

**COUNCIL MEETING MINUTES**  
**June 7, 2010**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, June 7, 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 Henry Lawrence, Tori Barnett, Larry Sullivan, Chuck Mickelson, Al Higinbotham, Mike Kee, Yorick deTassigny, Allen Montgomery, Mark Saito, Frank Grimaldo, Alan Daniels and camera operator Erika Hopper.

Charlotte Fugate led everyone in the Pledge of Allegiance.

**AGENDA**

Ron Verini moved, seconded by Charlotte Fugate, 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**

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

Susann Mills moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 05/17/2010; Item B: Appointment to Airport Board: Shawn Coleman; Item C: Resolution #2010-132: City's Election to Receive State Revenues; Item D: Resolution #2010-133: Imposing and Categorizing Taxes for the Second Half of the 2009-2011 Biennial Budget Period; Item E: Ordinance #2645-2010: Requiring Telecommunications Franchisees to Maintain their Facilities Free from Nuisances, Including Graffiti (Final Reading); and Item F: Approval of the Bills. Roll call vote: Crume-abstain; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/0/1.

**NEW BUSINESS**

**Resolution #2010-130: Transfer Funds to Purchase Dog Lodging Services**

Mike Kee, Police Chief, stated Kim and Ross Henricks made an offer to purchase Atherton Kennels. The City had had a long-standing relationship with Atherton Kennels using them to lodge stray and vicious dogs. In recent years the quality of care at Atherton Kennels had become a concern of many of their customers, including the police department. Included in the packet was a proposed contract from the Henricks in which the cost of lodging dogs for the first year was proposed to increase 20%, with an increase of 7.5% for each year after for a total of five years. Staff felt that some changes needed to be made to the proposed contract in order for the City to sign. The monthly cost of lodging was proposed to increase from \$975 to \$1,170 or \$2,340 for the remaining year of the budget. As this was an unbudgeted cost, a transfer of funds from contingency into police dog lodging would be necessary. City staff was in support of the Henricks' proposal, and was excited about the improvements outlined. Staff would work with the Henricks and Larry Sullivan to reach a mutually agreeable contract.

Kim Henricks stated she and her husband were in the process of purchasing Atherton Kennels, and would be changing the name to Ani-Care Animal Shelter. Over the past year, the Ontario Police Department had delivered 148 dogs to the kennel, and citizens had brought out 35 for the year, for about 16 dogs a month on average.

Councilor Fugate asked about the 20% increase in fees. Also, would there be someone available at the kennel 24 hours a day?

Ms. Henricks stated the increase would be used partially for the installation of an incinerator, but also the facility overall was outdated and needed repairs made throughout. As for the coverage, there would be set hours, but she would make herself available for the off hours.

Mayor Dominick stated that based upon the increase requested, Ms. Henricks was estimating about \$80 a day, per dog, for housing.

Mr. Henricks stated it was hard to judge how much was needed, specifically.

Councilor Sullivan stated it appeared very high. How much was she charging to lodge an animal?

Ms. Henricks stated a boarded animal was about \$22 per day.

Councilor Sullivan stated the city was paying quite a bit more, and paying up front, and would also have a contract.

Ms. Henricks stated it was all perception. She didn't believe they could calculate out on a per dog basis, but more the number of kennels she would provide.

Councilor Sullivan stated it would seem the city would get closer to the cost being charged to people boarding their animals. Why would the city be charged three times that amount?

Ms. Henricks stated there was also maintenance provided; however, she didn't really have an answer.

Chief Kee stated that also provided access to the city 24-hour a day.

Ms. Henricks stated she would have no background on the strays, but she'd have all information on pets being boarded.

Councilor Sullivan suggested a shorter contract term in order to review a year's worth of statistics.

Ms. Henricks stated she would probably be okay with that, but wanted to speak with her attorney.

Mayor Dominick asked for clarification on the \$10 fee per animal subject to a "bite" hold.

Chief Kee stated the city's ordinance required a 3-day "bite" hold on an animal questionable for rabies.

Councilor Crume asked for an explanation on the price increase of 20% initially, then 7.5% per year for the next 5 years. That equated to a total 60% increase over the next five years.

Ms. Henricks stated no increase had been taken over the past 6 years, so it was to catch up to current financial needs. Also, the initial 20% was to help put in upgrades at the facility.

Mr. Sullivan stated he had spoken with County Counsel Stephanie Williams, and he had also seen the contract for what the county was paying to the kennel, and he believed it to be several hundred dollars more than the city was paying. Also, the Sheriff didn't transport dogs to the shelter, so they were paying a fee to the kennel without the county using it. The rationale was that they were paying it as a subsidy to allow a shelter to be available for local residents.

Mayor Dominick suggested to Larry Sullivan a change in the contract on page 21, the section regarding transferring the shelter without consent of the other party. That needed to be addressed. That section needed to be written to require the consent of the Council. He also agreed with a 1-year term right now, then readdressing it later after seeing the numbers for that one year.

Councilor Verini suggested a 2-year initial contract.

Mr. Sullivan stated the issue before the Council was the adoption of the resolution to transfer money for the increased payment to the kennel for the budget cycle. They did not have to discuss the contract at this point.

Chief Kee confirmed the money was for a 12-month period, or until the end of the 2011 budget.

Norm Crume moved, seconded by David Sullivan, to adopt Resolution #2010-130, A RESOLUTION APPROVING THE REALLOCATION OF \$2,340 WITHIN THE GENERAL FUND FOR THE PURCHASE OF DOG LODGING SERVICES. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Ordinance #2646-2010: Granting a Franchise Agreement to Idaho Power (1<sup>st</sup> Reading by Emergency Clause)**

Larry Sullivan, City Attorney, stated Idaho Power Company had a 20-year franchise agreement with the City that was set to expire on June 30, 2010. The most significant changes in the new agreement were to shorten the length of the franchise term from 20 years to five years (Section 2); and to increase the franchise fee from 5% to 7% of Idaho Power Company's gross revenues (Section 13). The purpose of the shorter term was to allow the City to adapt more

quickly to changes in the utility business and in technology by allowing for more frequent negotiations. The reason for the increase in the franchise fee was to increase the revenues to the City.

Under the rules of the Oregon Public Utility Commission, an electric power franchisee must pay the first 3.5% of any franchise fee and must bill any additional amount to its customers within the jurisdiction. Therefore, under the current agreement's 5% franchise fee, the Idaho Power customers in the Ontario city limits paid 1.5% of the franchise fee. Under the proposed agreement's 7% franchise fee, those customers would pay 3.5% of the franchise fee.

Idaho Power Company provided a "template" contract form that it encouraged cities to use. Although the template was generally complete and fairly neutral, and many of the provisions were added in the new ordinance, there had been some changes made in the template for the Ontario ordinance. Changes included the requirement that the franchisee comply with the provisions of the City's right-of-way standards imposed in Chapter 8 of Title 8 of the Ontario City Code (Section 10); that the franchisee comply with the nuisance and anti-graffiti provisions of the City Code (Section 5); and that the franchisee allow the City to use its power poles and other facilities without charge so long as the City's use did not interfere with the franchisee's operations (Section 16).

The ordinance also included an emergency provision to allow the ordinance to take effect in less than 30 days, so that there would not be a gap between the expiration of the current franchise agreement on June 30, 2010, and the new agreement, assuming that the second reading took place before then.

As a side note, as of May 28, 2010, Idaho Power had not reviewed or commented on the proposed agreement.

Councilor Crume stated he would prefer a 5-year contract, but did not have an issue with a 10-year contract. He did, however, not agree with the 2% increase. Based on the current economic times, he did not believe it fair to add another burden on to the backs of the taxpayers.

Joe Dominick moved, seconded by David Sullivan, that the Mayor and Council declare the need to approve Ordinance #2646-2010 on an emergency passage. Roll call vote: Crume-no; Fugate-yes; Gaskill-yes; Mills-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

Ron Verini moved, seconded by John Gaskill, to approve Ordinance #2646-2010, AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH FRANCHISE, AND DECLARING AN EMERGENCY, on First Reading by Title Only. Roll call vote: Crume-no; Fugate-yes; Gaskill-yes; Mills-no; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 5/2/0.

#### **Fire Station Storage Building Design Build Award**

Chuck Mickelson, Public Works Director, stated the memorandum reviewed the process to date for the design and construction of the Fire Station Storage Building. Staff was recommending that the City Manager be authorized to sign a design-build agreement with MVCI, LLC of Ontario, Oregon for the design and construction of a Fire Station Storage Building on city-owned airport property located at the corner of Southwest 4<sup>th</sup> Avenue and Southwest 33<sup>rd</sup> Street. The project was needed to address the considerable space shortage issue facing the Ontario Fire Department and the Rural Fire Protection District that was resulting in the inability to adequately store critical emergency response equipment. Costs had been received for both a four bay facility and a five bay facility. Staff recommended proceeding with the construction of a five bay facility as that was the most economical option.

In October 2009, the Council approved a resolution to hire an architectural firm to prepare plans and specifications for the design of a storage building. At the subsequent Council meeting, that resolution was rescinded in order to pursue the design-build process as an alternative to the traditionally used design-bid-build method for completion of the work.

Following the Council's decision, the Mayor created a committee comprised of council members and local citizens to review and study the design build process as outlined in the Oregon code for municipalities. Several members also visited similar fire facilities in the area. In mid January, city staff became involved in the committee process. The decision was made to proceed with a design build package and public works and fire staff spent a considerable amount of time developing the solicitation documents for the project. Oregon statutes and adopted rules required a very specific process when pursuing design-build that was considered an alternative contracting method from the normal process of design-bid-build. Due to the city's lack of precedent employing this procurement methodology, a variety of resources were sought to assist in the process, including documents prepared by other cities for similar projects, guidance from the city's legal counsel and recommendations from the Mayor's committee. A design-build process not only considered price but also qualifications, schedule, previous work experience and other parameters that the owner considered important in the selection process.

In March 2010, the city released the bid proposal for the project with a response deadline that was extended into early May as staff addressed concerns raised by interested parties through the addendum process. The solicitation yielded a total of five proposals to be considered by a selection committee that included Mayor Joe Dominick, Council President Susann Mills, Council Member John Gaskill, Public Works Director Chuck Mickelson, Deputy Public Works Director Bob Walker, Fire Chief Al Higinbotham and Facilities Manager Yorick de Tassigny. Non-voting attendees invited to provide expertise at various stages of the selection process included Anderson Perry Engineer Allen Riecki, who was involved in a similar project for the City of La Grande, and the city's Building Official Dwayne Holloway, to provide insight on code issues arising from candidates' responses to interview questions. Respondents to the design build proposal included Sid Johnson and Co. (Baker City), Holcomb Construction Inc. (Nyssa), Guho Corp (Eagle Idaho), MVCI, LLC (Ontario) and Wellens-Farwell (Enterprise).

The selection committee rejected two of the five proposals (Holcomb Construction and Wellens-Farwell) for non-compliance with the pass/fail portion of the proposal submission requirements. The committee felt it was important to adhere to the submission terms clearly outlined in the solicitation documents in order to lend credibility to the selection process.

Costs for the remaining proposers were as follows:

| Proposer            | Base Bid | Additive Alternate No. 1 | Total with Additive Alternate |
|---------------------|----------|--------------------------|-------------------------------|
| Sid Johnson and Co. | 672,062  | 55,192                   | 727,254                       |
| Guho Corp.          | 456,666  | 55,200                   | 511,866                       |
| MVCI, LLC           | 448,500  | 65,300                   | 513,800                       |

The base bid included a building with 4 drive-through bays and the additive alternate was for the construction of a 5<sup>th</sup> bay. These three proposals were evaluated and scored independently by each committee member following the scoring criteria published within the design build document. Price represented 30% of the score of the written proposal. A tally of the points resulted in the following ranking listed in order of highest to lowest score: 1. Guho Corp. 2. MVCI, LLC 3. Sid Johnson and Co. All committee members had independently ranked the three firms in the same order.

Guho Corp. emerged as the clear favorite of the committee based on price, understanding of the project, quality of their submissions and proposal content, and were invited to take part in an interview as a result. The decision was also made to interview the runner-up, MVCI, LLC. The selection committee compiled a list of questions to assist in evaluating each firm's presentation and responses.

