

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

November 13, 2012

Adjourned Meeting

COUNCILORS PRESENT:

Ron Lundbom, Mayor
Donn Willey, Councilor
Doug Gochnour, Councilor
Gene Officer, Councilor

COUNCILORS ABSENT:

Steve Schuette, Council President
Don Caldwell, Councilor
Chris Labhart, Councilor

STAFF PRESENT:

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

GUESTS PRESENT:

None

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 Chris Labhart, Steve Schuette and Don Caldwell who were absent and excused.

Agenda Item No. 2 – Approval of City Council Minutes of October 9, 2012

The minutes of the September 25, 2012 adjourned meeting were included in the agenda packets and presented for the Council's approval. Councilor Doug Gochnour noted his name was misspelled on page 3 of the minutes. **Councilor Doug Gochnour made a motion that the minutes of October 9, 2012 be approved as amended; Councilor Gene Officer 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 John Day City Code Title 4, Chapter 3 (Dangerous Buildings) Determination of Dangerous Building located at 405 SE Hillcrest, John Day, Oregon

City Manager Gray gave the council a brief background regarding the dangerous building. At the September 11, 2012 council meeting, Councilor Chris Labhart informed the John Day City Council about a dangerous building in the City. According to the John Day City Code Title 4, Chapter 3, Dangerous Building; the City Council shall fix a time and place for a public hearing. Notice of the public hearing is to be posted in three public places within the City and a notice of the public hearing is to be mailed to the property owner with an invitation to attend the meeting and informing them they have a right to be heard. City Manager Gray stated the public notice was posted in three places in the City at least 10 days before the public hearing and the notice was sent by certified mail to the property owner.

Included in the council packet were pictures of the deteriorated building and Resolution No. 12-695-19 declaring the building located at 405 SE Hillcrest Road, John Day, Oregon, a dangerous building and ordering the building's owner of record to remove or abate the building within thirty (30) days. City Manager Gray noted that the code does not require the City to give 30 days to fix the problem, however, she said she conferred with legal counsel and they thought that given the owner is an out-of-town bank and unlikely to respond in less than 30 days, they think giving a 30-day cure period is fine under the circumstances.

City Manager Gray stated if the property owner fails to cure the building within 30 days, then the Council will have the power to order the building removed or made safe at the expense of the property owner. She informed the Council the City would have to advertise for bids for the work to be done and it could require another resolution.

At this time Councilor Donn Willey moved to open the Public Hearing under John Day City Code Title 4, Chapter 3 (Dangerous Buildings). Councilor Doug Gochnour seconded the motion. The motion passed unanimously.

As there were no members of the public present for the public hearing at this time, the public hearing was left open in case someone arrived later to testify; Mayor Lundbom continued on to the next agenda item.

Agenda Item No. 5 – 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

City Manager Gray stated William Peiffer of Enviro Board emailed a new proposal in regards to the Purchase and Sale Agreement for Lot 28 of the Grant County Industrial Park. She reminded the Council that we had agreed that the buyer is responsible for \$15,000 for the transformer and the City is responsible for \$135,000 for bringing three phase power to the lot. We had also anticipated reimbursement from the Oregon Strategic Reserve Fund that would pass through the buyer reducing our costs by \$50,000.

Mr. Peiffer states the Oregon Strategic Reserve Fund is a solid opportunity for many circumstances; however, in this instance it complicates matters internally for countless reasons including but not limited to which entity makes the application, whether another entity guarantees the loan, different entity owners, the Forgiveness of Debt tax by the IRS of roughly \$18,000 on the owners of one or several entities (applicant(s) and possibly guarantor) which will likely include a bank as the buyer of tax credits, and the allocations among them of the tax each with each entity having separate legal counsel, etc. all of which is in the context of the size of the benefit which is \$50,000 (less the \$18,000 tax, legal fees relating to

entities and shareholders etc.). Mr. Peiffer proposes the buyer pay the \$50,000 in electrical costs (in addition to the \$15,000 for the transformer) and waive the requirement to apply for the Oregon Strategic Reserve Fund. Mr. Peiffer states this puts the City of John Day in exactly the same position it would be in if the Reserve Fund was applied for and received.

