

**AGENDA**  
**CITY COUNCIL - CITY OF ONTARIO, OREGON**  
Monday, December 3, 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, November 28, 2012, and a study session was held on Thursday, November 29, 2012. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at [www.ontariooregon.org](http://www.ontariooregon.org).

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

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

- A) Approval of Minutes of Regular Meeting of 11/19/2012 ..... 1-25
- B) Liquor License Application: New Outlet - Wholesale Malt Beverage & Wine ..... 26
- C) Resolution #2012-128: Abstract of Votes for November 6, 2012 General Election ..... 27-33
- D) Water Line Easement: Easy Family Trust ..... 34-40
- E) 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) **Discussion Items**

- A) Fire Department Training Tower: Tony Klein
- B) Winterbrook Update: Greg Winterowd

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

9) **Executive Sessions**

- A) ORS 192.660(2)(b)
- B) ORS 192.660(2)(e)
- C) ORS 192.660(2)(h)

10) **Adjourn**

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

**COUNCIL MEETING MINUTES**

**November 19, 2012**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, November 19, 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 Tori Barnett, Larry Sullivan, Mark Alexander, Al Higinbotham, Mike Long, Dan Shepard, Anita Zink, Andy King, and Loren Wiedeman. The meeting was recorded on tape, and the tapes are available at City Hall.

Jackson Fox led everyone in the Pledge of Allegiance.

**AGENDA**

An item was added to new business: Waterford Estates: Amendment to Declaration of Covenants, Conditions and Instructions.

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

**CONSENT AGENDA**

Mike Bernier, TVCC Fire Safety Program, stated they had started a structural fire sciences program at TVCC, and the students would have the opportunity to earn an Associates Degree (AA) in Structural Fire Science. The addition of the fire apparatus for training purposes would be of great benefit to the students and the program.

David Sullivan moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Approval of the Regular Minutes of 11/02/2012; Item B: Ordinance #2669-2012: An Ordinance Adopting the Findings of Fact and Amending the City of Ontario Comprehensive Plan and Zoning Map for a Parcel of Real Property Located at 55 NE 2<sup>nd</sup> Avenue and Changing its Zone Classification from (PF) Public Facility to (L-I) Light Industrial (*Final Reading*); C: Declaration of Surplus Property: 1981 American LaFrance Pumper; Item D: Request to Connect to Sanitary Sewer: Erlebach (Vacant Lot on Crest Way); and Item E: 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.

**PUBLIC COMMENTS/PRESENTATIONS**

*(Typed from her hand-out)*

Ruth Rolland, Ontario, stated: *At the last City Council Study Session, on Thursday, November 15<sup>th</sup>, 2012, a wide variety of topics were discussed. Some of those topics led to discussion that I frankly found amazing, disappointing, and very troubling. One issue was raised by City Manager Jay Henry – He raised the issue that he has been confronted by angry City Council members who suddenly realized that Jay's newly hired Interim Finance Director, Michael Long, has a record of being investigated in Klamath County for allegations of sexual harassment and financial improprieties. Mr. Long acknowledged that he did some behaviors for which he apologized, and was fired in Klamath County from his non-elected finance positions. It's in the records of the investigations. Then there was the discussion of whether the City Manager should support the City Council – apparently some of the Council believe they hire a City Manager to do exactly what they order him to do. That, I should think, explains why City Council seems to run though [sic] and run off City Managers so quickly! I was disappointed by Charlotte Fugate, who was the one who spoke up to confront Jay Henry, complaining that she though [sic] Jay Henry's role was*

*supposed to be to support the City Council. That is not to say I find the actions of City Manager particularly straightforward and free of deception by omission. Does Mr. Henry think it was an honest move to bring in Mr. Long without discussing this with the city council in a council meeting before running off to hire and help out an old friend? Did he think the City of Ontario citizens were too insulated here in the eastern corner of the State, to figure out what's happening anywhere outside of Malheur County? In addition, I was disappointed by Council David Sullivan, who, although he is a business owner, does not seem to have any regard at all for workers like the kind of people he hires – people who work for employers like himself, including city workers. His own prosperity in his private business may be entirely subject to his own profits seeking over the value of his employees. But in his capacity of City Councilor, he represents all the citizens and all variety of good people who make up the City's residents and taxpayers. By the way, Mr. Sullivan, even people who live across the river pay Oregon taxes if they work in Ontario. And Ontario is not excluded from many benefits of those state taxes from non-resident Oregon workers. David's attitude seemed to be something like – Let them be fired! Then there was the issue discussed about improving the non-represented city employees' Health Insurance to match what was negotiated for the City's Union workers. The entire City Council seemed to agree that they would be happier if the City had no Union workers, and their main thought about improving non-represented employees compensation packages appears to be – to discourage them from going Union! It sounds like the Council had little regard or respect for any kinds of city employees! I'm disappointed – and I request that the minutes of the entire City Council Study Session from November 15, 2012, be placed in the public record of this Council meeting, along with my remarks. Thank you. (Notes from 11/15/2012 Study Session attached and incorporated into the record).*

Della Rio (?), Ontario, asked what was going on with the crosswalk up by the hospital where the two children were hit three weeks ago. She had heard the City was going to take it out, and she wanted them to know she didn't think that was a good idea. Maybe put lights up, or something like they had on Idaho, because there were a lot of people from the hospital that went to that motel across the street. That crosswalk was used a lot. She sat there one day and watched three cars pass by, one was a great huge truck, and two people were standing there waiting to cross. It was used quite a bit, the crosswalk on SW 4<sup>th</sup> Avenue and SW 11<sup>th</sup> Street.

Mayor Dominick stated there were no plans to his knowledge about removing that crossing. He had held discussions with Chief Alexander about ways to make the crossings more visible.

#### **NEW BUSINESS**

##### **Request for Change to Non-Represented Insurance Coverage**

Anita Zink, Human Resources, stated staff was requesting that the City Council agree to provide the same insurance benefits to the non-representative personnel as those given to the union employees. The City Council stated in previous meetings they would revisit the insurance issue for the non-represented personal following the implementation of the city's three union contracts. On January 1, 2012, the city moved non-represented personnel to a High Deductible Health Plan with a \$4,000 deductible. The city provided each qualified employee with \$500 towards the deductible; however, this meant each employee was responsible for out of pocket expenses of \$3,500 to cover the additional deductible expense. Implementing this proposal would cost the city an additional \$50,045; however the City saved \$57,547 when they moved the non-represented personnel to the High Deductible Health Plan in January 2012. This money was already budgeted, and would not come out of Contingency.

