CITY COUNCIL MEETING MINUTES
November 21, 2017

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Tuesday, November 21, 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, Tori Barnett, Larry Sullivan, Kari Ott, Terry Leighton, Cal Kunz, Dan Cummings, Cliff Leeper, Betsy Roberts, and Dan Beaubien.

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

Tessa Winebarger led everyone in the Pledge of Allegiance.

AGENDA

Mayor Verini stated they would be moving New Business action item 6)C: Homeless Task Force to 6)A, and restructuring the remaining action items accordingly.

CARTER moved, JUSTUS 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.

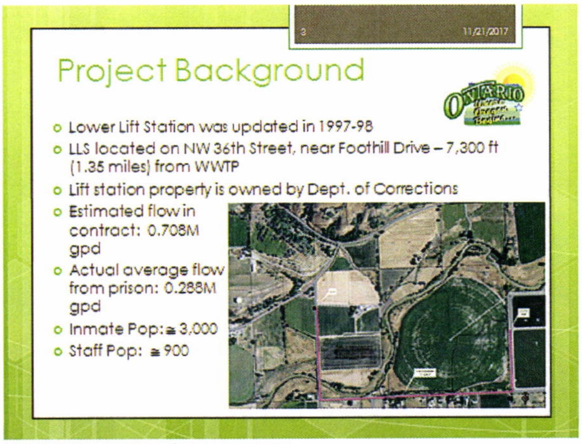
CONSENT AGENDA

Mayor Verini stated there was a typo in the minutes. Mr. Brown's name was not capitalized on one statement.

WINEBARGER moved, PALOMO seconded, to **ADOPT CONSENT AGENDAS (A) MINUTES OF REGULAR MEETING OF OCTOBER 17, 2017, WITH CORRECTED MINUTES**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

PRESENTATION

Betsy Roberts, CH2M, City Engineer, presented.


