

**JOINT MEETING- CITY COUNCIL &
PLANNING COMMISSION MEETING MINUTES
February 11, 2013**

The joint meeting of the Ontario Planning Commission and City Council was called to order at 7:00 pm in the Council Chambers of City Hall. Commission members present were Chairman Michael Rudd, Cindy Graversen, and Mike Allen, Max Twombly and Greg Tuttle. Rita Kanrich was excused and there was one vacant seat that was being advertised. City Council members present were Mayor Joe Dominick, Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, and Ron Verini (came in at 7:04pm). Larry Tuttle was absent.

City Staff present were City Manager, Jay Henry, and Planning and Zoning Technician Marcy Skinner. Also present were Department of Land Conservation and Development (DLCD) Representative Grant Young, and Greg Winterowd of Winterbrook Planning.

The meeting was recorded on tape and the tape is on file at the City Annex. The Agenda for this meeting was emailed and/or hand delivered on or before February 5, 2013. Copies of the Agenda were available at the City Annex.

Chairman Michael Rudd led everyone in the Pledge of Allegiance.

Larry Sullivan, City of Ontario, explained what would be the protocol for the joint meeting. He explained that they would be considering fewer items than what were originally advertised. The Ordinance #2674-2013, amendment of the Ontario Comprehensive Plan and UGA expansion would be considered that night. Ordinance #2676-2013 would have to be considered at a later time when consents of annexation and rezone had been received.

Chairman Michael Rudd explained that there had been a complaint about the Planning Commission members not returning someone's email. Mr. Rudd wanted to make everyone aware that emails will not be returned in the future. Communications would be made at the hearing in the chamber only.

ADOPTION OF MINUTES

Mike Allen moved, seconded by Cindy Graversen to approve the minutes of the January 14, 2013 meeting. Roll call vote: Allen-yes; Tuttle-yes; Graversen-yes; Kanrich-excused; Rudd-yes; Twombly-yes. Motion carried 5/0/1/1.

CONSENT AGENDA

Michael Rudd moved, seconded by Greg Tuttle, to adopt the Agenda as amended by Larry Sullivan and an addition of the motion of approval on the agenda. Roll call vote: Allen-yes; Tuttle-yes; Graversen-yes; Kanrich-excused; Rudd-yes; Twombly-yes. Motion carried 5/0/1/1.

PUBLIC HEARING ACTION 2012-12-15CPAMD & ORDINANCE 2674-2013: AN ORDINANCE AMENDING THE ONTARIO COMPREHENSIVE PLAN MAP AND TEXT, THE ONTARIO URBANIZATION STUDY, THE ONTARIO UBRAN GROWTH BOUNDARY, THE ONTARIO TRANSPORTATION SYSTEM PLAN, THE ONTARIO PUBLIC FACILITIES PLAN, AND THE HIGHWAY 201 CORRIDOR PLAN, AND DECLARING AN EMERGENCY. The purpose of the plan amendment package is to provide suitable land to accommodate (a) mega data center and similar large-site users and (b) identified public facility (primarily park) needs. The proposed map amendments are show on Exhibit 1 – Map 4. The proposed Comprehensive Plan amendments are included in Exhibit 1 – Appendices A, B, C and E. The justification for these amendments is found in the Staff Report (Exhibit 3) and the Justification Report (Exhibit 1 – including maps and appendices).

ORDINANCE 2676-2013 was continued as Larry Sullivan explained until annexation consent forms were obtained. The meeting was scheduled for one week later, on Tuesday, February 19, 2013.

Marcy Skinner, Planning & Zoning Technician gave her staff report explaining that the Ontario Comprehensive Plan and Ontario Urbanization study had established a 50-year Urban Reserve Area (URA). Those plans identified major 20-year land deficits in both industrial and public facilities land (mostly to meet identified park needs). Ontario had received several inquiries since 2009 from corporations interested in large "mega data center" sites. This need was not recognized in the 2007 Urbanization Study. Ontario has a strong commitment to protecting its agricultural economy by maintaining its regional irrigated rural land supply. Ontario and Malheur County adopted a plan policy to ensure that irrigation rights from agricultural land brought in to the Ontario UGA are transferred to nearby farm land without comparable irrigation rights.

