

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

**September 11, 2012**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

Ron Lundbom, Mayor  
Donn Willey, Councilor  
Doug Gochmour, Councilor  
Don Caldwell, Councilor  
Chris Labhart, Councilor  
Gene Officer, Councilor

**COUNCILORS ABSENT:**

Steve Schuette, Council President

**STAFF PRESENT:**

Peggy Gray, City Manager  
Dave Holland, Public Works Director  
Richard Tirico, Police Chief  
Valerie Luttrell, Dispatch Manager  
Ron Smith, Fire Chief

**GUESTS PRESENT:**

Sally Bartlett, Grant County Economic Development Coordinator  
Melisa Drugge, Business Oregon  
Phil Gray, KJDY  
Antonio Roberts, 214 NW Bridge St., John Day  
Dean & Joyce Nodine, 313 NW 4<sup>th</sup>, John Day  
Gary & Virginia Miller, PO Box 477, Mt. Vernon  
Delores Bagett, PO Box 175, John Day  
Bruce & Kim Ward, PO Box 564, John Day  
Werner Buehler, PO Box 833, Baker City  
Jim Horan, PO Box 226, Baker City  
Jim Bay, 59122 Hwy 26, Mt. Vernon  
Paul Smith, PO Box 62, Canyon City  
Jerry Franklin, 160 E. Main, John Day  
Ken Olson, 650 W. Main, John Day  
Dan Maynard, 101 NW 2<sup>nd</sup>, John Day  
Mark & Susie Brown, 61692 Marysville Lane, John Day  
Sharon Mogg, Grant County Chamber of Commerce  
Angel Carpenter, Blue Mountain Eagle  
Greg Haberly, John Day  
Bryon Haberly, John Day  
Monty Bond, John Day  
Kathy Stockdale, 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 Council President Steve Schuette who was absent and excused.

**Agenda Item No. 2 – Approval of City Council Minutes of August 28, 2012**

The minutes of the August 28, 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 August 28, 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 – Public Hearing under ORS 221.725, proposed sale of City real property; Lot 28 of the Grant County Industrial Park**

Mayor Lundbom opened the public hearing under ORS 221.725; for the proposed sale of City real property, Lot 28 of the Grant County Industrial Park. Mayor Lundbom read the staff report and asked does the Council consider it necessary or convenient to sell the subject real property. Mayor Lundbom explained the City Council considers it necessary or convenient to sell the property because the City owns vacant lots in the Grant County Airport Industrial Park and seeks to sell the lots to businesses that are willing to start a business and employ at least three full-time people within two years. The objective of the Grant County Airport Industrial park is to develop business and industrial opportunities that sustain, expand, and support economic growth within the region.

Mayor Lundbom explained the public notice requirements under ORS 221.725 – a public notice shall be published at least once during the week prior to the public hearing required under this section. The notice shall state the time and place of the public hearing, a description of the property or interest to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property.

Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Nothing in this section prevents a city council from holding the hearing at any regular or special meeting of the city council as part of its regular agenda.

The notice of publication appeared in the September 5, 2012 edition of the Blue Mountain Eagle, proof of publication is on file at City Hall. Radio station KJDY announced the public hearing and the notice of public hearing appeared on the City of John Day's website.

Mayor Lundbom provided evidence of the property's market value explaining the City purchased approximately 89 acres of industrial land from Bruce and Tracy Resnick in 2002 for \$190,000. Land appraisal report valued the land at \$202,000; the appraisal was completed by Fred Ellis of Appraisal Associates of Oregon, Bend, OR.

The City of John Day entered into an agreement on August 29, 2003 to borrow up to \$2,004,000 from the Oregon Economic Development Department Special Public Works Fund for the initial cost of infrastructure to the Grant County Airport Industrial Park. Actual loan advances received were \$1,969,571 (55% water fund; 45% sewer fund). Terms of the loan are 24 annual payments at 5.02% interest.

