

**AGENDA**  
**ONTARIO CITY COUNCIL - CITY OF ONTARIO, OREGON**  
Monday, September 16, 2013, 7:00 p.m., M.T.

**1) Call to order**

Roll Call: Norm Crume \_\_\_\_\_ Jackson Fox \_\_\_\_\_ Charlotte Fugate \_\_\_\_\_ Dan Jones \_\_\_\_\_  
Larry Tuttle \_\_\_\_\_ Ron Verini \_\_\_\_\_ LeRoy Cammack \_\_\_\_\_

**2) Pledge of Allegiance**

This Agenda was posted on Wednesday, September 11, 2013, and a study session was held on Thursday, September 12, 2013. 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) Minutes of Regular Meeting of September 3, 2013 ..... 1-8
- B) Approval of the Bills

**5) Department Head Updates: Thursday**

**6) Public Comments:** Citizens may address the Council on items not on the Agenda. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. This time limit will be enforced. Please state your name and city of residence for the record.

**7) New Business:**

- A) Reimbursement to Public Works for Donated Labor and Materials for Ontario High School Baseball Field Work and Laxson Park Playground Equipment Installation ..... 9-11
- B) Resolution #2013-130: Establishing City Credit Card Policy; Amend City Financial Policy Manual, Section 1.13 ..... 12-23

**8) Discussion Items:**

- A) TOT (*See hand-out*)
- B) Finance Update

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

**10) Adjourn**

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**ONTARIO CITY COUNCIL MEETING MINUTES  
Tuesday, September 3, 2013**

The meeting of the Ontario City Council was called to order by Council President Dan Jones at 7:00 p.m. on Tuesday, September 3, 2013, in the Council Chambers of City Hall. Council members present were Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ron Verini.

Members of staff present were Jay Henry, Tori Barnett, Mark Alexander, Mike Long, Bob Walker, Dan Shepard, Brad Howlett, and Marcy Skinner. The meeting was recorded, and copies are available at City Hall.

Jackson Fox led everyone in the Pledge of Allegiance.

**AGENDA**

Ron Verini moved, seconded by Jackson Fox, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

**CONSENT AGENDA**

Charlotte Fugate moved, seconded by Norm Crume, to approve Consent Agenda Item A: Minutes of the Regular Meeting of August 19, 2013; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

**DEPARTMENT HEAD UPDATES**

Bob Walker, Public Works Director, stated staff would be placing the pea gravel around the new playground equipment at Laxson Park next week. Also, they had received a very nice thank you letter regarding the project.

Mike Long, Finance Director, handed out an amendment to go with the proposed Credit Card Policy, which could be discussed in more detail when that issue was brought up under New Business. It specified recommended uses, not recommended uses, and those uses that were specifically prohibited. He also attached a list of staff members to be included in the count for cards, with the caveat it could only be increased by the Council.

**PUBLIC COMMENT(S)**

Kit Kamo, SREDA, expressed her thanks for the excellent job city staff had done working with her. They had worked on several large projects, and city staff had jumped in to help. SREDA had responded to a large RFP involving a company that needed rail access, utilities, a large plot of land, and the city stepped up and helped. The county also provided information, along with Representative Cliff Bentz. It might be several years out, but it was moving forward. Regarding Select Onion north of town, the city again stepped in and got the information ready for distribution. She and Alan [Daniels] met with the state with regard to how to market the new 200 acre area. They were looking at data centers, food processing plants, etc. She would be attending a number of trade shows over the next several months to market the property. A seed company inquired about existing buildings, and a natural fiber plant who made food containers had been speaking with the locals. She also met with a gentleman about the mall. He would be coming back at the end of the month to visit more. The Mushroom Plant in Vale sold, and they hoped to get something going there. Tomorrow would be the SREDA Board Meeting, 7AM, in Weiser. Next month was Nyssa. They were routing the meetings throughout the different communities. Everyone was invited to attend.

Sarah Poe, Lifeways, promoted two events this month. Hands Around the Park, was celebrating its 10<sup>th</sup> Anniversary, and would be the biggest event to date. It would be September 19<sup>th</sup>, from 6-8 pm at Lion's Park. They would be hosting a BBQ, having a live band, great activities for the kids, and some great speakers. Please try and attend. Second, on Tuesday, September 24<sup>th</sup>, there would be a Positive Community Norms Training, which dealt with targeting 18-25 year olds at high risk for drinking; however, this was applicable to everyone. It was an approach to improving health and safety. There would be three different sessions: 9-11, 1-3, 5-7, all hosted by Four Rivers Cultural Center.

[Copied from hand-out]

Ruth Rolland, Ontario, stated *"Yesterday was Labor Day, a national holiday set aside to honor and recognize those who do the work that gets things done. The work each of us does has significance and value. There is dignity and honor in every kind of work. The honor is the opportunity to make things or accomplish tasks that are useful and provide some benefit to other people. The work we each perform connects us to one another. It's the backbone of the social contract. There is no community and no nation that can exist without exchanges of work of every kind – each contributing what they find the opportunity to contribute. At one time or another, each of us contributes our backs and our hands, or at other times, our creativity and intelligence and natural talents. And everyone in the community benefits. We all become connected and contributing to the life and health of our community. At times, some make judgments that certain workers are less worthy or have less dignity than other workers. At the most basic and deepest level, every human being has the value and dignity which we each carried with us into this world. Accordingly, every citizen and worker in the City of Ontario deserves fair treatment and respect within their families, within the community and within their work lives. If you neglect any of Ontario's citizens, families and workers, Ontario's future suffers. Supporters of the Ontario Public Works Employees are outside City Hall again this evening, carrying signs, calling on the City Council and City Manager to end the unfairness to Ontario's Public Works employees. It is their hope that the City Council will decide it's time to say to these employees that you recognize they have a good reason to feel disrespected by the City Council. The Public Works employees want a chance to finish the negotiations that City Council disrupted when they voted to impose the City's Implemented Offer. The Public Works employees want a chance to reach a mutual, fair conclusion to the negotiation of their labor contract.*

