

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
December 6, 2010, 7:00 p.m., M.T.

1) Call to order

- A) Roll Call: Norm Crume ___ Charlotte Fugate ___ John Gaskill ___
Susann Mills ___ David Sullivan ___ Ron Verini ___
Joe Dominick ___

2) Pledge of Allegiance

This Agenda was posted on Wednesday, December 1, 2010, and a study session was held on Thursday, December 2, 2010. 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 11/15/2010 1-7
B) Ordinance #2653-2010: Request for Right-of-Way Vacation - Portion of SE 13th Street (Boyd Yee) - Final Reading 8-11
C) Meetings Calendar: January-June, 2011 12
D) Liquor License Application-Change of Ownership: El Erradero II 13
E) Resolution #2010-157: Abstract of Votes: November 2, 2010 General Election 14-24
F) 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) New Business

- A) Resolution #2010-156: Adding to the List of Prohibited Intoxicating Chemicals 25-27
B) Resolution #2010-158: Declaring Necessity and Intent for Acceptance of Road Right-of-Way from Poole Real Estate Corporation 28-33
C) Bid Award: 18" Force Mainline Repair Project to Titan Technologies, Inc. 34-35

7) Topics for Discussion: Thursday

- A) Police Chief Selection Process
B) Move to City Shop by Public Works Administration Department

8) Correspondence, Comments and Ex-Officio Reports

9) Executive Session: Thursday

- A) ORS 192.660(2)(f)

10) Adjourn

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

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made. T.D.D. available by calling 889-7266.

**COUNCIL MEETING MINUTES
November 15, 2010**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, November 15, 2010, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, John Gaskill, Susann Mills, David Sullivan, and Ronald Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Rachel Hopper, Chuck Mickelson, Dan Shepard, and camera operator Hailey Skinner.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

Council consensus to add Item10(B), an additional Executive Session under ORS 192.660(2)(e).

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

CONSENT AGENDA

Charlotte Fugate moved, seconded by Norm Crume, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 11/01/2010; Item B: Resolution #2010-151: Reallocation of Funds within the Aquatic Department to Complete Design Project for Facility Improvements; Item C: Resolution #2010-155: Accept/Expend JAG Grant (\$22,682); Item D: Ordinance #2652-2010: Decriminalizing the Ontario Municipal Code (Final Reading) and Item E: Approval of the Bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Nickie Hall, 1014 SW 4th Street, addressed the Council with a complaint and/or concern about her inability to pay her water bill and the City's intention to turn off her water the following day. She believes she and her brother both, have been harassed by the City, and further believes she is being prejudiced against. She indicated she is disabled with polio and cerebral palsy, and is struggling to get her finances in order. She has an overdue water bill, and lost her state funds last month. She anticipated getting the funds reinstated, but that wouldn't be until next month. She was looking for some help on this issue from the City Council.

Henry Lawrence stated he would get with staff in the morning to research the issue, and he would personally handle it.

NEW BUSINESS

Resolution #2010-153: Reallocation of Funds within East Idaho Transportation Project Department of Capital Projects Fund for City Share of East Idaho Avenue Phase I Improvements (STR-5)

Chuck Mickelson, Public Works Director, stated in 2009 the Council adopted a two-year budget that included project STR-5 East Idaho Avenue turn lanes in the amount of \$750,000. The Oregon Department of Transportation (ODOT) also needed to upgrade and resurface the highway between the Snake River and NE 4th Street due to significant rutting. In the mean time, the City and ODOT had been working together to identify one single project that would combine funding for construction, resurfacing and the upgrade of signals at the intersection of East Lane and East Idaho.

The Oregon Jobs and Transportation Act of 2009 Cooperative Improvement Agreement #26638 provided funding for preservation and modernization projects chosen by the Oregon Transportation Commission. In moving forward with this agreement with ODOT, the city's share of the project cost was estimated to be \$800,000.

The proposed resolution reduced the East Idaho Transportation Project Department contingency expense line item by \$50,000 and increased the STR-5 East Idaho Avenue expense line item by the same amount, leaving a balance of \$40,340 in the department's project contingency line item.

Susann Mills moved, seconded by John Gaskill, that the City Council adopt Resolution #2010-153, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE EAST IDAHO TRANSPORTATION PROJECT DEPARTMENT OF THE CAPITAL PROJECTS FUND FOR CITY SHARE OF EAST IDAHO AVENUE PHASE I IMPROVEMENT (STR-5). Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-154: Reallocation of Funds for Projects Relating to East Idaho Avenue, SW 2nd Street, SW 4th Avenue, and North Oregon as Funded through a Previous Jurisdictional Transfer

Chuck Mickelson, Public Works Director, stated the Oregon Department of Transportation (ODOT) Jurisdictional Transfer revenue of \$376,400 was inadvertently budgeted in the Street Fund when it should have been budgeted in the same fund as the Northwest Washington/North Oregon Corner Realignment Project (STR-6). The purpose of this agenda item was to obtain the approval of the City Council to correct the Street Fund and Capital Projects Fund budgets to reflect the original intention of the 2009-2011 Budget.

In October of 2009, the City of Ontario approved Amendment #1 to Agreement #23255 with ODOT that transferred ownership of portions of Northwest Washington to the City of Ontario. These funds were identified within the City's 2009-11 Biennial Budget as a revenue within the Street Fund. However, the expenditure budget for this project, the realignment and sidewalk work to be done by the City on Northwest Washington, adopted as project number STR-6 in the City's 2009-11 Biennial Budget, was within the Capital Projects Fund.

In order to correct this error, staff was proposing to move the \$376,400 budgeted revenue from the Street Fund to the Capital Project Fund for use in the Northwest Washington Realignment Project, matching the revenue and expense budgets for that project within the Capital Projects Fund.

To keep the Street Fund in balance following the proposed reduction in budgeted revenue, staff was further proposing that the Council adopt a budget adjustment that would allow for a transfer of a portion of the \$490,000 that was in Capital Projects available cash for the Washington/Oregon previously given to the City of Ontario by ODOT, and increase the ODOT STP Funds revenue budget.

The proposed changes were to correct and 'match' budgeted revenues or resources with project expense budgets. The proposal to increase the STP revenue budget would result in fewer funds being available to the City from ODOT for the next biennium as those funds would be requested in 2009-11.

Councilor Sullivan asked if this was a dollar for dollar replacement.

Rachel Hopper, Finance Director, stated, as shown in the resolution, it was an adjustment, but not dollar for dollar. There was a difference of \$65K, but the money was already there, so it was a wash.

Charlotte Fugate moved, seconded by Susann Mills, that the City Council adopt Resolution #2010-154, A RESOLUTION AUTHORIZING A CHANGE OF STREET FUND BUDGETED REVENUE FOR NW WASHINGTON TO THE CAPITAL PROJECTS FUND, AND AUTHORIZING A REALLOCATION IN CAPITAL PROJECTS FUND EXPENDITURES TO TRANSFER FUNDS TO THE STREET FUND FOR PROJECTS RELATING TO EAST IDAHO, SW 2ND STREET, SW 4TH AVENUE, AND NORTH OREGON AS FUNDED THROUGH A PREVIOUS JURISDICTIONAL TRANSFER. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Approval of Cooperative Agreement (#26638) between ODOT and City (HB2001) for Signal Upgrades and Lane Modifications at East Idaho and East Lane; Resurfacing of East Idaho Avenue (Highway 30) between the Snake River and NE 4th Street

Chuck Mickelson, Public Works Director, stated the Agreement allowed the City to partner with ODOT in combining funding to allow for the rehabilitation of East Idaho (ODOT responsibility) along with improvements to the Goodfellow and East Lane intersections (City responsibility). Conceptual presentations had been made to the Public Works Committee and the Council and all parties indicated informally to proceed. The proposed agreement formalized the relationship between ODOT and the City of Ontario.