Councilor Sullivan stated he had some questions on her math. When looking at 11 employees, in addition to the \$500 already being given, was \$3,500 per employee, and 100% of their deductible, was that correct?

Ms. Zink confirmed those numbers, and indicated she had also provided a secondary handout for reference.

Councilor Sullivan stated that would be \$38,500. Then, she was also proposing the City pay the entire premium on all 11 employees, which should come to \$24,672.

Ms. Zink stated yes, and that was *still* under what was budgeted.

Councilor Sullivan stated if he added those two figures together, that came to \$63,172.

Mayor Dominick reminded them that there were some non-represented employees that were at the \$2,500 rate verse the \$4,000 rate.

Councilor Sullivan wanted the breakdown of how many were on the full family rate verse the single family rate.

Ms. Zink stated she had that – there was one individual under the single family rate, and 13 under the family rate.

Councilor Sullivan stated there were only 11 people listed on her chart.

Ms. Zink stated it would be 14 employees effective January 1, 2013.

Councilor Sullivan stated then the deductible would be \$48,000. Then adding in the premiums, for the current 11, would be \$24,172. Assuming the average of \$200, that would be another \$600 per month, for an additional....

Mayor Dominick stated they were only working with the remaining six months of the fiscal year.

Councilor Sullivan stated they needed to annualize this.

Ms. Zink stated her numbers were based on the bi-annual budget. Her numbers used were through the end of December, and the increased deductible and payment of the premium for the remaining six months of the fiscal year.

Councilor Sullivan stated that was about \$7,200 more. He didn't believe the chart provided to the Council was accurate. The \$31,872, plus the \$48,000, meant they were adding \$80,000 to the city's expenses for a full year.

Ms. Zink stated that was not correct. If he would look at the information provided, it showed the exact amounts the city paid. As an example, since he asked her to show where the money would be coming from, in each department, at the beginning of the budget year, they budgeted for the co-pay plan insurance. But, with what the budget was, and what the city was saving by moving the employees to the High Deductible Health Plan effective January 1, 2012, that money stayed in the budget, and the city would still save money, even paying 100% of the deductible and premium beginning January 1, 2013.

Councilor Sullivan stated he appreciated that, but when he did the math, and added in \$80,000 to the budget, that savings went away quickly. That would be a deficit next year, and it would have to come out of Contingency.

Ms. Zink disagreed. Using one department as an example...

Councilor Sullivan asked how much it would cost the city, annually, for the additional insurance coverage.

Ms. Zink stated she had been asked to provide the Council with the number of employees, and where the money would come from.

Mayor Dominick confirmed she had provided the budget impact between now and July 1, 2013.

Ms. Zink stated yes, and there would be zero dollars taken from Contingency.

Mayor Dominick stated if he understood Councilor Sullivan, he wanted to inform the Council of the overall one-year cost of \$80,000. So, on July 1, 2013, they would have to budget an additional amount.

Councilor Sullivan stated they were spending \$80,000 that they had not recognized in the budget at this time. They had gone from the old premium a year ago before they went to the new insurance coverage, where employees were required to pay between \$229 and \$335 a month for their insurance premium. In addition, that provided them with a \$500 deductible health insurance plan under the old plan, right? So what they had done in one year was not only move the union employees, but it would be every employees from paying \$0 premium on their health insurance, and \$0 on their deductible, and the city providing \$4,000 per employee to put into a health savings account, which was the employees' money if they didn't use it for health insurance. Was that what she was proposing?

Ms. Zink said it was.

Councilor Sullivan stated that was a lot of expense. With the problems the city was facing, not being fiscally flush, how could they pay those types of premiums?

Councilor Fox stated he was the Liaison to the Finance Department, and he had taken the opportunity to sit down with the Finance Director to discuss what the Auditors picked out last week. There were major discrepancies in the books. There was over \$600,000 worth of red ink at the Golf Course, and that had to be paid back. There was something similar at the Aquatic Center. There were also discrepancies on the Public Works side of things. The Council did not know how the audit was going to end. He believed it would be prudent to make a motion to table this item until the city knew where they would be with the audit.

Councilor Jones seconded.

Mayor Dominick asked if Councilor Fox had a date specific on his motion.

Councilor Fox stated at a minimum the city needed to wait until the Audit Committee received the information from Oster Accounting, so they could see the preliminary numbers. Currently, the numbers said there was no money to spend.

Mayor Dominick stated with open enrollment for insurance, would putting this off, would the insurance company allow the city, at a later date, if the Council approved the proposal, could staff join?

Ms. Zink stated they agreed because the others were making that transition. Open enrollment was already completed, so they would probably have to wait another year.

Mayor Dominick verified the non-reps were already signed up for the HSA, or the high-deductible, they were just not being funded at the level the unions were funded. This wouldn't change the enrollment; it would just change the city's support or contribution to the insurance plan. And those wouldn't take effect until January 1, 2013.

Councilor Verini stated when this was originally put together with the financial implications, the proposal would cost the city an additional \$54,000 for calendar year 2013, however, the city saved \$57,547 when the non-reps were moved to the HSA plan in January, 2012 – did that still stand?

Ms. Zink stated it was a little more than that because there were a couple employees no longer on the city's insurance plan.

Councilor Verini stated when the Council originally discussed the non-rep insurance coverage, they did talk about first proposing the union coverage with the high deductible, and then going back to the non-reps to get them the same, if not close to, what had been considered for the union. Did that change in this conversation?

Councilor Sullivan stated the intent was not to bring the non-reps up to the unions, but to bring the unions down to the non-reps. This saved the employee money, too. It brought their premiums down. Now the Council was going completely opposite, saying give them 100% of the premium, and 100% of the deductible.