#### OLD BUSINESS

##### **Ordinance #2682-2013: Annex & Rezone City Shop (Final Reading)**

Norm Crume moved, seconded by Larry Tuttle, that the City Council adopt Ordinance #2682-2013, A CITY ZONING 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. THE PROPERTY IS TAX LOT #3100; FIVE ACRES LOCATED AT 1151 NW 9<sup>TH</sup> STREET AND OWNED AND USED BY THE CITY FOR ITS CITY SHOP, ASSIGNING CITY ZONING, AND REZONING TAX LOT #3400, AN ADJOINING 2.81 ACRE PARCEL, BOTH WITHIN THE ASSESSORS MAP 17S4733D, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

##### **Ordinance #2683-2013: Annex & Rezone Horning Way and Crest Way (Final Reading)**

Charlotte Fugate moved, seconded by Norm Crume, that the City Council adopt Ordinance #2683-2013, A CITY ZONING 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; THE PROPERTY IS KNOWN AS THE VERDE DRIVE, HORNING WAY AND CREST WAY NEIGHBORHOOD, WITHIN THE ASSESSORS MAP 18S4705AA, INCLUDING APPROXIMATELY 7.37 ACRES OF PRIVATE LAND AND THOSE ADJOINING STREETS, AND ASSIGNING CITY SINGLE FAMILY RESIDENCE, RS-50, ZONING, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

**Ordinance #2684-2013: Amend OMC 9-3 re: Parking in Front Yards (Final Reading)**

Ron Verini moved, seconded by Larry Tuttle, that the Council adopt Ordinance #2684-2013, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 9, CHAPTER 3, on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

**Tree Maintenance Agreement w/Meadow Outdoor Advertising**

Marcy Skinner, Planning Technician, stated the city was approached by Meadow Outdoor Advertising with a proposal to eradicate the diseased trees along East Idaho Avenue. The project was estimated to run approximately \$24,150, and Meadow Outdoor Advertising was requesting the city contribute \$10,000 towards the project. The Public Works Director suggested the city's contribution be half the cost of the concrete work and the base material installation which would be \$5,000.

The project included the removal of ten Green Ash street trees in a row on the north side of East Idaho Avenue from the KFC/A&W Restaurant (#1639) to the Verizon store (#1671). These trees were recently evaluated from an Arborist and were found to be in a poor, diseased condition. The Arborist report was on file with the Planning Technician. Since being planted, the trees and shrubs surrounding the diseased trees have been sprayed and maintained by the City of Ontario.

Costs of the removal of trees, replanting of a better species, stamping concrete, and regular maintenance would be saved. It had been calculated that the total maintenance cost per year saved would be \$689 per year.

John Lehman, Meadow Outdoor Advertising, summarized the three proposed options. For both Meadow and the landowners, any of the three options would work, and there were pluses and minuses for each. For Option 1, there was a higher cost to the city, around \$5-10K, but there was less clean-up to maintain. For Option 2, it was all concrete, and was favored by Meadow as it cleared up the businesses view. That would take no more than \$5K from the city due to less cost. A negative for that option would be that it might not fit in with the city's ordinances, the green and growing section, and the possibility of the need for a variance. For Option 3, it was just replacing the trees, but it did clear up the business view, and there was no cost to the city because there would be no concrete. A negative was that the while the ground cover would be maintained by the city, it was not quite as sanitary as the stamped concrete proposed in Option 1 and Option 2. Once approved, it would be maintained by Meadow. This was an Agreement that would be moving and flowing with different parts. If down the road it wasn't working, the Agreement could be easily amended.

Councilor Verini asked if they had ever considered elimination of the ground cover and going with all concrete?

Mr. Walker stated the city ordinance required 6% landscaping and 65% of that 6% had to be green and growing. Going all concrete would require a variance through the Planning & Zoning Commission, and then to the Council for final approval.

Councilor Verini asked if Option 1, just the stamped concrete and trees, met that requirement.

Ms. Skinner stated the city proposed the stamped concrete due to maintenance of what was currently there. ODOT did the work in front of Panda Express, and it was very clean, as well as green and growing. That had been proposed to Meadow.

Mr. Walker stated Meadow would also maintain the trees in front of Panda.

Councilor Fugate asked if the Arborist checked the other trees on Idaho.

Mr. Lehman stated he did look at the others. He took some samples across the street, and those were in the same bad condition. They were all planted around the same time, and suffered from the beetle infestation. This was a start to getting rid of the sick trees up Idaho Avenue.

Councilor Tuttle asked about the right-of-way.

Mr. Walker stated the right-of-way was owned by ODOT, but the city maintained landscaping.

Councilor Tuttle asked about the watering system.

Mr. Lehman stated the current system in place would need to only be slightly upgraded, and would cost maybe \$250.

Mr. Walker stated the main irrigation line was already there. The trees and shrubs irrigated out of that main line. Actual costs to reconnect the lines to the trees would be about \$250.

Councilor Jones verified they could remove the damaged greenery, and not disrupt the irrigation lines.

Mr. Walker stated the irrigation line was on the street side of the project. According to Jay Hysell, [Parks and Cemeteries employee], the main irrigation line would not be disrupted. The feeder lines would be disturbed and those would need to be re-hooked.

Councilor Jones asked about a long, low pressure drip line.

Mr. Walker there would only be seven trees that needed to hook in.

Councilor Jones verified this proposed \$5K or \$10K had not been budgeted.

Mr. Walker stated it was in the Public Works budget, where they had \$75K budgeted under capital projects for concrete replacement, so this funding would come from that line.

Councilor Jones asked who would be doing the tree removal – city crews?

Mr. Lehman stated Meadow Advertising would be doing it.

Councilor Fox stated he liked Option 3, as it didn't cost the city any money, other than the \$250 for the water line.

Jackson Fox moved that the City Council approve the Agreement between the City of Ontario and Meadow Outdoor Advertising, for the maintenance and replacement of the trees, using Option 3, trees along East Idaho Avenue, in the immediate vicinity of 1657 East Idaho Avenue, and maintain the seven [7] to East Lane, North, based upon contract review by the City Attorney. *Motion died for lack of second.*

Norm Crume moved, seconded by Ron Verini, that the City Council contribute \$5K towards the East Idaho Avenue Street Replanting and Maintenance Agreement with Meadow Outdoor Advertising, including Option 1, which was to remove the trees already there, and to install seven [7] climate appropriate trees, install metal tree wells, remove all ground cover and install stamped concrete. *[No vote yet]*

Councilor Jones stated he believed it was too many trees for a commercial area. Were they confident those could be managed to not block their properties? His least favorite was Option 1.

