

**COUNCIL MEETING MINUTES
May 17, 2010**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, May 17, 2010, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, John Gaskill, Susann Mills, David Sullivan and Ron Verini.

Members of staff present were Tori Barnett, Larry Sullivan, Chuck Mickelson, Marcy Skinner, David Richey, and camera operator Erika Hopper.

Norm Crume led everyone in the Pledge of Allegiance.

AGENDA

Susann Mills moved, seconded by Ron Verini, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA

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

Ron Verini moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 05/03/2010; Item B: Approval of Minutes of Special Meeting of 04/29/10; Item C: Fuel Bid Award; and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-abstain. Motion carried 6/0/0/1.

PRESENTATION: EXCELLENCE IN LEADERSHIP AWARD - 2010

Councilor Gaskill presented the 2010 Excellence in Leadership Award from the City of Ontario and CK3, LLC, in the amount of \$750, to Aimee Fritsch.

Councilor Gaskill presented the 2010 Excellence in Leadership Award from the City of Ontario and Anderson-Perry, Inc., in the amount of \$750, to Justine Maeda (represented by her mother, Lisa). Justine was out of the area participating in the state round of golf for the high school.

OLD BUSINESS

Ordinance #2642-2010: Consenting to the Assignment of the Malheur Home Telephone Company Franchise to Qwest Corporation (1ST Reading)

Charlotte Fugate moved, seconded by John Gaskill, to table Ordinance #2642-2010. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

NEW BUSINESS

Resolution #2010-125: Transfer Funds to Purchase Ordinance Vehicle Computer and Printer

Mike Kee, Police Chief, stated the Council had recently placed an emphasis on increased nuisance enforcement and had shown an interest in making enforcement more efficient. Therefore, the police department would like to purchase a portable computer, printer, and computer mount for the Ordinance vehicle. This would allow the Ordinance Officer to complete documents in the field. Additionally, the computer would be equipped with a cellular air card and the Ordinance Officer would have access to the Internet. This would allow the officer to locate tax records, and to access the police records management system, while in the field. The department believed with the addition of this equipment the Ordinance Officer would be much more efficient and would be able to spend more time in the field.

As these items were not budgeted for, approval of the resolution would reduce the General Fund Contingency by \$5,000, which would be transferred into police materials and supplies.

The police department received two quotes, each for a ruggedized laptop computer, portable printer, and computer mount. A Dell Latitude XT2 XFR \$4,000.00, Computer mount - \$600.00, Portable printer - \$400.00, for a total of \$5,000.00, and a Panasonic CF19 Toughbook/tablet - \$3,900.00, Computer mount \$650.00, Portable printer - \$400.00, for a total of \$4,950.00.

Councilor Crume stated the cost of the ruggedized computer was extremely high. He believed more research should be done. Maybe this item should be tabled to allow them to look into it more in-depth, and that maybe a ruggedized computer wasn't really necessary.

Chief Kee disagreed; the ruggedized computer was necessary.

Both Councilor Sullivan and Councilor Verini believed Chief Kee knew what was needed, and should be given the ability to purchase this piece of equipment for his department.

John Gaskill moved, seconded by Ron Verini, to adopt Resolution #2010-125, A RESOLUTION APPROVING THE REALLOCATION OF \$5,000 WITHIN THE GENERAL FUND FOR THE PURCHASE OF POLICE DEPARTMENT EQUIPMENT. Roll call vote: Crume-no; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-no. Motion carried 5/2/0.

PUBLIC HEARING

Resolution #2010-128: Subdivision Plat of 98.13 Acres of City-Owned Property

It being the date advertised for public hearing on the matter of Resolution #2010-128, 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 Director, stated at its regular meeting of May 10, 2010 the Planning Commission reviewed the tentative subdivision plat of 98.13 acres of City owned land titled the "Stelling Subdivision". The action by the Planning Commission approved the tentative plat and was now recommending approval of the final plat. The Planning Commission heard testimony from Mr. and Mrs. Jennings, residents of NW 4th Avenue, who voiced objection to the street right-of-way proposed along the west boundary of the subdivision. That street, in deference to the Jennings house, was proposed to be entirely on city land rather than partially on each property adjacent to the street alignment. The Planning Commission was sympathetic to the Jennings' point of view because the proposed street intersection with NW 4th Avenue was less than ideal, including the fact that it was at the crest of the hill where clear vision was restricted. The Commission voted 4/2 in favor of approving the tentative plat.

The subject city land had particular value to the community if it could contribute to expanding the economic base by generating added employment. The subject plat was necessary primarily due to the fact that recent improvements of Highway 201 divided the city property physically, but not legally. The subject plat was therefore the primary step in preparing the city land for economic expansion by private developers.

The final plat proposal contained in planning file 2010-01-01 SUB was a limited response to facilitate the city sale of portions of the site with the pass through requirement that new owners of any portion of the plat bear the responsibility for construction of all required development improvements in effect at the time chosen for improvement of the property. The development improvements would be commenced prior to issuance of building or other on-site permits and were expected to be completed prior to issuance of occupancy permits.

Dan Cummings, CK3, LLC, stated the main objective of this action was to legally split apart the land, which was already split by the Yturri Bellline. The proposal was to make a 5-lot subdivision, with Lot 1 being 12.2 acres, lying south of the canal that separated the land. Lot 2 would be 10 acres. Lot 3, located in the Northeast corner, was about .73 acres, and the City had a sanitary sewer lift station on that parcel. It was thought that the city should retain ownership of that. Lot 4 was being created by following the connectivity regulations by connecting right-of-way from the Yturri Bellline to Malheur Drive. There was no development proposed for this subdivision. The land was basically surrounded by existing roads, not up to city standards. Lot 5, the remainder of the parcel, was the main reason for the subdivision, as they wanted to break that off to allow the sale of the property to developers.

During the Planning Commission process, residents on the west side expressed concerns about the dedication of the right-of-way, more with the construction in the future. It was mainly a safety concern, with the vision clearance being an issue at the intersection. The Jennings' were asking to not put it in, or move it further to the east. There were two problems with moving it to the east. First, when the State of Oregon received the right-of-way for the Yturri Belton and the connections for NW 4th Avenue, they took all the right-of-way accesses away from that property, from that station east. With the width of the road, the maximum distance they could move to the east would be 35 feet. They would then get into vision clearance issues. The ideal location for vision purposes was right down the property line, or split on the right-of-way. The city was proposing to take all the right-of-way from city property as the Jennings' property was so close to the property line, if they had to give their half of the right-of-way, the road would be sitting on their front door. If it all came off the city side, it would leave approximately 37 feet from their house to their property line, and approximately 51 feet to the curb if it was proposed to build a 40-foot wide street.

Pushing it over 35 feet brought it into the recommended vision requirements. If it was moved over to the property line, it would have no vision issues. If it was to move 35 feet to the west, it would not meet any of the vision clearance standards at all. It would create a dangerous intersection, and would require the reconstruction of NW 4th. He did not see any way the city could not put that in there at that location. The further east it was moved, didn't really help in correcting the vision clearance problem. In his opinion, for future development, it was going to be required to be there.

Councilor Gaskill verified there was no possible access of the beltway onto that piece of property.

Mr. Cummings stated that was correct. In his opinion, if they didn't put the proposed access in there, then there was no reason to split the 10-acre parcel as there would be no access. Not putting the road in took away a huge value from that property. He understood the concerns of the Jennings', and while it might not be for awhile, he believed that road, once built, would be a safer access to their property than their access onto NW 4th right now. The hill was extremely dangerous.

Councilor Gaskill asked if there was a way to engineer mitigation on NW 4th that would reduce the vision problem at the hill, on the west?

Mr. Cummings stated yes. The hillside from about 100+ feet to the east, and if about 300 foot on the hill was shaved off about a foot or a foot and a half, it would reduce all the vision clearance completely. If his firm was hired to do the design on the development of that road, that would be their design recommendation. The further east it was moved, the less it lined up with the property to the south. They would probably also ask that the posted speed limit not exceed 30 or 35 mph in that area.

The Mayor opened the hearing for public testimony.

Proponents: None.

Opponents:

Wes Jennings, Ontario, stated he owned property southwest of the Stellings piece. He was not opposed to subdividing; he was not opposed to the development of it, he encouraged it. He wanted to see Ontario grow. They bought a house to become a member of the community. They bought a place in the county, and they thought they would have county neighbors, they thought it was zoned in the county as urban growth. They knew the plans, but they didn't think it would be quite this soon. The right-of-way, they talked a lot about it last week. The 70 foot was going to go on the city property. His big concern was that he had a 1-year old son, who would be playing in the front yard. With the road right there, with the sight visibility that Mr. Cummings mentioned, he had documentation that there was going to be some draining taking place, with that said, he would not necessarily want the right-of-way moved, but if they could push the road as far east as possible, getting that intersection away from his front yard, he truly worried about the safety of his kids, his family, the motorists on the road. If there was already plans to redo 4th Avenue to get it up to standards to drop the speed limit, there shouldn't be a problem moving it another 35 feet. It was still within the 70 foot right-of-way, it was just moved over another 15 feet. He had done a lot of thinking about what could be done, and that was really the only thing... he didn't want the city to lose any more money than they had to, and the city was taking the entire 70 foot on their own property, he understood that. His well head sat about 4 or 5 feet from the property line. They were just really close, and it really worried him that they would have that intersection right on top of his front yard where his kid was going to be playing. He contacted Civil Dynamics, an engineering firm in Caldwell, and he wanted to submit a letter from them. (See attachment)

Mr. Jennings stated he really wanted to see growth and the development of Ontario. With the grading of the road right there, he would be curious to see what the cost would be. He didn't have that answer. If they were going to take a foot or a foot and a half down, if they moved it 35 feet further to the east, on the edge of the right-of-way, they'd probably only have to take it down a total of a foot and a half to two feet to get the sight visibility. Dan talked about getting the speed limit down to 35, that was good on paper, but as anybody knew, no one followed the speed limit, especially on that road. When they bought their place, they actually had, what they thought was their driveway, his realtor, Richard Teramura, could attest to that. They extended that road to try and get off the main road, and put a bunch of gravel down there so they were off city property as far as parking. They had been accessing that since they bought the place in September of 2009. They talked to Dave at the city about that. He gave them the okay. He said that there was going to be right-of-way in there anyway and as soon as that was in, it would be public access, so they continued to use that to get themselves off the street. In closing, he just asked the Council to think if they could change it now before it became a finalized plat map, if it was just as simple as moving the road from the middle of the right-of-way to the far east of the right-of-way, he would ask that they do it now before they got a finalized map, or a developer bought the property, thinking that the right-of-way was going to be dead center. As far as the property to the south, accessing those, he wanted to see everyone be able to develop. You should be able to do on your own

land what you wanted. But, he had to look at his property. The safety of the other side of the property didn't concern him because if something happened, at least it was across the street. If something happened on his side of the street, the chances of it ending up in his front yard was very real, and it scared him. He thanked the Council for allowing him the opportunity to speak.

Richard Teramura, Ontario, stated they were appealing to the Council. They were all on board with development, and they wanted to see the growth in Ontario. The Jennings' were appealing to the Council's sense of maintaining a good neighbor policy. There were some issues, safety wise, as Mr. Cummings stated. He had been very helpful and forthcoming through the process. The Jennings' were just hoping to see a guideline set for developers. If it was shifted over, as Mr. Cummings stated at the Planning Commission meeting, they would probably have to do some adjusting. There was also the possibility of other access ways. The possibility of crossing Yturri, he didn't know if that was something considered. Looking into other avenues would be much appreciated. The number one factor was the safety concerns. He thanked the Council for their time.

Larry Sullivan, City Attorney, stated staff might not have had enough time to react to the letter from Civil Dynamics, and Council should afford staff time to comment on it.

Chuck Mickelson, Public Works Director, stated he might not address issues in the letter from Civil Dynamics, but he did have some comments as a result of listening to the testimony. First, if the Council was to agree to move the roadway to the east, that would necessitate, and Mr. Cummings could confirm, that another lot would have to be created because they would be sliding it over 35 feet and they would have a 35 foot lot that needed to be named, numbered, and would need to be dealt with in the plat, so that would have to be modified. Second, he believed the offsetting of the intersection was inappropriate. His biggest concern was how to deal with the extra lot. Perhaps the Jennings' could purchase it.

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

Mayor Dominick stated this was the only allowed access to that property off NW 4th. On the Yturri Beltline, all accesses off the beltline to any of that property had been closed, with the exception of Dorian Drive, which went onto proposed Lot 4 and proposed Lot 2. Those were the only two remaining accesses off of Yturri allowed by ODOT.