3
11/21/2017
Project Background
Lower Lift Station was updated in 1997-98
LLS located on NW 36th Street, near Foothill Drive – 7,300 ft (1.35 miles) from WWTP
Lift station property is owned by Dept. of Corrections
Estimated flow in contract: 0.708M gpd
Actual average flow from prison: 0.288M gpd
Inmate Pop: ≅ 3,000
Staff Pop: ≅ 900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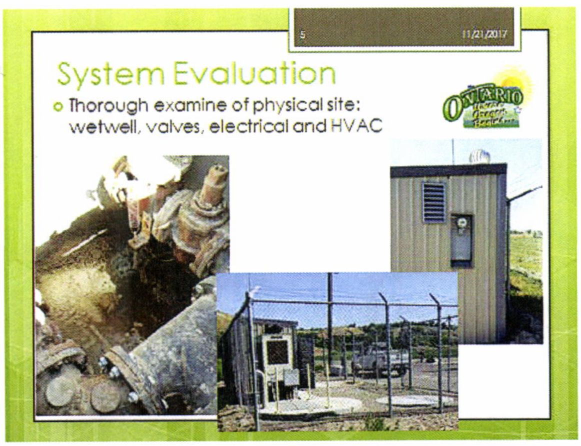
11/21/2017
Project Background
LLS update included increasing wetwell capacity; however.....
Wetwell capacity extremely limited if pumps go down. Even with working alarms, reaction time is minimal.
LLS is within 1,500 LF of Malheur River.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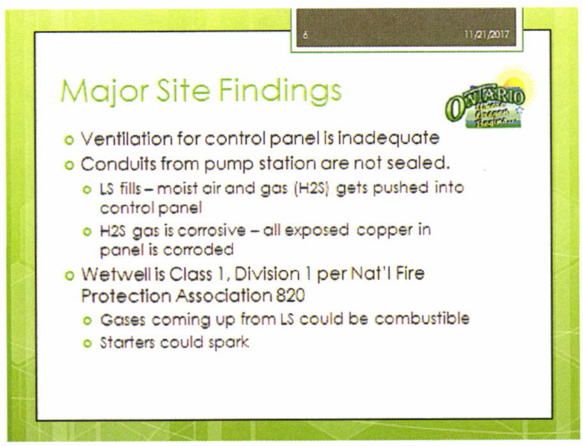
11/21/2017
System Evaluation
Thorough examine of physical site: wetwell, valves, electrical and HVAC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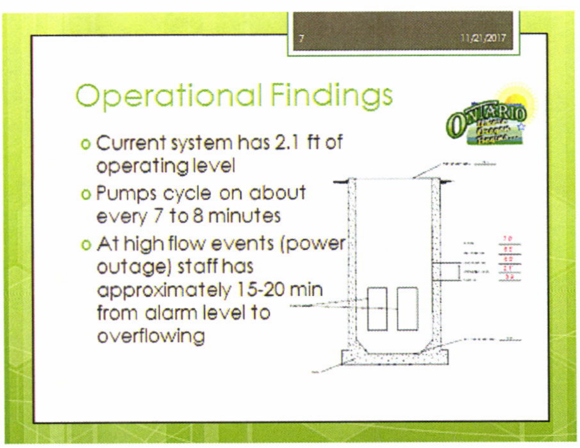
11/21/2017
Major Site Findings
Ventilation for control panel is inadequate
Conduits from pump station are not sealed.
LS fills – moist air and gas (H2S) gets pushed into control panel
H2S gas is corrosive – all exposed copper in panel is corroded
Wetwell is Class 1, Division 1 per Nat'l Fire Protection Association 820
Gases coming up from LS could be combustible
Starters could spark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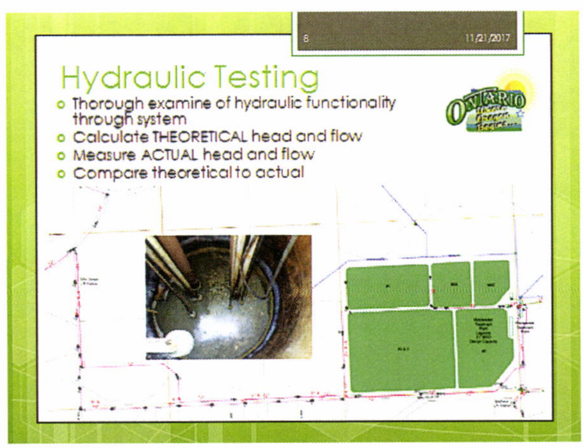
11/21/2017
Operational Findings
Current system has 2.1 ft of operating level
Pumps cycle on about every 7 to 8 minutes
At high flow events (power outage) staff has approximately 15-20 min from alarm level to overflowing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11/21/2017
Hydraulic Testing
Thorough examine of hydraulic functionality through system
Calculate THEORETICAL head and flow
Measure ACTUAL head and flow
Compare theoretical to actual

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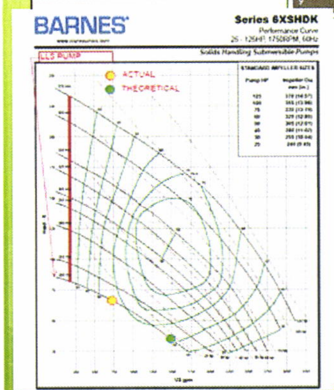

Hydraulic Findings

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Potential Solutions

1. Do Nothing
2. Minor Rehab
3. Minor Upgrade
4. Rebuild in Place
5. Siphon

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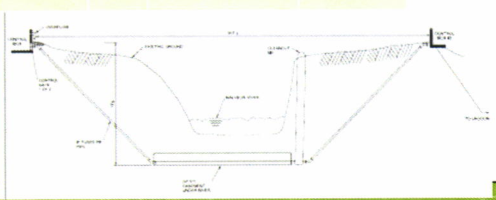
Costs

Alternative	Meet DEQ Std?	Environmental Impact	Cost
1	NO	High risk of failure	$0
2	NO	Reduced risk of failure	$65k electrical $100k ice pigging
3	NO	Reduced risk of failure	$639k
4	YES	New construction	$2.92M
5	YES	River crossing, more permitting; significant reduction in O&M	$1.86M



