



CITY COUNCIL MEETING MINUTES

July 18, 2017

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Tuesday, July 18, 2017, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Tessa Winebarger, Dan Capron, Betty Carter, Ramon Palomo, and Marty Justus.

Members of staff present were Adam Brown, Marcy Siriwardene, Terry Leighton, Larry Sullivan, Kari Ott, and Dan Cummings.

The meeting was recorded and copies are available at City Hall.

Councilor Winebarger led everyone in the Pledge of Allegiance.

AGENDA

Adam Brown, City Manager, stated they had added a Sales Tax Discussion to the Agenda.

CARTER moved, WINEBARGER seconded, to **ADOPT THE AGENDA AS AMENDED**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Judith Kirby, Ontario, stated: *I'm Judith Kirby. I live in Ontario, Oregon. I just wanted to comment on this. I think it's good in some ways, but I went to the meeting at the Cultural Center and some of the things that the Cultural Center is not in this. So, I urge all of you, I mean we are trying to be supportive of you guys, and I know no one, none of you put us in the position we are, the state did. They did it with PERS; they did it with land use planning, and they did it with minimum wage. But, please, please print something or present it a meeting. It's got to be the same, because some people feel like they're getting the wool dragged over their eyes, and they're uninformed, they're, they're just uninformed. They were so uninformed at that meeting, like we could raise taxes. Well, that's against the law. We can raise sales taxes, if we can't raise property taxes. But, this is not the same as what we got in the meeting. I talked to the Manager. There's nothing about a dump truck in here, nothing about five city policemen needed in here. That was really troubling at the meeting. So I would urge you, when you print and when you talk, be concise, be consistent. What is it that we need in the buildings, what is it we need in equipment, what is it we need in personnel, and why, because people out there are not listening. I already know that there is movement underway to put it on the ballot, and you know what's going to happen. So, you might be already gearing for Plan B, because this town is so darn negative right now I can't believe it. Thank you. Oh, also, when you put the swimming pool on as a conceptual thing, say conceptual, because this does not address the needs of the elderly. I rehabbed in the old pool, and there were forty other people rehabbing in that pool, and it needs to be, there needs to be something recreational in this town for everyone, not just the kids. Thank you.*

CONSENT AGENDA

WINEBARGER moved, PALOMO seconded, to **ADOPT CONSENT AGENDA** Item (A) Minutes of Regular Meeting of June 20, 2017. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.



OLD BUSINESS**Ordinance #2728-2017: Creating Title 2, Chapter 14, of the Ontario Municipal Code, Creating a Diversity Advisory Committee – Final Reading**

Adam Brown, City Manager, stated there were no changes since First Reading. The next step, following adoption, would be recruiting members, and developing some bylaws. There was an entire session dedicated to this type of action at the City Manager's Conference.

Larry Sullivan, City Attorney, stated there were a few minor changes between the First and Second Reading of the ordinance. The City Charter required that those be pointed out. The Headings of the ordinance will change to correctly reflect what chapter they would be going into. The ordinance in the packet was correct, but was reading slightly different from the previous one. The document went from Chapter 6 to Chapter 14; the headings were changed to read 2-14-1, 2-14-2, etc.

Councilor Crume verified that from this point forward, when changes were made, was there a way for the Council to see those changes in their second packet? It didn't currently show or tell them anything.

Mr. Brown stated there was nothing material in the changes. The Council could compare the first reading to the second, but in the future, staff could do the strike-out feature.

JUSTUS moved, CARTER seconded, that the City Council **APPROVE ORDINANCE #2728-2017, AN ORDINANCE CREATING TITLE 2, CHAPTER 14, OF THE ONTARIO MUNICIPAL CODE, CREATING A DIVERSITY ADVISORY COMMITTEE, ON SECOND AND FINAL READING BY TITLE ONLY**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

Continued Sales Tax Discussion

Mayor Verini stated in their last discussion, the Council agreed on the possibility of 1% sales tax through a consensus, along with the grocery tax. They also agreed to include the small businesses. He was aware that would be discussed again. Also, auto sales and ag sales. He knew Mr. Brown had some updates for the Council.