Mayor Lundbom explained the Grant County Road Department constructed the roads for the industrial park; Eastern Oregon Realty estimates the market value of the land between \$25,000 - \$35,000 per acre. Jerry Franklin Broker/Owner of Eastern Oregon Realty completed a pretty extensive search of his Realtor's multiple listing service and also the County Assessor's files trying to locate sales of industrial property within the valley that could be comparable to parcels located within the industrial Park. He was sorry to say that there just aren't any sales of this nature. The closest parcel he could find is a listing of 1.23 acres on the Lower Yard road with utilities close and paved frontage. Mr. Franklin was informed there is an offer on the property of \$35,000. Mr. Franklin's letter and comparables are on files at City Hall.

In order to be competitive and create jobs for Grant County, the City Council decided to market the industrial park property for \$5,000 per acre and within two years after the closing of the transaction, the purchaser will commence operation of a business from the building and employ not less than three employees at the building for the purpose of operating the business (the "Employment Covenant"). Each of the aforementioned three employees will work not less than 2,080 hours per year. The deed, and any other Transaction Documents the City determines necessary or appropriate, will contain terms and conditions concerning the Employment Covenant, including without limitation, terms and conditions concerning City's rights and remedies should purchaser fail to comply with the Employment Covenant. The Employment Covenant will run with the land and will be binding on all successors and assigns.

City Attorney Jeremy Green advised William Peiffer of Enviro Board that he removed the language in the Letter of Intent concerning the reversion of the subject property to the City in the event the purchaser fails to perform the "Employment Covenant." Mayor Lundbom stated as of yesterday, it appears that a reversionary clause is not necessary; however, the City will be exploring this issue further with the State of Oregon as we develop the sale agreement with Enviro Board.

At this time Mayor Lundbom read the Letter of Intent (LOI) dated September 10, 2012 signed by William Peiffer, Co-Chairman and Co-CEO of Enviro Board Corporation. Mayor Lundbom noted that copies of the LOI were available to the public, if they wanted to read along. The signed copy of the LOI is on file at City Hall. Mayor Lundbom emphasized the terms and conditions contained in the LOI are based upon the parties' current intentions and information known as of the date of this letter. This letter is nonbinding and does not grant or impose any legal rights and/or obligations on purchaser and/or City. No subsequent oral agreement or conduct of the parties, including, without limitation, partial performance, will be deemed to impose such rights or obligations. This letter is an expression of the mutual intent and desire of the parties as to certain aspects of the transaction. However, the parties agree that there are material terms as to which agreement has not been reached. No agreement will be binding unless and until each party has reviewed, approved and executed the Sale Agreement. The legal rights and obligation of each party will be only those that are set forth in the transaction documents. Either party may terminate and void this letter by providing the other party written notice.

Councilor Labhart asked if Enviro Board will pay property taxes. Mayor Lundbom responded that he will pay property taxes; Mr. Peiffer has waived the local incentives because he noticed Grant County was distressed and wanted to pay his fair share, plus he agreed to build and donate a 5,000 sq. ft. building to a charity that has anything to do with women and/or children.

Councilor Officer asked about extending the power to the site. Mayor Lundbom stated that responsibility is on the City of John Day; Councilor Officer asked how is the City going to pay for it? Mayor Lundbom stated we are waiting for Enviro Boards engineers to give OTEC's engineers a more detail description of how many motors and how many amps each line will draw; Mayor Lundbom stated he understands Enviro Board has only given OTEC the number of 1,000 KVA. Mayor Lundbom stated we have asked his engineer to call OTEC's engineer to see if we can come up with a more accurate cost estimate. Councilor Officer asked if there is any provision if they go out of business within five (5) years and we're putting \$100,000 – \$150,000 worth of power to the site; Mayor Lundbom stated that is what City Attorney Jeremy Green referred to concerning the reversion of the property to the City, we had to modified it because of lien holders; we had to take that clause out; however, there is other language we can use (e.g. penalties) to protect the City in case the project goes sideways.

