

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

**March 25, 2014**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

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

**COUNCILORS ABSENT:**

**STAFF PRESENT:**

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

**GUESTS PRESENT:**

Anna Bass, Oster Professional Group  
Ashley McClay, Victim Assistance Director  
Pam Durr, 57672 Antelope Lane, John Day  
Mike Durr, 57672 Antelope Lane, John Day  
Phil Gray, KJDY

**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.

**Agenda Item No. 2 – Approval of City Council Minutes of March 11, 2014**

The minutes of the March 11, 2014 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 March 11, 2014 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 welcomed 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 request from Grant County District Attorney Ryan Joslin**

Mayor Lundbom introduced Victim Assistance Director Ashley McClay who stated her proposal is to enter into an agreement with the John Day Police Department to provide a Law Enforcement Investigator (LEI) position. The LEI position is funded through the Office on Violence Against Women Rural Program (VAWA) grant. The position will conduct activities for 10 hours each week (.25 FTE) and is of limited duration through September 30, 2015.

Ms. McClay stated larger counties that have more population and funding have their own Special Law Enforcement Investigator to follow up on crimes. She stated our county is so small and funding is tight so we are not able to fund that position. However, through the VAWA grant we are able to provide 10 hours per week for these types of investigations.

This position would do follow up investigations for sexual assault, domestic violence, dating violence, and stalking crimes; which is primarily what the grant focuses on. It also funds the advocate in her office, the .75 FTE advocate of the Heart of Grant County. They also use the money for community awareness campaigns for Domestic Violence Month. Beginning in April there will be newspaper ads and radio PSAs and this position would participate in this campaign as well.

This position would also be a part of the Domestic Violence Response Team and Sexual Assault Response Team meetings, and assisting the Deputy District Attorney to provide training to law enforcement personnel.

Ms. McClay stated they had previously contracted through the Sheriff's office, but ran into some issues when they lost funding and it became a supplanting issue. They had full-time deputies that were already funded by the County; the grant states this position has to be for a new position and you cannot supplant.

They would like to contract with the City and are very interested in working with Officer Durr. He has a lot of experience in this field; he's seasoned and worked with these types of victims and crimes.

Mayor Lundbom asked for questions. Councilor Steve Schuette asked that if we renew the grant wouldn't we be in the same position as the County. Ms. McClay stated we can renew the grant, it is extremely competitive and each year they have whittled down the money at the federal level. She stated their plan is to renew and have hopes to secure the grant again and they are always looking for other grants as well.

Councilor Schuette confirmed that the grant was for the entire County and asked who would be responsible for overtime. Ms. McClay responded that typically overtime would fall back to the agency it belongs too. However, she stated they are pretty flexible with the schedule; they require 10 hours in a week but it can be flexed somewhere in the month if we had less in one week. They don't want to create overtime issues and the figures that they pay have been inflated to cover that sort of thing.

Ms. McClay stated they will pay \$1,853/month from April 1, 2014 through September 30, 2014; October 1, 2014 through September 30, 2015 will be paid at \$2,084/month.

Councilor Donn Willey stated he was under the impression with the Prairie City contract this position would be full-time; aren't we supplanting if that is the case? City Manager Gray stated she had spoken with Ms. McClay about this. The Prairie City contract is now written as "not less than 20 hours" per week. Officer Durr will not be the only officer under the Prairie City contract. We plan to work Officer Durr 30 hours on City time (which will include the Prairie City contract) and the remaining 10 hours will be under this grant. City Manager Gray stated that the officers will document their time worked in Prairie City and as LEI on their timesheets. Ms. McClay stated they will require the timesheet documentation as well for grant reporting.

Councilor Gene Officer stated that grants historically have been used to get the local people to take over. He questioned hiring an officer; what if we lose the Prairie City contract, do we let the officer go? City Manager Gray stated this officer was hired on the basis of receiving the Prairie City contract, if for some reason the contract goes away; then the Council will need to sit down and reevaluate the next steps. City Manager Gray stated when we hired Mike Durr, we informed him that this position was contingent upon receiving the Prairie City contract.

Councilor Doug Gochnour questioned any jurisdictional concerns with the city officers working in the County. Police Chief Richard Gray stated there are no problems as they are licensed to work anywhere within the State of Oregon. Asked about mileage going to Monument as an example; Ms. McClay stated they can facilitate to have victims located in the County come to John Day for interviews when possible.

Mayor Lundbom stated obviously this is an important aspect of the community; does the County have any plans to start funding this department. Ms. McClay stated she wished she could say yes; her position is fully grant funded, the advocate position is fully grant funded and the DDA position is fully grant funded. Her office relies on grants; she planned on approaching the County if she lost funding. At this point the County has told them that they just don't have the funding to do a full-time position.

Chief Gray clarified the supplanting issue with the County. He stated that if Ashley doesn't have an officer to fill the LEI position, she will lose the entire grant because of the LEI portion of the grant. Ms. McClay stated the LEI portion was a special portion of the grant that secured their interest in the grant. McClay stated without this position the entire grant would collapse and be detrimental to their department and would also jeopardize funding in the future.

Police Chief Gray explained how he planned to schedule his officers and stated he wanted Prairie City to know that they can expect 7-days per week coverage. If he is on duty and they get a call from Prairie City, he will respond to it; they are paying us to do that. If Mike Durr is on duty in Prairie City and we get a call in John Day, he will respond to that call, we're paying for that.

