



CITY COUNCIL WORK SESSION MINUTES November 8, 2018

The scheduled Work Session of the Ontario City Council was called to order by Mayor Ronald Verini at 12:00 p.m. on Thursday, November 8, 2018, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Dan Capron, Ramon Palomo, Betty Carter, and Marty Justus.

Members of staff present were Adam Brown, Tori Barnett, Larry Sullivan, Cal Kunz, Kari Ott, Terry Leighton, Dan Cummings, Betsy Roberts, Cliff Leeper, and Peter Hall.

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

Betty Carter led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on November 6, 2018. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Adam Brown, City Manager, stated staff had added an Executive Session to the Agenda.

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

PUBLIC COMMENT

Jennifer Long, stated: *So I guess a lot of us are probably here for the marijuana conditional use permit process. I didn't see it on the Agenda, so...will it be discussed today?*

Mayor Verini stated it was not on the Agenda; however, for one of the Executive Session on the Agenda, marijuana would be discussed. With the agreement of Council, he'd like to open the public comments to hear any comments from those in attendance.

Jennifer Long, Baker City, stated: *My husband and I have a dispensary in Sumpter, Oregon, and we're looking at the possibility of opening in Ontario. I notice an issue with the line that's been coming and trying to figure out how to handle the Conditional Use Application process. I used to be a Planner for Baker City, and I was also a Planner for Baker County, so I did some research on my own to find out if I could provide some sort of help in the matter. The city of Santa Rosa, California, has gone through this exact same process and they developed a policy on how to handle basically the competitive areas that have 1,000 foot buffers. I forwarded that document to Mr. Sullivan and Mr. Cummings and I believe they'll be able to share that with you, if that might be an option to figure out how to handle the permits. Basically, there's an application window where all applications will be received; they'll be reviewed to see if there is competing locations. The ones that aren't competing move forward. The ones that are competing locations go through a ranking system with points assigned to determine if they fit the neighborhood well, if the owners were of good standing, and so forth. It's a seven page document that Santa Rosa created. It's very well thought out. I think it might be a very good example for Ontario to be able to use.*

Kandy Mocaby, Payette, stated: *My comment is also regarding dispensaries, and I was wondering, in Executive Session, will you be discussing cannabis dispensaries today in Executive Session?*

Mayor Verini stated they would.



Ms. Mocaby continued: *Okay. And then I was wondering, when would that, what's the time frame in which that might be announced to the public or letting us know what decisions have been made?*

Mayor Verini stated it would be right after the meeting.

Larry Sullivan, City Attorney, stated it would be at the discretion of the Council. They would be discussing some alternatives available to the Council. The Council could choose to make a decision after the Executive Session, or postpone making a decision until they had a chance to think of the options. It would then go to the next meeting.

Ms. Mocaby continued: *So, perhaps today, or at the next Council meeting, that would be announced? Okay. And then my final comment would be that we realize, by rumor, that there are folks from out of state, as well as folks that would be applying for the cannabis dispensary application, or applications, that would be maybe have additional funding or are more fortunate to have several properties that are purchased and would be turning in several applications for a dispensary location. I'm just wondering if the City Council could please hear the public and the local people to allow them, to allow us, to have a chance at having a cannabis dispensary as well. So, maybe, if somebody has 10 applications in, wouldn't it be fair to allow others to have an application, and for those folks to have one application to be process along with other folks' single application, and then start taking additional applications? Finally, I am disabled. I'm a grower. We're interested in a dispensary. We had one here in the City of Ontario that was medical. We speculated on it in 2015. We, and 420Ville, were the first dispensaries to be licensed and approved for the City of Ontario, and we both had the dispensaries set up. The City of Ontario opted out, so we lost that funding and we'd like to try again this time. We hope that you will give us all a fair chance. Thank you for your time.*

Aaron Varela, Boise, stated: *In the State of Massachusetts, their medical program, they had people submit for so many applications per county, and it was done on a points system. Also, I was curious, you said that you would have an answer after this session, or were you waiting until the next session?*

Mayor Verini stated they wouldn't know until after the Executive Session.

NEW BUSINESS

Resolution #2018-138: Establish Lieutenant Position in Police Department

Cal Kunz, Police Chief, presented.