Councilor Crume stated the budget was through June, 2013, and "x" amount of money between all the departments had been budgeted. If they adopted the insurance proposal, at the end of June, 2013, what would be the difference in dollars between what had been budgeted and what would truly be spent?

Ms. Zink stated she didn't have exact dollar amounts for every department. For example, in Finance, they would see a savings of \$50,000.

Councilor Crume asked if the new program was going to cost more or less than what was originally budgeted.

Ms. Zink stated it was going to cost less due to the savings accumulated throughout the year.

Mayor Dominick stated at the beginning of the budget cycle, co-plan cost "x" amount, but when the non-reps were moved to the HSA, it was a reduction in cost because the premium was not as high as Plan B. The Council had met part of their goal, as far as not having double insurance on any two city employees.

Ms. Zink stated the \$50,000 example was for one department – each department would realize their own savings amount.

Councilor Jones reminded the Council there was a motion on the floor, with a second, based on a financial picture of the city. With regard to Councilor Fox's motion, they were discussing the insurance problem now, but weren't they supposed to be discussing the motion that was on the table?

Mayor Dominick stated in the middle of a discussion, a motion was thrown in, so he was allowing continued discussion.

Councilor Crume stated the discussion was helping him in understanding where they were at with the budget and the audit.

Councilor Jones stated it did not have to do with the audit. It was just one piece of the pie. Councilor Fox had a motion to table this particular action until they got the audit and budget under control. That was now up for discussion.

Mayor Dominick asked how long it would be until the audit was ready.

Mike Long, Finance Director, stated he did not have a date.

Councilor Sullivan wanted a chance to go over the numbers with Anita [Zink].

Councilor Fox stated Councilor Jones was correct. Some items were not important to the motion; however, it was important to allow, and it was also important that the point be driven into everyone that this 2-year budget cycle was being worked on by the auditors. They didn't even know where the General Fund was currently at. Everything was in question.

Jackson Fox moved, seconded by Dan Jones, that the City Council table this item until information was received by the Council from the auditors. Roll call vote: Crume-no; Fox-yes; Fugate-no; Jones-yes; Sullivan-yes; Verini-no; Dominick-yes. Motion carried 5/2/0.

#### **Proposed Data Center System Development Charges**

Larry Sullivan, City Attorney, stated this issue needed further research and discussion and would therefore be withdrawn from the Agenda. It would go back before the Public Works Committee, to provide them an opportunity to provide a recommendation to the Council.

Councilor Fox asked that the PWC report/findings be included in the revised report to the Council.

Waterford Estates: Amendment to Declaration of Covenants, Conditions and Instructions

Larry Sullivan, City Attorney, stated at the Council work session on Thursday, November 15, 2012, Dr. Ron Carroll made an oral request to the City Council that it approve an amendment to the covenants, conditions and restrictions (CC&Rs) of Waterford Estates, a subdivision in the City in which Dorian Place Assisted Living Facility is located. When the Waterford Estates subdivision was created in 1997, City staff reviewed the CC&Rs to make sure they did not conflict with City ordinances. The City also has the right to review any amendments to the CC&Rs.

Dr. Carroll requested that the City allow the CC&Rs to be removed from the parcel of real property on which Dorian Place was located because they were interfering with his sale of Dorian Place, which was scheduled to close on November 30, 2012. In particular, the CC&Rs prohibit commercial development within Waterford Estates, and Dorian Place was in violation of those provisions because it was a commercial development.

Dr. Carroll's attorney forwarded the proposed Amendment to the City Attorney on Friday. The proposed Amendment for which Dr. Carroll seeks approval would remove all CC&Rs from the Dorian Place parcel. This did not create any conflict with City ordinances and did not create any zoning or planning issues for the City. CC&Rs could be enforced only by other property owners in Waterford Estates, not by the City, so the removal of the CC&Rs on that property would have no effect on the City's enforcement rights.

If the City Council authorized the signing of the proposed Amendment, Dr. Carroll would still have to obtain the signatures of most of the other property owners within the subdivision before the Amendment could be recorded with the County.

Charlotte Fugate moved, seconded by Jackson Fox, that the Mayor and City Council approve the Amendment to Declaration of Covenants, Conditions and Restrictions of Waterford Estates and authorize the Mayor to sign it. 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**

- Al Higinbotham stated the fire crews had been training on the new pumper. They had timed drills last week, and they had one minute to get the water line deployed. The team, from a dead stop and stretching a 100 foot line, got the water out of the line in 37 seconds.
- Mike Long stated the question on the \$10,800 bill for the pump that had been declared an emergency, after speaking with Bob Walker (PW Director) it was declared an emergency to avoid going out for bid. They had four days to get it fixed and back running to avoid the effluent going into the river. It was being paid out of equipment repairs for the sewer line.

Councilor Sullivan stated there had been four different repairs taken out of the equipment repair contingency already. Why, if there was money in the line, did they take money from contingency?

Mike Long stated he didn't understand why that was done that way, it didn't make sense.

- Councilor Verini stated the city had a tremendous Veteran's Day Parade, and there were also a lot of activities coming up over the holidays.
- Councilor Sullivan stated with regard to contingency accounts, he appreciated Mr. Longs' providing the Council with a copy of the contingency fund balances. However, many General Fund Contingency line items were dipping too low. He was concerned about the financial stability of the city, and encouraged all the Councilors to take a look at the operating budgets for the upcoming year, and make sure they could continue to operate. The contingency balances were dwindling rapidly.

- Councilor Jones asked, with regard to Oster and the audits, if he could be given a timeframe? What could the Council expect to come up in January?

Mike Long stated by state law, they were supposed to have a report done by December 31<sup>st</sup>, but extensions could be asked for. Oster could ask, but he didn't know if they would need to do that. He truly hoped to see it by the end of December. They had been here recently for three days, and then they wrapped it up and headed out. He hoped to see a draft final to the final audit.

Councilor Jones stated there were still considerable questions. How would they answer those questions?

Mike Long stated they needed to get the questions first, and then Oster would make recommendations on where to pull funds from.

Mayor Dominick stated the Council needed to stay in contact with the City Manager, and it might require setting and holding some additional meetings. The city's biggest challenge was the budget.

