 AZ, BROWN, ON FIRST READING BY TITLE ONLY**

DATE: May 4, 2011

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### **SUMMARY:**

Attached are the following documents:

- Ordinance #2658-2011
- Exhibit “A” Assessor’s Map
- Exhibit “B” Legal Description
- Exhibit “C” Zoning Before & After

At its regular meeting of April 11, 2011 the Planning Commission heard the annexation and rezone proposal contained in Planning File 2011-02-04 AZ, which was applicable to property generally known as Tax Lot 1000, Assessors Map 18S47E05AC, located at 2040 Hunter Lane, Ontario.

### **PREVIOUS COUNCIL ACTION:**

05/02/2011 Council tabled the action until the May 16, 2011 meeting pending further research.

### **BACKGROUND:**

The applicants, Michael and Marion Brown, needed to connect their house to the City sewer. To accomplish that, it required approximately 500 feet of service line.

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RD-40 Duplex Residential for Tax Lot 1000, Assessor’s Map #18S 47E 05AC. It is 1/4 acre in size, and is known as 2040 Hunter Lane. The Comprehensive Plan urban growth area residential classification is broad

enough that any of the City residential zones may be considered to be consistent with it. Existing land use on neighboring properties range from single family to assisted living facilities so this proposed care facility will not be a departure from the character of the existing neighborhood

**RECOMMENDATION:**

The Planning Commission recommends passage of Ordinance #2658-2011.

**PROPOSED MOTIONS:**

- 1) I move that the City Council accept the Findings of Fact as presented (or amended).
- 2) I move that the City Council adopt Ordinance #2658-2011, AN ORDINANCE ADDRESSING THE FINAL ORDER AND FINDINGS OF FACT FOR THE ANNEXATION OF 1/4 ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO CITY RD-40 DUPLEX RESIDENTIAL FOR PROPERTY LOCATED AT 2040 HUNTER LANE, ONTARIO, TAX LOT 1000, MAP 18S 47E-5AC, PLANNING FILE 2011-02-04 AZ, on First Reading by Title Only.

**ORDINANCE # 2658-2011**

**FINAL ORDER AND FINDINGS OF FACT IN THE MATTER OF PLANNING FILE 2011-02-04 AZ, THE ANNEXATION OF 1/4 ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO THE CITY RD-40 DUPLEX RESIDENTIAL. THE PROPERTY IS GENERALLY KNOWN AS TAX LOT 1000, ASSESSORS MAP 18S 47E-05AC, LOCATED AT 2040 HUNTER LANE, ONTARIO**

**FINDINGS OF FACT:**

- Whereas:** The proposal complies with applicable provisions of the Ontario Comprehensive Plan, Title 10 and its zone and administrative sections 10A and 10B; and,
- Whereas:** Notice has been sent to the Department of Land Conservation and Development a minimum of 45 days prior to this formal procedure to annex and in particular, rezone the subject property in accord with State Administrative Rules; and,
- Whereas:** The subject site is within the City of Ontario Urban Growth Area and thus approved under the rules and regulations of the State of Oregon for annexation to the City; and,
- Whereas:** The subject Urban Growth Area is classified as Residential and the proposed zone is RD-40 Duplex Residential which is consistent with the UGA classification; and,
- Whereas:** The property owner has formally requested that the subject site be annexed, the primary purpose of the annexation is to have City sewer service; and,
- Whereas:** The subject site is immediately adjacent to the City boundary; and,
- Whereas:** City emergency services are available to this site in a manner similar to other land in the City; and,
- Whereas:** All appropriate local notices have been given for this proposal and the public hearings it requires; and,
- Whereas:** The property is 1/4 acre in size and is known as Tax Lot 1000, Assessor's Map #18S 47E 05AC; and,

**Whereas:** Pursuant to the formal application, the Ontario Planning Commission held a properly noticed public hearing on April 11, 2011 and made a recommendation to City Council; and,

**Whereas:** The City Council held a properly noticed public hearing on May 2, 2010, and reviewed all evidence and testimony submitted at the City of Ontario hearings.

