

**John Day City Council**  
**March 12, 2013**  
**7:00 PM**  
**Council Chambers**  
**AGENDA**

1. **OPEN AND NOTE ATTENDANCE**
2. **OATH OF OFFICE TO APPOINTED COUNCILOR PAUL SMITH**
3. **APPROVAL OF CITY COUNCIL MINUTES OF FEBRUARY 26, 2013**
4. **APPEARANCE OF INTERESTED CITIZENS – At this time Mayor Lundbom will welcome the general public and ask if there is anything they would like to add to tonight’s agenda.**

**ACTION ITEMS:**

5. **DISCUSS FOR APPOINTMENT LOUIS E. PROVENCHER TO THE JOHN DAY BUDGET COMMITTEE**  
Attachment:
  - Budget Committee Application by Louis E. Provencher
6. **DISCUSS FOR ADOPTION ORDINANCE NO. 13-156-01, AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES ON CERTAIN STREETS LOCATED WITHIN THE BOUNDARIES OF THE CITY OF JOHN DAY, OREGON**  
Attachments:
  - Ordinance No. 13-156-01
  - Staff report from City Attorney Jeremy Green
  - Excerpt from the minutes of the September 11, 2013 John Day City Council meeting
7. **DISCUSS FOR ADOPTION ORDINANCE NO. 13-157-02, AN ORDINANCE AMENDING AND RESTATING TITLE 7, CHAPTER 4 OF THE JOHN DAY CITY CODE, COMMONLY KNOWN AS THE “WATER USE REGULATIONS ORDINANCE,” WHICH ORDINANCE ESTABLISHES THE RULES AND REGULATIONS FOR THE CITY OF JOHN DAY WATER SYSTEM UTILITY, PROVIDES FOR RATES, CHANGES AND PENALTIES FOR VIOLATIONS, SUPERSEDING AND REPEALING ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EMERGENCY**
  - Ordinance No. 13-057-02
  - Title 7, Chapter 4 of the John Day City Code

- Policy and Procedure – Public Works #4 approved by Council on 1-22-91
- Excerpt from the minutes of Public Works Committee dated 10-2-12
- Excerpt from the minutes of the 10-9-12 John Day City Council meeting

**8. DISCUSS CITY MANAGER’S ANNUAL EVALUATION**

Attachment:

- City Manager Evaluation Form

**OTHER BUSINESS:**

**9. OTHER BUSINESS AND UPCOMING MEETINGS**

Attachments:

- March 1, 2013 LOC Bulletin
- Newsletter from Representative John Huffman
- Newsletter from Dennis Richardson
- Letter to contractors regarding removal of dangerous building, work order from Safeguard Properties

**ADJOURN**

**TO:** John Day City Council  
**FROM:** Peggy Gray, City Manager  
**DATE:** March 8, 2013  
**SUBJECT:** Oath of Office to Appointed Councilor  
Attachment:

- Oath of Office – Paul Smith

**BACKGROUND:**

Chapter VI, Section 28 of the 1993 City of John Day Charter states before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the state of Oregon.

The Oath of Office will be given to Paul Smith who was appointed by the John Day City Council on February 26, 2013. The Oath form will need to be signed in front of a notary, since the City no longer has a notary on staff, you will need to take your form to Oster Professional Group and have Barbara Hicks notarize it and bring it back to City Hall for filing.

**TO:** John Day City Council

**FROM:** Peggy Gray, City Manager

**DATE:** March 8, 2013

**SUBJECT:** Discuss for Appointment Louis E. Provencher to the John Day Budget Committee

Attachment:

- Budget Committee Application by Louis E. Provencher

**BACKGROUND:**

Included in your council packets is an application from Louis E. Provencher to the John Day Budget Committee. Mr. Provencher is retired from the USDA, Forest Service and has lived in John Day for the past 23 years.

As you can see in Mr. Provencher's application, he has experience in budgets through his employment with the Forest Service and since he is now retired; he has time to support the community of John Day.

**RECOMMENDATION:**

I believe Mr. Provencher's experience in planning and budgeting would be an asset to the John Day Budget Committee. I recommend the City Council appoint Louis E. Provencher to the John Day Budget Committee.

**TO:** John Day City Council

**FROM:** Peggy Gray, City Manager

**DATE:** March 8, 2013

**SUBJECT:** Discuss for Adoption Ordinance No. 13-156-01, an ordinance authorizing the operation of all-terrain vehicles on certain streets located within the boundaries of the City of John Day, Oregon

Attachments:

- Ordinance No. 13-156-01
- Staff report from City Attorney's Office, Jeremy M. Green and Melissa S. Cobb, Bryant, Lovlien & Jarvis, P.C. with attachments
- Excerpt from the minutes of the September 11, 2012 John Day City Council meeting

**BACKGROUND:**

Staff has been working with City Attorney Jeremy Green; attorney Melissa Cobb from Bryant Lovlien and Jarvis and City Manager Don Munkers of the City of Burns since September 2012. This has been a complicated process to say the least; however, I am very pleased with the final ordinance.

I included the council minutes of the September 11, 2012 meeting when the Council had their first discussion to allow the use of All-Terrain Vehicles on city streets for your review.

To facilitate your review of the ordinance, please see the attached staff report from City Attorney's Office, Jeremy M. Green and Melissa S. Cobb, Bryant, Lovlien & Jarvis, P.C.

**RECOMMENDATION:**

The ordinance has been posted as required by the City Charter. If the Council finds the ordinance satisfactory; the Council may choose to adopt it at this council meeting. However, upon discussion if there are changes required by the City Council, I recommend the Council wait to adopt Ordinance No. 13-156-01 until the next council meeting. Please note that once the ordinance is adopted by the city council, it will go into effect 30 days after its passage by the City Council and approval by the Mayor.

**TO:** John Day City Council

**FROM:** Peggy Gray, City Manager

**DATE:** March 8, 2013

**SUBJECT:** Discuss for Adoption Ordinance No. 13-157-02, an ordinance amending and restating Title 7, Chapter 4 of the John Day City Code, commonly known as the “Water Use Regulations Ordinance,” which ordinance establishes the rules and regulations for the City of John Day water system utility, provides for rates, changes and penalties for violations, superseding and repealing any and all ordinances, resolutions, and/or policies in conflict with this ordinance; and declaring an emergency

- Ordinance No. 13-157-02
- Title 7, Chapter 4 of the John Day City Code
- Policy and Procedure – Public Works #4 approved by Council on 1-22-91
- Excerpt from the minutes of Public Works Committee dated 10-2-12
- Excerpt from the minutes of the 10-9-12 John Day City Council meeting

**BACKGROUND:**

Attached is Ordinance No. 13-157-02 that amends Title 7, Chapter 4 Water Use Regulations of the John Day City Code. The City Council discussed this topic at their October 9, 2012 council meeting approving the recommendation of the Public Works Committee recommending the City Council review their water leak policy and Water Use Regulations ordinance and work with City Attorney Jeremy Green to develop a new ordinance.

The attached ordinance is the product of city staff’s conversations with City Attorney Jeremy Green. Ordinance No. 13-157-02 updates our outdated and difficult to administer Water Use Regulations and provides for rates, charges, and penalties for violations. I have provided a copy of the existing city code known as Title 7, Chapter 4 - Water Use Regulations for your comparison in your review; however, the major changes in the code are highlighted as follows:

- 4.1 Application. City will begin using an updated application for water service. When application is made for water service at a non-owner occupied premises (rental), the owner of the rental, will sign an agreement, that the owner will, in the event of nonpayment or delinquency of any fee(s) or charges(s), expenses, losses, damages, and/or fines incurred by the applicant for the water service and be jointly and severally liable to the city for the full payment.
- 8.3 Adjustment for Water Loss. If it is determined that water loss occurred on the customer’s side of the meter and the leak has been repaired, the city will adjust the customer’s billing for up to fifty percent (50%) of the excess use. Adjustments will not be available when the excess use appears due to the failure to repair any water leak (i.e. toilets, showers etc.)The City will not provide more than one adjustment per customer, per calendar year.
- 9.3 Notice of Service Termination. This section states the customer will be assessed and required to pay any applicable posting charges imposed by the city (door hangers).

- 12 Customer Service Lines and Maintenance. Leaks in the customer service line will be repaired within fifteen (15) days of detection. We had originally thought seven (7) days; however, City Attorney Jeremy Green thought fifteen days was more reasonable.
- 20 Violation-Civil Penalty; Other Relief. Any person violating any of the provisions of this Ordinance will be subject to a civil penalty of One Thousand Dollars (\$1,000) for each violation; and the city may seek recovery of its attorney fees.
- 23. Water Charge Liens. Water service charges will be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the city pertaining to the water system. Whenever a bill for water service remains unpaid ninety (90) days after it has been rendered, the lien thereby created may be foreclosed in a manner provided for in ORS 223.610, or in any other manner provided for by law or by city ordinance.

**RECOMMENDATION:**

Public Works Director David Holland states this ordinance allows the city to run our water system more efficiently like a business and establishes rules and regulations that are fair and consistent. I recommend the John Day City Council adopt Ordinance No. 13-157-02.

**TO:** John Day City Council

**FROM:** Peggy Gray, City Manager

**DATE:** March 8, 2013

**SUBJECT:** Discuss City Manager's Annual Evaluation  
Attachment:  
• City Manager Evaluation Form

**BACKGROUND:**

According to my contract the City Council shall review and evaluate my performance at least once annually in advance of the adoption of the annual operating budget but no later than March 31<sup>st</sup> of each year. Attached is a copy of the evaluation form used in the past.

**RECOMMENDATION:**

Staff recommends the John Day City Council sets a date to complete the City Manager's annual evaluation before March 31, 2012.



**TO:** John Day City Council

**FROM:** Peggy Gray, City Manager

**DATE:** March 8, 2013

**SUBJECT:** Other Business and Upcoming Meetings

Attachments:

- March 1, 2013 LOC Bulletin
- Newsletter from Representative John Huffman
- Newsletter from Dennis Richardson
- Letter to contractors regarding removal of dangerous building, work order from Safeguard Properties

**OTHER BUSINESS:**

1. The March 1, 2013 LOC Bulletin is included in your council packets.
2. Newsletter from Representative John Huffman is included in your council packets.
3. PERS Reform newsletter from Representative Dennis Richardson is included in your council packets.
4. On February 27, 2103 I sent out the Solicitation of Proposals for the removal of the dangerous building located at 405 SE Hillcrest Rd. On Friday, March 1, I received an electronic message from Jeff Dunning, Field Coordinator for Independent Home Services who received a work order from Safeguard Properties to repair or remove the dangerous building located at 405 SE Hillcrest. As the owner-bank may be moving forward with the demolition of the building; it is in the city's best interest to have the bank perform the demolition work so we have put the bid on hold for now. I will keep in contact with Mr. Dunning to make sure the bank follows through; if they don't we will reopen the solicitation. Attached is the letter I sent to the contractors who received the Solicitation notice.

**UPCOMING MEETINGS:**

March 22, 2013	10:00 a.m. – 1:00 p.m. Pendleton	GEODC Annual Membership meeting City Manager Gray attending
March 26, 2013	7:00 p.m.	Regular City Council meeting