Mr. Cummings stated it appeared in the letter that they proposed moving the road section, not the right-of-way. If they did that, they would need something like a development agreement, because it wouldn't show on the plat. Moving the road section 15 feet would put the face of curb on the right-of-way, leaving no room for sidewalks or any improvements on that side. Even a 14 foot move would leave room for a curb in the right-of-way, but no room for sidewalks or swales or grass, anything, on the east side. The west side would have plenty of room. If they moved the right-of-way, then they'd have to create another lot, which would not be large enough for a dwelling, therefore making it into a "common area".

Mayor Dominick reminded the Council again that this action was to dedicate the right-of-way. No design, nor construction documents were being drawn up.

Councilor Gaskill confirmed that if the Council accepted the proposal by the Planning Commission, it would automatically jeopardize the Jennings'. Their claim of jeopardy was the location of the road in relation to their property and the potential hazard it created for their family. But no one was proposing the plat, so the action just designated a right-of-way on the edge of the property that the city was claiming and wanting to establish.

Mr. Cummings agreed. They would have an opportunity to comment and voice concerns when development occurred.

Councilor Verini stated it was his understanding when the Planning Commission met, when the Jennings' brought up their concern regarding the safety of their children, it was also brought up that there was a misunderstanding what the property around the Jennings' was zoned for. They talked about that they thought it was zoned the same as what their property was, Residential.

Mr. Cummings stated the Jennings' said they were told by someone that the land was zoned the same as their land.

Councilor Verini stated after that, they were later told from someone else, that it was zoned Light Industrial. Eventually, they were told by someone, that it was actually zoned Heavy Industrial. He believed the city moved the right-of-way away from the Jennings' because of the misinterpretation regarding the property. Because of that, the city was giving a little "buffer" for when the road was put in.

Mr. Cummings stated the first time he heard of it was at the Planning Commission meeting. The PDAC on the matter was well over a year ago, and the property didn't even belong to the Jennings' at that time. They purchased the property last August.

Councilor Verini stated the movement of the right-of-way was NOT because of the misinterpretation by the Jennings'?

Mr. Cummings stated it was his recommendation to the city based on his survey results.

Councilor Crume asked what the movement would do about a proposed roadway to the south?

Mr. Cummings stated there would be a 50 foot off-set intersection, which was not allowed by city code. Off-set intersections were a very bad idea.

Councilor Crume stated another alternative would be if the Tomiyoshi's would give up 50 foot of their property to try and straighten it out.

Councilor Gaskill stated he believed they needed to work with the Jennings' to alleviate their concerns as much as possible. How about creating a buffer that was still right-of-way allowing a better safety area? They should be granted a right of access off the road that would built. He realized that by approving the action before them, it didn't approve anything about the road except to reserve right-of-way, but he didn't think they needed to move the right-of-way. Some type of proviso needed to be put with the plat indicating the way that the road should be dealt with in the future. That way, when development did occur, the developer would be aware of the concerns, and could take them into consideration.

Mr. Sullivan reminded the Council that the front yard set-back that the Jennings' would end up with, even if the road was built right in the middle of the right-of-way, was still considerably wider than most people living in Ontario had. Most residents have found a way to adapt to front yard set-backs that were much narrower, and they still dealt with child safety concerns. He didn't want to minimize the concern of the Jennings', but this issue was also due to the fact that they thought they were buying a parcel of property that wasn't going to be affected by urbanization as quickly as it might be. That was where much of this discussion was coming from.

Mayor Dominick stated he would get with staff to see what the legal ramifications might be by adding in the information Councilor Gaskill had suggested.

Susann Mills moved, seconded by John Gaskill, to adopt the Findings of Fact as presented. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ron Verini moved, seconded by Charlotte Fugate, to adopt Resolution #2010-128, A RESOLUTION TO APPROVE A CITY-OWNED SUBDIVISION OF 98.13 ACRES. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

RETURN TO NEW BUSINESS

Resolution #2010-129: Declare OPD Ford Expedition as Surplus

Mike Kee, Police Chief, stated the police department no longer had a need for the 2002 Ford Expedition that was given to the department in 2009, by the Linn County Sheriff's Department. The department would like to have it declared surplus property and then donate it to the Nyssa Police Department, as they had expressed an interest in taking the vehicle into their fleet. Due to the transfer within the department of the dog handler, there would no longer be a need for the vehicle.

Currently, the vehicle had approximately 130,000 miles and was in reasonably good shape. The blue book value of the vehicle was \$2,500. To prepare the vehicle for auction would take staff time and approximately \$800 to remove equipment and stripping. In donating the vehicle to Nyssa, the Nyssa Police Department would bear the costs of removing the current striping and for the application of the City of Nyssa graphics. Further, OPD would realize a small amount of savings in maintenance and fuel costs on the vehicle.

Mayor Dominick asked how often police vehicles were down, wherein this vehicle could be used as a back-up?

Chief Kee stated there were never so many down that there weren't enough vehicles for use.

Councilor Mills asked how much maintenance had been done on the vehicle in the year the city had it?

Chief Kee replied he did not know.

Councilor Crume still believed the vehicle should be kept for a back-up rig. It had too much value to be given away.

Chief Kee stated he didn't think they would get use out of it, but would still have the cost of maintaining it.

David Sullivan moved, seconded by Norm Crume, to disapprove Resolution #2010-129. Roll call vote: Crume-yes; Fugate-yes; Gaskill-no; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/1/0.

Ordinance #2645-2010: Requiring Telecommunications Franchises to Maintain their Facilities Free from Nuisances, Including Graffiti (1s Reading)

Larry Sullivan, City Attorney, stated the proposed ordinance would impose nuisance abatement standards on telecommunications franchisees, including graffiti removal. Ordinance 2645-2010 was primarily intended to address the City's graffiti complaints against telecommunications franchisees. The issue first arose during the City Council's review of proposed Ordinance 2642-2010 at its work session on April 29, 2010 and again at its regular meeting on May 3, 2010. In that proposed ordinance, Qwest Corporation was seeking the City's consent to a transfer of the telecommunications franchise from its former subsidiary, Malheur Home Telephone Company. During the meeting of April 29, 2010, there was a discussion with the Council about Qwest's lack of responsiveness to the City's complaints about graffiti on Qwest equipment. After further discussion of the issue on May 3, 2010, the Council tabled Ordinance 2642-2010 and instructed the City Attorney to contact Qwest to resolve the graffiti issue.

The Attorney's recommendation was to resolve the issue through an ordinance rather than a separate negotiation with Qwest. The City had entered into two telecommunications franchise agreements in 2009 and 2010, and it appeared there might be more franchise requests forthcoming. In both of the recent franchise agreements, the grantees insisted on having provisions saying that all telecommunications franchisees be treated the same, so that one franchisee was not treated more favorably than another. Both of the franchise agreements explicitly incorporated the provisions of Chapter 2 of Title 3 of the City Code provision regulating telecommunications franchises. If the City wanted to impose any conditions on Qwest pertaining to graffiti removal, adding those same provisions to the City Code would insure that all telecommunications franchisees were treated equally by making all telecommunications franchisees subject to the same graffiti cleanup requirements.

Ordinance 2645-2010 added a new Section 3-2-47A, requiring grantees of telecommunications franchises to comply with the nuisance provisions of the City Code, including the anti-graffiti provisions of Sections 7-4-5 and 7-4-6. Section 3-2-47A also stated that it was a "material provision" of the telecommunications Chapter, thereby allowing the City to impose sanctions for noncompliance, including franchise revocation or lesser sanctions under City Code Section 3-2-45.

If the Council approved Ordinance 2645-2010, it would authorize the City to make compliance with the ordinance a condition of the City's consent to the transfer of the telecommunications franchise to Qwest in Ordinance 2642-2010. Ordinance 2645-2010 would also apply automatically to other telecommunications franchisees in the future.

David Sullivan moved, seconded by Charlotte Fugate, to adopt Ordinance #2645-2010, AN ORDINANCE REQUIRING TELECOMMUNICATIONS FRANCHISES TO MAINTAIN THEIR FACILITIES FREE FROM NUISANCES, INCLUDING GRAFFITI, on First Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

EnerNOC Demand Response Program

Chuck Mickelson, Public Works Director, stated EnerNOC was North America's largest commercial and industrial demand response provider. They contracted directly with Idaho Power to reduce power demands during peak power usage. They achieved these reduced demands by paying commercial and industrial users to use less power during these peak demand periods. The demand response programs from EnerNOC provided payments to organizations that chose to reduce energy during times of peak power demands. EnerNOC would work with the City of Ontario to define customized energy reduction strategies. EnerNOC would absorb all costs associated with this program and would protect the City from any penalties that could be incurred for not meeting reduction targets. This program helped to stabilize the region's energy resources without requiring construction of new power plants.

Idaho Power's peak demand period in the summer months was between 2:00 PM and 8:00 PM. There was an opportunity to modify the pumping scenarios at both the water treatment plant and the wastewater treatment plant to reduce power consumption during the peak demand period. At the water treatment plant, for instance, normal operation was 20-hours per day with shutdown being in the morning hours between 2:00 AM and 6:00 AM. By modifying the operation so that shut down was between 2:00 PM and 6:00 PM, it could reduce peak hour usage and be eligible for payment from EnerNOC.

For no investment on the part of the City of Ontario, the City could be eligible for payments of between \$21,000 and \$53,000 annually from EnerNOC.

Ron Verini moved, seconded by Susann Mills, to authorize the City Manager to execute a contract with EnerNOC for their demand response program. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Chuck Mickelson stated there had been positive comments about the angled parking in front of the Post Office. There had already been some other areas identified for angled parking, and he would be bringing a proposal to the Council.
- Councilor Verini thanked Bob Boyd, an Ontario Middle School teacher, for putting together the free lunch/dinner for all veterans, active duty military, national guardsmen, and their families, on May 15th
- Councilor Gaskill stated the high school would be having their awards assembly on Tuesday evening.
- Councilor Sullivan encouraged everyone to go out and check out the Golf Course, both inside and out.

Mayor Dominick stated the city was still searching for a concessionaire to run the restaurant. Information could be obtained from City Hall.

- Councilor Fugate stated they held their yard sale to benefit the feral cat program, and they had raised almost \$3000. They also had an auction coming up on the 30th of June, at the golf course. There would be a sailboat auctioned off, among many other items.
- Mayor Dominick thanked everyone for participating on Serve Day.

ADJOURN

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

ATTEST:



Joe Dominick, Mayor



Tori Barnett, MMC, City Recorder

CONSENT AGENDA

May 17, 2010

TO: Mayor and City Council

FROM: John Bishop, Operations Manager

THRU: Henry Lawrence, City Manager
Charles E. Mickelson, Public Works Director

SUBJECT: Fuel Bid Award

DATE: May 5, 2010

SUMMARY:

Attached are the following documents

- Advertisement for Bid
- Attachment I – Information to Bidders
- Attachment II - Technical Specification
- Attachment III – Proposal – Vehicle Fuel

Bids were opened on Monday, April 19, 2010, at 2:00 p.m. to secure a bid price for petroleum products for fiscal year 2010-11. Bid packets were sent to Grant's Petroleum, Inc., Farmer's Supply Co-op and Poole Oil. The only bid received was from Poole Oil.

Bids for Card Lock usage of Unleaded, Midgrade Unleaded, Super Unleaded gasoline and Ultra Low Sulfur B2 Diesel were requested. Also requested were bids for delivery of Ultra Low Sulfur B2 Diesel and Unleaded Gasoline to the sites noted on the attached bid form.

BACKGROUND:

Employees operating City vehicles and equipment require the ability to access fueling stations via a card lock system with commercial fueling stations located within the City limits or Urban Growth Boundary of Ontario and throughout the Northwest. The pumps must be open 24 hours a day, 365 days per year. The supplier will furnish cards for this card-lock system to all City of Ontario employees and vehicles as requested by the City.

Fuel to be delivered will be delivered and pumped into tanks owned or controlled by the City of Ontario.

The fuel bid is for a three year contract which begins on July 1, 2010 and expires June 30, 2013, unless written notice of intent not to continue is given by either party at least forty-five (45) days prior to the annual anniversary date of this contract.

