

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Monday, October 1, 2012, 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, September 26, 2012, and a study session was held on Thursday, September 27, 2012. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at 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 09/17/2012 1-6
- B) Ordinance #2671-2012: Amend OMC 8-13-2 and 8-13-6 re: System Development Charge Exemptions for Real Property that was Subject to Previous Use (Final Reading) 7-10
- C) Resolution #2012-121: Adding to the List of Prohibited Intoxicating Chemicals 11-14
- D) Approval of the Bills

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

6) Department Head Updates

7) New Business

- A) Resolution #2012-122: Adoption of Final Implemented Offer to Local Union #670 15-16
- B) Proposed Agreement at the Ontario Golf Course Restaurant for Staffing the Clubhouse and Adding Sales and Promotions for Commission 17-18
- C) Accept Quitclaim Deed and Subordination Agreement from J.R. Sukin Corporation, dba Meadow Outdoor Advertising: NW Washington Roadway Relocation Project 19-26

8) Public Hearing

- A) Ordinance #2570-2012: Annexation of Property at 45 North Dorian Drive - UGA Residential to RS-50 Single Family Residential (1st Reading) 27-34

9) Discussion Item(s)

- A) Aquatic Center/Boys & Girls Club: Kathy Daly and Erin Cunningham
- B) Insurance Update: John Forsyth

10) Correspondence, Comments and Ex-Officio Reports

11) Executive Sessions

- A) ORS 192.660(2)(d) - Labor

12) Adjourn

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

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COUNCIL MEETING MINUTES
September 17, 2012

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, September 17, 2012, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ronald Verini.

Members of staff present were Jay Henry, Larry Sullivan, Suzanne Skerjanec, Lisa Hansen, Mark Alexander, Bob Walker, Dan Shepard, and Dawn Eden. Also present was Steven Schuback. The meeting was recorded on tape, and the tapes are available at City Hall.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Ron Verini, 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

Norm Crume moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of the Regular Minutes of 09/04/2012; Item B: Appointment to Planning Commission – Max Twombly; Item C: Appointment to Golf Committee – Ron Eden; and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

DEPARTMENT HEAD UPDATES

Mayor Dominick stated the new fire truck, Engine 103, was delivered last Sunday.

NEW BUSINESS

Bid Award: Rectangular Rapid Flash Beacon: Walkway/Pathway Project #27208

Dawn Eden, Engineering Technician, stated bids were due August 22, 2012 for the purchase of three RRFB systems for three locations in Ontario: Site 1: SW 4th Avenue and SW 7th Street – Skate Park; Site 2: SW 4th Avenue and SW 24th Street – Boys and Girls Club; and Site 3: North Oregon Street and NW 8th Avenue – Mallard’s corner. Request for quotes were sent to four companies who have been in contact with the City over the past year. The response was as follows:

Company	Bid
Northwest Signal (Oregon)	No Bid
Coral Sales (Oregon)	No Bid
Spot Devices (Nevada)	\$49,390.00
Traffic Safety Supply (Oregon)	\$43,508.00

On April 18, 2011, the City Council approved the Intergovernmental Walkway/Bikeway Project Agreement No. 27208, 2012-2013 Pedestrian and Bicycle Program Grant for Ontario Enhanced Pedestrian Crossings between the City of Ontario and the State of Oregon. On August 30, 2012, the Council requested an update on the RRFB project.

This agreement would provide for funding Rapid Flash Beacons at three mid-block crosswalk locations. Funds were being provided by the State of Oregon in the amount of \$207,680 and the City would provide a match in the amount of \$32,300 in the form of removal and replacement of sidewalk, ADA detectable warning ramps, curb and gutter, center lane medians and asphalt. This past summer, the Public Works Committee asked City staff to make contact with property owners and tenants at all three locations. The responses were favorable overall. This agreement authorized up to \$207,680 of grant funds for the specialized pedestrian crossings. The City's share would be \$32,300 either in kind or funded from the Bike Path/Pedestrian Reserve Fund.

After the City received notice that it was successful in the grant application process last year, the police department reported a near miss with a child crossing SW 4th Avenue to get to the charter school. On August 30, 2011, after school started last fall, there was an accident reported in which an officer stopped for a pedestrian at SW 12th Street and another vehicle rear-ended the officer's car. The officer was taken to the hospital and released. The following week, on September 8, 2011, a child on a bicycle was hit in the crosswalk at SW 12th Street crossing SW 4th Avenue. The child was not seriously injured. On April 20, 2012, a pedestrian was crossing SW 4th Avenue at SW 7th Street, toward the Skate Park while walking her bicycle, when a vehicle travelling on SW 4th Avenue in the outside lane started to skid toward her. The child laid down her bicycle in an effort to get out of the way of the vehicle and the bicycle fell on top of her and the child injured her foot. The driver was issued a citation for failure to yield to a pedestrian in the cross walk.

Staff was recommending the Council award the bid to Traffic Safety Supply, located in Umatilla, Oregon, who was the lowest, responsive and responsible bidder, in the amount of \$43,508.00.

Councilor Sullivan asked about the possibility of purchasing a different type of crossing system, such as pushing the button, and the lights begin to flash. They seem much less expensive than building a median, and much less intrusive to the traffic flow.

Ms. Eden stated the grant would require the installation of the island.

Councilor Jones asked what the length of the island was.

Ms. Eden stated the island by Mallard's would be 15 feet, and the two on SW 4th Avenue would be 18 feet, and 10 feet wide. They were longer to allow for a different type of turn pattern. That was recommended a safer way.

Dan Jones moved to table the issue for 60 days; if he received a second, he would explain his reasons.

Councilor Sullivan asked for an explanation before a second.

Councilor Jones stated everyone was aware of his position on this project. First, he was all for safe crosswalks, he just didn't agree with the requirements put on them by ODOT, to put the center barriers in the streets. That didn't make sense to him. He agreed there was a need in the locations designated, but he felt there was a better way to do to it. He wanted to table it for 60 days because he thought there was a better use of the grant money. He knew there were strict requirements from ODOT, but the city had been granted \$200K+, and ODOT had just notified them that revenues were going to be decreasing from the gas tax. They were at a critical point, in a critical situation, at the Yturri Beltline and Washington. To him, he thought they needed to do everything possible, in working with ODOT, and to get the County Commissioners and the State Representatives involved, even the Governor's Office, to do whatever they could, to maybe get ODOT to bend the rules a little to allow the City to use this money to do something out there. There was going to be a major accident out there, where someone was going to be critically injured. To him, that was the most critical situation they had in this town, with regard to traffic and traffic control. With the construction of Washington Street, it was only going to increase. With the development land, it was going to increase. They already had the side lane figured in. He wanted to table the action for 60 days, put everyone to work on it, including the City Manager, to see if they could – he knew revenue was tight, and he knew ODOT was going to cut back on revenue – but the city had over \$200K coming from ODOT, and he knew it was a different department, but the thought they might be able to persuade them to look at that

project out there. He wouldn't even oppose a roundabout, but they had to tackle that issue. That was the reason for his motion to table this issue.