Mayor Lundbom stated Enviro Board has a plant in Alabama and their corporate office is located in Camden, New Jersey. Mayor Lundbom stated Mr. Peiffer has revitalized a blight area in downtown Camden and refurbished some downtown buildings. Mr. Peiffer has also sold some of these buildings in Africa and has marketed to third world countries. Mayor Lundbom stated he has been asked by several people why would someone from Camden, New Jersey want to come to John Day, Oregon. Mayor Lundbom explained Mr. Peiffer said to him that 1) Oregon tax credits (New Market Tax Credits) that have to be used in rural Oregon, 2) the industrial park is near an airport and 3) because it is so beautiful here. Mayor Lundbom stated the airport access was very important to him; Mr. Peiffer told Mayor Lundbom that he will fly people into Los Angeles and then take a private jet to John Day that they will lease. At Enviro Board's expense they will build a partial parallel taxiway to runway 927 that runs east to west along the south end of the industrial park; he will turn and go towards his property and park on a pad on airport property. As per FAA rules he cannot take the plane off of airport property; however, he can have a man or vehicle gate to take people to his building. He said they will either spend the night here or fly back to LA. Mr. Peiffer informed Mayor Lundbom that he flew into Boise, ID and drove to John Day and thought it was beautiful but he didn't want to do it again, especially in the winter with clients. He has a corporate pilot; we called the FAA and got approval on the types of planes that he wants to land here. We explained to Mr. Peiffer that straw is 100 miles from here, he had already figured that out with information given to him from Grant County Economic Development Coordinator Sally Bartlett and the Oregon Department of Energy fully vetted Enviro Board when they awarded the \$3.5 million BETC to them and they along with every other recipient were re-vetted by them in June when they re-confirmed their BETC. Enviro Board's Board of Directors includes General Wesley Clark, Ron Sims (formerly Deputy Secretary of HUD under Obama), and Dave Alden (former President of Ford Asia).

After Mayor Lundbom described the nature of the proposed sale and appraisal of the subject property's market value; Councilor Labhart made a motion to open the public hearing for public comments under ORS 221.725 for the proposed sale of real property, Lot 28 of the Grant County Industrial Park. Councilor Gochnour seconded the motion. The motion passed unanimously.

Mayor Lundbom opened the public hearing for public testimony at 7:20 p.m. to hear written or oral comments. Public comments were as follows (audio tapes on file for complete testimonies and applicant responses):

Greg Haberly – stated you better not do anything to disgruntle this deal.

Kathy Stockdale – stated she is from Camden, New Jersey and if he did some things to fix Camden up, that's a big deal because that place is the pits.

Mayor Lundbom gave a quick summary on the building panels. The building panels are made of straw through a process Enviro Board has patented. They compress the straw into a board and 32" wide, 2 1/2"

thick and 20' long; the inside panel has sheet rock paper on one side and the inside is green board, there is a gap for the electrical, the outside panel has green board on the inside and Tyvek on the outside and explained how the buildings were constructed.

Mayor Lundbom read a message from Mr. Peiffer who stated the physical plant (construction and equipment) is budgeted at a not-to-exceed \$1.5 million number, and is presently structured to be 40,000 sq. ft. as Phase 1 with most of the construction material coming out of our own physical production (exterior walls, roof, and interior walls) which is how they can keep the costs down to about \$37 per sq. ft. Regarding equipment, 5 production lines is their model, budgeted at a not-to-exceed \$58.6 million, and which they are working to make cost cuts. Mr. Peiffer stated we can reasonable assume 8 jobs per production line per shift for physical production only (growing to 3 shifts), not counting construction trade jobs to build pre-fab housing inside the plant from the product manufactured by the production lines (also excludes trucking jobs of raw material in and finished goods out, straw collection, and indirect job creation). The first jobs are construction jobs to build the 40,000 sq. ft. building. The second set of jobs is the production line jobs. The third set of jobs is the construction trades to build pre-fab housing in the Plant. Their model is to have all five production lines, which is Phase 1, in-service by December 31, 2013. Mr. Peiffer did not have an average wage scale available at this time.

Dan Maynard – concerned about ground transportation with 50 employees commuting early in the morning, what are residents going to say. Mayor Lundbom responded stating there are three ways up to the industrial park, the traditional way up 4<sup>th</sup> Street, up through Adams Drive and then through the truck route through West Bench and stated it shouldn't be an issue.