Mr. Brown stated he had made progress since the earlier discussions. One challenge had been that there wasn't a clean way to define the ag community, and to exempt them. Following some research garnered from other states, was they could create a "farmer's certificate" for wholesale purchases sales tax exemption. The farmers would verify to the city that they had gross agricultural sales over \$10K, and they would use the IRS Schedule for the exemption. He'd been working on using different states' definitions of things. It included wholesale items, and things used to produce the end product. He was looking for direction on what to do next.

Also, they had discussed the revenue side, but ran out of time before fully discussing the expenditure side, as to what exactly the city was going to commit to. If they thought very broadly about this, and pulled in all those items on the next spreadsheet, it came down to a safe community, quality roads, and life quality. Those were the three things the Council had been talking about over the past year as they've discussed the challenges before them. Keeping the community safe through adequate fire protection and adequate law enforcement; how could they maintain the roads with limited funding; how could Ontario be a place of choice for where people want to live. Ultimately, *that* was going to have a larger economic impact if people want live here and choose to live here over other places.

Following the previous discussion, he had adjusted the expenditures based upon the revenue adjustments suggested before. While very preliminary, there was the General Fund deficit, and staff was working on a supplement for the street fund. Those were items #1 and #2, because if they were unable to balance those two funds, it would mean a lot of cuts in service. This year, they added in the street utility fee. The Council chose that if the sales taxed proposed was enacted, the SUF would cease. That money went directly to fund chip sealing. It was not, however, the recommended amount. The needs were around \$300K annually. That would just keep the roads moving along so they didn't have to be entirely replaced. Studies showed that a little maintenance each year, it could be deferred higher costs. Capital Plan Investment equaled Buildings and Infrastructure. There was detail available in the Capital Plan, and staff would look for a better way to get that information out to the community.



The pool/recreation aquatic center numbers were adjusted based upon revenue recommendations discussed at the previous meeting.

Funding the Airport Manager; there were some great things taking place at the Ontario Airport.

Police officers: the ICMA study identified a greater shortage than the city could fund. They had placed three officers in the chart, but that was not the level identified by the study. But, it was a great improvement. It would give the opportunity to have a Detective, a Gang Officer, and some things that had been cut over the past few years.

Firefighters: one of those positions would likely be a command position, like a Deputy Chief, and then a traditional firefighter. That was closer to the ICMA recommendation.

Code Enforcement Officer: at that level of funding, with the grocery tax, the department could add another full-time Code Enforcement Officer, so staffing would be 2.5, not 1.5 bodies.

This all went back to the priorities. They had also discussed the entrances to the city, the signage, the presence that everyone saw as they entered on Idaho Avenue. If the General Fund increased, they needed to set aside some of those funds. In keeping with the 22% of fund balance that was set for the current budget, that would be \$320K.

Those were the spending choices. There were a lot more needs, but this was major progress, and it provided the opportunity to make Ontario a place of choice.

Mayor Verini stated when they originally spoke of this action, the goal was around \$2.9-3M. But now, he was showing something significantly higher than that. How did they get from there to here?

Mr. Brown stated that was the choice that was made by the Council at the last discussion on this, to include grocery sales, and that was a big chunk of retail in Ontario. It also included the mid-point analysis vs. the extremely conservative numbers that the consultants provided. They provided a range of 2.5% to 5% level. The numbers used by the consultants were based upon the 5%. For the 1%, it was 5.1% to 7.5%, and they used the 7.5%. They used very conservative revenues, but what he had brought to the Council last time was that they should consider something more realistic, which he referred to as the mid-point analysis, somewhere between the high and the low.

The draft was coming together faster than originally anticipated, so it would be available for attorney review this coming week. Following that, Council would start talking about it – reviewing it, working out the kinks. He also wanted to focus on doing better communication with the public.

Councilor Crume stated a farmer would still pay tax until he paid over \$10K for a load of fertilizer?

Mr. Brown stated no. The \$10K certified the individual as a farmer, who was different than someone who had six chickens. The \$10K threshold was to prove that someone was a legitimate farmer.

