

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

July 24, 2012

Adjourned Meeting

COUNCILORS PRESENT:

Ron Lundbom, Mayor
Steve Schuette, Council President
Donn Willey, Councilor
Doug Gochmour, Councilor
Don Caldwell, Councilor
Chris Labhart, Councilor

COUNCILORS ABSENT:

Gene Officer, Councilor

STAFF PRESENT:

Peggy Gray, City Manager
Dave Holland, Public Works Director
Valerie Luttrell, Dispatch Manager
Richard Gray, John Day Police Sergeant

GUESTS PRESENT:

Jim Carpenter, John Day

Agenda Item No. 1 – Open and Note Attendance

The John Day City Council meeting opened at 7:00 p.m. Mayor Ron Lundbom noted that all Councilors were present with the exception of Councilor Gene Officer who was absent and excused.

Agenda Item No. 2 – Approval of City Council Minutes of July 10, 2012

The minutes of the July 10, 2012 adjourned meeting were included in the agenda packets and presented for the Council's approval. **Councilor Don Caldwell made a motion that the minutes of July 10, 2012 be approved as presented; Councilor Donn Willey seconded the motion. The motion passed unanimously.**

Agenda Item No. 3 - Appearance of Interested Citizens

Mayor Ron Lundbom 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 – Request from Jim Carpenter, PC to have Mayor Lundbom sign a Quit Claim Deed for Property located on Bridge Street (a piece of property on the west side, John Day Middle School property)

Mayor Lundbom welcomed Mr. Jim Carpenter and asked City Manager Gray to give a background. City Manager Gray stated Mr. Carpenter called her a couple of weeks ago regarding a property boundary of the John Day Middle School and requested to be on the agenda to discuss a solution with the John Day City Council.

Mr. Carpenter presented a map that was also included in the council packets; he stated the old John Day Middle School property located off of Canton Street; there is some question about the title to that property and who owns the little triangle located on the map. The School District believes the City has the best title to that property and they are requesting that the City Quit Claim the triangle area on the west side. Mr. Carpenter stated surveyor Jack Watson went out to the site with Public Works Director Dave Holland; there is a sidewalk along Canton Street. Between the sidewalk and the fence is a 2' strip; Public Works Director Holland would like to retain ownership of the 2' strip for future sidewalk development (currently the sidewalk is 4'; future sidewalks would be 6'). Mr. Carpenter spoke with the School District about Public Works Director Holland's request and they were acceptable with the request and have requested the City Quit Claim Deed everything from the outside fence in; he stated he does not have a legal description as Jack Watson was not able to get one together before the meeting, however, he would provide one to the City.

Mr. Carpenter explained the titles to the shaded areas on the map are in question. Everyone who might have an interest in those areas has been sued except for the City of John Day; everyone who has an interest in those areas is also deceased. The research has been done to find them and they have all passed away, the suit includes their heirs and assigns and anyone else who might have an interest. Mr. Carpenter explained they anticipate that the suit will be defaulted upon and then School District will obtain quiet title through a judgment against those heirs and assigns of those people who owned that. The first process is to have a judgment which gives the School District a quiet title to everything within the shaded area except that portion which we are talking to the City about; then we are asking the City to do the Quit Claim Deed to the School District. Once that is done and the judgment has been recorded, then the School District would turn around, to avoid clouds on the title on the outside of the fence, would Quit Claim back to the City everything from the outside of the fence to Canton Street.

Mayor Lundbom asked Public Works Director Holland if that was correct. Public Works Director Holland stated as far as the legalities he didn't know. He stated Jack Watson thought that he would just do a shot down the fence line, do a survey instead of the markers from the back of the sidewalk (where they went from before for the triangle); he would move those markers to the chain link fence and rewrite the description. So basically Jack's thought was that we would Quit Claim Deed the smaller pie shaped piece to the School District and the other part (2' from fence to back of the sidewalk) would remain the Cities. Public Works Director stated that was his conversation with Jack Watson that morning.

Mr. Carpenter presented a surveyor sketch to the City Council. He stated it showed the three fences, one is in the shaded area which is the fence we are requesting the City deed from. The two others fences inside are where the buses go. Council President Schuette asked how much of the map we were presented is the City's property, is it the small shaded area or both of them? Mr. Carpenter stated they believe the small shaded area. Council President Schuette also asked if we had a distance on how wide it is; Mr. Carpenter stated no, Jack Watson is working on the description. Public Works Director Holland stated by looking at the marks on the ground over to the chain link fence, now it's not the back of the sidewalk so you'd add 2'; at the far end where Charlie Mills used to live, it's about 7' and at the south end of the property it narrows down to about 6'' -8''. Councilor Caldwell asked what the ROW on Canton Street is;

Public Works Director stated the ROW varies on Canton. He stated according to Jack Watson it wasn't originally a deeded street to the City; it was originally a subdivision plat. They laid out the property lines and what was left over became Canton Street. So then they went back through with the property owners, according to Jack, the property owner's deeded over the Canton Street area with the intention that the City would deed back what wasn't needed for the ROW to the appropriate property owners. Jack stated that part wasn't done and that is why this issue exists. Public Works Director Holland stated he wasn't sure if it is only the Junior (Middle) School or if it that whole stretch along there with the property owners because if you look at the back of the sidewalk and you look at the fences, there is a gap between fences and sidewalks all the way along there. Public Works Director Holland's suggestion was to avoid narrowing the street in a future street project to obtain 6' sidewalks if we go after state money (they require 6' sidewalks); we could utilize the space behind the sidewalk and the outside chain link fence and avoid encroaching on the travel lane and parking lane widths. Council President Schuette stated so what you are saying is that we don't need it all; Public Works Director Holland agreed.

