

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

**June 9, 2015**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

Ron Lundbom, Mayor  
Steve Schuette, Council President  
Louis Provencher, Councilor  
Donn Willey, Councilor  
Paul Smith, Councilor  
Lisa Weigum, Councilor

**COUNCILORS ABSENT:**

Gregg Haberly, Councilor

**STAFF PRESENT:**

Peggy Gray, City Manager  
Lance Woodcock, Public Works Director  
Richard Gray, Police Chief

**GUESTS PRESENT:**

Richard Franklin, EPA, Oregon Operations, Portland  
Mike Renz, ODEQ  
Bryn Thoms, ODEQ  
Brad Martin, EPA START  
Wendy Adams, EPA/Seattle  
Jennifer Johnson, EPA/Seattle  
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 with the exception of Councilor Gregg Haberly who was absent and unexcused.

**Agenda Item No. 2 – Approval of City Council Minutes of May 26, 2015**

The minutes of the May 26, 2015 adjourned meeting were included in the agenda packets and were presented for the Council's approval.

**Councilor Donn Willey made a motion to approve the minutes of May 26, 2015 as presented. Councilor Louis Provencher seconded the motion, the motion passed unanimously.**

**Agenda Item No. 3 - Appearance of Interested Citizens**

Mayor Lundbom welcomed those in attendance and asked everyone to please sign in. Mayor Lundbom welcomed the EPA and ODEQ officials in the room.

**EPA UPDATE:**

EPA On Scene Coordinator Richard Franklin was present to give the City Council an update on the vapor situation in John Day.

He stated the key point for now is that the neighborhood that has the vapors is stable. They have not had any new calls or complaints. They do not see the vapors moving north towards town.

Mr. Franklin presented a series of maps to the Councilors. He stated all the houses that they are venting or put positive pressure systems in are down to zero for VOCs (volatile organic compounds). He stated they have two houses that are on positive pressure systems, they are now safe and have no explosive vapors in their basements or crawl spaces. He stated they put real-time monitors systems in those homes and they are monitoring them constantly.

Mr. Franklin presented before and after maps to the City Council; the first map showed the levels of the affected homes when they first arrived showing yellow, orange and green levels. The yellow and orange are the houses with the high levels of VOCs; the green shows the houses below the 5,000 parts per billion. The maps showed quite a few houses above the 5,000 level. Because of venting, the second map showed almost everything as green. That's the good news all those homes are down to zero.

There was a house that was red, and it's a vacant house that has not been vented. The EPA has been using that house to monitor what is really going on in one house. They took samples in the basement and it is closed up, they found high levels of VOCs. Mr. Franklin presented a third map to the Council showing VOC readings with meteorological data on the red house. The VOCs in the red house got as high as 180,000 parts per million, it also showed as the temperature increases, the VOCs went down. At night as it cools down, the VOCs increase. What they found was when the VOCs went down; the relative humidity was down also. They also had been informed by the residents that when it stormed or we had rain, the residents smelled it more. Mr. Franklin stated so it may have something to do with the humidity. We have been informing people that they need to make sure they are venting at night and during major storms.

Mr. Franklin presented a map showing the bore holes drilled by their push-probe rig. The drill went down 17' into the subsurface that took soil and water samples and they also did air monitoring in the wells. With the red dots being the highest level, the map showed two red dots in front of Iron Triangle. They found gasoline, various weathering components of diesel and motor oil. The next red dot north of the other two red dots is in front of the body shop. Their theory is that the petroleum is following the outside of the sewer system moving north. Mr. Franklin stated we still don't have all the answers and the source investigation is still going on. DEQ will be doing much more and a lot of EPA's data is backed up.

Mr. Franklin stated they checked the sewer line on the west side of the street and wherever it goes, it's usually green. So we're not seeing a pathway that way. He stated they don't have all the answers; they have found gasoline, diesel and motor oil and have analytical data to show that.

Mr. Franklin informed the Council that the EPA is demobilizing and he is sending some of his resources home because it is time to transition over to DEQ. He stated the EPA has spent a quarter of a million dollars here already.

Mr. Franklin also informed the Council that they wanted to look at other sources and did not want to leave any stone unturned. They did several bore holes to the south of Triangle Oil and they found nothing (high school, Snaffle Bit and checked Ed Staub in Canyon City). They also checked the creek; took samples and didn't find anything in the creek. They also did not find anything south of the Soil and Water Conservation District.