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Timing

- Nov. 14 - PW committee review
- Nov. 21 – City Council Review
- Dec. 4 – Department of Corrections Review
- City-DOC Contract currently extended 1 year
  - Contract negotiations may impact selection of alternative
  - Availability of funds for both DOC and City will impact timing of improvement

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Recommendations

- PW Staff best solution - Siphon
- PW committee best solution - Siphon
  - Consensus – electrical upgrade should be done $65k
  - Consider pros/cons of ice pigging
  - Request DOC pay ½ cost of electrical upgrade
- Timing is factor in solution selection
  - Long lead time to ultimate solution, need to reduce risk of failure (electrical upgrade, maybe ice pigging)
- Increase understanding of regulatory response to siphon
- Continue to weigh NPDES permit requirements on project

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Questions?

Councilor Crume stated he understood what she had explained in her presentation, but he struggled with the dollars and cents piece, and the city being asked, forced, or desired to pay. It was SRCI's line, correct? Did the city own the line, or did the contract that city had for the past 20 years, was it for maintenance of their line?

Ms. Roberts stated it read that they defined operations costs, "shall meet all costs incurred by the city in connection with the operation, maintenance, odor control, replacement, upgrading, or otherwise brining into conformance with any applicable rules, regulations, statute, or standard, the city's sewer treatment effluent disposal facilities or any component or part thereof. Now or in the future operations costs are paid by the sewer users paying the monthly sewer charges...

Councilor Crume stated she had read upgrades, etc., so that answered part of his question, but it said "now and in the future". How would that work on a 20-year contract when the contract had expired?

Ms. Roberts stated it hadn't expired. They were in an extended...

Councilor Crume stated he knew it had been extended, but this one would expire in nine months.

Ms. Roberts stated that was why it was extended; so they could deal with that, because this didn't deal with the capital costs. It wasn't, in her opinion, it was spelled out very clearly, that they paid the city $1.34M, to build it and hand the keys over, and they'd pay rates just like everyone else. It was written like that, and the city said okay.

Councilor Crume stated the contract expired. So, moving forward from that day, what liability did the city have? Did the city own it, or did the State of Oregon?

Mr. Sullivan stated it could be argued that based upon that language in the contract that they city was treating it as if it was its own line, but once the contract expired, everything became negotiable.

Councilor Crume stated he was not trying to get out of responsibility upon the city, he was trying to be fair. It didn't matter what money the city or state had or didn't have, his interpretation up until Ms. Roberts had stated "upgrades" that changed some things for him. It appeared the city was responsible for upgrading to today's standards, even though the design was 20 years old.

Ms. Roberts stated she would argue that. She thought there were some flaws in the design.

Councilor Crume agreed, but the contract read that the city was liable for upgrades.

Ms. Roberts stated she wouldn't have considered that an upgrade. A flaw in the initial design was not an upgrade.

Councilor Crume stated for the electrical panel being exposed to gasses, that was a design flaw that met code 20 years ago?

Ms. Roberts stated that was possible.

Councilor Crume stated it would have had to receive a permit to begin operating. In theory, it should have met code. His main concern was what responsibility the city truly had.

Mr. Sullivan stated that was not a matter for the Council to debate. It would have to be researched. In his opinion, that contract language was binding on the city as long as the contract was active. The city extended that contract for an additional year, but if that expenditure didn't need to be made over the next year, the contract wouldn't be operating anymore.

Councilor Crume stated they a responsibility to the prison to handle their waste, but on the same hand, the prison had the responsibility to deliver the waste to the city in a safe manner. That meant that the piping had to be up to today's standards, with no risk of flooding or fines assessed.

Ms. Roberts stated she thought the DOC would be a willing partner. They had a statement of Purpose and Intent that put them in the box. They needed service, so they would be willing to help. They could not operate a prison without sewage treatment. The only alternative to the agreement was for the DOC to construct a sewage facility. DOC considered that alternative, and concluded it was in the best long-term interest of the citizens of the State of Oregon for the City of Ontario to provide the prison facility with sewage service. The intent of the parties to this agreement was that the city shall provide service, and that DOC shall pay all costs incurred by the city in providing service, including, without limitation, DOC's share of the project costs, operations costs of prison facility sewage treated by the city in accordance with the city's current residential equivalent rates and debt service. As its share of the project costs to provide the city with the additional service capacity, to serve the expanded prison facility, DOC shall pay Ontario $1.34M.