Mark Brown – had concerns for future power demands after Phase 1. Public Works Director Dave Holland responded that OTEC requires us to lay out for each lot and everything all the way as we go so we don't have to go back and redo. This extension will not just service this lot; it will service all the lots in between as the lots are sold. Mayor Lundbom pointed out the lots on the map for the audience. Mayor Lundbom stated OTEC needs more information from Enviro Board before they can give us an accurate estimate of costs for the power. He stated currently the City's water and sewer go to about the middle of Lot 27. Public Works Director Holland stated the City will need to extend the water and sewer lines about 400'. Estimated costs of the work to be done by the City (not including the cost of the 3 Phase power) as follows:

Water line extension	\$13,566.20
Sewer line extension	\$ 9,909.20
Electrical Extension (conduit, trenching etc.)	<u>\$14,726.40</u>
<b>Estimated total cost</b>	<b>\$38,201.80</b>

Mayor Lundbom stated the cost of the 3 phase power, with the current information OTEC has, is estimated to cost \$100,000 to \$150,000 to take the 3 phase power from Mike Slinkard's lot (currently located between lot 14 and lot 15) to lot 28. Mayor Lundbom is hoping the property taxes received from the development will pay for any note the City may have to obtain. Councilor Officer asked OTEC Board of Director Gary Miller who is Grant County's representative if there would be any help available from OTEC for this project? Mr. Miller referred to OTEC Manager Werner Buehler; Mr. Werner stated the only issue for them is that they need a lot more detail on what their loads are going to be; how they're going to run the equipment and duration. Once they have that data, OTEC will be able give the City a more accurate number. Mr. Buehler stated those preliminary numbers OTEC have given to us is about how much capacity is available right now, if Enviro Board wants to expand capacity beyond this almost one megawatt load; then we need to have some further discussion, but we'd love to have this problem.

Mayor Lundbom stated people have asked if the City can afford to do this, Mayor Lundbom stated he doesn't think that the City can afford not to do this. He explained we do have a fire station we are trying to get built; this seems like another burden on the taxpayers. Mayor Lundbom stated he felt this guy is sincere and has put a lot of research into this project; but had concerns with straw being 100 miles away. Mr. Peiffer informed Mayor Lundbom that he could build the building and ship the straw for cheaper than the other places he was looking at and the airport access was huge for him.

Antonio Roberts – Questioned why the City is selling the land for 1/5 of the real market value of the property? Mayor Lundbom stated the price of the property was a council's decision when he wasn't here; however, the decision was made for economic development reasons. The reason he is coming here is because of the price of the property and if we hold him to what he is saying, that is going to pay itself back. Mayor Lundbom stated it would be nice to get \$25,000 - \$35,000 per acre, but he would probably go somewhere else like Morrow who has the Port of Morrow or Baker City with freeway access. Councilor Officer stated he was on the Council at the time the price was decided; the purpose was to create jobs for the community, not to make the City a profit; it was to create jobs so we could continue on with our community.

Councilor Labhart asked OTEC Manager Buehler if it was a possible for OTEC members to give their capital credits back to OTEC to help pay for this project. Manager Buehler responded saying that would be a Board's decision.

Mayor Lundbom went back to Mr. Roberts question regarding the real market value of the lot. He said when we bought the land, 90 acres for \$190,000; we're roughly doubling our money (roughly \$2,000 per acre in 2002). Maybe that is not what it is worth today because of the infrastructure, in the grand scheme of things I think we're trying to create jobs.

Jim Bay – Questioned why the airport was so important to Mr. Peiffer's decision; when he could land in Bend and be close to everything. Mayor Lundbom responded; the BETC credits and green credits are only available in rural areas and the wheat location. Mayor Lundbom stated he had his research done before he came here.

Grant County Economic Development Coordinator Sally Bartlett - Stated she sent Mr. Peiffer plenty of information about the five counties, the wheat producers and the wheat association. It was made very clear to him at the beginning so that he knew he could have other places to think about or look into that were closer to the raw product that he needs. Regarding the \$5,000 comment, one of the developers that helped with the industrial park long before she came, whenever she sees him out and about at any economic development event, he always asks about the sale of the land at the industrial park. Ms. Bartlett stated industrial land is becoming hard to come by, especially along the I-5 corridor and especially in Portland. In the Portland area, one acre of land sells for about \$250,000 per acre; as you come east along I-84 to the Port of Morrow it's about \$40,000 - \$60,000 per acre; by the time you come here it's going to be \$25,000 - \$35,000. She said her point is this man has always said "it's only a matter of time before that industrial park fills up because there isn't any more industrial land." Ms. Bartlett continued to say that we are seeing that with Facebook moving into Prineville, Amazon in Boardman, and Google is in The Dalles, They wouldn't be moving there if there were other great places to put those facilities in around the state. Land has gotten expensive and it has gotten scarce. Leland Smith was right "economic development doesn't start yesterday, it starts but it's for twenty years from now." And that is the thing about the industrial park that you have to look at; the price is good and that is why the Council priced it at \$5,000; they want people up there and the price is right.

