

**AGENDA**  
**CITY COUNCIL - CITY OF ONTARIO, OREGON**  
June 20, 2011, 7:00 p.m., M.T.

**1) Call to order**

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

**2) Pledge of Allegiance**

This Agenda was posted on Wednesday, June 15, 2011, and a study session was held on Thursday, June 16, 2011. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at [www.ontariooregon.org](http://www.ontariooregon.org).

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

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

- A) Approval of Minutes of Regular Meeting of 06/02/2011 ..... 1-2
- B) Approve Meetings Calendar: July-December, 2011 ..... 3
- C) Appointment to Recreation Board: Jeremy N. Roberts ..... 4-5
- D) Request to Accept ODOT Grant: Traffic Safety Coordinator Project ..... 6
- E) Bid Award: Chipseal Oil - Idaho Asphalt Supply, Inc. .... 7-8
- F) Resolutions #2011-107C and #2011-108C: Corrections to Existing Resolutions ..... 9-11
- G) Resolution #2011-117: Establish Polices for Ending Fund Balance FY 2010-11(RH) ..... 12-14
- H) Approval of the Bills

**5) Swearing in Police Chief**

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

**7) New Business**

- A) Bid Award: LID #47 - Nadine Drive/Alameda Drive Sanitary Sewer, Water, and Street Improvements 2011 to Eastern Oregon Construction LLC (*MUST FOLLOW PH 8-C*) ..... 15-16

**8) Public Hearing(s)**

- A) Resolution #2011-115: Adopt Biennial Budget for FY 2011-2013 ..... 17-23
- B) Resolution #2011-116: Election to Receive State Revenues ..... 24-25
- C) Ordinance #2655-2011: Annexation/Rezone UGA-Residential to City RS-50 Single Family Residential (Nadine Drive)<sup>(1<sup>st</sup> and 2<sup>nd</sup> Reading by Emergency)</sup> ..... 26-33
- D) Ordinance #2658-2011: Annexation/Rezone UGA-Residential to City RS-50 Single Family Residential (Brown)<sup>(1<sup>st</sup> Reading)</sup> ..... 34-51

**9) Executive Session(s)**

- A) ORS 192.660(2)(e) - Real Property

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

**11) Adjourn**

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

**COUNCIL MEETING MINUTES**

**June 6, 2011**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, June 6, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini.

Members of staff present were Henry Lawrence, Larry Sullivan, Suzanne Skerjanec, Mark Alexander, and camera operator Delaney Kee. The meeting was recorded on tape, and the tapes are available at City Hall.

Jackson Fox led everyone in the Pledge.

**AGENDA**

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

**CONSENT AGENDA**

Charlotte Fugate moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 05/16/2011; Item B: Resolution #2011-112: Adjustments for Revenues and Expenses within Various Funds for the 2009-2011 Biennium; Item C: Resolution #2011-113: Adjustments for Transient Occupancy Tax Revenue and Disbursement Expenses within the Trust Funds for the 2009-2011 Biennium; and Item D: Resolution #2011-114: Adjustments for Revenues and Expenses within the General and Reserve Funds for Building Inspection Revenues in Excess of Expenses for the 2009-2011 Biennium. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

**NEW BUSINESS**

**Approval of the Bills**

Mayor Dominick recused himself from voting as his corporation had an invoice submitted for payment.

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

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

- Henry Lawrence reminded the Council of the upcoming City/County meeting in Adrian on Wednesday, June 8<sup>th</sup>. He would be attending.
- Ron Verini stated he had been visited by one of the Commanders of the 116<sup>th</sup>, and it appeared troops would be returning around September. One problem they were encountering was the search for employment for the returning soldiers. If anyone had information on potential jobs, please contact the Veteran Advocate's office.

- Charlotte Fugate stated she had received and reviewed the printout for the voting on the various motions for the upcoming budget, and noted some of her votes were incorrect. While it did not change the overall outcome of the issue, she wanted it correct on the record. She had contacted the Finance Department already that day, and believed the votes in question were probably already being reviewed. She had voted yes for the transit bus, and voted against SREDA.
- Mayor Dominick stated the Global Village event had been a great success, as had been the Snake River Sabercats football game.

**ADJOURN**

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

ATTEST:

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

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

**MEETINGS LIST JULY THROUGH DECEMBER, 2011**

<b>JUL</b>	5	(TUE) Council Meeting	7:00 pm	City Hall
	6	Police Board	12 Noon	City Hall
	7	V&C Board	7:00 am	Holiday Inn
	11	Airport Committee	7:00 pm	Airport
	11	Planning Commission	7:00 pm	City Hall
	12	Golf Committee	5:30 pm	Golf Course
	14	Council Work Session	12:00 Noon	City Hall
	18	Council Meeting	7:00 pm	City Hall
	20	Recreation Board	3:30 pm	City Hall
	21	Public Works Committee	3:00 pm	City Hall
28	Council Work Session	12 Noon	City Hall	
<b>AUG</b>	1	Council Meeting	7:00 pm	City Hall
	3	Police Board	12 Noon	City Hall
	4	V&C Board	7:00 am	Holiday Inn
	8	Airport Committee	7:00 pm	Airport
	8	Planning Commission	7:00 pm	City Hall
	9	Golf Committee	5:30 pm	Golf Course
	11	Council Work Session	12 Noon	City Hall
	15	Council Meeting	7:00 pm	City Hall
	17	Recreation Board	3:30 pm	City Hall
	18	Public Works Committee	3:00 pm	City Hall
<b>SEP</b>	1	Council Work Session	12 Noon	City Hall
	1	V&C Board	7:00 am	Holiday Inn
	6	(TUE) Council Meeting	7:00 pm	City Hall
	7	Police Board	12 Noon	City Hall
	12	Airport Committee	7:00 pm	Airport
	12	Planning Commission	7:00 pm	City Hall
	13	Golf Committee	5:30 pm	Golf Course
	15	Council Work Session	12 Noon	City Hall
	15	Public Works Committee	3:00 pm	City Hall
	19	Council Meeting	7:00 pm	City Hall
21	Recreation Board	3:30 pm	City Hall	
29	Council Work Session	12 Noon	City Hall	
<b>OCT</b>	3	Council Meeting	7:00 pm	City Hall
	5	Police Board	12 Noon	City Hall
	6	V&C Board	7:00 am	Holiday Inn
	10	Airport Committee	7:00 pm	Airport
	10	Planning Commission	7:00 pm	City Hall
	11	Golf Committee	5:30 pm	Golf Course
	13	Council Work Session	12 Noon	City Hall
	17	Council Meeting	7:00 pm	City Hall
	19	Recreation Board	3:00 pm	City Hall
	20	Public Works Committee	3:00 pm	City Hall
<b>NOV</b>	2	Police Board	12 Noon	City Hall
	3	V&C Board	7:00 am	Holiday Inn
	3	Council Work Session	12 Noon	City Hall
	7	Council Meeting	7:00 pm	City Hall
	8	Golf Committee	5:30 pm	Golf Course
	14	Airport Committee	7:00 pm	Airport
	14	Planning Commission	7:00 pm	City Hall
	16	Recreation Board	3:30 pm	City Hall
	17	Council Work Session	12 Noon	City Hall
	17	Public Works Committee	3:30 pm	City Hall
21	Council Meeting	7:00 pm	City Hall	
<b>DEC</b>	1	V&C Board	7:00 am	Holiday Inn
	1	Council Work Session	12 Noon	City Hall
	5	Council Meeting	7:00 pm	City Hall
	7	Police Board	12 Noon	City Hall
	12	Airport Committee	7:00 pm	Airport
	12	Planning Commission	7:00 pm	City Hall
	13	Golf Committee	5:30 pm	Golf Course
	15	Council Work Session	12 Noon	City Hall
	15	Public Works Committee	3:00 pm	City Hall
	19	Council Meeting	7:00 pm	City Hall
21	Recreation Board	3:30 pm	City Hall	
29	Council Work Session	12 Noon	City Hall	

**CONSENT AGENDA**  
June 20, 2011

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

**SUBJECT: APPOINTMENT TO COMMITTEE: RECREATION BOARD**

DATE: June 9, 2011

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**SUMMARY:**

Attached is the following document:

- Application for Appointment: Jeremy N. Roberts

There is currently one vacancy on the Recreation Board. Mr. Jeremy N. Roberts has submitted a letter requesting appointment to fill the position. Mr. Roberts' term of service would begin immediately, and end in December 2013.

**STAFF RECOMMENDATION:**

Staff recommends appointment of Jeremy N. Roberts to the Recreation Board, with a term of service terminating December 31, 2013.

06-07-11

To Whom it may Concern;

My name is Jeremy N. Roberts and I currently reside at 1376 Alexandra Ave., Ontario OR, 97914. Due to the participation at the recent City of Ontario budget meetings and my participation in the defense of the full time position for the Recreation Dept. it was brought to my attention that there is an opening on the Recreation Board. So with my passion for children and my many involvements in the community I wanted to show my intrest in filling the open position. I am currently the Store Manager at Kelly Moore Paint and an assistant Coach for Ontario High School. Some of my qualifications to participate are 14 years as an assistant coach, 7 years as a volunteer for Ontario rec. coaching and assisting in the improvement of all the sports programs. I have also been the head of the Ontario Animals Club for 5 years and business man in the community for 16 years. I also have experience coaching in the Payette County Rec. Dept. and have won two coach of the year awards in the state of Oregon from the years of experience and service. So being a taxpayer, community member, a coach, sponser, buisness man, father of two kids currently in these programs, and a mentor to many others, I would be honored to set on the board too help with the many difficult tasks and solutions that are going to be brought to us to better are community and improve are activities and children's future's. Thanks for your time and thoughts on this matter.

Sincerely



Jeremy N. Roberts

## CONSENT AGENDA REPORT

June 20, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

**SUBJECT: REQUEST TO ACCEPT ODOT GRANT: TRAFFIC SAFETY COORDINATOR PROJECT**

DATE: June 9, 2011

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### **SUMMARY:**

ODOT has agreed to continue grant funding for the Malheur County Traffic Safety Coordinator project. The police department is requesting acceptance of the grant.

### **PREVIOUS COUNCIL ACTION:**

The Council has supported this grant since October of 2005.

### **DISCUSSION**

ODOT has provided grant funding for a traffic safety program for Malheur County for several years. The grant currently funds a .5 FTE, travel for training for that person and other personnel throughout the Malheur County, and various materials, supplies and promotional items.

The grant is renewed on a yearly basis and runs from October to September of each year. ODOT has agreed to renew the grant for October 2011 to September 2012 in the amount of \$33,000.

The Police Department has managed the grant since its inception and requests Council approval to accept grant funds for the 2011-12 year.

### **STAFF RECOMMENDATION:**

Staff recommends the Council approve the acceptance of an ODOT grant in the amount of \$33,000 to provide a traffic safety program throughout Malheur County.

## CONSENT AGENDA

June 20, 2011

TO: Mayor and City Council

FROM: John Bishop, Operations Manager

THROUGH: Henry Lawrence, City Manager  
Charles R Mickelson, Public Works Director

**SUBJECT: CHIPSEAL OIL BID AWARD**

DATE: June 13, 2011

### SUMMARY:

Attached is the following document:

- Chipseal Oil Bid Tabulation

Bids were opened on March 10, 2011, for the purchase of CRS-2R and QuickSeal oil to be used in the 2011 chipseal project. There are only two local businesses who supply this type of oil and both companies submitted bids.