Councilor Crume stated that Farmer Jones would have to come to Norm's Auto Electric and spend \$10K before he received a break? How would they prove the \$10K?

Mr. Brown stated no. They received the break on dollar one. That's where IRS Form Schedule F was in play.

Kari Ott, Finance Director, stated Schedule F was the farmer's schedule (Farmer's Schedule C). Mr. Brown was speaking to the gross revenue, not any expenses. It would be from the year before. It was what was done for fuel tax. In order to get bulk fuel, they had to provide a Schedule F each year.

Mr. Brown stated it was a practice already used.

Mayor Verini asked if there were any further comments, questions, or suggestions from the Council.



Councilor Justus stated he asked Mr. Brown for clarification earlier in the week with regard to the definition of a small business, four employees or less. What the study showed and what he knew, was usually the definition of a small business was ten employees or less.

Mr. Brown stated the number of employees of four was something set by the consultant. He had not received the granular data yet. At four employees, it was 36 businesses within the city. The consultant could run numbers with ten, but with 36, that accounted for 30% retail sales in the city, according to the data, which was pretty accurate. But, he could still get that data.

Mayor Verini stated on the 1-4 employees for the small businesses, that represented with the numbers received on the survey, about \$570-645K in revenue that would need to be reduced in the city's calculations. At 1%, if they removed the grocery and the small businesses, and not considering the ag that was just discussed, they'd be well below the target. They'd be around \$2.2M range for enhanced revenue coming in. That needed to be considered when they discussed it again, because those were some serious numbers. Especially after this new chart was provided, as far as the cost for the city. It had increased from \$2,997,000 to over \$5M.

Councilor Crume stated that was more desires than costs.

Mr. Brown stated if Idaho eliminated the grocery tax, the Council would definitely want to readdress that. That would be very large chunk of money.

Mayor Verini stated if the Council went back to the chart, what were they talking about with regard to what the Council wants to see for enhanced police, fire, airport, beautification, pool...who really had a handle on this? What was the most important on the Council, that they wanted to spend the enhanced revenues on? What, out of all the listed items, did they really want to concentrate on?

Councilor Crume stated if they got everything going, they could look at something of this nature, but he wasn't going to count on it until everything was done. This was way ahead of schedule, other than being able to inform the community some things could be done if the money was received. It was great to know the needs, but to figure out exactly what was wanted, it was too far in the future. But, at least have an idea of what they'd like.

Mayor Verini stated until the city received that first dollar, they wouldn't know how many dollars would eventually come in.

Councilor Crume agreed; it was all a guess. Also, if everything did begin moving forward, he didn't know if they'd want to do anything from that chart until Idaho determined about the grocery tax, so Ontario wasn't locked into anything. He believed they'd have the data by this time next year.

Mr. Brown stated one thing he'd increased following the previous discussion was more money for the street fund, because you could sink money into capital and be ahead. If they had to reduce that, they'd have progressed themselves a little bit ahead. If they were going to move forward with grocery retail, they'd probably want to use that for capital things.

Mayor Verini stated on the chart, a safe community, quality roads, life with equality...unless someone had a different idea, they had to zero in on something out of there to really focus on, for the first revenue enhancement coming in, the first million dollars, what were they going to concentrate on, initially? Were they going to concentrate on fire protection, law enforcement, the pool, maybe slicing some of that money off for the maintenance of the roads? They had to have some type of idea, as a Council, as to what they were looking at for expenditures. The expenditures they had were huge, so they had to zero in.

Councilor Justus stated to him, in reading the list, that was his priority list. Number one was they had to get the General Fund deficit fixed. As the money came in, they would add #1, then #2, then #3, etc. He'd prefer that they move downtown up a little, but that's okay. He thought the list was exactly the way they should be spending the money as it came in.