Councilor Crume wanted to be a good partner, too, and to work with DOC, and they needed each other, but he wanted to ensure that the city's taxpayers weren't on the hook for something they were not responsible for.

Ms. Roberts stated they hoped to have the new contract renegotiated before the extended contract expired.

Councilor Justus stated on the sewer rates for the prison, the city was delivering a service, the city had to rebuild this station, spending $1.8M or $1.3M, and the city was only asking DOC to pay for half?

Ms. Roberts stated no, she was not making any recommendations on that.

Councilor Justus stated the Public Works Committee had...

Ms. Roberts stated it was just for the electric. They were going to ask to see what they got.

Mr. Sullivan stated both the city and the state had funding mechanisms available through bonds and other things that would allow the cost of an upgrade to be amortized over a longer period of time.

Change in Agenda

Mayor Verini asked for a Council consensus to move the Homeless Task Force action to the next item.

Council consensus to move the item.

Homeless Task Force

Adam Brown, City Manager, stated this item was on the Agenda at the request of Councilor Marty Justus, who had been part of the Homeless Task Force, along with both himself and the Mayor.

Angie Uptmor, Housing Program Manager, Community in Action, presented.

Ms. Uptmor introduced Barb Higinbotham, Executive Director, Community in Action. At the end of December, 2016, Harvest House closed their doors to meal site. Community in Action, partnering with Project Dove, took over that project, but they lost their building in August. They found a temporary location, so since September 25th; they'd been serving meals to the homeless at Origins Faith Community on 2nd, previously the United Methodist Church. Ms. Uptmor presented some statistics in a hand-out to the Council:

Homeless Meal Site Data:
CinA took over the homeless meal site on January 1, 2017 when Harvest House Missions closed;
Services were moved to Origins Faith Community on September 25 due to the sale of the building where services had been delivered;
Since January of 2017, we have served over 2,000 homeless and low-income residents with a hot nutritious meal;

- One designated staff and many volunteers make this service happen;
- CinA has allocated over $25,000 to the program with grant/private funds; currently short approximately $23,000 for program costs.

Community in Action was requesting the following funds from the cities and Malheur County.

HOMELESS SERVICES			
	Received To Date	Additional Ask	Annual Budget line item
Malheur County	$ 2,500.00	$ 2,000.00	$ 4,500.00
City of Ontario	$ 2,500.00	$ 4,000.00	$ 6,500.00
City of Nyssa	$ 2,500.00	$ 2,000.00	$ 4,500.00
City of Vale	$ 2,500.00	$ 2,000.00	$ 4,500.00
TOTAL	**$ 10,000.00**	**$ 10,000.00**	**$ 20,000.00**

Additional needs included: Showers services that are not offered at the new location; and a shelter for extreme weather conditions.

Homelessness was a community issue and with the help of our communities, we could continue to assist its residents and help them move toward self-sufficiency. Residents who were unable to become self-sufficient would continue to be cared for to help mitigate the costs to the cities for additional services including police and emergency services.

Some of the concerns if there was no assistance for the homeless could include the homeless living in business doorways, more emergency calls (and the dangerous places our emergency responders go to assist homeless), and a scenario of the cost of assisting 20% of the 108 unsheltered homeless for our police force…roughly $2,160 for 2-hours assistance a month.

Ms. Uptmor stated the count in 2013 had been 51 persons; in 2017, it had increased to 151.

Mayor Verini asked if they could take action on this at the current meeting.

Mr. Sullivan stated they could.

Councilor Crume asked how they could do that when the Council had passed a resolution around two years ago, for donations such as this to be processed through the budget cycle? They had broken their own rule when they had provided funding earlier in the year to CinA.