The bid amounts were as follows for approximately 175 ton of CRS-2R and 19 ton of QuickSeal. Spreading charges were also requested and received:

BUSINESS	CRS-2R	QUICK SET	SPREADING CHARGE
IDAHO ASPHALT SUPPLY (P.O. BOX 966, NAMPA)	\$568.75/TON	\$458.75/TON	\$18.00/TON
WESTERN STATES ASPHALT (4304 GEKELER LANE, BOISE)	\$583.00/TON	\$513.00/TON	\$19.00/TON

### BACKGROUND:

In an effort to preserve the streets in the City, the Street Department has taken on the project of annually chipsealing the streets. This process requires CRS-2R and Quick Set oil plus 5/8" and 3/8" chips.

### FINANCIAL IMPLICATIONS:

Project	Bid Amount	FY 11-13 Budget
STREET SEALING – Chip Seal	Approx. \$127,000	\$302,000

### RECOMMENDATION:

Staff recommends the City Manager be authorized to be signatory to the agreements to award the chipseal oil contract to Idaho Asphalt Supply, Inc. for Fiscal Year 2011-12.

Request for Quote - CRS-R2 & Quick Set Oil  
 Bids Opened 3/10/11 - Operations Shop

	Base Charge	Freight Charge	Distributor Charge	Anticipated Surcharge 16.68% of freight chg*	Total
<b>Idaho Asphalt Supply</b>					
CRS-2R/Ton	\$535.00	\$13.50	\$18.00	\$2.25	\$568.75
Quickset/ton	\$425.00	\$13.50	\$18.00	\$2.25	\$458.75
<b>Western States Asphalt</b>					
CRS-2R/Ton	\$564.50	included	\$19.00	n/a	\$583.50
Quickset/ton	\$494.00	included	\$19.00	n/a	\$513.00

\*Fuel Surcharge is based on Fuel Surcharge Schedule provided. Anticipated fuel cost is \$3.52/gallon during delivery

**CONSENT AGENDA**  
June 20, 2011

To: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: CORRECTED RESOLUTIONS 2011-107 AND 2011-108**

DATE: June 13, 2011

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**SUMMARY:**

Attached are the following documents:

- Resolution 2011-107C
- Resolution 2011-108C

The Resolution form presented to Council included an error in the department line item number. These corrected Resolutions identify the correct department line item number for the Grant Fund. No change to the revenue and expense information are required as they were accurately reflected in the original Resolutions.

These corrected resolutions are required so that the authority to make the budget change is in place.

**PREVIOUS COUNCIL ACTION:**

Apr 2011 Council adopted Resolutions 2011-107 and 2011-108

**STAFF RECOMMENDATION:**

Staff recommends the Council adopt Resolutions 2011-107C and 2011-108C, correcting the department line item numbers in both cases.

**RESOLUTION 2011-107C**

**A RESOLUTION ACKNOWLEDGING RECEIPT OF FAA GRANT PROJECT #3-41-0044-010 FOR THE ONTARIO MUNICIPAL AIRPORT, AND FURTHER APPROVING A REALLOCATION OF GENERAL FUND EXPENDITURES, AND APPROVING REVENUE AND EXPENSE BUDGETS WITHIN THE GRANT FUND**

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

**WHEREAS,** the City applied for and received a grant from the Federal Aviation Administration to complete additional design work toward a runway and parallel taxiway overlay, rehabilitate the parking apron, and install runway lighting project at the airport in the amount of \$553,168, and the City's required grant match for the project is \$29,114; and

**WHEREAS,** the final grant on this project from the Federal Aviation Administration was less than originally anticipated and the City is required to contribute another \$792 in project matching funds for completion of the overall project; and

**WHEREAS,** the City Council accepted the grant award by motion action, and desires now to formally modify the 2009-2011 General and Grant Fund budgets by identifying the revenues and total project expenses, including final matching funds, to complete the project.

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

Account Number	Account Name	Adopted FY 09-11 Budget	Proposed Change	Revised FY 09-11 Budget
<b>GENERAL FUND</b>				
ADMINISTRATIVE OVERHEAD EXPENSE				
001-004-829000	TRNSF TO GRANT FUND	15,440	29,114	44,554
001-004-829000	TRNSF TO GRANT FUND	44,554	792	45,346
001-004-871000	OPERATING CONTINGENCY	1,938,213	(29,906)	1,908,307
<b>GRANT FUND</b>				
REVENUE				
010-000-458100	TRNSF FROM GENERAL FUND	18,485	29,114	47,599
010-000-458100	TRNSF FROM GENERAL FUND	47,599	792	48,391
010-000-458105	AIRPORT GRANT - FAA #010	-	553,168	553,168
	TOTAL REVENUE		583,074	583,074
EXPENSE				
010-038-714104	AIRPORT GRANT - CONNECT OR II	3,566,377	792	3,567,169
010-038-714105	AIRPORT GRANT - FAA #010	-	582,282	582,282
	TOTAL EXPENSES		583,074	

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

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

Ayes:

Nays:

Absent:

**APPROVED BY THE** Mayor this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

ATTEST:

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

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

**RESOLUTION NO. 2011-108C**  
**A RESOLUTION ACKNOWLEDGING RECEIPT OF A FEMA ASSISTANCE TO**  
**FIREFIGHTERS GRANT PROGRAM FUNDS FOR 30 SETS OF FIREFIGHTER**  
**TURNOUTS AND APPROPRIATING EXPENDITURES WITHIN THE GRANT FUND**

**WHEREAS,** the 2009-2011 Biennial Budget was adopted without the knowledge of funding for a FEMA Assistance to Firefighters Grant; and

**WHEREAS,** the City was awarded a FEMA Assistance to Firefighters grant thru its Fire Department to purchase 30 sets of firefighter turnout; and

**WHEREAS,** the City desires to modify the 2009-2011 Budget, acknowledging new grant revenue of \$57,860, identifying the \$3,045 in local match and appropriating expenditures of \$60,905 within the Grant Fund to complete the project.

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

Account Number	Account Name	Adopted FY 09-11 Budget	Proposed Change	Revised FY 09-11 Budget
<b>GENERAL FUND</b>				
FIRE DEPARTMENT EXPENSE				
001-016-613500	GENERAL SUPPLIES & MAINT	29,356	(3,045)	26,311
001-016-829000	TRNSF TO GRANT FUND	-	3,045	3,045
<b>GRANT FUND</b>				
REVENUE				
010-000-458100	TRNSF FROM GENERAL FUND	15,440	3,045	18,485
010-000-456192	FIRE FEMA EQUIP GRANT	-	57,855	57,855
	TOTAL REVENUE		60,900	60,900
EXPENSE				
010-038-714192	FIRE FEMA EQUIP GRANT	-	60,900	60,900

Effective Date: Upon adoption

Passed and adopted by the Ontario City Council this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

Ayes:

Nays:

Absent:

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

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

ATTEST:

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

**CONSENT AGENDA**  
June 20, 2011

To: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION 2011-117: GASB 54**

DATE: June 13, 2011

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**SUMMARY:**

Attached is the following document:

- Resolution 2011-117

The City strives to respond to recommendations and requirements imposed by the Governmental Accounting Standards Board (GASB). The GASB Pronouncement 54 created classifications for ending fund balances and requires governmental or public fund agencies to declare restrictions through resolution action beginning with Fiscal Year 2010-11.

While it could be argued that the City Council does set restrictions through the regular budget process with the use of contingencies, reserves, and unappropriated ending balance line items, the GASB is now requiring an additional step separate from the budget process.

There has been much discussion over what the requirements mean and how jurisdictions should comply, and only within the last two weeks have draft recommendations been provided by area municipal and education auditors.

Resolution 2011-117 sets forth the restrictions already established by the City's adopted 2010-11 and approved 2011-13 budget, meeting the requirements of GASB 54 by the June 30, 2011 deadline.

**PREVIOUS COUNCIL ACTION:**

None.

**STAFF RECOMMENDATION:**

Staff recommends the Council adopt Resolution 2011-117.

**RESOLUTION NO. 2011-117**

**A RESOLUTION ESTABLISHING POLICIES RELATED TO  
ENDING FUND BALANCES FOR 2010-2011**

**WHEREAS,** The City of Ontario promotes accounting practices in compliance with the Governmental Accounting Standards Board (GASB); and

**WHEREAS,** The City Council desires to establish fund balance policies to comply with GASB pronouncement 54.

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

Pursuant to GASB 54 requirements, the City hereby elects the following policies as it relates to fund balances for 2010-11:

**Authority**

The Ontario City Council reserves the authority to establish and modify commitments of ending fund balance.

**Commitments**

In compliance with GASB 54, the Ontario City Council hereby makes the following commitments of 2010-2011 ending fund balance for specific uses in 2011-2012:

Special Revenue Funds

1. The ending fund balance of the Trust Fund is committed to use for activities related to the specific department priorities as established by those who provided the monies held in trust or as specified by law.
2. The ending fund balance of the Reserve Fund is committed to use for activities related to the specific department priorities as established by those who provided the monies held in trust or as specified by law.
3. The ending fund balance of the Revolving Loan Fund is committed to use for activities related to the specific activities defined by Council Resolution governing the revolving loan fund program and the grant program established through the collection of interest payments on outstanding loans.

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Capital Project Funds

1. The ending fund balance of the Capital Projects Fund is committed to use for activities as defined by each individual department, including fees collected that are required to be spent on defined activities.
2. The ending fund Balance of the Emergency Equipment Replacement Department within the Trust Fund is committed to use for replacement of emergency equipment.
3. The ending fund balance of the Facility Maintenance and Repair Department within the Trust Fund is committed to use for maintenance and repair of General Fund owned City facilities.

**Assignments**

Authority to classify portions of ending fund balance as Assigned is hereby granted to the Ontario City Council, or their designee.

**Spending as it Relates to Ending Fund Balance Policy**

The Ontario City Council considers the spending of the restricted classification of fund balance on purposes for which such funds can be used to occur first when funds are spent for restricted and unrestricted purposes. When unrestricted classifications of fund balance are spent, the Council will consider that committed amounts will be reduced first, followed by assigned amounts and then unassigned amounts

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

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

Ayes:

Nays:

Absent:

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

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

**ATTEST:**

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

## AGENDA REPORT

June 20, 2011

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: BID AWARD: LID #47: NADINE DRIVE/ALAMEDA DRIVE SANITARY SEWER, WATER AND STREET IMPROVEMENTS 2011**

DATE: June 9, 2011

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### SUMMARY:

Bids were opened June 8, 2011, for LID #47: Nadine Drive/Alameda Drive Sanitary Sewer, Water and Street Improvements 2011.

Eastern Oregon Construction, of Ontario, is the apparent lowest responsive and responsible bidder at \$198,504.00. Their bid consists of construction of approximately 1,186 lineal feet of 8-inch diameter sanitary sewer main, 518 lineal feet of 6-inch water line, 643 lineal feet of 8-inch water main, including pipe, services, hydrants, valves and surface restoration. The project will also include approximately 2,000 lineal feet of 12-inch wide concrete flat curb on Nadine Drive.