After receiving the bids, John Bishop and Chuck Mickelson met with Ken Poole of Poole Oil to discuss the pricing in more detail. Fuel for the Ontario area is provided from the fueling facility in Boise that is served by a pipeline from the Salt Lake City area. Poole has contracts with several providers. Prices of fuel vary on a daily basis. The pricing that Poole gave the City is based on a margin over the per gallon cost delivered to Boise. The per gallon costs are modified weekly for the City of Ontario rather than daily. The margin for the city is 13.5 cents per gallon on gasoline and 16 cents per gallon on diesel. This covers Poole's overhead and operating costs. The state of Oregon has a statewide contract for fuel also. The Statewide bid margin for cardlock gasoline is 16.5 cents per gallon and 17.5 cents for diesel and per gallon costs are modified daily.

In the future, I recommend that the bidding process be changed to reflect the marginal rate rather than a fixed price on a given day.

FINANCIAL IMPLICATIONS:

It is important to understand that fuel prices fluctuate daily. The contract between the parties allows the successful bidder to adjust prices during the life of the contract. The Contractor must provide proof of said fuel changes whenever the price is changed.

Prices bid by Poole Oil are as follows:

Card Lock

Gasoline, Unleaded	\$2.712/gal
Gasoline, Midgrade Unleaded	\$2.797/gal
Gasoline, Super Unleaded	\$2.884/gal
Ultra Low Sulfur B2 Diesel	\$2.7175/gal

Site Delivery

Ultra Low Sulfur B2 Red Dye Diesel	\$2.8175/gal
Gasoline, Unleaded	\$2.812/ga;

RECOMMENDATION:

City Staff recommends the City Manager be authorized to be signatory to the agreement to award the contract for Fuel supply to Poole Oil, the apparent lowest, responsive and responsible bidder.



City of Ontario
Public Works Department
444 SW 4th Street
Ontario, OR 97914
Voice (541) 889-8572
Fax (541) 889-3488

ADVERTISEMENT FOR BID
City of Ontario
April 12, 2010

Sealed bids will be received at the office of the Public Works Director, City Hall, 444 SW 4th St., Ontario, Oregon, until 11:00 a.m. on April 19, 2010 to furnish the City of Ontario with vehicle fuels for the period of July 1, 2010 to June 30, 2013. Proposals submitted after the above-specified time shall not be received or opened. The sealed bids will be publicly opened and read in the City of Ontario Public Works Director's office on April 19, 2010 at 2:00 p.m.

The per-year quantities are stated with as much accuracy as possible; however, the actual purchases may vary. Therefore, the quantities must be assumed solely for the calculation of unit costs upon which the award of the contract shall be made.

Proposals shall be submitted on the form provided, Attachment III.

The fuel requested for bidding purposes consists of the following:

Schedule A: Card Lock

1.	Gasoline, Unleaded	26,000 gallons
2.	Gasoline, Midgrade Unleaded	150 gallons
3.	Gasoline, Super Unleaded	1,000 gallons
4.	Ultra Low Sulfur B2 Diesel	23,000 gallons

Schedule B: Site delivery

1.	Ultra Low Sulfur B2 Red Dye Diesel	
A.	Lower Lift Station	100 gallons
B.	NW 8 th Ave. Lift Station	100 gallons
C.	Headworks	100 gallons
D.	Murakami Lift Station	210 gallons
E.	Regional Lift Station	210 gallons
F.	Tapadera Lift Station	200 gallons
G.	City Hall	250 gallons
H.	Waste Water Treatment Plant	500 gallons
I.	Water Treatment Plant	300 gallons
J.	West Side Generator (WTP)	250 gallons
K.	Golf Course Shop	2,800 gallons
2.	Gasoline, Unleaded	
A.	Golf Course Shop	2,400 gallons
B.	Golf Course Pro Shop	375 gallons

The contract will begin July 1, 2010 and expire June 30, 2013, unless as noted in Section I-C herein. Specifications and conditions may be obtained at City Hall, City of Ontario, 444 SW 4th Street, Ontario, Oregon.

Sincerely,

John Bishop
Operations Manager
JB:kfm

City of Ontario

ATTACHMENT I INFORMATION TO BIDDERS

I-A INTENT OF SPECIFICATIONS: It is the intent of these specifications to provide all prospective bidders with adequate information to supply the City with the fuel required at the most competitive price possible. The bid will be awarded to Schedule A and B separately unless the bidder states otherwise on the proposal.

I-B TAXES: Quote net prices including State fuel tax on gasoline only. Exclude state fuel tax on diesel and exclude federal fuel tax on gasoline and diesel.

I-C LENGTH OF CONTRACT: The Contract shall begin on July 1, 2010 and end June 30, 2013, a three year contract unless written notice of intent not to continue is given by either party at least forty-five (45) days prior to the annual anniversary date of this contract.

I-D PRICE CHANGE: If the dealer's price of gasoline or diesel changes during the life of this contract, the dealer shall adjust the price to the City to reflect the amount of such change. The dealer shall provide proof of price change whenever the bid price is changed.

I-E AWARD OF BID: The City reserves the right to reject any or all bids, and to accept the bid which is to the best interest of the City of Ontario on an "any or all" basis.

City of Ontario

ATTACHMENT II TECHNICAL SPECIFICATION

II-A SCHEDULE A CARD LOCK

II-A-1 General: The fuel to be furnished under this schedule will be self-service, featuring a card lock system with commercial fueling stations located throughout the northwest and also have a fueling station located within the City limits or Urban Growth Boundary of Ontario. The pumps will be open 24 hours a day, 365 days per year. A copy of the location directory will be provided with the bid proposal. The City will consider the available fueling sites throughout the northwest when awarding the bid.

II-A-2 Cards: The supplier will furnish cards for all City of Ontario employees which are requested in writing by the City.

II-A-2-a Security: Each card will be protected by an individual ID Code which must be entered by the employee at the time of the fuel purchase. The vehicle ID number and mileage or hours must also be entered.

II-A-3 Records: The supplier will furnish the City a detailed printout by Department of all sales, with the following information:

- a) Name of Purchaser
- b) Vehicle ID Number
- c) Mileage/Hours
- d) Gallons of fuel sold at each site
- e) Cost of fuel
- f) Total gallons of fuel sold for current month
- g) Total gallons of fuel sold to date
- h) Total cost of fuel sold to date

II-B SCHEDULE B SITE DELIVERY

II-B-1 General: The fuel sold under this Schedule will be delivered and pumped into tanks owned or controlled by the City of Ontario.

II-B-2 Tank Site: The size and location of the tanks are as follows:

- | | | | |
|----|---------------------------------------|---------------|---------------|
| a) | Lower Lift Station | Diesel Fuel | 100 gallons |
| b) | NW 8 th Ave. Lift Station | Diesel Fuel | 100 gallons |
| c) | Murakami Lift Station | Diesel Fuel | 210 gallons |
| d) | Regional Lift Station | Diesel Fuel | 210 gallons |
| e) | Tapadera Lift Station | Diesel Fuel | 200 gallons |
| f) | Headworks | Diesel Fuel | 100 gallons |
| g) | City Hall | Diesel Fuel | 250 gallons |
| h) | Waste Water Trmt Plnt | Diesel Fuel | 500 gallons |
| i) | Water Treatment Plant | Diesel Fuel | 3000 gallons |
| j) | West Side Generator | Diesel Fuel | 250 gallons |
| k) | Golf Course Shop | Diesel Fuel | 2,800 gallons |
| l) | Golf Course Shop | Unleaded Fuel | 2,400 gallons |
| m) | Golf Course Pro Shop | Unleaded Fuel | 375 gallons |
| n) | Others which may be added by the City | | |

**ATTACHMENT III
PROPOSAL - VEHICLE FUEL**

TO: City of Ontario
Public Works Director
444 SW 4th Street
Ontario, OR 97914

To be considered, this Proposal must be in the hands of the Public Works Director, Ontario, Oregon, by 11:00 a.m. April 19, 2010.

The undersigned herein declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is in all respects fair and without fraud, that it is made without collusion with any official of the City of Ontario, Oregon, and that the Proposal is made without any connection or collusion with any person making another Proposal on this Contract.

SCHEDULE A CARD LOCK

<u>Item</u>	<u>Description</u>	<u>Manufacture Brand Name</u>	<u>Approximate Quantity</u>	<u>Per Gallon Net Price</u>
A-1	Gasoline, Unleaded	_____	26,000 gallons	\$_____/gal
A-2	Gasoline, Midgrade Unleaded	_____	150 gallons	\$_____/gal
A-3	Gasoline, Super Unleaded	_____	1,000 gallons	\$_____/gal
A-4	Ultra Low Sulfur B2 Diesel	_____	23,000 gallons	\$_____/gal

SCHEDULE B SITE DELIVERY

<u>Item</u>	<u>Description</u>	<u>Manufacture Brand Name</u>	<u>Quantity</u>	<u>Per Gallon Net Price</u>
B-1	Ultra Low Sulfur B2 Red Dye Diesel	_____	4,723 gallons	\$_____/gal
B-2	Gasoline, Unleaded	_____	2,775 gallons	\$_____/gal

DATED this _____ day of _____, 2010

SUBMITTED BY & AGREED TO:

Company

Address

Name

Signature

**ACCEPTED BY:
CITY OF ONTARIO**

City Manager

Date: _____

AGENDA REPORT

May 17, 2010

TO: Honorable Mayor and City Council Members

THRU: Henry Lawrence, City Manager

FROM: Mike Kee, Police Chief

SUBJECT: **RESOLUTION # 2010-125, A RESOLUTION APPROVING THE REALLOCATION OF \$5,000 WITHIN THE GENERAL FUND FOR THE PURCHASE OF POLICE DEPARTMENT EQUIPMENT**

DATE: May 10, 2010

SUMMARY:

Attached is the following document:

- Resolution # 2010-125

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Council has recently placed an emphasis on increased nuisance enforcement and has shown an interest in making enforcement more efficient. The police department would like to purchase a portable computer, printer and computer mount for the Ordinance vehicle.

This will allow the Ordinance officer to complete documents in the field. Additionally the computer will be equipped with a cellular air card and the Ordinance officer will have access to the Internet. This will allow the officer to find tax records, and access the police records management system, while in the field.

The department believes that with the addition of this equipment the Ordinance officer will be much more efficient and will be able to spend more time in the field.

These items were not budgeted for.

FINANCIAL IMPLICATIONS:

Approval of the resolution would reduce the General Fund Contingency by \$5,000.

The police department has received two quotes; each is for a ruggedized laptop computer, portable printer, and computer mount. Because the items were not budgeted money would be transferred from contingency into police materials and supplies.

- 1. Dell Latitude XT2 XFR \$4000.00
Computer mount - \$600.00
Portable printer - \$400.00
Total- **\$5,000.00**

- 2. Panasonic CF19 Toughbook/tablet - 3,900.00
Computer mount \$650.00
Portable printer - \$400.00
Total- **\$4,950.00**

ALTERNATIVE:

The Council could decide to not transfer money from contingency and wait to purchase the items during the next budgeting process.

RECOMMENDATION:

Staff recommends that the Council adopt Resolution No.2010-125, authorizing the reallocation of \$5,000 from the City's General Fund contingency expense line to the General Fund Police Department materials and supplies line item in order to purchase the items for the Ordinance vehicle.

PROPOSED MOTION:

I move that the Council adopt Resolution No. 2010-125, A RESOLUTION APPROVING THE REALLOCATION OF \$5,000 WITHIN THE GENERAL FUND FOR THE PURCHASE OF POLICE DEPARTMENT EQUIPMENT.

RESOLUTION # 2010-125

**A RESOLUTION APPROVING THE REALLOCATION OF \$5,000
WITHIN THE GENERAL FUND FOR THE PURCHASE OF
POLICE DEPARTMENT EQUIPMENT**

WHEREAS, the City of Ontario adopted the 2009-2011 budget document based upon known or anticipated revenues and expenditures; and

WHEREAS, the Ontario City Council has directed the Police Department to step up nuisance enforcement and has made inquiries to the department about ways in which enforcement can be made more efficient; and;

WHEREAS, the Police Department believes that with the purchase of a computer laptop, printer, and computer mount, the Ordinance Officer would spend more time in the field and improve the efficiency of work performed; and

WHEREAS, in order to purchase the equipment, the Police Department Budget would need to be increased by \$5,000; and

WHEREAS, the City Council desires to formally modify the 2009-2011 General Fund budget by reallocating expenditures from Contingency to the Police Department budget to complete the equipment purchase.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following adjustments to the fiscal year 2009-2011 budget:

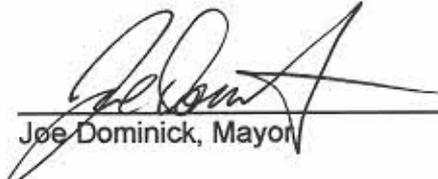
Line Item	Item Description	FY 09-11 Budget	Amount of Change	Adjusted Budget
General Fund				
Administrative Overhead				
001-004-871000	Operating Contingency	2,096,734	(5,000)	2,091,734
Police Department				
001-024-615300	Materials & Supplies	15,000	5,000	20,000

Passed and adopted by the Ontario City Council this 17 day of May 2010.