Mr. Sullivan stated he had forgotten about that resolution, and Councilor Crume was correct.

Councilor Justus asked Kari Ott, Finance Director, how much money was in the Public Safety Fund.

Ms. Ott stated there was a couple hundred thousand.

Councilor Justus asked if they could allocate funds from there.

Mr. Sullivan stated they could do a resolution to appropriate those funds. They could make a resolution to make a specific donation for a particular purpose, and that would be valid.

Ms. Ott stated that was where they took the $2,500 from earlier in the year.

Councilor Justus verified that Community in Action was requesting $4K from the City of Ontario. Then, they'd ask that $6,500 be budgeted annually. But right now, they only wanted the $4K.

Mr. Sullivan stated it would take a resolution approved by the Council.

Councilor Capron told Ms. Uptmor that he'd give her his card, as he knew where they could get additional funding. On the consensus part of this action, he was a no.

Councilor Winebarger stated she was a yes, but with the exception for using the Public Safety Fund.

Councilor Crume stated he was a no. They needed to stick to the laws they had made.

Councilors Justus, Carter, Palomo, and Mayor Verini were all yes.

Council consensus (5/2/0) for staff to prepare a resolution allocating $4K towards the Homeless Task Force program, and bring it before Council at their next meeting.

Hangar Lease Transfer
Dan Beaubien, Airport Manager, presented.

Hangar 107 India, previously owned by James Cody, was purchased by Ben's Truck Repair. A transfer of hanger ownership required a new lease agreement to be put in place between the new owner and the city for the ground lease. Hanger 107 India was 1,023 square feet and was currently set at a rate of 14.5¢ per square foot. The city, by resolution, could increase hanger lease fees, following the City of Portland CPI, not to exceed 6% annually. The purchase was made and the new owners wanted to complete the process of transferring their names to the city lease agreement. The new lease agreement was not in conflict with any policy. Council approval was required for lease renewals and change of ownership.

WINEBARGER moved, JUSTUS seconded, **THAT THE CITY COUNCIL APPROVE THE HANGAR LEASE TRANSFER OF OWNERSHIP FOR 107 INDIA AT THE ONTARIO AIRPORT FROM JAMES CODY TO BEN'S TRUCK REPAIR.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

Appointments to Diversity Advisory Council
Adam Brown, City Manager, presented.

The city's newly formed Diversity Advisory Committee received two requests for appointment to the Diversity Advisory Committee, one from Cydney Cooke, the other from Alfredo Rodriguez. There were currently openings on the Committee.

On April 6, 2017, the City Council adopted Resolution #2017-117, Supporting and Establishing the Diversity Advisory Committee. On July 18, 2017, the City Council adopted Ordinance #2728-2017, Creating the Diversity Advisory Committee and Supporting Criteria.

Staff and community partners have been seeking individuals to fill the seven positions on the Committee; postings have been placed in the local media, as well as on the city's website. There are currently three members on the Committee. The city would like to fill the four remaining positions as soon as possible. If at least four individuals are appointed, the Committee could conduct formal business following the guidelines outlined in the establishing ordinance. Staff set a goal to have the Committee functioning in January. City policy states appointment to all boards, committees, and commissions are to be made by the Mayor, with consensus of the Council.

CRUME moved, WINEBARGER seconded, **THAT THE CITY COUNCIL APPOINT CYDNEY COOKE AND ALFREDO RODRIGUEZ TO THE DIVERSITY ADVISORY COMMITTEE, TERM OF OFFICE TO COINCIDE WITH THE ESTABLISHING ORDINANCE.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

Resolution #2017-137: Receive/Expend Donation Funds for Shop with a Cop [$2,500]
Kari Ott, Finance Director, presented.

