



CITY COUNCIL WORK SESSION MINUTES August 8, 2019

The scheduled Work Session of the Ontario City Council was called to order by Council President Dan Capron at 12:00 p.m. on Thursday, August 8, 2019, in the Council Chambers of City Hall. Council members present were Dan Capron, Michael Braden, Marty Justus, Norm Crume, and Freddy Rodriguez. Mayor Riley Hill was excused. Councilor Ramon Palomo arrived at 12:16 p.m.

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

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

Councilor Capron led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on August 6, 2019. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Staff requested that Item 6D be moved to 6A and other items renumbered accordingly.

BRADEN moved, JUSTUS seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Braden-yes; Justus-yes; Palomo-out; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 5/0/2.

OLD BUSINESS

Applications for Appointment to Marijuana Ad-Hoc Committee

Applications were received from Jim Mosier, Natalie Barlow, Eddy Thiel, Bruce Tuttle, and Stormy Ray.

CRUME moved, JUSTUS seconded, **TO APPOINT JIM MOSIER AND BRUCE TUTTLE TO THE CITY OF ONTARIO MARIJUANA AD-HOC COMMITTEE**. Roll call vote: Braden-no; Justus-yes; Palomo-out; Crume-yes; Rodriguez-no; Capron-yes; Hill-out. Motion carried 3/2/2.

Councilor Palomo arrived at 12:16 p.m.

NEW BUSINESS

Ontario Water Treatment Plant Electrical Services and Electrical Distribution System Evaluation and Control System Upgrade

Betsy Roberts, City Engineer, presented.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE THE TASK ORDER FOR THE ONTARIO WATER TREATMENT PLANT ELECTRICAL SERVICE AND ELECTRICAL DISTRIBUTION SYSTEM EVALUATION, AND CONTROL SYSTEM UPGRADE FOR \$14,500**. Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.



Hangar Lease Transfer: Michael Bues to Bryan Bair 334 Delta/347 Charlie

Dan Beaubien, Airport Manager, presented.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE THE LEASE TRANSFER FROM MICHAEL BUES TO BRYAN BAIR FOR AIRPORT HANGAR 347 CHARLIE/344 DELTA AS PRESENTED.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

Hangar Lease Transfer: Leon James to Kevin Berg 331 Echo/326 Foxtrot

Dan Beaubien, Airport Manager, presented.

Councilor Crume noted that the square footage on the Lease stated 1800 square feet, but the insurance coverage indicated coverage of only 900 square feet.

Mr. Beaubien stated he would have that corrected. The true square footage of the hangar was 1,800.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE THE LEASE TRANSFER FROM LEON JAMES TO KEVIN BERG FOR AIRPORT HANGAR 331 ECHO/326 FOXTROT, WITH THE INSURANCE BEING CHECKED AND VERIFIED AND THE CORRECT SQUARE FOOTAGE INSURANCE COVERAGE BEING ATTACHED TO THE LEASE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

Housing Incentive Program: Agile Homes

Kari Ott, Finance Director, presented.

BRADEN moved, PALOMO seconded, **THAT THE CITY COUNCIL APPROVE THE APPLICATION BY AGILE HOMES FOR THE ONTARIO HOUSING INCENTIVE PROGRAM IN THE AMOUNT OF \$10,000.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

Resolution #2019-129: Car Seat Grant

Kari Ott, Finance Director, presented.

BRADEN moved, PALOMO seconded, **THAT THE CITY COUNCIL APPROVE RESOLUTION #2019-129, A RESOLUTION TO APPROVE THE CAR SEAT GRANT AND INCREASE APPROPRIATIONS TO PURCHASE CAR SEATS.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

Ordinance #2759-2019: An Ordinance Amending Ontario Municipal Code 3-23-6 for Collection of the Retail Marijuana Tax, and Declaring an Emergency

Larry Sullivan, City Attorney, presented.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE A FIRST READING BY TITLE ONLY OF ORDINANCE #2759-2019, AN ORDINANCE AMENDING SECTION 3-23-6 OF CHAPTER 23 OF TITLE 3 OF THE ONTARIO MUNICIPAL CODE FOR COLLECTION OF THE RETAIL MARIJUANA TAX, AND DECLARING AN EMERGENCY.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL WAIVE A SECOND READING OF ORDINANCE #2759-2019, AN ORDINANCE AMENDING SECTION 3-23-6 OF CHAPTER 23 OF TITLE 3 OF THE ONTARIO MUNICIPAL CODE FOR COLLECTION OF THE RETAIL MARIJUANA TAX, AND DECLARING AN EMERGENCY.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.