Councilor Fox asked Ms. Eden, if they tabled this issue for 60 days, would it jam the money up?

Ms. Eden stated if the city gave the state a good reason for postponing it, they might allow it.

Mayor Dominick asked if they needed to speak to the local ODOT officials, or those at the state level?

Ms. Eden stated it would be representative from Salem.

Mayor Dominick asked if these funds were completely and totally dedicated to crosswalks – the title read that it was for bicycle and pedestrian grants, or were they specifically dedicated to the proposed project?

Ms. Eden stated she had been told that the grant was specifically targeted towards pedestrians and bicycles.

Mayor Dominick stated it might be worth the question, then, as he agreed with Councilor Jones with regard to the danger at the Yturri Beltline, did Ms. Eden think Salem would be willing to listen to Ontario's concerns, and possibly channeling that money towards a pedestrian crossing at that area?

Ms. Eden stated yes.

Mayor Dominick stated maybe the 60 days was too long, and to push it more towards 30 days, as that was how long the bids were good for.

Councilor Sullivan stated he didn't believe it was a bicycle or pedestrian problem at the Yturri crossing; it was a traffic control issue. In looking at this project before, they had discussed putting cones up to see how much it would impede traffic. Was that something they could do – a due diligence on the impact before building the structures? In Payette, they hit a button and lights flashed on both sides and traffic stopped. It seemed to take care of the problem. He wished ODOT would be more open-minded. Their suggestion might work in downtown Portland, but out here it was a problem to drive around.

Councilor Fox asked if Councilor Jones would be willing to alter his motion to a shorter date, so they could have these questions answered, which could be done in 30 days.

Councilor Jones stated 30 days would be great. Also, to Councilor Sullivan, he agreed it wasn't a pedestrian problem on Yturri. He was saying they try to persuade ODOT to allow them to move the grant funds from the pedestrian program to a traffic light or traffic control situation. It was going to take more than one person asking one person at ODOT. It was going to take a group effort, with Council, Commissioners, State Representatives, etc., from around that area. They had to show ODOT how critical this situation was. He would be fine with a 30 day delay, to see what they could do.

Dan Jones moved to table the issue for 30 days, to the October 15, 2012 Council meeting, to work with ODOT to see if there was a possibility of transferring the grant funds to a project at Yturri and Washington.

Councilor Crume stated in reading the grant document, Sheila Lyons, State of Oregon Bike and Pedestrian Grant Administrator, one of the questions from the Council was if the grant money could be used for anything else besides the islands and ADA approaches, to maybe use the funds for traffic signals, and her answer was no, this money was specifically targeted to pedestrian and bicycle facilities. If they couldn't get past her, the answer was set.

Councilor Jones stated he believed this warranted the effort of a 30 day extension from the community's leaders, to identify the urgency that was out there. He believed there was a possibility of rules being changed in certain situations, and this warranted the tabling of this action for ³⁰30 days to see what they could do.

Councilor Verini stated if they did the 30 days, it would put them on the edge, and the bids could be in jeopardy. Maybe shorten that by five days to get under that deadline.

Dan Jones moved, seconded by Jackson Fox, to table the issue for 30 days, to the October 15, 2012 Council meeting, and the Study Session of October 11, 2012. Roll call vote: Crume-yes; Fox-yes; Fugate-no; Jones-yes; Sullivan-yes; Verini-no; Dominick-no. Motion carried 4/3/0.

PUBLIC HEARING(S)

Resolution #2012-120: Establishing a System Development Charge for Airport Hangars

It being the date advertised for public hearing on the matter of Resolution #2012-120, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Larry Sullivan, City Attorney, stated the System Development Charges (SDCs) were one-time fees charged to new development to help pay a portion of the costs associated with building capital facilities to meet needs created by growth. The SDC fee schedule previously approved by the City Council included a fee for the construction of warehouses, but not for airport hangars. The Public Works Department proposed that a separate fee should be used for the construction of airport hangars, because the burden imposed on the city's transportation infrastructure was smaller (i.e. less traffic was generated) for airport hangars than it was for warehouses. The issue was reviewed by the Public Works Committee, who recommended that the City Council adopt an SDC fee of \$142 per thousand square feet gross floor area (TSFGFA) for airport hangars instead of continuing to impose the SDC fee for warehouses of \$708 TSFGFA. This new fee was based on a review of comparable SDC fees charged by other cities for airport hangars.

Because this was a modification of the city's SDC rate structure, Oregon law and the City Code required that the City Council hold a public hearing on the issue to take public input about the proposed modification. The city maintained a list of persons who requested notice about proposed SDC modifications, and notices of the proposed modification were given to those persons more than 90 days before the scheduled hearing.

Riley Hill, Public Works Committee Chair, stated this discussion took place within the Public Works Committee about 13 months ago. Contractors at the airport argued with the Public Works Director that traffic was not heavy enough to support the SDCs that were going to be charged. The Public Works Director brought it before the Public Works Committee, seeking direction. The PWC agreed with the PWD about the traffic impact being lower, but Mr. Hill couldn't recall how they reached the lower number. Hangars had been previously described as a warehouse, but a warehouse would have traffic in and out all the time, but with an airport hangar, that would not be the case. That's what warranted the lower number.

The Mayor opened the hearing for public testimony.

Opponents: None.
Proponents: None.

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

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council adopt Resolution #2012-120, **A RESOLUTION ESTABLISHING A SYSTEM DEVELOPMENT CHARGE FOR AIRPORT HANGARS**. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ordinance #2671-2012: Amend OMC 8-13-2 and 8-13-6 re: System Development Charge Exemptions for Real Property that was Subject to Previous Use (1st Reading)

It being the date advertised for public hearing on the matter of Ordinance #2671-2012, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Larry Sullivan, City Attorney, stated Ontario City Code Title 13, Chapter 8 regulated the imposition of system development charges (SDCs) for new development within the city. The current Code provisions were enacted in 2008. The Public Works Committee recommended that certain changes be made in the City Code pertaining to SDC charges for development on real property that was subject to previous use. The effect of the ordinance changes to Section 8-13-2 and 8-13-6(c) would be to allow the Public Works Director to grant exemptions for sewer and water SDCs based on the previous use of the property, even if the property had not been used for the past 18 months, so long as the property has not been vacant for more than ten years.

