

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

**October 9, 2012**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

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

**COUNCILORS ABSENT:**

Gene Officer, Councilor  
Chris Labhart, Councilor

**STAFF PRESENT:**

Peggy Gray, City Manager  
Dave Holland, Public Works Director  
Richard Tirico, Police Chief

**GUESTS PRESENT:**

Steve Parsons, PO Box 241, Mt. Vernon  
Shawn Parsons, PO Box 241, Mt. Vernon  
Tye Parsons, 80360 Hwy 26, 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 Councilors Gene Officer and Chris Labhart who were absent and excused.

**Agenda Item No. 2 – Approval of City Council Minutes of September 25, 2012**

The minutes of the September 25, 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 September 25, 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 – Discuss for approval Purchase and Sale Agreement between the City of John Day and Enviro Board Corporation of Camden, New Jersey or a Limited Liability Company affiliated with Enviro Board Corporation**

Mayor Lundbom introduced Agenda Item No. 4. City Manager Gray stated the latest revised draft of the Purchase and Sale Agreement was emailed to Mayor Lundbom and each City Councilor earlier in the week. A hard copy of the revised agreement was given to each Councilor at the council meeting. City Manager Gray stated the draft agreement included in the council packet was revised after a conference call with William Peiffer of Enviro Board. City Attorney Jeremy Green prepared the draft agreement and stated the agreement is a fairly standard real property sale agreement. The somewhat “unique” aspects of this agreement concern the building permit, development agreement, employment covenant, sale of tax credits and possible loan through the Oregon Strategic Reserve Fund.

Mayor Lundbom asked the City Council if they had received and reviewed the revised draft agreement. Each Councilor confirmed they had reviewed the revised agreement. Mayor Lundbom asked if anyone had any questions or concerns.

Councilor Steve Schuette had a question regarding section 12.1 Statutory Warning where it stated the property described in this instrument may not be within a fire protection district protecting structures. The property is located within a fire district and questioned if it should be included in the agreement. City Manager Gray stated she did see that language and intended to ask City Attorney Green about it but forgot to in her last conversation with him. Councilor Gochnour stated he assumed that was boiler plate that was required by law to be included in all real property agreements. City Manager Gray agreed and stated she would clarify the language with City Attorney Jeremy Green.

Mayor Lundbom asked for further discussion, there being none; Mayor Lundbom asked to entertain a motion. **Councilor Donn Willey moved to allow the Mayor and/or City Manager to sign the Purchase and Sale Agreement between the City of John Day and Enviro Board Corporation of Camden, New Jersey or a limited liability company affiliated with Enviro Board Corporation subject to legal review by City Attorney Jeremy Green. Councilor Doug Gochnour seconded the motion, the motion passed unanimously.**

**Agenda Item No. 5 – Discuss Recommendations from the Public Works Committee regarding the City’s Water Use Regulations Ordinance; OTEC line extension to Lot 28; ODOT’s new Fix It/Enhance It Program**

City Manager Gray informed the City Council that she and Public Works Director David Holland met with the Public Works Committee consisting of Councilors Gochnour, Caldwell and Officer on October 2, 2012 to discuss the City’s Water Use Regulations Ordinance, OTEC line extension to Lot 28 of the Industrial Park and ODOT’s new FixIt/Enhance It Program. The minutes of the Public Works Committee were included in the council packets.

The first agenda item discussed was the City’s water leak policy (Council approved in 1991). City Manager Gray explained we have been experiencing a lot of water leaks lately; our current policy allows for a 100% credit for every water leak if the leak is fixed within 30 days. Public Works Director David Holland stated Water Systems Operator Monte Legg has had several conversations with him regarding our current water leak policy. He explained the way our current policy reads if a customer has a leak, it doesn’t matter if it is a toilet leak, shower leak or if they leave a hose running while they are gone for a weekend; the policy is once they fix it – the City gives them a credit for the amount they used for the past month (30 days). Public Works Director Holland stated he felt the current policy doesn’t leave any