During 2003-2004, the City hired the firm of Meyer Mohaddes Associates to prepare a traffic study for the "East Ontario Commercial Area." This study resulted in the recommendations for improvements to the roadway and intersections, as well as establishing fees per vehicle trip. During the 2005-2007 years, the City created Reimbursement District #3 and allocated \$167,500 from the Public Works Fund to be transferred to the Capital

Projects Fund for project design work thru Resolution 2005-138. In 2008-2009, ODOT requested the City take responsibility for maintenance of East Idaho Avenue from the Snake River to NE 4th Street. The City rejected this proposal and ODOT remained responsible for the structural integrity of that section of State Highway 30. In 2009, the Council adopted a two-year budget that included upgrades to East Idaho intersections in the amount of \$750,000 (STR 5).

The Oregon Jobs and Transportation Act of 2009 (HB 2001) provided funding for preservation and modernization projects chosen by the Oregon Transportation Commission. East Idaho Avenue between the Snake River and NE 4th Street had experienced significant rutting. The Oregon legislature allocated \$1.2 million to ODOT for resurfacing this state highway.

The City commissioned a traffic study in 2003 to identify improvements necessary to meet the increasing demand on East Idaho from the river to the freeway. Improvements recommended included adding turning lanes at East Lane and Goodfellow, adding an additional lane to East Idaho, and modifying the signals. The overall improvements had an estimated current cost of \$2.2M, which was significantly more than the city had collected. During peak traffic periods, eastbound traffic turning left onto East Lane into the Wal-Mart and Home Depot area, backed up to and through the Goodfellow intersection.

During the 2005-2007 Biennium, the City created a Reimbursement District after approving a Director's Report for the improvements along Goodfellow Street and East Idaho Avenue. The Council approved Resolution 2005-138, which allocated \$167,500 from the Public Works Fund toward the project with the anticipation of being repaid thru property owner reimbursements as they developed and accessed the improved areas. The \$167,500 was authorized to be expended for project engineering.

The City of Ontario had now collected a total of \$840,340.75 in traffic impact fees from developers in this area to pay for roadway improvements. The fees collected from Home Depot, Hometown Toyota, Taco Del Mar, Carl's Jr., Wal-Mart and Walgreens between 2005 and 2007 were placed into the Capital Project Fund and had been budgeted within the "East Idaho Transportation Project" Department for 2009-11 as Project STR-5. The \$167,500 from the Public Works Fund was also deposited into the Capital Projects Fund for the project. Project expenses were incurred following the creation of Reimbursement District No. 3 in the amount of \$147,675.84, leaving \$860,164.91 in project funds, plus interest earned on the fees collected.

Staff for both the City and ODOT were working collaboratively to identify a single project that would combine the funding for construction. The proposed project would allow staff to proceed with construction in 2011, which would include the resurfacing of East Idaho, as well as the modification of signals at the intersection of East Lane and East Idaho along with lane and striping modifications. This would improve the traffic flow into the Wal-Mart and Home Depot area and would be compatible with future upgrades of East Idaho when additional funding became available. There was a limited amount of right of way that needed to be acquired as well. ODOT staff was taking the lead in design of the project. The agreement also provided for the transfer of right of way from ODOT to the City for a portion of East Lane, Goodfellow and Tapadera. This transfer had been contemplated by both agencies for many years and would conclude that issue.

Questions that were asked during the October 14th work session were where was the City getting the difference between the \$800,000 and the \$796,020 which was in the account? In response, with the additional \$167,500 in project revenues set aside during the 2005-07 Biennium, the City had established that the project 'account' had \$860,164.91 plus interest earnings on the fees received. This was updated information from the \$796,020 figure provided earlier. Staff would not have to look elsewhere for project funding of the \$800,000. ODOT agreed to modify the agreement to allow the City to deposit funds in the Local Government Investment Pool (LGIP) where the City would receive interest on the deposits and allow ODOT to draw funds as they were expended. Additionally, the City had changed the funding requirement from an \$800,000 deposit to placing \$350,000 for engineering and right of way into the LGIP and then placing the balance in the LGIP upon bidding of the project.

Another question raised was that if the City collected money from Wal-Mart for street improvements when they first built, why weren't those funds used on the street improvement done at that time? In response, the scope of the changes was not fully defined at the time that Wal-Mart paid the fees. This project would benefit Wal-Mart and their patrons and set the stage for future improvements.

Question asked as to why the City was adding turn lanes on the Wal-Mart side of East Idaho, which would only benefit people coming from Idaho? What benefit was that to Ontario residents? Response was that the project included adding a turn lane and pedestrian island at the NE corner of East Lane and East Idaho. The island limited the distance for pedestrians to cross East Idaho, which was already substantial. Additionally, by modifying the signal sequencing and timing, there would be two left turns onto East Lane from East Idaho, thus eliminating or minimizing

the traffic that currently backed up to Goodfellow. This was a phased project and the improvements that were made today were compatible with the overall plan as additional funding became available in the future.

Question as to why the City wasn't improving the road though the mall that traveled beside Denny's parking lot prior to intersecting Goodfellow? It would appear that job should be eliminated. Staff agreed the jog should be eliminated; unfortunately, the City was not the owner of the right of way.

The 2009-2011 Biennial Budget included an estimated amount of available cash, without projected interest earnings, for the project of \$840,340 and the budgeted expenses included \$750,000 for the project and \$90,340 as contingency.

In reviewing the historical expenditures for the work around East Idaho and the Goodfellow intersection, it was determined that \$146,675.84 had been expended between 2005 and 2009 for what was proposed to be Reimbursement District #3 on Goodfellow and East Lane as authorized by the Council thru Resolution 2005-138. That same resolution authorized the transfer of funds from the Public Works Fund to the Capital Projects Fund in the amount of \$167,500.

During initial review of historical Capital Projects revenues and expenditures, the \$146,675.84 previously spent on Reimbursement District #3 was identified as expenditures for 'special projects' within the Capital Projects Fund, not the East Idaho Transportation Project. Accordingly, following finance staff research of expenditures, the project cash balance was reduced by the Reimbursement District #3 expenses; however, the additional revenue amount of \$167,500 was not identified as project revenues, leaving the project total short of the proposed agreement. That oversight had been corrected in the Capital Projects Fund schedules and the Reimbursement District #3 revenues and expenses had been recorded as activity on the East Idaho Transportation Project as follows:

East Idaho Transportation Project					
	Description	Revenues	Expenses	Sub-Total by Fiscal Year	Total Project Funds Available
2005-06	Project Design - Holladay Engineering	-	82,281.29	(82,281.29)	(82,281.29)
2006-07	Transportation Fees Collected	840,340.75	-	840,340.75	758,059.46
2006-07	Public Works Transfer Reso 2005-138	167,500.00	-	167,500.00	925,559.46
2006-07	Project Design - Holladay Engineering	-	25,330.52	(25,330.52)	900,228.94
2007-08	Project Design - Holladay Engineering	-	5,726.51	(5,726.51)	894,502.43
2008-09	Project Design - Holladay Engineering	-	34,337.52	(34,337.52)	860,164.91

Staff was proposing a budget adjustment and agreement approval that would encumber \$800,000 of the funds available for the project. The agreement, #26638, required the City to deposit the necessary funding to ODOT for the City's share of design and construction. The project would be designed to limit the cost to the City based on available funds. As requested by Council, a modification had been made to the contract, and was now reflected in the current contract before the Council.