Mr. Lehman stated he would prefer all concrete too, but seven [7] trees maintained like those in front of Panda would be healthier, and it was a good option.

Councilor Fox asked if ODOT did the work in front of Panda.

Ms. Skinner stated yes.

Councilor Fox asked if it was ODOT or the developer.

Ms. Skinner stated she believed it was ODOT.

Mr. Walker stated that was part of the street project done with ODOT, so they installed those trees.

Councilor Jones asked about the next project coming on Idaho.

Mr. Walker stated this pretty much went down to where they put in the concrete section. The city's right-of-way extended from there to the underpass.

*[Retyped Motion for the record]*

Norm Crume moved, seconded by Ron Verini, that the City Council contribute \$5K towards the East Idaho Avenue Street Replanting and Maintenance Agreement with Meadow Outdoor Advertising, including Option 1, which was to remove the trees already there, and to install seven [7] climate appropriate trees, install metal tree wells, remove all ground cover and install stamped concrete. Roll call vote: Crume-yes; Fox-no; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 5/1/0.

### NEW BUSINESS

#### **Bid Award: Police Evidence Room Remodel – Sather Construction \$24,500**

Mark Alexander, Police Chief, stated historically, the Ontario Police Department stored evidence in up to four separate locations, some being off-site. Items such as guns, drugs, cash and valuables were kept in areas exposed to heat and cold, and were susceptible to theft or tampering. The Department seized evidence that might go to the crime lab, might be held for trial or might be returned to the owner. Evidence relating to assault or sexual assault cases had to be kept for extended periods of time. Evidence relating to death cases was kept permanently.

Several years ago, the Police Department obtained an apartment building behind City Hall for a single location for evidence storage and processing. The facility was better secured and was under video surveillance. It was very convenient for officers to locate, transport, deliver or return items of evidence since it was kept in close proximity to the Police Department. Very crude measures were taken to remove walls in the building in order to make the space effective for storage. This worked for the Department, but with the knowledge there were safety measures lacking. There was a location with exposed and/or substandard flooring, areas of exposed electrical wiring and a lack of ventilation. The storage of drugs, clothing, and materials with blood produced harmful airborne spores for those working in the facility. Through the years, storage needs have increased as well.

The Police Department had the ability to utilize a neighboring apartment to help with storage and health and safety issues. Cost estimates were obtained to upgrade and encompass the two units into one facility in the amount of \$34,900. The Budget Committee approved a CIP in the amount of \$17,500 to do half the project (one apartment unit) in the 2013-2014 FY.

Invitations for bids were advertised for the project. Only one bid was received, from Sather Construction LLC, in the amount of \$24,500. It's been realized that the project would require more work in the first phase than in the second. It was anticipated the entire project would ultimately be within the cost estimate. A meeting was held with the contractor and staff was comfortable with the proposal and scope of work. Some cost saving solutions were also been identified. \$17,500 was designated for the project in the FY 2013-14 Police Budget. It was proposed the remaining \$7,000 would come from the General Fund Administration Building and Maintenance line item. Not funding this project would result in storage space for evidence continuing to decline. The safety of those who worked in the facility was jeopardized and the integrity of evidence that was crucial to criminal investigations became a negative focus during trial. The facility does not meet best practices and was very likely violating OSHA rules, which could result in fines.

Ron Verini moved, seconded by Norm Crume, that the City Council award the bid to Sather Construction LLC in the amount of \$24,500 for the first phase of the Police Department evidence room remodel and authorize the City Manager to sign a large purchase order in that amount. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Councilor Fugate asked how that type of project was tracked.

Mr. Long stated \$17,500 was from the Police budget, and the other \$7K was from Building Maintenance. Next year, when the budget was prepared, instead of the \$17,500, it would be the remainder of the project costs. It would come out of Administrative Overhead. It was not coming out of Contingency.

#### **Appointment of Mayor**

Councilor Crume stated on Thursday, the Council had conducted interviews for the position of Mayor. He was pleased that people stepped up, and sat through the interview process. Both candidates did an honorable job, and he was glad that he'd been a part of it.

Councilor Verini stated he had been impressed with both candidates, and also impressed with the Council in working as a team to come up with a solution to break the stalemate on some issues facing the city.

Ron Verini moved, seconded by Norm Crume, that the Council select LeRoy Cammack to fill the vacant position of Mayor, until the end of the term in December 2014. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes. Motion carried 6/0/0.

Tori Barnett, City Recorder, administered the Oath of Office to Mr. Cammack, who then took his seat at the Council dais.

#### **Credit Card Policy**

Councilor Fox stated he brought this issue forward because the past two audits stated they needed to decrease the number of cards issued to staff. He believed they needed more time on the policy, but would like to see action on the numbers of cards issued, because 93 was absurd. He recommended using the list provided by the Finance Director, with an additional seven cards to be issued at the City Manager's discretion. He wanted, however, to discuss the policy in more detail.

Mr. Long stated the policy was under review, and he asked for revisions and comments on the draft. He would bring it back before the Council for discussion.

Councilor Verini stated the City Manager had already pulled in 55 of the 93 cards. He was prepared to discuss whether the number of cards being talked about was sufficient to handle the city's business, but wondered if they were being premature.

Mr. Henry stated there were several grey areas. For instance, in the Fire Department, the HazMat Coordinator wasn't a department head, but he traveled a lot for the Fire Department, with costs being reimbursed by the state, so there were benefits to that person having a card. However, there were some who already stated they didn't want, or need, a card, and would rather a line employee, such as someone who did supply ordering, actually have the card. He agreed that 93 were way too many cards, but he also didn't want to see the purchasing abilities curtailed. There were a lot of efficiencies in ordering on line as opposed to leaving the job to make a purchase.

Councilor Verini stated they needed to find a good number, and he didn't think it was advantageous now to select, arbitrarily, a number of cards, if they didn't know how many were truly needed to run the city. Bringing in 54 cards already was commendable, and they were working on a credit card policy. How long would it be until they could arrive at an actual, true number?