Additionally Mr. Peiffer states in the context of tax planning, buyer improvements to the site are tax deductible to the buyer but site purchase costs are not. Mr. Peiffer would like to explore the possibility with the City Council of paying an additional \$36,034 in electrical costs and reduce the site purchase price by that exact amount. To summarize, Mr. Peiffer proposes the following:

Buyer would pay OTEC \$15,000 for the transformer.
Buyer would pay OTEC \$86,034 in electrical costs (\$50,000 plus \$36,034).
Buyer would pay the City of John Day \$1.00 for the site (Lot 28).
City of John Day would pay OTEC \$48,965 in electrical costs.

The economic benefit to John Day remains unchanged from the transaction as originally proposed and Mr. Peiffer states the new proposal sheds enormous complexity for the buyer.

Mr. Peiffer ends his proposal stating they are open to either (i) a pro-rata sharing cost overages and cost underages, or (ii) John Day bearing cost overages and retaining cost underages.

City Manager Gray noted the new proposal is not what was agreed upon in the signed letter of Intent we currently have with the buyer. Also the new proposal is not what was stated to the general public at our public hearing held on September 11, 2012 and could cause problems should someone challenge accepting the new proposal.

In a conversation with City Attorney Jeremy Green who stated the new proposal does not change from an economic standpoint and is just a structural change. However, the structural change language needs to be included in the revised Purchase and Sale Agreement stating that the \$1.00 purchase price is in lieu of development improvements for bringing the three phase power to Lot 28 in the amount of \$36,034.

Councilor Gochnour stated the way he reads it; there is no difference to the City financially, it's an advantage to Enviro Board from a tax standpoint by not having to deal with the Oregon Strategic Reserve Fund application and having a forgivable loan.

Councilor Officer asked if there was any change if they (Enviro Board) are only in there for one year. City Manager Gray stated the infrastructure would stay; he couldn't take that with him if he left. It's an investment of the development of the property. No matter who would be there, we'd still have to put the infrastructure to the Lot and she reminded the Council that the buyer would be paying \$86,000 of those development costs for bringing in the three-phase power.

Councilor Officer had concerns with selling the land for \$1 and if they go under, they have that land to sell for a profit. He wanted to know what happens to the land if that happens, does it revert back to the City. City Manager Gray stated she would ask City Attorney Jeremy Green that question. Covenants were discussed and that Enviro Board has to adhere to them.

Mayor Lundbom had concerns with OTEC charging \$75,000 for the relays and he would like to see that go away. Public Works Director suggested that might be a battle for later down the road; let's get them (Enviro Board) in here and get the jobs created. And if we have a leg to stand on; then, we can pursue challenging the relays. The Council agreed.

City Manager Gray stated City Attorney Jeremy Green came across a few issues concerning the new structure that we need to discuss. Among other things, we will need to attribute a definition to Electrical Costs and Transformer. In addition, we need to discuss cost overages and underages.

Councilor Doug Gochnour stated the change in this agreement versus the previous agreement does not change our obligation for overages. Mayor Lundbom stated William had given the City two options 1) sharing the cost of overages and underages or 2) John Day bearing the cost overages and retaining cost underages. Public Works Director Holland stated the three phase power is our infrastructure and we are responsible for our development and he felt the City should be responsible for any cost overages. The Council agreed.