For the past several years, the Ontario Police Department has participated in Shop with a Cop, which was a program to work with high-risk kids during the Christmas holidays. Law enforcement officers teamed up with kids and shopped for presents for both the child and their family. The program was administered by Help Them to Hope. The police department had not budgeted to receive and expend the funds and would like to make an adjustment in order to do so. It was proposed that the budget change to receive and expend the funds be recognized within the Grant Fund. $2,500 will be appropriated within the Grant Fund to pay for the Shop with a Cop program. The Ontario Police Department would like to appropriate the funds as soon as possible as the holiday season had already begun. Per ORS 294, a supplemental budget approved by the City Council was required to expend the funds. The Council could take no action on this matter; however, that action would cause the funds to be returned to Walmart and the Shop with the Cop program would not happen in 2017.

CARTER moved, JUSTUS seconded, **THAT THE CITY COUNCIL ADOPT RESOLUTION #2017-137, A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET TO RECOGNIZE SHOP WITH A COP FUNDS RECEIVED AND EXPENDITURE OF THOSE FUNDS.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

PUBLIC HEARINGS

Resolution #2017-136: Supplemental Budget Approving Airport Manager FTE Adjustment and Appropriate HB 3400 Revenues
It being the date advertised for public hearing on the matter of Resolution #2017-136, 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.

Kari Ott, Finance Director, presented.

The Airport Manager was historically a 20 hours per week position. This number of hours was insufficient to manage the Airport, maintain the grounds, the capital improvement projects going on at the Airport, and pursue additional revenue generating strategies. The 2017-2018 budget appropriated the funding for the Airport Manager under contract services.

In addition, the city received a one-time payment of $32,679 local option tax from HB 3400. In the Spring of 2017, the Airport Committee presented to the Ontario City Council a vision for the Ontario Airport and expressed its goal of having a full-time Airport Manager to accomplish that vision. Additional funding was generated by leasing property on the airport grounds that would bring an additional $14,000 to the airport.

Under the same pay strategy for the Airport Manager position, the additional money derived from the property lease would buy an additional eight (8) hours of the Airport Manager's time. That funding would not be available until July 1, 2018. It was staff's belief that more hours applied towards the Airport Manager would result in more opportunities being pursued for greater funding and self-sufficiency. One time revenue sharing from the state, that was not budgeted, was received in October 2017 in the amount of $32,679; however, the funds were restricted for city police use. Consequently, there was less general revenues needed than originally budgeted to fund police department expenditures.

Staff was proposing a transfer of $10,637 from the General Fund to fund the additional eight (8) hours of work that could be sustained by next year's lease revenues. This amount included an hourly wage, retirement contributions, and all payroll taxes. The number of hours requested was based on the ability to pay for the additional hours, by new revenue, after July 2018. A lease agreement for property on the former Ontario Golf Course was entered into this year and would generate new revenue of $14,000 next fiscal year. Funding from that property must be dedicated to the Airport.

Knowing that funding was there for more hours, staff was requesting that $10,637 be budgeted and appropriated to the Airport Fund so that the Airport Manager could work additional hours. The hours would be spent managing the property, managing the Airport improvement projects, and working on other revenue generating strategies.

Hundreds of thousands of dollars of work was being spent on the Airport runway light project with very little match required from the city. Next year's funding from the Federal Aviation Administration was also expected to be significant. The Airport Manager was expected to manage these capital improvement projects.

The remaining funds from the State Revenue Sharing would go to contingency. The 20 hours currently budgeted for the Airport Manager was used very quickly just in maintaining the property. Additional hours could be used to pursue revenue-generating strategies. The City Council must budget and appropriate funds and allocate funding for positions.

One option was that the Council wait until July 1, 2018, to budget and appropriate additional hours. Oversight of the improvement project could potentially suffer. Winter snow maintenance could be hindered by the limit in hours available for work. Additional opportunities would not be pursued because of time restrictions.

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, CRUME seconded, **THAT THE CITY COUNCIL APPROVE RESOLUTION #2017-136, A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET TO INCREASE THE FTE COUNT AT THE ONTARIO MUNICIPAL AIRPORT FROM .5 FTE TO .7 FTE AND BUDGETING ADDITIONAL STATE REVENUE SHARING FUNDS.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

Ordinance #2732-2017: Annexation and Rezone of Tax Lot 800, Assessor Map 18S4711BC – Urban Growth Area General Commercial (UGA C-2) ⟶ City General Heavy Commercial (C-2H)

It being the date advertised for public hearing on the matter of Ordinance #2732-2017, 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, Economic Development Director, presented.

