

**CITY OF JOHN DAY
CITY COUNCIL MINUTES
JOHN DAY, OREGON**

January 10, 2012

Adjourned Meeting

COUNCILORS PRESENT:

Bob Quinton, Mayor
Steve Schuette, Council President
Gene Officer, Councilor
Don Caldwell, Councilor
Donn Willey, Councilor
Chris Labhart, Councilor
Doug Gochnour, Councilor

COUNCILORS ABSENT:

STAFF PRESENT:

Peggy Gray, City Manager
David Holland, Public Works Director

GUESTS PRESENT:

Anna Bass, Oster Professional Group, John Day
Amy Walker, Oster Professional Group, John Day
Paul Smith, John Day

Agenda Item No. 1 – Open and Note Attendance

The John Day City Council meeting opened at 7:00 p.m. Mayor Bob Quinton noted that all Councilors were present.

Agenda Item No. 2 – Approval of City Council Minutes of December 13, 2011

The minutes of the December 13, 2011 adjourned meeting were included in the agenda packets and presented for the Council's approval. Councilor Chris Labhart moved that the minutes of December 13, 2011 be approved as presented. Councilor Don Caldwell seconded the motion, the motion passed unanimously.

Agenda Item No. 3 - Appearance of Interested Citizens

Mayor Quinton thanked those in attendance and asked everyone to please sign in. He asked if there were any additional items that anyone would like to add to the agenda. There were none presented.

Agenda Item No. 4 – Joint Planning Commission/City Council Public Hearing on the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code (“Development Code”)

Mayor Quinton introduced Planning Commission Chair Ken Boethin; Chair Boethin opened the public hearing at 7:01 p.m. Members of the Planning Commission present were Commission Chair Ken Boethin; Commissioners Dean Nodine, Tim Unterwegner and Angie Johnson, constituting a quorum of the Planning Commission.

Commission Chair Boethin stated the matters before Commission are three text amendments to the John Day City Development Code:

1. The number of animals that can be allowed within the city limits of John Day
2. Time limit on nonconforming development (Single Family Dwelling in Downtown and General Commercial District)
3. Allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements

Commission Chair Boethin stated all three of these matters have been discussed among the City Planning Commission. At this time Commission Chair Boethin asked if there was anyone present who wished to speak in regards to the amendments; none appeared. Commission Chair Boethin closed the public hearing at 7:04 p.m. Commission Chair Boethin stated “on behalf of the City Planning Commission, I would recommend to the John Day City Council that they make the changes that he previously indicated to the John Day Development Code.”

Mayor Quinton opened the public hearing of the John Day City Council at 7:05 p.m. Mayor Quinton stated the purpose of the public hearing is to discuss the John Day Planning Commission’s recommendation for three text amendments to the John Day City Development Code:

1. The number of animals that can be allowed within the city limits of John Day
2. Time limit on nonconforming development (Single Family Dwelling in Downtown and General Commercial District)
3. Allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements

Mayor Quinton asked if there was anyone present who wished to comment in regards to these amendments; none appeared; Mayor Quinton asked if any Councilors had any comments. Mayor Quinton explained the code amendments as follows:

1. The animals section was left out in the code update, specifically the number of chickens that can be kept portion.
2. Mayor Quinton explained whenever a resident use is vacated in the event of involuntary damage or destruction due to fire or other event beyond the owner’s control in the Downtown and General Commercial Zones, an appraiser would ask the City if the structure could be rebuilt and, if so, was there a timeframe. The John Day Development code is silent on the timeframe; this text amendment proposes a three (3) year timeframe for rebuilding.

3. Neighborhood Meetings text amendment will allow the Planning Official to waive the notification and meeting procedures where the applicant submits written consents from all owners of property within 100 feet of the site declining the meeting invitation. Mayor Quinton thought this text amendment in certain cases is prudent.

Mayor Quinton stated all of the text amendments are included in Ordinance No. 12-151-01 and amended in the John Day Development Code.

Councilor Schuette made a motion to close the public hearing, Councilor Caldwell seconded the motion. The public hearing was closed at 7:06 p.m. The motion passed unanimously.