Mr. Henry stated the policy would outline how to request a card, it would address the limit, and who the person was getting the card. He took this very seriously. Staff was working on this daily, and would welcome any Council guidance. Once the Council approved the policy, then they could pull in ALL the cards, and reissue based on the new policy.

Councilor Fox stated it had been 2½ years since the audit initially came out. They had dragged their feet long enough. The Auditors recommended department heads only. He had already spoken with two different CPAs, who agreed with him.

Councilor Tuttle stated part of the policy should be the number of cards they'd have. He didn't want to pass a policy that didn't include the number of cards issued. It was better to err on the conservative side, and then work through it. He wanted to know who actually had a card. When the policy was approved, the numbers needed to be designated.

Councilor Fugate stated the Council had had Mr. Long's proposed policy for over a month. He had asked for recommendation from the Council, but it appeared only two or three Councilors had responded.

Mr. Long stated he had also forwarded a copy to the Auditors, asking for their review and comments, and those had been incorporated into the proposed policy the Council had been given.

Councilor Crume stated it was obvious there was a problem with too many cards, and it had been acknowledged. On the surface, it seemed like it should be the Council's job to designate; however, they hired a City Manager to do a job. The Council was to set policy, and the City Manager to carry them out. Let the City Manager run the city as he saw fit. It would be up to the Council to watch the City Manager handle it. It was going back to micromanaging. In reality, for the city to do business, they relied on the City Manager to run the city efficiently, with guidance from the Council. Allow the City Manager to determine if a department needed zero, five, or whatever number of cards.

Mayor Cammack asked if nine cards would work.

Mr. Henry stated that was not his personal recommendation, because it was broken down by department. After speaking with the department heads, they had arrived at 24 cards.

Councilor Fox didn't agree with that number. It went against the Auditor's recommendation. They were not there to make this easy to spend the taxpayer's money; they were there to guard against anything going wrong with that money.

Councilor Jones stated this had been discussed last Thursday, to identify the number of cards issued, with a chance to review, tweak, or whatever, the policy.

Jackson Fox moved, seconded by Dan Jones, to leave active the nine credit cards that were listed on staff's approved number of cards, as well as seven others at the City Manager's discretion, and disable all other cards. Roll call vote: Crume-no; Fox-yes; Fugate-no; Jones-yes; Tuttle-yes; Verini-no; Cammack-yes. Motion carried 4/3/0.

Mayor Cammack stated his yes vote was with the understanding that in the future, as they continued their discussions regarding this issue, it may be that that wasn't the correct number of cards. They needed a number to start with, and that was it.

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

- Councilor Verini reminded everyone that Patriot Day was September 11<sup>th</sup>. Also, he offered thanks to Darin Bell and LeRoy Cammack for going through the Mayoral appointment process, and complimented the Council for a job well done. Congratulations to both the city and staff.

Councilor Tuttle thanked Mr. Bell and Mr. Cammack for stepping forward.

Councilor Jones stated to Mr. Bell that he should stay involved, and he expected to see his name for an open seat on the Council next year. Congratulations to Mr. Cammack; he looked forward to working with him.

Councilor Crume also thanked the two candidates for their interest. The Council was not always going to agree, but he didn't care. There were seven members now, and they wouldn't be deadlocked. He also encouraged Mr. Bell to stay involved.

Councilor Fugate thanked Mr. Bell for going through the process. Next fall, the Mayor position would be open. Thank you also to LeRoy. She was glad it all worked out. Thank you to the entire Council for making it happen.

Mayor Cammack stated his appreciation for the cooperation and help, and for the Council allowing him the opportunity. He was looking forward to it, and believed they would accomplish many good things.

**ADJOURN**

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

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
LeRoy Cammack, Mayor

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

**AGENDA REPORT**  
September 16, 2013

TO: Mayor and City Council

FROM: Michael Long, Finance Director

THROUGH: Jay Henry, City Manager

**SUBJECT: REIMBURSEMENT TO PUBLIC WORKS DEPARTMENT FOR DONATED MATERIALS/LABOR FOR ONTARIO HIGH SCHOOL BASEBALL FIELD AND PLAYGROUND EQUIPMENT INSTALLATION AT LAXSON PARK**

DATE: September 9, 2013

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**SUMMARY:**

Attached are the following documents:

- Invoices for Material/Labor for the Ontario High School Baseball Field and Playground Equipment Installation at Laxson Park

The purpose of this agenda item is to find out from City Council where would they like Finance Department to take from General Fund to reimburse the Public Works Department for projects that City Council asked Public Works to provide to the projects. The funds will come from General Fund. The cost of these projects provided to the Community were not budgeted in the general funds.

**BACKGROUND:**

The City Council approved the donation of labor and materials to the projects installing water and sewer service to the Ontario High School Baseball Field and for the playground equipment at Laxson Park. of Ontario Budget Committee held public hearings on May 21, 22, and 23, 2013 which the 2013-2014 annual budget contains revenue sharing from the State of Oregon. The City Council held a public hearing on June 17, 2013 giving the citizens an opportunity to comment on the use of State Revenue Sharing, pursuant to ORS 221.770.

**FINANCIAL IMPLICATIONS:**

The financial implication is that the Public Works Department needs to be reimbursed \$13,531.02 for the labor and materials provided.

**RECOMMENDATION:**

Staff would like to know where the City Council would like the reimbursement funds be paid from.



Date: June 20, 2013

Contractor/Billable Party: \_\_\_\_\_  
Address: \_\_\_\_\_

**DONATED MATERIALS/LABOR**

Work Done:

Install water and sewer service

Service Address:

Ontario High School Baseball Field

**WORKER:**

	HRS	RATE	
Utility Worker II	5	\$ 31.56	\$ 157.80
Utility Worker I	5	\$ 30.27	\$ 151.35
Utility Worker III	6	\$ 34.11	\$ 204.66
Utility Street Worker III	1	\$ 34.87	\$ 34.87

**EQUIPMENT:**

	HRS	RATE	
#314-03 (Backhoe)	1.5	\$ 35.00	\$ 52.50
#312-05 (Service Truck)	5.0	\$ 13.00	\$ 65.00
#310-02 (Service Truck)	6.0	\$ 13.00	\$ 78.00
#301-00 (Camel)	3.0	\$ 125.00	\$ 375.00