At its regular meeting of November 6, 2017, the Planning Commission heard the annexation and rezone proposal contained in Planning File 2017-08-16AZ, which was applicable to a property located at 510 SE 13th Street, the property being known as Tax Lot 800, on Assessor's Map 18S47E11BC as shown and described in Exhibits and "A" and "B" of proposed Ordinance 2732-2017.

The Planning Commission, based on findings and testimony, was recommending that the City Council approve the annexation of the lands and to rezone the lands from Urban Growth Area General Commercial (UGA C2) to City General Heavy Commercial (C-2H). The applicant owned a parcel of land known as 18S4711BC, tax lot 800. The applicants wished to annex and rezone the property into the city for future development. This application, if approved, would result in the annexation of 0.39 acres, plus the right of way for SE 5th Avenue and SE 13th Street, into the city, and a rezone of the property from Urban Growth Area General Commercial (UGA C-2) to City General Heavy Commercial (C-2H).

This request for annexation and rezone needed a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designated the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designated the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law required an ordinance be adopted by the local governing body to accomplish a rezone. The city's governing body was the City Council, and they were the only body that could adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff felt that the best procedure was consistency with state law; therefore, this matter required a recommendation from the Planning Commission, which would then be submitted to the City Council for their decision. The proposed development had to 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 was found to be consistent with the Zoning Ordinance, it was 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 effecting 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 effected 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 effected 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 property is currently zoned UGA General Commercial (UGA C-2) and the request is to rezone to the companion City General Heavy Commercial (C-2H) Zone that is the same zone as adjacent lands to the north and nearby property. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. 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 motion to recommend the City Council approve the rezoning of this property City General Heavy Commercial (C-2H).

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 UGA General Commercial to City General Heavy Commercial (C-2H).

f. The property owner of tax lot 800 proposes no new development at this time and the land has adequate room for existing 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, an addition 10 feet of right of way dedication for SE 13th Street and 5 feet along SE 5th Avenue will be required as a condition of approval and the existing street are not developed to City standards and has been requested to be deferred until future development and therefore the lands will NOT be removed from the Rural Road district No. 3 at this time.

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 commercial 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 City General Heavy Commercial (C-2H) 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.
3. The property is currently zoned for Commercial use in the Urban Growth Area; the recommended zone, City General Heavy Commercial (C-2H), is consistent with contiguous property.
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 commercial land.

Conclusion: All criteria and standards applicable to a request for annexation were met. The property could be annexed.

Annexation would benefit the city by increasing tax revenue and a new development tax base.

The request was filed on August 29, 2017 by the applicant. DLCD was given its 35 day notice, and the 20-day notice to the affected persons and agencies were sent 20 days prior to the hearing as required by law. The Public Hearing for this action was set for November 21, 2017, which met the notice requirements.

The Ontario City Council authorized a public hearing at their regular meeting on November 9, 2017 to be held on November 21, 2017 at 7 pm. The quasi-judicial Zoning Map amendment procedures were 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 Planning Commission would be the final decision of the city unless an appeal was filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH READ: 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. Alternatives could be as follows:

The Council could, by motion, based on public testimony or need for more clarification refer this matter back to the Planning Commission, OR, 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 November 6, 2017, made a motion that the request for annexation be approved and rezoning of the subject property from UGA General Commercial (C-2) to City General Heavy Commercial (C-2H), as set forth in ACTION 2017-08-16AZ be recommended for approval by the City Council, based on the information, findings and conclusions at said Public Hearing, and Staff recommends the approval of the Annexation and Rezone.

Exhibit "A"
Property Description for Annexation/Rezone
City Action No. 2017-08-16AZ

Land in Malheur County, Oregon:
In Twp. 18 S., R. 47 E., W.M.:
Sec. 11: A parcel of land in the N1/2NW1/4SW1/4NW1/4 described as follows:
Commencing at the Southwest corner of the N1/2NW1/4SW1/4NW1/4
thence North, along the West boundary thereof, 108 feet to the POINT OF BEGINNING;
thence East 112.02 feet;
thence North, parallel with the West boundary, to the North line of the N1/2NW1/4SW1/4NW1/4;
thence West along the North line, 112.02 feet;
thence South along the West line to the Point of Beginning.