Proposed Code Section 8-13-2 "Previous Use" Definition Amendment: As noted above, Section 8-13-6(c) gave the Public Works Director the discretion to grant an exemption from SDC fees if the new development would not create demands on city infrastructure greater than those of the previous use of the property. The definition of "previous use" was in Section 8-13-2. As currently defined, the Public Works Director was to consider what the property has been used for in the past 18 months to determine the "previous use" of the property for the purpose of granting the SDC exemption. Staff has had situations in which property had been vacant or unused for more than 18 months, and the Code hadn't provided a way to determine "previous use" under those circumstances. Staff was requesting, along with the Public Works Committee recommendation, an amendment that would allow staff to consider the last use of the property as the "previous use" even if the property had not been used for more than 18 months. In addition, the Public Works Committee also recommended that the "previous use" definition be clarified for certain properties, such as a mall, that might be used for more than one purpose.

Proposed Code Section 8-13-6(c) Amendment: Code Section 8-13-6(c) gave the Public Works Director the discretion to grant an exemption from SDC fees if the new development would not create demands on city infrastructure greater than those of the previous use of the property. The Public Works Committee recommended a modification of Code Section 8-13-6(c), to provide that a sewer or water SDC exemption be allowed only if the property had not been vacant for more than ten years. With the proposed change in Section 8-13-6(c), a property that was vacant for more than ten years would have to pay a sewer and water SDC for new development, regardless of what the property was used for previously.

A public hearing was scheduled for these ordinance changes, as they might arguably result in a modification of the City's SDC rate structure. The city maintained a list of persons who requested notice about proposed SDC modifications, and notices of the proposed modification were given to those persons more than 90 days before the hearing.

The Mayor opened the hearing for public testimony.

Opponents: None.

Proponents: None.

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

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council approve Ordinance No. 2671-2012, AN ORDINANCE AMENDING SECTIONS 8-13-2 AND 8-13-6 CONCERNING SYSTEM DEVELOPMENT CHARGE EXEMPTIONS FOR REAL PROPERTY THAT WAS SUBJECT TO PREVIOUS USE, on First Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Riley Hill stated the Public Works Committee passed a resolution for a recommendation to the City Council about the way the accounting was done, how Public Works might go out and work on the Golf Course or the Cemetery. The way it's been done in the past, materials were charged out to the different departments, but Public Works was absorbing the labor, so you wouldn't know what your costs truly were. They also discovered there was a Facilities Maintenance Manager, who had his own budget. When money was spent out of that department, there was not an accurate count of what each department cost to run. The Public Works Committee was recommending to the Council that they change their accounting procedures so when budget came around, they would know what the real costs were by department.

Mayor Dominick stated the City Manager had been given direction to put together a proposal to bring to Council.

- Jackson Fox stated he heard about last week's work session, and the handout about hand-raising and the five-minute rule, and wanted the Mayor or City Manager to provide him the documentation that gave the Mayor the power to scold or chastise a Councilor, or anyone. The way he read the Charter, it mandated that the Mayor protect everyone in this room from that happening, from anyone.

Mayor Dominick stated they would pull out the Council Rules and Procedures and go over them again.

- Charlotte Fugate stated they had been talking about the pool, and how the people in the community felt about it, and they had the Harvest Festival coming up, so she was thinking they could set up a card table and have a sign on it indicating people could talk to the Councilors about how they felt about things within the community. She didn't know if anyone else would be interested, but she would be willing to be there.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(d)

An executive session was called at 8:10 p.m. under provisions of ORS 192.660(1)(d) to discuss labor negotiations. The Council reconvened into regular session at 9:22 p.m.

ADJOURN

David Sullivan moved, seconded by Jackson Fox, 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.

APPROVED:

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

CONSENT AGENDA REPORT
October 1, 2012

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

SUBJECT: ORDINANCE #2671-2012: AMENDING ONTARIO MUNICIPAL CODE 8-13-2 AND 8-13-6 CONCERNING SYSTEM DEVELOPMENT CHARGE EXEMPTIONS FOR REAL PROPERTY THAT WAS SUBJECT TO PREVIOUS USE (Final Reading)

DATE: September 24, 2012

SUMMARY:

Attached is the following document:

- Ordinance #2671-2012

Ontario City Code Title 13, Chapter 8 regulates the imposition of system development charges (SDCs) for new development within the City. The current Code provisions were enacted in 2008. The Public Works Committee recommends that certain changes be made in the City Code pertaining to SDC charges for development on real property that was subject to previous use. The effect of the ordinance changes to Section 8-13-2 and 8-13-6(c) will be to allow the Public Works Director to grant exemptions for sewer and water SDCs based on the previous use of the property, even if the property has not been used for the past 18 months, so long as the property has not been vacant for more than ten years.

Proposed Code Section 8-13-6(c) Amendment: Code Section 8-13-6(c) gives the Public Works Director the discretion to grant an exemption from SDC fees if the new development will not create demands on City infrastructure greater than those of the previous use of the property. The Public Works Committee recommends a modification of Code Section 8-13-6(c), to provide that a sewer or water SDC exemption be allowed only if the property has not been vacant for more than ten years. With the proposed change in Section 8-13-6(c), a property that is vacant for more than ten years will have to pay a sewer and water SDC for new development, regardless of what the property was used for previously.

Proposed Code Section 8-13-2 "Previous Use" Definition Amendment: As noted above, Section 8-13-6(c) gives the Public Works Director the discretion to grant an exemption from SDC fees if the new development will not create demands on City infrastructure greater than those of the previous use of the property. The definition of "previous use" is in Section 8-13-2. As currently defined, the Public Works Director is to consider what the property has been used for in the past 18 months to determine the "previous use" of the property for the purpose of granting the SDC exemption. Staff has had situations in which property has been vacant or unused for more than 18

months, and the Code hasn't provided a way to determine "previous use" under those circumstances. Staff requests and the Public Works Committee recommends an amendment that will allow staff to consider the last use of the property as the "previous use" even if the property has not been used for more than 18 months. In addition, the Public Works Committee also recommended that the "previous use" definition be clarified for certain properties, such as a mall, that may be used for more than one purpose.