Ayes: Fugate, Sullivan, Mills, Gaskill, Verini

Nays: Crume, Dominick

Absent: None



Joe Dominick, Mayor

ATTEST:



Tori Barnett, City Recorder

AGENDA REPORT

May 17, 2010

TO: Mayor and City Council

FROM: Mike Kee, Chief of Police

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION #2010-129, DECLARATION OF A 2002 FORD EXPEDITION VIN NUMBER 1FMPU16L22LA88816 AS SURPLUS PROPERTY

DATE: May 7, 2010

SUMMARY:

The police department does not have a need for a 2002 Ford Expedition that was given to the department in 2009. The department would like to have it declared surplus property and donate it to the Nyssa Police Department.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In 2009 the Linn County Sheriffs Department donated a 2002 Ford Expedition to the police department. Because of the transfer within the department of our dog handler we will no longer have the need for the vehicle.

The vehicle currently has about 130,000 miles and is in reasonably good shape. The blue book value of the vehicle is \$2,500. If we were to prepare the vehicle for auction it will take staff time and about \$800 to remove equipment and stripping.

The Nyssa Police Department is interested in taking ownership of the vehicle to use for patrol in their City.

The Ontario Police Department would like to give the vehicle to the Nyssa Police Department. The Nyssa Police will have a cost to remove the current stripping and apply Nyssa graphics.

ALTERNATIVE:

The Council could choose to auction the vehicle.

The Council could offer the vehicle to Nyssa for some remuneration.

FINANCIAL IMPLICATIONS:

The department will realize a small amount of savings in maintenance and fuel costs that will follow the vehicle.

RECOMMENDATION:

The police department recommends that the Council declare the vehicle surplus and donate the vehicle to the Nyssa Police Department.

PROPOSED MOTION:

I move that the Council adopt Resolution No. 2010-129, DECLARING A 2002 PATROL FORD EXPEDITION VIN NUMBER 1FMPU16L22LA88816 SURPLUS PROPERTY AND DONATING THE VEHICLE TO THE NYSSA POLICE DEPARTMENT.

RESOLUTION # 2010-129

A RESOLUTION DECLARING A 2002 PATROL FORD EXPEDITION VIN NUMBER 1FMPU16L22LA88816 SURPLUS PROPERTY AND DONATING THE VEHICLE TO THE NYSSA POLICE DEPARTMENT

- WHEREAS,** the Linn County Oregon Sheriffs Office donated a 2002 Ford Expedition to the Ontario Police Department in 2009; and
- WHEREAS,** the Ontario Police Department because of personnel changes does not have a need for the vehicle; and
- WHEREAS,** the vehicle's value is estimated at \$2,500 and the cost to prepare the vehicle for auction is about \$800; and
- WHEREAS,** the Ontario Police Department will donate the vehicle to the Nyssa Police Department for their patrol duties

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

Declare the 2002 Ford Expedition with a VIN number of 1FMPU16L22LA88816 surplus property and donate the vehicle to the Nyssa Police Department.

~~Passed and adopted~~ by the Ontario City Council this 17th day of May 2010.

Ayes: Fugate, Sullivan, Mills, Dominick, Verini, Crume

Nays: Gaskill

Absent: None

Joe Dominick, Mayor

Tori Barnett, City Recorder

FAILED

Motion to reject
resolution

AGENDA REPORT

May 17, 2010

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Henry Lawrence, City Manager

SUBJECT: ORDINANCE NO. 2645-2010, AN ORDINANCE REQUIRING TELECOMMUNICATIONS FRANCHISEES TO MAINTAIN THEIR FACILITIES FREE FROM NUISANCES, INCLUDING GRAFFITI (FIRST READING)

DATE: May 10, 2010

SUMMARY:

Attached is the following document:

- Ordinance 2645-2010

This proposed Ordinance imposes nuisance abatement standards on telecommunications franchisees, including graffiti removal.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Ordinance 2645-2010 is primarily intended to address the City's graffiti complaints against telecommunications franchisees. The issue first arose during the City Council's review of proposed Ordinance 2642-2010 at its work session on April 29, 2010 and again at its regular meeting on May 3, 2010. In that proposed ordinance, Qwest Corporation is seeking the City's consent to a transfer of the telecommunications franchise from its former subsidiary, Malheur Home Telephone Company. During the April 29, 2010, there was a discussion with the Council about Qwest's lack of responsiveness to the City's complaints about graffiti on Qwest equipment. After further discussion of the issue on May 3, 2010, the Council tabled Ordinance 2642-2010 and instructed city attorney Larry Sullivan to contact Qwest to resolve the graffiti issue.

Larry Sullivan's recommendation is to resolve the issue through an ordinance rather than a separate negotiation with Qwest. The City has entered into two telecommunications franchise agreements in 2009 and 2010, and it appears that there may be more franchise requests forthcoming. In both of the

recent franchise agreements, the grantees insisted on having provisions saying that all telecommunications franchisees be treated the same, so that one franchisee is not treated more favorably than another. Both of the franchise agreements explicitly incorporated the provisions of the Chapter 2 of Title 3, the City Code provision regulating telecommunications franchises. If the City wants to impose any conditions on Qwest pertaining to graffiti removal, adding those same provisions to the City Code will insure that all telecommunications franchisees are treated equally by making all telecommunications franchisees subject to the same graffiti cleanup requirements.

Ordinance 2645-2010 adds a new Section 3-2-47A, requiring grantees of telecommunications franchises to comply with the nuisance provisions of the City Code, including the anti-graffiti provisions of Sections 7-4-5 and 7-4-6. Section 3-2-47A also states that it is a “material provision” of the telecommunications Chapter, thereby allowing the City to impose sanctions for noncompliance, including franchise revocation or lesser sanctions under City Code Section 3-2-45.

If the Council approves Ordinance 2645-2010, this will authorize the City to make compliance with the ordinance a condition of the City’s consent to the transfer of the telecommunications franchise to Qwest in Ordinance 2642-2010. Ordinance 2645-2010 will also apply automatically to other telecommunications franchisees in the future.

RECOMMENDATION:

Staff recommends the Council approve a first reading of Ordinance No. 2645-2010.

PROPOSED MOTION:

“I move that the Mayor and City Council approve **ORDINANCE 2645-2010, AN ORDINANCE REQUIRING TELECOMMUNICATIONS FRANCHISEES TO MAINTAIN THEIR FACILITIES FREE FROM NUISANCES, INCLUDING GRAFFITI**, on First Reading by Title Only.”

ORDINANCE NO. 2645-2010

**AN ORDINANCE REQUIRING TELECOMMUNICATIONS
FRANCHISEES TO MAINTAIN THEIR FACILITIES FREE FROM
NUISANCES, INCLUDING GRAFFITI**

- WHEREAS,** Chapter 2 of Title 3 of the Ontario City Code governs telecommunications franchises with the City and is referred to hereinafter as the "Telecommunications Code"; and
- WHEREAS,** Telecommunications franchisees are allowed to place their facilities, including equipment, in the City rights-of-way in accordance with the Telecommunications Code; and
- WHEREAS,** The Telecommunications Code does not currently impose any explicit facility maintenance standards on franchisees; and
- WHEREAS,** Sections 7-4-5 and 7-4-6 of the City Code obligate owners and persons in charge of real and personal property containing graffiti that is visible from a City right-of-way to remove it; and
- WHEREAS,** Telecommunications equipment in the has been the target of graffiti, and some telecommunications providers have failed to respond to the City's request to remove graffiti; and
- WHEREAS,** The City Council finds that telecommunications franchisees should be explicitly required to maintain their equipment and other facilities free from graffiti and other nuisances as part of their telecommunications franchises with the City.

AGENDA REPORT

May 17, 2010

TO: Mayor and City Council

FROM: Bob Walker, Deputy Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: ENERNOC DEMAND RESPONSE PROGRAM

DATE: May 10, 2010

SUMMARY:

The purpose of this agenda item is to present EnerNOC's Demand Response Program. EnerNOC is North America's largest commercial and industrial demand response provider. They contract directly with Idaho Power to reduce power demands during peak power usage. They achieve these reduced demands by paying commercial and industrial users to use less power during these peak demand periods. The demand response programs from EnerNOC provide payments to organizations that choose to reduce energy during times of peak power demands. EnerNOC would work with the City of Ontario to define customized energy reduction strategies. EnerNOC would absorb all costs associated with this program and would protect the City from any penalties that could be incurred for not meeting reduction targets. This program helps to stabilize the region's energy resources without requiring construction of new power plants.

BACKGROUND:

Idaho Power's peak demand period in the summer months is between 2:00 PM and 8:00 PM. We have the opportunity to modify our pumping scenarios at both the water treatment plant and the wastewater treatment plant to reduce our power consumption during this peak demand period. At the water treatment plant for instance, we normally operate 20-hours per day with shutdown being in the morning hours between 2:00 AM and 6:00 AM. By modifying this operation so that shut down was between 2:00 PM and 6:00 PM, we could reduce our peak hour usage and be eligible for payment from EnerNOC

FINANCIAL IMPLICATIONS:

For no investment on the part of the City of Ontario, the City could be eligible for payments of between \$21,000 and \$53,000 annually from EnerNOC.

RECOMMENDATION:

The Public Works Department recommends that the City Council authorize City Manager Henry Lawrence to sign a contract with EnerNOC to take advantage of this program.

PROPOSED MOTION:

I move the City Council authorize the City Manager to execute a contract with EnerNOC for their demand response program.

PUBLIC HEARING
May 17, 2009

To: Mayor and City Council

FROM: David Richey, Planning & Zoning Administration

THROUGH: Henry Lawrence, City Manager

SUBJECT: **RESOLUTION 2010-128: "STELLING SUBDIVISION" APPROVAL**

DATE: May 11, 2010

SUMMARY:

Attached are the following documents:

- Resolution # 2010-128
- Report acted upon by Planning Commission: Planning File 2010-01-01 SUB
- Proposed final plat of City owned "Stelling Subdivision" and Maps
- Planning Commission Minutes of May 10, 2010

At its regular meeting of May 10, 2010 the Planning Commission reviewed the tentative subdivision plat of 98.13 acres of City owned land titled the "Stelling Subdivision". The action by the Planning Commission approved the tentative plat and recommends approval of the final plat of the Stelling Subdivision. The Planning Commission heard testimony from Mr. and Mrs. Jennings, on NW 4th Ave who voiced objection to the street right-of-way proposed along the west boundary of the subdivision. That street, in deference to the Jennings house is proposed entirely on the City land rather than partially on each property adjacent to the street alignment. The Planning Commission was sympathetic to the Jennings point of view because the proposed street intersection with NW 4th Ave is less than ideal including the fact that it is at the crest of the hill where clear vision is restricted. The vote was 3 to 2 in favor of approving the tentative plat.

PREVIOUS COUNCIL ACTION:

Acquisition of the subject site
Authorization of survey work

BACKGROUND:

The subject City land has particular value to the community if it can contribute to expanding the economic base by generating added employment. The subject plat is necessary primarily due to the fact that recent improvement of Highway 201 divided the City property physically but not legally. The subject plat is therefore the primary step in preparing the City land for economic expansion by private developers.

ALTERNATIVE:

The final plat proposal contained in planning file 2010-01-01 SUB is a limited response to facilitate the City sale of portions of the site with the pass through requirement that new owners of any portion of the plat bear the responsibility for construction of all required development improvements in effect at the time chosen for improvement of the property. These development improvements shall be commenced prior to issuance of building or other on-site permits and are expected to be completed prior to issuance of occupancy permits.

FINANCIAL IMPLICATIONS:

The financial implications of the City's "Stelling Subdivision" are confined to deliberate budgetary decisions by City Council.

RECOMMENDATION:

Approve the City owned Stelling Subdivision with a note in the owners certification stating: The City of Ontario, owner and approving agent, further certify and require that all development hereon is subject to and shall comply with the development requirements as per City Ordinance in effect at the time development is proposed.