Ken Olson with Old West Federal Credit Union – regarding the BETC credits, that is a powerful incentive for a business to locate into a rural area, particularly in a distressed rural area and that is what we are

characterized by any economic metric and probably the cost of labor if he is already located in Alabama, the cost of labor is fairly low there as well as the cost of infrastructure and we are probably very comparable. It's a powerful draw.

Mayor Lundbom encouraged everyone to go on Enviro Board's website at [www.enviroboard.com](http://www.enviroboard.com). There you can research the board of directors, check out the house they built in Colusa, CA and watch the video that shows how the boards are produced.

Jerry Franklin – wanted to know if you could add log shavings to the technology and you could talk to the chip trucks drivers into bringing in the straw.

Valerie Luttrell – Is there any possibility that OTEC could give the City a break on the cost of whatever it takes to get the three phase power to Lot 28? Mr. Buehler stated that could be a request made to the OTEC Board.

Bruce Ward – Wanted to know about opportunities for the roofing component; and trucking opportunities etc. creating more jobs.

Jim Bay – Timing is great.

Dean Nodine – He is very supportive of what the Council is doing as far as this company coming into town. He believes the schools can handle more population and offered his assistance to help the Council in any way he can.

Jerry Franklin – He thought once this thing gets established and running, it will attract other companies.

Mark Brown – From a study several years ago he learned that for every job we created, it takes 3-5 people in a community to support that one position. So there will be more jobs created than just the ones by Enviro Board.

Councilor Labhart thanked Grant County Economic Development Coordinator Sally Bartlett for all her hard work she had done to market the industrial park. Mayor Lundbom stated in every meeting he has been to with Sally and Melissa, both have been very prepared and it's nice to have somebody talk intelligently about economic development. It's very helpful to have our local and state economic people present at these meetings with their packets and information.

**Councilor Donn Willey moved to close the public hearing under ORS 221.725. Councilor Don Caldwell seconded the motion; the motion passed unanimously. The public hearing closed at 7:55 p.m.**

Councilor Gene Officer thanked everyone for coming to the public hearing.

**Agenda Item No. 5 – Council Deliberation on the Sale of Real Property, Lot 28 of the Grant County Airport Industrial Park to Enviro Board Corporation**

Mayor Lundbom stated the City Council needs to find that the sale of the subject property is necessary or convenient and the Council takes form action either to (a) approve the sale (and direct City Staff to move forward with the negotiation/preparation of the sale transaction document), (b) deny the sale, or (c) continue the public hearing to a certain time and date.

Councilor Doug Gochnour stated he was really impressed with Enviro Board's website and it is a very interesting process. The only reservation he has had all along is that it sounds too good to be true. He wants to be sure that the City has some sort of binding way that if they (Enviro Board) pack their bags 3-5 years from now. Mayor Lundbom responded that there will be some sort of penalty clause in the agreement.

Councilor Officer stated that is his concern also. Mayor Lundbom asked if the BETC credits had some strings attached. Ms. Bartlett stated she really didn't know; however, she thought they must have as they have been vetted through the State of Oregon.

Ken Olson of Old West Credit Union stated the BETC credits are very complex and are not usually tied to a certain building or project, it is an exchange of tax credits. Although, he does have an incentive to have a viable business somewhere.

Mayor Lundbom stated he believes that if it can work in Alabama, he'd like to think that it can work here on the west coast. He stated I guess we can be negative Nancy's if we want; but he seems like a straight up guy, he is an attorney.

Councilor Gochnour asked what our next step is. Mayor Lundbom stated we need to take formal action to approve or deny the sale or continue the public hearing. Councilor Gochnour asked don't we need to know the answer to the whole power question as far as what the cost is going to be and how we are going to pay for it.

Mayor Lundbom stated even though we approve the sale, we can still terminate with written notice if something doesn't happen. Mayor Lundbom stated he would like to think that we will work this out between the City and OTEC; we have to make this work.