<b>LID #47-NADINE DR/ALAMEDA DR SANITARY SEWER, WATER AND STREET IMPROVEMENTS 2011 BID RESULTS</b>	
COMPANY	Totals
<b>EASTERN OREGON CONSTRUCTION LLC</b>	<b>\$198,504.00</b>
WARRINGTON CONSTRUCTION	\$232,203.00
GRANITE EXCAVATION INC	\$241,985.60
MVCI LLC	\$250,361.19
LURRE CONSTRUCTION INC.	\$268,502.00
DURHAM GRAVEL WORKS, INC.	\$310,583.60
ENGINEERS ESTIMA	\$280,645.00

### PREVIOUS COUNCIL ACTION:

11-22-2010 City Council approved Declaration of Intent to create LID 47  
02-07-2011 City Council approved the creation of LID 47

### BACKGROUND:

For a number of years City staff has worked to provide sanitary sewer service to the Nadine Drive area. Council has authorized staff to solicit bids for sanitary sewer mains, water mains, surface restoration on Alameda Drive, and a street with a flat concrete curb on Nadine Drive with two width options. Option #1 would provide a pavement width of 26-feet with a 12-inch wide flat concrete curb on each side. Option #2 would provide a pavement width of 20-feet with a 12-inch wide flat concrete curb on each side. The option used would be determined by the low bidders cost and the assessment cost per lot.

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**FINANCIAL IMPLICATIONS:**

Eastern Oregon Construction's bid came in under the engineer's estimate by approximately \$80,000.

**RECOMMENDATION:**

Staff recommends awarding LID #47: Nadine Drive/Alameda Drive Sanitary Sewer, Water and Street Improvements 2011 with Option #1 Proposed Street Cross Section Nadine Drive, to Eastern Oregon Construction.

**MOTION:**

I move the Council award the LID #47: Nadine Drive/Alameda Drive Sanitary Sewer, Water and Street Improvements 2011 with Option #1 Proposed Street Cross Section Nadine Drive, to Eastern Oregon Construction, the lowest responsive and responsible bidder, in the amount of \$198,504.00 and authorize the City Manager to be signatory to an agreement with Eastern Oregon Construction.

**AGENDA REPORT – PUBLIC HEARING**  
June 20, 2011

To: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION NO. 2011-115: ADOPTING THE BIENNIAL BUDGET FOR FISCAL YEAR 2011-2013**

DATE: June 13, 2011

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**SUMMARY:**

Attached is the following document:

- Resolution No. 2011-115

Staff requests the Council approve this resolution, adopting the Biennial Budget for Fiscal Year 2011-2013 as amended.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

Oregon Budget Law requires municipalities to adopt an annual or biennial budget. Resolution 2011-115 adopts a two-year, or biennial budget. It further adopts, appropriates, imposes, and categorizes property taxes for the first half of Fiscal Year 2011-2013, for the period July 1, 2011 through June 30, 2012.

While the budget appropriations cover a two-year period, property taxes are to be imposed and categorized one year at a time. Accordingly, the Council will be asked to adopt a resolution prior to July 1, 2012 which will adopt, appropriate, impose and categorize property taxes for the second half of the Fiscal Year 2011-2013.

The Fiscal Year 2011-2013 Budget as approved by the City's Budget Committee appropriates funds totaling \$57,005,699 across fourteen funds. The City Council is asked to adopt the Fiscal year 2011-2013 Biennial Budget by fund and object category with the City's Permanent Tax Rate of \$4.8347 per \$1,000 of assessed valuation.

The Council may make modifications to the approved budget before adoption, within certain statutory limits. Any changes proposed following the adoption of the budget by the City Council must be completed in the form of budget resolutions.

At this time staff is recommending one modification to the approved budget relative to a FEMA fire equipment grant accepted by the Council thru Resolution 2011-108C. The proposed change includes an increase in Grant Fund Revenue of \$57,855 and an increase in Grant Fund Expenses of the same amount. The proposed change does not exceed State statute.

Any additional changes recommended by the Council should be made before adoption of Resolution 2011-115, and any modifications must be mentioned in the motion to adopt the resolution.

**FINANCIAL IMPLICATIONS:**

The adoption of Resolution 2011-115 will adopt the City’s Biennial Budget for Fiscal Period 2011-2013, and appropriate expenditures of \$57,063,554, which includes the additional \$57,855 in the Grant Fund. Adoption further imposes taxes at the City’s permanent rate of \$4.8347 per \$1,000 of assessed valuation for the General Fund.

Overall, the approved budget includes changes as follows when compared to the 2009-2011 Biennial Final Budget:

TOTAL OF ALL FUNDS		Adopted Budget This Year 2009-11	Approved Budget Next 2 Years 2011-13	% Change
1	Total Personal Services	15,137,542	15,089,805	-0.32%
2	Total Materials and Services	7,391,255	12,214,076	65.25%
3	Total Capital Outlay	17,666,656	13,434,078	-23.96%
4	Total Debt Service	3,836,942	3,374,287	-12.06%
5	Total Transfers	8,394,627	3,586,324	-57.28%
6	Total Contingencies	7,518,669	7,144,123	-4.98%
7	Total All Other Expenditures and Requirements	-	-	
8	Total Unappropriated Ending Fund Balance	1,388,258	2,220,861	59.97%
	Total Requirements	61,333,949	57,063,554	-6.96%

The approved budget, as proposed to be modified, represents a decrease of \$4,720,395 or -6.96% from the last biennium. This is primarily the result of the decrease in capital outlay appropriations, which decreased by \$4,232,578 and represent a combination of completed airport project improvements and the fire substation, and a reduction in the amount of capital projects proposed to be completed by the public works related funds.

The 2011-13 Biennial Budget also includes a shift in how the Water, Sewer and Storm Funds pay for their internal service and administrative costs to the Public Works Fund. As recommended by our auditors, those expenses are no longer shown as Transfers, but as expenses within the Materials and Services budget category. You will see a like reduction in transfers as compared to a majority of the increase in materials and services in 2011-13

The decrease in debt service expenditures is a result of retiring three separate loans during 2009-11, two for the golf course irrigation system and one for the airport runway expansion property purchased on a five year note.

**RECOMMENDATION:**

Staff recommends the City Council, following the scheduled public hearing, review the approved budget and the modifications proposed, and adopt Resolution No. 2011-115.

**PROPOSED MOTIONS:**

**First Motion:**

I move that the Council adopt the changes to the approved budget as recommended by Staff.

**Second Motion: (If Necessary)**

I move that the Council adopt the changes to the approved budget discussed; specifically:  
a \$ \_\_\_\_\_ increase / decrease in the \_\_\_\_\_ Fund.

**Third Motion:**

I move that the Council adopt Resolution No. 2011-115, A RESOLUTION ADOPTING THE BIENNIAL BUDGET FOR FISCAL YEAR 2011-2013.

**RESOLUTION NO. 2011-115**

**A RESOLUTION ADOPTING THE BIENNIAL BUDGET  
FOR FISCAL YEAR 2011-2012**

**WHEREAS,** the City of Ontario Budget Committee held advertised public hearings to review the proposed budget; and

**WHEREAS,** the Budget Committee approved a revised budget for review by the Ontario City Council; and

**WHEREAS,** the City Council having held an advertised public hearing at 7:30 P.M. on June 20, 2011, wishes to adopt the approved Budget as recommended.

**NOW THEREFORE, BE IT RESOLVED** that the Ontario City Council hereby adopts the biennial budget for Fiscal Year 2011-2013 in the total of \$57,063,554 now on file at Ontario City Hall;

**BE IT RESOLVED** that amounts for the biennial budget for the fiscal year beginning July 1, 2011, and for the purposes shown below are hereby appropriated as follows:

<b>001 - GENERAL FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	9,260,587
2	Total Materials and Services	2,125,686
3	Total Capital Outlay	591,880
4	Total Debt Service	138,000
5	Total Transfers	1,295,094
6	Total Contingencies	1,718,401
7	Total Special Payments	-
8	Total Unappropriated Ending Fund Balance	850,000
9	Total Requirements	15,979,648
<b>005 - GOLF COURSE FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	150,839
2	Total Materials and Services	419,696
3	Total Capital Outlay	35,000
4	Total Debt Service	-
5	Total Transfers	-
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	605,535
10	Total Resources Except Property Taxes	605,535
<b>010 - GRANT FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	-
3	Total Capital Outlay	7,918,765
4	Total Debt Service	-
5	Total Transfers	-
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	7,918,765
10	Total Resources Except Property Taxes	7,918,765

<b>020 - 9 1 1 FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	1,021,942
2	Total Materials and Services	63,401
3	Total Capital Outlay	-
4	Total Debt Service	-
5	Total Transfers	-
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	1,085,343
10	Total Resources Except Property Taxes	1,085,343
<b>025 - PUBLIC WORKS FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	2,490,804
2	Total Materials and Services	825,017
3	Total Capital Outlay	-
4	Total Debt Service	-
5	Total Transfers	1,251,461
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	4,567,282
10	Total Resources Except Property Taxes	4,567,282
<b>030 - CAPITAL PROJECTS FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	-
3	Total Capital Outlay	2,567,900
4	Total Debt Service	-
5	Total Transfers	-
6	Total Contingencies	2,929,458
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	5,497,358
10	Total Resources Except Property Taxes	5,497,358
<b>035 - DEBT SERVICE FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	-
3	Total Capital Outlay	-
4	Total Debt Service	151,525
5	Total Transfers	-
6	Total Contingencies	144,866
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	296,391
10	Total Resources Except Property Taxes	296,391
<b>045 - STREET FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	892,976
2	Total Materials and Services	881,690
3	Total Capital Outlay	585,732
4	Total Debt Service	-
5	Total Transfers	174,130
6	Total Contingencies	298,106
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
9	Total Requirements	2,832,634
10	Total Resources Except Property Taxes	2,832,634
<b>050 - TRUST FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	804,140
3	Total Capital Outlay	-
4	Total Debt Service	-
5	Total Transfers	15,000
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	304,097
9	Total Requirements	1,123,237
10	Total Resources Except Property Taxes	1,123,237

<b>055 - RESERVE FUND SUMMARY</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	47,228
3	Total Capital Outlay	310,595
4	Total Debt Service	-
5	Total Transfers	47,919
6	Total Contingencies	165,453
7	Total All Other Expenditures and Requirements	-
8	Total Reserve Fund Balance	1,066,764
9	Total Requirements	1,637,959
10	Total Resources Except Property Taxes	1,637,959
<b>060-145 - REVOLVING LOAN FUND</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	-
2	Total Materials and Services	513,711
3	Total Capital Outlay	-
4	Total Debt Service	-
5	Total Transfers	-
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Reserve Fund Balance	-
9	Total Requirements	513,711
10	Total Resources Except Property Taxes	513,711
<b>105 - WATER PLANT</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	693,832
2	Total Materials and Services	3,477,798
3	Total Capital Outlay	318,754
4	Total Debt Service	779,403
5	Total Transfers	395,060
6	Total Contingencies	1,032,204
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
	Total Requirements	6,697,051
10	Total Resources Except Property Taxes	6,697,051
<b>110 - SEWER PLANT</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	532,627
2	Total Materials and Services	2,869,272
3	Total Capital Outlay	1,105,452
4	Total Debt Service	2,305,359
5	Total Transfers	393,308
6	Total Contingencies	855,635
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
	Total Requirements	8,061,653
10	Total Resources Except Property Taxes	8,061,653
<b>115 - STORM DRAIN</b>		<b>Adopted Budget Next 2 Years 2011-13</b>
1	Total Personal Services	46,198
2	Total Materials and Services	186,437
3	Total Capital Outlay	-
4	Total Debt Service	-
5	Total Transfers	14,352
6	Total Contingencies	-
7	Total All Other Expenditures and Requirements	-
8	Total Unappropriated Ending Fund Balance	-
	Total Requirements	246,987
10	Total Resources Except Property Taxes	246,987

**BE IT RESOLVED** that the Ontario City Council hereby imposes the taxes provided for in the adopted 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 2011-2012 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 July 1, 2011.