accountability for the property owner to maintain their water system and plumbing to keep it in good operating order. He stated we have multiple offenders that are year after year, stating the fairgrounds are a bad one. They have poor plumbing, they fix some sections but still have old galvanized pipes and we give them several credits a year. He went on to inform the City Council about the high school's irrigation system stating they have high pressure without a pressure reducing valve on the system resulting in a PVC pipe being blown apart without anyone noticing. They had a leak in June resulting in 360,000 gallons lost which the City credited them. More recently they had a leak resulting in approximately 1.5 million gallons that the City can't force them to pay because of our policy. Public Works Director Holland went on to state those are the larger ones but we have several property owners that have toilet leaks that the City credits anywhere from 5,000 to 8,000 gallons a month. The problem is some of the property owners know the toilet is running and don't do anything about it, but we still give them a credit for it. Public Works Director Holland informed the Council that he felt the policy is ridiculous and the City needs to review their water leak policy. He stated just with the 1.5 million gallon water loss with the high school, that's a \$1 or \$2 water rate increase of lost revenue; in the future we'll have to raise rates again. He stated if we can corral this down a bit; we may not have to raise water rates as much.

The Public Works Committee supported Public Works Director David Holland's recommendations as follows:

- Do not allow credit for toilet, faucets or shower leaks
- Only allow credit for underground leaks or broken pipes
- Only allow up to 50% credit one time per calendar year upon proof of repairs
- Seven (7) days to fix the leak unless other arrangements are made with the City

It was the consensus of the Public Works Committee to recommend the City Council review their water leak policy and Water Use Regulation ordinances and work with City Attorney Jeremy Green to develop a new ordinance that includes the water leak policy with the above recommendations. It was also the consensus to have the draft ordinance ready by January 2013 or February 2013 at the very latest.

Mayor Lundbom asked for further discussion. Councilor Donn Willey asked if the radio read meters have proven to be accurate. The answer was yes with Public Works Director Holland stating the meters actually flag the water leaks. Councilor Willey questioned a large bill he received at his radio station, but there was no leak, so he questioned the accuracy of the meters. Public Works Director Holland stated in the area he is located; a lot of those meters have two or three buildings on the same meter. All you have to do is have one toilet flapper go bad; if a toilet runs for a month it uses a lot of water creating a larger water bill.

Councilor Doug Gochnour stated the high school was a good example using \$11,000 worth of water showing the need to tighten the policy down so that this doesn't happen every couple of months. Councilor Steve Schuette liked Councilor Gochnour's suggestion in the minutes to write a letter to the worst offenders explaining the new policy once it is implemented. City Manager Gray stated the new policy will be in the form of an ordinance which also requires a notice to the public and will be included in the City's quarterly newsletter once the date has been set for the ordinance to be reviewed by the City Council.

**Councilor Steve Schuette made a motion to accept the Public Works Committee recommendation (to recommend the City council review their water leak policy and Water Use Regulation ordinances and work with City Attorney Jeremy Green to develop a new ordinance that includes the water leak policy with the above recommendations by Public Works Director David Holland and to have the draft ordinance ready by January 2013 or February 2013 at the very latest). Councilor Donn Willey seconded the motion, the motion passed unanimously.**

The second agenda item discussed by the Public Works Committee was the ballpark estimate the City received from Oregon Trail Electric (OTEC) regarding the electric service to Lot 28 of the Grant County Airport Industrial Park.

City Manager Gray stated the City received a letter from OTEC estimating a ballpark cost of \$150,000 to install electric service to Lot 28. The letter stated this is not a detailed estimate of costs and is non-binding upon OTEC. This estimate is provided for our convenience and if the City wants a detail estimate of costs, an advance payment of ten percent of the ballpark figure may be required. OTEC attached a breakdown on how they arrived at the ballpark estimate as follows:

➤ Extend three-phase primary underground to Lot 28	\$ 60,000
➤ Install a 1,000 KVa pad mounted three-phase transformer	\$ 15,000
➤ Installation of Regulator bank and Regulators	<u>\$ 75,000</u>
Total Estimate	\$150,000

City Manager Gray stated Public Works Director Holland estimated approximately \$50,000 to extend the three-phase primary underground to Lot 28; the concern Mayor Lundbom has is with the installation of the regulator bank and regulators. If this is to upgrade OTEC’s system, should that be the City’s responsibility? Public Works Director Holland and City Manager Gray also found it interesting that John Stearns had not received a copy of Enviro Board’s latest electrical needs that was forwarded to Jim Horan of OTEC.