PREVIOUS COUNCIL ACTION:

09/17/12 The Ontario City Council approved the first reading of Ordinance 2671-2012.

RECOMMENDATION:

Staff recommends the City Council adopt Ordinance #2671-2012 on Second and Final Reading by Title Only.

ORDINANCE NO. 2671-2012

AN ORDINANCE AMENDING SECTIONS 8-13-2 AND 8-13-6 CONCERNING
SYSTEM DEVELOPMENT CHARGE EXEMPTIONS FOR
REAL PROPERTY THAT WAS SUBJECT TO PREVIOUS USE

- WHEREAS, Ontario City Code Section 8-13-2 includes a definition of “previous use” in subsection (s) that is used to determine the Public Works Director’s authority to issue exemptions from certain system development charges for real property that was subject to previous use; and
- WHEREAS, On February 16, 2012, the Public Works Committee recommended that Section 8-13-2(s) be amended to clarify how “previous use” is to be determined for vacant real property that is subject to system development charges; and
- WHEREAS, Section 8-13-6 authorizes the Public Use Director to issue exemptions from system development charges for real property that meets the definition of “previous use”; and
- WHEREAS, On February 16, 2012, the Public Works Committee recommended that Section 8-13-6 be amended to restrict the granting of exemptions for sewer or water of system development charge for parcels of real property that have been vacant for more than ten years; and
- WHEREAS, The City gave the notice required by ORS 223.304(7)(a) by providing written notice to persons requesting such notice more than 90 days before a modification of a system development charge; and
- WHEREAS, The City satisfied the requirement of ORS 223.304(7)(a) that the methodology supporting a modification of a system development charge be made available at least 60 days before the first hearing preceding a system development charge modification.

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

Section 1. Section 8-13-2 of Chapter 13 of Title 8 of the Ontario City Code is hereby amended by deleting those portions that are stricken and by adding those portions that are underlined:

PREVIOUS USE means the most intensive use conducted at a particular property within the past 18 months prior to the date of application for a permit. Where the site was used simultaneously for several different uses (~~mixed-use~~ such as, for example, mixed uses in a mall complex) then, for the purposes of this Ordinance, all of the specific use categories shall be considered. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property for purposes of this Ordinance. If the property has been vacant and unused for more than 18 months then the last known use shall be relied on as the previous use.

SECTION 2. Section 8-13-6 of Chapter 13 of Title 8 of the Ontario City Code is hereby amended by deleting those portions that are stricken and by adding those portions that are underlined:

8-13-6 Partial and Full Exemptions.

The uses listed and described in this Section 8-13-6 shall be exempt, either partially or fully, from payment of the SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption no later than the time of application for the Permit. Where development consists of only part of one or more of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the development which does not qualify for any exemption under this Section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must apply for an Alternative Exemption calculation under Section 8-13-8 Alternative Calculation for SDC Rate, Credit or Exemption. The Applicant has the burden of proving entitlement to any exemption so requested.

(a) Temporary uses are fully exempt so long as the use will not exist for more than 180 days within a 12 month period.

(b) Alteration permits for tenant improvements are fully exempt.

(c) Development which, in the Administrator's opinion, will not create demands on the system greater than those of the previous use of the property, as defined in Section 8-13-2, are is fully exempt. If the property has been vacant and unused for a period of more than ten (10) years, the Administrator shall not approve a previous use exemption from a sewer or water system development charge.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2012.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

CONSENT AGENDA REPORT

October 1, 2012

TO: Mayor and City Council

FROM: Mark Alexander, Police Chief

THROUGH: Jay Henry, City Manager

SUBJECT: **RESOLUTION 2012-121: A RESOLUTION ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS**

DATE: September 24, 2012

SUMMARY:

Attached is the following document:

- Resolution #2012-121

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

PREVIOUS COUNCIL ACTION:

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

DISCUSSION

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

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

The police department recently became aware of new such substances, 2C-I (Street name "Smiles"), 2C-E and 25b-Nbome that are being sold in a similar manner as Spice, K2, bath salts and plant food as drugs of abuse.

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

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

- 2C-I (Street name "Smiles")
- 2C-E
- 25b-Nbome

STAFF RECOMMENDATION:

Staff recommends the Council approve Resolution 2012-121.

RESOLUTION # 2012-121

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

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

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

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

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council for the City of Ontario that the following be added to the list of prohibited compounds:

- Salvia Divinorum or Salvinorum A; all parts of the plant presently classified botanically as Salvia Divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- 1-Pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
- 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47/497), and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP-47/497;
- 1-Butyl-3-(1-naphthoyl)indole (also known as JWH-073);
- 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
- 1- Pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);
- 1-Hexyl-3-(1-naphthoyl)indole (also known as JWH-019);
- 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);
- 1-(3-trifluoromethylphenyl) piperazine (also known as TFMPP);
- Any similar structural analogs of the above chemical compounds;
- Any other synthetic cannabinoids; and

- Any commercial products sold as aromatics or incense under the brand names Spice, Black Mamba, K2, Puff, Smoke, Skunk, Pandora Potpourri and Sugar Sticks or other brand names, that have been determined by chemical testing laboratories, law enforcement or other governmental agencies to contain any of the foregoing compounds.
- Mephedrone (2-methylamino-1-*p*-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone
- 3,4 Methylenedioxyprovalerone (MDPV).
- Kratom
- 2C-I, (Street name "Smiles")
- 2C-E
- 25b-Nbome

Effective Date: Immediately upon passage.

Passed and adopted by the Ontario City Council this ____ day of October, 2012.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of October, 2012.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

AGENDA REPORT
October 1, 2012

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

SUBJECT: RESOLUTION 2012-122: A RESOLUTION IMPLEMENTING THE CITY'S FINAL OFFER TO TEAMSTERS LOCAL 670

DATE: September 25, 2012

SUMMARY:

Attached is the following document:

- Resolution 2012-122

BACKGROUND:

The City has reached a formal impasse in its negotiations with the City's union employees represented by Teamsters Local 670. The City has followed the collective bargaining procedures required by Oregon law, including the making of a Final Offer to Teamsters Local 670. At this point the City Council has the option of implementing all or any portion of the Final Offer. The union employees represented by Teamsters Local 670 also have the legal authority to strike.

RECOMMENDATION:

The City's labor attorney, Steven Schuback, recommends implementing all of the Final Offer to Teamsters Local 670 based on the inability of the parties to reach agreement through the bargaining process, mediation and impasse.