Greg Winterowd, Winterbrook Planning Consultant, "Good evening, Mayor Dominick, Chairman Rudd, members of the Council, members of the Planning Commission. It's great to be back in Ontario, it's great to be back with a product which is really a joint product that involved our firm, your staff and state agency staff. All had an input into what we're asking you to adopt tonight. I'd also like to give special thanks to Larry Sullivan for reviewing my work, a number of draft ordinances I did. This is a complex application because it brings in a couple hundred acres of industrial land. It brings in 110 acres as residential land between industrial and the existing Urban Growth Boundary. And it's doing that so we can logically provide sewer and water services because you don't want to have a piece that's distant from the city, we want to be able to go through the city limits. Partly by dumb luck and partly with your head, the plan that you've got anticipated for a lot of the stuff so we were able to have an urban reserve. We have public facilities; sewer and water plans and a transportation plan that can be readily amended to fit the changed circumstance. So, we also have a policy which says, you know, whenever we identify a need in the Urban Growth Boundary; we're going to expand the Urban Growth Boundary to meet that need. That's why the plan's already anticipated what we're doing this evening. It's also helpful that there's sort of a pac man bite out of the existing growth boundary that maybe we can fill in with this 310 acres of land. So it makes logical sense from a public facilities standpoint, from a transportation plan standpoint, from a property owner's standpoint. We've talked to property owners over the last couple of months, it fits in with the overall goal of looking for good paying jobs for the community and from my point of view, it's something where the state's system actually dovetailed well with the local planning process which does not always happen, but it did in this case. I thought Marcy did a great job with saying simply what we're asking you to prove. I don't think you'll hear a lot more from me, I'd be happy to answer questions if you've got them".

Chairman Rudd asked if the applicant was the City of Ontario.

Marcy Skinner, Planning and Zoning Technician, answered that the City of Ontario was the applicant.

Chairman Rudd asked that the record show that the action had been notified in the Argus Observer newspaper and that the surrounding property owners had been notified. He asked if there were any proponents that wished to speak out in the audience.

Mr. Hursh, City of Ontario, "I have a question, I'm Russ Hursh, that area from airport corner to Hollingsworth, from my understanding here is they go 360' depth or commercial frontage and it had a very limited access from airport corner to Hollingsworth. How does this affect that limited access? How will that existingbe used in conjunction with the yellow area in there, and when you looked at expanding this area out there, did you consider extending the city sewer, water, storm drain to service that area as well as those people on the west side of Highway 201 instead of coming up through the

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Highway, ripping up new highway all up to bring the city sewer and water from airport corner out there to service those people?"

Mr. Rudd commented that the Industrial Lands Committee had considered city services.

Bob Walker, Public Works Director, said that running city services would be too expensive and was not being considered.

Mr. Hursh asked about access to that property.

Mr. Walker answered that there would be limited access onto Highway 201 so there would be a frontage road off the highway.

Mr. Hursh asked if the limited access had to be removed from Highway 201.

Mr. Walker said that it would be up to the Oregon Department of Transportation. He explained that ODOT may have restrictions on the access onto Highway 201, 12th Avenue would be an access point for Highway 201.

Mr. Fox commented that the way he read the report, it said that the only access would be 12th Avenue and there would also be access from Dorian from north to south and 18th.

Greg Winterowd, Winterbrook Planning, said that he was correct and that was an existing plan from the Highway 201 Corridor Plan. He said that the project would help to get sewer and water to serve the entire area over time. Also having 12th, Dorian, and 26th would create a network for city services.

Mr. Fox asked if the area would be light industrial.

Mr. Winterowd said that the colors representing the Urban Reserve area was not official, it was illustrial.

Mr. Walker said that the water would come from a reservoir from Sunset Avenue to 18th Avenue, line up with 26th and bring it to the north. The loop would be completed as well and intertie with the water facility nearby.

Mr. Hursh asked about the properties on the west of Highway 201.

Mr. Walker said that the water and sewer was at the airport which would be a logical place to tie in and expand city services.

Riley Hill, Ontario Oregon, "I'm Riley Hill, I've sat on this Industrial Lands committee from the inception of it and I can tell you that we've spent way better than a year on it and we have at least \$100,000 invested in this process right now and this is our first hearing. So it tells me that the system is broken so if anyone ever wants to come locate here, if you want to have industry here, growth here, nobody will wait one year and be uncertain of whether you're going to have it or not have it. They just move on and go on down the road. We have, there's a great article in the paper, in the Prineville paper. I think we have more to offer than Prineville has. We have the airport, we have the college, we have the hospital, we have all the water and sewer we need to promote it. We have on and on and on. They have one thing that we don't have. They have land available. The article in the paper goes on from the developer of the last two data centers there. He is working with two other groups to go in there right now because they have land available. We don't have it available so we have to make it available. One of the things that has been, the stumbling blocks that we had are the goals that the State of Oregon has. One being agricultural lands, that you don't

want to destroy the agricultural lands. But we found a way to move that water as that was touched on earlier here so what we have over here as opposed to the west side, is that we have lots of land and lots of land and very little water. So what makes good agricultural land is water. So we found a way to bank that water and move it to land that doesn't have water, thus no loss of agricultural land. So that answers that goal of preserving agricultural lands. We're also obligated as a city to provide industrial lands. Now that we've solved the problem of the agricultural land, we can now go ahead and move because if you have industrial lands into that area it makes sense because the infrastructure is already there. We may not, it's just the natural growth of things because economic forces will dictate where things are going to go and that is the natural way to assume things. And so we don't have any land that somebody would want to locate because the data centers, and it's not just data centers, we're focusing on those because that's who came here recently. We had Proctor and Gamble came in here at one time, they were looking for 1,000 acres and when could we do it, could we provide it? Because the State's mechanisms prevent us from doing that and there are, for those who are worried about you know intrusion on their lands, no one has to sell and there are many many protections for people that own land in the vicinity to protect them already by state law. So I urge everybody here, the head of the Council and Planning Commission to support this because I want jobs here for my kids and my grandkids and Malheur County is at a net loss of 550 people over the last census over the last 10 years and we are the poorest county over the state of Oregon, we are the 10th poorest county in that nation and depending on who's standards you're looking at; the state has one standard which I think is behind now that says we have a 23% poverty level and Portland State University says we have a 39% poverty level. So, I would like to see this county go someplace and come out of these doldrums that we're in and not rely on just agriculture. You can see that we're in a survival mode. Right now everybody knows that the hospital is going across the river right there. I think that in time it could possibly suck our hospital away. We have to really think ahead and provide other opportunities so that Ontario remains number one in that. Thank you."

Mr. Hill, "And, I can tell you that we have water and sewer capacity available to serve these lands and the SDC charges that were put in place, so this would be no freebies to somebody who comes in here; whoever would come in would have to pay additional monies to replenish whatever they took out of the production system or treatment center."

Mr. Rudd asked if there were other proponents or opponents. There were none. Grant Young from the Department of Land Conservation and Development (DLCD) wished to speak.

Grant Young, DLCD NE Representative, "We did make a comment, you probably seen that in your letter which mentioned that we thought there was some information missing and I just want to be sure to tell you that tonight's packet includes that for your Public Facility's Plan and that the question on how you rezone land if you can't annex it is going to be addressed by splitting this into two separate actions, adopting or considering adoption of your Urban Growth Boundary tonight and then continue the part on annexation. We have two separate ordinances so that was our Plan B, so anyway, it's been resolved."

Mr. Rudd asked if there were any comments on the Finding of Facts or discussion by the Commission.

Ms. Skinner read into records, "A request for annexation and rezone of property requiring a Comp Plan Amendment may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "Findings:" and "Conclusion:" for each applicable criterion.

Mr. Rudd stated that the criteria for each item had been met.

Larry Sullivan, City of Ontario Attorney, commented that when the staff report had been put together it was under the assumption that an annexation and rezone would be considered under the same action and that the suggested motions for approval on page 14 exclude (d) and (e) which would be acted upon at a later date.