Mayor Dominick confirmed that the \$1.2M would include grinding the roadway to the bridge?

Mr. Mickelson stated it would.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council approve Cooperative Improvement Agreement, No. 26638, between the City of Ontario and the State of Oregon, acting by and through its Department of Transportation, and as authorized by the Oregon Jobs and Transportation Act of 2009, also known as House Bill 2001, for signal upgrades and lane modifications at East Idaho and East Lane, and resurfacing of East Idaho Avenue (Highway 30) between the Snake River and NE 4th Street, and authorize the Mayor to sign this Agreement on behalf of the City. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC HEARING: 7:30pm

It being the date and time advertised for public hearing on the matter of Ordinance #2653-2010, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, no ex-parte contact declared, and no declarations of conflict of interest.

Dan Shepard, Engineering Technician III, stated Boyd Yee, owner of Wingers Restaurant, represented by his agent, Dan Cummings, approached the City to vacate a portion of SE 13th Street adjacent to his property.

On October 28, 2010, at the request of Dan Cummings, representing Boyd Yee, Council directed staff to schedule a public hearing for November 15, 2010 and to prepare a staff report for the vacation of a portion of SE 13th Street on the Council's own motion.

The right-of-way for the west side of SE 13th Street between SE 1st Avenue and Kendal Street was dedicated through the Waremart Commercial Subdivision plat. Along this same section of SE 13th Street, the east side of the street was constructed on Oregon Department of Transportation (ODOT) property. The City of Ontario's Transportation System Plan (TSP), November 1999, for the short-term project number 119 "SE 13th Street to Goodfellow Street," stated, "New local roadway to provide east-west connection in southeast Ontario. Will replace Kendal Street." Kendal Street provided a connection between Goodfellow and SE 13th Street that was part of the ODOT property that was adjacent to the south side of East Idaho Avenue. This project was accomplished when ODOT constructed a new office in January of 2003 and partitioned their property in February of 2005. With construction of SE 1st Avenue, the intersection at SE 13th Street and SE 1st Avenue was converted from a four-way to a three-way intersection. Pavement, curbs, and gutters north of this intersection was removed in anticipation of further development.

Oregon Revised Statute 271.130 read, "Vacation on council's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide."

Vacation of a right-of-way on the Council's own motion did not require the petition or consent of property owners. At the October 28th work session, Council members requested that Dan Cummings provide a signed statement from the Oregon Department of Transportation indicating they had no objection to the vacation of SE 13th Street. Mr. Cummings agreed to do so, further stating he would provide statements from each public utility approving the vacation as well as the consent of the owners of two-thirds of the property within the notification boundary of the proposed vacation. In staff's opinion, the vacation did not prejudice the public interest and recommended adoption of the ordinance.

Councilor Crume stated the petition had all the signatures, except for one, which was verbal. Would that be a problem?

Mr. Shepard stated the adjacent property owners had all signed, so even without the verbal signature, there were sufficient signatures (2/3) to move the project forward.

The Mayor opened the hearing for public testimony.

Opponents: None.
Proponents: None.

Glen Banner: Where exactly is the street?

Mr. Shepard showed Mr. Banner the map, outlining the proposed vacation between Walgreen's and Wingers.

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

Susann Mills moved, seconded by David Sullivan, that the City Council adopt Ordinance No. 2653-2010, AN ORDINANCE VACATING A PORTION OF THE STREET RIGHT OF WAY OF SE 13TH STREET BEING THE 30 FEET LAYING ADJACENT TO AND WEST OF THE EAST BOUNDARY OF LOT 1 OF THE WAREMART COMMERCIAL SUBDIVISION PLAT TO THE CITY OF ONTARIO, MALHEUR COUNTY, OREGON, on First Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Approval of Amendment #1 to Misc. Contracts and Agreements (#26720) between ODOT and City for Fund Distribution for NW Washington Avenue Realignment (HB 2001)

Chuck Mickelson, Public Works Director, stated the Oregon Jobs and Transportation Act of 2009 provided funding for preservation and modernization projects chosen by the Oregon Transportation Commission. During the planning for the Yturri Beltline and the North Ontario Interchange, discussion was held on the realignment of Northwest Washington Avenue. Agreement #26720 provided \$4.5 million for the completion of design, acquisition of right of way and construction of a realigned Northwest Washington to North Oregon and the extension of Park Boulevard to the recently acquired city property.

One clause in the original agreement that would control the schedule on the project was in Paragraph 5, which read *"The Agreement is contingent upon issuance and sale by the State Treasurer, of the bonds authorized by Section 61 of House Bill 2001, 2009 Legislative Assembly (Oregon Laws 2009, Chapter 865) in an amount sufficient to fund this Project. The Agreement is effective and work may begin upon execution of this Agreement, but ODOT's obligation to make Project payments is contingent upon the issuance and sale of such bonds. ODOT will notify Agency when such sale has occurred and the JTA funds are available."* The amendment removed this restrictive clause and allowed the City to proceed forward with the project.

In 2001, ODOT and Ontario entered into Agreement #697 where Ontario accepted maintenance responsibility for West Idaho, including the underpass, SW 2nd Street, SW 4th Avenue, and North Oregon Street. ODOT agreed to pay the City \$490,000 for future maintenance of these facilities, and the agreement superseded prior agreements made in 1975 and 1979. All right, title and interest in the above mentioned streets would be transferred to Ontario upon completion of the Yturri Beltline. The agreement addressed various other elements including underpass lighting system maintenance, traffic signal maintenance, signage, snow removal and power costs for signals. In 2006- 2007, the Council approved a project to realign Northwest Washington to North Oregon. In 2007, the City hired the firm of CH2M Hill to prepare plans and specifications for this project. Funding for the acquisition of right of way and construction of the realignment was not clearly identified at that time. In October 2009, Resolution 2009-126 approved Amendment #1 with ODOT to the Miscellaneous Agreement #23255 also known as Cooperative Agreement OR 201 North Ontario Interchange Bridge #08635, an agreement transferring Northwest Washington to the City of Ontario. In return, ODOT paid the City of Ontario \$375,200 for the realignment of the intersection of Northwest Washington and North Oregon and the construction of curb, gutter and sidewalks along Northwest Washington. In July 2010, the Council approved ODOT Agreement #26720 which accepted \$4.5 million for the design, right of way acquisition and construction of NW Washington subject to a number of conditions.

Since the early 1990's ODOT and Ontario had been discussing various transportation related issues within and adjacent to the City. During this period of time, ODOT had reconstructed East Idaho, rebuilt the overpass over I-84, reconstructed the freeway ramps leading to East Idaho, constructed the Yturri Beltline bypass around the City, reconstructed the North Oregon overpass and ramps, constructed an overpass over the railroad on SW 18th Avenue and other miscellaneous projects. As noted above, in 2001 Ontario formally agreed to take maintenance and operational responsibility for West Idaho, the railroad underpass, SW 2nd Street, SW 4th Avenue, and North Oregon Street.