It was discovered the day of the interviews that Guho Corp.'s Oregon contractor's license had expired, and had not yet been renewed. The firm's representatives were informed of this finding prior to the start of their allotted time and given the opportunity to look into the matter in case it was an administrative lapse at the state level. They elected to move forward with their presentation and interview in hopes the situation would be resolved in their favor.

During the interviews, both firms demonstrated they were capable of successfully completing the project. However, it was later determined that, despite their high level of professionalism and outstanding proposal quality, Guho Corp. was ineligible for further consideration for this project due to unresolved licensing issues. MVCI, LLC was identified as the successful firm, and was being recommended for the project by the selection committee.

One of the benefits of the design build process was to have the contractor and their representatives identify cost saving options. Each of the proposers had various suggestions as to how the project could be modified to save money without compromising the intent of the project. On June 1<sup>st</sup>, staff met with representatives of MVCI, LLC to see what cost saving measures could be considered in order to bring the project closer to the budgeted funds. Items that were identified included reorienting the building on the site to improve the ingress and egress; reducing the size of the concrete aprons in the front and back of the building saving on concrete and utilizing more asphalt which was less expensive on a per square foot basis; lowering the eave height from 20' to 17' which would still allow the fire department staff to stand on the top of the trucks when loading hoses and doing maintenance; eliminating the shower and urinal in the bathroom. As this building was intended to become a future fire station, showers would be provided during that construction; eliminating the translucent panels from the roof system - this was intended to save on energy costs. There would be significant natural light from the windows in the rollup doors and the exterior windows; and eliminating the vinyl composition tile in the bathroom and applying a sealant on the cement floor as an alternate finish.

During the meeting, a tour of the fire bays in City Hall was done. Following discussion, all were in agreement that the entry bay doors could be reduced in size from 14' to 12'. That would allow the length of the building to be reduced resulting in a smaller structure, less interior and exterior concrete, and less expensive doors.

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The Council could choose not to approve this design-build agreement with MVCI, LLC and direct staff to re-release the solicitation documents to see if more respondents could be lured by the project. Council could also instruct staff to pursue the services of a qualified firm for the design and development of bid documents for the project.

A \$400,000 budget was approved for this project which included a \$50,000 contribution from the Rural Fire District. The city intended to finance its cost over a period of 7 years. The placeholder in the budget now was for the debt service repayment of \$69,128 per year, and \$138,256 was in the 2009-2011 Biennial Budget. That was within the Fire Department budget in the debt service category. Staff recommended using the existing funds in the budget to partially pay for the construction and borrow the balance.

After further discussions with MVCI on June 3<sup>rd</sup> regarding the above cost saving measures, construction costs were reduced to \$430,000 from \$448,500 for the 4 bay facility and \$485,000 from \$513,800 for the 5 bay facility. The Fire Department would fill the 4 bay facility with existing equipment once it was constructed. The 5 bay facility provided additional capacity for future equipment and room for growth. It would be far more economical to construct the additional bay with this contract rather than adding onto it in the future.

In the work session on June 3<sup>rd</sup>, Council reviewed the finances for both scenarios (4 bay and 5 bay). A summary of costs and annual payments are as follows:

| MVCI, LLC  | 4 - BAY        | 5 - BAY        |
|--|----------------|----------------|
| Original Bid   | 448,500        | 513,800        |
| Cost Saving Measures   | (18,500)       | (28,500)       |
| Proposed Cost (MVCI)   | 430,000        | 485,300        |
| Additional Costs<br>(Permits, SDC's, Bills, Contingency, etc.) | 50,000         | 50,000         |
| <b>TOTAL COST</b>  | <b>480,000</b> | <b>535,300</b> |
| Rural Fire District Contribution                               | (50,000)       | (50,000)       |
|  | 430,000        | 485,300        |
| Debt Service 2009-2010<br>(use as cash)                        | (69,000)       | (69,000)       |
| <b>Balance To Borrow</b>                                       | <b>361,000</b> | <b>416,300</b> |
| Annual Payments  | 62,388         | 71,945         |
| 5% Interest  |                |                |
| 7 yr Amortization  |                |                |

Staff was recommending approval of an agreement with MVCI, LLC for a guaranteed maximum price of \$430,000 for a 4 bay facility or a guaranteed maximum price of \$485,500 for a 5 bay facility. Following the decision of the Council, staff would issue a Notice of Award and MVCI could submit the necessary insurance certificates, performance and payment bonds and sign the contract. Final design drawings would be prepared following these actions.

Mayor Dominick informed the Council that he and Councilor Mills had met with the Rural Fire District Board, and there was a possibility that they would be willing to increase their contribution towards the Fire Substation by an additional \$55,000. That would be before Council at the next study session.

Joe Dominick moved, seconded by Charlotte Fugate, to authorize the City Manager to sign a design build agreement with MVCI, LLC, of Ontario, Oregon, for the construction of a 5-bay fire station storage building for a guaranteed maximum price of \$485,300. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Resolution #2010-118: Transfer Funds to Extend Sewer Service to SW 4<sup>th</sup> Avenue and SW 33<sup>rd</sup> Street**

Chuck Mickelson, Public Works Director, stated a new Fire Station Storage Building was to be built on city property near the intersection of SW 4<sup>th</sup> Avenue and SW 33<sup>rd</sup> Street. The building would be used for storage of fire trucks, the hazardous materials response vehicle with trailers, and various other pieces of fire equipment. The building was intended to have a nominal dimension of 72' x 85' (6,120 square feet). Approximately 820 feet of 8-inch sanitary sewer line was needed to accommodate and provide service to the proposed new Fire Station Storage Building.

The only alternative to this was to construct a septic tank and drain field. After significant discussion with the Mayor's committee, it was determined that an extension of the sanitary sewer would be a better solution. The sewer line would also provide service to undeveloped property on the north side of SW 4<sup>TH</sup> Avenue. The proposal would reduce the Sewer Fund contingency balance by \$90,000 and increase capital outlay in the Sewer Fund by the same amount, leaving a Sewer Fund contingency balance of \$1,318,542.

Susann Mills moved, seconded by Norm Crume, to approve Resolution #2010-118, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND TO EXTEND SEWER SERVICES TO SW 4<sup>TH</sup> AVENUE AND SW 33<sup>RD</sup> STREET. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**Resolution #2010-135: Destination Resort – Burns-Paiute Tribe**

Henry Lawrence, City Manager, stated at the work session last Thursday, they had discussed that the Burns-Paiute Tribe was still interested in putting in a destination resort in Ontario, including a hotel, gaming facility, and possibility a golf course. There was a 2006 resolution on the books passed by a previous Council, supporting the effort of the Tribe. Before the Council was a new resolution that he, at the direction of the Council and with input from Councilor Sullivan, had developed to replace the 2006 resolution. It was also proposed that a letter, signed by the entire Council, be written and submitted along with the resolution to the elected officials at the state and federal level.

Councilor Sullivan asked the City Attorney to address the question that had been raised at the study session regarding conflicts of interest on this matter for members of the Council.

Larry Sullivan stated any time there was an out of town business relocating into a community, it was going to have both positive and negative impacts. Councilors who were also business owners might believe that there would be a positive impact on their business, but others might believe there would be a negative impact. Regardless, in either situation, that would not prevent any Councilor from voting on the issue. There was nothing in the proposed resolution that would prohibit any Councilor from participating or voting. There were very strict rules in Oregon that prohibited Councilors from voting on measures that would have a direct financial impact on their business, but in his review of the resolution, and having read the articles in the newspaper, he did not see anything that would give rise to a conflict of interest in this situation.

Mayor Dominick read some sections of the proposed resolution into the record: *Whereas the Burns-Paiute Tribe has approached the city with a tentative proposal of a destination resort and casino development, and the city has just started the process of gathering information and input from interested parties, the city was waiting to receive additional information from the Burns-Paiute Tribe. Because the City Council was still in the fact finding process, we are not prepared to offer our full support to the project at this time. The City Council encourages the continued efforts of the Burns-Paiute Tribe to improve the economic prospects of our region through the exploration of the possibility of locating a destination resort in the Ontario area. As more information about the proposed project becomes available and the City Council has been able to review the requested community impact analysis and hold public hearings, the City Council will amend this resolution as appropriate. As the process moves forward, the City Council encourages the Burns-Paiute Tribe to engage in a significant public effort to provide increased information as it becomes available and seek public input to ascertain the degree of public support for this project. The City Council requests that the Burns-Paiute Tribe work cooperatively with the City Council to choose a mutually agreed third-party consultant to complete the community impact analysis.*

Councilor Sullivan stated he was pleased that they had something in writing that would slow the process down and to allow for public input. He was under the impression that things were moving at the federal level that would impact the city's ability to have input into the process. He wanted the Council to consider the proposed resolution, as it reflected the position of the city currently, while still allowing for the input of information and discussion of the matter in a public form.

Councilor Verini didn't know if everyone had received a copy of the 96-412, the Indian Trust Land Acquisition Summary. The Burns-Paiute Tribe were not going through congress to secure land in this area. What they appeared to be doing was attempting to get congress to approve a trust. Eventually, wherever they did purchase property, whether in Ontario or somewhere else, that property would go into the trust. In the paperwork the Council received that evening, it stated "...where land was being acquired for business purposes, the Tribe shall provide a plan that specifies the anticipated economic benefits associated with the proposed use. Contact with state and local governments pursuant to 151-10, shall be completed at follows upon receipt that the Tribe's written request to have the lands taken in trust." The important piece to note was that nothing happened until they got the land. Once they got the land, then the discussions would begin. He did not think they could have an impact study if they didn't know where the piece of property was going to be. And it read quite clearly in the summary, "...the secretary shall notify the state and local governments (Ontario) having regulatory jurisdiction over the land to be acquired. The notice shall

inform the state and local governments that each would be given 30 days in which to provide written comment as to the acquisitions potential impacts on regulatory jurisdictions, real property taxes, and the special assessments." He was thinking that if the city passed the proposed resolution, it would seem that it would stop the Burns-Paiute Tribe right in their tracks. They wouldn't be able to go forward and create a trust. When the trust was put together and they obtained the land, that's when the city would become involved.

Councilor Sullivan stated what Councilor Verini was speaking of was if the Tribe went through the Department of Interior Standards, which were put in place during the Bush administration. The Burns-Paiute Tribe did not qualify under that because their land was located more than 100 miles from their current established reservation. Therefore, the 96-412 rules did not apply. They were requesting, through our congressional delegation, was to have it passed in the form of a Bill to give them congressional approval, which would go outside of the 96-412 guidelines.

Councilor Verini stated if the land was in trust, was Councilor Sullivan telling him that 96-412 was for naught?

Councilor Sullivan stated that was correct, that 96-412 was for if they moved under the provisions of the Department of Interior structure put in place by the Bush administration, which specifically stated that in order for it to qualify for those guidelines, it would have to be within a 100 mile radius of the current location. Because it was not, they were moving forward outside of the guidelines to get a congressional Bill that would allow them to acquire land that was more than 100 miles away from their land.

Councilor Verini stated that was all they were doing. They were trying to get congress to approve the move more than 100 miles from the reservation.

Councilor Sullivan stated as such, the only way that congress could do that was by placing it outside of the guidelines of the agreement. So once they received congressional approval, they had the right to build whatever they wanted on the land they purchased, without any input. What Councilor Verini was reading was not applicable because the Tribe did not fall within the guidelines.

Mayor Dominick stated there were two tracks that all Tribes could explore for land acquisition or land trading. One being 96-412, but the Burns-Paiute Tribe was working on the other track. None of that information regarding the second track had been received by the city.

Councilor Verini stated if the Tribe didn't have the land, and all they were doing was going for the trust, if they didn't know where the land was, how could they do an impact study?

Councilor Sullivan stated they were done all the time. He believed that Councilor Verini was mistaken in that the establishment of a trust was not recognizing the land as to where it was going to go, and saying all they were trying to do was establish a trust. That's irrelevant to this process because they weren't required to establish a trust when getting congressional approval, they could simply move forward with the purchase of the land that would be placed within their jurisdiction and outside of the city's. At that time, the city would have no say on what they built on the land.