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

Ayes:

Nays:

Absent:

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

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

ATTEST:

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

**AGENDA REPORT – PUBLIC HEARING**  
June 20, 2011

To: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION NO. 2011-116: ELECTION TO RECEIVE STATE REVENUES  
(MUST FOLLOW PUBLIC HEARING FOR RESOLUTION 2011-115)**

DATE: June 13, 2011

---

**SUMMARY:**

Attached is the following document:

- Resolution No. 2011-116

Staff requests the Council approve this resolution declaring the City's election to receive State revenues for the State's 2011-2012 Fiscal Year.

**PREVIOUS COUNCIL ACTION:**

None.

**BACKGROUND:**

Oregon Revised Statute requires that municipalities formally declare their intention to receive State revenue sharing funds on an annual basis. This election can be done by resolution action. Adoption of this Resolution will allow the City to receive allotted funds during the first half of its biennial budget. The Council will be asked to adopt a similar resolution during June of 2012 for the remaining year of the biennial budget.

**FINANCIAL IMPLICATIONS:**

It is anticipated that the City will receive \$95,000 in revenue sharing revenues during the first year of its biennial budget.

**RECOMMENDATION:**

Staff recommends the City Council adopt Resolution No. 2011-116.

**PROPOSED MOTION:**

I move that the Council adopt Resolution No. 2011-116, A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.

**RESOLUTION NO. 2011-116**

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

**WHEREAS,** The City of Ontario Budget Committee held public hearings on May 3, 4, 5, 10, 11, 12, 17, and 18, 2011; and

**WHEREAS,** The City Council held a public hearing on June 20, 2011 giving citizens an opportunity to comment on the use of State Revenue Sharing.

**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 2011-2012.

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

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

Ayes:

Nays:

Absent:

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

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

ATTEST:

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

I certify that public hearings before the Budget Committee were held on May 3, 4, 5, 10, 11, 12, 17, and 18, 2011, and a public hearing before the City Council was held on June 20, 2011, giving the citizens an opportunity to comment on use of State Revenue Sharing.

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

DEADLINE JUNE 30, 2011

## AGENDA REPORT – PUBLIC HEARING

June 20, 2011

TO: Mayor and City Council

FROM: David Richey, Planning & Zoning Administrator

THROUGH: Henry Lawrence, City Manager

**SUBJECT: ORDINANCE #2655-2011: ANNEXATION AND REZONE OF 12.54 NET ACRES OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO THE CITY RS-50 SINGLE FAMILY RESIDENTIAL CLASSIFICATION. THE PROPERTIES ARE GENERALLY IDENTIFIED AS INCLUDING AND THEN RUNNING SOUTH OF THE NADINE DRIVE NEIGHBORHOOD TO SW 18<sup>TH</sup> AVE AND EAST FROM THE NADINE DRIVE NEIGHBORHOOD TO THE ONTARIO CITY LIMITS (PLANNING ACTION 2011-01-01 AZ), ON FIRST AND SECOND READING ON EMERGENCY PASSAGE**

DATE: JUNE 13, 2011

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### **SUMMARY:**

Attached are the following documents:

- Ordinance # 2655-2011
- Exhibit “A” Assessor’s Map
- Exhibit “B” Legal Description
- Aerial photo
- Comprehensive Plan/Zoning “Before & After”

At its regular meeting of February 14, 2011 the Planning Commission heard the annexation and rezone proposal contained in Planning File 2011-01-01 AZ, which was applicable to property generally known as the Nadine Drive Neighborhood, located north of 18<sup>th</sup> Ave, along Alameda Drive and found on Assessor’s Map 18S 47E –09C.

### **PREVIOUS COUNCIL ACTION:**

05/01/2011 Council moved to continue the action until after bid openings for LID #47, for the construction project to install water and sewer lines.

### **BACKGROUND:**

The applicant, a combination of property owners and the City in response to a public health hazard from domestic wells and septic systems, are proposing the annexation to facilitate a local improvement district to extend City services into the area.

**STAFF RECOMMENDATION:**

The Planning Commission and staff recommends approval of Ordinance #2655-2011 as presented.

**PROPOSED MOTIONS:**

- 1) I move that the City Council accept the Findings of Fact as presented (or amended).
- 2) I move that the City Council approve the passage of Ordinance #2655-2011 on Emergency Reading.
- 3) I move that the Council adopt Ordinance #2655-2011, AN ORDINANCE PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3; AND DECLARING AN EMERGENCY. THE PROPERTY IS KNOWN AS THE NADINE DRIVE NEIGHBORHOOD, WITHIN THE ASSESSORS MAP 18S47E09C, LOCATED ALONG ALAMEDA DRIVE NORTH OF SW 18<sup>TH</sup> AVENUE, on First Reading by Title Only.
- 4) I move that the Council adopt Ordinance #2655-2011, AN ORDINANCE PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3; AND DECLARING AN EMERGENCY. THE PROPERTY IS KNOWN AS THE NADINE DRIVE NEIGHBORHOOD, WITHIN THE ASSESSORS MAP 18S47E09C, LOCATED ALONG ALAMEDA DRIVE NORTH OF SW 18<sup>TH</sup> AVENUE, on Second and Final Reading.

**ORDINANCE NO. 2655-2011**

**AN ORDINANCE PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO;  
AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND  
WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3;  
AND DECLARING AN EMERGENCY. THE PROPERTY IS KNOWN AS THE NADINE DRIVE NEIGHBORHOOD,  
WITHIN THE ASSESSORS MAP 18S47E09C, LOCATED ALONG ALAMEDA DRIVE  
NORTH OF SW 18<sup>TH</sup> AVENUE**

**FINDINGS OF FACT:**

- Whereas:** The proposal complies with applicable provisions of the Ontario Comprehensive Plan, Title 10 and its zone and administrative sections 10A and 10B; and,
- Whereas:** Notice has been sent to the Department of Land Conservation and Development a minimum of 45 days prior to this formal procedure to annex and in particular, rezone the subject property in accord with State Administrative Rules; and,
- Whereas:** The subject site is within the City of Ontario Urban Growth Area and thus approved under the rules and regulations of the State of Oregon for annexation to the City; and,
- Whereas:** The subject Urban Growth Area is classified as Residential and the proposed zone is RS-50 Single Family Residential which is consistent with the UGA classification; and,
- Whereas:** The subject area is immediately adjacent to the City boundary; and,
- Whereas:** The purpose behind this annexation proposal is extend City utilities into the area to protect the public health from the effects of domestic wells and failing septic systems; and,
- Whereas:** City emergency services are available to this site in a manner similar to other land in the City; and,
- Whereas:** All appropriate local notices have been given for this proposal and the public hearings it requires; and,
- Whereas:** The net private property included is 12.54 acres. The annexation also includes associated street rights-of-way; and,
- Whereas:** Pursuant to the formal proposal, the Ontario Planning Commission held a properly noticed public hearing on February 14, 2011 and made a recommendation to City Council supporting the annexation and the rezone to RS-50 Single Family Residential; and,

**Whereas:** The City Council held a properly noticed public hearing on May 2, 2011, and reviewed all evidence and testimony submitted at the City of Ontario hearings; and,

**Whereas:** This ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared, and this ordinance shall be effective immediately upon its passage.

**NOW THEREFORE, THE CITY COUNCIL OF ONTARIO ORDAINS AS FOLLOWS:** Based upon the Comprehensive Plan, the procedures and regulations provided in Title 10, of the Comprehensive Plan and Zoning Ordinance, and the above listed Findings, the Ontario City Council approves and adopts Ordinance # 2655-2011 annexing and rezoning the 12.54 of property plus the associated street rights-of-way as specifically described in the attached annexation area description. This annexation is for the purpose of furthering good public health by enabling the creation and execution of a City local improvement district to extend City utilities to the subject area and to apply the City RS-50 Single Family Residential zone to that same area. The following contiguous territory is hereby annexed: The property mapped and legally described in the attached Exhibits "A" and "B" respectively; and,

Further, because of health safety issues within the proposed boundaries of this annexation both first and second readings and suspension of the 30 day effective date of this ordinance shall be completed in a single motion.

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

AYES:

NAYS:

ABSENT:

ABSTAIN:

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

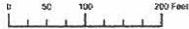
ATTEST:

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

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

**Exhibit "A"**  
 Ordinance #2655-2011  
 Nadine Drive Annex/Rezone

THIS MAP WAS PREPARED FOR  
 ASSESSMENT PURPOSE ONLY



S.W.1/4 S.W.1/4 SEC.9 T.18S. R.47E. W.M.  
 MALHEUR COUNTY

18S47E09CC  
 ONTARIO

CANCELLED  
 500  
 1201  
 1301  
 2601  
 3300  
 3901  
 4800

1" = 100'

SEE MAP 18S 47E 00

1/16 COR.

1/16 COR.

5100  
 4.61 AC

SEE MAP 18S 47E 00

5000  
 4.81 AC

**15**

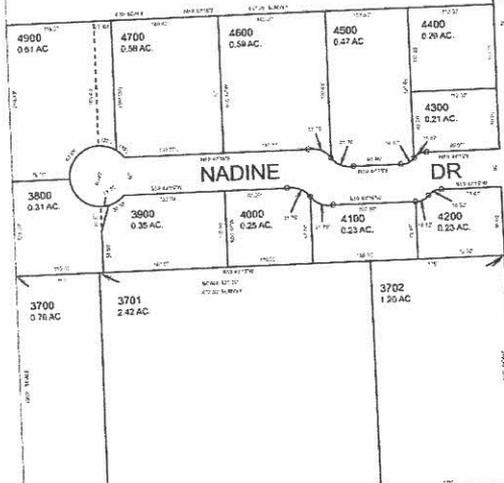
SW 14TH AVE

SW 15TH AVE

SW 16TH AVE

SW 12TH ST

SEE MAP 18S 47E 00CD



ALAMEDA  
 DR

SW 18TH AVE

AVE

1/16 COR.