Councilor Schuette moved to read Ordinance No. 12-151-01 by title only; Councilor Caldwell seconded the motion, the motion passed unanimously.

Mayor Quinton read Ordinance No. 12-151-01, an Ordinance in the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code (“Development Code”) by title only.

Councilor Donn Willey moved to adopt Ordinance No. 12-151-01, Councilor Officer seconded the motion. The motion passed unanimously.

Agenda Item No. 5 - Safe Communities Coalition Supplemental Budget Hearing – 7:30 p.m.

Mayor Quinton stated this public hearing was advertised to open at 7:30 p.m. Mayor Quinton stated the council will move onto the Item No. 6 on the agenda and come back to Agenda Item No. 5 at 7:30 p.m. to open the public hearing on the supplemental budget.

Agenda Item No. 6 – Discuss for Appointment Paul Smith and Reappointment of Tom Wilson to the John Day Planning Commission

Mayor Quinton introduced Paul Smith who has applied for a Planning Commission seat vacated by Chris Maynard. Mayor Quinton stated Tom Wilson has agreed to serve another four-year term on the John Day Planning Commission and Dean Nodine has agreed to serve a three-year term.

Councilor Chris Labhart made a motion to appoint Paul Smith to the John Day Planning Commission with a term to expire January 2016; to reappoint Tom Wilson to the Planning Commission with a term to expire January 2016 and to reappoint Dean Nodine for a three-year term to expire 2015; Councilor Officer seconded the motion. The motion passed unanimously.

Agenda Item No. 7 – Discuss Vacancies on the John Day Budget Committee

Mayor Quinton stated we have two members of the Budget Committee whose terms expire on the first council meeting in January 2012. Maurice Kimball has moved to Florence, OR and is no longer eligible to be a member of the Budget Committee and Joyce Nodine has served since 1991 and said she felt it was time for someone else to serve. Mayor Quinton stated he appreciated Joyce’s commitment to the Budget Committee and asked that a letter be sent to Joyce thanking her for dedication and for her years of service on the Budget Committee.

Councilor Officer stated the City is losing two good members of the Budget Committee. It was the consensus of the Council to allow staff to advertise for the positions.

Agenda Item No. 8 – Discuss Appointment of Representative from Cities of Grant County to the Board of Greater Eastern Oregon Development Corporation (GEODC)

Mayor Quinton stated Canyon City Manager Tammy Bremner has been the cities representative to the Greater Eastern Oregon Development Corporation (GEODC) Board of Directors for a very long time. Tammy feels it is now time for someone else to step up and represent the cities of Grant County.

Mayor Quinton stated we're not sure what the appointment entails because we have never received a report from Tammy. City Manager Gray stated she spoke with the Executive Director of GEODC, Melissa Drugge. Melissa stated there are 30 board member positions and GEODC represents seven counties. The board meets quarterly; an annual meeting in February or early March and then quarterly usually in July and October. All but the annual meeting can be attended by phone. Melissa explained GEODC has two sides 1.) The business development side and 2.) the community development side. The meetings are two hours long and GEODC receives an annual planning grant that can help cities with planning projects such as the fire station. The individual appointed must be either an elected official or employees of that city.

Councilor Officer asked City Manager Gray if she was interested in being on the board. City Manager Gray stated she would put her name in if no one else wanted to; however, the representative has to be selected by all of the cities of Grant County. Mayor Quinton explained that GEODC is a "intermediary lender" and they will help if a lending institution, for an example, wants to do a loan for someone but doesn't feel comfortable doing the whole thing, then GEODC comes in behind as a gap funder. They also administer loan programs for other organizations; they have administered the SE Regional Alliance Revolving Loan Fund for years, Sondra Lino was very instrumental in that. GREAT is putting together a small revolving loan fund and GEODC is probably going to administrator that fund.

Mayor Quinton stated the time spent on the board each month would be minimal and felt it would be worth the City Manager's time to be on the board. Mayor Quinton stated if Peggy is appointed he would appreciate the minutes of the meeting being passed along to all the city councils. It was the consensus of the City Council to have City Manager Gray throw her name in the ring for the appointment of representative from Cities of Grant County to the board of GEODC.