Councilor Verini stated once they put the land in trust through congress...

Councilor Gaskill stated if Councilor Sullivan was correct, the track the Tribe was taking, to go through congress to have a Bill passed, supplanted the provisions issued by the Department of the Interior. It would not be a trust process. It would be a grant to the Tribe to do something outside of the guidelines. It would appear they were attempting to bypass every rule established by the Department of the Interior, which effectively stopped the process that was begun in 2004 when they first looked around Ontario. He wanted to see from Senator Merkley's office, the documentation that the Tribe was proposing, whatever it was named, to see what it said. That's if Councilor Sullivan was right.

Councilor Verini stated if Councilor Sullivan was wrong, it was doing a disservice to the Tribe.

Councilor Gaskill disagreed. In the resolution and letter, they were asking to be included in the process. If the Tribe was trying to politicize this by using congress to get an exemption, the potential was there for the Council and community to be shortcut in the process of determining if it would be good for the community or not.

Mayor Dominick stated that was why the comments about the impact study were such a vital part of the proposed resolution.

Councilor Sullivan stated they also needed to be involved in the strategic location of the complex. It could have a huge impact on the growth patterns of the city.

Councilor Verini agreed, but he had a problem with the resolution, The 2006 resolution stated, in part, "...as the process moves forward, the City council also supports a significant public effort by the Burns-Paiute Tribe to provide increased information as it becomes available, and to obtain public input and ascertain the degree of public support for this project." In the new resolution, it read, and it was the piece he had an issue with, "...because the City Council is still in the fact-finding process, we are not prepared to offer our full support to the project at this time." That one statement would stop...

Councilor Sullivan asked what was inaccurate about the statement?

Councilor Verini stated there was nothing inaccurate about it.

Councilor Sullivan asked if there was anything outlined in proposed Resolution 2010-135 that Councilor Verini disagreed with?

Councilor Verini stated he disagreed with it, he didn't say it was inaccurate. He disagreed with it because it was already addressed in the 2006 resolution.

Councilor Sullivan asked Councilor Verini if he agreed with what was addressed in the 2006 resolution, and he wanted to keep it, why did he disagree now?

Councilor Verini stated it was the wording. They were throwing it in the face of the Tribe. Without the facts in front of them, they had no idea what was being brought forth.

Councilor Sullivan stated that was exactly the point of the resolution. It was to stop the process until they could find out what was going on at the congressional level, and to state the Council could not give support until studies had been completed, they had received public input, and they had an opportunity to speak with all the interested parties.

Mayor Dominick added it stated in the title of the resolution that the city was encouraging the Tribe to continue exploring the concept by providing the community impact analysis and working with the Council.

Councilor Sullivan stated he did not see anything in the proposed resolution that would present a roadblock to the Tribe proceeding.

Councilor Verini disagreed. The first sentence of the resolution, "Because the City Council was still in the fact-finding process, we are not prepared to offer our full support to the project at this time."

Councilor Sullivan stated the resolution read "As the process moves forward, the City Council encourages the Burns-Paiute Tribe to engage in significant public effort to provide increased information as it becomes available and seek public input to ascertain the degree of public support for this project. The City Council requests that the Burns-Paiute Tribe work cooperatively with the City Council to chose a mutually agreed upon third party consultant to complete the requested community impact." Maybe #3 was more appropriate "As more information about the proposed project becomes available, and the City Council has been able to review the requested community impact analysis and hold public hearings, the City Council will amend this resolution appropriately."

Councilor Gaskill stated following review, the Council would be in a better position to determine the level of support.

Mr. Sullivan suggested taking out the first paragraph and putting in that the City Council affirms that the position was stated in the resolution.

Councilor Sullivan stated the problem was that the resolution was taken as a support document from the City.

Councilor Gaskill asked if there was a plan presented at last Wednesday's meeting?

Mayor Dominick stated no plans had been shown.

Councilor Sullivan stated at the meeting last Wednesday, the Tribe stated the first level was going to include a truck plaza, which was something not mentioned in their press statement. It was confusing to find out what they wanted to put in there, as they've changed between that meeting and the press release. The press release did not accurately reflect what was said in the meeting.

Councilor Gaskill confirmed that Councilor Sullivan had spoken with someone in Senator Merkley's office.

Councilor Sullivan stated he had.

Councilor Gaskill asked if Councilor Sullivan had asked if they could provide the Council with the bill or resolution that was being discussed.

Councilor Sullivan stated he did not ask, but he would.

Councilor Gaskill stated he wanted to see what they were proposing and how it related to what was done and what rules and regulations were in place before, to see if building on this, which were the rules for everyone else, or if they were trying to get a special provision.

Mayor Dominick encouraged each Councilor to do their homework. It was the Council's responsibility to become informed and educated on what was going on so they could speak with the public and get their input also. He was pleased to see the proposed resolution; it was not stopping anything, it was asking for more.

Councilor Sullivan stated he believed one of the biggest reasons that the Council wanted the resolution in place was to state specifically what the City's position was now. He had no problem stating the City was not prepared to offer full support at this time.

Councilor Crume stated in reading the proposed resolution, there was no question on where the Council stood on the issue. They were arguing about this because they still didn't have the answers they wanted. It was his understanding that on the federal side, they were trying to circumvent the rules that were put in place, to have the ability to find the piece of property and eventually put it into trust, which put it into the hands of the federal government, to where they could place a gaming facility on it. To get to that point, there were many things that had to occur. The city had to support the project, the Tribe had to have an environmental impact study done, they had to have the ability to purchase the property, they had to have a community impact study completed, etc., all which had to be completed so they could put it into the federal act to get it changed over. With all the different things that had to be done, even if they picked a specific piece of property, they could not purchase that land, but they might set it aside to purchase, or "maybe" purchase, but it would be set aside on the provision that they could get the impact studies done.

Councilor Sullivan stated he knew the Tribe was required to do the environmental study, and another study to make sure the property wasn't on a burial ground. Bottom line, did the Council want to have input into the project? Norm?

Councilor Crume stated absolutely.

Councilor Sullivan asked Councilor Verini if he wanted to have input into the development of this project?

Councilor Verini stated he believed they would have input.

Councilor Sullivan stated he didn't ask him if he thought they would, did he WANT to?

Councilor Verini stated absolutely.

Councilor Sullivan asked Councilor Gaskill?

Councilor Gaskill replied absolutely.

Councilor Sullivan asked Mayor Dominick?

Mayor Dominick replied absolutely.

Councilor Sullivan asked Councilor Mills.

Councilor Mills replied yes.

Councilor Sullivan asked Councilor Fugate.

Councilor Fugate replied yes.

Councilor Sullivan stated then they needed to put a document out there that stated the city wanted to have input into the process. They were not trying to outthink the government; they were just putting the city's provision in to enable them to support the project. It would be irresponsible of the Council to do anything of this project's nature without impact studies, public hearings, and discussions with the community of Ontario. That was all the resolution would do.

Councilor Verini stated it was under discussion because of how it was worded. If the original resolution was read, it was not a resolution that said the city gave 100% support for the Paiute Tribe.

Mayor Dominick agreed, and the disagreement was not with that; however, somewhere, the resolution had been represented differently, and the Council needed to ask Senator Merkley's office how they were using it, and get a copy of the bill. The Council needed make it clear, and let the business that wanted to come to Ontario, know that the Council wanted them to continue looking, but more information was needed. The Council wanted to be a full partner, just as the Burns-Paiute Tribe wanted to be. He did not see anything in the proposed resolution that should be offensive to the Tribe in any way. The Council just wanted information. Following a conversation he had that day, the city was going to receive as much information as was out there. The Council needed, and wanted, the public's input, because the seven of them should not decide the fate of the community – it should be a community decision.

Mr. Lawrence stated staff had been meeting with County Counsel Stephanie Williams to discuss the possibility of finding a specialty attorney to advise the city. The City's Attorney, Larry Sullivan, did not specialize in this type of issue. The idea was to stay ahead of this on the legal side, and to share the cost of the specialty attorney between the city and the county. Following a discussion between Larry Sullivan and Stephanie Williams, the next step would be to have an executive session to discuss retaining the attorney, and then bringing that attorney before the Council and the public about the process. The Council also might want to form an ad-hoc committee. Another issue was that a representative from the Burns-Paiute Tribe had offered to come to Ontario to make a presentation before the Council, but it wouldn't be for a few weeks.

David Sullivan moved, seconded by Norm Crume, to approve Resolution #2010-135, A RESOLUTION ENCOURAGING THE BURNS-PAIUTE TRIBE TO CONTINUE EXPLORING THE CONCEPT OF A DESTINATION RESORT/CASINO IN THE ONTARIO AREA BY PROVIDING A COMMUNITY IMPACT ANALYSIS AND WORKING WITH THE CITY COUNCIL TO SEEK PUBLIC INPUT. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Mr. Lawrence stated that Councilor Sullivan would be going to Washington, DC later in the week, and would be hand-delivering the resolution and a cover letter to three individuals there.

Councilor Gaskill read the cover letter into the record:

*The City of Ontario would like to ask our federal delegation to please defer consideration of all federal legislation regarding the proposed move by the Burns-Paiute Tribe to the Ontario area. This will give the City an opportunity to properly underwrite and assess the impact to the City of the proposal.*

*This time will allow us to:*

- 1. Acquire and review the requested impact study;*
- 2. Investigate the impact of gaming operations on the municipalities within Oregon and Idaho;*
- 3. Discuss the findings with all interested parties; and*
- 4. Conduct a series of public meetings with the citizens of Ontario.*

*After completing our due diligence, we will make our intentions known to all parties and we can take appropriate action to approve or disapprove the Burns-Paiute proposal.*

Councilor Verini stated if that didn't cease and desist all congressional matters, nothing would.

Councilor Sullivan stated if someone entered a bank for a loan, but didn't provide any information, what would the banks say?

Councilor Verini stated Councilor Sullivan didn't even have the information.

Councilor Sullivan agreed, no one had the information. That was the issue. They needed information before a decision could be made. He didn't understand why Councilor Verini was having such difficulty saying that at this time, the city did not have enough information to make a decision.

Councilor Crume stated the first sentence was rough. He suggested "The City of Ontario would like to ask our federal delegation to please temporarily defer consideration..."

Councilor Sullivan asked what that meant?

Councilor Crume stated it was asking them to defer consideration.

Councilor Sullivan stated the word "temporarily" would have no impact.

Councilor Verini stated they might not even need the impact study if it was not located in this area.

Councilor Sullivan stated they certainly did.

Councilor Verini stated yes, if they were going after a trust. The problem was, according to Councilor Sullivan, the Indian Trust Land Acquisition Act was thrown out.

Mayor Dominick stated it wasn't thrown out. There were two avenues available to go through. One was federal, and the other under discussion was route two. If the federal one didn't work, they could try route two.

Councilor Sullivan stated that was what they said in their meeting. The Tribe represented that.

Councilor Verini stated that was the first time he had heard that, that the Tribe didn't qualify under one of the processes, so the only other way for them to get it was to go through congressional approval. He believed it was still a slap in the face.

Councilor Sullivan asked where it was slapping anyone?

Councilor Gaskill stated they might be slapping Senator Merkley for presuming too much based on the 2006 resolution.

Councilor Sullivan stated all they were trying to do was communicate the position of the Council. There would be public meetings, they would have impact studies, and the Council would discuss it. The resolution was simply asking to go through the process, to not make a decision until the process had been done. That was why the Council defined exactly what they wanted to do. They didn't want to put forward a document that was grey, that wouldn't allow the Tribe to see what the path was to get the Council's approval. It was very specific, but at the same time, the Council needed to communicate where they were at currently so that the process went to the city prior to going to the federal government.

Councilor Gaskill stated that whoever was helping with this process on behalf of the Tribe needed to understand that the 2006 resolution should not be misused. It should be used for what it was, a statement much like the proposed one, that indicated the Council supported the continued investigation, etc.

Mr. Sullivan stated what he was hearing, was that the letter was sent out, and someone misinterpreted the letter in Merkley's office, the same way they misinterpreted the earlier resolution, and read it to mean that the City of Ontario did not want the project, so they would then take that letter and use it as proof that the City didn't want the Tribe to locate here.