Mayor Lundbom stated at the OTEC Board meeting we were informed with the new information supplied by Enviro Board; it appeared they could get by with one regulator. City Manager Gray stated when we asked John Stearns if the quote included one or two regulators, he couldn’t answer the question.

Mayor Lundbom introduced Steve Parsons, a retired electrical contractor from the area. Mr. Parsons stated he has been in about three meetings with OTEC in the past two years regarding their new line extension policy and understands the frustration the City is having dealing with OTEC.

He stated he went back through the line extension policy and highlighted a few things that he would like to bring to the Council’s attention. Mr. Parsons stated the system the City has at the industrial park is a backbone system, which means when the City developed the industrial park, they put three phase power to it. However, the sites that have been developed at the industrial park may not be using the three phase; but he understands OTEC took the three phase to the site. From the point where the three phase power is located; you will have tap locations which would be located at every other lot until you get to Enviro Board’s Lot 28 and that is the last vault which is where the transformer would go. Mr. Parsons stated the City’s responsibility would be the underground from the existing location of the three phase through those tap locations to Enviro Board’s transformer’s location (\$60,000 estimate). He also stated Enviro Board would be responsible for their transformer, their secondary conductors and their metered facility and that is what their line extension portion would be based on. Enviro Board would also be responsible for 10% on a 5-year contract. Mr. Parsons stated the \$60,000 would not be included in Enviro Board’s monthly payment; only the transformer, secondary conductors and the service at the location (that is the portion OTEC should figure on). Mr. Parsons stated the City, as owner of the industrial park, is responsible for supplying the water, sewer and power to the lots; which means the City is responsible for the backbone portion of the power. Per the OTEC line extension agreement, the City is also responsible, at each of those tap locations that are not in use, to pay OTEC 4% of the investment cost. He estimated the City would be charged for about \$56,000 worth of installation costs at 4% annually for non-use and depreciation as per OTEC’s line extension agreement under the backbone system. Enviro Board is not responsible for that as they are consuming power. He referred to page 4 of the Board Policy No. VII-2

Subdivisions which states “Each November the developer will pay a fee of four percent of the actual prorated cost of the facilities associated with the lots not yet fully occupied for maintenance, operation and depreciation.” It was noted that is not what Mayor Lundbom and City Manager Gray understood in their conversation with John Stearns of OTEC. Enviro Board will be using power and they will be paying from the transformer in; but those unused lots are not generating income so the developer pays 4%. Mayor Lundbom questioned that they (OTEC) have no expense, how can they justify that? Mr. Parsons stated it doesn’t make any difference; I beat them over the head with that. Mayor Lundbom asked what if we don’t pay it; can we keep challenging it? Mr. Parsons stated we have to stand up; he stated he was the only one vocal enough to stand up to them and got shot down. He stated he had four meetings with OTEC, one of them was public and two meetings were held with contractors. Mr. Parsons stated he knows of three different people who didn’t build houses or went solar strictly because of OTEC’s line extension policy. He stated OTEC line extension policy is very detrimental to growth and this is a good example of what is going to happen.

Mr. Parson pointed out that in their line extension it talks about system upgrades and facilities; primary conductors, transformers, splices, secondary conductors, service drops and meters. Mr. Parson stated a system, which is the power lines that take the power to us and that OTEC is responsible for their system. The regulators and the relays located at their substation are part of their system and they (OTEC) are responsible for that. Mr. Parsons stated we pay monthly charges on our bills. In the meter charge we have fees to take care of maintenance, replacement and facility (system) upgrades. In our cost for power per kilowatt; we pay Bonneville four cents per kilowatt hour; OTEC sells it to the customer for eight cents per kilowatt hour, they double it. In that four cents it takes care of all their expenses including maintenance and upgrades to their system.

Mr. Parsons stated OTEC made a mistake and didn’t have the right stuff when they put this system in and now that we want power to the industrial park, they want the City to pay for their upgrade. Mr. Parsons stated that is not what their line extension policy says. It doesn’t have those items listed in their line extension policy.