City Manager Gray asked the City Council if they were in agreement with William's revisions to Section 3.3 concerning aircraft access. Mayor Lundbom stated the Airport Commission met last night and they talked about moving the AWOS and informed the Commission that they had no choice but to move it and it was agreed that they will move it. He also stated they will work with the local pilots and FAA to determine where to site the AWOS and begin the work. Discussion took place using the City's equipment to assist with the project; City Manager Gray stated we have an intergovernmental agreement with the County to use each other's equipment. The Council was in agreement that if the County needed assistance with the project, the City would help using the intergovernmental agreement. Mayor Lundbom stated their goal is to get it done before Enviro Board puts their walls up.

Councilor Doug Gochnour moved to move forward with the new transaction structure with Enviro Board and authorize the City Manager or the Mayor to sign the agreement upon appropriate legal review and revisions. Councilor Gene Officer seconded the motion, the motion passed unanimously.

City Manager Gray stated this week/next week staff will work with City Attorney Jeremy Green to refine the agreement to ensure the City's interests are addressed.

Agenda Item No. 6 – Discuss for Signature ODOT Multimodal Transportation Program Project Application

City Manager Gray stated at the October 9, 2012 council meeting the City Council instructed staff to apply for as many projects as possible for the ODOT's new Multimodal Transportation Enhance Program/Project Application for the 2015-2018 STIP. The City Council selected the sidewalk/bicycle lane project from SW 2nd going south to Grant Union Junior-Senior High School as their top priority; the second priority were the sidewalks extending from City Hall east to Meadowbrook Apartments on Highway 26 with sidewalks on 7th Street to the 7th Street Sports Complex being third.

City Manager Gray stated the application required more information than we expected. In order to have a complete application we need to have site and vicinity maps and typical cross section drawings. As we had previously submitted the US Highway 395 Sidewalk/Bicycle Lane project to ODOT; we had the required maps and cross sections already completed and were able to complete the application for the sidewalks and bicycle lanes project on Highway 395 south to Grant Union Junior-Senior High School. The application was included in the council packets. This project will create 3,500 lineal feet of wider travel lanes (max. of 13 ½') for vehicle traffic; 6' sidewalks with 6" curbs for pedestrians; increase bike lanes for bicyclists to 7 ½' and increase parking lanes to 8' and provide bus shelters for school children and clients of the People Mover on US Highway 395 from SW 2nd Ave south to MP 0.84 Grant Union Junior-Senior High School.

The deadline for the application is November 27, 2012. City Manager Gray stated this does not give us much time to have an engineer develop the required maps and typical cross section drawings for the other projects (sidewalks to Meadowbrook, NW 7th Street). Also, the City did not budget for the other grant applications. We estimate it would cost several thousand dollars out of our current street fund to apply for the other two sidewalk projects. Sean Maloney of ODOT suggested we only apply for projects that are realistic and competitive. Public Works Director David Holland and I believe the Highway 395 Sidewalk/Bicycle Lane Project will be a very strong and competitive application and think we should only apply for this project for the 2015 -2018 STIP.

City Manager Gray stated we were informed that applications that involve multiple funding sources and agencies are very competitive. This application is being co-sponsored by Grant County with the People Mover and School District No. 3 being participants in the project. At their November 7, 2012 County Court meeting, the County agreed to provide the base rock for the project if the application is awarded. The estimate for the base rock is \$59,408; this helps provide the 10.27% match requirement. The City's contribution is estimated at \$43,775 as in-kind service by saw cutting pavement; concrete and pavement removal, planter dirt removal, pavement and concrete recycle and relocating fire hydrants. Both the People Mover and School District No. 3 have committed to provide their expertise regarding the bus shelters helping with the location and design of the bus shelters.

Councilor Officer stated we shouldn't ask for too much; Councilor Gochnour confirmed the City was only going to apply for one project. It was the consensus of the City Council that given the deadline for the application and the cost of completing the required engineering on the other projects, the City should only apply for the US Highway 395 Sidewalk/Bicycle Lane Improvement Project.