SEE MAP 18S 47E 16

Revised: MF  
 3/10/2006

**LEGAL DESCRIPTION**

Land in Malheur County, Oregon, bounded and described as follows:

A portion of the S1/2 of the SW1/4 of the SW1/4 of Section 9, Township 18 South, Range 47 East, and W.M. more particularly described as follows:

Commencing at the Southwest corner of Section 9;

thence N. 89° 47' 30" E., 110 feet along the Southerly boundary of Section 9 to the TRUE POINT OF BEGINNING;

thence continuing N. 89° 47' 30" E., 552.57 feet along the Southerly boundary of Section 9 to the centerline of Alameda Drive;

thence N. 0° 17' 59" E., 330.15 feet along the centerline of Alameda Drive to a point;

thence N 89° 51' 52" E., 662.99' to a point on the Easterly boundary of the SE ¼ of the SW ¼ of the SW ¼ of Section 9;

thence N. 0° 21' 55" E., 331.50 feet along the Easterly boundary of the SE ¼ of the SW ¼ of the SW ¼ of Section 9 to the Northeast corner of SE ¼ of the SW ¼ of the SW ¼ of Section 9;

thence S. 89° 44' 57" W., 663.36 feet along the Northerly boundary of the SE ¼ of the SW ¼ of the SW ¼ of Section 9 to the Northeast corner of the SW ¼ of the SW ¼ of the SW ¼ of Section 9;

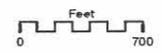
thence S. 89° 49' W., 662.25 feet along the Northerly boundary of the SW ¼ of the SW ¼ of the SW ¼ of Section 9 to the Northwest corner of the SW ¼ of the SW ¼ of the SW ¼ of Section 9;

thence S. 0° 08' 45" W., 330.49 feet along the Westerly boundary of the SW ¼ of the SW ¼ of the SW ¼ of Section 9 to the Northwest corner of the S ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 9;

thence N. 89° 47' 30" E., 110 feet along the Northerly boundary of the S ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 9 to a point;

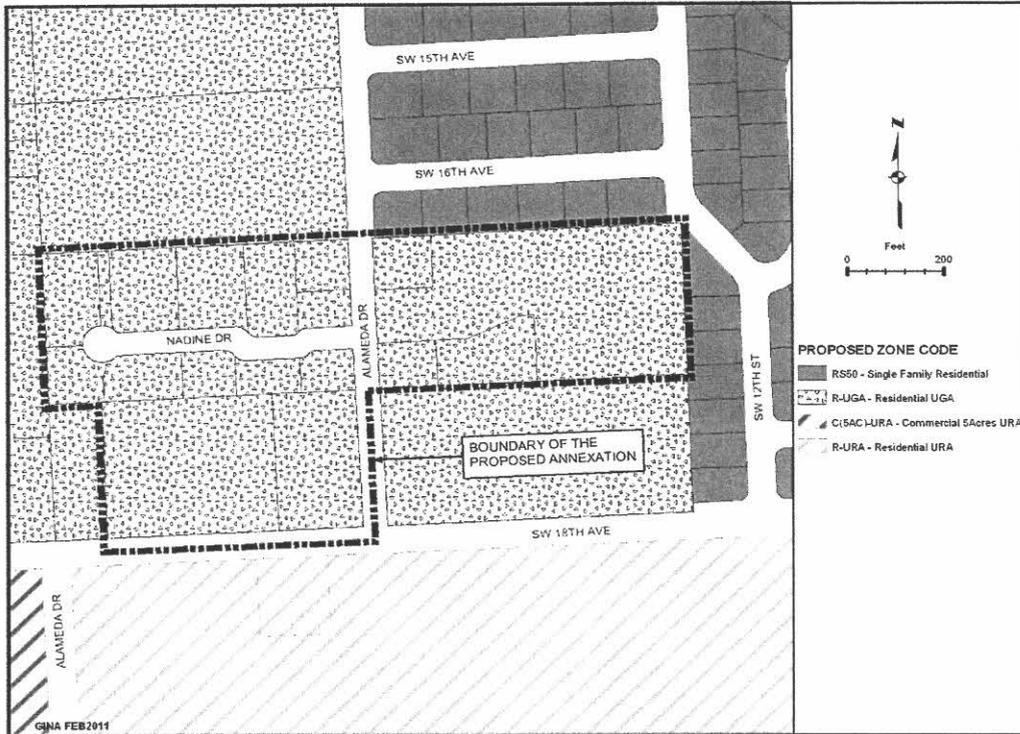
thence S. 0° 08' 45" W., 330.39 feet along a line parallel to and 110 feet East of the Westerly boundary of the SW ¼ of the SW ¼ of the SW ¼ of Section 9 to the Point of Beginning

**Aerial Photo**  
Ordinance #2655-2011  
Nadine Drive Annex/Rezone

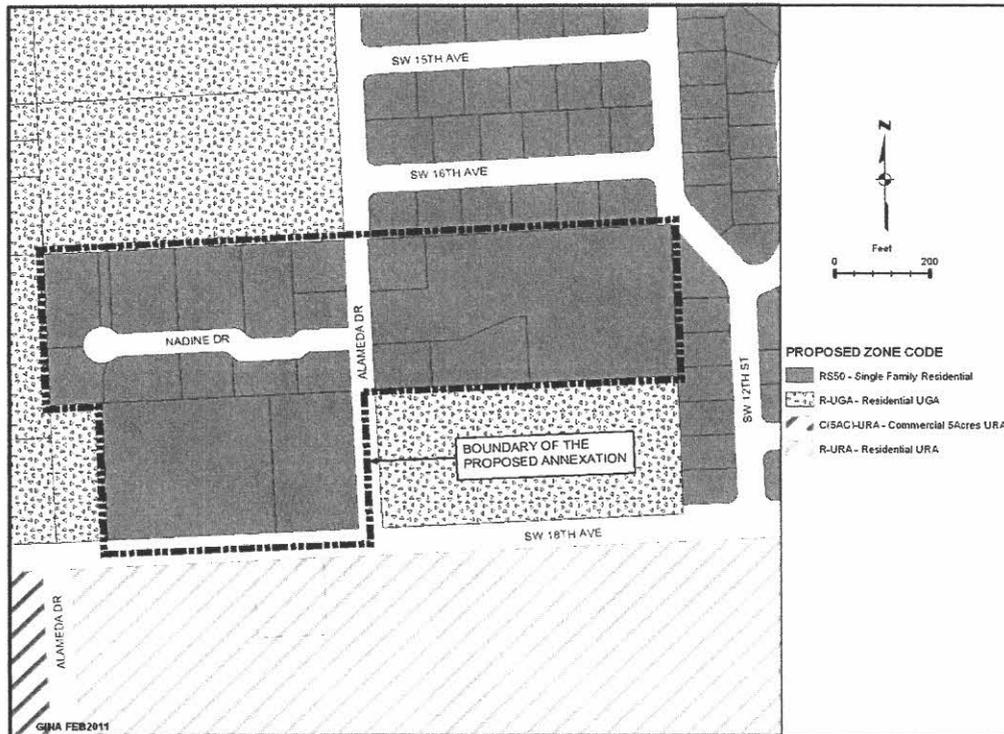


**PROPOSED  
ANNEXATION**

**BEFORE REZONE VICINITY MAP**  
Plan & Zone Map Change From R-UGA



**AFTER REZONE VICINITY MAP**  
Plan & Zone Map Change To RS-50



## AGENDA REPORT – PUBLIC HEARING

June 20, 2011

TO: Mayor and City Council

FROM: City of Ontario Planning Commission

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

**SUBJECT: ORDINANCE #2658-2011: ANNEXATION OF 1/4 ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO THE CITY RS-50 SINGLE FAMILY RESIDENTIAL, 2040 HUNTER LANE, (BROWN); (PLANNING FILE 2011-02-04 AZ) ON FIRST READING BY TITLE ONLY**

DATE: June 13, 2011

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### SUMMARY:

Attached are the following documents:

- Ordinance # 2658-2011
- Exhibit “A” Assessor’s Map
- Exhibit “B” Legal Description
- Supplemental Agenda Report w/Attachments (from Larry Sullivan)

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

### PREVIOUS COUNCIL ACTION:

05/16/2011 Council moved to continue the action on the June 20 Council meeting.

### BACKGROUND:

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

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RD-40 Duplex Residential which may include the more restrictive classification of RS-50 Single Family Residential for Tax Lot 1000, Assessor’s Map #18S 47E 05AC. It is 1/4 acre in size, and is known as 2040 Hunter Lane. The Comprehensive Plan urban growth area residential classification is broad enough that any of the City residential zones may be considered to be consistent with it.

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**STAFF RECOMMENDATION:**

The Planning Commission and staff recommends approval of Ordinance #2658-2011 as presented.

**PROPOSED MOTIONS:**

- 1) I move that the City Council accept the Findings of Fact as presented (or amended).
- 2) I move that the City Council adopt Ordinance # 2658-2011, AN ORDINANCE ADDRESSING THE FINAL ORDER AND FINDINGS OF FACT FOR THE ANNEXATION OF 1/4 ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO CITY RS-50, SINGLE FAMILY RESIDENTIAL CLASSIFICATION FOR PROPERTY LOCATED AT 2040 HUNTER LANE, ONTARIO, TAX LOT 1000, MAP 18S 47E-5AC, PLANNING FILE 2011-02-04 AZ, on First Reading by Title Only.

**ORDINANCE # 2658-2011**

**FINAL ORDER AND FINDINGS OF FACT IN THE MATTER OF PLANNING FILE 2011-02-04 AZ, THE ANNEXATION OF 1/4 ACRE OF PROPERTY INTO THE CITY OF ONTARIO AND TO REZONE SAID PROPERTY FROM UGA-RESIDENTIAL TO THE CITY RS50 SINGLE FAMILY RESIDENTIAL. THE PROPERTY IS GENERALLY KNOWN AS TAX LOT 1000, ASSESSORS MAP 18S 47E-05AC, LOCATED AT 2040 HUNTER LANE, ONTARIO**

**FINDINGS OF FACT:**

- Whereas:** The proposal complies with applicable provisions of the Ontario Comprehensive Plan, Title 10 and its zone and administrative sections 10A and 10B; and,
- Whereas:** Notice has been sent to the Department of Land Conservation and Development a minimum of 45 days prior to this formal procedure to annex and in particular, rezone the subject property in accord with State Administrative Rules; and,
- Whereas:** The subject site is within the City of Ontario Urban Growth Area and thus approved under the rules and regulations of the State of Oregon for annexation to the City; and,
- Whereas:** The subject Urban Growth Area is classified as Residential and the proposed zone is RS-50 Single Family Residential which is consistent with the UGA classification; and,
- Whereas:** The property owner has formally requested that the subject site be annexed, the primary purpose of the annexation is to have City sewer service; and,
- Whereas:** The subject site is immediately adjacent to the City boundary; and,
- Whereas:** City emergency services are available to this site in a manner similar to other land in the City; and,
- Whereas:** All appropriate local notices have been given for this proposal and the public hearings it requires; and,
- Whereas:** The property is 1/4 acre in size and is known as Tax Lot 1000, Assessor's Map #18S 47E 05AC; and,

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

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

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

Based upon the Comprehensive Plan, the procedures and regulations provided in Title 10, of the Comprehensive Plan and Zoning Ordinance, and the above listed Findings, the Ontario City Council approves and adopts Ordinance # 2658-2011 annexing and rezoning the 1/4 acre property identified as Tax Lot 1000, Assessor's Map #18S 47E 05AC and rezoning to RS-50, Single Family Residential. The following contiguous territory be and the same is hereby annexed: The property mapped and legally described in the attached Exhibits "A" and "B" respectively.

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

AYES:

NAYS:

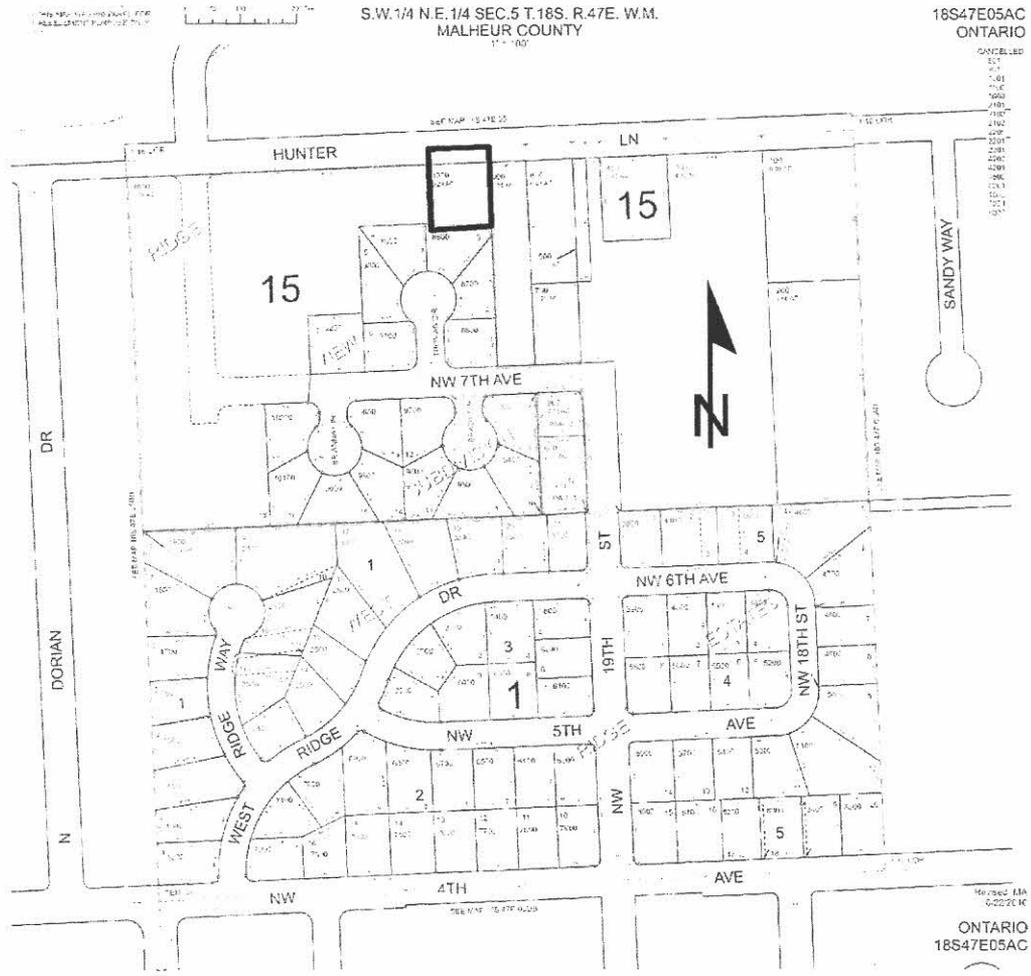
ABSENT:

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

ATTEST:

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

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



ANNEXATION DESCRIPTION  
FOR BROWN PROPERTY  
AND STREET FRONTAGE

Land in Malheur County, Oregon, as follows:

In Township 18 South, Range 47 East of the Willamette Meridian:

Section 5: A parcel of land in the NW  $\frac{1}{4}$  SW $\frac{1}{4}$ NE  $\frac{1}{4}$  more particularly described as follows:

Beginning at the Northeast corner of said NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ;

thence South 145 feet;

thence West 110 feet;

thence North 145 feet;

thence East 110 feet to the Point of Beginning

## SUPPLEMENTAL AGENDA REPORT

June 20, 2011

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Henry Lawrence, City Manager

**SUBJECT: ORDINANCE #2658-BROWN ANNEXATION AND REZONE**

DATE: June 13, 2011

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### SUMMARY:

Attached are the following documents:

- Ordinance 2773 with proposed development agreement with the Wettsteins
- Ridge View Subdivision 1 Plat

This report supplements David Richey's staff report on Ordinance #2658-2011.

### BACKGROUND:

The May 16, 2011, public hearing on the Brown annexation application was continued to give staff time to research issues raised by Dan Cummings about the Ridge View subdivision, of which the Brown parcel is a part. In that hearing, Dan Cummings expressed a concern that the City's prior dealings with Richard Wettstein, the developer of the Ridge View subdivision, might have imposed an obligation on the City to zone the Brown property as single family residential (RD-50).

Documents in the City file as well as those provided by Dan Cummings to staff show that in 1996, developers Richard and Kaye Wettstein began taking the steps necessary to develop the Ridge View Subdivision. The plan was to subdivide 35 single family residential lots located outside City limits, in anticipation that those lots would be annexed into the City as they were developed in two phases. The steps taken included the following:

- 1) In 1996, the City Council enacted Ordinance 2773, in which the City was authorized to enter into a development agreement with the Wettsteins. A copy of the ordinance and draft development agreement is attached. For reasons unknown, no final development agreement was ever executed between the City and the Wettsteins.

2) In 1998, the Wettsteins recorded with the County the plat for Ridge View Subdivision I (as to 18 of the 35 lots). In that plat, the City mayor at the time, Robert Switzer, signed an acceptance of the street dedications shown on the plat even though those streets were not yet within the City limits. Both the City and the County approved the plat.

Staff has seen no documents showing that any additional steps were taken to complete the subdivision and annexation process after the Ridge View Subdivision I plat was recorded. Staff was informed that the Wettsteins subsequently went bankrupt. Since that time individual landowners who purchased lots within Ridgeview Subdivision I have annexed into the City on a piecemeal basis.

From the City attorney's review of the documents provided, the City is not obligated to zone any of these lots as RD-50 exclusively. This is because no development agreement between the City and the Wettsteins was ever executed.

Although the Wettsteins never completed the process necessary to develop Ridge View Subdivision 1, the recorded plat appears to be a legal plat under Oregon law. The procedures necessary to record the plat were followed, including the platting requirements imposed by Chapter 92 of the Oregon Revised Statutes, and the plat was approved by both the City and the County. Unless additional information is presented raising issues about the legality of the plat, the City attorney has no reason to question the legality of the Ridge View Subdivision 1 Plat or whether the streets within the plat were properly dedicated.

ORDINANCE NO. 2373

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER  
TO EXECUTE THE DEVELOPMENT AGREEMENT BETWEEN  
THE CITY OF ONTARIO AND RICHARD AND KAY WETTSTEIN

- WHEREAS, Developer is the owner of, and desires to develop a parcel of property located in the Ontario Urban Growth Area (UGA), more particularly described in the attached Exhibit "A" and hereinafter referred to as "The Property", for the purpose of developing a 35 lot single family residential subdivision thereon.
- WHEREAS Developer and City, collectively hereinafter referred to as "the parties", desire that upon completion of the aforementioned improvements upon said real property and upon inclusion of said improvements on the Malheur County Tax roles, The Property shall be annexed into the City of Ontario.
- WHEREAS, The Ontario Municipal Code, Chapter 10, requires developments to meet certain standards and requires Developer to provide certain off-site improvements.
- WHEREAS, Developer, desires to develop The Property, and connect to City Water, Sewer and Storm drainage.
- WHEREAS, City, desires to encourage development of The Property, however, City desires the constructed improvements to be included on the Malheur County tax roles prior to annexation of The Property and is amenable to providing City water and sewer services prior to annexation of The Property.

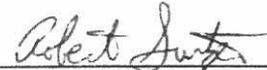
NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

The Mayor and City Recorder are authorized to execute the Development Agreement between the City of Ontario and Richard and Kay Wettstein attached hereto as Exhibit A.

PASSED AND ADOPTED by the Common Council of the City of Ontario this 21 day of October, 1996, by the following vote:

AYES: Don Forsyth, Joe Mollahan, Robert Switzer, David Sullivan,  
Nancy Biechler, Pat McCoshum  
NAYS: None  
ABSENT: Bill Peterson

APPROVED by the Mayor this 21st day of October, 1996.



Robert Switzer, Mayor

ATTEST:

  
\_\_\_\_\_  
Janice C. Victoria, Interim City Recorder

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**DEVELOPMENT AGREEMENT**

**BETWEEN:** CITY OF ONTARIO, OREGON, a municipal corporation hereinafter "City"

**AND:** RICHARD AND P. KAY WETTSTEIN, hereinafter "Developer"

**DATED:** This \_\_\_\_ day of October, 1996

**PREMISES:**

1. Developer is the owner of, and desires to develop a parcel of property located in the Ontario Urban Growth Area (UGA), more particularly described in the attached Exhibit "A" and hereinafter referred to as "The Property", for the purpose of developing a 35 lot single family residential subdivision thereon.
2. Developer and City, collectively hereinafter referred to as "the parties", desire that upon completion of the aforementioned improvements upon said real property and upon inclusion of said improvements on the Malheur County Tax roles, The Property shall be annexed into the City of Ontario.
3. The Ontario Municipal Code, Chapter 10, requires developments to meet certain standards and requires Developer to provide certain off-site improvements.
4. Developer, desires to develop The Property, and connect to City Water, Sewer and Storm drainage.
5. City, desires to encourage development of The Property, however, City desires the constructed improvements to be included on the Malheur County tax roles prior to annexation of The Property and is amenable to providing City water and sewer services prior to annexation of The Property.
6. Based on the above premises, the parties enter into this agreement.

AGREEMENT:

In consideration of the mutual promises contained herein, the parties agree as follows:

1. The aforementioned premises are deemed true and are herein incorporated by reference.

2. AGREEMENT BINDING ON SUCCESSORS IN INTEREST

This agreement is an instrument affecting the title and possession of the real property described above, more particularly described in attached Exhibit "A", herein incorporated by reference. All the terms and conditions herein imposed shall run with the land and shall be binding upon and inure to the benefit of the successors in interest of Developer. Upon any sale or division of The Property, the terms of this agreement shall apply separately to each parcel and the owner of each parcel shall succeed to the obligations imposed on Developer by this agreement.

3. CITY AGREES TO:

After having conducted the appropriate land use hearings on this proposed Agreement upon Developer's application for approval of the West Ridge Subdivision:

- 3.1 The City acknowledges that the tentative subdivision plat meets the requirements of the Ontario Municipal Code as set forth on the date hereof. Approval of the tentative plat will be binding on City in all respects except as otherwise mentioned herein as to construction of the improvements in conformance with the tentative plat at such time as Developer seeks annexation to the city so long as annexation occurs within five years from the date of this agreement. However, City's review of the site plan is only for the purpose of verifying conformity with the Ontario Municipal Code and in no way guarantees, warrants, implies or otherwise represents conformity of the site plan with the statutes, ordinances, rules, regulations or standards of other governing bodies or regulatory agencies who might have jurisdiction over the development of the property.

- 3.2 Provide City water and sewer services to The Property at the same rates charged for said services to similar residences located within the corporate limits of the City of Ontario.

4. DEVELOPER AGREES TO:

- 4.1 The Developer has provided a tentative plat dated \_\_\_\_\_ for the Ridge View Subdivision to City Staff which meets the requirements of

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Ontario Municipal Code Section 10B-02-15 and contains the information required by Code Section 10C-01-05.

- 4.2 The Developer, his successors and/or assigns will file all appropriate documents necessary to annex The Property as soon as either 80% of the lots in the subdivision have developed or five years have elapsed from the date of this agreement, whichever occurs first, and in connection therewith, shall submit the annexation process fees set forth in Ontario Municipal Code Section 10B-02-40, the administrative processing costs as set forth in the Ontario Municipal Code Section 10B-02-45, and any systems development fees or annexation fees in lieu of systems development fees which may be in effect at the time of annexation.
- 4.3 The Developer will dedicate to the City for public use all streets identified in the tentative plat and no later than one year from the date hereof, construct thereon public streets, including but not limited curb, gutter and sidewalks and asphaltic paving, according to Ontario's standard street specifications.
- 4.4 Provide such other easements for public sewer, water, and other utilities as are shown on the said site plan.
- 4.5 Construct water lines, sewer lines and storm drainage facilities in accordance with said site plan.
- 4.6 Construct all improvements in conformance with the relevant provisions of the Ontario Municipal Code and in conformance with the approved site plan as provided for in paragraph 4.1 above, except as otherwise set forth herein.
- 4.7 Have all engineering performed by an Engineer fully qualified to perform this type of work and who is registered as a Professional Engineer in the State of Oregon.
- 4.8 Provide all costs, materials and labor to install water service lines and any necessary or desired fire flow lines from the point of connection with the City service lines to any structures built on The Property. All such installations shall conform with specifications provided by City.
- 4.9 Provide all costs, materials and labor to install sanitary sewer service lines from the connection point with City sewer service lines to any structures built upon the property.
- 4.10 Upon acceptance by the City of the off-site improvements required by this agreement, Developer shall dedicate all such improvements for public

use to the City. For one full year from and after the dedication, Developer shall be responsible for repair or replacement of any defects in construction or materials of the off-site improvements so dedicated.

5. THE PARTIES AGREE:

- 5.1 This Agreement shall terminate upon the faithful performance of each party's obligations hereunder.
- 5.2 If any party fails to perform any of its obligations under the Agreement, after giving 30 days prior written notice in which the defaulting party may correct its failure to perform, the party giving the notice may:
  - 5.2.1 Cease its performance of this Agreement;
  - 5.2.2 Sue for specific performance of this Agreement;
  - 5.2.3 Terminate this Agreement and seek damages from the defaulting party; or
  - 5.2.4 Pursue any other remedy available.
  - 5.2.5 In the event Developer is in material default and fails to correct said default within the notice period set forth above, City may, thereafter terminate City services to The Property.
- 5.3 Time is of the essence for each of the terms, covenants and conditions of this Agreement.
- 5.4 In the event either of the parties shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including but not limited to attorney fees, including fees incurred in connection with preparation of and service of notices of default, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with nonjudicial action.
- 5.5 This Agreement has been entered into in the State of Oregon and The Property is located in Oregon. The parties agree that the laws of the State of Oregon shall be utilized in construing the Agreement and enforcing the rights and remedies of the parties.
- 5.6 Developer may not assign this Agreement except upon City's prior written consent which consent of City shall not be unreasonably withheld. In determining whether to consent to assignment, City may

consider factors including but not limited to the following: financial ability of the proposed assignee; business experience of the proposed assignee; and the proposed use of the premises by the proposed assignee. City may demand such documentation as deemed necessary by City in connection therewith. Under no circumstances, however, shall any consent be given unless the proposed assignee is, in the reasonable opinion of City, fully capable of performing the terms and conditions of this Agreement. Furthermore, such consent shall not operate to release Developer of Developer's obligations hereunder nor shall such consent be given if this Agreement is in any respect in default on the part of Developer, nor will such consent be given unless and until Developer's assignee agrees to assume and carry out the obligations of Developer contained herein. So long as Developer remains primarily liable under the terms and provisions of this Agreement, Developer may, without the written consent of City, sell The Property and enter into a lease back arrangement.

- 5.7 The tentative plat anticipates development of the subdivision in two phases. Should Developer, or its successor-in-interest, fail to substantially complete all designated improvements required for each phase no building or improvements within the incomplete phase may be beneficially occupied for any purpose, including for the purpose of a residential dwelling.

For the purposes of this subsection, substantially complete shall mean:

- 5.8.1 With regard to on-site improvements, except as otherwise provided in subparagraph 5.8.3 below, completion of the improvements as required by the Ontario Municipal Code, the statutes and regulations of the State of Oregon, and this Agreement, unless a waiver, approval of modification, or deferment has been obtained in writing from the appropriate governing body.
- 5.8.2 With regard to off-site improvements, completion of the improvements required by the Ontario Municipal Code and/or this Agreement, unless a waiver, approval of modification of the Agreement, or deferment has been obtained in writing from the City of Ontario. For the purpose of this subsection, deferment of off-site improvements may be made, but shall not be required to be made, by depositing with the City an amount in cash or performance bond, issued by an bonding company acceptable to the City of Ontario, equal to 150% of the City Public Works Director's estimate of the cost for completion of the improvements.

- 5.8.3 In the event Developer has minor incompletions involving required landscaping, minor incongruities of the curbs and sidewalks, and/or other insignificant items which in no way impose or threaten to impose a danger of harm to persons or property due to said incompleteness or incongruity and provided Developer has taken substantial steps, which are satisfactory to the Mayor of the City of Ontario, to insure the completion or correction of said incompleteness or incongruity as soon as reasonably possible, development under the terms and provisions of this agreement shall be deemed substantially complete.
- 5.9 Developer shall be responsible for preparing and recording a memorandum of this Agreement in the official Real Property Records for Malheur County, Oregon, within 30 days after the date of this Agreement.
- 5.10 This Agreement is specific to the improvements necessary to allow the construction of a residential subdivision on the identified site, attached hereto as Exhibit "A". The ordinances, codes and requirements of City shall be observed in addition to the specific improvements identified in this Agreement.
- 5.11 Any notice permitted or required under this Agreement may be served personally, or alternatively, may be deposited in the United States Mail, Postage prepaid, registered or certified, return receipt requested, addressed to the parties as shown below:
- 5.11.1 Notice to the City shall be addressed to the attention of the City Manager and mailed to the City of Ontario, 444 S.W. Fourth St., Ontario, Oregon 97914.
- 5.11.2 Notice to Developer shall be addressed to:
- RICHARD AND P. KAY WETTSTEIN  
2411 Sunset Drive  
Ontario, Oregon 97914
- Such notice, if mailed within the State of Oregon, shall be deemed delivered on the third day after the date postmarked. If mailed from or to a point outside the State of Oregon, such notice shall be deemed delivered upon the fifth day following the date postmarked.
- 5.12 No change in or modification of or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and

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signed by the party to be charged therewith or its duly authorized representative.

5.13 Failure of either party at any time to require performance of any provision of this Agreement shall not be construed to be a waiver of that provision, or of any other provisions of this Agreement, or limit the right of said party to enforce the provision, nor shall any waiver by either party of any breach of any provision of this Agreement be construed to be a waiver of any succeeding breach of that provision or a waiver of other provisions of this Agreement.

5.14 This Agreement contains the entire understanding of the parties. There are no conditions, representations, warranties, covenants or undertakings other than those expressly set forth herein.

5.15 Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, enemy or hostile government action, civil commotion, fire or other casualty and other cause beyond the reasonable control of the party obligated to perform shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

IN WITNESS WHEREOF, by affixing their signatures hereto, the City and Developer do hereby authorize and execute this agreement.

CITY OF ONTARIO, OREGON

DEVELOPER

By: \_\_\_\_\_  
Robert Switzer, Mayor

By: \_\_\_\_\_  
Richard Wettstein

Attest:

By: \_\_\_\_\_  
P. Kay Wettstein

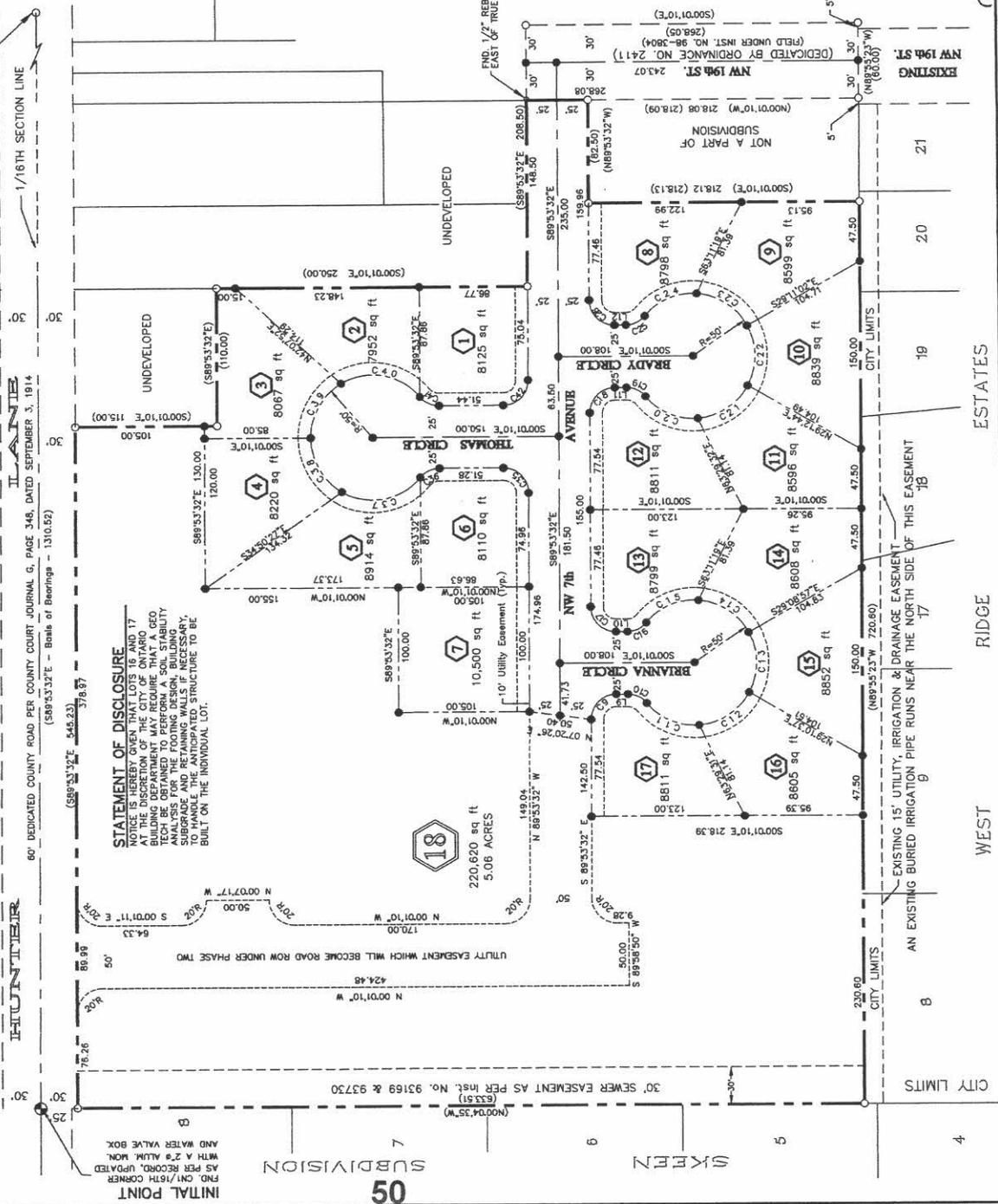
\_\_\_\_\_  
Janice C. Victoria  
City Recorder

# RIDGE VIEW SUBDIVISION I

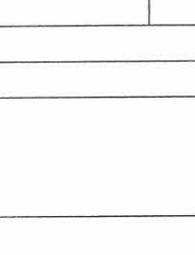
in the SW1/4NE1/4, Section 5, Twp. 18 S., R. 47 E., W.M.,  
Malheur County, Oregon.

OWNER & DEVELOPER  
RIDGEVIEW, L.L.C.  
156 SE 1ST AVE., SUITE NO. 2  
ONTARIO, OREGON 97014  
(541) 882-6983

PREPARED BY:  
GASCHLER & CUMMINGS  
156 SE 1ST AVE., SUITE NO. 2  
ONTARIO, OREGON 97014  
(541) 882-6983



CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CHORDLEN
C0	49.5227	20.00	31.37	19.96	54.45721	28.25
C1	49.5227	20.00	31.37	19.96	54.45721	28.25
C2	49.5227	20.00	31.37	19.96	54.45721	28.25
C3	49.5227	20.00	31.37	19.96	54.45721	28.25
C4	49.5227	20.00	31.37	19.96	54.45721	28.25
C5	49.5227	20.00	31.37	19.96	54.45721	28.25
C6	49.5227	20.00	31.37	19.96	54.45721	28.25
C7	49.5227	20.00	31.37	19.96	54.45721	28.25
C8	49.5227	20.00	31.37	19.96	54.45721	28.25
C9	49.5227	20.00	31.37	19.96	54.45721	28.25
C10	49.5227	20.00	31.37	19.96	54.45721	28.25
C11	49.5227	20.00	31.37	19.96	54.45721	28.25
C12	49.5227	20.00	31.37	19.96	54.45721	28.25
C13	49.5227	20.00	31.37	19.96	54.45721	28.25
C14	49.5227	20.00	31.37	19.96	54.45721	28.25
C15	49.5227	20.00	31.37	19.96	54.45721	28.25
C16	49.5227	20.00	31.37	19.96	54.45721	28.25
C17	49.5227	20.00	31.37	19.96	54.45721	28.25
C18	49.5227	20.00	31.37	19.96	54.45721	28.25
C19	49.5227	20.00	31.37	19.96	54.45721	28.25
C20	49.5227	20.00	31.37	19.96	54.45721	28.25
C21	49.5227	20.00	31.37	19.96	54.45721	28.25
C22	49.5227	20.00	31.37	19.96	54.45721	28.25
C23	49.5227	20.00	31.37	19.96	54.45721	28.25
C24	49.5227	20.00	31.37	19.96	54.45721	28.25
C25	49.5227	20.00	31.37	19.96	54.45721	28.25
C26	49.5227	20.00	31.37	19.96	54.45721	28.25
C27	49.5227	20.00	31.37	19.96	54.45721	28.25
C28	49.5227	20.00	31.37	19.96	54.45721	28.25
C29	49.5227	20.00	31.37	19.96	54.45721	28.25
C30	49.5227	20.00	31.37	19.96	54.45721	28.25
C31	49.5227	20.00	31.37	19.96	54.45721	28.25
C32	49.5227	20.00	31.37	19.96	54.45721	28.25
C33	49.5227	20.00	31.37	19.96	54.45721	28.25
C34	49.5227	20.00	31.37	19.96	54.45721	28.25
C35	49.5227	20.00	31.37	19.96	54.45721	28.25
C36	49.5227	20.00	31.37	19.96	54.45721	28.25
C37	49.5227	20.00	31.37	19.96	54.45721	28.25
C38	49.5227	20.00	31.37	19.96	54.45721	28.25
C39	49.5227	20.00	31.37	19.96	54.45721	28.25
C40	49.5227	20.00	31.37	19.96	54.45721	28.25
C41	49.5227	20.00	31.37	19.96	54.45721	28.25
C42	49.5227	20.00	31.37	19.96	54.45721	28.25



LINE	BEARING	DISTANCE
L9	S00P01'10"E	9.48'
L10	N0P01'10"W	9.28'
L11	S0P01'10"E	9.48'
L12	N0P01'10"W	9.28'

CONTROL AND BASIS OF BEARINGS FOR THIS PLAN ARE BASED ON THE RECORD OF SURVEY BY GASCHLER & CUMMINGS FOR RICHARD D. WETSTEIN FILED UNDER COUNTY SURVEY NO. 19-47-0646.

**DANNY K. CUMMINGS, HERRY CERTIFY THAT THIS IS A TRUE REPRODUCTION OF THE ORIGINAL.**  
*Danny K. Cummings*

REGISTERED PROFESSIONAL LAND SURVEYOR  
DANNY K. CUMMINGS  
25116  
RENEWAL DATE: 12-31-99

- LEGEND**
- BOUNDARY LINE
  - SECTION LINE
  - LOT LINE
  - EXISTING LOT LINE
  - EXISTING EASEMENT LINE
  - NEW UTILITY EASEMENT
  - RIGHT-OF-WAY
  - CENTERLINE
  - RECORD & MEASURED UNLESS OTHERWISE NOTED
  - MONUMENT AS NOTED
  - FND. 5/8" dia. REBAR
  - FND. 1/2" dia. REBAR
  - SET 5/8" X 30" REBAR

**DECLARATION**

KNOW ALL MEN BY THESE PRESENTS :  
That We, the undersigned, do hereby certify that we are the owners of the lands as shown and described on this plat and have caused the tract of land to be Surveyed, Subdivided and Platted in accordance with the provisions of O.R.S. Chapter 92 as the **RIDGE VIEW SUBDIVISION I** in Malheur County, Oregon.

**DESCRIPTION :**

That portion of the SW1/4NE1/4 of Section 5, Twp.18 S., R.47E., W.M., Malheur County, Oregon, as follows:  
COMMENCING AT THE NORTHWEST CORNER OF SAID SW1/4NE1/4;  
THENCE S 00°04'35" E ALONG THE WEST LINE OF THE SW1/4NE1/4, 30.00 FEET  
TO THE POINT OF BEGINNING;  
THENCE S 89°53'32" E PARALLEL WITH THE NORTH LINE OF THE NW1/4SW1/4NE1/4 545.23 FEET;  
THENCE S 00°01'10" E 110.00 FEET;  
THENCE S 00°01'10" E ALONG THE EAST LINE OF THE SW1/4SW1/4NE1/4 250.00 FEET;  
THENCE S 89°53'32" E 148.50 FEET;  
THENCE S 00°01'10" E 50.00 FEET;  
THENCE N 89°53'32" W 82.50 FEET;  
THENCE S 00°01'10" E 218.12 FEET;  
THENCE N 89°55'23" W 720.60 FEET;  
THENCE N 00°04'35" W ALONG THE WEST LINE OF THE NW1/4SW1/4NE1/4, 633.51 FEET  
TO THE POINT OF BEGINNING.

**WE HEREBY CERTIFY :**

That the streets or portions thereof within the limits of the plat are dedicated to the public use forever, the utility easements shown on this plat are not dedicated to the public but the right to use said easements is hereby perpetually reserved for public utilities, and no structure other than for utility purposes shall be erected within the limits of said easements.

Richard Wetstein 5-21-98 DATE  
PRESIDENT RIDGEVIEW L.L.C.

P. Kay Wetstein 5-27-98 DATE  
SECRETARY RIDGEVIEW L.L.C.

**ACKNOWLEDGMENT**

STATE OF OREGON S.S.  
COUNTY OF MALHEUR

On this 27 day of May, 1998, A.D., before me, a Notary Public in and for said County and State, the foregoing instrument was acknowledged before me by the above named Officers of RIDGEVIEW L.L.C., a Oregon Limited Liability Company, in and on behalf of the corporation.

Richard Wetstein Notary Public  
RESIDING AT \_\_\_\_\_  
SEAL

**STREET ACCEPTANCE**

On behalf of the public I hereby accept the offered dedication of streets for public use forever.

Richard Wetstein 5/27/98 DATE  
MAYOR, CITY OF ONTARIO  
MALHEUR COUNTY, OREGON

**SURVEYOR'S CERTIFICATE & NARRATIVE**

I, DANNY K. CUMMINGS, a Registered Professional Land Surveyor, in and for said County and State do hereby certify that the survey of **RIDGE VIEW SUBDIVISION I** in Malheur County, Oregon, as shown and described on this Plat was made by me and was completed on 5/15/98 and that this Plat correctly shows the survey as made. I furthermore certify that monuments have been established as indicated hereon. In witness thereof I hereunto set my hand and seal this 22<sup>nd</sup> day of May, 1998 A.D.  
Control for this Plat is based on the record of survey by Gaschler & Cummings under job number DO-0695, dwg. number D006955-B749 for Richard D. Wetstein filed under County Survey No. 18-47-0640. Basis of Bearings is said Recorded Survey.

**DANNY K. CUMMINGS, HEREBY CERTIFY THAT THIS IS AN EXACT REPRODUCTION OF THE ORIGINAL.**

Danny K. Cummings  
REGISTERED PROFESSIONAL LAND SURVEYOR  
OREGON  
DANNY K. CUMMINGS  
2316

**APPROVALS**

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS PLAT OF RIDGE VIEW SUBDIVISION I HAS BEEN APPROVED BY EACH OF US AND THAT IT CONFORMS TO THE REQUIREMENTS OF OUR RESPECTIVE OFFICES AND HERETO SET OUR HANDS.  
Richard Wetstein 5/27/98 DATE  
MAYOR, CITY OF ONTARIO, MALHEUR COUNTY, OREGON  
Richard Wetstein 5/27/98 DATE  
PLANNER, CITY OF ONTARIO, MALHEUR COUNTY, OREGON  
Richard Wetstein 5/27/98 DATE  
COUNTY SURVEYOR, MALHEUR COUNTY, OREGON  
Richard Wetstein 5/27/98 DATE  
COUNTY COMMISSIONER, MALHEUR COUNTY, OREGON  
Richard Wetstein 5/27/98 DATE  
COUNTY ASSESSOR, MALHEUR COUNTY, OREGON

**UTILITIES**

I hereby certify on behalf of the City of Ontario that domestic water and a sewage disposal system will be available to the lot lines of each lot shown on this Plat.

Richard Wetstein 5/27/98 DATE  
CITY OF ONTARIO

I hereby certify on behalf of the Owyhee Irrigation District that this Subdivision is EXCLUDED from the district and ~~will not receive water~~ WILL NOT RECEIVE water by the district and ~~will not be subject to~~ WILL NOT BE SUBJECT TO district charges.

Richard Wetstein 6/2/98 DATE  
OWYHEE IRRIGATION DISTRICT

I hereby certify on behalf of the Malheur Drainage District that this Subdivision is in our district and may use our drainage system as per our agreement.

Richard Wetstein 6/2/98 DATE  
MALHEUR DRAINAGE DISTRICT

**RECORDING**

I, HEREBY CERTIFY:

That this instrument was filed at the request of Richard D. Wetstein at 11:30 p.m., this 9 day of June, 1998 A.D.

FEE: \_\_\_\_\_ INSTRUMENT No. 98-43163 SLIDE 21

Richard Wetstein  
COUNTY RECORDER

NUMBER OF AFFIDAVITS OF VENDOR, MORTGAGE OR TRUST DEED HOLDER ATTACHED: 1