**NOW THEREFORE, THE CITY COUNCIL OF ONTARIO ORDAINS AS FOLLOWS:**

Based upon the Comprehensive Plan, the procedures and regulations provided in Title 10, of the Comprehensive Plan and Zoning Ordinance, and the above listed Findings, the Ontario City Council approves and adopts Ordinance # 2658-2011 annexing and rezoning the 1/4 acre property identified as Tax Lot 1000, Assessor's Map #18S 47E 05AC and rezoning to RD-40, Duplex Residential. The following contiguous territory be and the same is hereby annexed: The property mapped and legally described in the attached Exhibits "A", "B", and "C" respectively.

**PASSED AND ADOPTED** by the Common Council of the City of Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote:

AYES:

NAYS:

ABSENT:

**APPROVED** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Joe Dominick, Mayor

ATTEST:

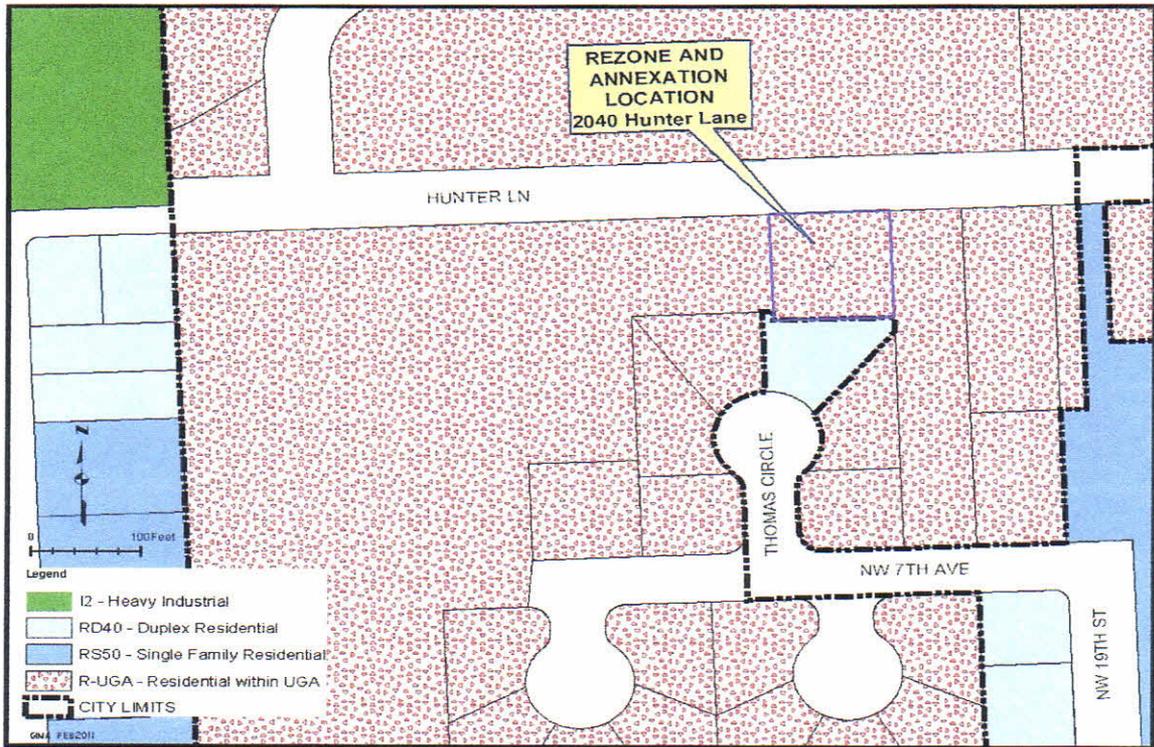
\_\_\_\_\_  
Tori Barnett, City Recorder



ANNEXATION DESCRIPTION  
FOR BROWN PROPERTY  
AND STREET FRONTAGE

Land in Malheur County, Oregon, as follows:  
In Township 18 South, Range 47 East of the Willamette Meridian:  
Section 5: A parcel of land in the NW  $\frac{1}{4}$  SW $\frac{1}{4}$ NE  $\frac{1}{4}$  more  
particularly described as follows:  
Beginning at the Northeast corner of said  
NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ;  
thence South 145 feet;  
thence West 110 feet;  
thence North 145 feet;  
thence East 110 feet to the Point of  
Beginning

**BEFORE – ZONED UGA RESIDENTIAL**



**AFTER – ZONED RD 40 DUPLEX RESIDENTIAL**