Resolution 2009-126 provided for Ontario to take responsibility for Northwest Washington Street from North Oregon to the Yturri Beltline, which was about 1,500 feet in length upon completion of the realignment of NW Washington. The following significant issues were addressed in the amendment: ODOT contributed \$375,200 to the City for improvements or realignment. Should the City not use these funds for the Northwest Washington improvements or realignment, they were to be returned to ODOT; the City accepted responsibility for all maintenance, power costs and repair responsibilities over this section of roadway; and ODOT retained access control on the transferred right of way.

The proposed amendment authorized the City to proceed with the project and provided for reimbursement of expenses up to \$4.5 million for finalizing the design, acquisition of right of way and construction of the realignment of Northwest Washington and construction of Park Boulevard to the city property. In addition, the City could use the \$375,200 previously forwarded to the city for sidewalk construction and curve realignment. The agreement provided \$4,875,200 for the realignment of Northwest Washington. Primary expenses for the City included the costs for new sewer and water lines that are necessary to serve the area.

Councilor Crume asked for an estimated timeline.

Mr. Mickelson stated he believed the earliest the construction could begin, in his opinion, was 2012.

John Gaskill moved, seconded by Ron Verini, that the Mayor and City Council approve Amendment #1 to Agreement #26720 and authorize the Mayor to sign this amendment. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Verini stated tomorrow, November 16th, in Washington, DC, SSG Giunta, the first living soldier to receive the Medal of Honor since Vietnam, would receive the award by President Obama for his rescue of Sgt Josh Brennan in the Valley of Death in Afghanistan. Sadly, Sgt Brennan, a local from this area, died on the operating table. Sgt Brennan's mother, Janice Gates, would be in DC tomorrow giving support to SSG Giunta as he received the Medal.
- Mayor Dominick asked everyone to submit their City Manager evaluations to either Councilor Mills or himself to provide to Henry Lawrence.
- Mayor Dominick thanked Senator Wyden for his visit to Ontario last week.
- Mayor Dominick reminded everyone of the tree lighting ceremony scheduled for December 4th, at 6:00 p.m., which would have fireworks and Santa Clause. The event would take place after the Winter Wonderland Parade, which was set to begin at 1:00 p.m.

EXECUTIVE SESSIONS

Executive Session: ORS 192.660(2)(h)

An executive session was called at 7:58 p.m. under provisions of ORS 192.660(1)(h) to discuss current, potential or pending litigation; out at 8:17 p.m.

Executive Session: ORS 192.660(2)(e)

The Council convened into Executive Session under ORS 192.660(2)(e) at 8:17 p.m. to discuss real property; out at 8:37 p.m. to reconvene into regular session.

ADJOURN

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

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

CONSENT AGENDA
December 6, 2010

TO: Mayor and City Council

FROM: Dan Shepard, Engineer Technician III

THROUGH: Henry Lawrence, City Manager

SUBJECT: ORDINANCE #2653-2010 FOR RIGHT OF WAY VACATION – PORTION OF SE 13TH STREET - FINAL READING

DATE: November 29, 2010

SUMMARY:

Attached is the following document:

- Ordinance #2653-2010

Proposed Ordinance #2653-2010 will vacate by Council's own motion a portion of the SE 13th Street right of way adjacent to the Wingers Restaurant lot located on SE 1st Avenue. The vacated right of way will be combined with the Wingers Restaurant lot as per ORS 271.140. There will be a 20-foot wide easement maintained for public utilities. There have been no remonstrances to the vacation of this right of way.

PREVIOUS COUNCIL ACTION:

November 15, 2010 Council passed Ordinance #2653-2010 on 1st reading.

STAFF RECOMMENDATION:

Staff recommends the Council adopt Ordinance #2653-2010, an ordinance for right of way vacation of a portion of SE 13th Street, on Second and Final Reading.

ORDINANCE #2653-2010

AN ORDINANCE VACATING A PORTION OF THE STREET RIGHT OF WAY OF SE 13TH STREET BEING THE 30 FEET LAYING ADJACENT TO AND WEST OF THE EAST BOUNDARY OF LOT 1 OF THE WAREMART COMMERCIAL SUBDIVISION PLAT TO THE CITY OF ONTARIO, MALHEUR COUNTY, OREGON

WHEREAS, The Ontario City Council held a public hearing at 7:30 p.m. on November 15, 2010, in the City Council Chambers concerning the proposed vacation of the street right of way being the portion of SE 13th Street on the east boundary of 1255 SE 1st Avenue and is described as being the west 30 feet of right of way of S E 13th Street on the east boundary of lot 1 of the Waremart Commercial Subdivision Plat to the City of Ontario, Malheur County, Oregon; and

WHEREAS, Hearing no objections to the proposed vacation at said public hearing, the Common Council found that the vacation of said property will not prejudice the public interest.

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

The following described street right-of-way is hereby vacated:

Land in the City of Ontario according to the Official Plat of WAREMART COMMERCIAL SUBDIVISION to the City of Ontario, Oregon being that portion of the West Half of SE 13th Street that lies North of the Intersection of SE 13th Street and SE 1st Court and SE 1st Avenue, South of the North Line of Lot 1 of WAREMART COMMERCIAL SUBDIVISION as recorded under Instrument No. 96-48810 (see Exhibit "B") and West of Parcel 1 of Partition Plat 2005-6, Instrument No. 2005-1866 (see Exhibit "C") more particularly described as follows:

Beginning at the NE corner of Said Lot 1 of said Waremart Commercial Subdivision; thence N.89° 49' 40"E., coincident with the North Boundary of said Subdivision 30.00 feet to a point on the East Boundary of said Subdivision and the West Boundary of said Parcel 1 of Partition Plat 2005-6; thence S.00° 10' 20"E., coincident with said Boundary line of said Subdivision and Partition, 223.14 feet more or less to the SW corner of said Parcel 1 of Partition Plat 2005-6; thence S.84° 49' 02"W., 55.29 feet to a Southeasterly corner of said Lot 1 of Waremart Commercial Subdivision; thence on a curve to the left, coincident with said Easterly Boundary of said Lot 1, a distance of 39.35 feet, whose radius is 25.00 feet, with a long chord that bears N.44° 55' 00"E., for 35.41 feet; thence N.00° 10' 20"W., a distance of 202.97 feet to the Point of Beginning.

With the following reservations:

- A 20-foot wide utility easement for public utilities; and
- Free and unhindered ingress and egress necessary for the operation, inspection, repair or replacement, alteration, and protection of public utilities in the easement; and
- No structure other than for utility purposes shall be erected within the limits of the easement; and
- Property owner is responsible for the removal and replacement of any fence, asphalt, concrete, landscaping irrigation or other ancillary improvements associated in the conditions listed in item 2.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of November, 2010.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the Mayor this _____ day of November 2010.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