DEPARTMENT HEAD UPDATES**Financial Update: June, 2019 (Attached)**

Kari Ott, Finance Director, presented.



DISCUSSION ITEMSChange of Time for City Council Work Sessions

Adam Brown, City Manager, stated he was presenting both advantages and disadvantages to the meeting time. The daytime meeting gave citizens an opportunity to participate, and most things handled at the city involved professional services and contractors, but staff would accommodate whichever time frame the Council wanted. Department Heads were salaried employees, so there would be no financial impact. Should an hourly employee need to attend, it would not be a great impact to the budget over the course of the year. Following discussions with staff, they'd prefer to keep it at noon; however, if the Council wanted an evening meeting, then perhaps an earlier start time such as 5:30 or 6:00 would be an option.

Councilor Capron stated that he had talked with individuals interested in running for Council, and having a day meeting would, sometimes, knock some people out of the running. There were others who worked swing shift, but it seemed more people worked the typical 8-5 type hours. It would work out better for a few currently on the Council.

Councilor Crume asked why staff wanted to keep the meeting time at noon.

Mr. Brown stated it was primarily because it fit within the workday. The City Engineer commutes from Boise, and our Finance Director commuted from Burns. It was also when the Council received the department updates. That being said, staff would adapt to what the Council selected.

Councilor Crume stated when he first started as a Councilor, it was easier to attend the noon meetings because he had staff that covered his absence. Now, he was the only employee, so his wife covered when he was out. It was a large impact on him and his business to attend the noon work sessions. However, if the meetings needed to continue at that time, he'd continue to make it work. On a personal level, along with the public, some people could only attend in the afternoon, but it didn't appear to be a huge issue. He had found that if someone wanted, or needed, to attend a Work Session, they made it work. It also seemed that they had a larger audience turn-out in the evenings. In addition, the city had gone digital with their meetings, which were now streaming live and being uploaded post meeting, so many who didn't need or want to attend, could still see discussions about things. He was also an advocate to have both the City Council meeting and Work Session meeting have the same start time, regardless of what that was. An evening meeting wouldn't cause such a hardship, either, should it run long.

Councilor Rodriguez stated he had seen the largest attendance of audience members in the evening. The times should be for the convenience and ease of the citizens.

Councilor Capron stated he understood the 5:30 or 6:00 suggestion would be for those who would attend, but he also understood the need for consistency. However, it was on a different night.

Councilor Braden stated he had no preference. He wanted to do what was best for the largest amount of people.

Councilor Capron stated it would be for the public after hours, especially if someone wanted to run for office.

Councilor Palomo stated it appeared they were all in favor of moving it to after hours, but at what time? An earlier time would help out staff, and if a meeting ran long, they'd all still be out around 10:00 p.m. If they didn't start until 7:00 p.m. and the meeting ran long, they'd be there until midnight or 1:00 a.m.

Councilor Crume stated 5:30 was a bit early for him, and possibly Councilor Capron. It only allowed 30 minutes to close up, get home, change, maybe eat, and get to City Hall. That's if they closed at exactly 5:00 p.m. He'd be on board with a 6:00 p.m. start time.

CRUME moved, Justus seconded, **THAT THE CITY COUNCIL CHANGE THE TIME OF WORK SESSION MEETINGS FROM NOON TO 6:00 P.M. ON THE SAME SCHEDULED DAY.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-out. Motion carried 6/0/1.



Fire Hydrant Painting Project

Councilor Freddy Rodriguez stated it was scheduled for Saturday. He'd like to make this an annual thing, catching up on the hydrants annually. It was set to run for eight hours, but as this was the first one, that could fluctuate.

Mr. Brown stated it was set to begin at 8:00 a.m. Everyone was meeting at Lion's Park, on the concrete pad without a shelter.