The last two maps showed the VOC levels in the city sewer system. Mr. Franklin stated the vapors have definitely gotten into the City's sewer system. They have not seen any product but the vapors are certainly in the system. They air monitor the system daily and have found some very high VOCs; then they will go back and they will be zero. Mr. Franklin stated they are jumping all over the place and he didn't have an explanation for that.

The final map Mr. Franklin presented to the Council dated today; showed the VOC readings for the sewer manholes all green (zero levels).

Mr. Franklin informed that Council that he is working on a transition plan to turn over operations to the DEQ. City staff will be meeting with the EPA, DEQ, Oregon and County Health departments the next day to review the transition plan. Fact Sheet #5 would be going out the next day and a community meeting has been scheduled for Thursday, June 11<sup>th</sup> at the airport conference room.

At this time Bryn Thoms of DEQ was introduced to the City Council. Mr. Thoms stated we have three phases to work on. Phase one is the source investigation, which Mike Renz (DEQ) is helping with at Iron Triangle. He said Iron Triangle is excavating and working on putting monitoring wells in. He stated Iron Triangle is working on their own accord. DEQ has asked them to do the work and have issued them an order to do the work; but, they haven't agreed to it. Mr. Thoms stated DEQ has decided to engage their Orphan contract money and get their contractors involved to basically take over what the EPA has been doing.

Second phase is migrating and monitoring at the homes, the same thing as the EPA has been doing. Third phase is to install soil vapor extraction systems, probably two of them. They haven't decided which type of system to install but it will be either vertical or horizontal type systems. The idea is to get into the hot zones and pull vapors from the subsurface within 100' area. He stated they would be starting that work the next day. They will keep those in place for possibly up to one year. This will basically become a cleanup project; DEQ will be working with whom they perceive to be the responsible party. DEQ will be asking them to continue work and take on additional work and if the responsible party doesn't do it; DEQ will do it. Mr. Thoms stated DEQ's mission is to protect the environment and we have a fund to do that. Mr. Thoms informed the Council that Iron Triangle has engaged a consultant to do their own investigation and are working on their site. They are installing monitoring wells and doing some source investigation by doing some trenching, replacing some piping; however, they haven't been willing to sign DEQ's consent order. Mr. Thoms stated he understands that and we see that all the time and they are sensitive to it. In this case, as this is a true high priority, DEQ feels that they need to go out and take care of these homes. They will be here as long as they need to be.

Mayor Lundbom thanked the EPA and DEQ for their assistance. The EPA and DEQ wanted the Council to know that the community has been very welcoming and they really appreciated the assistance of the City staff.

**Agenda Item No. 4 – Discuss for Signature Amendment No. 1 to Intergovernmental Agreement for Law Enforcement Services with Prairie City**

City Manager Gray informed the Council that she and Police Chief Richard Gray met with the Prairie City Council on May 27, 2015 and have agreed on the following amendments to the IGA for Law Enforcement Services with Prairie City:

- Section 2.2 Schedule of Services: Prairie City requested amendments to the contract language to read John Day will provide the Services “not more than twenty (20) hours per week and no Sunday patrols and more coverage on Friday and Saturday nights.”

***Amendments proposed:***

*“John Day will provide the Services for approximately twenty (20) hours per week. John Day will exercise reasonable efforts to provide police patrol Services during Friday and Saturday evenings.”*

- Section 2.5 Compensation: City of John Day requested a 10% increase in hourly wage. Attached is a spreadsheet Anna Bass developed designed to show us the projected cost to accommodate law enforcement services for Prairie City. Using FY 2016 charge out rate projections, and the number of hours worked from April 4, 2014 through January 31, 2015; the spreadsheet indicates we will not cover our expenses for Services provided to Prairie City. For fiscal year 2016, PERS is estimated to go down 18% for two of our officers; and up 9% for two of our officers; health insurance will increase by 17% and workers’ compensation by 10%. With that said; we budgeted for and requested a 10% increase for the Prairie City Law Enforcement Agreement.

Our current agreement states the overtime rate per hour will be paid for any Services performed for any “on-call” or “emergency” Services performed by John Day between the hours of 3 a.m. and 7 a.m. Our officers have been called out several times for emergencies outside of those hours and recommend amending the language to allow for overtime for any “on-call” or “emergency” Services.