**Councilor Doug Gochnour made a motion to allow Mayor Lundbom to sign the Memorandum of Understanding allowing the John Day Police Department to enter into an agreement with the Grant County District Attorney's Office to provide a Law Enforcement Investigator (LEI) position. Councilor Donn Willey seconded the motion, the motion passed by a vote of 6 councilors voting yes with Councilor Steve Schuette abstaining. Councilor Schuette explained he and Mike have been friends for over twenty years and didn't think he should vote on this issue.**

**Agenda Item No. 5 – Discuss for Adoption Resolution No. 14-718-04, a Resolution to Declare Accounts Uncollectible and Take Off the Books as Receivable**

Resolution No. 14-718-04, a resolution to declare an account uncollectible was included in the council packet. This resolution declares six accounts as uncollectible and takes the accounts off the books as accounts receivable.

Councilor Doug Gochnour questioned if any of these accounts are rentals; City Manager Gray stated they are all rentals. However, they were renting before we adopted our new ordinance that allows the City to charge the property owners if the renters go into default on their utility bills. It was noted that the City keeps track of the delinquent accounts.

**Councilor Steve Schuette moved to adopt Resolution No. 14-718-04. Councilor Don Caldwell seconded the motion; the motion passed unanimously.**

At this time Council Gochnour made an announcement that he and his wife have sold their John Day home and will be moving to Idaho. However, he said the people that purchased their home are teachers and have a year before they retire. They have offered to rent their house back to them for one year. Councilor Gochnour gave the City Council notice that he will be resigning his councilor position sometime between now and next year.

**Agenda Item No. 6 - Enter into Executive Session under ORS 192.660 (2) (i) to Review and Evaluate the Employment-Related Performance of the City Manager**

At this time Mayor Lundbom stated the City of John Day will now meet in executive session for the purpose to review and evaluate the employment-related performance of the City Manager. The executive session is held pursuant to ORS 192.660(2) (i) for this session, which allows the Council to meet in executive session for the purpose of evaluating the City Manager.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Mayor Lundbom asked for a motion from the Council to move into executive session under ORS 192.660(2) (i).

**Councilor Donn Willey made a motion to move into executive session under ORS 192.660(2) (i) to review and evaluate the employment-related performance of the City Manager. Councilor Steve Schuette seconded the motion, the motion passed unanimously. The City Council moved into executive session at 7:32 p.m.**

Those attending the executive session included Mayor Lundbom; Councilors Schuette, Willey, Gochnour, Smith, Officer, and Caldwell.

**Agenda Item No. 7 – Enter back into regular session**

**At 8:05 p.m. Councilor Steve Schuette made a motion to return into regular session; Councilor Doug Gochnour seconded the motion. The motion passed unanimously.**

**Councilor Steve Schuette moved to retain Peggy Gray for another year as John Day City Manager. Councilor Doug Gochnour seconded the motion; the motion passed unanimously.**

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

1. LOC Bulletins were given to the City Council.
2. City Manager Gray presented an electronic message from City Attorney Jeremy Green regarding SB 1531 and Medical Marijuana Facility Moratorium Ordinance. The Oregon Legislature passed SB 1531 on March 7, 2014. SB 1531 restricts local government regulation of medical facilities to “reasonable regulations.” According to SB 1531, reasonable regulations include, among other things, limitations on business hours and distribution.

Notwithstanding the reasonable regulation limitations imposed under SB 1531, SB 1531 provides that a city (or other local jurisdiction) may enact an ordinance declaring a moratorium on the operation of medical marijuana facilities within its incorporated limits. If the city desires to enact a moratorium ordinance, the ordinance must be adopted not later than May 1, 2014. The city must also notify the Oregon Health Authority of the city’s adoption of the moratorium ordinance not later than May 1, 2014. Interestingly, SB 1531 provides that an adopted moratorium ordinance will only remain effective through May 1, 2015, after which time the ordinance must be replaced by reasonable time, place, and manner restrictions.

The League of Oregon Cities has prepared a model moratorium ordinance to aid cities in implementing a moratorium ordinance. The model ordinance is intended to serve as a starting point for any city considering placing a moratorium on medical marijuana facilities. This ordinance is predicated on the understanding that the moratorium represents a city’s exercise of its home rule authority and police powers to prohibit certain activities within the territorial limits of the city.

City Manager Gray stated the John Day City Development Code states that all development must follow all state and federal regulations. Since medical marijuana is not legal under the federal regulations, the City may deny a medical marijuana facility coming into John Day.

Unfortunately Jeremy stated that he is unable to say with certainty that any ordinances (or other regulations) adopted by any of the cities prior to the effective date of SB 1531 remain adequate/effective in light of this recent legislation. Jeremy stated that he is beginning to have his doubts the more he discussed this situation with LOC and other Oregon municipal attorneys. Prudence may suggest that a city desiring to restrict medical marijuana facilities adopt a moratorium ordinance notwithstanding the city’s previous adoption of other ordinances restricting these facilities.

After much discussion and to ensure proper planning for this type of facility; the John Day City Council directed City Manager Gray to have City Attorney Jeremy Green draft an ordinance placing a one year moratorium on the operation of medical marijuana facilities within its incorporated limits by May 1, 2014.

3. Mayor Lundbom reminded the Council that we have our first budget meeting on Tuesday, April 1<sup>st</sup>.
4. City Manager Gray reminded the City Council to return their Statement of Economic Interest (SEI) forms back to the Oregon Government Ethics Commission by April 15, 2014.

**Adjourn**

**There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Don Caldwell seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:25 p.m.**

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, APRIL 22, 2014.

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Mayor Ron Lundbom