PROPOSED MOTIONS:

- 1) I move that the City Council accept the Findings of Fact as presented in Resolution #2010-128.
- 2) I move that the City Council adopt Resolution #2010-128, A RESOLUTION TO APPROVE A CITY-OWNED SUBDIVISION OF 98.13 ACRES.

RESOLUTION #2010-128

A RESOLUTION TO APPROVE A CITY OWNED SUBDIVISION OF 98.13 ACRES

FINDINGS OF FACT:

- Whereas:** The City Council wishes to stimulate local economic growth and has determined the best use of the subject City owned 98.13 acre site, referred to as the Stelling Subdivision adjacent to Malheur Drive, is to use it to attract developers of commercial or industrial facilities that will in turn will attract employers and expand local job opportunities; and
- Whereas:** All appropriate local notices have been given for this proposal and the public hearings it requires; and
- Whereas:** The subject site is within the corporate limits of the City of Ontario and thus approved under the rules and regulations of the State of Oregon for all aspects of urban growth and development; and
- Whereas:** The subdivision proposal is a unique and intermediate step to compliance with the appropriate provisions of the Ontario Comprehensive Plan, Title 10 and its zone, administrative, and development sections 10A, 10B and 10C; and
- Whereas:** The applicant's land surveyor has prepared the required plat and associated legal description for filing in the public records; and
- Whereas:** No existing structures are caused by this subdivision to encroach upon required setbacks; and
- Whereas:** All land in this proposal is owned, fee simple, by the City of Ontario; and
- Whereas:** The subject 98.13 acres of the City property, referred to as the Stelling Subdivision had been functionally divided by the construction of the State Highway 201 in such a way the two parts cannot be used for a single business operation. Technically, the highway did not also divide ownership of the two parts so the subdivision plat is necessary step to create deeds; and
- Whereas:** Other factors have been incorporated in the plat to help the City market useable portions by accommodating topographical features and City utilities on the site; and
- Whereas:** City utilities and transportation facilities are conveniently located for extension to the subject property by developers (purchasers) as required by City development standards; and
- Whereas:** The Stelling Subdivision includes a new street right -of-way on the Dorian Drive alignment from the Beltline to an intersection with Malheur Drive; and

Whereas: The City, acting in a government “pass-through” capacity requires the subsequent owner of the approved subdivision plat to meet all development standards imposed by the City of Ontario. Therefore, the following note shall be inserted in the owner’s certification on the plat: The City of Ontario, owner and approving agent, further certify and require that all development hereon is subject to and shall comply with the development requirements as per City Ordinance in effect at the time development is proposed.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council, to accept the above Findings of Fact and approve the Stelling Subdivision with the above stated owner’s certification.

EFFECTIVE DATE: Effective immediately upon passage.

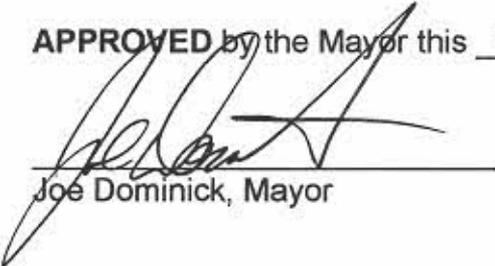
PASSED AND ADOPTED by the City Council of the City of Ontario this 17 day of May 2010, by the following vote:

AYES: Fugate, Sullivan, Mills, Dominick, Gaskill, Verini, Crume

NAYES: None

ABSENT: None

APPROVED by the Mayor this 17 day of May, 2010.



Joe Dominick, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder

STELLING SUBDIVISION

Within a portion of NW1/4 Section 5, Township 18 South, Range 47 East, Willamette Meridian, Multnomah County, Oregon



GOV'T. LOT 3

REGISTERED PROFESSIONAL LAND SURVEYOR
APRIL M. BROWN
 25316

RENEWAL DATE: DEC. 31, 2011

OWNER/DEVELOPER
 CITY OF OREGON
 444 S.W. 4th STREET
 OREGON, OREGON 97014

PREPARED BY
CKS, LLC.
 308 S.W. 2nd Avenue
 OREGON, OREGON 97014
 PHN (503) 488-3411
 FAX (503) 488-2074

70-09034
 SHEET 2 OF 3

CURVE TABLE

NUMBER	PI TA ANG	CHORD	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH	TANGENT
C1	107.000°	50.00'	42.12'	S 42°47'01" W	42.43'	30.00'
C2	237.000°	470.00'	188.00'	N 17°44'08" W	187.71'	25.75'
C3	237.000°	530.00'	213.11'	S 17°44'08" E	211.68'	108.01'
C4	807.000°	30.00'	4.11'	N 47°12'58" W	42.43'	30.00'
C5	237.000°	500.00'	201.05'	N 17°44'08" W	199.69'	101.80'
C6	277.000°	1288.34'	65.93'	S 88°44'12" W	65.82'	35.97'
C7	277.000°	626.17'	198.70'	S 82°04'24" E	83.19'	41.73'
C8	0°32'48"	458.18'	20.87'	S 82°28'30" W	208.64'	54.53'
C9	0°32'48"	458.18'	20.87'	S 82°28'30" W	208.64'	54.53'
C10	87°44'56"	25.50'	31.33'	N 47°27'18" W	28.22'	19.81'
C11	87°44'56"	25.50'	31.33'	N 47°27'18" W	28.22'	19.81'
C12	274°52'00"	500.00'	215.71'	S 31°02'27" W	214.04'	109.25'
C13	172°17'28"	500.00'	134.02'	N 55°41'18" E	133.92'	87.41'
C14	107°17'30"	500.00'	81.69'	S 47°19'43" W	81.00'	40.93'

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 47°19'43" E	232.74'
L2	S 87°14'55" W	32.15'
L3	S 87°15'00" W	77.50'
L4	N 42°32'50" W	58.31'
L5	S 25°15'18" E	198.14'
L6	S 77°30'18" W	147.82'
L7	N 67°27'27" E	177.43'
L8	S 82°28'30" W	82.65'
L9	N 02°33'33" W	25.18'
L10	S 30°38'54" W	17.79'



STELLING SUBDIVISION
 Within a portion of NW1/4 Section 1
 Township 18 South, Range 47 East, W
 Malheur County, Oregon

LEGEND

- SUBDIVISION BOUNDARY
- SUBDIVISION LOT LINES
- SECTIONAL LINE (SEC.)
- SECTIONAL LINE-QUARTER
- EASEMENT LINE
- EX. EASEMENT LINE
- RIGHT-OF-WAY (R-O-W)
- ODD RIGHT-OF-WAY (R-O-W)
- CANAL CENTERLINE
- DISTANCE LINE
- () DATA OF RECORD
- () BRASS MONUMENT AS NOTED
- () SET 3/4" X 3/4" REBAR W/ CAP MARKED
- () FOUND 3/4" ROD BAR
- () CALCULATED POINT

PARCEL DATA:

TOTAL PARCEL SIZE: 84.13 ACRES
 TOTAL ROW BEING DEDICATED: 5.01 ACRES
 UNION CANAL ROW: 5.26 ACRES
 NET TOTAL PARCEL: 79.12 ACRES
 NUMBER OF PROPOSED LOTS: 1/2 SLAVY INDUSTRIAL)

DESCRIPTION OF SUBDIVISION BOUNDARY

Land in Malheur County, Oregon, as follows:
 In Twp. 18 S., R. 47 E., W. 3 M.,
 Sec. 5, Govt. Lots 3 and 4, and all that portion of the SW1/4 NW1/4
 north and westerly of the right of way as conveyed to the State of C
 Department of Transportation by that certain Deed recorded May 28, 2
 last, No. 2002-0038, Dead R.ecords.
 SUBJECT TO the right of ways for Deck Canal and Union Drain.

RECORDS OF REFERENCE

- (R1) RECORD OF SURVEY FOR 1ST SOUTHERN BAPTIST CHURCH, BY HOLLADAY
 ENGINEERING CO. FILED UNDER COUNTY SURVEY No. 18-47-0797.
- (R2) THE PLAT OF PLOTS' LANDING SUBDIVISION IN BOOK 6 AT PAGE 91 OF
 SUBDIVISION PLATS, PAVETTE COUNTY, IDAHO.
- (R3) RECORD OF SURVEY BY B-STARS SURVEYS, IN BOOK 5 AT PAGE 41 OF 50
 RECORDS, PAVETTE COUNTY, IDAHO.

REGISTERED PROFESSIONAL LAND SURVEYOR
 BRETT M. JOHNSON
 2318
 444 S.W. 4th STREET
 OREGON, OREGON 97114
 RENEWAL DATE: DEC. 31, 2

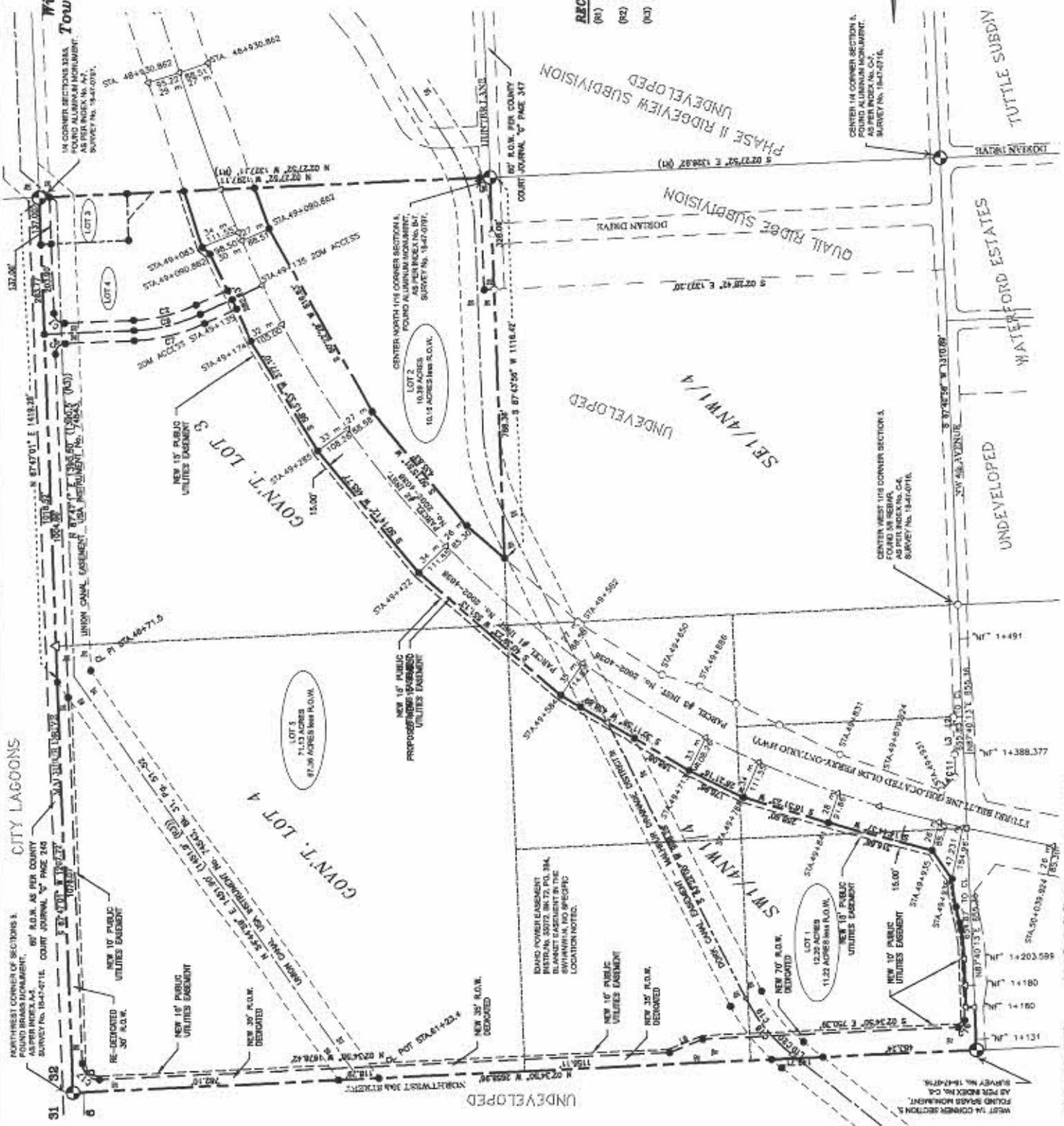


OWNER/DEVELOPER
 CITY OF OREGON
 444 S.W. 4th STREET
 OREGON, OREGON 97114

PREPARED BY
 CKS, LLC.
 300 S.W. 30th Avenue
 OREGON, OREGON 97114
 PH: (503) 466-5111
 FAX: (503) 466-2074

INDEX OF SHEETS
 FLOT PLAN 1
 DETAIL SHEET 2
 SIGNATURE PAGE 3

YO-09034
SHEET 1 OF 3

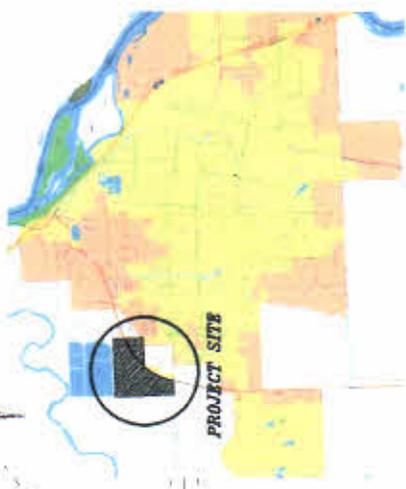


**PRELIMINARY PLAT FOR
STRELLING SUBDIVISION**

Within a portion of NW1/4 Section 5
Township 18 South, Range 47 East, W.
Malheur County, Oregon