Mr. Parson gave an example with Silvies Valley who needs a substation for their new development; OTEC wants Silvies Valley to pay for it. They are refusing and it appears that Silvies Valley is looking at going through Idaho Power instead of OTEC.

More discussion took place on whether a private developer can come in to do the work for the line extension. Mayor Lundbom stated at the OTEC meeting, OTEC board member Gary Miller stood up and stated OTEC would allow a developer to perform the line extension if the City chose a private developer over OTEC and the board agreed. Mr. Parsons stated that is not what their line extension policy states.

In conclusion Mr. Parsons stated you have three phase up at the industrial park; you have to extend it and that is your portion. From the transformer into the building that is Enviro Boards portion; however, in town for regulators and switches that should not be the City’s portion and that is not covered under OTEC’s line extension policy. Mr. Parsons stated that if you tell them that, next month there will be a revision to their policy and it will be there as they will make the change at their director’s meeting and the City will be responsible for that. Mr. Parsons stated that has happened to him in the past. Mr. Parsons stated the City needs to be very careful with how they handle OTEC. He stated the City had no choice but to go ahead with OTEC and pay them the \$6,000 (10% of the \$60,000) once we have a signed agreement with Enviro Board; however, he cautioned the City Council that you have to start construction within 120 days otherwise the estimate is no good.

City Manager Gray stated that John Stearns said the City had to pay \$15,000 (10% of the \$150,000) to get the project started. Mr. Parson cited Section C-2 Work Order Deposit of the line extension policy which

states “In the case of line extensions that are difficult to estimate or for line extensions that will exceed \$15,000, the engineering deposit fee shall be equal to 10 percent of the estimated construction cost.” Mr. Parsons stated you have only \$60,000 construction costs not the \$150,000. City Manager Gray stated that is not what John Stearns of OTEC told us and he says the City is responsible for the installation of the regulator bank and regulators.

Mr. Parsons stated we need to write OTEC a letter with the \$6,000 deposit stating we want to begin the project as per their line extension policy that is currently in place as of these dates, he suggested not to request an actual estimate at this time because it will come out the same; nothing is going to change. Mr. Parsons stated their engineering should already be done. Public Works Director David Holland stated we requested the backbone engineering to be done back in 2008 when Mark Moulton built his shop at the industrial park; so that the City could install the conduit so as people came in all they would have to do is pull the wire. John Stearns said he would get on it, but it was never done.

Mr. Parsons suggested the City stand firm; OTEC put in the three phase power, they knew there were approximately 30 lots with infrastructure to them and they had to know they had to supply power to them. He said there are two legs up there that are not currently being used. An example was used that OTEC just put in a new transformer at the west end substation costing \$700,000 did they ask the City to pay for that upgrade; no, it is part of their (OTEC) system and the City should not have to pay for it.

Mr. Parsons stated if we are going to grow, we need power. He used an example in Prineville where Pacific Power put in a new transmission line to provide the power before the company moved in. Mr. Parsons stated Central Electric, PPL and Pacific Power look at what the consumption is and what the rate of return is and then they compensate that developer for his extension costs because they know they’re going to sell more power and make more money and they want that to happen. He stated OTEC doesn’t want anything to happen in John Day. Tye Parsons stated the type of wire OTEC is using for the City’s project; there should be no maintenance for OTEC.

Mayor Lundbom suggested we compile a letter using the information Mr. Parsons stated and run it by City Attorney Jeremy Green. Public Works Director stated we should enter into an agreement with OTEC for the backbone portion of the project getting the vaults, conduits and wires into position to Lot 28. Then when OTEC comes back and says the City needs to pay for the upgrade to their system, the City can say according to their line extension policy, that is their responsibility. When Enviro Board is ready, they will make their own application to OTEC for their service.

It was the consensus of the City Council to do the backbone (installing vaults, conduits and wires) once the City has a signed agreement with Enviro Board. If OTEC refuses to put in the backbone because there are no services, then the City could put in temporary services at each vault. The Council also agreed with the Public Works Committee’s recommendation to continue to work with OTEC to see if they would assist the City with the expense of the regulators and include the responsibility for the three phase power to Lot 28 as the City’s expense in the purchase sale agreement with Enviro Board.