Councilor Labhart asked about ingress and egress on the north side to the State Park Building, who would control that? Mr. Carpenter stated it was his understanding that it wouldn't change; however, he couldn't say that for sure. Those buildings, he suspects, are being leased from the School and the ingress and egress would be included in the lease. When the library obtains the property, then they would also take over the lease.

Mayor Lundbom asked about the other shaded area are they in question also? Mr. Carpenter stated they are in question but they are part of the lawsuit and does not affect the City. Mayor Lundbom asked about the part that goes over Bridge Street because it looks like it goes across the street. Mr. Carpenter stated what they are trying to do is just quiet title the portion that the School District is going to sell to the Library Foundation. Those other portions across from Bridge Street will shortly be vacated to the City for the street portions and then Quit Claimed to Graikowski and Escudero. He said we are looking at that but that is not the School's first priority. Library Foundation is buying the portion of property located inside the black line from the School District (the Bridge Street portion is not included in the black line).

Councilor Schuette asked why the Library Foundation needs this little piece of property from the City of John Day. Mr. Carpenter stated the Library Foundation and every buyer should demand quiet title to their property which is absolute ownership without clouds or defects in the title. At the time the School was going to sell this, it went through the Title Company and they were prepared to issue title insurance to the School, but when Mr. Watson went and looked into it and found the defects where the shaded areas are and said the School District might not own those shaded areas. Mr. Carpenter stated in order to obtain clear title that would satisfy the Library Foundation, the buyer in this case, we have to go out and make sure the School District owns those areas without any question.

Public Works Director Holland asked the Council to read the narrative on the map which explains what the City didn't do in 1992, Record Map of Survey No. 1203 as follows:

Narrative: This survey was performed at the request of Ken Bremner, Public Works Superintendent, acting in behalf of the City of John Day. The purpose of this survey as to create a new property boundary line between NW Canton Street and the various land owners adjoining the east side of said street, between Main Street and NW First Ave., as shown herein. This provided for a proposed new sidewalk along the east side of the street. It also will take several jogs out of the existing common boundary line. A search was made of the available records pertaining to this survey. Field measurements were made to locate existing monuments. New monuments were set, basically, at angle points four feet easterly of the existing concrete curb line along the east side of the street, as approved by Mr. Bremner. The City intends to acquire title to the lands lying west of the property line adjustment line, where needed, for the street and

sidewalk. The City then intends to Quit Claim its title and interest to lands lying east of the new boundary line to the appropriate adjoining land owners.

Public Works Director Holland stated the City did not Quit Claim its title and interest to lands lying east of the new boundary line back to the appropriate adjoining land owners as they said they would back in 1992. Meanwhile the School District put in their chain link fence for their new bus lane on that section, assuming they owned it. The School District is just trying to clean this up.

Mr. Carpenter stated everything in the shaded area, the title is in question; what the School is asking for is that the City deeds everything from the chain link fence east to the School; the School will deed everything from the chain link fence west to Canton Street to the City.

Mayor Lundbom asked for a motion; Councilor Caldwell asked what the City Attorney thought. City Manager Gray stated City Attorney Jeremy Green stated the City should not sign a deed without a legal description and a proper deed. She suggested tabling this until the legal description and the proper deed are prepared by Jack Watson and Mr. Carpenter and then reviewed by the City Attorney.

Mayor Lundbom wanted some assurance that the east side of the property would be deeded back to the City. Mr. Carpenter stated he didn't think Jack would have the east side done in time as the Library Foundation wanted this done by September 1st. He guessed that on the east side the City has ROW already; there is just some cloud there. He thought the city plat probably showed the ROW on Bridge Street; he said usually the property owners own to the middle to the street, the ROW grants the City the right of use. If the City were to vacate a street, the land owners on each side would claim up to the middle of the street. It may be that the school owns clear across the street but the City has the ROW over that street. City Manager Gray stated it would be good to clear it up.

It was the consensus of the City Council to table this agenda item until the August 14, 2012 council meeting where Mr. Carpenter will present the Quit Claim Deed with a legal description for the west side portion (Canton Street side).