Councilor Rodriguez stated there was a local business owner who would be providing snacks and water. Brushes, cups and/or trays were being provided by Maura Kirby Garcia from Kinney & Keele True Value. He was seeking an awning or tent for shade.

Mr. Brown stated he had a pop-up he could bring down.

Councilor Justus stated Revitalize Ontario had a plan in motion to repaint all the power boxes. They were working with a local art teacher on this, and had received a \$10K grant. He believed the idea was to go out to different age groups, including the schools, and then they'd be reviewed. The artwork selected would be vinylated, and grafted onto the power box.

Councilor Crume asked about the different colors of the hydrants.

Terry Leighton, Fire Chief, stated they were specified as red. There were no yellow hydrants in Ontario. However, there were some blue hydrants, and they were on the supply line. Some were red with white caps. Public Works had a specific color scheme, which Councilor Rodriguez had been given. The Fire Department's preference was to have them one color.

Public Smoking on City Campus, Public Parks, and Downtown

Adam Brown, City Manager, stated they had previously discussed downtown smoking issues, such as creating an ordinance prohibiting it due to some issues in that area. There were some businesses there stated they would leave if nothing happened, and we'd like to keep them here. He had also received some requests from City Council members about the possibility of creating an ordinance regarding smoking in public parks, and also city campus areas. Kirstin Hatch, Health Department, was in attendance, and she had offered to assist in creating the potential ordinances.

If the city had a resolution that stated there would be no smoking on city properties, which would be the campuses, so it would be the entire block that City Hall occupied, half of the Community Development Center block, and the Public Works buildings. The Health Department's priorities were the parks and the government campuses. Banning it downtown would receive support, but it was not their first priority. However, it was a priority to the downtown business owners and staff.

Councilor Rodriguez asked about the impact to some businesses, like bars.

Mr. Brown stated there would be an impact, mostly because smoking was not allowed inside the establishment. It was supposed to be 10 feet from the entrances. That created a challenge because a patron would come out of the bar and litter on the sidewalk, there had been problems with people smoking right in front of other businesses doors and leaving trash there, so that 10-foot rule was difficult. It was a state law, and the process for addressing it was that the city would call the state, who called the local health department, who then had to send someone out to try and witness the infraction, so the city couldn't really enforce it downtown. There had been three businesses stated if that type of behavior continued, they'd most likely leave the area.

Councilor Justus stated his issue was with enforcement. The city could pass as many ordinances as they wanted, but how would they be enforced? If they wanted to hire someone to be a "ticket writer", he'd be all for that, but if they were going to be passing ordinances without a way of enforcing them, then it was just one more ordinance that was not being enforced in the city. He was all for banning smoking downtown, and in city parks, and in municipal buildings, but if they couldn't enforce that, what was the point?

Councilor Capron asked Mr. Brown to get a report from Chief Romero on his opinion on enforcement.

Mr. Brown stated a local ordinance would give the city the ability to enforce it in a more timely manner. He also believed that once it was enforced multiple times, word would get out that the law was real, enforceable, and unpleasant.

Councilor Crume stated he was initially concerned about stepping on the rights of people; however, because of all the problems he'd been hearing about, and the city's inability to deal with it, and while there might not be enough man-power to deal with it, they should tie it together with code enforcement. Everyone knew they needed more code enforcement, but they had the rules and regulations in place. He'd like to see a draft ordinance on this issue.

Councilor Braden stated he'd like to hear from the downtown business owners, too.

Council consensus to bring back a draft ordinance.

Issues with Birds Downtown

Councilor Capron stated he had spoken with people in the downtown area, and there was a big issue with pigeons in the area. They wanted the city to look into removing the birds. There were a ton of birds down there, and they made a huge mess.

Adam Brown, City Manager, stated he had spoken with businesses that dealt with that type of issue, and there were human ways of dealing with it. One way was a bird banger, where a firework type object was shot up into the trees, scaring the birds away. No birds were hurt, and after a few days, they did not return. Might not be the approach for this area. He could obtain some quotes and bring it back to the Council for consideration.