Councilor Sullivan stated that would be handed out with the resolution, specifically stating that there would be a further resolution providing approval or disapproval. His goal was to get the process started here, not Washington, DC. Start it here, discuss it here, with the people who would be affected. What in that letter indicated there was anything else?

Councilor Verini just didn't want the new document misconstrued as the original had been.

Councilor Sullivan stated they were dealing with a \$500,000,000 project. Did Councilor Verini really think that a word in a letter was really going to stop that process?

Mayor Dominick suggested rewriting the letter, and restating the information from the resolution, would that work?

Council consensus to do that.

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

- Chief Higinbotham thanked the Council for moving forward on the new Fire Station Storage Facility. Also, they had responded to a mutual aid to Payette for sandbagging.

CITY OF ONTARIO 444 SW 4<sup>TH</sup> STREET ONTARIO OREGON 97914

- Chuck Mickelson stated he had been working with the health department and the residents of Nadine Drive, a cul-de-sac off Alameda, just outside of the city limits. They were on private wells and septic tanks, but a number of the residents were interested in obtaining city water and sewer. That would require annexation of the property. The line extension would likely be done through an LID.
- Henry Lawrence stated there would be an executive session on Wednesday, the 16<sup>th</sup>, to discuss labor negotiations, with a special meeting to follow.
- Councilor Verini provided an update on the local Suicide Hotline.
- Councilor Fugate provided an update on the city's website.
- Mayor Dominick thanked the Chief for his involvement in the Buck-a-Roo supper. Also, the Global Village had taken place over the week-end, and it had been well attended, along with the Kid's Fair. He had also buzzed up to the Cambridge Show and Shine Car Show, and then moved on to Marsing for the Jet Boat Races. On June 11-12, the annual Relay for Life was scheduled in Ontario.

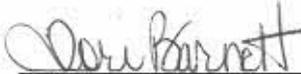
**ADJOURN**

John Gaskill moved, seconded by David Sullivan, 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.



Joe Dominick, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder

## CONSENT AGENDA

June 7, 2010

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

**SUBJECT: APPOINTMENT TO AIRPORT BOARD**

DATE: June 2, 2010

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### **SUMMARY:**

There is currently a vacancy on the Airport Board, currently being held by Dr. Dennis Carter, who remained in the position based upon the verbiage in the establishing ordinance. The term is set to expire in December, 2011.

Shawn Coleman, Ontario, has submitted a letter requesting appointment to fill the position on the Airport Board

### **RECOMMENDED MOTION:**

Staff recommends appointment of Shawn Coleman to the Airport Board with a term of service terminating December 31, 2011.

5-18-10

To whom it may concern,

Hello my name is Shawn Coleman and I would like to be considered for a position on the Ontario airport committee.

I own my own aircraft and have been flying pretty much continuously since 1989. When I got my license through Ontario Flight Service.

I use the airport on pretty much a weekly basis and consider it sort of a home away from home., I would like to be considered for the airport committee because I have a general interest in aviation and the Ontario airport and would like to be involved in helping to make good decisions involving the airport, as well as be a good representative for the local pilot community.

I live in Ontario Oregon, and I have worked for the Oregon Department of Transportation for the past 15 years.

Thank you for your time,

Shawn Coleman

1481 Arata way  
Ontario Oregon  
97914

e-mail [tcraftap@msn.com](mailto:tcraftap@msn.com)  
cell 541 212 5405  
home 541 889 1981

**CONSENT AGENDA**  
June 7, 2010

TO: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION 2010-132  
A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES**

DATE: June 1, 2010

---

**SUMMARY:**

Attached is the following document:

- Resolution 2010-132

**PREVIOUS COUNCIL ACTION:**

Jun 2009 Council Adopted 2009-2011 Biennial Budget

**RECOMMENDED MOTION:**

Staff recommends the Council adopt Resolution 2010-132, A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.

**RESOLUTION NO. 2010-132**

**A RESOLUTION DECLARING THE CITY'S ELECTION  
TO RECEIVE STATE REVENUES**

**WHEREAS,** The City of Ontario Budget Committee held public hearings on May 5, 6, 7, 12, 13, 19, and 20, 2009; and

**WHEREAS,** The City Council held a public hearing on June 15, 2009 giving citizens an opportunity to comment on the use of State Revenue Sharing for the City's 2009-2011 Biennial Budget.

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

Pursuant to ORS 221.770, the City hereby elects to receive State revenues for Fiscal Year 2009-2011.

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

**PASSED AND ADOPTED** by the Ontario City Council this 7th day of June, 2010, by the following vote:

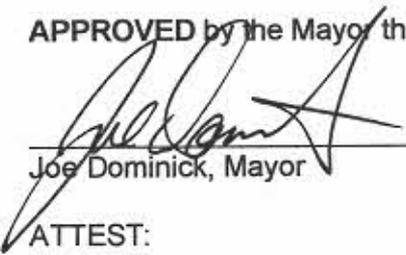
Ayes: Fugate, Sullivan, Dominick, Mills, Gaskill, Verini