MEETINGS LIST JANUARY THROUGH JUNE, 2011

JAN	3	Council Meeting	7:00 pm	City Hall
	5	Police Board	12 Noon	City Hall
	6	V&C Board	7:00 am	Holiday Inn
	10	Airport Committee	7:00 pm	Airport
	10	Planning Commission	7:00 pm	City Hall
	11	Golf Committee	5:30 pm	Golf Course
	13	Council Work Session	12:00 Noon	City Hall
	18	(TUE) Council Meeting	7:00 pm	City Hall
	19	Recreation Board	3:30 pm	City Hall
	20	Public Works Committee	3:00 pm	City Hall
FEB	2	Police Board	12 Noon	City Hall
	3	V&C Board	7:00 am	Holiday Inn
	3	Council Work Session	12 Noon	City Hall
	7	Council Meeting	7:00 pm	City Hall
	8	Golf Committee	5:30 pm	Golf Course
	14	Airport Committee	7:00 pm	Airport
	14	Planning Commission	7:00 pm	City Hall
	16	Recreation Board	3:30 pm	City Hall
	17	Council Work Session	12 Noon	City Hall
	17	Public Works Committee	3:00 pm	City Hall
	22	(TUE) Council Meeting	7:00 pm	City Hall
MAR	2	Police Board	12 Noon	City Hall
	3	V&C Board	7:00 am	Holiday Inn
	3	Council Work Session	12 Noon	City Hall
	7	Council Meeting	7:00 pm	City Hall
	8	Golf Committee	5:30 pm	Golf Course
	14	Airport Committee	7:00 pm	Airport
	14	Planning Commission	7:00 pm	City Hall
	16	Recreation Board	3:30 pm	City Hall
	17	Council Work Session	12 Noon	City Hall
	17	Public Works Committee	3:00 pm	City Hall
	21	Council Meeting	7:00 pm	City Hall
	31	Council Work Session	12 Noon	City Hall
APR	4	Council Meeting	7:00 pm	City Hall
	6	Police Board	12 Noon	City Hall
	7	V&C Board	7:00 am	Holiday Inn
	11	Airport Committee	7:00 pm	Airport
	11	Planning Commission	7:00 pm	City Hall
	12	Golf Committee	5:30 pm	Golf Course
	14	Council Work Session	12 Noon	City Hall
	18	Council Meeting	7:00 pm	City Hall
	20	Recreation Board	3:00 pm	City Hall
	21	Public Works Committee	3:00 pm	City Hall
28	Council Work Session	12 Noon	City Hall	
MAY	4	Police Board	12 Noon	City Hall
	5	V&C Board	7:00 am	Holiday Inn
	5	Council Work Session	12 Noon	City Hall
	9	Council Meeting	7:00 pm	City Hall
	10	Golf Committee	5:30 pm	Golf Course
	16	Airport Committee	7:00 pm	Airport
	16	Planning Commission	7:00 pm	City Hall
	18	Recreation Board	3:30 pm	City Hall
	19	Council Work Session	12 Noon	City Hall
	19	Public Works Committee	3:30 pm	City Hall
23	Council Meeting	7:00 pm	City Hall	
JUN	1	Police Board	12 Noon	City Hall
	2	V&C Board	7:00 am	Holiday Inn
	2	Council Work Session	12 Noon	City Hall
	6	Council Meeting	7:00 pm	City Hall
	13	Airport Committee	7:00 pm	Airport
	13	Planning Commission	7:00 pm	City Hall
	14	Golf Committee	5:30 pm	Golf Course
	15	Recreation Board	3:30 pm	City Hall
	16	Council Work Session	12 Noon	City Hall
	16	Public Works Committee	3:30 pm	City Hall
	20	Council Meeting	7:00 pm	City Hall
30	Council Work Session	12 Noon	City Hall	

CONSENT AGENDA
DECEMBER 6, 2010

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

**SUBJECT: LIQUOR LICENSE APPLICATION – CHANGE OF OWNERSHIP
FULL ON-PREMISES SALES COMMERCIAL ESTABLISHMENT
(EL ERRADERO II)**

DATE: November 29, 2010

SUMMARY:

Roberto Arceo, owner of El Erradero II, located at 1269 SW 4th Avenue, Ontario, Oregon, has completed the “Change of Ownership” application process for “Full On-Premises Sales / Commercial Establishment” liquor license privilege through the Oregon Liquor Control Commission. They are moving from “Individual” to “Corporation” under the name Arceo Restaurant Company Inc..

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 owners/managers Roberto Arceo-Sanchez and Elvira Arceo, which returned clear. The business will continue to operate under the name El Erradero II. The application forms have been filled out appropriately and required fees have been paid. All Permit requirements have been met.

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 Change of Ownership / Full On-Premises Sales Commercial Establishment liquor license for El Erradero II.

CONSENT AGENDA
December 6, 2010

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Henry Lawrence, City Manager

SUBJECT: **RESOLUTION 2010-157: ACCEPTING THE ABSTRACT OF VOTES FOR THE NOVEMBER 6, 2010 GENERAL ELECTION**

DATE: November 24, 2010

SUMMARY:

Attached are the following documents:

- Resolution #2010-157
- 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 2, 2010, an election was held for the positions of Mayor and 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 2010 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 2010-157 adopting the Abstract of Votes for the November 2, 2010 General Election.

RESOLUTION #2010-157

**A RESOLUTION ACCEPTING THE ABSTRACT OF VOTES FOR THE
NOVEMBER 6, 2010 GENERAL ELECTION**

WHEREAS, at a general election held in the State of Oregon on November 6, 2010, in the City of Ontario, Oregon, there was submitted to the voters the candidates for office of Mayor and City Councilor; and

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

MAYOR	TOTAL VOTES CAST
Joe Dominick	1514
Mike Clason	465

COUNCILOR	TOTAL VOTES CAST
Ronald Verini	1247
Dan Jones	1539

COUNCILOR	HIGHEST WRITE IN VOTES
Jackson Q. Fox	93

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council that at the General Election held November 6, 2010, the following:

1. Joe Dominick was elected as Mayor for the City of Ontario.
2. Ronald Verini was elected as Councilor for the City of Ontario.
3. Dan Jones was elected as Councilor for the City of Ontario.
4. Jackson Q. Fox received the highest number of write-in votes for the position of 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 6th day of December, 2010, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this 6th day of December, 2010.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder



Malheur County Clerk

Deborah R. DeLong

251 'B' Street West
Courthouse Box 4
Vale, Oregon 97918

Phone 541-473-5151
Fax 541-473-5523
E-mail ddelong@malheurco.org

*Real Estate Recording
Probate Records
Elections*

DATE: November 17, 2010

TO: City of Ontario

FROM: Gayle V. Trotter, Malheur County Election Deputy
Deborah R. DeLong, Malheur County Clerk

RE: Write-in winners

Enclosed please find your Official Abstract for the November 2, 2010 General Election.

The write-in winner for the third council position was Jack Q. Fox. We have a registered voter under the name of "Jackson Q. Fox" who resides at 2051 W Idaho Ave, Ontario, since 2008. The mailing address of this voter is PO Box 305, Ontario OR 97914.

Office or Measure

City of Ontario
Mayor
Councilor

County

Malheur

Election

November 2, 2010

General Election

Precinct	Mayor (4yr term), Vote for 1 Joe Dominick	Write-ins	Overvotes	Undervotes	Councilor (4yr term) Vote for 3 Ronald Verini	Dan Jones	Write-ins - See Attached sheets for Individuals	Overvotes	Undervotes
1 - Ontario 1	411	143	0	153	345	434	94	0	1248
2 - Ontario 2	375	69	0	114	268	337	64	3	1002
3 - Ontario 3	330	130	0	127	306	356	75	0	1024
4 - Ontario 4	398	123	0	157	328	412	94	0	1200
5 - Applegate									
3 - Fair/Ontario Heights					Write-in Winner				
7 - Butte/Cairo					Jack Q. Fox - 93				
3 - City of Nyssa									
3 - Rural Nyssa									
10 - City of Adrian									
11 - Rural Adrian									
12 - City of Vale									
13 - South Rural Vale									
14 - North Rural Vale									
15 - Willowcreek									
16 - Brogan									
17 - Ironside									
18 - Harper									
19 - Juntura									
20 - City of Jordan Valley									
21 - Rural Jordan Valley									
22 - Arock									
23 - McDermitt									
24 - Annex/Huntington/ Farewell Bend									
TOTAL	1514	465	0	551	1247	1539	327	3	4474

STATE OF OREGON
ABSTRACT OF VOTES

1. President
2. National Conventions
3. Delegates at Large
4. Delegates - Districts
5. U. S. Senator and Congressperson
6. State Offices
7. Judicial Offices
8. State Senators
9. State Representatives
10. Others

I certify the votes recorded on this abstract correctly summarize the tally of votes at the election indicated.