In June, 2018, the City Council adopted the fiscal year 2018-2019 budget, which reflected funding the police force staff at the same levels as budgeted in 2017-2018. The Ontario Police Department was requesting authorization to establish the position of Lieutenant, to allow them to promote an existing full-time police officer into the new position, and to promote an existing officer into a Sergeant position. This would keep the department at the current staffing level.

The Ontario Police Department had historically been understaffed, and had been without a Lieutenant or Captain position for several years. Through departmental savings and the delay of replacing an officer who resigned in 2017-2018, the Department believed there were enough budgeted funds to create the Lieutenant position and promote a new Sergeant from within.

Historically, the Captain/Lieutenant positions had been the supervisors to the Sergeants. This allowed the Chief to oversee all day to day operations, seek opportunities for cutting costs, and research grant options. The Chief would also work with the Lieutenant on improving established policies and procedures.

The increase in cost for a Lieutenant would be approximately \$3,424.27, and a Patrol Officer to Sergeant would be approximately \$15,500. The Department would be in a position to absorb this increase as there was currently an unfilled position in the Department, resulting in a savings of \$8,956 each month. To date, there had been a savings of \$35,824. (Jul-Oct, 2018). The Department would like to move on this as quickly as possible to get the promotion process started, and get an individual into the position.

JOST moved, CARTER seconded, **THAT THE CITY COUNCIL APPROVE RESOLUTION #2018-138, A RESOLUTION ESTABLISHING THE POSITION OF ONE FULL-TIME LIEUTENANT POSITION AND ELIMINATING ONE FULL-TIME POLICE OFFICER POSITION IN THE ONTARIO POLICE DEPARTMENT.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion passed 7/0/0.

Resolution #2018-139: Shop with a Cop Grant

Kari Ott, Finance Director, presented.

For several years, the Ontario Police Department had participated in Shop with a Cop, a program to work with high-risk kids during the Christmas season. Law enforcement officers teamed up with kids and shopped for presents for the child and their family. The program was being administered by Help Them to Hope. The grant funds were not budgeted and a resolution was necessary to make an adjustment to do so.

\$2,500 would 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 was approaching quickly. The Council could take no action on this matter; this would cause the funds to be returned to Walmart and the Shop with the Cop program would not happen in 2018.

CAPRON moved, JUSTUS seconded, **THAT THE COUNCIL CITY COUNCIL ADOPT RESOLUTION #2018-139, A RESOLUTION TO RECOGNIZE SHOP WITH A COP GRANT FUNDS RECEIVED AND EXPENDITURE OF THOSE FUNDS.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion passed 7/0/0.

Ordinance #2745-2018: Beekeeping in City Limits

Adam Brown, City Manager, presented.

Backyard beekeeping occurred throughout many local communities across the state and country. Beekeeping even occurred in metropolitan environments. Municipal regulation of beekeeping practices had trended towards unrestricted allowance. State House Bill 2653, passed in 2015, required local government to *"review existing ordinances and determine whether to adopt new ordinances relating to residential beekeeping within three years of the effective date of this 2015 Act."* The expiration of that time was January 1, 2019. Ontario has not reviewed their ordinance yet.

Current city ordinance prohibited beekeeping within the city limits in Section 6-2-19-(A). This prohibition was, generally speaking, obsolete with current best practices in municipal communities, particularly ones surrounded by agricultural communities. As we can all attest, just because the city prohibited bees, did not mean that we don't have bees in our community. Bees know no boundaries. Bees can travel several miles to find pollen. The Oregon State University Extension Office Foreword to the model bee ordinance acknowledged that honeybees were non-aggressive. Most honeybees were not aggressive unless they felt threatened. Sustainweb.org stated that *"it is estimated that one third of the food that we consume each day relies on pollination mainly by bees, but also by other insects, birds and bats."* Bees were an important part of Ontario's agricultural economy.