Abstain: Crume

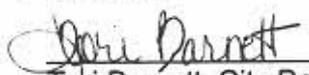
Nays: None

Absent: None

**APPROVED** by the Mayor this 7th day of June, 2010.

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

**ATTEST:**

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

~~~~~  
I certify that public hearings before the Budget Committee were held on May 5, 6, 7, 12, 13, 19, and 20, 2009, and a public hearing before the City Council was held on June 15, 2009, giving the citizens an opportunity to comment on use of State Revenue Sharing for the 2009-2011 Biennial Budget.

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

DEADLINE JUNE 30, 2010

**CONSENT AGENDA**  
June 7, 2010

TO: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION 2010-133  
A RESOLUTION IMPOSING AND CATEGORIZING TAXES FOR THE SECOND HALF OF THE  
2009-2011 BIENNIAL BUDGET PERIOD**

DATE: June 1, 2010

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**SUMMARY:**

Attached is the following document:

- Resolution 2010-133

**PREVIOUS COUNCIL ACTION:**

Jun 2009 Council Adopted 2009-2011 Biennial Budget

**RECOMMENDED MOTION:**

Staff recommends the Council adopt Resolution 2010-133, A RESOLUTION IMPOSING AND CATEGORIZING TAXES FOR THE SECOND HALF OF THE 2009-2011 BIENNIAL BUDGET PERIOD.

**RESOLUTION NO. 2010-133**

**A RESOLUTION IMPOSING AND CATEGORIZING TAXES FOR THE SECOND HALF OF THE 2009-2011 BIENNIAL BUDGET PERIOD**

**WHEREAS,** the City of Ontario Budget Committee held advertised public hearings to review the proposed budget and the City Council held an advertised public hearing at 7:30 P.M. on June 15, 2009, regarding the 2009-2011 Biennial Budget; and

**WHEREAS,** the Ontario City Council adopted the 2009-2011 Biennial Budget for in the amount of \$49,340,853, and it is now on file at Ontario City Hall and the Malheur County Library; and

**WHEREAS,** the City imposed and categorized taxes for the first year of the 2009-2011 Biennial Budget in June 2009 and now desires to impose and categorize taxes for the remaining year of said budget.

**NOW THEREFORE, BE IT RESOLVED** that the Ontario City Council hereby imposes the taxes provided for in the adopted 2009-2011 Biennial Budget at the rate of \$4.8347 per \$1,000 of assessed value for operations, and that these taxes are hereby imposed and categorized for tax year 2010-11 upon the assessed value of all taxable property within the district.

**BE IT FURTHER RESOLVED** that the Ontario City Council categorizes the taxes as follows:

|              | <b>General Government Limitation</b> | <b>Excluded from Limitation</b> |
|--------------|--------------------------------------|---------------------------------|
| General Fund | \$4.8347 / \$1,000                   | \$0                             |

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

**PASSED AND ADOPTED** by the Ontario City Council this 7<sup>th</sup> day of June 2010, by the following vote:

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

Abstain: Crume

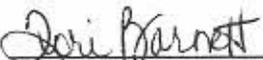
Nays: None

Absent: None

**APPROVED** by the Mayor this 7<sup>th</sup> day of June, 2010.

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

**ATTEST:**

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

## CONSENT AGENDA REPORT

June 7, 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 (FINAL READING)**

DATE: June 1, 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:**

May 17, 2010 Council passed Ordinance #2646-2010 on First Reading.

### **RECOMMENDATION:**

Staff recommends the Council approve the final 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 Second and Final 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

June 7, 2010

TO: Honorable Mayor and City Council Members

THRU: Henry Lawrence, City Manager

FROM: Mike Kee, Police Chief

SUBJECT: **Resolution # 2010-130, A RESOLUTION APPROVING THE REALLOCATION OF \$2,340 WITHIN THE GENERAL FUND FOR THE PURCHASE OF DOG LODGING SERVICES**

DATE: May 25, 2010

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### Summary:

Attached is the following document:

- Resolution # 2010-130
- Proposed contract from Henricks
- Letter from Henricks
- Business model from Henricks
- Letter from Atherton Kennels

### Previous Council Action:

Mrs. Henricks spoke to the Council on May 13, 2010 concerning the impending purchase of Atherton Kennels.

### Background:

As the Council is aware Kim and Ross Henricks have made an offer to purchase what was Atherton Kennels. The City has had a long-standing relationship with Atherton Kennels using them to lodge stray and vicious dogs. In recent years the quality of care at Atherton Kennels has been a concern of many of their customers, including the police department.

I have included documents from the Henricks outlining some of the positive changes they plan to make to what was Atherton Kennels.

I have also included a proposed contract from the Henricks in which the cost of lodging dogs for the first year will increase 20%, and increase 7.5% for each year after for a total of five years. Staff feel that some changes need to be made to the proposed contract in order for the City to sign.

Then monthly cost of lodging will increase from \$975 to \$1,170 or \$2,340 for the remaining year of the budget. This was not budgeted for and will need to be transferred from contingency.

City staff supports this proposal and is very excited about the improvements that have been outlined for what was Atherton Kennels.

City staff recommends that the Council approve the transfer of monies from contingency into police dog lodging and allow staff to work with the Henricks and Larry Sullivan to arrive at a mutually agreeable contract.

**Financial Implications:**

Approval of the resolution would reduce the General Fund Contingency by \$2,340.

**Alternative:**

The Council could decide to not transfer money from contingency and continue to negotiate with the Henricks.

**Recommendation:**

Staff recommends that the Council adopt Resolution No.2010-130, authorizing the reallocation of \$2,340 from the City's General Fund contingency expense line to the General Fund Police Department dog lodging line item in order to continue the purchase of dog lodging services.

**Proposed Motion:**

**I move that the Council adopt Resolution No. 2010-125, A RESOLUTION APPROVING THE REALLOCATION OF \$2,340 WITHIN THE GENERAL FUND FOR THE PURCHASE OF DOG LODGING SERVICES.**

**RESOLUTION # 2010-130**

**A RESOLUTION APPROVING THE REALLOCATION OF \$2,340  
WITHIN THE GENERAL FUND FOR THE PURCHASE OF  
DOG LODGING SERVICES**

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

**WHEREAS,** the Ontario Police Department is charged with collecting and sheltering stray and vicious dogs; and;

**WHEREAS,** the Police Department has contracted with Atherton Kennels for a number of years; and

**WHEREAS,** what was Atherton Kennels is being purchased by Ross and Kim Henricks who have proposed to raise the fee paid by the City of Ontario by 20 percent during the final year of the current budget period in order to make some much needed repairs; 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 purchase the dog lodging service.

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

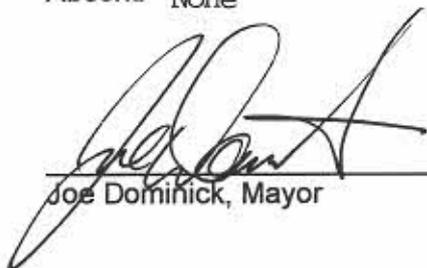
| Line Item                      | Item Description      | FY 09-11 Budget | Amount of Change | Adjusted Budget |
|--------------------------------|-----------------------|-----------------|------------------|-----------------|
| <b>General Fund</b>            |                       |                 |                  |                 |
| <b>Administrative Overhead</b> |                       |                 |                  |                 |
| 001-004-871000                 | Operating Contingency | 2,096,734       | (2,340)          | 2,094,394       |
| <b>Police Department</b>       |                       |                 |                  |                 |
| 001-024-612200                 | Materials & Supplies  | 24,600          | 2,340            | 26,940          |

Passed and adopted by the Ontario City Council this 7<sup>th</sup> day of June 2010.

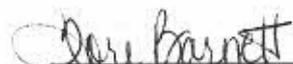
Ayes: Fugate, Sullivan, Mills, Dominick, Gaskill, Verini, Crume

Nays: None

Absent: None

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

ATTEST:

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

## RENTAL CONTRACT

This Rental Contract serves as evidence of an agreement entered into between Ani-care Animal Shelter, LLC, 3616 Hwy 201, Ontario, OR 97914, and the City of Ontario, being situated within the County of Malheur, State of Oregon.

Pursuant to this Rental Contract, Ani-Care Animal Shelter, LLC hereby agrees to:

1. Provide at least eighteen (18) pens having a maximum capacity of thirty-six (36) compatible canines, said facilities being for the maintenance, care, and disposal according to law, of abandoned or stray canines located within the confines of Malheur County.

2. Maintain said physical structure and premises in compliance with Oregon law and state sanitary standards.

3. Accept delivery, custody, and responsibility of care and disposition for a canine transported to said Ani-care Animal Share, LLC by any person, whether acting privately or as an agent or representative of an incorporated city in Malheur County or as an agent or representative of Malheur County. This agreement in itself is not intended to bind Ani-care Animal Shelter, LLC to the responsibility for the initial capture and transportation of abandoned or stray canines.

4. Provide the City of Ontario with an animal accounting with respect to the number of canines taken into custody and disposed of and the manner of such disposal during the previous fiscal year. Such accounting will be due on or before August 5th of each subsequent year.

5. Keep business activity records of Ani-care Animal Shelter, LLC relating to canines taken into custody and disposed of, open and available for inspection at reasonable times by the City of Ontario.

As consideration of the terms and conditions of this Rental Contract with Ani-care Animal Shelter LLC the City of Ontario agrees to make monthly rental payments of \$1,170.00 on or before the 15<sup>th</sup> of each month, throughout the duration of this Rental Contract to Ani-care Animal Shelter, LLC. The parties anticipate a 7.5% increase each of the four succeeding years.

In addition to the above \$1,170.00, the City of Ontario agrees to pay \$50.00 for each animal brought to Ani-care Animal Shelter, LLC as an emergency or after hours euthanasia and agrees to pay \$10.00 per animal per day for each day or portion of a day an animal is subject to a "bite hold" or "evidence hold".

It is recognized by the parties that unless terminated in writing, this agreement is to continue on an annual basis from the date of July 1, 2011, unless terminated as provided herein.

It is further recognized that such rental payments are made by the governmental entities under provisions of the Local Budget Law and that the continued capability of each governmental entity to meet such obligation may be subject to budget approval by the voters for any applicable fiscal year. In the event budget approval does not occur, each governmental entity will endeavor to include rental payments within its adopted budget but does not guarantee any such action by execution of this Rental Contract.

It is hereby further agreed that Ani-care Animal Shelter, LLC may transfer, sell, assign, pledge, or otherwise convey its' interests, rights, and duties under this Rental Contract without the consent of the other parties to this Rental Contract.

Upon default by either party, the other party may terminate this Agreement.

IN WITNESS WHEREOF, the parties herein have signed this Rental Agreement on the dates listed below.

ANI-CARE ANIMAL SHELTER, LLC

By: Kim Henricks  
Kim Henricks

Dated: 5-24<sup>th</sup> 2010

By: Ross Henricks  
Ross Henricks

Dated: 5-24-10

CITY OF ONTARIO

By: \_\_\_\_\_

Print: \_\_\_\_\_

Dated: \_\_\_\_\_

May 7, 2010

To whom it may concern,

As you may be aware, we have made an offer and it has been accepted, to purchase Atherton's Kennels. Our intention is to continue operating as an Animal Shelter for the local agencies. We have made initial contact with the local municipalities in this regard. This letter is to confirm our intentions and to solidify the contracts to assure there is no lapse in service following our purchase of the kennel.

I have had overall a very positive response from each of these contacts, each has expressed some areas of improvement they would like addressed we intend to listen and take under advisement any suggestions you might have as you have insight and knowledge of the local areas needs and concerns.

Here is a brief overview of some of our goals and an estimated time line in which to achieve them.

1<sup>st</sup>. Hours of operation will be increased.

Business hours tentative schedule Starting July 1<sup>st</sup>

Tues-Sat 10am to 5:30pm with a lunch break from 1-2:30.

Mondays by appointment only.

Closed on Sundays.

Current after hour drop off will remain the same.

2<sup>nd</sup>. A working website that will be kept current with a focus on reuniting lost animals with their owners, and pets available for adoption, with plans to create video stream to help in identification and to reach outside the local area to increase adoptions.

3<sup>rd</sup>. General improvements and upgrading of the facilities. Our priorities are painting and securing heat for the animals next winter are at the top. We will be purchasing an incinerator as a more efficient and environmentally sound way to deal with the animal carcasses.

4<sup>th</sup>. Research hosting spay and neuter clinics in an effort to help the overpopulation of animals, along with providing public education. It is my experience and belief that these two issues play a large role in the reduction of owner turn-ins.

The Shelter will be run in accordance with current Oregon State law.

All animals that go out of the Animal Shelter will be Vaccinated, Spayed/Neutered and micro-chipped.

This may increase adoption fees, but will in the end make better pets and pet owners and decrease the repeat offenders.

In reviewing the current contracts provided to us by Atherton Kennels, Inc., it is our understanding there has been no fee increases over the past several years, which makes the challenges of running the shelter and making the suggested improvements unattainable without a fee increase and a long term commitment to justify the upfront expenses we will incur.

We would like to propose a 5yr contract with an initial increase of 20% of the current fee effective at the close of Escrow with Jana and Michael Laughlin of Atherton Kennels, Inc. scheduled for June 1<sup>st</sup> 2010 and a 7.5% increases for the following 4yrs.

With our projected improvements to the facility, higher standard of animal care and extended operating hours this likely is an under estimation of what our initial expenses will be, however, this is why the structure is over a 5yr period and we are willing to absorb some of these initial expenses; letting everyone have some piece of mind and security.

We are requesting a letter of confirmation as soon as possible regarding the contracts being available for us to secure upon the close of escrow, this is for us to better plan and know if will just run a private Kennel or a open to the Puplic Animal Shelter. You are welcome to make it contingent on our finalized purchase of the Atherton's Kennels, Inc.