**MATERIALS USED:**

	QUANT.	PRICE	
6"x2" IP Tapping Saddle	1	\$ 87.87	\$ 87.87
2" x 1.5" Hex Reducer	1	\$ 5.90	\$ 5.90
1.5" Corp stop x Comp	1	\$ 95.31	\$ 95.31
1.5" Curb Stop Comp x FIP	1	\$ 78.63	\$ 78.63
1.5" Close Nipple	3	\$ 4.53	\$ 13.59
1.5" Setter	1	\$ 490.47	\$ 490.47
1.5" Neptune Meter	1	\$ 706.70	\$ 706.70
Vault & Lid (3 foot)	1	\$ 475.00	\$ 475.00
1.5" x 8" Nipploe	1	\$ 19.28	\$ 19.28
1.5" 90° Street Elbow	1	\$ 12.98	\$ 12.98
1.5" FIP x Comp Coupler	1	\$ 25.04	\$ 25.04
1.5" Stiffners	5	\$ 1.55	\$ 7.75
1.5" Poly Pipe	50'	\$ 1.25	\$ 62.50
1.5" comp x comp Coupler	1	\$ 22.70	\$ 22.70
Asphalt	4.5 ton	\$ 62.00	\$ 279.00
8" x 6" Con/Clay Inserta-Tee	1	\$ 37.00	\$ 37.00
6" 3034 Sewer Pipe	40'	\$ 3.50	\$ 140.00
6" 45° Elbow (Standard Plumbing)	1	\$ 17.00	\$ 17.00

TOTAL LABOR:	\$ 513.81
TOTAL EQUIPMENT:	\$ 570.50
TOTAL MATERIALS:	\$ 2,576.72
SUBTOTAL:	\$ 3,661.03
7% ADMINISTRATIVE FEES:	\$ 256.27
<b>TOTAL DUE:</b>	<b>\$ 3,917.30</b>

TIME AND MATERIALS FOR PLAYGROUND EQUIPMENT INSTALLATION						7/30/13 - 9/4/13		
		LAXSON PARK						
LABOR	Hours	Rate	Total	Date	MATERIALS	Hrs	Rate	Total
<b>Prep &amp; Forming</b>					ADA Truncated Dome	1	\$ 98.00	\$ 98.00
Stephen	8	\$ 34.83	\$ 278.64	7/30 & 7/31	Concrete (Val Pavé)	4 yds	\$ 97.00	\$ 388.00
Sean	8	\$ 31.30	\$ 250.40	7/30 & 7/31	#301 - Camel	10	\$ 125.00	\$ 1,250.00
Jeremy	8	\$ 30.69	\$ 245.52	7/30 & 7/31	#314 - Backhoe	20	\$ 35.00	\$ 700.00
<b>Concrete Pour</b>					Auger Rental			\$ 75.00
Stephen	5	\$ 34.83	\$ 174.15	8/1/2013	#310 - Service Trk	7.5	\$ 13.00	\$ 97.50
Sean	5	\$ 31.30	\$ 156.50	8/1/2013	#355 - Flatbed Trk	5	\$ 13.00	\$ 65.00
Roberto	5	\$ 13.50	\$ 67.50	8/1/2013	#215 - Backhoe	7	\$ 35.00	\$ 245.00
Jeremy	5	\$ 30.69	\$ 153.45	8/1/2013	#212 - Srvc Trk	15	\$ 13.00	\$ 195.00
Jeff	5	\$ 30.69	\$ 153.45	8/1/2013	#203 - Dump Trk	7	\$ 35.00	\$ 245.00
Randy	5	\$ 13.50	\$ 67.50	8/21/2013	#250 - Truck	2.5	\$ 13.00	\$ 32.50
<b>Strip &amp; Backfill</b>					#205 - Dump Trk	5	\$ 35.00	\$ 175.00
Jeremy	2	\$ 30.69	\$ 61.38	8/5/2013	Curb Cutting (A-Core)			\$ 334.00
Jeff	2	\$ 30.69	\$ 61.38	8/5/2013	Sod Cutter	2	\$ 10.00	\$ 20.00
Randy	2	\$ 13.50	\$ 27.00	8/5/2013	3/4 yd concrete (Ont Tool)			\$ 105.00
<b>Excavating Site</b>					3/8" Gravel (tons)	66.2	\$ 12.00	\$ 794.64
Rob	8	\$ 32.25	\$ 258.00	7/18/2013				
Olivia	4	\$ 30.05	\$ 120.20	7/22/2013			Total Labor:	\$ 5,251.11
Olivia	3	\$ 30.05	\$ 90.15	7/23/2013			Total Materials/Equipment:	\$ 4,819.64
Olivia	10	\$ 30.05	\$ 300.50	7/24/2013			<b>TOTAL</b>	<b>\$ 10,070.75</b>
Aaron	7	\$ 30.77	\$ 215.39	7/22/2013				
Aaron	10	\$ 30.77	\$ 307.70	7/24/2013				
Wyatt	7	\$ 31.57	\$ 220.99	7/22/2013				
Wyatt	10	\$ 31.57	\$ 315.70	7/24/2013				
Jim S	4	\$ 30.89	\$ 123.56	?				
<b>Concrete Pour</b>								
Steve	2.5	\$ 34.83	\$ 87.08	8/28/2013				
Sean	2.5	\$ 31.30	\$ 78.25	8/28/2013				
Casey	2.5	\$ 34.07	\$ 85.18	8/28/2013				
Olivia	2.5	\$ 30.05	\$ 75.13	8/28/2013				
<b>Spread Gravel &amp; Finish Project</b>								
Casey	5	\$ 34.07	\$ 170.35	9/4/2013				
Olivia	5	\$ 30.05	\$ 150.25	9/4/2013				
Wyatt	5	\$ 31.57	\$ 157.85	9/4/2013				
Aaron	5	\$ 30.77	\$ 153.85	9/4/2013				
Steve	5	\$ 34.83	\$ 174.15	9/4/2013				
Sean	5	\$ 31.30	\$ 156.50	9/4/2013				
Jim S	3.5	\$ 30.89	\$ 108.12	9/4/2013				
Jim C	3.5	\$ 37.46	\$ 131.11	9/4/2013				
Temp (Parks)	1	\$ 13.50	\$ 13.50	9/4/2013				
Temp (Parks)	1	\$ 13.50	\$ 13.50	9/4/2013				
Temp (Parks)	3.5	\$ 13.50	\$ 47.25	9/4/2013				

**AGENDA REPORT**  
September 16, 2013

TO: Mayor and City Council

FROM: Michael Long, Finance Director

THROUGH: Jay Henry, City Manager

**SUBJECT: RESOLUTION #2013-130: ESTABLISHING POLICIES RELATED CITY CREDIT CARDS (UPDATING FINANCIAL POLICY SECTION 1.13)**

DATE: September 9, 2013

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**SUMMARY:**

Attached is the following document:

- Resolution # 2013-130

The purpose of this agenda item is to establishing updated City Credit Card Policy, Section 1.13 of the Financial Policy and Procedures Policy Manual for the City of Ontario.