Councilor Rodriguez stated he did not believe startling the birds would work in this case. That was mostly for birds that were just "hanging out". Pigeons were different. Once they consider an area their home, if an attempt to relocate happened, they'd just return.

Councilor Justus stated they had looked into this a few years ago, and found that there was a food product that contained pigeon birth control. They'd place the feeders around the area, the birds would consume it, and they'd stop multiplying. However, it was expensive. Back then, for eight feeders, it was \$500-700 per month. That being said, the Chamber of Commerce received \$10K a month from the TOT, so they might look into at least partially funding that project.

Councilor Capron asked why it had to be humane; couldn't they trap them and dispose of them?

Councilor Justus stated being inhumane would just bring controversy to the Council and the town. As a government, they needed to be humane.

Mr. Brown stated there were currently some businesses downtown that were attempting to fix this problem on their own.

Councilor Justus stated Revitalize Ontario! could send out an email to all the downtown businesses asking what they'd like to see done.

Marijuana Facility Employee Background Check Fee

Councilor Rodriguez stated he read on social media that some individuals were upset that the city charged a fee of \$220 for background checks for any employee a dispensary hired. It was his understanding that the state was already doing that, for \$100 per applicant. That fee had gone before the Marijuana Ad-Hoc Committee, who endorsed it. After speaking with officials at OLCC, he learned that this area was being robbed from all the money that Treasure Valley was putting into the area. The majority of the tax was going to the state, and the city only saw a small percentage of it. While he believed the check was needed, he also felt it was redundant. If the two were vastly different, then continue on, but if they were similar, it wasn't needed. He wanted to believe the local background was more in-depth.

Adam Brown, City Manager, stated staff designed a process for an approval. The city stated the background check would be completed within two days, and he and the Police Chief would sign off; however, his signature wasn't really needed. If they opted to revise the ordinance, he'd like to just see the Chief's signature on the document. Currently, based on the volume of applications, staff had to restrict how many could be submitted daily, to ensure the two-day turnaround was met. He was not aware of any complaints from business owners or employees. Following the results, the city would print out a card that would go with the state's employee card. The card was required to be renewed annually, and the state's requirement was every five years. The city could mirror the state's requirements, or keep it as written. Also, another issue that would precipitate a background check was if someone changed employers.

Councilor Rodriguez like this idea, but, he still had an issue. Ontario was one of the most impoverished cities in Oregon, so it was not easy to pay \$320 [sic] out of pocket to get employed. It was his understanding that the fees were all paid for by the potential employee.

Mr. Brown stated it was actually paid for by the business owner.

Councilor Rodriguez stated he spoke with one of the dispensary owners, and he clearly stated it was all eaten by the employee. Further, that particular owner was in support of it. He'd like to see the business owners pay that fee.

Mr. Brown stated there was one who asked to write a check for all the background checks for his business. On a side note, he had learned that day that Weedology was the highest grossing store in the State of Oregon.

Dan Cummings, Community Development Director, stated of the three establishments that had submitted applications and employees, the business had paid for all the employees' background checks. He had, however, been asked about the fee, and they'd probably file complaints, if the city continued to charge \$220 every year to make the same employees have the same background check. The current ordinance stated a business would be responsible for paying for all employees to do a background check every year. The state card was good for five years. He had asked the City Attorney about the wording in the ordinance, and unless the City Attorney stated it was clear enough, he'd suggest a rewording.

Larry Sullivan, City Attorney, stated it was perfectly clear. The language Mr. Cummings' was looking at was that if an employee came in at mid-year, they had to have a background check. That was the intention of that section.

Mr. Cummings stated as it was currently written, each employee had to have a background check redone every year, and that might not be a fair action, in his opinion.

Councilor Crume stated it was written to assist in expenses associated with marijuana, but the Council needed to be fair. He didn't recall hearing that the state's card was good for five years. In moving forward, he'd be amendable to keeping the cost the same, but having it match the state's five-year card, if that employee stayed in the business that long. Regarding the action of only allowing five background checks per day, and not knowing the influx of those being hired, but was the city capable of getting those checks done by the time the store was set to open?