We look forward to having a productive and long working relationship with everyone.

If you have any questions or concerns, please feel free to  
Call Kim or Ross at 208-642-1119

Thank you,

Ross & Kim Henricks  
Ani-Care Animal Shelter.

## Brief overview of Business Model

Ani-Care Animal Shelter \*Name Pending\*

Compassionate care for animals who find themselves  
in need of temporary housing through no fault of their own.

Strive to work with the public on pet owning education and responsibility.

Adoption of both Dogs and Cats

Serving Malheur County, Ontario, Nyssa, Vale, Payette  
and surrounding areas.

Atherton Kennels will become Ani-Care Animal Shelter "Name Pending"

We'd like to introduce ourselves  
We are Kim and Ross Henricks formerly of Denio, NV  
we have recently moved to the Treasure Valley and plan to purchase  
Atherton Kennels, Inc.

We each have life long experience with both large and small animals  
Ross as a Rancher and accomplished Horseman  
Myself in the animal profession since the 80's

In brief, I have worked as an Animal Control Officer for the City of Victorville, Ca  
in the late 80's as well as the local animal shelter, I worked for PALS as head Tech for  
their spay and neuter clinic. In addition numerous years as both an Animal Health  
Technician for day practice Veterinarians  
and Emergency Vet Tech in CA & Boise. Locally, I worked for Ashton-Clarke in  
Payette -

I will have no problem providing references for you  
We have the specialized knowledge and experience to continue the operation as an  
Animal Shelter.  
Under our new Ownership, we plan to continue to do so and would like to continue  
working with the local municipalities.

Regarding City and County Contracts we would like to have as smooth transition as  
possible to avoid any lapse in area coverage we are going over them with Jana and the  
associated costs in running the shelter with the inclusion of some much needed upgrades  
and so on and will be presenting them to you as soon as possible.

We have plans for a general upgrade in both services and physical appearance of the  
Shelter grounds. We will be doing research and seeking advice from some of the  
Neighboring Animal Shelters in the Boise area.

Our tentative plan is to be open  
Tues-Sat 10am- 5:30pm  
To maintain a website with current  
Lost & found + Adoptable animals.  
A few times a year host a Vaccination clinic  
work with the area's Mobile Low Cost Spay and Neuter program.

We welcome any suggestions/concerns that your County or City may have.  
We can be reached at (208) 642-1119

Thank you,

Ross & Kim Henricks  
Ani-Care Animal Shelter

Atherton Kennels, Inc  
Michael and Jana Laughlin  
3616 Hwy. 201  
Ontario, Oregon 97914  
Cell: (541) 212-0564

April 28, 2010

To Whom It May Concern;

We are writing this letter to inform you that we have accepted an offer on the sale of our property. Ross and Kim Henricks have been in talks with us for the last year, and have been given a lot of information and time to make their decision. We have found them very knowledgeable and capable of running the shelter. Although, there are still many things to be done in order for this transaction to close we would like each of you to feel comfortable in speaking to them regarding the possibility of them continuing the shelter. We believe it would truly be helpful to everyone concerned since others that have been interested in the property had no interest in running the shelter. They understand the need to be licensed for euthanasia and are of aware of the repairs that need to be done with the shelter and the time constraints that the shelter requires. We will continue to run the shelter until such time that this transaction would be complete and then would be willing to assist them in the transition that would be necessary.

Again, please feel comfortable in speaking with them, since securing the contracts is a contingency on the purchase going through. I would also invite you to give Jana a call at 541-212-0564 if you have any questions that you may have. We would like to reiterate that we are very pleased with these people and believe that they would do a wonderful job.

Sincerely,

  
Michael & Jana Laughlin

## AGENDA REPORT

June 7, 2010

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Henry Lawrence, City Manager

**SUBJECT: ORDINANCE NO. 2646-2010, AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE, AND DECLARING AN EMERGENCY (FIRST AND SECOND READING)**

DATE: May 28, 2010

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### **SUMMARY:**

Attached is the following document:

- Ordinance 2646-2010

This ordinance is a new franchise agreement for Idaho Power Company.

### **PREVIOUS COUNCIL ACTION:**

None.

### **BACKGROUND:**

Idaho Power Company has a 20-year franchise agreement with the City that expires on June 30, 2010. The most significant changes in the new agreement are to shorten the length of the franchise term from 20 years to five years (Section 2); and to increase the franchise fee from 5% to 7% of Idaho Power Company's gross revenues (Section 13). The purpose of the shorter term is to allow the City to adapt more quickly to changes in the utility business and in technology by allowing for more frequent negotiations. The reason for the increase in the franchise fee is to increase the revenues to the City.

Under the rules of the Oregon Public Utility Commission, an electric power franchisee must pay the first 3.5% of any franchise fee and must bill any additional amount to its customers within the jurisdiction. Therefore, under the current agreement's 5% franchise fee, the Idaho Power customers in the Ontario city limits pay 1.5% of the franchise fee. Under the proposed agreement's 7% franchise fee, those customers will pay 3.5% of the franchise fee.

Idaho Power Company has provided a “template” contract form that it encourages cities to use. Although the template is generally complete and fairly neutral, and many of the provisions have been included in the ordinance, there have been some changes made in the template for the Ontario ordinance. These changes include the requirement that the franchisee comply with the provisions of the City’s right-of-way standards imposed in Chapter 8 of Title 8 of the Ontario City Code (Section 10); that the franchisee comply with the nuisance and anti-graffiti provisions of the City Code (Section 5); and that the franchisee allow the City to use its power poles and other facilities without charge so long as the City’s use does not interfere with the franchisee’s operations (Section 16).

The ordinance also includes an emergency provision to allow the ordinance to take effect in less than 30 days, so that there will not be a gap between the expiration of the current franchise agreement on June 30, 2010, and the new agreement, assuming that the second reading takes place before then.

As of May 28, 2010, Idaho Power has not reviewed or commented on the proposed agreement.

**RECOMMENDATION:**

Staff recommends the Council approve a first and second reading of Ordinance No. 2646-2010 by emergency passage.

**PROPOSED MOTION:**

“I move that the Mayor and Council declare the need to approve Ordinance #2646-2010 on an emergency passage.”

“I move that the Mayor and City Council approve **ORDINANCE 2646-2010, AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE, AND DECLARING AN EMERGENCY**, on First Reading by Title Only.”

“I move that the Mayor and City Council approve **ORDINANCE 2646-2010, AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE, AND DECLARING AN EMERGENCY**, on Second and Final Reading by Title Only.”

**ORDINANCE NO. 2646-2010**

**AN ORDINANCE GRANTING A NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE  
TO IDAHO POWER COMPANY, AND FIXING TERMS, CONDITIONS  
AND COMPENSATION OF SUCH FRANCHISE,  
AND DECLARING AN EMERGENCY**

- WHEREAS,** the City of Ontario ("City") is authorized by state statutes, its charter, and ordinances to grant non-exclusive franchises to occupy its Rights-of-Way and public places within the City; and
- WHEREAS,** Idaho Power Company, an Idaho corporation ("Grantee"), owns, maintains, and operates, in accordance with regulations promulgated by the Public Utility Commission ("PUC"), an electric energy utility system and desires to install, operate, and maintain its facilities in the Rights-of-Way in the City; and
- WHEREAS,** the City agrees to grant a franchise to Grantee under the terms and conditions provided in this ordinance; and
- WHEREAS,** the existing franchise as set forth in Ordinance No. 2278 expires on June 30, 2010, and this ordinance being necessary for the immediate preservation of the public health, safety and welfare, this ordinance shall be effective immediately upon its passage, or on July 1, 2010, whichever is later.

**NOW THEREFORE,** The Common Council For The City Of Ontario Ordains As Follows:

**SECTION 1. DEFINITIONS AND EXPLANATIONS.**

- (1) As used in this ordinance:
- (a) "City" means the City of Ontario, Oregon.
  - (b) "City Council" means the legislative body of the City.
  - (c) "Grantee" means the corporation referred to in Section 2 of this ordinance.
- (2) Unless otherwise specified in this ordinance, any action authorized or required to be taken by the City may be taken by the City Council or by such official, officials, agent or agents as the City Council may designate.

## **SECTION 2. GRANTING CLAUSE.**

(1) Subject to the conditions and reservations contained in this ordinance, the City hereby grants to Idaho Power Company, an Idaho corporation, for a period of five (5) years from the effective date of this ordinance, unless sooner terminated as provided in this ordinance, the right and privilege to:

(a) construct, maintain and operate within the corporate limits of the City an electric utility system; and

(b) construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other electric fixtures necessary or proper for the maintenance and operation in the City of an electric distribution system and wires connected therewith. All such electric utility property and facilities now maintained by the Grantee within the corporate limits of the City shall be deemed covered by this ordinance, and the present location thereof hereby is ratified and approved.

## **SECTION 3. USE OF STREETS, PUBLIC PLACES.**

The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the City reserves the right, subject to Section 18 hereof, to grant a similar use of said streets, alleys and other public ways and places, to any other person or corporation at any other time during the period of this franchise.

## **SECTION 4. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.**

The Grantee shall, at all times during the life of this right and privilege, be subject to all lawful exercise of the police power by the City, and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide.

## **SECTION 5. SPECIFICATIONS.**

All of the Grantee's electric property and facilities (including poles, wires, conductors, transformers and other appliances) shall be constructed and at all times maintained in good order and conditions and in accordance with standard engineering practices and all applicable safety codes and lawful governmental regulations. Grantee is subject to and shall comply with the provisions of the Ontario City Code pertaining to nuisance abatement, including but not limited to Sections 7-4-5 and 7-4-6 of the Ontario City Code requiring removal of graffiti. The City shall have authority at all times, in furtherance of the safety, convenience and welfare of the public, to control by appropriate regulations the location, elevation and manner of construction and maintenance of the Grantee's electric property and facilities on the City streets, alleys, highways and other public places, subject to the provisions of any state or federal law applicable thereto, and the Grantee shall at all times and promptly conform with all such regulations.

## **SECTION 6. CONTINUOUS SERVICE; UNAVOIDABLE SHUTDOWNS.**

Grantee shall maintain and operate a system for the distribution of electricity in the City so as to provide 24-hour a day service. The Grantee shall use due diligence to maintain continuous and uninterrupted service which shall at all times be up to standards common in the business. However, the Grantee does not guarantee continuous and uninterrupted service and under no circumstances is the Grantee liable to the City for any interruption or failure of service caused in whole or in part by any cause beyond the reasonable control of the Grantee, including but not limited to acts of God or the public enemy, fires, floods, earthquakes or other catastrophes, severe weather, strikes or failure or breakdown of generating, transmission or distribution facilities. The Grantee shall maintain emergency repair service available on call.

## **SECTION 7. CONDITIONS ON STREET OCCUPANCY.**

(1) All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(2) In the event that at any time during the period of this franchise the City shall lawfully elect to alter or change the grade of any street, alley or other public way, the Grantee, upon reasonable notice by the City shall remove, relay and relocate its poles, wires, cables and other fixtures at its own expense, unless the facilities are to be relocated for the benefit of a third party, in which case the third party shall pay the costs of relocation.

(3) **PLACEMENT OF FIXTURES.** The Grantee shall not place poles or other fixtures where the same will interfere with any telephone wire or conduit, sewer line, water hydrant or water main, and all such poles or other fixtures shall, wherever practicable, be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall, wherever practicable, be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

(4) **TEMPORARY REMOVAL OF WIRE FOR BUILDING MOVING.** The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires where practicable to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given reasonable advance notice to arrange for such temporary wire changes.

## **SECTION 8. COVENANT TO SAVE CITY HARMLESS FROM DAMAGES.**

The Grantee hereby agrees and covenants to save the City, its officers and employees, harmless from all loss or expense sustained by the City on account of any suit, judgment, execution, claim, or demand whatsoever, and to indemnify the City against any such loss or expense arising from any casualty or accident to person or property, by reason of any negligent construction, excavation or any other negligent act done under this privilege and permit by or for the Grantee, its agents or employees, or by reason of any neglect or omission of the Grantee to keep said poles, wires, pipes, conduits or facilities in a safe condition, or by reason of its operation of its said system.

## **SECTION 9. SERVICE STANDARDS.**

The Grantee shall maintain and operate its plant and system and render efficient service in accordance with the rules and regulations as are, or may be, set forth by the Council as provided for in Section 4 of this Ordinance, subject to the authority of the Public Utility Commission of the State of Oregon (the "Commission"). During the term of this franchise, Grantee shall at all times assure that customers within the City have access to customer service from the Grantee as required by the Commission.