Signature of County Clerk
Alvin R. DeLong

Date of Abstract
11/15/10

ABSTRACT OF VOTE AT GENERAL AND SPECIAL ELECTIONS

ABSTRACT OF VOTES AT PRIMARY ELECTIONS

Votes cast for governor must be on separate page or pages (ORS 254.545).

Separate sheets for Democratic, Republican, Nonpartisan and other candidates.
Separate sheets for candidates for city/county (including precinct) and state offices.

City of Ontario
November 2, 2010

Write-ins for Councilor
Precinct

Name	1-Ont	2-Ont	3-Ont	4-Ont	Totals
Jack Q. Fox	34	5	21	33	93
Mike Clason	5	2	1	7	15
John Gaskill	2	4	3	5	14
Donald Obrien Jr			7		7
Don Obrien				5	5
Donald Obrian	2				2
Michael Jones		7			7
Michael A. Jones				5	5
Susann Mills			2		2
Susan Mills		1			1
Suzanne Mills	1	4			5
Riley Hill	1			4	5
Mark Cornwell	1	2	2		5
Larry Tuttle	3			1	4
Ray Dickerson	2		1	1	4
Ronald Olsen			4		4
Norm Crum	1				1
Norm Crume		2			2
Ann Schiemer			2	1	3
Charlene Pelland			3		3
Charles A Sokolik		3			3
Clinton L. Smith	2		1		3
Lewie W. Allen				3	3
Megan Cook		2	1		3
Ron Johnson				3	3
Cheryl Cruson		2			2
Dale Hicks			2		2
David Armstrong		2			2
Don Hatt				2	2
Henry Hixson				2	2
Jack Freeze	2				2
Jack Frost	2				2
James H. Jones	2				2
Jay Wettstein	2				2
Joe Dominick	2				2
John Taggart			2		2
Kent Bowers	2				2
Leroy Cammack		2			2
Mike Drummond				2	2
Peter Campbell	2				2
Ralph Poole	2				2
Randall Jensen	2				2
Richard Harriman				2	2
Sue Irland			2		2
Terry Mairs			2		2
Al Hicks	1				1
Alfred E. Newman			1		1
Ann Easley Debisschop	1				1
Ben Plaza			1		1
Bill Doman	1				1
Bill Dunn				1	1
Billy Carter			1		1
Brian Beck	1				1
Bruce B. Hunt Jr	1				1
Charlotte Fugate				1	1
Craig Carter				1	1
Daniel Chudleigh	1				1
David Sullivan	1				1
Dexter Yee				1	1
Don Dalton	1				1
Douglas Dean			1		1
Ed Jones	1				1
Ernie Van Matre				1	1
Francisca Barrados		1			1
G. Gale		1			1

14
12 Micheal A. Jones
8
3



Deborah R. Allaug

City of Ontario, Write-ins for Councilor
November 2, 2010

Gale Hayes		1		1
Gary Fugate			1	1
Glen Schoeneman			1	1
Glenn Banner	1			1
Greg Alexander			1	1
Greg Mattke		1		1
Hope Martinez		1		1
James M. Richardson III		1		1
Jim Eastwood			1	1
John Kirby			1	1
John McDonough			1	1
John R. Franklin	1			1
Jose Delgado			1	1
Josh West			1	1
Kathy Wiegand		1		1
Ken Blackburn	1			1
Kevin Decoria			1	1
Kevin Griffin			1	1
Krista Hobbs			1	1
Larry E. Lane		1		1
Larry Matsumura		1		1
Larry Sullivan		1		1
LaVelle Cornwell			1	1
Lee Sesker			1	1
Linda Jo Feeley			1	1
Luke Hayes			1	1
Mara Slinker			1	1
Mark Saito		1		1
Max Mills		1		1
Michelle Grimaldo	1			1
Mike Creasy			1	1
Mike Hollenbeck	1			1
Mike Miller			1	1
Mike Widmer			1	1
Nancy Poole		1		1
Ray Hartley		1		1
Robert Hanson			1	1
Robert Pratt			1	1
Roger Kapatrick			1	1
Rush Hursh		1		1
Shirley A. Mathews			1	1
Steve Marker	1			1
Tamra Powell		1		1
Ted Reuter		1		1
Ted Wheeler		1		1
Todd Harden			1	1
Valentino Flores		1		1
Wayne Burzota			1	1
William Z Thomson		1		1
Xavier Lobeto			1	1

No Write-ins/blank	1	4		5
Fictious Names		2		2
Tom Hanks	2			2
George Clooney	2			2
Steven Spielberg	2			2
Elmer Fudd			1	1

94 64 75 93 326



Alboran R. McLaugh

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, Ronald Verini was duly and properly elected to the office of Ontario City Councilor, and is qualified to take the oath of office on January 3, 2011. Term of office will end December 31, 2014.

*Witness my hand and City Seal
this 29th day of November 2010.*

Tori Barnett

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, Dan Jones was duly and properly elected to the office of Ontario City Councilor, and is qualified to take the oath of office on January 3, 2011. Term of office will end December 31, 2014.

*Witness my hand and City Seal
this 29th day of November 2010.*



*Tori Barnett, MMC
City Recorder*



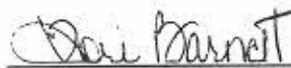
City of Ontario, Oregon
Certificate of Election

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, Joe Dominick was duly and properly elected to the office of Ontario City Mayor, and is qualified to take the oath of office on January 3, 2011. Term of office will end December 31, 2014.

*Witness my hand and City Seal
this 29th day of November 2010.*



*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, Jackson Q. Fox duly and properly received the largest number of write-in votes for the office of Ontario City Councilor. Following completion of the statutorily required Write-In Candidate Acceptance Form, SEL 141, received in the Recorder's Office on November 30, 2010, he is qualified to take the oath of office on January 3, 2011. Term of office will end December 31, 2014.



*Witness my hand and City Seal
this 30th day of November 2010.*

Tori Barnett

Tori Barnett, MMC
City Recorder

AGENDA REPORT
December 6, 2010

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION 2010-156: ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS

DATE: November 24, 2010

SUMMARY:

Attached is the following document:

- Resolution #2010-156

The proposed resolution would add to the list of prohibited intoxicating chemicals established under Ordinance #2651-2010. Section 1 (B) of the ordinance allows additional intoxicating chemicals to be added by resolution.

PREVIOUS COUNCIL ACTION:

October 4, 2010 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 businesses selling or opening to sell synthetic cannabis, more commonly known as “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 such a substance, Mephedrone. It is also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone and 3,4-Methylenedioxypropylvalerone (MDPV). Mephedrone is a synthetic stimulant of the amphetamine and cathinone classes.