PROPOSED MOTION:

I move the Mayor and City Council adopt Resolution 2012-122, A RESOLUTION IMPLEMENTING THE CITY'S FINAL OFFER TO TEAMSTERS LOCAL 670.

RESOLUTION #2012-122

A RESOLUTION IMPLEMENTING THE CITY'S FINAL OFFER TO TEAMSTERS LOCAL 670

WHEREAS, The City had a collective bargaining agreement with Teamsters Local 670 as the exclusive bargaining representative for the non-supervisory and non-management full-time employees in the Street Department, Utility Maintenance Department, Water and Wastewater Treatment Plants, Shop Department, Parks and Cemetery Department, Golf Course Department and Engineering Department; and

WHEREAS, said agreement expired on June 30, 2011; and

WHEREAS, in negotiating for a new agreement, the City has followed the collective bargaining procedures set forth in ORS 243.650 *et. seq.*, including the making of a Final Offer under ORS 243.712; and

WHEREAS, the City and Teamsters Local 670 have reached a formal impasse in their negotiations; and

WHEREAS, The City Council has determined it is in the best interest of the City of Ontario to implement all of the Final Offer pursuant to ORS 243.712(2)(d) .

NOW, THEREFORE, BE IT RESOLVED that the City Manager is authorized and directed to implement all of the City's Final Offer with Teamsters Local 670.

PASSED AND ADOPTED by the Ontario City Council this _____ day of _____, 2012, by the following vote:

Ayes:

Nays:

Absent:

APPROVED by the Mayor this _____ day of _____, 2012.

Joe Dominick, Mayor

Attest:

Tori Barnett, MMC, City Recorder

AGENDA REPORT
October 1, 2012

TO: Mayor and City Council

FROM: Alan Daniels, Golf Course Manager

THROUGH: Jay Henry, City Manager

SUBJECT: PROPOSED AGREEMENT AT THE ONTARIO GOLF COURSE RESTAURANT FOR STAFFING THE CLUBHOUSE AND ADDING SALES AND PROMOTIONS FOR COMMISSION

DATE: September 24, 2012

SUMMARY:

The golf course budget for labor is 3.89% left for the remainder of the budget biennium. The budget for materials and supplies is only 12.37% remaining, and this is as of the end of August. We are effectively out of money with 10 months to go. Management and labor to staff the clubhouse uses about 53% of all earned income. We have been testing how best to staff the clubhouse, and staff believes that utilizing the people from the restaurant to operate the clubhouse is our current best option.

BACKGROUND:

After reviewing business practices at the golf course it is apparent that the City's past practice of paying people to stand around and occasionally check people onto the golf course is very inefficient. The restaurant can do this, along with running the Pro Shop, doing promotions and running tournaments. Simple things like following up on which customer is using which cart shed and if they have paid for the year have not been done in the past. A profit driven business will do much better at the retail and promotions portion of the Golf Course, and will allow us to concentrate on grounds and greens.

The restaurant will experience some increased cost to staff during the busy times, but by paying them a 15% commission on season's passes and cart shed rentals and 25% commission on all other sales, plus control of the Pro Shop it will allow them enough business and income to provide quality service. Accounting safeguards will be utilized to insure the City is protected fiscally. By removing all city paid employees from the Club House and paying the restaurant this commission for all sales we will see about a \$30,000 reduction in cost (based on last years income and expenses) and much improved service and sales. Also, having the restaurant pay the city twice a month will also decrease our finance department labor.

This agreement needs to go into effect as soon as possible because we are already planning for next year. I want this agreement to be for one year trial through the 2013 golf season to see how it works.

ALTERNATIVE:

This is the best solution staff has been able to come up with. Business as usual is not an option if we want to keep the golf course open.

FINANCIAL IMPLICATIONS:

This arrangement will see about a \$30,000 reduction in cost (based on last year's income and expenses) and improved service and sales

RECOMMENDATION:

Staff recommends the Council approve this change in how we do business.

PROPOSED MOTION:

I move the City Council direct the City Manager to formalize the agreement with the owners of the restaurant at the golf course to staff the golf clubhouse and do sales and promotions for a commission.

AGENDA REPORT

October 1, 2012

TO: Mayor and City Council

FROM: Jay Henry, City Manager

SUBJECT: **ACCEPTANCE OF QUITCLAIM DEED AND SUBORDINATION AGREEMENT FROM J R ZUKIN CORPORATION, A CALIFORNIA CORPORATION, DBA MEADOW OUTDOOR ADVERTISING NW WASHINGTON ROADWAY RELOCATION PROJECT**

DATE: September 21, 2012

SUMMARY:

Attached are the following documents:

- Signed Quitclaim Deed: J R Zukin Corporation, a California corporation, dba Meadow Outdoor Advertising to City of Ontario
- Signed Subordination Agreement: J R Zukin Corporation, a California corporation, dba Meadow Outdoor Advertising to City of Ontario

PREVIOUS COUNCIL ACTION:

July 6, 2010 Council approved Agreement No. 26720 with ODOT accepting \$4.5 million for the relocation of NW Washington and constructing Park Blvd to NW 16th Avenue.

November 15, 2010 Council approved Agreement No. 26720-01 with ODOT which was an amendment authorizing the expenditure and reimbursement of funds for the above project.

March 7, 2011 Council approved Agreement No. 27027 with ODOT authorizing the ODOT right of way staff to proceed with appraisals and acquisition of properties for the NW Washington and Park Blvd roadway project.

July 18, 2011 Council approved Agreement No. 27027-01 with ODOT which was an amendment clarifying how funds will be paid by ODOT for the appraisals and acquisition costs.

BACKGROUND:

ODOT staff has prepared appraisals and conducted negotiations on many of the parcels that must be acquired for this roadway project. A Quitclaim Deed and Subordination Agreement for the J R Zukin Corporation, a California corporation dba Meadow Outdoor Advertising properties is attached and must be accepted by the city prior to recording or closing on the property.

STAFF RECOMMENDATION:

Staff recommends the Council authorize the Mayor to sign the Quitclaim Deed & Subordination Agreement.

PROPOSED MOTION:

I move the City Council authorize the Mayor to sign the Quitclaim Deed & Subordination Agreement from J R Zukin Corporation, a California corporation, dba Meadow Outdoor Advertising accepting the property for the NW Washington roadway project.