There were people everywhere, including in our community, who were allergic to bee stings. There were also people who were allergic to wasps, yellow jackets, or other animals that stung. Prohibiting residential beekeeping would not eliminate the danger of bee stings. It was important to acknowledge this fact in a review of the ordinance. Modern medicine had greatly reduced the lethal effects of an allergic reaction to bee stings. Many insurances covered the cost for an individual, with any lethal allergy, to carry an EpiPen that could prevent anaphylactic shock. Conversely, local honey was also widely known as a way to help people overcome allergies to local plants. It was a natural anti-histamine that could be effective for a wide range of respiratory diseases, ranging from asthma to chronic sinus infections.

Bees were an important part of the agricultural community that surrounded the City of Ontario. Beekeeping within the city would not only benefit the city, but would have even more benefits to our agricultural community and economy. Staff reviewed the Model Beekeeping Ordinance for Oregon Cities produced by the League of Oregon Cities and Oregon State University Extension Service. The model ordinance provided an adequate balance of regulation and freedom for hobby beekeepers within a municipal setting.



This would generate very little revenue as only beekeepers with more than five hives would be required to pay a registration fee commensurate with Oregon State Law. The fee, which could not be higher than the state fee, would be \$10 annually plus \$.50 per hive, only for persons with more than five hives. The modest fees collected would be attributed to the general fund. By state law, the city had to review this ordinance by January 1, 2019. The city was not required to change their current law, only review the law. ORS §602.045 stated that a local government could: 1. Adopt ordinances consistent with the best practices described in ORS §602.035; and 2. Charge a reasonable fee for registering hives in residential areas. The fee that a local government charged for registering hives in residential areas might not exceed the amount charged under State Department of Agriculture rules for the registration of colonies that were subject to fees under ORS §602-.090 (3). Taking no action would still be adhering to the State law requiring local governments to review their policies and ordinances. Beekeeping would continue to be banned within the City of Ontario.

JUSTUS moved, CAPRON seconded, **THAT THE ONTARIO CITY COUNCIL APPROVE ORDINANCE #2745-2018, AN ORDINANCE ALLOWING BEEKEEPING WITHIN THE CITY LIMITS OF THE CITY OF ONTARIO UNDER RESPONSIBLE BEST PRACTICES, ON FIRST READING BY TITLE ONLY.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Commercial Land Lease: Bain Aviation

Dan Beaubien, Airport Manager, presented.

Jim Bain, dba Bain Aviation, Inc., had been working out of the airport as an agricultural applicator since 2015 with a land lease for his spray operation. The lease expired two years ago and even though payments had been made to the City of Ontario in good faith during that time, it was necessary to update the lease agreement. The last lease was for a period of one year with the anticipation of moving all agricultural operators to a new location. Since the new location had not been an option for pilots and might not be until possibly 2021, it was appropriate at this time to grant the new lease.

The increase in rate would bring in additional revenue to the City of Ontario. Because of the lapse, it was prudent to grant the lease as soon as possible ensuring the security of being able to conduct a business at the Ontario Municipal airport.

CAPRON moved, CARTER seconded, **THAT THE CITY COUNCIL APPROVE THE LEASE AS PRESENTED FOR JAMES BAIN.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Moore Park Lease Renewal

Adam Brown, City Manager, presented.

The lease for Moore Park in downtown Ontario had expired. A new lease must be approved for the property to continue use as a city park. An original five (5) year lease was approved in 2003. At the expiration of that lease in 2008, another five (5) year lease was approved by the City Council with the option of extending it another five (5) years. Thus the second lease expired in 2018 and must be approved by Council to continue as a city park.

The lease expired on the 18th of May 2018. Minor changes and clarifications had been made to the lease respecting maintenance and use of the entire parcel of land. The park was home to the Ontario Saturday Market during the summer, an outdoor farmers and crafters market. The Saturday Market was a popular event that added vitality to the downtown on the weekend.

The lease was for one dollar (\$1.00) per year. The lease expired on May 18, 2018. The city had continued its use as a park over the summer. If the Council took no action, the property would revert to the landlord and would become taxable. Maintenance of the property would fall back on the landlord. The City of Ontario would need to remove it from the City Parks Master Plan. The city would have no say about what went on at the site.

Councilor Justus stated if the city was signing a five year lease, there needed to be a five year lease for both parties. If he wanted a 30-day right to rescind, the city would right of first refusal. If the city doesn't buy, the cost of the improved sidewalk would need to be paid back to the city.