**PREVIOUS COUNCIL ACTION:**

Last update of Financial Policy and Procedures Policy Manual was April 19, 2004.

**BACKGROUND:**

The City Council reserves the authority to establish and modify financial policies and procedures as they are needed to update policies to meet the current laws and needs of the City of Ontario.

**FINANCIAL IMPLICATIONS:**

The financial implication is that the City Council elects to limit the number of city credit cards to a total of 16 cards. Also, sets the rules of usage of credit cards to be followed by the cities' employees.

**RECOMMENDATION:**

Staff recommends the City Council adopt Resolution #2013-130.

**PROPOSED MOTION:**

I move the City Council adopt Resolution #2013-130, A Resolution Establishing Policies Related to City Credit Cards and Limiting the Number of Credit Cards to Sixteen (16).

RESOLUTION #2013-130  
ESTABLISHING POLICIES RELATED TO CITY CREDIT CARDS;  
ONTARIO FINANCIAL POLICY MANUAL, SECTION 1.13

CITY OF ONTARIO  
FINANCIAL OPERATIONS GUIDE

No: 1.13  
Rev:  
Date: 09/19/2013  
Page: 1 of 3

SUBJECT: CREDIT CARD POLICY

**POLICY:** The purpose of the credit card is principally to facilitate the acquisition of goods and services for the City where the vendor requires such use. Credit card purchases are intended to be small in scope, of a “non-capital” nature and are intended to complement existing purchasing processes. The card is not to circumvent the internal control procedures or to replace the Purchase Order (PO) process. The card is only used when a purchase order cannot be used or when there is a savings to the City. **A purchase order must be generated for the credit card purchase along with the proper approvals. CARDHOLDERS MUST COMPLY WITH ALL CITY PURCHASING POLICIES AND PROCEDURES.** All purchasing of budgeted capital items must have the proper approval of the appropriate Department Director or City Manager.

**I. Cardholder Limits**

- A. Only City employees may be Cardholders in accordance with this policy.
- B. A maximum dollar amount for each single purchase and a total for all purchases made with the credit card within a given monthly billing cycle has been provided to each Cardholder. The employee is responsible for the overage if the limit is exceeded.

**II. Use of Credit Card**

- A. The credit card is to be used for authorized City purchases only.
- B. No person other than the Cardholder is authorized to use the card unless prior written authorization is obtained from the Cardholder.
- C. Questions regarding credit card accounts and procedures should be directed to the Finance Director.
- D. The credit card may be used at any business establishment, which accepts credit cards for payment.
- E. Cardholder should exhaust all other methods of procurement before using the credit card (i.e., purchase orders or invoicing).
- F. The Cardholder must be able to justify that the use of the credit card was necessary and official city business purpose.
- G. Cardholder shall take all necessary precautions to keep the card and card number in secure location.
- H. Cardholder’s department is responsible for all charges incurred on the credit card including any annual service fees and finance charges.
- I. Copies of all necessary forms are enclosed within this section of the Financial Operations Guide.

<b>CITY OF ONTARIO</b> <b>FINANCIAL OPERATIONS GUIDE</b>	<b>No: 1.13</b>
	<b>Rev:</b>
	<b>Date: 09/19/2013</b>
<b>SUBJECT: CREDIT CARD POLICY</b>	<b>Page: 2 of 3</b>

**III. Telephone, Internet, and Facsimile Orders**

- A. When placing a telephone/Internet/facsimile order, confirm that the vendor agrees to charge the card when shipment is made and not sooner. The receipt charge date should coincide with the shipping date.**
- B. All telephone/Internet/facsimile orders must be recorded on the “Record of Credit Card Use” form when the transaction occurs.**
- C. Request that the vendor send, via facsimile or e-mail, a copy of the invoice marked “Paid by credit card”. The original invoice is still necessary by the Finance Department for reconciliation purposes.**
- D. If no receipt is available for the telephone/Internet/facsimile order, complete the “Telephone/Internet/Facsimile Order” form in full. This form will be used as the documentation when reconciling the Monthly Statement of Account.**
- E. NO backorders are allowed.**

**IV. Documentation**

- A. Documentation must be retained as a proof of purchase any time a purchase is made using the card. These documents are to be used to verify the purchases on the Monthly Statement of Account.**
- B. All purchases are to be recorded on “Record of Credit Card Use” form. This form must be maintained as charges occur.**
- C. If, for any reason, the Cardholder does not have documentation for a transaction, the Cardholder must attach a “Statement of Missing Documentation” form, which provides a description of the item, vendor’s name, reason for missing documentation, and the action that will be taken to insure proper documentation in the future. In addition, the Cardholder and the City Manager’s signature are required on the form.**
- D. If receipts are related to travel, it is the Cardholder’s responsibility to photocopy the receipts to attach to their “Travel Requisition” form. The original must be forwarded to the Finance Department for reconciliation with Monthly Statement of Account.**

**V. Card Restrictions**

- A. The following uses of a Credit Card are prohibited:**
  - 1. Cash advances.**
  - 2. Personal purchases. A Cardholder may not charge any personal items on the City credit card.**
  - 3. Gasoline purchases or vehicle repairs unless outside the service area and/or in an emergency. Documentation will be required.**
  - 4. Alcoholic beverage purchases.**
- B. Per Diem. Per Diem requests shall be processed through Accounts Payable prior to travel.**
- C. Cardholders shall also comply with any applicable departmental restrictions on usage.**
- D. A Cardholder may not violate any established procurement requirements, where it pertains to obtaining quotes, when using the City credit card.**