Mephedrone is reportedly manufactured in China and is chemically based on the cathinone compounds found in the khat plant of eastern Africa. Mephedrone comes in the form of tablets or powder, which users can swallow, snort, or inject, producing similar effects to amphetamines and cocaine. It is packaged and sold as plant food and bath salt under names such as Ivory White, Vanilla Sky and Purple Wave.

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

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

- Mephedrone (2-methylamino-1-*p*-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone; and
- 3,4-Methylenedioxypropylvalerone (MDPV).

STAFF RECOMMENDATION:

Staff recommends the Council approve Resolution 2010-156.

PROPOSED MOTIONS:

I move that the Mayor and City Council approve Resolution 2010-156, **A RESOLUTION ADDING TO THE LIST OF PROHIBITED INTOXICATING CHEMICALS.**

RESOLUTION # 2010-156

**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; and

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:

Mephedrone (2-methylamino-1-*p*-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone; and

3,4-Methylenedioxyprovalerone (MDPV).

Effective Date: Immediately upon passage.

Passed and adopted by the Ontario City Council this ____ day of December 2010.

Ayes:

Nays:

Absent:

Approved by the Mayor this ____ day of December 2010.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

AGENDA REPORT
December 6, 2010

To: Mayor and Council

FROM: Dan Shepard, Engineering Technician III

THROUGH: Henry Lawrence, City Manager

SUBJECT: **RESOLUTION #2010-158: DECLARING THE NECESSITY AND INTENT FOR ACCEPTANCE OF ROAD RIGHT OF WAY FROM POOLE REAL ESTATE CORPORATION**

DATE: November 29, 2010

Summary:

- Resolution No. 2010-158
- Attachment "A" Street Right of Way Easement & Exhibit "A"
- Location Map

As a part of the PC Energy development along SE 6th Avenue near the railroad crossing, they were requested to donate the right of way for SE 6th Avenue adjacent to their development.

Previous Council Action:

None

Background:

During the building permit review process for the PC Energy development, it was noted that there was no right of way dedication for SE 6th Avenue at the railroad crossing. Properties on each side of SE 6th Avenue own to the centerline of the street. PC Energy was requested to donate 35 feet of right of way that would become the south half of SE 6th Avenue. With the construction completed on the PC Energy project, the right of way acceptance is being brought before the City Council.

Financial Implications

None.

Recommendations:

Staff recommends the adoption of Resolution #2010-158.

Proposed Motion:

I move the Mayor and City Council adopt Resolution #2010-158, **A RESOLUTION DECLARING THE NECESSITY AND INTENT FOR ACCEPTANCE OF ROAD RIGHT OF WAY FROM POOLE REAL ESTATE CORPORATION.**

RESOLUTION 2010-158

**DECLARING THE NECESSITY AND INTENT FOR ACCEPTANCE OF ROAD
RIGHT OF WAY FROM POOLE REAL ESTATE CORPORATION**

WHEREAS, The City of Ontario has requested right of way donation for SE 6th Avenue from the Poole Real Estate Corporation at the PC Energy development; and

WHEREAS, SE 6th Avenue is constructed on property not yet accepted as road right of way; and

WHEREAS, Poole Real Estate Corporation has agreed to donate 35 feet of property from their PC Energy development to be used as road right of way, and

WHEREAS, It is necessary to accept this property as road right of way.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following:

1. The Ontario City Council finds that it is necessary, desirable and in the public interest to accept this property as road right of way.
2. The Mayor is hereby authorized and directed to sign the Deed Of Dedication from Poole Real Estate Corporation, in consideration of the sum of zero dollars, for road right of way.

EFFECTIVE DATE: Effective immediately upon passage.

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

Ayes:

Nays:

Absent:

APPROVED by the Mayor this _____ day of _____, 2010.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

After Recording Return To:

City of Ontario
444 SW 4th Street
Ontario, OR 97914

STREET RIGHT OF WAY EASEMENT

POOLE REAL ESTATE CORP. an Oregon Corporation, Grantor, does grant to the CITY OF ONTARIO, OREGON, Grantee, its successors and assigns, a permanent street right of way easement to construct, reconstruct, repair, and maintain a public street and its appurtenances and facilities, and also to construct and maintain sanitary and storm sewers, water, gas, electric and communication service lines, fixtures and facilities, and appurtenances therefore, upon, over, under and across the property described on Exhibit "A" attached hereto and by this reference made a part hereof.

Grantor covenants to and with Grantee, its successors and assigns, that Grantor is the owner of the property described in Exhibit "A" and will warrant the easement rights herein granted from all lawful claims whatsoever.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property or property rights. However, the consideration does not include damages resulting from any use or activity by Grantee beyond or outside of those uses expressed herein, if any, or damages arising from any negligence.

As consideration for this transfer, property or other value was either part or the whole consideration.

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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated this _____ day of _____, 201__.

Grantor: POOLE REAL ESTATE CORP, an Oregon corporation

By: _____

Title: _____

STATE OF OREGON)
) ss.
County of Malheur)

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by RALPH POOLE, POOLE REAL ESTATE CORP.

Notary Public for the State of Oregon
My Commission expires: _____

Accepted by the City of Ontario, Oregon.

CITY OF ONTARIO, OREGON

By: _____
Henry Lawrence, City Manager

Attest: _____
Tori Barnett, City Recorder

EXHIBIT "A"

RIGHT OF WAY EASEMENT

(Tax Lot 3990, 18S4710BC)

THE NORTH 35.00 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

A Parcel of Land situated in the SW1/4NW1/4 of Section 10, Twp. 18 S., R. 47 E., W.M., City of Ontario, Malheur County, Oregon, bounded and described as follows:

Commencing at the intersection of the centerline of South Oregon Street with the centerline of Southeast Sixth Avenue;

thence along said centerline of Southeast Sixth Avenue, S.77° 35' 00" E., 317.93 feet to the Northeast corner of a parcel of land as conveyed by Union Pacific Land Resources Corp. to Western Stockmen's Inc. by Bargain and Sale Deed recorded under Instrument No. 89-38424, said corner being 158.50 feet normally distance northwesterly from the centerline of the main track of Union Pacific Railroad Company (formerly the Oregon Shortline Railroad Company), as now constructed and operated, said corner being the POINT OF BEGINNING;

thence continuing along said centerline of Southeast Sixth Avenue, S. 77° 35' 00" E., 37.50 feet to a point that is 121.00 feet normally distance northwesterly from said centerline main track;

thence parallel with said centerline, S. 12° 25' 00" W., 584.00 feet;

thence perpendicular to said centerline main track N. 77° 35' 00" W., 37.50 feet;

thence parallel to said centerline main track N. 12° 25' 00" E., 15.73 feet to the southeast corner of a parcel of land as conveyed by Union Pacific Land Resources Corp. to Norm Poole Oil, Inc. by Quitclaim deed recorded under Instrument No. 85-348, said point being 158.50 feet normally distance northwesterly of said centerline main track;