QUITCLAIM DEED

J R Zukin Corporation, a California corporation dba Meadow Outdoor Advertising, successor by merger to Meadow Pacific Corporation, a California corporation and successor to Meadow Outdoor Advertising, Inc. an Oregon corporation Grantor, being the holder of a leasehold interest in the hereinafter described property as evidenced by that certain Memorandum of Lease, recorded March 21, 1996, in Instrument No. 96-2014, Records of Malheur County, Oregon, and that certain unrecorded Agreement of Lease dated April 14, 2005, (the "Leasehold Interest") for no monetary consideration does relinquish and forever quitclaim unto the **CITY OF ONTARIO, a municipal corporation of the State of Oregon**, Grantee, all of Grantor's right, title, and interest in and to the Leasehold Interest as it affects the property described as **Parcel 1 on Exhibit "A" dated 10/14/11**, attached hereto and by this reference made a part hereof.

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the City of Ontario, a municipal corporation of the State of Oregon, unless and until accepted and approved by the recording of this document.

SEND TAX STATEMENT TO: NO CHANGE

AFTER RECORDING RETURN TO:
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 17S4733D 1700

Property Address: 1751 Oregon Street
Ontario, OR 97914

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

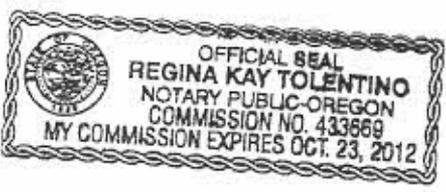
Dated this 11TH day of SEPTEMBER, 2012.

J R ZUKIN CORPORATION, a California corporation, dba MEADOW OUTDOOR ADVERTISING, successor by merger to MEADOW PACIFIC CORPORATION a California corporation and successor to MEADOW OUTDOOR ADVERTISING, INC., an Oregon corporation

By John L. Lehman
President/Vice President

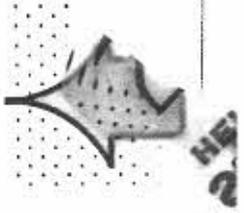
STATE OF OREGON, County of Wasco

Dated SEPTEMBER 11, 2012. Personally appeared JOHN L. LEHMAN, who, being sworn, stated that he/she is the VICE PRESIDENT of J.R. Zukin Corporation, a California corporation, and that this instrument was voluntarily signed on behalf of the corporation by authority of its Board of Directors. Before me:



Regina Kay Tolentino
Notary Public for Oregon
My Commission expires 10-23-12

Accepted on behalf of the City of Ontario, a municipal corporation of the State of Oregon



PARCEL 1 (1700) – FEE (M1)

A parcel of land lying in Lot 2, Block 3, of the CORRECTED PLAT OF OREGON AND WESTERN COLONIZATION CO. SUBDIVISION SECOND ADDITION, Malheur County, Oregon and being a portion of that property described in that deed recorded January 31, 2005, Instrument No. 2005-898, Malheur County Deed Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the "O" center line of the NW 9th Street which center line is described as follows:

Beginning at Engineer's center line Station "O" 48+00.00, said station being 1533.88 feet North and 793.36 feet East of the South 1/4 corner of Section 33, Township 17 South, Range 47 east, W.M. (from which the SW corner of said Section 33 bears South 87° 48' 53" West 2628.06 feet from said 1/4 corner); thence North 01° 43' 03" West 200.00 feet to centerline Station "O" 50+00.00 being the Intersection with NW Washington Street at centerline Station "W" 143+65.58; thence continuing North 01° 43' 03" West 191.42; thence on a 200.00 feet radius curve to the left (the long chord of which bears North 25° 02' 18" West 158.35 feet) 162.81 feet to PCC centerline Station "O" 53+54.23.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Westerly Side of Center Line
"O" 52+15		"O" 52+90	30

Bearings are based upon the Oregon Coordinate System of 1983(91), south zone.

The Parcel of land to which this description applies contains 593 square feet, more or less.

SUBORDINATION AGREEMENT

THIS AGREEMENT dated SEPTEMBER 11, 2012 by and between **J R Zukin Corporation, a California corporation dba Meadow Outdoor Advertising, successor by merger to Meadow Pacific Corporation, a California corporation and successor to Meadow Outdoor Advertising, Inc. an Oregon corporation** hereinafter called the first party, and the **CITY OF ONTARIO, a municipal corporation of the State of Oregon**, hereinafter called the second party, WITNESSETH:

On May 24, 1995 a Memorandum of Lease was executed and delivered to the first party. Said Memorandum of Lease was recorded March 21, 1996, in Instrument No. 96-2014, Records of Malheur County, Oregon. In addition an unrecorded Agreement of Lease dated April 14, 2005 was delivered to the first party. Both aforementioned Leases affect the property described as **Parcels 2 and 3 on Exhibit "A" dated 10/14/11**, attached hereto and by this reference made a part hereof, and are collectively referred to as the "Leasehold Interests".

The first party has never sold or assigned first party's interest and at all times since the date thereof has been and now is the owner and holder thereof.

The second party has accepted the granting of easements upon the subject property as evidenced by that certain Permanent Easement recorded _____ 2012, as Document No. _____, Records of Malheur County, Oregon.

To induce the second party to accept the aforementioned easements, the first party has agreed and consented to subordinate first party's Leasehold Interest to the easement rights as recorded above.

AFTER RECORDING RETURN TO:
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 17S4733D 1700
Property Address: 1751 Oregon Street
Ontario, OR 97914

NOW, THEREFORE, for value received, and for the purpose of inducing the second party to, accept the easements, the first party, on behalf of the first party and also on behalf of the first party's personal representatives, successors, and assigns, hereby covenants, consents and agrees to and with the second party and second party's, successors, and assigns, that the first party's Leasehold Interests on the property is and shall always be subject and subordinate to the easements delivered to the second party as aforesaid, and that the second party's interest in all respects shall be first, prior and superior to that of the first party.

It is expressly understood and agreed that nothing herein contained shall be construed to change, alter or impair the first party's interest, except as hereinabove expressly set forth.

In construing this subordination agreement, and where the context so requires, the singular includes the plural, and all grammatical changes shall be made so that this agreement shall apply equally to corporations and to individuals.