Mayor Verini stated it needed to be discussed, because he disagreed. He looked at it as a safety issue, bringing the money in for police officers, firefighters; that would be imperative. To take a look at those two items, first – safety in the community. Then, work the chart. He wasn't saying spend \$300K, plus the \$220K- he was saying to increase the number of officers and firefighters to a degree, then plug in something like the General Fund structural deficit. Work to massage all of this in some form. If they plugged in the \$700K, then the \$1.5M, then the \$300K, then the \$600K, right there they'd used up almost all they had coming in.

Councilor Carter verified this was a format, not the order, nor the process. Did they need to have those in the order as they stood, or was there another format to arrange them?

Mr. Brown stated they were generally in order based on his recommendation. The reason the GF deficit was so high up was due to being able to maintain the police force they had. If they didn't fix that, they couldn't maintain the force they already had. Maintain the force in place now, then add to it, to make it a level that was believed adequate. Whether more police officers or firefighters would go above the pool, for example, or some other capital investments, that was a discussion and a decision for the Council. This was the right order in a broad sense: safety first, quality of roads, then quality of life. This list went towards that goal. Some of the things in the middle could be leapfrogged.

Mayor Verini stated that was what the Council needed to discuss. If they followed the existing order, they'd run out of money before ever bringing another police officer on staff.

Councilor Justus stated the \$5M was not enough.

Mayor Verini stated the revenue they had coming in, at 1%, was not going to reach the \$5M.

Mr. Brown disagreed. The numbers given were extremely conservative, but also this schedule was based upon the revenue decisions made last time. If they hadn't made those decisions before, he wouldn't be recommending \$1.5M into the street fund; he'd be recommending just the balancing of it, which was \$750K. At a lower revenue level, things in front would change, so there would be funding for police and fire.

Mayor Verini stated they wouldn't know until they actually implemented it.

Councilor Carter stated if Adam had placed in the first column before, he has a total there, if he had put a total in front of that total, would that have made a difference for you? That total, the cost per, that total would not, the latter total there, would exceed, so this total would be lower. If he had had both totals for you, would that have comforted your mind somewhat?

Mr. Brown stated that was just the unit cost.

Councilor Carter stated he hadn't totaled both of those.

Mr. Sullivan stated that Councilor Crume commented on something that he understood as being a perspective on what approach was going to be taken by the Council in adopting an ordinance, to some extent. Is it the Council's intent that they would want to have some prioritization in the ordinance itself of how that money will be spent.

Mayor Verini stated it was a no, for him.

Councilor Carter stated they could tweak it as they moved forward.

Councilor Justus stated if they didn't hit the \$5M mark, Mr. Brown would be coming back to Council asking for some changes.

Councilor Capron stated first off, they needed to balance. They couldn't move on anything unless they were balanced. As much as he loved the pool, he'd drop that down much lower on the list. You had to have fire; you had to have police. Move everything else up. He'd love to have a pool, but who knew how long it would be before that happened.

Councilor Carter stated it would be soon.

Councilor Capron stated by the time it was built and sent to operate, along with a splash pad, and then other phases, but they had to have roads, and they had to have safety. Balance out, then put in roads, safety, and then hit the wish list.

Mayor Verini stated the discussion had to start somewhere. Their ideas, as a community *and* as a Council, they had to start planning ahead for "what ifs". If they had the 1%, and suddenly Idaho dropped taxing groceries, that would represent a tremendous amount of money that Ontario would not have coming into the community. They had to plan ahead. What priorities were they really thinking about. Yes, the GF structural deficit was extremely important, but the safety of the community – did that come next? What did the community want the Council to do. That's when the Council needed to speak with the constituents, finding out what they wanted.

Councilor Capron stated that was why he mentioned the pool. If they lose the 1% from groceries, and the pool was placed up high, you built the pool, and then it can't be funded, it would be shut down again. He wanted to get everything else done first. Any leftover funds, just like in their personal lives, you don't install a pool if you can't afford groceries.

Councilor Crume stated that was what Mr. Brown said, going with capital items. For example, in professional boxing, if you were a new contender, up and coming, and you were eyeing the championship. That's not what you have your eye on – you have your eye on every fight before that shot. He was cautioning the Council about eyeing all the cool things; get the job in front of them done first. Level out, know what they had to deal with. It was good to have dreams, but keep a level head before dreaming too big.