Mr. Brown stated staff was trying to keep up, but were a bit behind. The city had not stopped any of them from opening. Mr. Cummings' had learned that it wouldn't prohibit any of them from opening or starting work.

Councilor Crume stated he hoped the city was doing their best to not prolong anything that needed to be done with regulations or restrictions the city was placing on the business, or slowing down the process.

Councilor Rodriguez asked how Mr. Brown came by the information that Weedology was the highest grossing store.

Mr. Brown stated he had spoken with a family member of Weedology, and was told they had to report their numbers to the state daily.

Councilor Rodriguez stated this region received one of the least percentages for distribution of state taxes.

Mr. Brown stated that 75% of the formula for the 10% that was remitted back to local government was based on population. The other 25% was based on the number of dispensaries. On the 25% number, Ontario was doing well, but using the 11,470 population as a denominator, when the city was actually serving 750,000 people, was very disadvantages for this area. Those numbers had been presented to the Ad-Hoc Committee, and when they met with OLCC, they also discussed it with them. While it was clear to them, but it was something that would have to be fixed legislatively.

Councilor Justus asked how much it cost for the city to run a background check.

Mr. Brown stated the fee itself was \$10, but the greater cost was the time involved, which also included the quarterly inspections of the facilities, and the ID badges.

Councilor Justus stated if the state was doing the background checks, the city could piggyback off that, and instead of having the city do the same thing, the city was charging an annual employee tax. He wasn't disagreeing with it, but just call it what it was. That fee would cover all the costs involved with employees, and list what that fee covered.

Mr. Sullivan stated the \$220 fee wasn't designated for background checks. The ordinance read that \$220 was per employee, but while a background check was done with the \$220, that fee wasn't for the cost of only doing that check. It only stated it was a fee per employee.

Councilor Justus suggested putting the city's stamp on the state's permit, and move forward. Free up the police department from doing all that.

Steven Romero, Police Chief, stated his department was doing a statewide Oregon only criminal history inquiry. They did not check the national data bases. OLCC only checked at the state level, not an FBI or NCIC check. He was not sure what the end game was for doing a city background check. He could do a review of the state's check, and either sign off or deny, but that would only be certifying what someone else did. If the Council wanted a safety net from Ontario, they needed to do their own background check. That would take someone legally certified to do the check, and then the results were forwarded to other personnel, such as the Police Chief, Fire Chief and City Manager.

Mr. Sullivan reiterated it was not a fee for a background check, it was an employee fee.

Mr. Cummings stated it was his understanding that all business owners and anyone that had a 10% monetary interest in that dispensary or any marijuana facility, the state would do a full background check through the FBI system. They were only doing random background checks on the employees. That's what triggered the city wanting to do checks on all employees.

Councilor Crume suggested they leave it status quo, and if a complaint was filed, then address it at that time.

Council consensus to review the various issues discussed and bring it back before Council.

Councilor Justus departed the meeting at 2:07 p.m.

HAND-OUTS

Department Stats: *(Attached)*

Fire & Rescue: July 2019

Police: June & July 2019

Code Enforcement: June & July 2019

Public Works: July 2019

Agenda: (Attached)

SREDA: August 6, 2019

Packet: (Attached)

V&C Board: August 1, 2019 w/Minutes of July 11, 2019

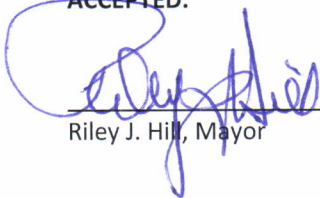
Minutes: (Attached)

SREDA: July 2, 2019

County Court: June 26, July 3, July 10, July 17, July 24, 2019

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Rodriguez reminded everyone of the upcoming hydrant project his coming Saturday. He invited everyone to come help.
- Councilor Palomo stated with regard to their shopping carts, was there anyway to have the store owners keep track of their carts? They just seemed to piled up everywhere. Maybe he could speak with the various businesses.

ADJOURNCRUME moved, BRADEN seconded, **THAT THE MEETING BE ADJOURNED.** Unanimous voice agreement. (2:09 p.m.)**ACCEPTED:**

Riley J. Hill, Mayor**ATTEST**

Tori Barnett, MMC, City Recorder