Agenda Item No. 9 – Discuss and Appoint a Budget Officer

Mayor Quinton stated City Manager Gray was budget officer last year and stated the Budget Process Schedule is included in the Council packets. Councilor Doug Gochnour gave a gentle reminder that last year during the budget hearing process; we said we would share the comments and testimony of the budget hearing with the Budget Committee in order for them to read the public comments. City Manager Gray stated yes, the minutes of the Budget Public Hearing will be included in their budget packets. Manager Gray stated she would also like to put the minutes of the auditor's report in the budget packets in order for the Budget Committee to read the auditor's comments. Mayor Quinton suggested the minutes of both the public hearing and the auditor's report should be included for anyone who requests a copy of the budget.

Councilor Labhart stated last year we also talked about simplifying the budget so that a lay person could understand the budget easier. Anna Bass of Oster Professional stated the budget summary can be broke

down; to break down the budget itself would require more line items. Mayor Quinton thought it wouldn't need to be in the actual budget document; just in the summary page. Ms. Bass agreed and stated as long as we meet certain requirements in the summary page; we can break it down to as detailed as you want it to be; just be aware the more detail in the summary, the more space you take in the paper and the more expensive it is to advertise.

Mayor Quinton stated the budget process will be different this year and he wants the Budget Committee members to sit at the table with the City Council.

Councilor Labhart moved to appoint City Manager Peggy Gray as budget officer for fiscal year 2012-2013; Councilor Caldwell seconded the motion. The motion passed unanimously.

At this time Mayor Quinton stated we have five minutes before the 7:30 p.m. supplemental budget public hearing opens. As the next agenda item will take longer than five minutes; Mayor Quinton stated the Council will have a five minute recess and come back at 7:30 p.m. to open the supplemental budget public hearing.

Agenda Item No. 5 – Safe Communities Coalition Supplemental Budget Hearing

At 7:30 p.m. Mayor Quinton opened the public hearing for the Safe Communities Coalition Supplemental Budget Hearing. Mayor Quinton explained last August 2011, the City Council voted to act as the fiscal agent for Grant County Safe Communities Coalition for fiscal year 2012. As such, when the Council adopted the annual budget, the City did not know they would be taking over the administration duties of the Grant County Safe Communities Coalition and in order to be able to expend funds and provide the necessary administrative duties for the Safe Communities Coalition, the Council will need to adopt a supplemental budget as per Oregon Budget Law (ORS 294.480(1) (b)).

Mayor Quinton stated for the record that this is not money that the City is giving to the Safe Communities Coalition; the City is only acting as their fiscal agent. Mayor Quinton wanted to clarify any misconceptions that the public has about this.

He asked if there was anyone in the audience that had any comments regarding the supplemental budget; none were presented. Mayor Quinton asked if any of the Councilors had any comments regarding this; there were none. Councilor Gochnour stated this was pretty perfunctory.

There being no further questions or comments, Councilor Schuette moved to close the public hearing; Councilor Gochnour seconded the motion. The motion passed unanimously the public hearing was closed at 7:32 p.m.

Councilor Schuette moved to adopted Resolution No. 12-677-01, a resolution to adopt supplemental budget for fiscal year 2011-2012; Councilor Caldwell seconded the motion. The motion passed unanimously.

Agenda Item No. 10 – Discuss Proposal from Oregon Telephone Corporation (OTC)

Mayor Quinton presented a red-lined proposal to the City Council that was included in their council packets. He asked City Manager Gray to inform the Council of her conversation with city attorney Jeremy Green. City Manager Gray stated Jeremy had the following comments related to the relined proposal:

1. Jeremy wanted to know what effective date the Council wanted to use. Councilor Schuette suggested to have the agreement effective upon date of signature; not to have it retro back to last year. Council agreed.
2. Jeremy concurred to adding the additional language from CenturyTel's agreement in Section 2.2 Relocation.
3. Section 4 Franchise Fees – City Manager Gray referred the Council to Ms. Kluser's December 28, 2011 letter proposing OTC will agree to a fee of the greater of one-thousand five-hundred dollars (\$1,500.00) or the seven percent (7%) of gross revenues derived from end users served on fiber placed in the City's Rights-of-Way. This would include fiber placed beginning August, 2010 and on into the future. However, on the red-lined version she sent, she accepted Jeremy's language. Jeremy is concerned that Ms. Kluser might be confused as she is saying end users in her Dec. 28th letter; but in the red-lined version she's accepting Jeremy's language that states gross revenue is any and all revenues that are generated from the rights-of-way. He thought we should clarify it now because in the future OTC could say that was not their intent and litigate. Jeremy felt the City would win with the language in the draft ordinance; however with litigation, comes more legal expenses. City Manager Gray explained a "Wholesale Customer" would not be an "end user" but they re-sell the communications services to third-parties within the city limits. If the "Wholesale Customer" clause is not included in the franchise agreement, it could cause problems in the future if OTC sells their service to a wholesale customer. It was the consensus of the Council to use the red-line version of the agreement and not pursue the "Wholesale Customer" language in the agreement. Councilor Schuette stated he was ok with the \$1,500 but would rather see the language of twenty-five cents per lineal foot. He was concerned that (let's say) next year they put in another 4,000' of cable with no users and then the next year they put in another 4,000' of cable with no users, the City doesn't get any more money; he thought it was something the Council should think about, the \$1,500 gives them a lot of leeway.
4. Section 6.1 Term of Franchise – Ms. Kluser would like to add the language "the City in good faith, will negotiate a new agreement upon the expiration of the initial term." Jeremy stated this language states the City will negotiate and renew the agreement, it binds the City. He felt it should be more precise with a termination date as written in the original draft. Mayor Quinton suggested it should say "both parties" and had concerns with one council binding a future council. Suggested maybe an asterisk that states that. Councilor Schuette stated the City has other 10-year franchise agreements and doesn't see that as a problem. After discussion it was the consensus of the City Council to suggest instead of the "City in good faith" it should say "Both parties in good faith; will negotiate a new agreement upon the expiration of the initial term."
5. Jeremy concurred with adding the "Force Majeure" clause back into the franchise agreement.

The Council accepted the red-lined version proposed by Ms. Kluser with revision to Section 6.1 and directed City Manager Gray to communicate the revision to Ms. Kluser and work towards a final agreement.

Agenda Item No. 11 – Discuss Setting a Date for a Council Goal Setting Work Session

Mayor Quinton stated it has been one year since the City Council's last goal setting work session. It was the consensus of the City Council to hold a goal setting work session before the January 24, 2012 city council meeting at 6 p.m. City Manager Gray will advertise the work session.

Agenda Item No. 10 – Other Business and Upcoming Meetings

1. The December 2011 Statement of Revenue and Expenditure Budget to Actual Reports were given to the City Council for their review and information.
2. LOC Bulletins from December 16th and 23rd were included in the council packets.
3. December 21, 2011 Newsletter from State Representative Cliff Bentz was included in the council packets.
4. Mayor Quinton announced the LOC Small Cities Region 8 meeting on Thursday, January 12, 2012 being held at John Day Council Chambers. All City Councilors were invited to attend.
5. Mayor Quinton read a letter from the John Day Farmer’s Market thanking the City of John Day for their support.
6. The December 13, 2011 Advisory Committee for the new fire station were presented to the City Council.
7. Councilor Gene Officer announced that he is changing the name of his real estate business from Coldwell Banker to Country Preferred Realtors effective February 1, 2012.
8. Mayor Quinton stated Valley View Assisted Living is under new ownership and they will be putting in a new memory care wing.
9. Councilor Labhart announced the John Day Planning Commission approved the Site Design Review for the new Regional Acute Care Facility on January 5, 2012. The facility will create 20 – 25 jobs and contribute approximately 1.1 million annual payroll dollars back into the community.

Adjourn

There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Don Caldwell seconded the motion and the motion passed unanimously. The meeting was adjourned at 9:00 p.m.

Respectfully Submitted:

Peggy Gray
City Manager

ACCEPTED BY THE CITY COUNCIL, JANUARY 24, 2012

Mayor Bob Quinton