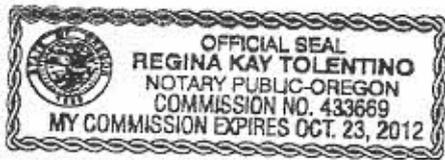
IN WITNESS WHEREOF, the undersigned has executed this agreement. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

J R ZUKIN CORPORATION, a California corporation,
dba MEADOW OUTDOOR ADVERTISING, successor
by merger to MEADOW PACIFIC CORPORATION a
California corporation and successor to MEADOW
OUTDOOR ADVERTISING, INC., an Oregon
corporation

By John L. Lehman
President/Vice President

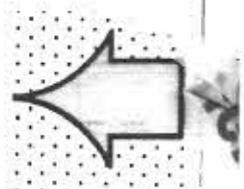
STATE OF OREGON, County of WASCO

Dated SEPTEMBER 11, 2012. Personally appeared JOHN L. LEHMAN, who, being sworn, stated that he/she is the VICE PRESIDENT of J R Zukin Corporation, a California corporation, and that this instrument was voluntarily signed on behalf of the corporation by authority of its Board of Directors. Before me:



Regina Kay Tolentino
Notary Public for Oregon
My Commission expires 10-23-12

Accepted on behalf of the City of Ontario, a municipal corporation of the State of Oregon



PARCEL 2 (1700) – Permanent Easement for Slopes, Sewers, Water, Gas, Electric and Communication services lines, Fixtures and Facilities (M2)

A parcel of land lying in Lot 2, Block 3, of the CORRECTED PLAT OF OREGON AND WESTERN COLONIZATION CO. SUBDIVISION SECOND ADDITION, Malheur County, Oregon and being a portion of that property described in that deed recorded January 31, 2005, Instrument No. 2005-698, Malheur County Deed Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the "O" center line of the NW 9th Street which center line is described in Parcel 1 above.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Westerly Side of Center Line
"O" 51+91.42		"O" 52+61	40 in a straight line to 29.75

EXCEPTING THEREFROM that portion of the above described parcel lying within the area of fee title right of way being granted under a separate document.

The Parcel of land to which this description applies contains 220 square feet, more or less.

PARCEL 3 (1700) – Temporary Easement for Work Area (3 year or duration of Project, whichever is sooner) (M3)

A parcel of land lying in Lot 2, Block 3, of the CORRECTED PLAT OF OREGON AND WESTERN COLONIZATION CO. SUBDIVISION SECOND ADDITION, Malheur County, Oregon and being a portion of that property described in that deed recorded January 31, 2005, Instrument No. 2005-698, Malheur County Deed Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the "O" center line of the NW 9th Street which center line is described in Parcel 1 above.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Westerly Side of Center Line
"O" 52+25.06		"O" 52+40	37.71 in a straight line to 50.62
"O" 52+40		"O" 53+07.92	50.62 in a straight line to 47.82
"O" 53+07.92		"O" 53+17.38	47.82 in a straight line to 35.98

EXCEPTING THEREFROM that portion of the above described parcel lying within the area of fee title right of way being granted under a separate document and Parcel No. 2 described above.

The Parcel of land to which this description applies contains 1164 square feet, more or less.

AGENDA REPORT - PUBLIC HEARING

October 1, 2012

TO: Mayor and City Council

FROM: City of Ontario Planning Commission

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

SUBJECT: **ORDINANCE 2670-2012: AN ORDINANCE ANNEXING INTO THE CITY A PARCEL OF REAL PROPERTY LOCATED AT 45 NORTH DORIAN DRIVE AND CHANGING ITS ZONE CLASSIFICATION FROM UGA-RESIDENTIAL TO RS-50 SINGLE FAMILY-FIRST READING**

DATE: September 19, 2012

SUMMARY:

Attached are the following documents:

- Ordinance 2670-2012 (with Exhibits A-B)
- Exhibit "A" – Consent to Annex form
- Exhibit "B" – Map: Before and After Annexation
- Exhibit "C" – Property Description

At its regular meeting of September 10, 2012 the Planning Commission heard the annexation and rezone proposal contained in Planning File 2012-07-08 AZ, which was applicable to property generally known as Tax Lot 502, Assessors Map 18S 47E 05C, located at 45 North Dorian Drive, Ontario.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The applicants, John W. Robertson and Carol Robertson, have a need for City utilities and are requesting annexation of their home site accordingly. This proposal is in conformance with the Comprehensive Plan.

The Planning Commission addressed the proposed annexation and the accompanying rezone from Urban Growth Area Residential to a City Zone classification of RS-50 Single Family Residential for their 2.68 acre property, Tax Lot 502, Assessor's Map #18S 47E 05C, located at 45 North Dorian Drive.

RECOMMENDATION:

The Planning Commission at its September 10, 2012 meeting recommended approval of the findings of fact and the proposed annexation and reclassification of the Robertson property as presented in staff report 2012-07-08.

PROPOSED MOTIONS:

1. I move that the City Council accept the Findings of Fact as presented in the staff report 2012-07-08 and approved by the Planning Commission at its September 10, 2012 meeting.
2. I move that the Mayor and City Council approve Ordinance No. 2670-2012 on first reading by title only.

ORDINANCE NO. 2670-2012

**AN ORDINANCE ANNEXING INTO THE CITY
A PARCEL OF REAL PROPERTY LOCATED AT 45 N DORIAN DRIVE
AND CHANGING ITS ZONE CLASSIFICATION FROM
UGA-RESIDENTIAL TO RS-50 SINGLE FAMILY**

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 35 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 utilities and services, 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:** Pursuant to the formal application, the Ontario Planning Commission held a properly noticed public hearing on September 10, 2012 and made a recommendation to City Council that the annexation and rezone should proceed, and;

WHEREAS: The City Council held a properly noticed public hearing on October 1, 2012, and reviewed all evidence and testimony submitted at the City of Ontario for the following described property:

SUBJECT PROPERTY DESCRIPTION:

The subject property is two and sixty-eight one-hundredths (2.68) acres in size and is generally known as Tax Lot 502, Assessor's Map #18S 47E 05C. More specifically the property is described as:

Land in Malheur County, Oregon, as follows:

Land in Ire Rose Acreage in Sec. 5, Township 18 South, Range 47 East of the Willamette Meridian, Malheur County Oregon, according to the Official Plat thereof, as follows:

Tract 9, EXCEPTING THEREFROM the following 2 described parcels, to-wit:

Parcel No 1: Beginning at the Northeast corner of said Tract 9;
thence West, along the North boundary of said tract, 389 feet;
thence South 147.5 feet;
thence East, parallel with said North boundary, 389 feet;
thence North 147.5 feet to the Point of Beginning.

Parcel No 2: Beginning at the Southeast corner of Tract 9;
thence West 189 feet;
thence North 114 feet;
thence East 189 feet;
thence South 114 feet to the Point of Beginning.

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

Section 1. The subject property located at 45 North Dorian Drive is hereby annexed into the City of Ontario.

Section 2. The subject property is hereby rezoned as RS-50 Single Family Residential from UGA Residential. The Comprehensive Plan and Zoning Map are amended accordingly.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2012 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the Mayor this _____ day of _____, 2012.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

A: CONSENT TO ANNEX FORM

City of Ontario Planning and Zoning Application Form
 444 SW 4th Street, Ontario, OR 97914
Permit Center Annex: 458 SW 3rd Street
 Voice (541) 881-3224 / (541) 881-3222
 Fax (541) 881-3251



CONSENT TO ANNEXATION

FILE # AZ

Date Received 7/26/2012

Fee: \$330.00 + 2 cents per square foot

Accepted as Complete (hand file)

Know all men by these presents, that we, the undersigned, being owners, contract purchasers, mortgagees, or security holders upon a portion of land described below and which is proposed to be annexed to the City of Ontario, do hereby give our irrevocable consent that such land be annexed to the City of Ontario, and that our consent may be filed with the City Council of Ontario Oregon and that no election shall be held in said territory or notices posted therein. This consent is given pursuant to ORS Section 222.170.

Name: Michael Robertson
 Name: Jane Robertson
 Name: _____
 Name: _____
 Name: _____
 Name: _____

Signature: Michael Robertson
 Signature: Jane Robertson
 Signature: _____
 Signature: _____
 Signature: _____

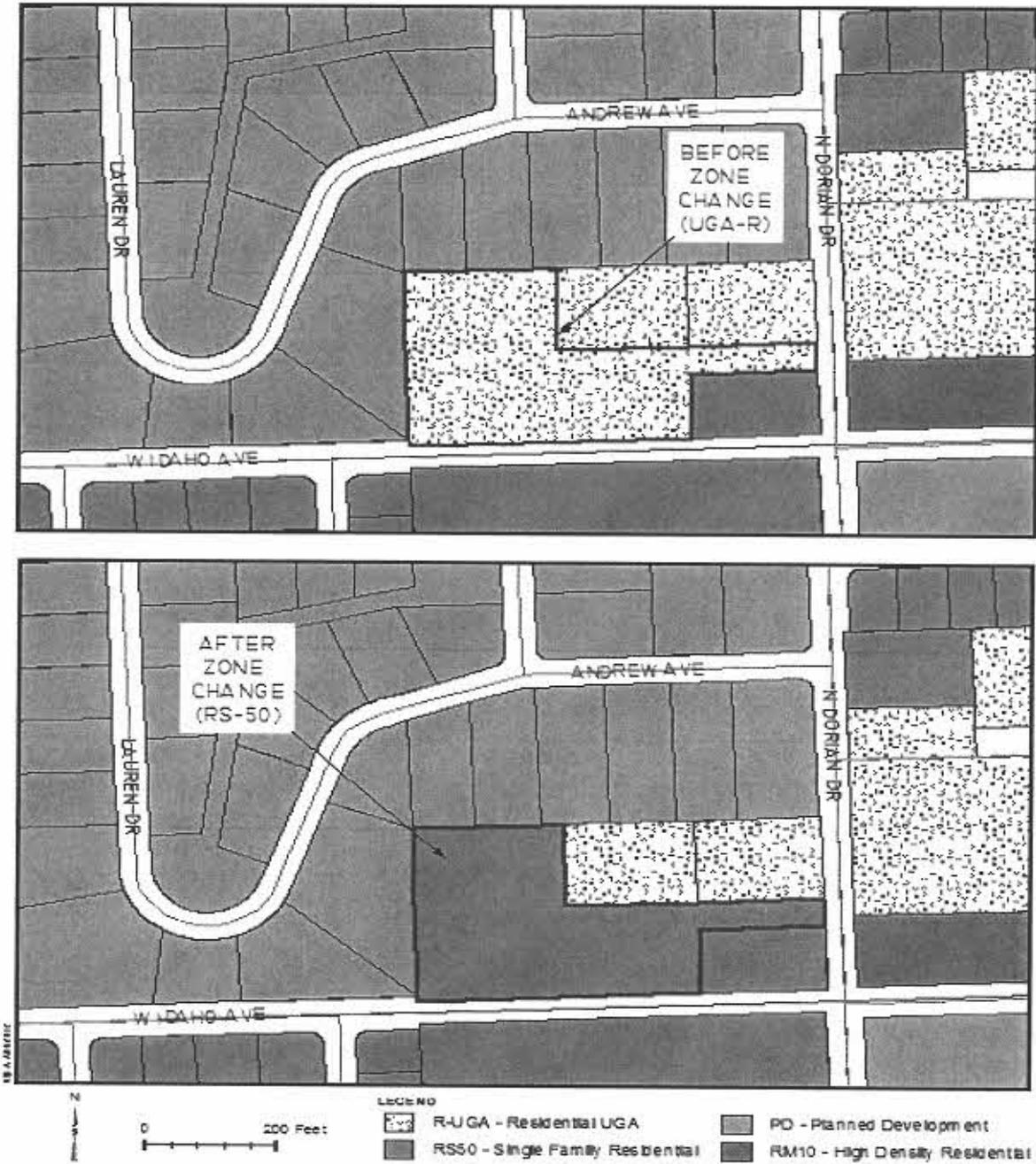
The above signatures on the original consents were filed in the office of the City Recorder in accordance with State Statute. The above parties are all the property owners within the territory to be annexed.

Susan Barrett
 City Recorder

Property information:

Address 45 N. Dorian
 Tax Map # 502 Tax Lot #(s) _____
 Tax Map # 189 475C Tax Lot #(s) 502 / 1

B: BEFORE AND AFTER MAPS



C. SPECIFIC PROPERTY DESCRIPTION

Land in Malheur County, Oregon, as follows:

Land in Ire Rose Acreage in Sec. 5, Township 18 South, Range 47 East of the Willamette Meridian, Malheur County Oregon, according to the Official Plat thereof, as follows:

Tract 9, EXCEPTING THEREFROM the following 2 described parcels, to-wit:

Parcel No 1: Beginning at the Northeast corner of said Tract 9;

thence West, along the North boundary of said tract, 389 feet;

thence South 147.5 feet;

thence East, parallel with said North boundary, 389 feet;

thence North 147.5 feet to the Point of Beginning.

Parcel No 2: Beginning at the Southeast corner of Tract 9;

thence West 189 feet;

thence North 114 feet;

thence East 189 feet;

thence South 114 feet to the Point of Beginning.