Mayor Lundbom stated this is a much needed project and asked about the property owner's responsibility for paying for part of the sidewalk. City Manager Gray stated that would be the Council's decision should we receive the grant. If we have the match covered by in-kind and the City applies for a Special City's Allotment grant in the amount of \$50,000 to help with the match and it is awarded, the Council could then decide if they wanted to assess the property owners or just complete the project using the in-kind and grant award(s).

Councilor Donn Willey made a motion to allow Mayor Lundbom to sign the Multimodal Transportation Program Project application for the US Highway 395 Sidewalk/Bicycle Lane Improvement Project. Councilor Doug Gochnour seconded the motion, the motion passed unanimously.

Agenda Item No. 7 – Discuss Request from the Timber Truckers Parade Committee

City Manager Gray stated the City has donated each year to the Timber Trucker's Light Parade. In the past years we have given them \$100 for the Driver's Drawing Award. The funds were expended from the community promotions line item in the General Fund.

We budgeted \$400 in the community promotions line item and have expended \$100 to donate to the League of Oregon Cities Scholarship Foundation Fund.

City Manager Gray stated she thought the \$100 donation is for a good cause and the event is always well attended.

Councilor Gene Officer moved to sponsor the \$100 Driver's Drawing award for the 2012 Timber Truckers Light Parade. Councilor Donn Willey seconded the motion. The motion passed unanimously.

Back to Agenda Item 4 – At this time there being no members of the public in attendance to testify at the public hearing; Councilor Donn Willey moved to close the public hearing under John Day City Code Title 4, Chapter 3 Dangerous Building. Councilor Doug Gochnour seconded the motion. The motion passed unanimously. The public hearing was closed at 7:29 p.m.

Mayor Lundbom asked for further discussion, there was none. Mayor Lundbom asked for a motion. **Councilor Doug Gochnour moved to adopt Resolution No. 12-695-19, a resolution declaring the building located at 405 SE Hillcrest Road, John Day, Oregon, a dangerous building and ordering the building's owner of record to remove or abate the building within thirty (30) days. Councilor Donn Willey seconded the motion. The motion passed unanimously.**

Agenda Item No. 8 – Other Business and Upcoming Meetings

1. The LOC Bulletins for October 26, 2012 and November 2, 2012 were included in the council packets. November 9, 2012 LOC Bulletin was presented at the time of the council meeting.
2. Mayor Lundbom stated he will be attending the LOC training on December 5 – 6th in Bend. He will be attending the “Governing Basics” and “Governing Ethics” training. He stated he would be unable to attend the one-day “boot-camp” for Newly Elected Government Leaders in Portland on December 8th. He asked the City Manager to see if she could obtain the hand-outs from the training as it is designed to complement “Governing Basics” training.
3. City Manager informed the City Council of a conference call with City Attorney Jeremy Green and Burns City Manager Don Munkers regarding the proposed ATV ordinance. As Burns is facing the same issue and retains Jeremy Green as their legal counsel, we agreed to work together on the proposed ordinance and share the cost of legal fees. Jeremy stated he is working on a draft ordinance and should have something to us by next week.
4. Police Chief Tirico informed the City Council of former Police Chief Swede Larson's passing last Friday and invited the City Council to attend his services on Saturday, November 17, 2012 at 2 p.m. at the Canyon Creek Cemetery with full honor guard, Elks Club and American Legion. There will be a celebration of life after the service at the Elk's Lodge.
5. City Manager Gray stated the City usually cancels the 2nd council meeting in November due to the Thanksgiving Day holiday; however, this year the Council meeting falls on the week after Thanksgiving. It was the consensus of the Council to hold the second regular council meeting if we have agenda items.

Adjourn

There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Gene Officer seconded the motion and the motion passed unanimously. The meeting was adjourned at 7:35 p.m.

Respectfully Submitted:

Peggy Gray
City Manager

ACCEPTED BY THE CITY COUNCIL, DECEMBER 11, 2012.

Mayor Ron Lundbom