Agenda Item No. 5 – Discuss for Signature 2013 Special City Allotment (SCA) Grant

Mayor Lundbom introduced the next agenda item and asked City Manager Gray to give a background. City Manager Gray stated this is an ODOT grant they send out every two years with a maximum of \$50,000 to be allotted to individual cities. We were encouraged by ODOT to apply for this SCA grant to back up any unforeseen out of pocket expenses that could occur with our TE (Transportation Enhancement) project. City Manager Gray explained that the person who encouraged the City to apply for the grant is no longer with ODOT; however, she confirmed with the person who took his place, Laura Slater that we could apply for this grant for this purpose. Ms. Slater also stated ODOT likes to make sure projects that are already approved get completed and felt this would be a good application.

City Manager Gray stated that all applications must be submitted to Laura Slater by August 1, 2012 in order to qualify for FY 2013 funding.

Mayor Lundbom confirmed that US Hwy 26/395 are federal highways that the City has jurisdiction over; City Manager Gray stated we have jurisdiction within our city limits.

Councilor Labhart made a motion that the John Day City Council adopt Special City Allotment Resolution No. 12-692-16, and allow Mayor Lundbom to sign the 2013 Special City Allotment (SCA) Application; Councilor Caldwell seconded the motion. The motion passed unanimously.

Agenda Item No. 6 – Enter into Executive Session under ORS 192.660(2)(e) for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions

Mayor Lundbom stated the City of John Day will now meet in executive session for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions. The executive session is held pursuant to ORS 192.660(2) (e) for this session, which allows the Council to meet in executive session for the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

At this time Mayor Lundbom asked for a motion from the Council to move into executive session under ORS 192.660(2) (e).

Councilor Willey made a motion to move into executive session under ORS 192.660(2) (e); Council President Steve Schuette seconded the motion. The motion passed unanimously. The Council moved into executive session at 7:24 p.m.

Those attending the executive session included Mayor Lundbom; Councilors Schuette, Willey, Gochnour, Labhart and Caldwell; City Manager Gray and Public Works Director David Holland.

Agenda Item No. 7 – Enter Back into Regular Session

At 7:30 p.m. Councilor Labhart made a motion to return into regular session; Councilor Gochnour seconded the motion. The motion passed unanimously.

Agenda Item No. 8 – Other Business and Upcoming Meetings

1. The July 13, 2012 and the July 20, 2012 LOC Bulletins were given to the City Council for their information and review.
2. City Manager Gray gave a report on the July 12, 2012 meeting with the Army Corps of Engineers. Notes to the meeting were included in the council packets.
3. City Manager Gray gave a report on the July 13, 2012 meeting with Stan Foster of PARC Resources. Mr. Foster signed the Professional Services Agreement with the City of John Day as the consultant for the capital fundraising campaign for the new fire station. The agreement which includes Schedule 1.1 was included in the council packets for the council's information and review. City Manager Gray stated Mr. Foster's proposed meeting schedule with the City Council is for 12 times during the 24 month duration of the project; however, he stated he would meet with the City Council as often as they would like him to. Mr. Foster will have his first meeting with the Citizen's Advisory Committee on Thursday, August 2, 2012 at 10 a.m.
4. Mayor Lundbom gave a report on the July 19, 2012 LOC Small Cities meeting.

5. City Manager Gray reminded the Council that the filing deadline for council positions is Friday, August 17, 2012 at 5 p.m. Councilor positions that expire December 31st include Councilors Steve Schuette, Donn Willey and Doug Gochnour.
6. Councilor Caldwell stated a couple of people that walk have complained to him about tree limbs hanging over the sidewalks on Canton St., Bridge St. and Canyon Blvd. Mayor Lundbom stated isn't that the property owner's responsibility? Public Works Director Holland stated yes and his department is in the process of making a list and stated we have two options 1) send out a generic letter to everyone reminding them of their responsibility with the water/sewer bills which adds to the postage costs or 2) we can just send letters to the property owners who are presently in violation. Public Works Director Holland stated the City used to do it but because of budget cuts in the street funds, we can no longer afford to provide this service. City Manager Gray stated we discussed this in a Council meeting on what we were going to cut and sent out a notice to everyone in a newsletter. Councilor Labhart stated there are community service people or community groups that we could use to provide this service. It was the consensus of the City Council to have staff send a letter reminding the people who are currently in violation to trim their trees out of the City's ROW giving them a timeline to respond; if the property owner does not take care of the problem then a second and third letter will be sent. Councilor Labhart asked that if the City hears of a person who cannot physically take care of his trees to let him know.
7. Mayor Lundbom asked about cracks in the asphalt in certain streets. Public Works Director Holland stated he is planning a crack sealing project this summer and get as much done as he can with the money he has to do it with.

Adjourn

There being no further business before the Council, Councilor Doug Gochnour made a motion to adjourn the meeting. Councilor Don Caldwell seconded the motion and the motion passed unanimously. The meeting was adjourned at 7:55 p.m.

Respectfully Submitted:

Peggy Gray
City Manager

ACCEPTED BY THE CITY COUNCIL, August 14, 2012

Mayor Ron Lundbom