PARCEL DATA:

TOTAL PARCEL SIZE	98.13 ACRES
UNION CANAL EASEMENT	5.16 ACRES
NET TOTAL PARCEL	92.97 ACRES
CURRENT ZONING	R-715 AGR
NUMBER OF PROPOSED LOTS	42 (HEAVY IND.)
LOT AREAS:	
LOT 1	12.20 ACRES
LOT 2	12.20 ACRES
LOT 3	12.20 ACRES
LOT 4	12.20 ACRES
LOT 5	12.20 ACRES
TOTAL	61.00 ACRES



PROJECT SITE

DESCRIPTION OF SUBDIVISION BOUNDARY

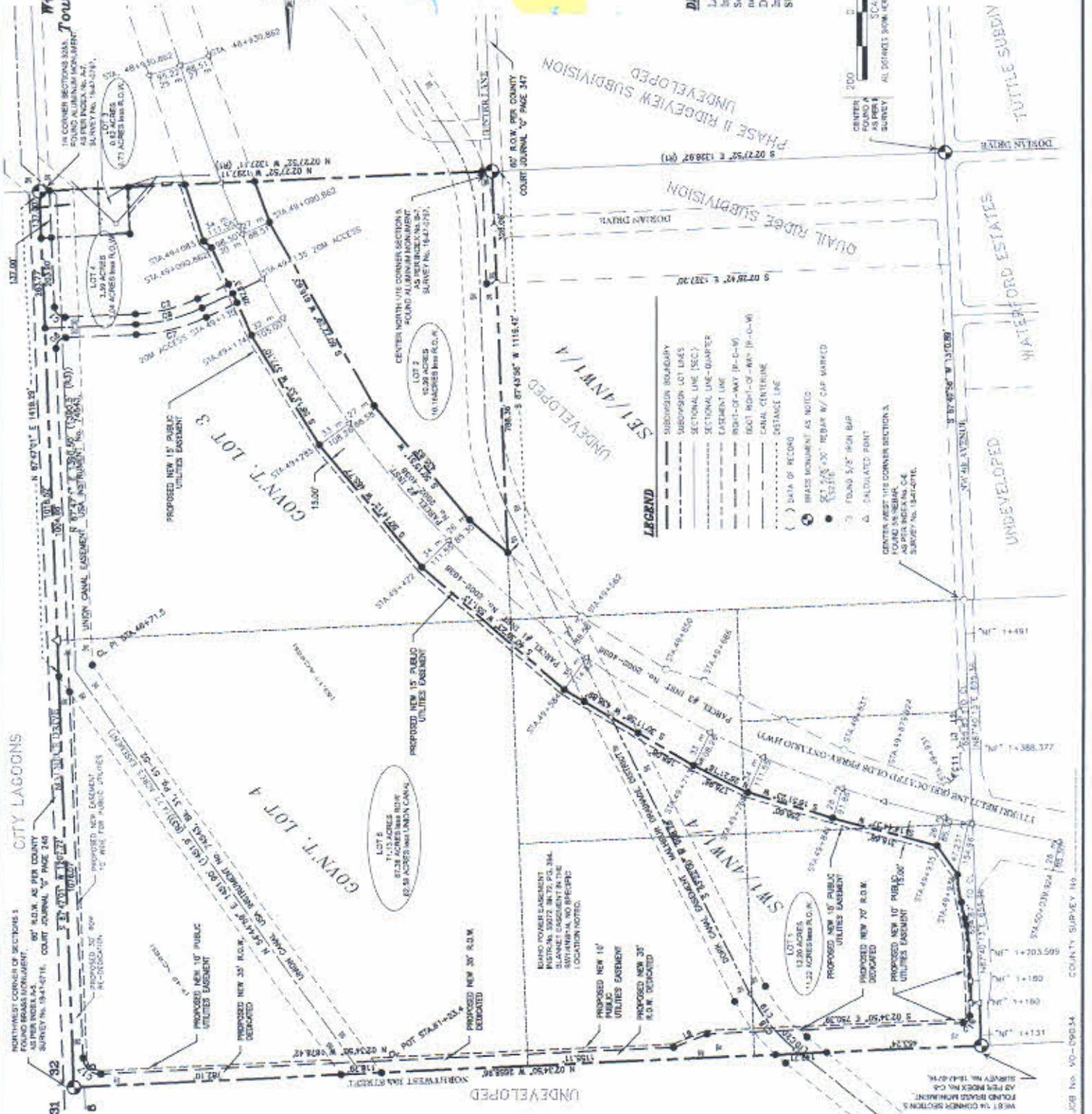
Land in Malheur County, Oregon, as follows:
In Twp. 18 S., R. 47 E., W.M.,
Sec. 5, Govt. Lots 3 and 4, and all that portion of the SW 1/4 NW 1/4 lying
northerly and westerly of the right of way as conveyed to the State of Ore-
gon Department of Transportation by that certain Deed recorded May 28, 2002
3-4 No. 2002-4038, Deed Records.
SUBJECT TO the right of ways for Deck Canal and Union Drain.

OWNER/DEVELOPER
CITY OF ONTARIO
444 SW 4th STREET
ONTARIO, OREGON 97144

PREPARED BY
CKS, LLC.
300 SW 5th Avenue
ONTARIO, OREGON 97144
PH: (541) 885-5411
FAX: (541) 885-2024
CO-09016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DANNY J. TULLIHANOS
NO. 12345
EXPIRES 12/31/2011



STELLING SUBDIVISION
Within a portion of NW1/4 Section 5, Township 18 South,
Range 47 East, Willamette Meridian, Malheur County, Oregon

CERTIFICATE OF OWNERS

STATE OF OREGON }
 COUNTY OF MALHEUR } S.S.

KNOW ALL MEN BY THESE PRESENTS:

THAT CITY OF ONTARIO, OREGON, DO HEREBY CERTIFY THAT IT IS THE OWNER OF THE REAL PROPERTY AS SHOWN ON THIS PLAT:

IT IS THE INTENTION OF THE UNDERSIGNED TO HEREBY INCLUDE THE DESCRIBED PROPERTY IN THE SURVEYORS CERTIFICATE IN THIS PLAT, AND TO DEDICATE TO THE PUBLIC, THE PUBLIC STREETS AS SHOWN ON THIS PLAT. THE EASEMENTS SHOWN ON THIS PLAT ARE NOT DEDICATED TO THE PUBLIC. HOWEVER, THE RIGHT TO USE SAID EASEMENTS IS HEREBY PERPETUALLY RESERVED FOR PUBLIC UTILITIES, IRRIGATION AND/OR DRAINAGE, AND SUCH OTHER USES DESCRIBED HEREON. NO PERMANENT STRUCTURE, OTHER THAN FOR UTILITY PURPOSES, MAY BE BUILT WITHIN SAID EASEMENTS. ALL LOTS SHOWN ON THIS PLAT ARE ELIGIBLE TO RECEIVE DOMESTIC WATER SERVICE FROM THE CITY OF ONTARIO, OREGON MUNICIPAL WATER SYSTEM, AND ARE TO BE CONNECTED TO CITY SANITARY SEWER AS WELL. THE CITY OF ONTARIO, OREGON HAS AGREED IN WRITING TO SERVE ALL LOTS IN THIS PLAT WITH DOMESTIC WATER, AND PUBLIC SEWER SYSTEM. THE CITY FURTHER CERTIFY AND REQUIRE THAT ALL DEVELOPMENT HEREON IS SUBJECT TO AND SHALL COMPLY WITH THE DEVELOPMENT REQUIREMENTS AS PER CITY ORDINANCE IN EFFECT AT THE TIME DEVELOPMENT IS PROPOSED.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS

THIS ____ DAY OF _____, 2010 A.D.

HENRY LAWRENCE, CITY MANAGER—CITY OF ONTARIO

ACKNOWLEDGMENT

STATE OF OREGON }
 COUNTY OF MALHEUR } S.S.
 I, _____, NOTARY PUBLIC, DO HEREBY CERTIFY THAT I AM A NOTARY PUBLIC IN THE STATE OF OREGON, AND THAT I AM CURRENTLY EXERCISING MY OFFICE IN THE COUNTY OF MALHEUR, OREGON. I HAVE PERSONALLY KNOWN _____, AND I AM Satisfied THAT HE IS THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT. I HAVE ALSO KNOWN _____, AND I AM Satisfied THAT HE IS THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT. I HAVE ALSO KNOWN _____, AND I AM Satisfied THAT HE IS THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT.

NOTARY PUBLIC:
 COMMISSION No. _____
 EXPIRES _____

CERTIFICATE & NARRATIVE OF SURVEYOR

I, DANNY CLUMMINGS, A REGISTERED PROFESSIONAL LAND SURVEYOR IN AND FOR SAID COUNTY AND STATE DO HEREBY CERTIFY THAT THE BARRIERS OF STELLING SUBDIVISION IN MALHEUR COUNTY, OREGON, AS SHOWN AND DESCRIBED ON THIS PLAT, WERE MADE BY ME AND THIS PLAT CORRECTLY REPRESENTS THE SURVEY AND PORTION HEREUNTO SET BY HAND AND SEAL THIS ____ DAY OF _____, 2010 A.D. FIELD WORK COMPLETION DATE: 04/20/2010.
 THAT THIS LAND WAS PLATTED AT THE REQUEST OF HENRY LAWRENCE, CITY MANAGER. BOOKS OF RECORDS AND RECORD INFORMATION ARE FROM INSTRUMENT NO. 1 ON REFERENCE TABLE HEREON.

DESCRIPTION

Land in Malheur County, Oregon, as follows:
 Sec. 5, T. 18 N., R. 47 E., S. 4, 41 C., MALHEUR COUNTY, OREGON.
 The Government has title to the land described herein, and the right of way or easement hereby and hereby of the State of Oregon, Department of Transportation, State Highway 20, 8002 by Instrument No. 2002-4036, Oreg's Revenue.
 SUBJECT TO the right of way for Bank, Road and Union Drain.
 Said parcel contains 88.13 acres, more or less.