Council concurrence with changes; Councilor Crume did not concur.

Mr. Sullivan stated he would make contact with Mr. Hill.

Letter of Support for Rail Station

Adam Brown, City Manager, presented.

The Nyssa City Council and Malheur County applied for a land use change through the Department of Land Conservation and Development. The entirety of the land proposed for rezoning to industrial purposes to be added to the City of Nyssa had been questioned by other parties. It had been proposed that only a portion of that property be rezoned to industrial use at this time. The County and City of Nyssa would have to go back to the Department of Land Conservation and Development at a later date to rezone the remaining land. The Malheur County Court had requested the support of the City of Ontario. In consultation with the County Court, staff had drafted a letter of support on behalf of the City Council of Ontario.

This letter of support came with no financial commitment. The City of Ontario would benefit from the transload facility by housing workers and providing retail needs for other employees all over the county. The timing was imperative as the public comment period was wrapping up shortly. Any letters of support must be submitted quickly to be considered in the State's decision. A letter of support was not required by the City Council. The application might be successful without the support of the Ontario City Council; however, the letter of support strengthened the request.

CAPRON moved, CARTER seconded, **THAT THE CITY COUNCIL APPROVE THE LETTER OF SUPPORT TO THE MALHEUR COUNTY COURT AND THE NYSSA CITY COUNCIL FOR THE MALHEUR COUNTY TRANSLOAD FACILITY ZONING REQUESTS AND AUTHORIZE THE MAYOR TO SIGN THE LETTER ON BEHALF OF THE ONTARIO CITY COUNCIL.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Change to Airport Operations Manual – Section 1.7(B)

Dan Beaubien, Airport Manager, presented.

The Airport Committee passed a motion to make a change in the Standard Manual of Airport Rules and Regulations. Under 1.7 Minimum Standards, New Construction part B, it currently read: *All new hangers shall be of metal or masonry construction.* In order to use wood in the construction of new hangers the wording would change to: *All new hangers shall have the exterior be of metal or masonry construction and have a full concrete slab floor. Wood construction is allowed.* There were contractors who would like to build hangers but are limited to the more expensive materials. Two hangers were being looked at being built but the cost of not allowing wood in the construction was too much of a deterrent to proceed.

JUSTUS moved, PALOMO seconded, **TO CHANGE THE WORDING IN THE ONTARIO MUNICIPAL AIRPORT'S OPERATION MANUAL AS PRESENTED.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Bid Award: Boise River Fence Project at Ontario Municipal Airport

Adam Brown, City Manager, presented.

The FAA awarded a grant to provide a partial perimeter fence and security gates at the Ontario Airport in an effort to help the city better protect the assets within the Airport's boundaries. After the approval from the FAA to move forward with the fence grant, a contractor bid was put out. Boise River Fence was the sole bidder for the project. The City Council must officially award the contract to Boise River Fence. The project cost was set at \$386,026.00. The FAA would provide \$347,423.00, and the State of Oregon would contribute \$22,700.00, leaving the city responsible for only \$15,903.00 to finish the total cost. Timing was important as the project was underway.

CARTER moved, CAPRON seconded, **THAT THE CITY COUNCIL APPROVE THE BOISE RIVER FENCE CONSTRUCTION PROJECT AT THE ONTARIO MUNICIPAL AIRPORT.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Noncollectable Delinquent Account Write-Offs

Kari Ott, Finance Director, presented.

As required by the Allowance for Bad Debts and Write-Offs policy, the Council was required to approve accounts to write-off before they were written off and/or sent to collections. There were two accounts proposed to write-off.

South Georgia Equipment owed the City \$7,500 for rent of the old city shop. The City Attorney looked into this company and believed it would be best to send this account to collections to attempt to collect funds. This was a good size account and the collections agency would have motivation to work to collect. The second was for Gillingham on LID 45 loan with an outstanding balance of \$35,684.33. The city had a lien on the property, but the money was not owed personally. Larry Gillingham quit paying the loan in 2008 and the county foreclosed in 2012. After the city received the notice to lien holders from the county, nothing was done and the county sold the property to Namba Farms in 2015. According to the City Attorney, there was no way to collect this money so it just needed written-off the books.