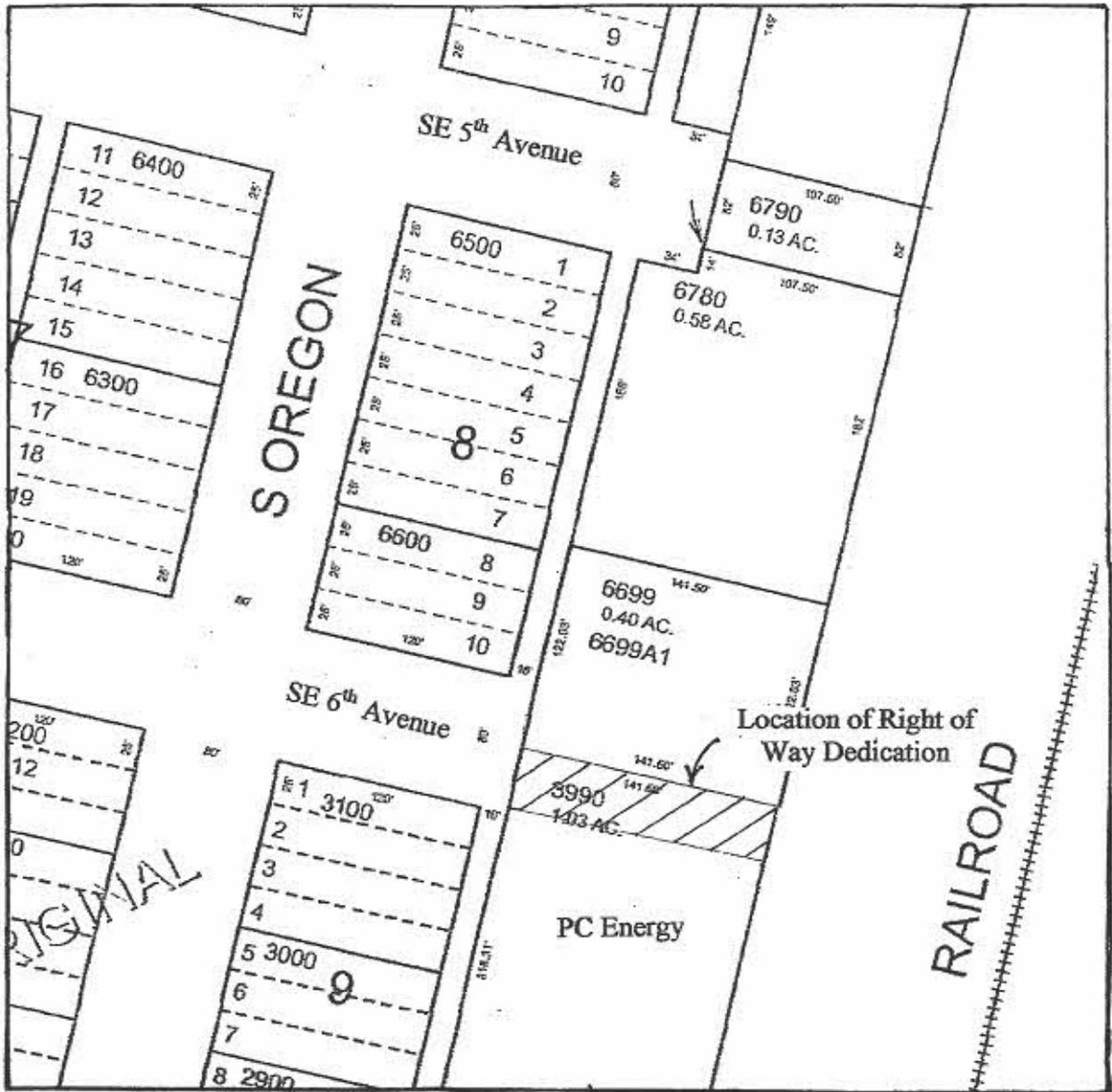
thence S77° 35' 00" E., 1.00 feet, said point being 157.50 feet normally distance northwesterly of said centerline main track;

thence parallel with said main track, N. 12° 25' 00" E., 249.93 feet;

thence N. 77° 35' 00" W., 142.50 feet, to the Northwest corner of a parcel of land as conveyed by Union Pacific Land Resources Corp. to Norm Poole Oil, Inc. by Quitclaim deed recorded under Instrument No. 85-348, said point being 300.00 feet normally distance northwesterly of said centerline main track;

thence parallel with said centerline, N. 12° 25' 00" E, 318.34 feet to the Northwest corner of a parcel of land as conveyed by Union Pacific Land Resources Corp. to Western Stockmen's Inc. by Bargain and Sale Deed recorded under Instrument No. 89-38424, said corner being 300.00 feet normally distance northwesterly from the centerline of the main track of Union Pacific Railroad Company (formerly the Oregon Shortline Railroad Company), as now constructed and operated;

thence coincident with the North line of said conveyed parcel and Centerline of SE Sixth Avenue, S.77° 35' 00" E., 141.50 feet to the POINT OF BEGINNING.




 NORTH
 1" = 100'

Attachment "A"

AGENDA REPORT
December 6, 2010

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: BID AWARD: 18" FORCE MAINLINE REPAIR PROJECT

DATE: November 17, 2010

SUMMARY:

Bids were opened November 10, 2010, for the 18" Force Mainline Repair Project.

Titan Technologies, Inc of Boise, ID is the apparent lowest responsive and responsible bidder at \$29,550.00 for the 18" Force Mainline Repair Project. This project consists of replacing 100 lineal feet of existing 18-inch diameter sewer force mainline with 18" HDPE pipe at the Dork Canal crossing on Malheur Drive. Also included is the installation of 75 lineal feet of 24-inch steel casing pipe, traffic control, dewatering and surface restoration.

18" FORCE MAINLINE REPAIR BID RESULTS	
COMPANY	Totals
TITAN TECHNOLOGIES, INC	\$29,550.00
WARRINGTON CONSTRUCTION	\$32,611.00
EASTERN OREGON CONSTRUCTION	\$43,800.00
ENGINEERS ESTIMATE	\$25,000.00

PREVIOUS COUNCIL ACTION:

June 15, 2009 – Council approved the 2009-2011 budget, which included the CIP SEW-12, Rehabilitate 18" Force Main. This authorized \$120,000 from the Sewer Fund to complete the rehabilitation of the existing 18" force main from 8th Ave Lift Station to the Wastewater Treatment Plant.

BACKGROUND:

The project (SEW-12) includes the cleaning, testing and reinstatement of the 8,150 linear foot long 18" force mainline that was mothballed in 1993 when the 8th Ave lift station was upgraded, and the 20" force main was put into service. City crews found and repaired various leaks along this pipeline and on July 15, 2010 a major leak was discovered under two 48" diameter culvert crossing pipes at the Dork Canal on Malheur Drive.

This project will repair the leak under the culvert crossings that our own staff are not able to accomplish due to the size of equipment needed to do the work. It is not known if this project will be the last of the repairs needed on this existing 18" force main, but it puts us closer to reinstating this line for future use. Once the work is complete the City crews can resume testing of the 18" force mainline to complete the rehabilitation work.

FINANCIAL IMPLICATIONS:

Titan Technologies' bid came in over the Engineer's Estimate of \$25,000. The budget for the project SEW-12 is \$120,000.00 and has only had approximately \$1,500.00 billed against it thus far.

RECOMMENDATION:

Staff recommends the Mayor and Council award the 18" Force Mainline Repair Project to Titan Technologies, Inc.

MOTION:

I move the Council award the 18" Force Mainline Repair Project to Titan Technologies, Inc, the lowest responsive and responsible bidder, in the amount of \$29,550.00 and authorize the City Manager to be signatory to an agreement with Titan Technologies, Inc.