## **SECTION 10. CONSTRUCTION AND LOCATION OF FACILITIES**

Grantee shall comply with the requirements of Chapter 8 of Title 8 (Right-Of-Way) of the Ontario City Code in connection with any construction, installation, extension, removal, relocation, or maintenance of any facilities in the City Rights-of-Way or any public place.

## **SECTION 11. PERMISSION TO CONSTRUCT.**

Except in emergencies, prior to the commencement of any construction or relocation of any of the Grantee's underground wires or of the Grantee's poles and lines in the streets, alleys or other public places within the City, the Grantee shall notify the City of such work and upon request shall furnish a map showing the location of such construction or relocation. The location of all such poles and lines and underground wires shall be at places approved by the City. The provisions of this paragraph shall not apply to the construction or relocation of service wires from poles to dwellings or buildings.

## **SECTION 12. RECORD KEEPING.**

The Grantee shall keep an accurate record of all accounts pertaining to the sale of electricity within the City for a period not to exceed three years. For the purpose of determining the amounts due under Section 13 of this ordinance, the City may inspect the books of account and other data and records of the Grantee at any time during business hours and may audit them from time to time and may require the Grantee to make available to it all records for such purpose.

## **SECTION 13. COMPENSATION.**

(1) As compensation for the rights and privileges herein granted, the Grantee shall pay to the City during the term hereof an amount equivalent to seven (7.00) percent of the Grantee's "Gross Revenue" on all sales of electrical service within the City, such compensation to be due and payable quarterly, within thirty (30) days from and after the close of each quarter during the term hereof. Within sixty (60) days after the termination of this franchise, compensation shall be paid for the period elapsing since the close of the last quarter for which compensation has been paid.

(2) "Gross Revenue" shall be defined as set forth in Oregon Administrative Rule 860-022-0040.

(3) Compensation required by this Section 13 of this ordinance to be paid and rendered by the Grantee to the City shall be a credit against all license, occupation, business or other fees or taxes which the City now is or may hereafter be empowered to levy or assess against the Grantee.

(4) Nothing herein contained shall be deemed to give to the Grantee any credit against any ad valorem property tax now or hereafter levied against the real and personal property of Grantee located within the City or against any improvement assessment, permit or inspection fee.

(5) The City shall provide appropriate information to the Grantee to allow the Grantee to identify which of its customers are located within the corporate limits of the City for purposes of paying franchise fees. Grantee shall not be responsible for any failure to pay franchise fees which results from deficiencies in such information provided by the City. In the event the City annexes a new area into its corporate limits, the terms of this Section 13 regarding franchise fees shall not apply to the annexed area until sixty (60) days after the City has supplied the Grantee with appropriate information for the identification of the Grantee's customers within the annexed area.

(6) When direct access is implemented by Grantee in accordance with Oregon law and regulations adopted by the PUC, if the City so directs, instead of calculating the franchise fee in accordance with subsection (1) of this Section 13, Grantee shall calculate the franchise fee using volume-based methodologies in accordance with PUC regulations.

**SECTION 14. REMOVAL OF EQUIPMENT FOLLOWING EXPIRATION OR REVOCATION.**

Upon expiration or revocation (pursuant to Section 19) of this privilege and permit, the Grantee shall, within one year or such further time as may be allowed by the City, remove from the streets, alleys and other public places all its property and equipment, and forthwith replace and restore the streets, alleys and other public places to their former condition. If the Grantee fails to remove its property and equipment within such time, the City may take such steps as may be necessary to forcibly remove the same at the expense of the Grantee and the Grantee shall promptly pay the full cost and expense thereof on demand by the City.

**SECTION 15. TREE TRIMMING.**

The Grantee shall have the right and privilege, insofar as the City is able to grant the same, in accordance with National Arborist Association standards, of the pruning of all trees which overhang the present and future streets, alleys, highways and other public places within the corporate limits of the City, in such a manner and to such extent as will prevent the branches or limbs or other parts of such trees from touching or interfering with its wires, poles and other fixtures and equipment. However, except in an emergency, no pruning shall be undertaken without giving the occupant of the adjacent property written or oral notice that such pruning will be performed.

**SECTION 16. CO-LOCATION.**

In consideration for granting this franchise, Grantee grants the right and privilege without payment or charge to the City, but at the City's expense, with prior notice and approval of Grantee, to place and maintain wires, control boxes, and any other necessary equipment as the City may require for fire, police, emergency or other municipal purposes, on Grantee's facilities placed by Grantee in the City's Rights-of-Way or public places, whether above or underground. All such installations shall be made in a manner so as not to interfere with Grantee's electric energy service and in conformance with good electrical practice, Grantee's standards, and local, state and federal regulations. When safety is an issue, Grantee shall not be required to share locations with water or sewer utilities. The City shall not sell or lease its rights under this Section 16 to any third parties. The City shall hold Grantee harmless from all claims or liability for damage that arises out of the City's use of Grantee's facilities under this Section 16.

**SECTION 17. PUBLIC WORKS AND IMPROVEMENTS NOT AFFECTED BY FRANCHISE.**

(1) The City reserves the right to:

(a) Construct, install, maintain and operate any public improvement, work or facility in, over or under any Right-of-Way or public place;

(b) Perform or authorize or direct the performance of any work that the City may find desirable or convenient in, over or under any Right-of-Way or public place;

(c) Vacate, alter or close any Right of way or public place, provided that the City shall make available to Grantee with alternative Right-of-Way for the location of its facilities or provide for the preservation of Grantee's rights of use, replacement and maintenance. If Grantee's facilities must be relocated from a vacated Right-of-Way, the petitioners of the vacation shall bear the cost of relocation of the facilities;

(d) Control or prevent the use of any public place by Grantee and require payment of additional compensation for the use of the public place in any amount the parties agree is reasonable;

(e) Exercise any non-regulatory power that the City currently holds, or may hereafter be authorized or granted by the laws of the State of Oregon or the City Charter, except where that power may be preempted or superseded by the constitutions of the United States or the State of Oregon;

(f) Exercise any regulatory power that is abandoned by the Oregon Public Utility Commission, not vested exclusively by law in any other state regulatory body, and that can be lawfully exercised by the City.

(2) Whenever the City shall perform or cause or permit to be performed any work in any Right-of-Way where such work may disturb or interfere with Grantee's facilities, the City shall, or require its permittee, to notify, in writing, Grantee sufficiently in advance of the contemplated work to enable Grantee to take those measures, including relocation or removal, as may be deemed necessary to protect its facilities, at its own expense.

#### **SECTION 18. EMINENT DOMAIN; OTHER FRANCHISES.**

In consideration of Grantee's undertaking hereunder as evidenced by its acceptance hereof, the City agrees not to engage in the business of providing electric service during the life of this franchise or any extension thereof in competition with the Grantee, its successors and assigns; but nothing herein contained shall be construed or deemed to prevent the City from exercising at any time any power of eminent domain granted to it under the laws of the State of Oregon. The City shall not grant a franchise to another electric service provider during the term of this franchise agreement unless the electric service provider has received approval to provide electrical service within the City from the Commission, and the City has imposed the same franchise fee on the electric service provider as paid by the Grantee.

#### **SECTION 19. ACCEPTANCE.**

The Grantee shall within thirty days from the effective date of this ordinance file with the City its written unconditional acceptance of this privilege; and if the Grantee fails so to do, this ordinance shall be void.

#### **SECTION 20. REVOCATION AND MUTUAL MODIFICATION.**

The franchise hereby granted may be revoked and forfeited by the City, by duly enacted ordinance therefor, and following a hearing at which the Grantee has an opportunity to be present and to be heard, in the event that the Grantee shall fail after reasonable notice or demand to comply with any of the terms, conditions, and obligations imposed upon the Grantee hereunder.

The terms of this franchise and the rights and privileges hereby conferred may be changed, altered, amended or modified at any time upon mutual agreement between the City and the Grantee, and this franchise will be subject to renegotiation at any time by service by either the City or the Grantee upon the other of notice in writing for a period of sixty (60) days and following such renegotiations and mutual agreement, this ordinance may be amended by majority vote of the City Council and execution by the Grantee and the terms of such amended ordinance will in all respects supersede any terms hereof with which said amended ordinance is in conflict.

#### **SECTION 21. RESERVATION OF STATUTORY AND CHARTER AUTHORITY.**

The City reserves the right to exercise, with regard to this privilege and permit and the Grantee, all authority now or hereafter granted to the City by state statute or City Charter.

#### **SECTION 22. TRANSFER OF FRANCHISE.**

Grantee shall not, directly or indirectly, transfer, assign, or dispose of by sale, lease, merger, consolidation or other act of Grantee, ownership or control of a majority interest in the telecommunications system, without the prior consent of the City, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

PASSED AND ADOPTED by the Common Council of the City of Ontario this \_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

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

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

Franchise Ordinance No. 2646-2010, accepted this \_\_\_\_ day of \_\_\_\_\_, 2010.

IDAHO POWER COMPANY

By: \_\_\_\_\_  
Dan B. Minor  
Senior Vice President - Delivery

ATTEST:

\_\_\_\_\_  
Secretary

## AGENDA REPORT

June 7, 2010

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: A MOTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DESIGN-BUILD AGREEMENT BETWEEN THE CITY OF ONTARIO, OREGON AND MVCI, LLC OF ONTARIO, OREGON FOR THE CONSTRUCTION OF A FIRE STATION STORAGE BUILDING.**

DATE: June 3, 2010

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### **SUMMARY:**

This memorandum reviews the process to date for the design and construction of Fire Station Storage Building. Staff recommends that the City Manager be authorized to sign a design-build agreement with MVCI, LLC of Ontario, Oregon for the design and construction of a Fire Station Storage Building on City-owned airport property located at the corner of Southwest 4<sup>th</sup> Avenue and Southwest 33<sup>rd</sup> Street. The project is needed to address the considerable space shortage issue facing the Ontario Fire Department and the Rural Fire Protection District that is resulting in the inability to adequately store critical emergency response equipment. Costs have been received for a four bay facility and a five bay facility. Staff recommends proceeding with the construction of a five bay facility as that is the most economical option.

### **PREVIOUS COUNCIL ACTION:**

In October 2009, the Council approved a resolution to hire an architectural firm to prepare plans and specifications for the design of a storage building. At the next council meeting, that resolution was rescinded in order to pursue the design-build process as an alternative to traditionally used design-bid-build method for completion of the work.

### **BACKGROUND:**

Following the Council's decision, the Mayor created a committee comprised of council members and local citizens to review and study the design build process as outlined in Oregon code for municipalities. Several members also visited similar fire facilities in the area. In mid January, city staff became involved in the committee process. The decision was made to proceed with a design build package and public works and fire staff spent a considerable amount of time developing the solicitation documents for the project. Oregon statutes and adopted rules require a very specific process when pursuing design-build that is considered an alternative contracting method from the normal process of design-bid-build. Due to the City's lack of precedent employing this procurement methodology, a variety of resources were sought to assist in the process, including documents prepared by other cities for similar projects, guidance from the City's legal counsel and recommendations from the Mayor's committee. A design-build process not only considers price but also qualifications, schedule, previous work experience and other parameters that the owner considers important in the selection process.

In March 2010, the City released the bid proposal for the project with a response deadline that was extended into early May as staff addressed concerns raised by interested parties through the addendum process. The solicitation yielded a total of five proposals to be considered by a selection committee that included Mayor Joe Dominick, Council President Susanne Mills, Council Member John Gaskill, Public Works Director Chuck Mickelson, Deputy Public Works Director Bob Walker, Fire Chief Al Higinbotham and Facilities Manager Yorick de Tassigny. Non-voting attendees invited to provide expertise at various stages of the selection process included Anderson Perry Engineer Allen Riecki, who was involved in a similar project for the City of La Grande, and the City's Building Official Dwayne Holloway, to provide insight on code issues arising from candidates' responses to interview questions. Respondents to the design build proposal included Sid Johnson and Co. (Baker City), Holcomb Construction Inc. (Nyssa), Guho Corp (Eagle Idaho), MVCI, LLC (Ontario) and Wellens-Farwell (Enterprise).

Results of the bid opening are as follows:

The selection committee rejected two of the five proposals (Holcomb Construction and Wellens-Farwell) for non-compliance with the pass/fail portion of the proposal submission requirements. The committee felt it was important to adhere to the submission terms clearly outlined in the solicitation documents in order to lend credibility to the selection process.