Mayor Verini wasn't asking for a decision now; they all needed to begin thinking about the future and what if the grocery tax was removed, what if...

Councilor Crume stated what if the petition went through and passes....

Councilor Carter agreed, but what if it didn't?

Councilor Winebarger stated her agreement with Councilor Crume. Currently, the Council didn't know what was taking place. They needed to meet their deficits first. They knew where they were slacking, where they needed extra help, for now. They knew what needed to be addressed. That's why they were looking at revenues in the first place, to see where they could fix the problem. Fix the deficits, help the street fund, and all those other choices could be made later. They needed to address the needs first, the wants later.

Councilor Crume stated there had been something in the newspaper that day about the city receiving so many thousands of dollars from this new bill passed. Any details?

Mr. Brown stated they were told that \$2.7 to the City of Ontario over ten years. You could average that out to \$270K. It was probably back-loaded. It was all incremental over a ten-year period. By the end of the ten-year period, that could be half a million dollars. Representative Bentz's office had told them that it was \$2.7M over ten years. That was directly for streets. That would potentially take that off the street fund need.

Councilor Justus stated he understood wanting to make sure that the city, he understood Norm and Tess, and he was right there with them, but they also had, to make Ontario that livable city, they had to invest in it. If all they did was keep saying "let's get here" but before we go here, we never go there, they'd never go, and no one would ever come. To him, and he totally agreed with police officers and firefighters, but if they wanted a city with citizens to patrol, they had to have a city that people wanted to live in. That pool was pretty darn important.



Beautification was pretty darn important. If they didn't go there, if they didn't get a full time code enforcement officer that could help bring the city to its fullest potential, all they'd ever be doing was chasing the dream instead of living it.

Mayor Verini stated that was a part of the quality of life piece.

Councilor Justus stated it was down low, and it needed to be spread equally.

Councilor Carter stated they also needed to look at the bottom line.

Councilor Justus stated the pool was really important. They had to spend the money on that pool. Everything on the list was really important – there was nothing up there that they could say they could live without.

Councilor Carter stated for her, the bottom line, they were never going to forget that. They knew what it was. The bottom line was \$5M, and they would have to think outside the box on a lot of things they did, and how they thought about things. When they were playing the "what if" game, what if the grocery tax in Idaho didn't go away. They could not live in Oregon, anticipating it was or was not going to go away. They had to think about what to do in Ontario, Oregon, for our community and for our citizens. Then, they could take things and move forward. They would never forget the dollar lines. For her, this was similar to a roadmap. It's a plan – now how to get there.

Councilor Capron stated who was to say if they did move the grocery tax, that Ontario would drop it, too. The Council might decide it was worth keeping.

Councilor Winebarger stated her doubt that anyone in Fruitland was going to drive the 40 minutes to Nampa, to pay their 6% still for gas, and then their time. They'd still shop here.

Councilor Justus stated it was still going to be 6% for paper towels, or 6% on Windex. The bargain would still be Ontario.

Councilor Carter stated people would still shop in Idaho, no matter what.

Mr. Brown stated when they were doing budget discussions, they were provided a list of priorities, where they said they'd start cutting from the bottom and work their way up to hit a mark. This list is different. When this list was created, it was not intended to cut off from the bottom. It's the same list from a week ago, but the increments, the units, changed, based on the revenue available. Adding a police officer was not visible; adding a pool was visible. The citizens could see where their money went. Safety, hopefully, would be felt over time. One valuable thing was that when they went out and explained why the tax was needed, the general priorities were safety, roads, and quality of life.

Mayor Verini asked about the timing for putting the ordinance together, putting all of this together, and presenting it to the Council.

Mr. Brown stated he needed to meet with Mr. Sullivan to get it all lined out. It was an ordinance, so there would be two readings. He could do the draft, but then it would be handed off to Mr. Sullivan. It would also be prudent to kick it back to the consultant for review. They could maybe have something in front of Council in August, but nothing was certain.