REFERRAL DATE: DEC. 31, 2011

APPROVALS

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS PLAT OF THE STELLING SUBDIVISION HAS BEEN AS PER THE PLAN OF US AND CONFORMS TO THE REQUIREMENTS OF OUR RESPECTIVE OFFICES, AND REFER TO SE HANDS:

- CITY OF ONTARIO, OREGON _____ DATE _____
- PLANNING CITY OF ONTARIO, OREGON _____ DATE _____
- COUNTY SURVEYOR, MALHEUR COUNTY, OREGON _____ DATE _____
- COUNTY ASSESSOR, MALHEUR COUNTY, OREGON _____ DATE _____
- COUNTY JUDGE, MALHEUR COUNTY, OREGON _____ DATE _____
- COUNTY CLERK, MALHEUR COUNTY, OREGON _____ DATE _____
- COUNTY COMMISSIONER, MALHEUR COUNTY, OREGON _____ DATE _____
- OWBRET IRRIGATION DISTRICT, MALHEUR COUNTY, OREGON _____ DATE _____

CERTIFICATE OF COUNTY RECORDER

STATE OF OREGON }
 COUNTY OF MALHEUR } S.S.
 I, HERBY CERTIFY THAT THIS INSTRUMENT WAS FILED AT THE REQUEST OF STAN CLEMENTS OF TUMBLEWE DEVELOPMENT GROUP, LLC
 AT _____ MINUTES PAST _____ O'CLOCK _____ M., THIS _____ DAY OF _____, 2010.
 RECORDED ON RUFE _____ IN CABINET _____

RECORDER _____ DEPUTY _____
 INSTRUMENT NO. OF SUBDIVISION COVENANTS _____

OWNER/DEVELOPER
 CITY OF ONTARIO
 444 S.W. 4th STREET
 ONTARIO, OREGON 97114

PREPARED BY
 CK3, LLC.
 308 S.W. 5th Avenue
 ONTARIO, OREGON 97114
 PH: (503) 866-5411
 FAX: (503) 866-5274

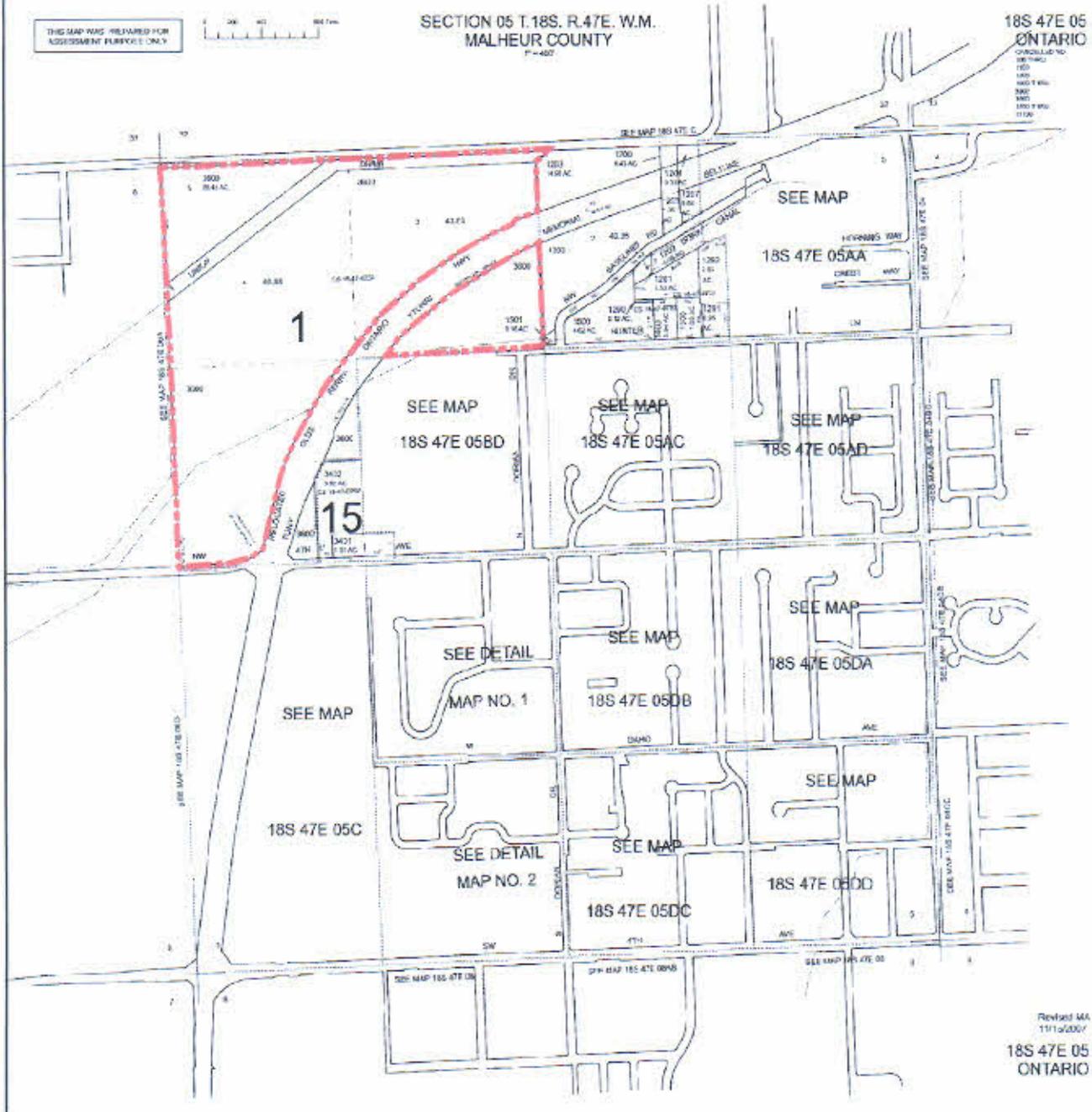
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY



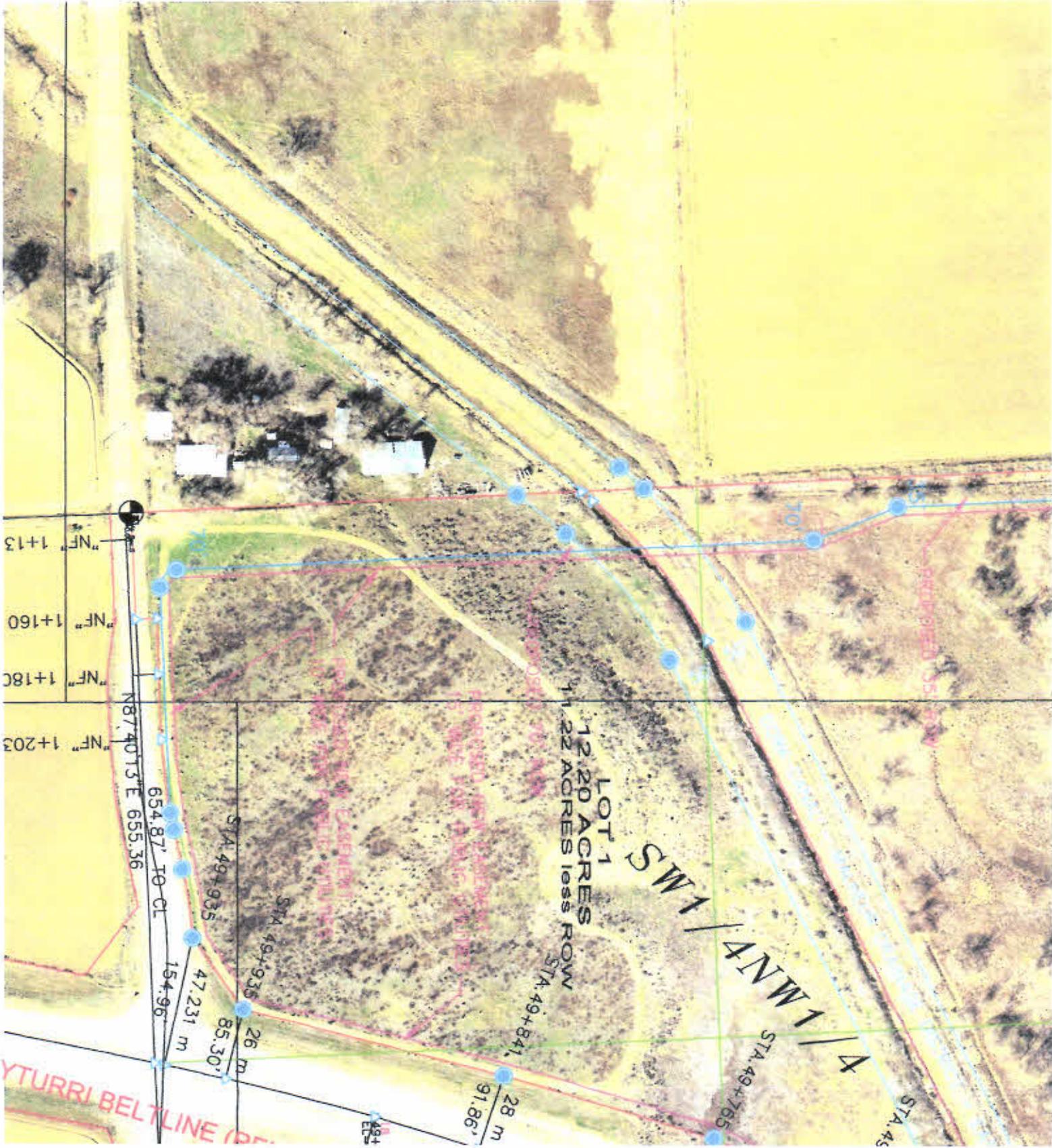
SECTION 05 T.18S. R.47E. W.M.
MALHEUR COUNTY
P=407

18S 47E 05
ONTARIO

CANCELLED TO
BE RECALLED
18S
47E
05
18S 47E 05
18S 47E 05



Revised MA
11/1/2007
18S 47E 05
ONTARIO



**PLANNING COMMISSION MEETING MINUTES
May 10, 2010**

The regular meeting of the Ontario Planning Commission was called to order at 7:00 pm in the Council Chambers of City Hall. Commission members present were Chairman Michael Rudd, Rita Kanrich, Mike Allen, Dennis Mendiola, Cindy Graversen, and Travis Currey. Greg Tuttle was excused.

City Planning Staff present were Planning Administrator David Richey and Planning Technician Marcy Skinner. City Manager Henry Lawrence and City Council ex-officio Ron Verini were present.

The meeting was recorded on tape and the tape is on file at City Hall. The Agenda for this meeting was mailed and/or hand delivered on or before May 3, 2010. Copies of the Agenda are available at City Hall.

Chairman Michael Rudd led everyone in the Pledge of Allegiance.

CONSENT AGENDA

Dennis Mendiola moved, seconded by Cindy Graversen, to adopt the entire Agenda as presented. Roll call vote: Allen-yes; Currey-yes; Tuttle-out; Graversen-yes; Kanrich-yes; Mendiola-yes; Rudd-yes. Motion carried 6/0/1.

ADOPTION OF MINUTES

Cindy Graversen moved, seconded by Rita Kanrich to approve the minutes of the April 12, 2010 meeting. Roll call vote: Currey-yes; Tuttle-out; Graversen-yes; Kanrich-yes; Mendiola-yes; Allen-yes; Rudd-yes. Motion carried 6/0/1.

There were no unscheduled public appearances.

PUBLIC HEARING- ACTION 2010-01-01 SUB: A proposal by City Staff for a subdivision plat on 98.13 acres of City owned land. Assessors Map #18S47E05; Tax Lot 3600.

Travis Currey disclosed that he is a member of the real estate firm where one of the opponents but it was found by Commission members to not be considered ex-parte contact. There were no abstentions.

David Richey, Planning Administrator, explained that the applicant was the City of Ontario. The property was located on the northwest side of the Yturri Beltline with ten acres of the property on the south side of the Beltline. The division of the property by the Beltline stimulated a need for the subdivision plat. The overall need was the need for economic development. The land is subject to all development requirements and these are being passed on to the future owners/developer.

Dan Cummings, CK3, LLC., explained that the subdivision was a two part process necessary to get the land marketable. The City possibly had a buyer for a portion of the property but to be able to sell it, the land that lies east of the Beltline and North of the Dork canal would have to be broken off. At first there was going to be a partition of the property but the City also has a lift station on a section of the property that would need to be sectioned off in order to remain in City ownership (Lot #3). In Oregon, only three parcels can be created with a partition, the lift station created a need for a subdivision. Mr. Jennings had contacted him that day expressing his concerns about the proposed NW 30th Street. The Jennings own the property to the west of the City property on NW 4th Avenue; adjacent to City lot #1. There were two reasons for the extension of NW 30th Street. First, Oregon required connectivity through a Master Plan.

CITY OF ONTARIO, 444 SW 4TH STREET, ONTARIO OREGON 97914

The only connecting road to Malheur Drive is Verde which is a mile away and to the west is NW 36th Street which is $\frac{3}{4}$ of a mile away. The other reason for establishing the street was so that a street location will be available at the time of submittal of the future development plans. The new development could have better connectivity ideas. So to fulfill the connectivity requirements of the subdivision and to protect the City from having to buy right of way, if went ahead and platted 30th Street on the West side of the property. The City would not be asking for any right of way from the Jennings, the City would be assuming all of the right of way near their home. Usually the adjoining property owner would assume half of the right of way. Vision clearance was also a concern from the Jennings as they had small children. The platting would have to meet vision clearance requirements, which may require the road to be moved further to the East. Oregon Department of Transportation (O.D.O.T.) requires a certain distance, possibly 600', away from intersections, which would have to be met as well. The ordinance requires 600' blocks as well. Not knowing how the property will be developed, it had been laid out to the minimum requirements. The road itself would have to be approved at a later time when development occurred. The upper land, lot #1, was about 20-25 feet higher in elevation than the lands at the bottom separated by the Dork canal. It was considered to be more valuable than the lower portion of land. Lot two was the Eastern portion separated from the Beltline. The Beltline does not segregate the land legally or make it a separate lot. Lot three was where the City's lift station is located. Lot four is to establish connectivity when a connection is needed from the Beltline to Malheur Drive. In the granting of the right of way to O.D.O.T. the City reserved an access approach at that intersection.