Costs for the remaining proposers were as follows:

| <b>Proposer</b>     | <b>Base Bid</b> | <b>Additive Alternate No. 1</b> | <b>Total with Additive Alternate</b> |
|---------------------|-----------------|---------------------------------|--------------------------------------|
| Sid Johnson and Co. | 672,062         | 55,192                          | 727,254                              |
| Guho Corp.          | 456,666         | 55,200                          | 511,866                              |
| MVCI, LLC           | 448,500         | 65,300                          | 513,800                              |

The base bid included a building with 4 drive-through bays and the additive alternate was for the construction of a 5<sup>th</sup> bay. These three proposals were evaluated and scored independently by each committee member following the scoring criteria published within the design build document. Price represented 30% of the score of the written proposal. A tally of the points resulted in the following ranking listed in order of highest to lowest score: 1. Guho Corp. 2. MVCI, LLC 3. Sid Johnson and Co. All committee members had independently ranked the three firms in the same order.

Guho Corp. emerged as the clear favorite of the committee based on price, understanding of the project, quality of their submissions and proposal content, and were invited to take part in an interview as a result. The decision was also made to interview the runner-up, MVCI, LLC. The selection committee compiled a list of questions to assist in evaluating each firm's presentation and responses.

It was discovered the day of the interviews that Guho Corp.'s contractor's license had expired. The firm's representatives were informed of this finding prior to the start of their allotted time and given the opportunity to look into the matter in case it was an administrative lapse at the State level. They elected to move forward with their presentation and interview in hopes the situation would be resolved in their favor.

During the interviews, both firms demonstrated they were capable of successfully completing the project. However, it was later determined that, despite their high level of professionalism and outstanding proposal quality, Guho Corp. was ineligible for further consideration for this project due

to unresolved licensing issues. MVCI, LLC was identified as the successful firm, and is being recommended for the project by the selection committee.

Staff and the committee members recommend that the City Manager be authorized to enter into a design-build agreement with MVCI, LLC on the City's behalf for the design and construction of the Fire Station Storage Building.

One of the benefits of the design build process is to have the contractor and their representatives identify cost saving options. Each of the proposers had various suggestions as to how the project could be modified to save money without compromising the intent of the project. On June 1, staff met with representatives of MVCI, LLC to see what cost saving measures could be considered in order to bring the project closer to the budgeted funds.

Items that have been identified include:

- Reorienting the building on the site to improve the ingress and egress
- Reducing the size of the concrete aprons in the front and back of the building saving on concrete and utilizing more asphalt which is less expensive on a per square foot basis
- Lowering the eave height from 20' to 17'-this will still allow the fire department staff to stand on the top of the trucks when loading hoses and doing maintenance
- Eliminate the shower and urinal in the bathroom-since this is intended to become a future fire station, showers will be provided during that construction
- Eliminate the translucent panels from the roof system - this is intended to save on energy costs. There will be significant natural light from the windows in the rollup doors and the exterior windows
- Eliminate the vinyl composition tile in the bathroom and apply a sealant on the cement floor as an alternate finish.
- During our meeting we also went down to the fire bays in city hall. After discussion, we all agreed that the entry bay doors could be reduced in size from 14' to 12'. This allows the length of the building to be reduced resulting in a smaller structure and less interior and exterior concrete and less expensive doors.

#### **ALTERNATIVE:**

The City Council could choose not to approve this design-build agreement with MVCI, LLC and direct staff to rerelease the solicitation documents to see if more respondents can be lured by the project. The City Council could also instruct staff to pursue the services of a qualified firm for the design and development of bid documents for the project.

#### **FINANCIAL IMPLICATIONS:**

A \$400,000 budget was approved for this project which included a \$50,000 contribution from the Rural Fire District. The City intended to finance its cost over a period of 7 years. The placeholder in the budget now is for the debt service repayment of \$69,128 per year, \$138,256 is in the 2009-2011 Biennial Budget. That is within the Fire Department budget in the debt service category. Staff recommends using the existing funds in the budget to partially pay for the construction and borrow the balance.

After further discussions with MVCI on June 3<sup>rd</sup> regarding the above cost saving measures construction costs able to be reduced to \$430,000 from \$448,500 for the 4 bay facility and \$485,000 from \$513,800 for the 5 bay facility. The Fire Department will fill the 4 bay facility with existing equipment once it is constructed. The 5 bay facility provides additional capacity for

future equipment and room for growth. It will be far more economical to construct the additional bay with this contract rather than adding onto it in the future.

In the work session on June 3<sup>rd</sup> the City Council reviewed the finances for both scenarios (4 bay and 5 bay). A summary of costs and annual payments are as follows:

| <b>MVCI, LLC</b>                                               | <b>4 - BAY</b> | <b>5 - BAY</b> |
|----------------------------------------------------------------|----------------|----------------|
| Original Bid                                                   | 448,500        | 513,800        |
| Cost Saving Measures                                           | (18,500)       | (28,500)       |
| Proposed Cost (MVCI)                                           | 430,000        | 485,300        |
| Additional Costs<br>(Permits, SDC's, Bills, Contingency, etc.) | 50,000         | 50,000         |
| <b>TOTAL COST</b>                                              | <b>480,000</b> | <b>535,300</b> |
| Rural Fire District Contribution                               | (50,000)       | (50,000)       |
|                                                                | 430,000        | 485,300        |
| Debt Service 2009-2010<br>(use as cash)                        | (69,000)       | (69,000)       |
| <b>Balance To Borrow</b>                                       | <b>361,000</b> | <b>416,300</b> |
| Annual Payments                                                | 62,388         | 71,945         |
| 5% Interest                                                    |                |                |
| 7 yr Amortization                                              |                |                |

**RECOMMENDATION:**

Staff recommends approval of an agreement with MVCI, LLC for a Guaranteed Maximum Price of \$430,000 for a 4 bay facility or a Guaranteed Maximum Price of \$485,500 for a 5 bay facility. After the City Council makes the decision, we will issue a Notice of Award and MVCI can submit the necessary insurance certificates, performance and payment bonds and sign the contract. Final design drawings will be prepared following these actions.

**PROPOSED MOTION:**

Two motions are listed below for the City Councils consideration:

Four bay storage facility: I move that the Ontario City Council authorize the City Manager to sign a design build agreement with MVCI, LLC of Ontario, Oregon for the construction of a 4 bay fire station storage building for a guaranteed maximum price of \$430,000.

-OR-

Five bay storage facility: I move that the Ontario City Council authorize the City Manager to sign a design build agreement with MVCI, LLC of Ontario, Oregon for the construction of a 5 bay fire station storage building for a guaranteed maximum price of \$485,500.

Cc: Henry Lawrence  
Al Higinbotham  
Larry Sullivan

## AGENDA REPORT

June 7, 2010

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION #2010-118: A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND TO EXTEND SEWER SERVICES TO SW 4<sup>TH</sup> AVENUE AND SW 33<sup>RD</sup> STREET**

DATE: March 17, 2010

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### **SUMMARY:**

Attached are the following document(s):

- Resolution #2010-118
- Map of Area

### **BACKGROUND:**

A new Fire Station Storage Building is to be built on city property near the intersection of SW 4<sup>th</sup> Avenue and SW 33<sup>rd</sup> Street. The building will be used for storage of fire trucks, hazardous materials response vehicle with trailers, and various other pieces of fire equipment. The building is intended to have a nominal dimension of 72' x 85' (6,120 square feet). The City Council has decided that a design-build process should be utilized for this project. Proposals are being requested for this project.

Approximately 820 feet of 8-inch sanitary sewer line is needed to accommodate and provide service to the Fire Station Storage Building.

### **ALTERNATIVE:**

The only alternative to this is to construct a septic tank and drain field. After significant discussion with the Mayor's committee, it was recommended that an extension of the sanitary sewer would be a better solution. This sewer line will also provide service to undeveloped property on the north side of SW 4<sup>th</sup> Avenue.

### **FINANCIAL IMPLICATIONS:**

The proposed Resolution reduces the Sewer Fund contingency balance by \$90,000 and increases capital outlay in the Sewer Fund by the same amount, leaving a Sewer Fund contingency balance of \$1,318,542.

### **RECOMMENDATION:**

Staff recommends the City Council adopt Resolution #2010-118.

### **PROPOSED MOTION:**

I move the City Council adopt Resolution #2010-118, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND TO EXTEND SEWER SERVICES TO SW 4<sup>TH</sup> AVENUE AND SW 33<sup>RD</sup> STREET.

**RESOLUTION #2010-118**

**A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES  
WITHIN THE SEWER FUND TO EXTEND SEWER SERVICES TO  
SW 4<sup>TH</sup> AVENUE AND SW 33<sup>RD</sup> STREET**

- WHEREAS,** the City of Ontario adopted the 2009-2011 budget document based upon known or anticipated revenues and expenditures; and
- WHEREAS,** a new Fire Station Storage Building is needed to store fire trucks, hazardous materials, response vehicle with trailers, and various other pieces of fire equipment; and
- WHEREAS,** approximately 820 feet of 8-inch sanitary sewer line is needed to provide service to the storage building; and
- WHEREAS,** the Fire Station Storage Building is considered a 'critical facility' in accordance with Oregon code; and
- WHEREAS,** the City Council desires now to formally modify the 2009-2011 Sewer Fund budget by reducing Operating Contingency expense and increasing the Capital Project expense to complete the project.

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

| Account Number    | Account Name                                         | Adopted 09-11 Budget | Proposed Change | Revised 09-11 Budget |
|-------------------|------------------------------------------------------|----------------------|-----------------|----------------------|
| <b>SEWER FUND</b> |                                                      |                      |                 |                      |
| <b>EXPENSES</b>   |                                                      |                      |                 |                      |
| 110-165-719260    | SEW-19 SW 4 <sup>th</sup> Ave/SW 33 <sup>rd</sup> St | \$ 0                 | \$ 90,000       | \$ 90,000            |
| 110-165-871000    | Operating Contingency                                | \$ 1,408,542         | (\$ 90,000)     | \$ 1,318,542         |

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

**PASSED AND ADOPTED** by the City Council of the City of Ontario this 7<sup>th</sup> day of June 2010, by the following vote:

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

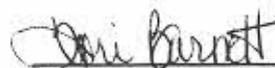
**NAYES:** None

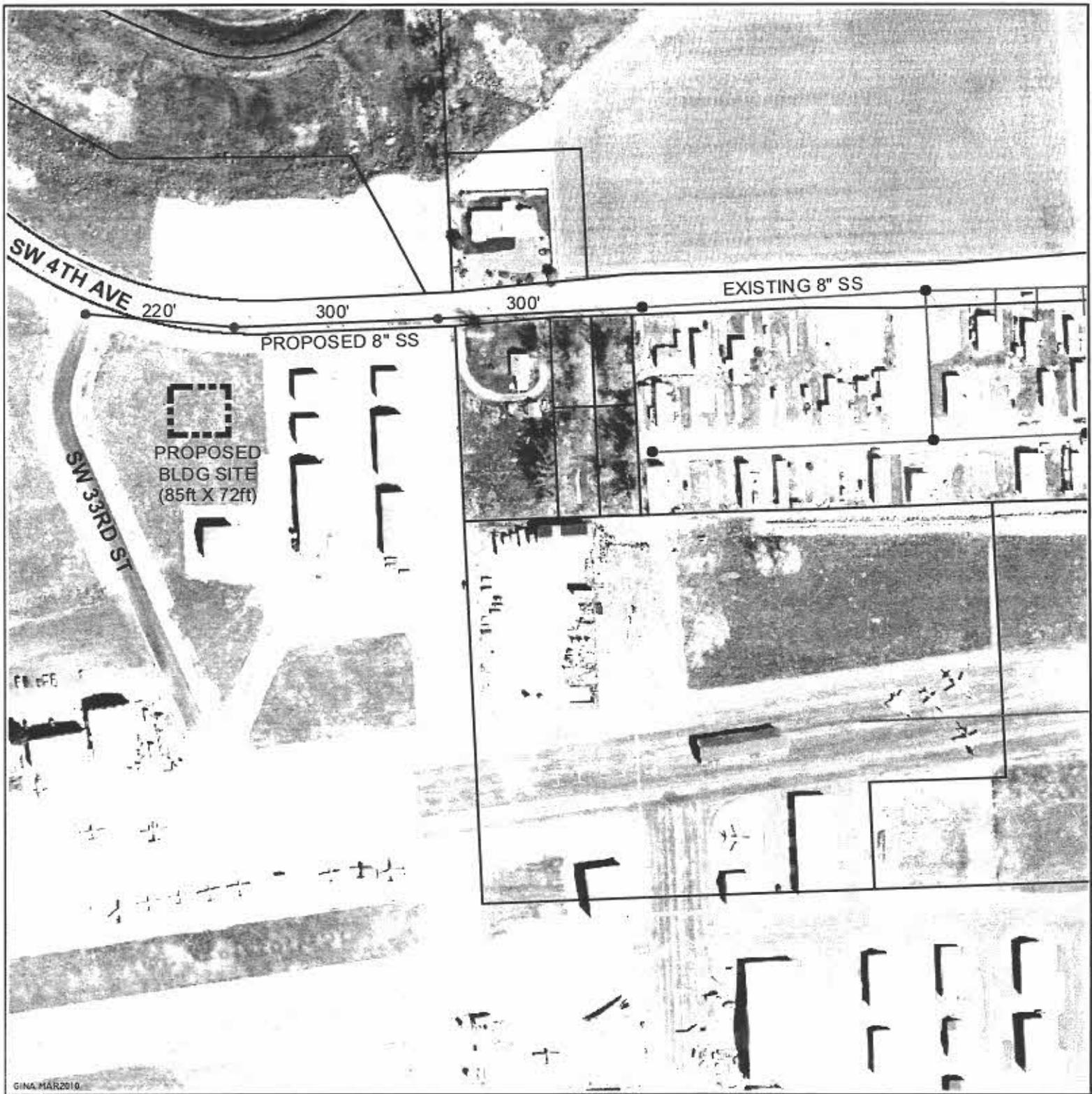
**ABSENT:** None

**APPROVED** by the Mayor this 7<sup>th</sup> day of June, 2010.

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

**ATTEST:**

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



**FIRE STATION STORAGE  
PROPOSED SEWER LINES**

- LEGEND
- PROPOSED MANHOLE
  - EXISTING MANHOLE
  - PROPOSED SEWER LINES
  - EXISTING SEWER LINES



## RESOLUTION #2010-135

### A RESOLUTION ENCOURAGING THE BURNS-PAIUTE TRIBE TO CONTINUE EXPLORING THE CONCEPT OF A DESTINATION RESORT/CASINO IN THE ONTARIO AREA BY PROVIDING A COMMUNITY IMPACT ANALYSIS AND WORKING WITH THE CITY COUNCIL TO SEEK PUBLIC INPUT

**WHEREAS,** The Burns-Paiute Tribe has approached the City with a tentative proposal to bring a destination resort/casino development to the Ontario area; and

**WHEREAS,** The City of Ontario City Council just started the process of gathering information and input from interested parties; and

**WHEREAS,** The City of Ontario is waiting to receive from the Burns-Paiute Tribe a requested community impact analysis study.

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

1. Because the City Council is still in the fact finding process, we are not prepared to offer our full support to the project at this time; and
2. The City Council encourages the continued efforts of the Burns-Paiute Tribe to improve the economic prospects of our region through the exploration of the possibility of locating a destination resort/casino establishment in the Ontario area; and
3. As more information about the proposed project becomes available and the City Council has been able to review the requested community impact analysis and hold public hearings, the City Council will amend this resolution appropriately; and
4. As the process moves forward, the City Council encourages the Burns-Paiute Tribe to engage in a significant public effort to provide increased information as it becomes available and seek public input to ascertain the degree of public support for this project; and
5. The City Council requests that the Burns-Paiute Tribe work cooperatively with the City Council to choose a mutually agreed third-party consultant to complete the requested community impact analysis.

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

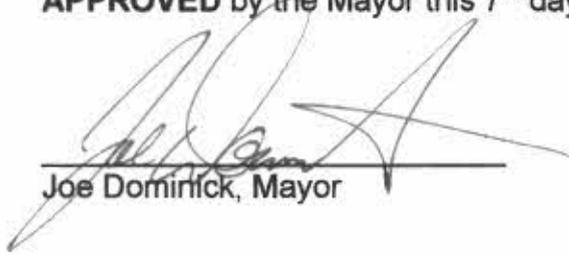
**PASSED AND ADOPTED** by the City Council of the City of Ontario this 7<sup>th</sup> day of June, 2010, by the following vote:

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

**NAYES:** None

**ABSENT:** None

**APPROVED** by the Mayor this 7<sup>th</sup> day of June, 2010.



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

**ATTEST:**



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