CAPRON moved, JOST seconded, **TO APPROVE THE WRITE-OFF OF THE GILLINGHAM LID 45 LOAN AND SOUTH GEORGIA EQUIPMENT RENT OWED AND TO SEND THE SOUTH GEORGIA EQUIPMENT ACCOUNT TO COLLECTIONS.** Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

DEPARTMENT HEAD UPDATES

Financial Report: September

Kari Ott, Finance Director, presented. (Report attached)

Jacobs/Public Works Report: Quarterly

Cliff Leeper, Public Works Director, presented. (Report attached)

Airport: Quarterly Report

Dan Beaubien, Airport Manager, presented. (Report attached)

Community Development: Quarterly Report

Dan Cummings, Community Development Director, presented. (Report attached)

HAND-OUTS/DISCUSSION ITEMS

Financial Policies

Kari Ott, Finance Director, presented. (Policy attached)

Agenda

Public Works Committee 11-14-2018

Department Stats:

Public Works (Attached)
Ontario Fire & Rescue: (Attached)
Ontario Police (Attached)
Code Enforcement (Attached)

Minutes

County Court: Sep 25, Sep 26, Oct 3, Oct 17, 2018 (Attached)
SREDA: Oct 30, 2018 (Attached)

EXECUTIVE SESSIONExecutive Session: ORS 192.660(2)(d)

An executive session was called at 1:43 p.m. under provisions of ORS 192.660(1)(d) to discuss negotiating strategy with the fire union. The Council convened into a second Executive Session.

Executive Session: ORS 192.660(2)(h)

An executive session was called under provisions of ORS 192.660(1)(h) to discuss current or potential litigation. The Council reconvened into regular session at 1:51 p.m.

CARTER moved, PALOMO seconded, **TO AMEND THE AGENDA TO INCLUDE RESOLUTION #2018-140**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-yes; Verini-yes. Motion carried 7/0/0.

Resolution #2018-140: Marijuana Application Process for Conditional Use Permits

Larry Sullivan, City Attorney, stated this resolution set the procedure for the city to accept and process marijuana retail conditional use applications. The procedure was set forth in Exhibit 1, attached to the resolution, which was a letter set for the signature of Dan Cummings. That would go into the procedure in detail. Some points to bring forward: the date had been added as of November 9, 2018, when it would be distributed to people in line, and those people would have until November 10, 2018, to submit a preliminary application that was referred to in the letter; the date in numbered paragraph 2 within which time the applicants had to submit a final conditional use application would be 9:00 a.m. on January 2, 2019; no conditional use applications would be accepted by the city until January 2, 2019, because the ordinance would not go into effect until January 1, 2019. The purpose of the procedure was not to change the ordinance language; it was intended as a supplement to the procedure that was briefly referred to in the ordinance. In a dispute, the ordinance language would control. There had been inserted a priority number on Exhibit 1. Mr. Cummings would sign off on the letter. Tomorrow he would give a copy of the letter to everyone standing in line in front of the Development building.

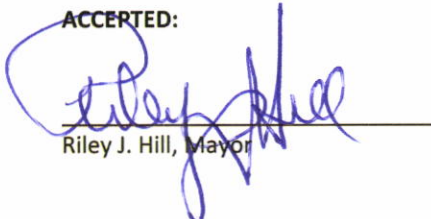
Mr. Sullivan stated there was an error - this would be distributed tomorrow, so applicants would have until Tuesday, November 13, 2018, at 5:00 p.m., to submit their application. This was due to the holidays. Subparagraph C, page 2, in the letter would be amended to reflect that change.

CRUME moved, CARTER seconded, **THAT THE COUNCIL APPROVE RESOLUTION #2018-140, A RESOLUTION APPROVING A PROCEDURE FOR THE ACCEPTING AND PROCESSING OF APPLICATIONS FOR MARIJUANA RETAIL APPLICANTS FOR CONDITIONAL USE PERMITS**. Roll call vote: Crume-yes; Carter-yes; Palomo-yes; Justus-yes; Capron-yes; Jost-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; Jost-yes; Verini-yes. Motion carried 7/0/0.

ACCEPTED:


Riley J. Hill, Mayor

ATTEST


Tori Barnett, MMC, City Recorder