**ADJOURN**

David Sullivan moved, seconded by Ron Verini, 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

@ City Hall

11-15-2012

12 noon

CC, CF, NG, JD, JF, BS, DS

RV-ex

Staff: Tom, Jay, Mike, Mark, Al, Bob, Amy  
Pledge - JF

\* Kelly Wiedeman - Watership Council -

looking for funding, assistance from the city for 700 feet of piping, @

logistical step - apply for grant

OWEB & State have grants to review

Canal; also help pay for engineering. Is a competitive process, and a match required.

What city is doing, can be considered a

match. Malheur Drainage District has

no funds. Looking for the go ahead from

city, to look further into project.

JF Cover whole thing?

KW Maybe - would look at multiple options.

JF Mosquito issues?

KW Yes, and safety, but more geared towards water quality issues.

JD Problems w/ DEB before?

KW None

JF What is a Point Source?

KW Point source - contributes to a single source.

This drain has storm & other issues. Won't be a point source.

②  
11-5-12

NZ Which canal?

KW Dork Canal.

Dan C - Portion they are talking about is  
700 feet from here to here. Irrigation,  
city storm, natural ground water.

JD Certainly in favor - Consensus to  
look into project for grants.

KW DEQ prop this month - final March 2013.

Consent:

(A) Mun 11-2-2012 - no changes

B: Ord 2669-2012 - no changes

(C) Surplus Property - 1981 Pumper OFZ

AH - Can no longer stay in fire service -  
TVCC has asked to have pumper  
donated for fire <sup>Service</sup> Program.

Will be used for training firefighters.

(TVCC) Mike: TVCC will restock rig for training. SRV  
will contribute also. Scott Airpicks  
donated, as well.

JS Can you show up Monday? Program notice

Mike: Sure will

(D) Request to Connect to sewer line

BW: Crest Way not contiguous to city limits,

but Erlebach wants it. Don't usually  
unless annexed. Erlebach will sign  
an agreement that will annex when  
becomes contiguous.

DJ Status on Hornung & Crest annexation.

DC Chuck & Shep were doing. Not done.

DI Please get status - money is there.

BW CM wk'd on it.

DC Development done to city standards -

Just not annexed. Fees collected.

All consents were probably no longer  
binding. Need new annexation  
consents signed.

BW Needed?

LS Consent from majority of land, and  
majority of electors.

DC Like a lot in Nettstuen - was forced to  
annex. Tagged thru street ROW.  
Could do same here.

LS CC didn't like piecemeal basis. A lot of  
work & time for a single parcel.

Prefers a collective project.

Potential lawsuit from state.

NZ Anything, hurt be doing, this or not?  
Erlebach paying, for.

④  
1/15/12

POW He'd be eligible for front footage reimbursement.

NC No problems doing this?

BW Also agrees to sign agreement.

DC Line already stubbed out. Buyer doesn't have to annex yet.

DS Give this O.A. to CM to get annexation done.

BW Already a lot of work done - will proceed w/ completing project.

⑤ Bills

CF American Staffing, - 33% above what actual earnings are?

AZ - included in billing, statements.

DS Does this save money?

AZ Haven't to her knowledge. Good time to look at.

JD Was shown what savings w/out Pers and insurance. CM to review to see if realizing any savings.

JH All being done thru HR now. For the 33%, we are NOT employer, American Staffing is. City has to do due diligence for termination; just don't ask them back.

DS Background checks?

AZ Yes, over 18 - doesn't see them, hasn't requested them. Will approve before bringing on to do city work.

CF \$10K pump on farm - budgeted originally?

BW Same type of pump repair - not budgeted.

DS Part of what transfer was just done?

BW No.

DS When replaced?

BW Doesn't know. Farm's been shut down.

DS Couldn't be before Council prior to expenditure. Concerned to do "emergency" items over & over, outside of the budget.

BW Emergency means its needed to continue operation.

DS Doesn't have authority to approve cost.

BW Going to repair anything needed to continue operations.

DS Why do we continue to declare an "emergency" and then coming to Council after. We need better oversight. Continually passing items already completed.

JF Did it come out of contingency or an actual budgeted line item?

(6)  
11/5-12

BW Do budget for a certain amount of equipment repairs. Need to review "emergency" usage.

If object - stop using emergency word so much -

DS - Vendor is Priest Electric (page 10)

### Public Comments

\* Dr. Carol Donan Place Living Facility

Donan Place sep from Waterford Sub.

Created ccr in '96. 49 lots -

Donan Place was lot 49. Assumed would be separate from rest of subdivision. Not exempted from ccr.

Acting separate, but not legally

separate. Process of selling Donan

& Willsprings. Leasing back. Violation of ccr before sale. Working w/ Taggart

to clear up. Timeframe for closing

is Nov 30. Going to collect sigs

from homeowners before then.

looking for motion to have city

grant exemption

1) What is city's authority?

LS Guessing... Maybe<sup>13</sup> city needs to

LS Sign off release CCR on that one plot. Will wk w/ Taggart. May just need to sign off since CCR were implemented when plot was designed.

JF Original intent exactly as Dr. Carroll explained.

Dr. C - Flowing smoothly - getting a 60-day grace period from buyer for collecting signatures and city's agreement.

LS Document by Taggart needing Mayor's signature. Will need to review. Already have Council consensus.

~~DD~~ CC will meet on the 27th.

Dpt Hri Updates:

MA Mting w/ Caldwell PD re: Motorcycles

BW Doing a study of lab costs at WWTP -

going to outsource labs - will realize 4-23K

NZ Where is 5x stage facility equipment?

JW On its way.

TS Get bid of employee.

BW will look into that.

JH May not be legal to replace a union employee ~~and~~ with an outside source.

LS will look into.

⑧  
11/5/12

DS What is #2BK Savings?  
BR Chemicals & data input + Shipping  
Also going to collect from Malheur  
Soil Conservation.

DS Hourly rate?  
AZ/BR Don't know right this second

DS Costs: Chemicals, shipping, employee, etc.  
ML Auditors here

ML Operating contingency spreadsheets

JH Hired interim City Engineer today.  
Starting 11-26-12

JH Rumors going around about Mike Long.  
Dpt Head never connected; - (al sleep)  
accused; knows he's a good man.  
Let him do his job.