**SUBJECT: CREDIT CARD POLICY**

**VI. Reconciliation and Payment**

- A. At the close of each billing cycle (month), a copy of your “Record of Credit Card Use” form is due to the Finance Division on the 15<sup>th</sup> of each month.
- B. Attach any additional documentation necessary, complete all forms fully and assure that all necessary signatures have been obtained.
- C. This form will be reconciled with both the receipts and the “Monthly Statement of Account” by the Finance Division.
- D. If unable to submit the required documentation by the due date, please contact the Finance Division as soon as possible.
- E. Payment will be made promptly and before the due date to avoid any service or finance charges.
- F. Any department not responding promptly to the request for information from the Finance Division or in any way delaying the timely monthly payment of the credit card account will be assessed the finance charges imposed by the issuing financial institution.

**VII. Lost or Stolen Cards**

Should any Cardholder lose, suspect of having lost, or have their credit card stolen, it is their responsibility to immediately notify the Card Issuer and the Finance Division of the loss. The following steps must be taken to report the loss:

- A. Report the loss immediately to the Credit Card Issuer at \_\_\_\_\_. They can be reached 24 hours a day, seven day a week.
- B. Notify the Finance Division immediately upon discovering that the card is missing.

**VIII. Termination / Resigning Employees**

- A. All efforts will be made by the Finance Division to obtain the credit card, any receipts, “Record of Credit Card Use” forms and other related forms when a Cardholder employee is terminated or resigns.
- B. If the credit card cannot be collected, the Department Head or City Manager, as may be appropriate, will immediately insure the card is canceled.

**IX. Policy Violations**

Failure to follow this policy may result in loss of Cardholder privileges and may result in disciplinary action, including termination of employment as well as civil and/or criminal charges.

[Type text]

**City of Ontario  
Credit Card User Agreement**

1. I understand that I am making a financial commitment on behalf of the City of Ontario and will strive to obtain the best value for the City.
2. I understand that under NO circumstance will I use the credit card to make personal purchases, either for others or myself.
3. I will follow the established Credit Card policy. I understand that failure to do so may result in either loss of privileges or other disciplinary actions, including termination of employment.
4. I agree that should I willfully violate the term of this Agreement, I will reimburse the City of Ontario for all incurred charges and any fees related to the collection of those charges.
5. All receipts received when making a credit card purchase will promptly be forwarded to the Finance Division for monthly reconciliation and payment.
6. I understand that I am restricted to specific limits when using the credit card for purchases.
7. I agree that should I leave City of Ontario employment, I will return my credit card and all appropriate documentation to the Finance Division.
8. I will use the City of Ontario credit cards with the highest degree of personal and professional integrity and ethics, recognizing my responsibility to the public and the City organizations.
9. I agree to promptly contact \_\_\_\_\_ at \_\_\_\_\_ if I lose, misplace, or have my credit card stolen.

I have received, read, understand, and agree to comply with the City of Ontario Credit Card User Policy.

\_\_\_\_\_  
Employee Name (Print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

[Type text]

**Request for City of Ontario Credit Card**

**To: Finance Department**

**From: \_\_\_\_\_ Department**

**Subject: Request for Credit Card**

**I request that the following employee be issued a City of Ontario credit card.**

**Temporary Issue: \_\_\_\_\_ Length of Time: \_\_\_\_\_ Permanent Issue: \_\_\_\_\_**

**One Time Purchase Credit Limit: \_\_\_\_\_ Monthly Credit Limit: \_\_\_\_\_**

**Employee Name: \_\_\_\_\_**

**Employee Title: \_\_\_\_\_**

**Reason for request:**  
\_\_\_\_\_  
\_\_\_\_\_

**Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_**

\_\_\_\_\_  
**Employee Signature**

\_\_\_\_\_  
**Department Director Signature**

\_\_\_\_\_  
**City Manager Signature**

\_\_\_\_\_  
**Finance Director Signature**

[Type text]

**City of Ontario  
Credit Card Purchase Form**

**Instructions: This form is to be completed and forwarded to the Finance Division within 72 hours of the purchase and must include original receipts or completed Statement of Documentation.**

**Department:** \_\_\_\_\_ **Employee Name:** \_\_\_\_\_

**The following purchase was made using the City credit card:**

**Date:** \_\_\_\_\_ **Vendor:** \_\_\_\_\_ **Amount:** \_\_\_\_\_

**Description of items purchased:**

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**Charged to accounting code:**

**Credit Card Form 5C**

[Type text]

**City of Ontario  
Telephone/Internet/Facsimile Order Form**

**Complete this form only if a receipt was not provided by the Vendor.**

<b>Merchant Name:</b>
<b>Date of Purchase:</b>
<b>Amount of Purchase:</b>
<b>Was the merchandise received? (Y/N)</b>
<b>Description of item(s) purchased:</b>

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**Cardholder Signature**

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**Date**

[Type text]

**Credit Card Form 5D**

<b>City of Ontario</b>			<b>Billing Month</b>		
<b>Instructions: Complete this form to document City Credit Card purchases as usage occurs. This is your record of purchases.</b>			<b>Name of Cardholder</b>		
			<b>Department</b>		
<b>Date Of Purchase</b>	<b>Vendor Name</b>	<b>Description of Supplies or Services</b>	<b>Account Number</b>	<b>Disputed Item</b>	<b>Amount Billed</b>
<b>Remarks:</b>					
<b>Cardholder Signature</b>			<b>Date</b>		

[Type text]

**Credit Card Form 5E**

## **ADDENDUM TO ONTARIO CREDIT CARD POLICY**

### **Recommended Credit Card Uses**

- Emergency situations or when time is of the essence
- One time purchases for small dollar items with vendors the City will not likely do business with in the future, such as
  - Training or conference registrations
  - Airline tickets
  - Continuing education or professional certification expenses
  - Taxi or rental car while on City related travel
  - Lodging while on City related travel
  - Internet purchases where other sources are not available

### **Not Recommended Credit Card Uses**

- Purchases from vendors in which the City has negotiated terms or an open credit account
- Meal or travel incidental expenses (now on per diem). If such charges are made on a city credit card, the employee is not entitled to per diem in exchange for refunding the city for the cost of the meal. Employees are prohibited from charging for meals and travel incidentals that exceed the per diem and will be requested to refund the difference to the city. Failure to do so may result in immediate cancellation of the card.
- Items over \$1,000
- Long term equipment rentals
- Recurring payments
- Purchases in which the City needs to have an accurate record of the vendor for tracking purposes
- Professional or contractual services

### **Prohibited Credit Card Uses**

- Alcohol or tobacco products (even if purchased for undercover work)
- Personal items
- Entertainment related items such as tickets to sporting events and in-room movies
- Employee relocation expenses
- Meals or travel incidental expenses that exceed per diem
- Cash advances

Questions or concerns regarding the appropriate usage of city-issued credit card should be directed to the Finance Department.