Commissioner Mendiola asked if it the road (NW 30th Street) was normally designed at an angle.

Mr. Cummings answered that it was straight north and south but was wider at the top part since the City was assuming all of the right of way at the top and only half of the right of way at the bottom.

Commissioner Mendiola asked why the City didn't assume all of the right of way for the entire street.

Mr. Cummings said that generally the adjacent owner would assume half of the right of way. Both owners would benefit from the access of the road. It did not seem like the Jennings had enough room for the City to ask for $\frac{1}{2}$ of the right of way.

Marcy Skinner, Planning Technician, read the letter from Malheur Drainage into record (letter is attached).

Wes Jennings, Ontario, "I first of all would like to start off by thanking you guys for hearing me tonight. Like I said, my name is Wes Jennings, I own the property that's adjacent to the City's, directly to the South West, along the 4th Avenue. We bought the property in September 2009, we plan to live there and raise a family. At the time we bought it we had our realtor, Richard Teramura, contact the City regarding the zoning issues. He talked to somebody down there. They expressed to him that it was zoned the same way as ours. We had no knowledge at that point in time that it was Heavy Industrial until this recent hearing right now. Later conversations, my wife and I contacted them and it was said that it was Light Industrial, not Heavy Industrial so from the get go we've been kind of led down the wrong road, a mistake we won't make in the future, by any means. Right now I fully understand the property is zoned Heavy Industrial, the City is just wanting to subdivide the property. I understand that. I would like you guys to consider relocating or removing the 70-foot right of way that borders our property. I have numerous concerns and reasons why I think it should be altered. If a public road is constructed the intersection will be placed on top of the hill like Mr. Cummings mentioned earlier. The intersection is going to allow too little visibility to oncoming traffic. I use that access point for my driveway, it's amazing the speed of cars and the visibility level that you get cars that are upon you before you even know where they're at. You know I fear for my safety of my family as well as the safety of the motorists traveling on that road. I know that they, there's no talk right now of developing that but in the future it will be developed. You know my wife and I bought the house in the country to avoid being on a busy, risky

intersection. You know I don't want my child going up near the high-risk intersection like I think it will be. In the application, on page 3, paragraph 10C-15-16 labeled access, if you guys want to read that. In the supplement to page they both state that the road is there just for emergency purposes. The access to the proposed lots have meet the minimum frontage requirements. They all have access on the...road. So right now the proposed right of way for the road isn't planned for access or anything. We respectfully request that it be removed from the plat map since it's not accessed to any lots although access is to the developed road itself, we're already established. Once the right of way is established, I talked to Mr. Cummings today about this, the likelihood of something changing is very unlikely. I talked to Mr. Cummings, he'd been out on the place. He'd expressed that he thought that access point of the intersection is a risky spot for an intersection but it could be moved one way or another trying to allow more access for rigs to see that oncoming traffic. If the right of way starts getting to go off of the slope of the land that runs to the north it would make it very difficult and it's been proposed to develop a road or bridge across the Dork Canal. That canal crosses the northern end of our property and goes up to your guys' property. I talked to Mr. Cummings about the slope of that property, 70 foot, and I'm not an engineer, but 70 foot to develop a road and a bridge across that without encroaching on my property, I don't think it can be done. Mr. Cummings said is that he thought it would probably have to be pushed out a hundred, a hundred fifty feet to the east to accommodate the development of that ground, that slope. With that said, I'm really not sure why right of way would be preliminary platted if their already thinking about having to move it when the development comes along anyways, if that makes sense. In closing, I guess I'd just like you guys to reconsider or relocate the 70 foot right of way that borders our property. Thank you for your time, you guys have any questions for me?"

Danielle Jennings, Ontario "I just have a couple things to add, as far as connectivity goes for this parcel, on the proposed plat it states that Dorian is going to come through so that would provide connectivity for that parcel in my estimation that's what it's expressed as. So, realistically we don't need to have that 70 foot right of way if it's not needed there. If they can gain access off of 4th Avenue and only for lot 1, I don't feel that it needs to be in it because if you improved it this way right now it will be marketed that way to sell it. Forever, whoever buys it is going to look at is as a road, the access point. They won't move it. You know, if it turns out that the visibility is not such that they can put it there, they're going to have to move it over anyway so we're going to have to buy right of way back. If that's the situation, why not move it while we are taking care of it right now and approving the subdivision. I believe that's really what I wanted to touch on and just ask that you look at it as you would a private developer. You know, we're concerned about the fate of not only our family but the public driving on that road and again, we sure appreciate you hearing us out if any of you guys have any questions?"

Richard Teramura, Ontario, "I was the real estate agent working with the Jennings and basically in a round about way, I think you know everybody is agreeable that there's no problem with developing and getting the best we can for the City. I mean, everybody's looking out for that. I think it's really coming down to, and Mr. Cummings kind of said that in the future that's probably going to change or whatever but that's what they're concern is basically that road and the placement of the road and if there's issues I mean, at least that's what we're looking at today, I mean, we're planning. So, If it's not the ideal situation for maybe in the future or in just having a route to get there to do the job where we thought. You know, what we think drawing the line and making sure it's there. I think the main concern is that if you draw the line, you know we're planning. I think that's our job here, right? To make sure we're functional and if it's not the best or most ideal maybe not draw the line. Maybe that's gonna make sure we have other alternatives or something for the developer is given more leeway. You know if they have access to that line right there, they're probably going to try to utilize that so in the long run just maybe plan an alternative way to do that or and for all our safety concerns we should probably as planners in Malheur County is maybe get that resolved ahead of time rather than shift it off to the developers trying to figure out and you know, but again speaking with the Jennings and everybody, I think we're all in agreement that developing and getting this city moving and developing is a great idea and it just boils down to

basically the placement of the road and it sounds like there is a little bit of concern maybe you know from all standpoints that road is probably not the ideal location so again, thank you again for letting me talk to you."

Mr. Cummings stated that the City had not spent the money on design of the road. He had not intentionally say that the road would have to be moved over. When the road was designed, if it needed to move to the east then the City or owner would have to grant more right of way to move it to the east. The Planning Commission and City Council have the authority to override their own ordinances up to a certain extent and they can choose to not show the right of way on the left side. They were trying to meet the same requirements that any developer would have to meet without having to apply for variances. They hired him to make sure that the City was held to the same standards and requirements as everyone else. They didn't want to open the City up to scrutiny by not following the standards to connectivity. If the right of way was moved over, the City would end up with a sliver of land that would be worthless. Mr. Jennings indicated that he would not want to buy it for \$20,000 and acre. The right of way needed to be left there until the road was designed.

Commissioner Mendiola asked why a frontage road couldn't be done there besides the beltline.

Mr. Cummings said that then there wouldn't be a straight connectivity. They would not allow an intersection there. It barely met the setback distance from the intersection as it was already. A frontage road would still need to come up to where it was being done to connect to NW 4th.

Commissioner Mendiola asked why a frontage road couldn't be along the east of the Beltline (Highway 201) like across from Hollingsworth.

Mr. Cummings said that you couldn't connect to NW 4th except for at a different location. The intersection would still have to go as far west as they could on NW 4th. But it wouldn't be smart to put the road in the middle of the City's property and split it into two. The odds are that it would have to be vacated.

Mr. Currey asked who would determine the visibility standards for the new street.

Mr. Cummings said that Oregon Department of Transportation would look at several factors and do a traffic study and design to determine the safety of that road location.

Mr. Richey addressed the design for access to the property for safety concerns. It was a large parcel that would need emergency access into it. The road would also serve the land that is further to the West. Its connection to NW 4th lines up with the future access to the Wada and Tomiyoshi properties.

Chairman Rudd asked how it could be worded in case the road had to be moved in the future.

Mr. Richey answered that the road was adjacent to the Wada and Tomiyoshi property on NW 4th and if development were to occur on both industrial properties it would be a busy intersection. The City would need to anticipate the need for future connectivity.

Mr. Currey stated that he worked with the opponent, realtor Richard Teramura. He asked if he would be voting or if it was considered ex-parte contact.

Chairman Rudd did not think that there was sufficient contact to exclude him from the voting. He asked if the Jennings would like to speak again.

Mrs. Jennings, "You said, you are talking about this for developing for construction. They're saying, we're just talking about a right of way here but it is development for construction. This is the plot that's going to

be marketed, this is what they're going to look at. Although it can be moved later, why not move it now. You know there's an issue and you know that it's going to need to be moved to run it down the hill or whatever the case may be which definitely was said. Then, why not do it now. Not only that, but, realistically we're giving this false representation to the buyer of purchasing 12 acres that we know driveway's gonna have to be moved over. So why not market that as the actual development piece. As far as access and emergency vehicles, Malheur County has a large number of ninety acre parcels that have a lot less access points than three roads going into it for emergency vehicles to take care of whatever they handle there. I just would like to ask that you move it over a hundred feet to the east so that we do not have a main road directly in front of our house. If you haven't gotten a chance to see it, it's right there and it causes a major safety concern for us. So, those are the main points that I wanted to hit on.

Mr. Richey said that there are two levels of development; one is the general placement of the right of way and the other is in the design stage for construction which would be at the development stage, but the right of way would probably not be being moved.

Chairman Rudd closed the public hearing portion.

Commissioner Allen felt that the road would be required to be moved by O.D.O.T. and he felt that there were plenty of access points and was concerned for the cost of crossing the canal.

Commissioner Currey commented that the canal would have to be crossed at some point.

Mr. Richey stated that the Wada, Tomiyoshi and Stelling's properties all junctioned at one spot and that the roads should not be offset but should be a straight line going through 4th Avenue.

Commissioner Kanrich asked if Mr. Wada had contacted the City.

Mr. Richey said that he was not interested at this time.

Commissioner Allen commented that the construction of the Yturri Beltline created a wall between two sides of the City.

Commissioner Kanrich asked how the separation could be fixed.

Commissioner Allen asked why O.D.O.T. picked that spot for the Beltline in regard to the proximity of the Jennings' home to the proposed 30th Street.

Mr. Richey stated that in a normal urban setting, the home would have a 15 foot setback from the street right of way but in this case, Mr. Cummings had stated that they would have 30-40' setback from the proposed street right of way.

Mr. Cummings thought that the Jennings' may be more concerned with the NW 4th Avenue widening which would significantly reduce the size of their front yard.

Mr. Richey stated that the Planning Commission's recommendation would be based on their review of the tentative plat and upon that recommendation, the final plat would be either approved or denied by the City Council.

Commissioner Kanrich said that she had several concerns with the street arrangement.

Commissioner Allen asked if our main concern was for emergency vehicles.

Mr. Richey responded that it was equally important for employment traffic.

Commissioner Currey said that the safety concerns of clear vision at the intersection of the proposed street at NW 4th Avenue should be left to O.D.O.T.

Chairman Rudd along with other Planning Commission members wanted to include within the finding of facts that issues regarding the street location and connections with one another had been discussed at length by the Planning Commission, the Jennings family expressed concerns, and that the Planning Commission agreed with the Jennings concerns.

FINDING OF FACTS

Rita Kanrich moved, seconded by Dennis Mendiola, to adopt the Findings of Fact for the subdivision as amended. Roll call vote: Allen-no; Currey-yes; Tuttle-out; Graversen-yes; Kanrich-yes; Mendiola-yes; Rudd-yes. Motion carried 5/1/1.

APPROVAL OF ACTION 2010-01-01 SUB

Chairman Rudd moved, seconded by Dennis Mendiola, to approve the final plat. Roll call vote: Allen-no; Currey-yes; Tuttle-out; Graversen-no; Kanrich-yes; Mendiola-yes; Rudd-yes. Motion carried 4/2/1.

REPORTS

Marcy Skinner reported on the permit activity. There were no questions.

ADJOURN

Mike Allen moved, seconded by Cindy Graversen, to adjourn. Roll call vote: Allen-yes; Currey-yes; Tuttle-out; Graversen-yes; Kanrich-yes; Mendiola-yes; Rudd-yes. Motion carried 6/0/1.

Meeting was adjourned at 8:20pm.

Michael Rudd, Chairman

Marcy Skinner, Planning Technician