Mayor Lundbom stated we were going to include the reversionary clause in the agreement; however, Mr. Peiffer had concerns with the language because the LLC would have difficulty getting a construction loan or take out a mortgage if there is a reversion risk for any reason. Mr. Peiffer suggested using a penalty clause in the agreement; City Attorney Jeremy Green will include a penalty clause in the sale transaction documents.

Councilor Labhart stated 10 years ago when we first bought this property, we got a lot of flack. The County didn't want to do it, but the City stepped up and did it because we thought it was a good deal. **Councilor Labhart made a motion that the John Day City Council enter into an agreement for the sale of city real property, Lot 28 of the Grant County Airport Industrial Park with Enviro Board Corporation (or a limited liability Company affiliated with Enviro Board Corporation and direct staff to move forward with negotiation/preparation of the sale transaction documents). Councilor Officer seconded the motion, the motion passed unanimously.**

Mayor Lundbom thanked everyone for their input on this decision.

**Agenda Item No. 6 – Discuss Request from Monty Bond, 318 NW 3<sup>rd</sup> Street, John Day, to allow the use of All-Terrain Vehicles, Class I and Class II on City Streets**

Mayor Lundbom introduced Monty Bond, Greg and Bryon Haberly and asked for discussion to allow the use of All-Terrain Vehicles, Class I and Class II on City Streets.



Mayor Lundbom asked Police Chief Richard Tirico for his comments regarding this issue. Police Chief Tirico stated he has had some discussion with Greg Haberly for over the last 10 years and he admitted Greg is slowly starting to win him over on this issue. Police Chief Tirico stated his issues have been with kids tearing up and down the streets going to and from school; Greg has reassured him that with the policy and procedures they have in Prairie City (e.g. licensed driver over eighteen required; safety equipment requirements, financial responsibility requirements such as insurance) he will have no issues. Given that information, he has a very open mind about allowing the use and will follow what the City Council wishes to do. His one concern is the state highways, how would allowing this use affect Highway 26 and 395. Monty Bond responded saying he checked with the State Police and they said they can only cross a state highway at a 90 degree angle, ATV's are not allow to run up and down the state highways, they are only allowed to cross them.

Police Chief Tirico stated he has spoken with people in Prairie City and found out that the passage of their ordinance allowing the use of ATVs on city streets has not had any adverse affect on them.

Councilor Officer stated about 15 years ago he had an ATV and had to license it, what happened to the licensing of the vehicle. Police Chief Tirico stated DMV stopped recognizing 4-wheelers as vehicles and stopped giving titles, licenses and registration on them.

Councilor Gochnour asked for an explanation between Class I and Class II. Mr. Bond responded that Class I is a 4-wheeler; Class II is a side by side like rangers, gators etc. Councilor Gochnour stated he tried to find what the mileage on an ATV is on the Polaris and John Deere website and couldn't find it. He stated the blogs stated it depends on what you are using the ATV for or driving upon, mud, snow etc. the numbers were between 15 and 25 mph. Mr. Bond responded stating those figures are for when you're playing hard with wide open throttle. He said when you're in town, the people who want to use them are mostly older people who want to run errands on them; they'd be driving the top speed of 20 mph max. He expects gas mileage to be 30 mph or better. Councilor Gochnour asked how are we going to control multiple people on the same machine, Mr. Bond responded saying they will be subject to all the laws as vehicles are and the police can pull them over and they will be subject to receiving a ticket.

Discussion on wearing a helmet was brought up; Police Chief Tirico stated the last time he checked; ATV's riders are not subject to the helmet law only motorcycles are. Councilor Officer asked about allowing golf carts on city streets. Mr. Bond stated he only proposed Class I and Class II; however, that would be up to the City Council if they wanted to add golf carts. Councilor Gochnour stated his golf cart does not have lights or turn signals; Police Chief Tirico stated they do not have to have lights or turn signals but they can only be used during the daylight hours, not after dark and you would have to use hand signals, the same as a bicycle.

Paul Smith questioned the licensing of the ATV; Mayor Lundbom stated you have to buy your license from Polaris now (recreation – off roads license, money received goes to the state). Mayor Lundbom asked about riding ATVs on Canyon City streets and County roads, Police Chief Tirico stated Canyon City and the County would have to approve the use.