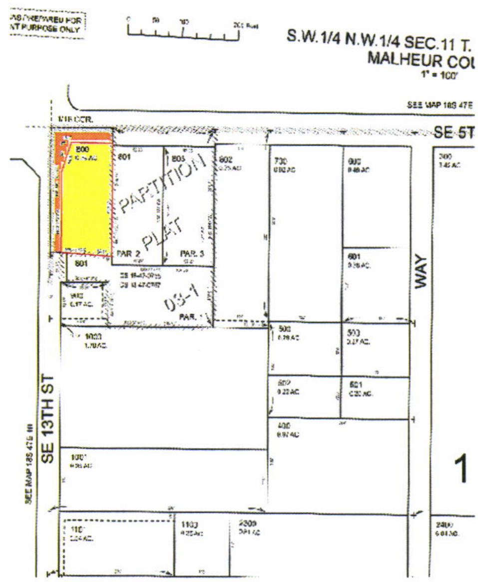
EXCEPTING THEREFROM the West 20 feet thereof for road right of way.

ALSO EXCEPTING THEREFROM that portion of land conveyed to The City of Ontario, Oregon, by Warranty Deed, recorded March 08, 2002, as Instrument No. 2002-1831, records of Malheur County, Oregon.

ALSO EXCEPTING THEREFROM that portion of land described as follows:
Commencing at the Southwest corner of the N1/2NW1/4SW1/4NW1/4
thence North, along the West boundary thereof, 108 feet to the POINT OF BEGINNING;
thence at right angles to said West line, North 89°49'40" East, a distance of 20.00 feet, to a point on the East right-of-way of SE 13th Street to the Southwest corner of that parcel of real property described in Warranty Deed Instrument No. 2001-1755, and the POINT OF BEGINNING.
thence along said right of way, North 00° West, a distance of 5.27 feet;
thence South 86°53'33" East, a distance of 92.17 feet, to the Southeast corner of said parcel,
thence along the South line of said parcel described in said Warranty Deed, South 89° West, a distance of 92.02 feet to the POINT OF BEGINNING.

TOGETHER WITH all the right of way of SE 5th Avenue and SE 13th Street adjacent to the above described lands.

Exhibit "B"
Subject properties



The Hearing was opened for public testimony.

Opponents: None.
Proponents: None.

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

CRUME moved, CAPRON seconded, **THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA GENERAL COMMERCIAL (UGA C-2) TO CITY GENERAL HEAVY COMMERCIAL (C-2H), AS SET FORTH IN ACTION 2017-08-16AZ AND REMOVING THE LANDS FROM THE RURAL FIRE BE APPROVED BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS, AND CONCLUSIONS IN THIS REPORT.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Winebarger-yes; Verini-yes. Motion carried 7/0/0.

CRUME moved, CAPRON seconded, **THAT THE CITY COUNCIL ADOPT ORDINANCE #2732-2017, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF A PARCEL OF LAND BEING LOCATED AT 510 SE 13TH STREEET, FROM UGA GENERAL COMMERCIAL (UGA C-2) TO CITY GENERAL HEAVY COMMERCIAL (C-2H), ON FIRST 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.

HAND-OUTS/DISCUSSION ITEMS

Check Register September-October, 2017.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(h)
An executive session was called at **8:30 p.m**. under provisions of ORS 192.660(1)(h) to discuss real or potential litigation. The Council reconvened into regular session at **8:43 p.m.**

JUSTUS moved, PALOMO seconded, that the City Council authorize the City Attorney to appear on behalf of the city at a hearing on the Referendum Ballot Title before the Circuit Court. 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, CAPRON 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.

ACCEPTED:

Ronald Verini, Mayor

ATTESTED:

Tori Barnett, MMC, City Recorder