PUBLIC HEARING(S)

Ordinance #2726-2017: Annexation and Rezone of Lots 4 and 11 of Ridge View Subdivision 1 – Residential-Urban Growth Area (R-UGA) to City Single Family Residential (RS-50) First Reading

It being the date advertised for public hearing on the matter of Ordinance #2726-2017, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.



Dan Cummings, Community Development Director, presented.

At its regular meeting of July 10, 2017, the Planning Commission heard the annexation and rezone proposal contained in Planning File 2017-04-04AZ, which was applicable to two properties located at 1939 Thomas Circle and 1936 Brady Circle, the properties being known as Tax Lots 8900 & 9600, on Assessor's Map 18S47E05AC.

The Planning Commission based on finding and testimony made a recommendation to the City Council to approve the annexation of the lands and not to rezone the property to City Duplex Residential (RD-40) as per the application, but to rezone the lands from Residential Urban Growth Area (R-UGA) to City Single Family Residential and set the side yard set-back for the two properties to 5 feet.

The applicants own lots in the Ridge View Subdivision, known as 18S4705AC, tax lots #8900 and 9600. The applicants wish to connect to city water and sewer. In order to connect to City water and sewer, annexation into the City is necessary. This application, if approved, will result in the annexation of 16,816 square feet, plus the right of way for Brady Circle into the City and a rezone of the property from Urban Growth Area Residential (R-UGA) to City Residential (RD-40).

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law requires an Ordinance be adopted by the local governing body to accomplish a rezone. The City's governing body is the City Council, and they are the only body that may adopt an Ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with State law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

- a. The zoning map amendment is in conformance with statewide planning goals and guidelines.
- b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.
- c. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.
- d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.
- e. The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.
- f. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.
- g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Findings of fact:

- a. The City of Ontario Municipal Code implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals.
- b. The subject properties are currently zoned R-UGA and the request is to rezone to the companion City Duplex Residential (RD-40) Zone that is the same zone as adjacent and nearby property. The requested zone allows basically the same use as the UGA zone, but the existing subdivision was approved in 1998 to be a single family residential subdivision, and therefore is reflected in the Comprehensive Plan Goal 10 Single Family needs count. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan. Based on testimony given at the Planning Commission meeting, the Planning commission made a determination that the City Single Family Residential zone RS-50 would be a better fit for the existing development and made a recommendation to the City Council to rezone the herein described lands, Lots 4 and 11 to the Single Family Residential (RS-50) zone and set the side yard setback for these two lots to 5 feet.
- c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.
- d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated.
- e. The subject property is adequate in size and shape for the proposed use to be rezoned from R-UGA to City Single Family Residential (RS-50).
- f. The property owner of tax lot 9600 proposes development at this time into a single-family dwelling and has presented a plot plan showing adequate room for structures, parking, landscaping, etc. City Water and Sewer are available near the boundary of the property. City fire and police services will be available upon annexation for both properties. City streets, right-of-ways, including curb, gutter and sidewalks are in place and have been developed to city standards.
- g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Requirements in the OMC applicable to uses in the residential zone will ensure that impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land are minimized.

Conclusion: The proposed recommended rezone to RS-50 is consistent with all applicable criteria and standards.

B. Annexation:

1. 10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.
2. Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits and Subdivision Plat was approved and recorded in 1998.
3. The property is currently zoned for Residential use in the Urban Growth Area; the requested zone, City Single Family Residential RS-50, is consistent with existing property within the platted subdivision.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable residential land.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed. Annexation will benefit the city by increasing tax revenue.

The quasi-judicial Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the State. The decision of the Commission shall be the final decision of the City unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

The Council could, by motion, based on public testimony or need for more clarification refer this matter back to the Planning Commission. Table and continue this item to a future date certain meeting, to obtain clarification on issues raised at this Public Hearing.

The Planning Commission at a Public Hearing on July 10, 2017 made a motion that the request for annexation be approved and rezoning of the subject property from UGA Residential to Duplex Residential (RD-40), as set forth in ACTION 2017-04-04AZ not be recommended for approval and recommended rezoning to City Single Family Residential RS-50 and set the side yard for the two lots to 5 feet to the City Council, based on the information, findings and conclusions at said Public Hearing.