FINDINGS OF FACT APPROVAL

Greg Tuttle moved, seconded by Max Twombly, to approve the findings of fact as amended. Roll call vote: Allen-yes; Tuttle-yes; Graversen-yes; Kanrich-excused; Rudd-yes; Twombly-yes. Motion carried 5/0/1/1.

PLANNING COMMISSION APPROVAL OF ACTION 2012-12-15CPAMD & ORDINANCE 2674-2013

Michael Rudd moved, seconded by Greg Tuttle, to approve the recommendation of the Action and Ordinance to the City Council which would include (a) Expansion of the Ontario Urban Growth Boundary (UGA) and Comp Plan Map as shown on Exhibit 1- Map 4; (b) Amendment of the Comprehensive Plan text (including the 2007 Urbanization Study as indicated in Exhibit 1 – Appendices A and B); and (c) Amendment of the Ontario Transportation System Plan (TSP) and the Highway 201 Corridor Refinement Plan as indicated in Exhibit 1- Appendix C and supported by Appendix D and amended to exclude items (d) and (e). Roll call vote: Allen-yes; Tuttle-yes; Graversen-yes; Kanrich-excused; Rudd-yes; Twombly-yes. Motion carried 5/0/1/1.

Mr. Rudd closed the Planning Commission portion of the meeting.

Mayor Dominick asked the City Council for their discussion. There was no discussion.

Mr. Sullivan stated that it should be declared an emergency because there were people who were interested in the completion of the project and a quick manner. Malheur County Court would still have to approve of the action as well.

CITY COUNCIL APPROVAL ORDINANCE 2674-2013, DECLARE EMERGENCY, AND WAIVE THE SECOND READING

Dan Jones moved, seconded by Jackson Fox, to approve Ordinance 2674-2013 and declare an emergency and waive the second reading. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Verini-yes; Dominick-yes; and Tuttle-absent. Motion carried 6/0/1.

Mr. Sullivan said that the annexation hearing, Ordinance 2676-2013 was tentatively being set for February 19, 2013.

Charlotte Fugate asked if Mr. Sullivan knew for sure that the annexation would go through on February 19.

Mr. Sullivan answered that without the annexation consent forms, he would not be able to guarantee that the annexation would go through.

CITY COUNCIL APPROVAL ORDINANCE 2674-2013, AND WAIVE THE SECOND READING

Jackson Fox moved, seconded by Dan Jones, to approve Ordinance 2674-2013 by Title Only and waive the second reading. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Verini-yes; Dominick-yes; and Tuttle-absent. Motion carried 6/0/1.

DISCUSSION

Planning Commission Chairman Rudd asked if there was any further discussion on Planning Commission items, there were none.

Mr. Sullivan added that the notice that had been given included an annexation portion that would need to be moved to the next City Council hearing the following week, February 19, when the annexation consent forms would be available

MOTION TO MOVE ANNEXATION PORTION TO FEBRUARY 19

Mike Allen moved, seconded by Michael Rudd to approve the motion to move the annexation portion to February 19. Roll call vote: Rudd-yes; Allen-yes; Kanrich-absent; Graversen-yes; Tuttle-yes; Twombly-yes. Motion carried 5/0/1/1.

Jackson Fox moved, seconded by Dan Jones, to approve the motion to move the annexation portion to February 19. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Verini-yes; Dominick-yes; and Tuttle-absent. Motion carried 6/0/1.

ADJOURN

Mike Allen moved, seconded by Cindy Graversen to adjourn. Roll call vote: Rudd-yes; Allen-yes; Kanrich-absent; Graversen-yes; Tuttle-yes; Twombly-yes. Motion carried 5/0/1/1.

ADJOURN

Ron Verini moved, seconded by Jackson Fox to adjourn. Roll call vote: Rudd-yes; Allen-yes; Kanrich-absent; Graversen-yes; Tuttle-yes; Twombly-yes. Motion carried 6/0/1.

Michael Rudd, Chairman

Attest: Marcy Skinner, Planning & Zoning
Technician

Dan Jones, Council President

Attest: Tori Barnett, City Recorder