**APPROVED NUMBER OF CARDS**

<u>Department</u>	<u>Number of Cards</u>
City Manager	1
City Recorder	1
Human Resource	0
Airport/Economic Devel	1
Facilities Manager	1
Fire	2
Finance	1
Police	3
Public Works	4
Total Credit Cards Approved	14

Sixteen (16) cards approved by City Council. Any additional credit cards must be approved by City Council before issuing.

**DISCUSSION REPORT**  
September 12, 2013

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

**SUBJECT: TRANSIENT OCCUPANCY TAX DISCUSSION**

DATE: September 9, 2013

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**BACKGROUND:**

Ordinance 2450-2000, enacted in the year 2000 and codified in City Code Section 3-11-4, provides that 52.5% of the proceeds from the City's Transient Occupancy Tax (TOT) is to be distributed to the City's Street Fund for street maintenance. Beginning with the 2003-2004 budget, the City allocated that percentage of the TOT to the General Fund instead of the Street Fund.

At the end of 2012, Finance Director Michael Long discovered the error and began making the correct allocation with TOT proceeds received after January 1, 2013. On February 4, 2013, the Council reviewed but did not pass proposed Ordinance No. 2675-2013 which would have amended Code Section 3-11-4 to remove the requirement that the City reimburse the Street Fund for any TOT misallocation before January 1, 2013.

The City's current 2013-2014 annual budget correctly allocates to the Street Fund the amount required under Code Section 3-11-4. However, Code Section 3-11-4 has never been amended to deal with the City's failure to apply the correct TOT allocation to the Street Fund in budget years 2003 through 2012.

**DISCUSSION:**

The misallocation of funds in the 2003-2012 budget years does not create a debt in any legal sense. The City does not "owe" the amount misallocated (approximately \$2.4 Million) to the Street Fund. The Street Fund is not a legal entity that can sue the City for repayment.

The Oregon Department of Revenue or someone else might be able to legally compel the City to deal with its prior noncompliance with Code Section 3-11-4. The Oregon Department of Revenue is responsible for enforcing Oregon's Local Budget Law.

Apart from the Oregon Department of Revenue, the only persons who arguably have legal standing to bring such a claim against the City would be those motel occupants who paid TOT revenues to the City with the expectation that 52.5% of those revenues would be used for street improvements rather than being used for other purposes. It would be difficult for anyone else to show that they were legally harmed by the City's prior misallocation. If anyone had been harmed, they failed to take action against the City during any of the years in which the misallocations occurred.

Nonetheless, so long as the City Council fails to address the misallocation of funds in the years 2003 through 2012, the City will be out of compliance with Code Section 3-11-4. The impractical solution to correct the misallocation is to immediately spend \$2.4 Million on street maintenance activities using tax revenues other than TOT revenues.

All other options available to the City Council to bring the City into compliance require an amendment of Code Section 3-11-4. The options previously discussed by the Council include:

1) Enactment of an ordinance explicitly waiving the requirement that the City allocate any funds to correct prior misallocations by amending Code Section 3-11-4. Here is some sample language:

Commencing on January 1, 2013, fifty-two and five tenths percent (52.5%) shall be dedicated to street maintenance activities. The City shall not be required to use any tax proceeds received prior to that date for street maintenance activities. Nor shall the City be required to allocate any other funds for street maintenance activities in order to correct transient occupancy tax misallocations occurring prior to January 1, 2013.

The effect of such an ordinance would be to eliminate any claims against the City for its prior noncompliance with Code Section 3-11-4.

2) Enactment of an ordinance to correct the misallocation by spending a certain amount on street maintenance activities over a period of years. For instance, various Council members discussed allocating a dedicated amount of money from the General Fund to the Street Fund for ten years. If a majority of the Council favors this approach, the Council could accomplish this by amending Code Section 3-11-4 to read:

Commencing on January 1, 2013, fifty-two and five tenths percent (52.5%) shall be dedicated to street maintenance activities. The City shall not be required to use any tax proceeds received prior to that date for street maintenance activities except as provided herein. In order to correct transient occupancy tax misallocations that occurred before December 31, 2012, the City shall spend not less than \$2,400,000 for street maintenance activities using tax revenues other than transient occupancy tax revenues. This shall be accomplished by dedicating at least 10% of that amount annually for street maintenance activities, until the full amount of \$2,400,000 has been spent for that purpose.

In various discussions about dedicating general tax revenues to street maintenance, Council members expressed concerns about the effect that this would have on the City's ability to provide essential services, such as fire and police services. One way to address this in the ordinance might be to allow the Council to pass resolutions allocating less than 10% in any year in which the funds were needed for essential City services. For instance, in addition to the ordinance language set forth above, Section 3-11-4 could also be amended to read:

If at any time the Council finds that the funding of street maintenance activities must be reduced below the 10% required herein in order to pay for essential City services, the Council may by resolution make such a reduction without violating this Ordinance. The effect of any resolution shall not be to relieve the City of its obligation to spend \$2,400,000 on street maintenance activities as required in this Ordinance, but it may extend the period of time over which that amount is spent.

With this approach, if in one year the Council spent only 8% of the required \$2,400,000 on street maintenance activities, it would not have to spend 12% the subsequent year to make up for the shortfall unless it chose to do so.

**RECOMMENDATION:**

Staff makes no recommendation. If the Council reaches a consensus as to a TOT option to implement, the City Attorney will prepare an ordinance for the Council's review.