Councilor Justus asked how much money would be generated by annexing these lots into the city.

Mr. Cummings stated he did not have that information.

Councilor Justus stated Mr. Cummings' recommendation was to annex these into the city, and the city would receive more revenue, but what would it cost the city to maintain it? There were four [sic-three] lots that would become property within the city limits. If they did this, it would increase tax revenues, but they hadn't done any type of study that would show that the tax revenue wouldn't come close to what the expenses would be for maintenance.

Mr. Cummings stated it seldom every did, with any of them.

Councilor Justus asked if all of those properties had been offered annexation.

Mr. Cummings stated yes, many times. They always question what the benefit would be for them.

Councilor Justus stated his point was that they were spot zoning. Why were they not amending the UGB so all the lots had five foot setbacks? A question for Mr. Sullivan, then, with all these others that have city water and sewer that were not in the city limits, the city charged 1.5x the rate, has that cost been analyzed to see if that was a true cost? They were getting a bargain. Anyone who used city water and sewer, but was not within the city limits, the cost should reflect what the property taxes would be.

Mr. Sullivan stated that was what the city policy was for all perspective water and sewer hook-ups for properties outside the city limits.

Councilor Justus was saying if you lived outside the city limits, and you were using the city's services, there should be a fee assessed. Stop – they're never going to buy the cow! Why buy the milk, if you got the cow for free? They were giving away the cow!

Mr. Cummings stated his understanding, but these people were asking to come in, and the others were not.

Mr. Brown stated at the Public Hearing, there was some misinformation the property owners had received about the cost of the annexation, which Mr. Cummings clarified for them. He believed there might be some who found it more appealing now.

The Hearing was opened for public testimony.

Opponents: None.

Proponents: None.

There being no Proponent and no Opponent testimony, the Hearing was closed.

Carter moved, Winebarger second, that **THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM RESIDENTIAL-URBAN GROWTH AREA (R-UGA) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), BE APPROVAL BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS IN THIS REPORT AND RECOMMENDATION OF THE PLANNING COMMISSION.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-no; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 6/1/0.

Winebarger moved, Crume seconded, that the City Council **ADOPT ORDINANCE #2726-2017, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF TWO PARCELS OF LAND ONE BEING LOCATED AT 1939 THOMAS CIRCLE AND THE OTHER AT 1936 BRADY CIRCLE IN THE RIDGE VIEW SUBDIVISION FROM RESIDENTIAL UGA TO CITY SINGLE FAMILY RESIDENTIAL (RS-50); ON FIRST READING BY TITLE ONLY.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-no; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 6/1/0.

Ordinance #2727-2017: Amending the Ontario Comprehensive Plan and Zoning Map, Rezoning Property Tax Map 18S47E09BA, Tax Lot 3900, from Single Family Residential (RS-50) to High Density Residential (RM-10) First Reading

It being the date advertised for public hearing on the matter of Ordinance #2727-2017, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Dan Cummings, Community Development Director, presented.

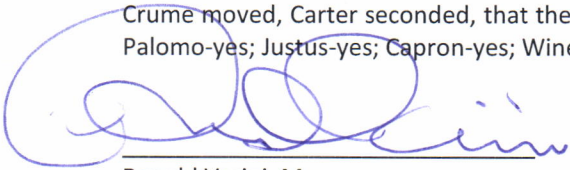
The Planning Commission tabled this action until date uncertain, not to exceed 180 days for additional information. Staff recommends the Council table this action to a date uncertain to be announced at the next Planning Commission meeting on this matter.



Crume moved, Justus seconded, that the City Council **TABLE THIS ACTION UNTIL SUCH TIME AS THE PLANNING COMMISSION SENDS A RECOMMENDATION TO THE CITY COUNCIL FOR ACTION**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

ADJOURN

Crume moved, Carter seconded, that the **MEETING BE ADJOURNED**. Roll call vote - Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder