

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

**May 28, 2013**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

Ron Lundbom, Mayor  
Steve Schuette, Council President  
Gene Officer, Councilor  
Doug Gochmour, Councilor  
Donn Willey, Councilor  
Paul Smith, Councilor

**COUNCILORS ABSENT:**

Don Caldwell, Councilor

**STAFF PRESENT:**

Peggy Gray, City Manager  
Valerie Luttrell, Dispatch Manager  
Richard Gray, Police Sergeant

**GUESTS PRESENT:**

Anna Bass, Oster Professional Group  
Amy Walker, Oster Professional Group

**Agenda Item No. 1 – Open and Note Attendance**

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

**Agenda Item No. 2 – Approval of City Council Minutes of April 23, 2013**

The minutes of the April 23, 2013 adjourned meeting were included in the agenda packets and presented for the Council's approval. **Councilor Donn Willey made a motion that the minutes of April 23, 2013 be approved as presented; Councilor Steve Schuette 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 requested to add an additional item to the council agenda in order for the City Council to continue discussion regarding the "Dangerous Building" located at 405 SE Hillcrest Road, John Day, OR 97845.

**Councilor Doug Gochmour moved to add the issue of the "Dangerous Building" to the May 28, 2013 council agenda. Councilor Donn Willey seconded the motion, the motion passed unanimously.**

**Agenda Item No. 4 – Public Hearing to Discuss the Budget for Fiscal Year 2013-2014 as approved by the John Day Budget Committee**

City Manager Gray stated this is a public hearing for the City Council to receive public input on the Budget for Fiscal Year 2013-2014 as approved by the John Day Budget Committee. The minutes of the April 2, 2013 Budget Committee meeting were included in the council packets.

**Councilor Steve Schuette moved to open the public hearing on the Budget for Fiscal Year 2013-2014 as approved by the John Day Budget Committee. Councilor Donn Willey seconded the motion, the motion passed unanimously.**

Mayor Lundbom asked if anyone present wished to comment on the Budget for Fiscal Year 2013-2014; there were no comments presented. Mayor Lundbom stated the public hearing would remain open for the remainder of the council meeting and moved onto the next agenda item.

**Agenda Item No. 5 – Discuss for Adoption Ordinance No. 13-158-03, an ordinance amending Title 7, Chapter 5 of the John Day City Code, commonly known as the “Sewer Use Regulations Ordinance,” which ordinance establishes the rules and regulations for the City of John Day sewer system utility, and provides for rates, charges, and penalties for violations; superseding and repealing any and all ordinances, resolutions, and/or policies in conflict with this ordinance; and declaring an emergency**

City Manager Gray stated this Ordinance amends the City’s Sewer Use Regulations to align with the City’s newly adopted Water Use Regulations ordinance; giving the City more options in regards to tenant accounts that result in delinquency and/or foreclosures.

City Manager Gray highlighted the major changes in the code as follows:

Section 4 – the definitions of Building Sewer and Public Sewer are more clearly defined to show ownership and service connection responsibilities of the property owner as well as the City.

Section 5 – this section amends and defines the rates and payments for services; delinquent accounts. Subsection E. Tenant Accounts states that the owner of any non-owner occupied premises will immediately notify the city if the premise becomes vacant. Until the owner provides the vacancy notice, the owner will be required to pay for the sewer service made available and/or provided to the vacant non-owner occupied premises. Prior to transferring a claim against the occupant/applicant to the owner of the premises, the City will provide delinquent status to the occupant/applicant and mail a copy of the notice of delinquency to the owner or owner’s agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim will be a lien against the premises served from the date the notice of delinquent status is mailed to the owner of the premises.

Section 6 – This is a new John Day City Code Section 7-5-11; Application for Service: each applicant for sewer service will complete and sign an application form provided by the city. In signing the application, the applicant agrees to abide by the rules and regulation of the city for use of its sewer system. When the application is made for non-owner occupied premises, the owner of the non-owner occupied premises will sign the agreement and in the event of nonpayment or delinquency of any fees, charges etc. incurred by the applicant for sewer service, the owner will be jointly and severally liable to the city for the full payment thereof, including any late and/or penalty fees.

Section 7 – This is a new John Day City Code Section 7-5-12; Right to challenge service termination. This section explains the process for the owner and/or occupant to challenge proposed termination of services.

Section 8 – This is a new John Day City Code Section 7-5-13: Sewer Charge Liens. The City of John Day does not have lien rights under its current sewer code (Title 7, Chapter 5). Rather, under section 7-5-9(B), “Water service may be discontinued after due notice to the user, to any premises whose user has not paid the sewer charges within (30) days following the date of billing and such water service shall not be resumed until such charges are paid in full..”

Based on the research by our city attorney, the City can amend its sewer code to adopt the same lien process as set forth in the recently adopted water use ordinance. This section adds the language giving the City the authority to place a lien against the premises serviced from and after the date of billing whenever a bill for sewer service remains unpaid 90 days after it has been rendered.

Councilor Donn Willey questioned how the sewer is affected by a lien; you can’t shut the sewer off, but you can shut the water off. City Manager Gray agreed that we can shut the water off; the issue is that our current ordinance does not give the City the authority to place a lien on the premises served in the case of past due sewer accounts.

**Councilor Steve Schuette moved to read Ordinance No. 13-158-03 by title only. Councilor Doug Gochmour seconded the motion, the motion passed unanimously.**

**Mayor Lundbom read Ordinance No. 13-158-03 by title only as follows:**

**Ordinance No. 13-158-03, an ordinance amending Title 7, Chapter 5 of the John Day City Code, commonly known as the “Sewer Use Regulations Ordinance,” which ordinance establishes the rules and regulations for the City of John Day sewer system utility, and provides for rates, charges, and penalties for violations; superseding and repealing any and all ordinances, resolutions, and/or policies in conflict with this ordinance; and declaring an emergency.**

**Councilor Steve Schuette moved to adopt Ordinance No. 13-158-03. Councilor Donn Willey seconded the motion, the motion passed unanimously.**

**Agenda Item No. 6 – Discuss for Adoption Resolution No. 13-703-07, a resolution amending Resolution No. 13-698-02 to identify charges that will be assessed by the City of John Day for delinquent sewer accounts**

City Manager Gray stated that with the adoption of Ordinance No. 13-158-03, the City Council now needs to amend the Sewer Fee Resolution to identify the charges that will be assessed by the City for delinquent sewer accounts.

**Councilor Doug Gochmour moved to adopt Resolution No. 13-703-07. Councilor Donn Willey seconded the motion, the motion passed unanimously.**

**Agenda Item No. 7 – Discuss for adoption Ordinance No. 13-159-04, an Ordinance declaring the City’s Election to Receive State Revenues**

City Manager Gray stated State Revenue Sharing Law, ORS 221.770 requires cities to pass an ordinance or resolution each year stating that they want to receive state revenue sharing money. A copy of the ordinance must be filed with the Operations Unit of the Department of Administrative Services prior to July 31, 2013 in order for the City to receive these funds.

City Manager Gray included an article from the League of Oregon Cities Bulletin regarding the 2013 State Shared Revenue estimates. The article explains each of the state collected taxes the cities are projected to receive based on the 2011-13 legislatively enacted state budget.

City Manager Gray explained the State Revenue Sharing includes the liquor tax, cigarette tax, gasoline tax, 9-1-1 tax. The State Revenue help fund our General Fund (includes liquor, cigarette taxes), Street Fund (gasoline tax) and the 9-1-1 fund (9-1-1 tax).

**Councilor Steve Schuette moved to read by title only Ordinance No. 13-159-04. Councilor Donn Willey seconded the motion, the motion pass unanimously.**

**Mayor Lundbom read Ordinance No. 13-159-04 by title only as follows:**

**Ordinance No. 13-159-04, an Ordinance Declaring the City’s Election to Receive State Revenues.**

**Councilor Doug Gochnour moved to adopt Ordinance No. 13-159-04. Councilor Steve Schuette seconded the motion, the motion passed unanimously.**

**Agenda Item No. 8 – Discuss for Adoption Resolution No. 13-702-06, a resolution to declare Accounts Uncollectible and take off the books as receivable**

City Manager Gray stated this is resolution to declare accounts that are past due uncollectible and take them off the books as a receivable for the following accounts:

<u>Name</u>	<u>Account</u>	<u>Amount</u>
Sheryl Griffith	022900-1	\$290.49
Mike Cowing	035100-14	\$138.17
Dana Hatcher	056900-9	<u>\$222.18</u>
Total		\$650.84

**Councilor Donn Willey moved to adopt Resolution No. 13-702-06. Councilor Gene Officer seconded the motion, the motion passed unanimously.**

Mayor Lundbom requested staff give the City Council a total of all the accounts that were turned over for collection at the end of this fiscal year.

**Agenda Item No. 9 – Discuss vacancies on the John Day Planning Commission**

City Manager Gray stated the City has two vacancies on the John Day Planning Commission. She advertised for the two vacancies in the local newspaper for two weeks and placed ads on the local radio station; one application was picked up but not returned.

City Manager Gray suggested direct contact with local citizens might be a better way to attract Planning Commission candidates.

Councilor Paul Smith stated he had spoken with Gregg Haberly who indicated he might be interested in one of the vacant positions and requested that the City Manager speak directly with him. After discussion, it was the consensus of the City Council to have City Manager Gray contact Gregg Haberly about his interest in the John Day Planning Commission.

**Agenda Item No. 10 – Discuss “Dangerous Building” located at 405 SE Hillcrest Rd., John Day, OR**

City Manager Gray presented a memorandum to the City Council updating the council on the “Dangerous Building” located at 405 SE Hillcrest Rd., John Day.

On May 3, 2013 the City received a letter from the Bank of America stating they have serviced released the account for the above property and requested that any future correspondence regarding the issue of the dangerous building be sent to the new servicer.

City Attorney Jeremy Green directed City Manager Gray to contact the Grant County Assessor’s Office to see if a new deed had been recorded with the new servicer’s name; no new deed had been recorded. City Attorney Jeremy Green believes the Bank of America is the real property owner and the City should just demo the dangerous building and place a lien on the property.

City Manager Gray agrees with the City Attorney, however, the City has limited funds and this project was not budgeted for and asked what liability issues would there be if the City placed the project on hold until the beginning of the new fiscal year (July 1, 2013). City Attorney Green directed City Manager Gray to contact CIS to find out the liability issues.

City Manager Gray contacted Kirk Mylander of CIS; Mr. Mylander directed the City Manager to have a conversation with the City Council to let them know that staff suggests the City hold off with the demo work until July 1<sup>st</sup> due to limited funds. Mr. Mylander did state there is a risk involved with waiting; however, the City could declare discretionary immunity if something were to happen.

Mr. Mylander also suggested the City put yellow caution tape around the property and post it as a dangerous building so that people know not to go into the property.

As the cost of the demolition is a concern in regards to the City’s limited budget; City Attorney Jeremy Green suggests that when the City sends out the new RFP (request for proposals); staff include a “not to exceed” cost for the demolition of the building.

It was the consensus of the City Council to hold off with the demolition work on the dangerous building located at 405 SE Hillcrest Rd, John Day, OR until after July 1, 2013.

City Manager Gray reminded the Council that she has put in a request for the National Guard to demo the building as a training exercise but has not heard back from them but will follow up with a phone call.

**There being no persons in attendance that wished to comment on the Fiscal Year 2013-2014 Budget as approved by the John Day Budget Committee; Councilor Steve Schuette made a motion to close the public hearing. Councilor Donn Willey seconded the motion, the motion passed unanimously. The public hearing closed at 7:30 p.m.**

**Agenda Item No. 10 – Other Business and Upcoming Meetings**

1. The April 26, 2013 through May 24, 2013 LOC Bulletins were given to the City Council.
2. A letter from Audit Manager Philip Hopkins of the Office of the Secretary of State was included in the council packets.
3. The quarterly staff report was included in the council packets.
4. The April 2013 Statement of Revenue and Expenditure Budget to Actual Reports were included in the council packets.
5. Sergeant Richard Gray commented that the John Day Police Department has not received any complaints regarding the use of ATVs on city streets.
6. Councilor Doug Gochnour stated he would not be present at the June 11, 2013 council meeting.

**Adjourn**

**There being no further business before the Council, Councilor Steve Schuette 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, JUNE 11, 2013.

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Mayor Ron Lundbom