The third agenda item discussed by the Public Works Committee was ODOT’s new FixIt/Enhance It program. City Manager Gray explained that ODOT is changing their application process for the Bicycle/Pedestrian Programs into one new application process called “Fix It/Enhance It.” The new “Enhance It” project selection process will determine the ODOT capital program (called the STIP) for federal fiscal years 2015 – 2018. ODOT is encouraging cities to apply for as many projects as allowed; this solicitation will set the ODOT capital program for 4 years. The projects will be selected by your local Area Commission on Transportation (ACT).

The Public Works Committee suggested the following projects from the City's Local Street Network Plan:

- New sidewalks from SW 2<sup>nd</sup> going south to city limits or Grant Union High School (west side of street)
- Sidewalks extending from City Hall east to Meadowbrook Apartments on Highway 26
- Phase 2 of the TE Project – Canyon Creek Bridge to intersection on Hwy. 26
- New Sidewalks on 7<sup>th</sup> Street to 7<sup>th</sup> Street Sports Complex
- Phase 2 of NW Bridge Street Project – Sidewalks on west side of the street, new pedestrian bridge over John Day River

City Manager Gray stated she spoke with Sean Maloney our ODOT TE Project Leader about this application. Sean suggested to only put in for projects that will be competitive. He suggested projects that are transit related would be good applications and suggested projects that included bus shelters.

It was the consensus of the Council to apply for as many projects as possible with the top project being the new sidewalks from SW 2<sup>nd</sup> going south to the city limits or Grant Union High School (west side of the street) and the second project were the sidewalks extending from City Hall east to Meadowbrook Apartments on Highway 26. Councilor Steve Schuette thought the sidewalks on 7<sup>th</sup> Street to the 7<sup>th</sup> Street Sports Complex was another priority and thought that project would be a great place for a bus shelter. Other suggestions for bus shelters were at the Grant County Library, SW 4<sup>th</sup> Street and the bowling alley.

City Manager Gray stated Public Works Director Dave Holland will be on a conference call regarding this project on October 22<sup>nd</sup> and would be able to obtain more information about the application process at that time.

City Manager Gray gave the City Council an update on draft ATV ordinance. She stated she received a call from John Lane of Oregon Parks & Recreation Department who wanted to make sure the City knew the ATV Classification language has recently changed (801.190, 801.193, & 801.194). She asked John Lane to contact Sean O'Day of the League of Oregon Cities to speak to him directly as he is conferring with our City Attorney Jeremy Green on this issue. Police Chief Richard Tirico has concerns with people who might drive ATVs on City streets that have no insurance and are driving uninsured; what would be the consequences; would a motorist have the right to pursue a lawsuit against the ATV owner. Councilor Schuette stated that question needed to be answered before the ordinance is drafted. Discussion took place about driving in the forest, how is it different than driving on a city street regarding obtaining ATV insurance. City Manager Gray stated City Attorney Jeremy Green is continuing his research and she will bring these concerns to his attention.

#### **Agenda Item No. 6 – Other Business and Upcoming Meetings**

1. City Manager Gray stated CIS encourages City Council members to receive regular training especially in ethics and governing. There are two classes coming up through the League of Oregon Cities Local Leadership Institute. One is government Ethics in Oregon and the other is Governing Basics. Mayor Ron Lundbom stated he would like to attend the December 5<sup>th</sup> and 6<sup>th</sup> trainings in Bend. City Manager Gray stated she would get him registered and apply for scholarships through the LOC Foundation to help defray costs.
2. Mayor Lundbom reminded the City Council that the October 23, 2012 regular meeting of the John Day City Council has been canceled.

3. Mayor Lundbom reminded the City Council that City Manager Gray will be on vacation beginning October 10<sup>th</sup> through October 29, 2012. City Manager Gray noted that Public Works Director David Holland will be the contact person during her absence but she would be checking her emails regularly if anyone needed to get in touch with her directly.

**Adjourn**

**There being no further business before the Council, Councilor Don Caldwell made a motion to adjourn the meeting. Councilor Donn Willey seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:40 p.m.**

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, NOVEMBER 13, 2012

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Mayor Ron Lundbom