JH 4.5 of Charter - prohibits interfering  
w/CM for hiring & firing staff.  
Also, doesn't prevent discussion  
in open session.

DS Where is application?

JH For the full-time position,

DS Aware - problems of sexual har.

JH Accused, cleared - letter from  
"Criminal Justice will not take  
action.

Bali - dismissed for not enough evidence

JH Cowker claim:

BOH - division did not find sufficient evidence to continue this job to protect dept heads.

DS Did long admit allegations were correct.

JH Don't grill Mr. Long - say not legal rep  
Nov 2010 did he

JH Mr Long, you can leave.

LS No prohibition restricting Council from asking questions. Its general

BS Nov 2010, County began investigation  
Long admitted, should have known better.

ML correct

JH Oregon has a whistle blower law.

DS Feb 2011 aware of tort claims filed?

JH Yes

DS Mar 2011 long refused to quit, fired  
cu

ML Correct Statement

JH Been 3 months - in the 2 weeks Mike's been here done more than being done over last 8 years. Accusations & rumors - let him do his job.

Since 2004, Dpt Head - 11 positions  
turnover of 39 people.

10  
1/15-12

CF Point?

JH Treat them better. 50-400% annual  
Salary to replace them. Mid level  
dpt heads up to 250% of Salary.

DS Poor hiring practices, too.

CF Some said they'd be gone.

DS Litterin, too, and they weren't  
all dpt heads listed.

=

7A - Proposal for non-rep insurance change.

AZ - Wants to be the same as union

DS Numbers are what?

AZ Nonreps new/did premiums - employees  
have to put in

DS How about paying what they used to?

CC Intent to save money & to make  
staff aware of medical status.

AZ Wants to be consistent & fair

Coplan B cost 207,000 v 167,000

moved to B, cost would increase

Premiums higher.

DS 355.68 & match deductible.

AZ Not fair and consistent w/ unions

NC His goal - when agreed to go w/  
non-rep plan, idea was to get Union  
at same plan. Didn't wk.

NZ Only way CC should deal, all employees should be fair & same. Non-reps shouldnt be less than unions

YS Dont care.

NZ Easier to deal w/ non-rep staff.

DS Cozri deal w/ union contracts.

NZ Not really.

DS Why really to pay this.

NZ Union contracts were what they were - Wants to make equal benefits.

JF Small business owner - treat equally, better production & retention of staff. Contracts not perfect, but so be it.

Unions offered an excellent benefit package - non-reps deserve same.

Immediate goal to save money & even by making non-reps same as union, still saving money.

DS Moved 335<sup>000</sup> → 500 → 215 - w/ deductible.

Thats what they did for the tax payers.

JF Why - asked wage freeze last year but staff gets on wage rise immediately

AZ Waited until contracts done

JH How much money is saved by a goal, compensated cpt head.

12  
1/15/12

JH long-term savings -

DJ Need to be fair - supports request

DS Where is money coming from?

JJ Recalling budget last time - specifically budget money increases for employees at zero. Also discussed that any additional dollars would come from contingency. For police & fire union reps from CF Contingency. That's why contingencies were elevated.

JF No comment

DS Impact on budget

AZ Budgeted into each dept already Won't exceed municipal lines.

DS Where is money coming from?

AZ What is question?

DS The 50,045 was that adding 3500 to each

AZ Premium & deductible - Same plan as unions

DS 100% of premium? No one else has

~~the~~ this type.

AZ Be fair & consistent

DS Since when did public personnel become better than<sup>19</sup> public sector.

(7b) Data Center SDC's

Separate issue first

3 ODOT grants applying/applied for.  
SE Ind, N Oregon, Love's signal  
Funds from ODOT going away - thru 2018  
Only one, if any, project, will get funds.

- Wants to adopt a different SDC for data centers. After reviewing other communities, and Don Garner, looking at going w/ tip generation report  
107A building, now would be 994K  
new 994 = 19,880 -

Staff wants authority to move forward w/ intent to proceed. 90 Day period then P.H. for this proposal. This is based on Ontario's Transportation Study.

- JD Each city does an SDC Study of their own.
- JF Can't do anything that doesn't meet the Garner study results.

BW Data center - fewer employees, larger facilities. Peak trips w/ number of employees

JF SDC laws allow cities to be adjusted.

LS Will get clarification. Will SDCs based Gross Floor Area. Want to create a new template to create a light industrial area.

(14)  
11/19/12

IS SDC based on ~~10K~~ and a ~~100K~~ bldg.

BW Peak trips to an average 10K bldg  
50/100 employees - customers -  
employee trips in & out.

Huge bldg for a data center, but  
no customers & low staff count.

Ganeri Puneville, The Dalles all use  
this formula.

Danc - Through PWC - got approval. Determined  
20 pk hour trips for a data center.  
SDC will state for every ~~10K~~  
will be 20 trips.

TO developer, will read

~~10K~~ - 20 trip hours = \$995.

Will all be handled through the Public  
Hearing and written in enacting  
ordinance.

BW Then hire Ganeri again

IS Staff/CC can review

BW Staff has!!!

IS City can do a determination for  
peak hours at existing data  
centers. Use that in Ganeri  
formula.

JD TOA = 19K then  
100K = 190K?

DC Yes based on the 20 pk hours travel

JD Not fair -

DS No, its multiplied up - its not 19K for  
all sizes.

JF SDCs are to reimburse cities for infrastructure.

DS Everyone should know what the SDCs  
will be when coming up.

JD Have Larry, Bob, <sup>(sumner)</sup> Dan wk on this action.

DC Agree - needs to be reviewed.

JF Does the have a recommendation?

DC Will need to review minutes.

SW Can we start the clock on the 90 days?

DS Need preliminary OK and w/eng, true  
numbers. Dont have that yet.

JD Leave on agenda - for now. May pull  
on Monday.

NE Questions from David on Prineville - businesses  
lost due to Idaho Power and not  
large enough land parcels. Tax payers  
possibly subsidizing power rates (Rumor)

DS Per Chris Harden - Idaho Power has  
now come around.

16  
11/5/12

## Questions -

CF-Rumor - power bill from Barb Toomey?

JH looking into power bills.

DS Paid anything?

JH Don't know.

DS 26% of power bill.

---

## CF Aquatic Center

Do we have any money in underpass line to use at Aquatic Center.

DS Can we use some grant funds to get some OAC issues done.

JH Difficult - its federal dollars.

DS If there's money left, can they be used to spruce up that?

---

CF Rough on dpt heads - as CM isn't he looking out for CC, but its apparent he's looking out for Staff. Troubles her. She's courteous & respectful to everyone.

JH Wks for city - will not agree w/ CC all the time on everything. Does support CC, but a CM who will beat down Dpt HHS thru CC, not going to work.

CF Who is beating up dpt hds?  
JH-distributed Mike Long docs? Yes, That's  
beating up a dpt head.

LS 4.5 prohibits any CC going to CM  
to discuss hiring or firing any  
dpt hd.

JH Had CF in his office, recommending  
termination.

CF With four other Councilors.

---

● NE Industrial Lands Meeting (yesterday)  
w/eng w/ Plan B -

Plan A (property near airport)

Hire Winterbrook to use Plan A & B.

1000 Friends of Oregon stuck in their noses -  
going to do one parcel at a time.

The new Plan A - use same Study -

timeframe: Boulder plate contract

w/ 3 property owners. Will sell

their property at  $\frac{1}{2}X$  amount or less.

10 days LaGrande  $\rightarrow$  30 days @

State. Then CC will need to charge  
zoning.

---

8)

DS Standing behind City Manager. Pleased  
w/ Finance Director, too. Will be  
mistakes made.

NZ Ditto to Councillor Jones.

CF Maybe she should have a drink w/ them.

DS Uncalled for, Charlotte.

J1) Seems to be slow results. A lot on  
plates, but things not getting  
done. Frustrated.

==

\* Executive Session

ORS 192.660(2)(h) @ 7:30 pm: IN

7:38 pm: OUT

Done @ 9:40 pm

**CONSENT AGENDA**  
December 3, 2012

TO: Mayor and City Council

FROM: Mark Alexander, Police Chief

THROUGH: Jay Henry, City Manager

**SUBJECT: LIQUOR LICENSE APPLICATION – NEW OUTLET  
Wholesale Malt Beverage & Wine**

DATE: November 26, 2012

---

**SUMMARY:**

Stein Distributing Company Inc. has completed the “New Outlet” application process for “Wholesale Malt Beverage and Wine” liquor license privilege through the Oregon Liquor Control Commission for their business located at 332 SE 12<sup>th</sup> Avenue, Ontario, Oregon.

All necessary paperwork has been approved through OLCC office and is awaiting approval through the Ontario City Council.

**BACKGROUND:**

Criminal Record process was completed on Stein Distributing Company Corporate Officers. All records returned clear. The application forms have been filled out appropriately and required fees have been paid. All Permit requirements have been met.

Stein Distributing Company Inc. currently holds a liquor license for their business which is located at 371 SE 12<sup>th</sup> Avenue, Ontario, Oregon. This liquor license application went before the Ontario City Council May 3, 2010 and was approved. Because they are relocating their business to a new address, they are required to obtain a “New Outlet” license for the new location.

**RECOMMENDATION:**

I have completed a review of this application information in accordance with the City of Ontario’s ordinance regulating this license. I recommend that we approve the application for New Outlet / Wholesale Malt Beverage and Wine liquor license for Stein Distributing Company, Incorporated at their new place of business in Ontario.

## CONSENT AGENDA

December 3, 2012

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Jay Henry, City Manager

SUBJECT: **RESOLUTION 2012-128: ACCEPTING THE ABSTRACT OF VOTES FOR THE NOVEMBER 6, 2012 GENERAL ELECTION**

DATE: November 26, 2012

---

### **SUMMARY:**

Attached are the following documents:

- Resolution #2012-128
- Abstract of Votes: Mayor and Council Positions
- Certificates of Election

Every two years, the City participates in a general election for the positions of City Councilor, and every four years for the position of Mayor. This year, November 6, 2012, an election was held for the positions three City Councilors. By state election law, the Council needs to adopt the Abstract of Votes, or the results from that election (attachment), as provided by the Malheur County Clerk's Office, either by proclamation or resolution. Pursuant to the 2012 City Elections Manual prepared and distributed by the Oregon Secretary of State, Elections Division, following an election, the City Recorder/Election's Official is further required to prepare and issue Certificates of Election for each individual elected.

### **STAFF RECOMMENDATION:**

Staff recommends the Council approve Resolution 2012-128 adopting the Abstract of Votes for the November 6, 2012 General Election.

**RESOLUTION #2012-128**

**A RESOLUTION ACCEPTING THE ABSTRACT OF VOTES FOR THE  
NOVEMBER 6, 2012 GENERAL ELECTION**

**WHEREAS,** at a general election held in the State of Oregon on November 6, 2012, in the City of Ontario, Oregon, there was submitted to the voters the candidates for office of City Councilor; and

**WHEREAS,** the City Council of the City of Ontario has canvassed the results of said election and has found as follows:

<b>COUNCILOR</b>	<b>TOTAL VOTES CAST</b>
Larry Tuttle	1763
Norm Crume	1439
Charlotte Fugate	1255
Riley Hill	1245
David Sullivan	1231
Ruth Rolland	979

**NOW THEREFORE, BE IT HEREBY RESOLVED** by the Ontario City Council that at the General Election held November 6, 2012, the following:

1. Larry Tuttle was elected as Councilor for the City of Ontario.
2. Norm Crume was elected as Councilor for the City of Ontario.
3. Charlotte Fugate was elected as Councilor for the City of Ontario.

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

**PASSED AND ADOPTED** by the City Council of the City of Ontario this 3<sup>rd</sup> day of December, 2012, by the following vote:

AYES:

NAYES:

ABSENT:

**APPROVED** by the Mayor this 3<sup>rd</sup> day of December, 2012.

---

Joe Dominick, Mayor

**ATTEST:**

---

Tori Barnett, MMC, City Recorder



City of Ontario, Oregon  
*Certificate of Election*

State of Oregon                    )  
County of Malheur                )     ss.  
City of Ontario                    )

*I, Tori Barnett, hereby certify that I am the duly appointed and qualified City Recorder / Elections Official for the City of Ontario, Oregon; and*

*I further certify that having received the Abstract of Votes from the Malheur County Election Office, Norm Crume was duly and properly elected to the office of Ontario City Councilor, and is qualified to take the oath of office on January 7, 2013. Term of office will end December 31, 2016.*

*Witness my hand and City Seal  
this 3<sup>rd</sup> day of December 2012.*

\_\_\_\_\_  
*Tori Barnett, MMC  
City Recorder/Elections Official*

City of Ontario, Oregon  
***Certificate of Election***

State of Oregon            )  
County of Malheur        )     ss.  
City of Ontario            )

*I, Tori Barnett, hereby certify that I am the duly appointed and qualified City Recorder / Elections Official for the City of Ontario, Oregon; and*

*I further certify that having received the Abstract of Votes from the Malheur County Election Office, Charlotte Fugate was duly and properly elected to the office of Ontario City Councilor, and is qualified to take the oath of office on January 7, 2013. Term of office will end December 31, 2016.*

*Witness my hand and City Seal  
this 3<sup>rd</sup> day of December 2012.*

\_\_\_\_\_  
*Tori Barnett, MMC  
City Recorder/Elections Official*

City of Ontario, Oregon  
*Certificate of Election*

State of Oregon            )  
County of Malheur        )     ss.  
City of Ontario            )

*I, Tori Barnett, hereby certify that I am the duly appointed and qualified City Recorder / Elections Official for the City of Ontario, Oregon; and*

*I further certify that having received the Abstract of Votes from the Malheur County Election Office, Larry Tuttle was duly and properly elected to the office of Ontario City Councilor, and is qualified to take the oath of office on January 7, 2013. Term of office will end December 31, 2016.*

*Witness my hand and City Seal  
this 3<sup>rd</sup> day of December 2012.*

\_\_\_\_\_  
*Tori Barnett, MMC  
City Recorder/Elections Official*

**CONSENT AGENDA**  
November 19, 2012

TO: Mayor and City Council

FROM: Dan Shepard, Engineering Technician III

THROUGH: Robert Walker, Public Works Director

**SUBJECT: EASLY FAMILY TRUST – WATER LINE EASEMENT**

DATE: November 13, 2012

---

**SUMMARY:**

Attached is the following document:

- Easley Family Water Line Easement
- Location drawing of water line easement

In 2008, Four Rivers Community School opened their facility at SW 4<sup>th</sup> Avenue and SW 24<sup>th</sup> Street. A water line was constructed to provide fire service and potable water to the school. A portion of it was constructed across property owned by the Easley family. The Easley's agreed to allow construction of the water line due to the tight schedule for construction of the Community School. Water mains, fire hydrants and meters are to remain under control and jurisdiction of the city by right of way or easement. Getting the easements was complicated by one of the family members living in Canada. The easement has now been fully signed by the family and is being brought to the Council with a recommendation of acceptance from staff.

**BACKGROUND:**

Utility easements are very common for larger businesses. Having these easements in place also provides the business with adequate potable water and fire service.

**FINANCIAL IMPLICATIONS:**

None.

**RECOMMENDED MOTION:**

Staff has reviewed this easement and recommends the Council authorize the Mayor to be signatory to the attached Permanent Utility Easement for a Water Main and the City Recorder attest the Mayor's signature.

After Recording Return to:  
CITY OF ONTARIO  
444 SW 4<sup>th</sup> Street  
Ontario, Oregon 97914

**Water Line Easement**

KNOWN ALL MEN BY THESE PRESENTS, that **ANN EASLY DEBISSCHOP, WILLIAM EASLY, JOHN EASLY, RICHARD EASLY and JANET CRANFIELD**, Grantors, for good and valuable consideration paid to them from **CITY OF ONTARIO, a municipal organized and existing under and by virtue of the laws of the State of Oregon**, herein after called Grantee, has bargained, sold and by these presents does grant, bargain, sell and convey onto the Grantee and its successors and assigns, a perpetual easement over and across the following described property to construct or reconstruct, maintain, inspect, operate, protect, repair, replace, alter or remove a water line and associated apparatus thereto, through and over the following described real property:

THE WEST 35.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

Land in IRE ROSE ACREAGE TRACTS, City of Ontario, Malheur County, Oregon, according to the official Plat thereof, as follows:

Tract No. 2.  
EXCEPTING FROM said Tract No. 2 the East 290 feet of the South 230 feet thereof.

Together with all rights of ingress and egress necessary or convenient for the full rights and complete use, occupation and enjoyment of the rights and easements hereby granted.  
The Grantor herein agrees not to build, create or construct, or permit to be built, created or constructed, any obstruction, building, engineer works or other structures over or what would interfere with said utility lines, or Grantee's rights hereunder  
It is understood and agreed that in case suit or action is instituted to enforce or obtain compliance with any of the provisions hereof, then and in either of such events, the prevailing party shall be entitled to receive, in addition to its costs and disbursements, such sum as the court may adjudge as reasonable attorney's fees in such suit or action and on the appeal of any such suit or action.

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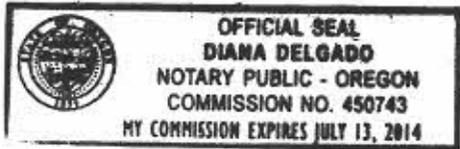
IN WITNESS WHEREOF the parties hereunto have set their hands and seals this 12<sup>th</sup> day of Oct 12, 2012.

Grantor:

William Easley  
WILLIAM EASLY

State of OREGON )  
County of Wasco ) ss.

The foregoing instrument was acknowledged before me this 12 day of October, 2012 by WILLIAM EASLY, in his capacity as owner.



[Signature]  
Notary Public for Oregon  
My Commission expires: July 13, 2014

CONTINUED



IN WITNESS WHEREOF the parties hereunto have set their hands and seals this 30 day of OCT, 2012.