Councilor Labhart was concerned about parking as we already have off street parking problems. Councilor Willey stated they won't be able to park outside of restaurants on Main Street such as the Outpost because it is state highway. It was noted that a motorcycle takes up as much space as an ATV. Other concerns were noise, mufflers; Police Chief Tirico stated that would follow under the regular ORS requirements.

Councilor Don Caldwell asked if staff had discussed this with the City Attorney. City Manager Gray stated he received the agenda but did not comment on this agenda item.

Bryon Haberly asked that if the Council was going to consider it (the use of ATVs), he would like to talk about the helmets. It is not the law to use helmets on ATVs. He said he would not like to see the use of helmets in the ordinance; he did not want to put a helmet on just to go across the street at his age and felt that most people his age would agree. He felt people would police themselves.

Bruce Ward thought it was great and has great implications with the group that he is involved in that is trying to promote tourism. He thought John Day was a place that people go through but not stop. He thought this would be a good thing and might get people to stop and a good opportunity to build trails for the ATVs.

Councilor Officer asked if the Council wanted to add golf carts to the ordinance; Police Chief Tirico asked that we review the ORS that addresses golf carts before we make that decision.

**Councilor Officer moved to allow the use of All-Terrain Vehicles Class I and Class II on city streets. Councilor Labhart seconded the motion but stated the City needs to table this item to bring it back to the City Council in the form of an ordinance drafted by City Attorney Jeremy Green. Councilor Gochnour stated he wanted to amend the ordinance to include the requirement of wearing helmets. Councilor Labhart seconded the motion.**

Mayor Lundbom called for further discussion on the motion(s); he stated he personally did not want to see the helmet requirement in the ordinance; he did not want to see further restrictions. There are states that don't require helmets for motorcycles.

**Councilor Labhart made a motion to end the debate and call for the question; Councilor Officer seconded, the motion passed unanimously.**

**At this time Mayor Lundbom called for the vote of Councilor Gochnour's amended motion to include the requirement to wear helmets in the ordinance to be drafted by the City Attorney Jeremy Green. Upon the call for the vote, the motion failed with a vote of 1 yes and 5 no.**

**Mayor Lundbom called for the vote to allow the use of All-Terrain Vehicles Class I and Class II on city streets and to have City Attorney Jeremy Green draft an ordinance to bring back to the City Council for adoption. The motion passed unanimously.** It was noted to have Monty Bond work with city staff and the city attorney in the development of the ordinance.

#### **Agenda Item No. 7 – Other Business and Upcoming Meetings**

1. The LOC Bulletins for August 31, 2012 and September 7, 2012 were given to the City Council for their review and information.
2. Mayor Lundbom stated the City received the Quit Claim deeds from Jim Carpenter for the section on the Canton Street side as well as the NW Bridge Street side. Copies of the Quit Claim deeds were included in the agenda.
3. Public Works Director Dave Holland gave a report to the City Council regarding the City's meeting with ODOT on the TE project. It was noted that the survey work for the project will begin in the middle of September. A public service announcement is scheduled to go out.

4. Public Works Director Dave Holland stated his department has completed the work on Jack and Sunne Russell's property and Jim and Tootie Cernazanu's property. Pictures of the completed projects were included in the council packets. City Attorney Jeremy Green is in the process of preparing the deeds for the lot line adjustments, once the deeds are signed and recorded, the property line adjustment process is complete. Total cost for the Russell project was \$480.33; Cernazanu property was \$1,575.50.
5. Councilor Labhart stated there is a nuisance problem on Hillcrest Road and wanted the Council to direct staff to write a letter to the owner of the property located at 405 Hillcrest Rd., John Day. The house is vacant; in disrepair and is a safety issue. It was the consensus of the Council to have the City Manager send a letter to the property owner asking them to clean it up or the City Council will declare it a nuisance as per Chapter 2 of the John Day City Code.

**Adjourn**

**There being no further business before the Council, Councilor Don Caldwell made a motion to adjourn the meeting. Councilor Chris Labhart seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:55 p.m.**

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, SEPTEMBER 25, 2012

---

Mayor Ron Lundbom