Grantor:

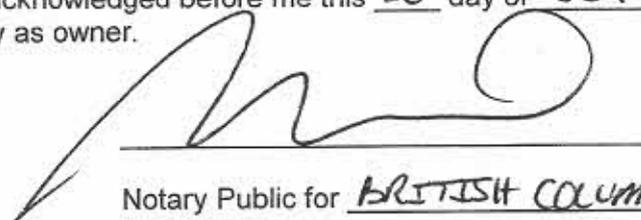
Janet Cranfield  
JANET CRANFIELD

PROVINCE  
State of BRITISH COLUMBIA

County of WESTMINSTER<sup>SS.</sup>

The foregoing instrument was acknowledged before me this 30 day of OCT, 2012, by JANET CRANFIELD, in the capacity as owner.

BRAD R. WAAL  
Notary Public  
9086 Young Road  
Chilliwack, BC V2P 4R5  
604-795-0070



Notary Public for BRITISH COLUMBIA

My Commission expires: PERMANENT COMMISSION

Grantee:

ATTEST:

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

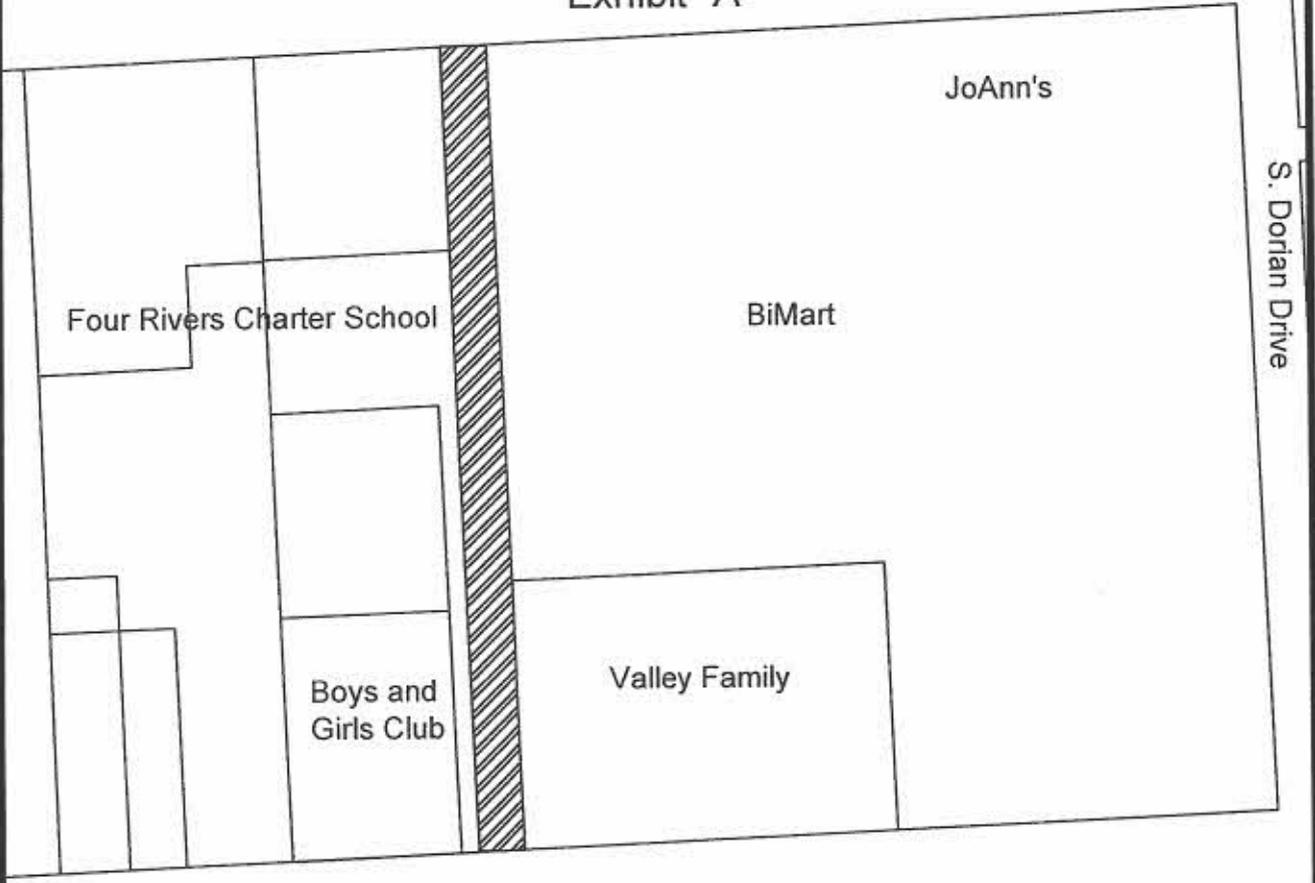
CITY OF ONTARIO

By:

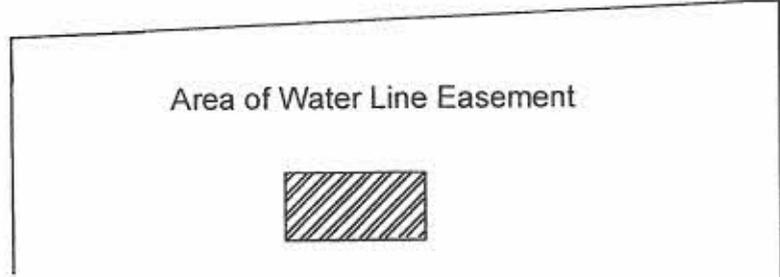
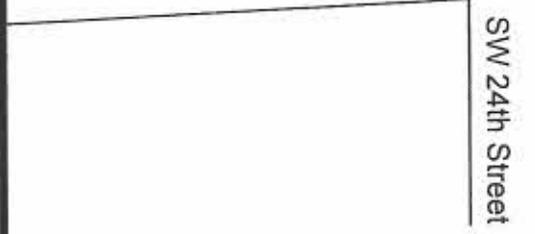
\_\_\_\_\_  
Mayor Joe Dominick

END

Easly Family  
Water Line Easement  
Exhibit "A"



SW 4th Avenue



Water Line Easement  
Land in Tract No. 2  
of Ire Rose Acreage Tracts,  
City of Ontario, Malheur County, Oregon