Prairie City asked if there was a way to break down the gas allowance at an hourly rate instead of a flat rate of \$600 per month. They said if the officer is only in town for a couple of hours and most of that time the officer is parked using radar, they didn’t feel they should be charged for that much gas. Lastly, Prairie City requested the last section of Section 2.5 to say Services will not exceed \$50,000 per fiscal year (not \$100,000.) We have budgeted for \$43,472 for police services and \$7,200 for vehicle reimbursement for fiscal year 2016. We negotiated a \$60,000 cap in order to give us some cushion.

***Amendments proposed:***

*“2.5 Compensation. Subject to the terms and conditions contained in this*

*Agreement, in consideration of John Day’s performance of the Services, Prairie City will pay John Day the following compensation: (a) \$41.80 per hour for John Day’s provision of the*

*Services; (b) the Overtime Rate per hour for any Services performed by John Day in excess of forty (40) hours in any one week period; (c) the Overtime Rate per hour for any “on-call” or “emergency” Services performed by John Day; and (d) \$7.50 per hour for any patrol, travel, and/or other vehicle operation related Services for fuel and vehicle repairs, maintenance, and similar matters. On or about the tenth (10th) day of each month, John Day will submit monthly invoices to Prairie City concerning the Services performed by John Day during the immediately preceding month (each an “Invoice”). Each Invoice will contain (1) the date(s) the Services were performed, and (2) the number of hours (or fraction thereof) spent to perform the Services (including the identification of any overtime hours and/or “on-call” or “emergency” Services performed). If requested by Prairie City, an Invoice will also contain (x) a summary of the Services performed by John Day, (y) a report of arrests, incidents, and violations, and (z) any other information reasonably requested by Prairie City. Prairie City will pay the amount due under each Invoice within thirty (30) days after Prairie City’s receipt of the Invoice. Notwithstanding anything contained in this Agreement to the contrary, the total amount payable by Prairie City for John Day’s performance of the Services will not exceed \$60,000.00 per fiscal year (July 1 - June 30) without the parties’ prior written agreement; provided, however, John Day has no obligation to provide any Services under this Agreement for which John Day will not be compensated due to the aforementioned \$60,000.00 limitation on total compensation (per fiscal year).”*

Councilor Donn Willey questioned why we weren’t covering our expenses as stated under Section 2.5. City Manager Gray explained the Police Department has been understaffed for the last year because the two new officers have been at the academy (DPSST); which meant the Police Chief and the Sergeant were the two officers going up to Prairie City for a large percentage of the time. This fiscal year we will have both of our two new officers back and all four officers will be rotating going up to Prairie City, making our expenses less because of the averaging of all of the officer’s wages.

Police Chief Gray explained the other amendments of the agreement and commented that the Prairie City Mayor Jim Hamsher and the council are very easy to work with.

**Councilor Donn Willey moved to allow Mayor Lundbom to sign Amendment No. 1 to Intergovernmental Agreement for Law Enforcement Services between the City of John Day and the City of Prairie City. Councilor Louis Provencher seconded the motion, the motion passed unanimously.**

**Agenda Item No. 5 – Discuss for Adoption Ordinance No. 15-165-03, an ordinance amending and restating Title 8, Chapter 2 of the John Day City Code, commonly known and referred to as the “John Day Nuisance Ordinance,” with which Title 8, Chapter 2 Establishes definitions of nuisance, penalties, and procedures for abatement of nuisance in the City of John Day; superseding and repealing any and all ordinances, resolutions, and/or policies in conflict with this ordinance; and declaring an emergency**

City Manager Gray reminded the Council that at the May 12, 2015 Council meeting the Safety Committee met and recommended the following revisions to the draft nuisance ordinance:

1. Delete Section 20. Windows and Doors. *Council felt the items that affect the city in this category are already addressed in Section 17.*
2. Delete Section 21. Glazing. *Council did not feel this section was necessary.*

3. Section 10 (c ) regarding the open storage of materials directly associated with the primary activity of a business, provided the business is a permitted.....and the materials are enclosed by a sight obscuring fence .... *We have several businesses that have lawn and garden supplies outside especially during the summer months without a sight obscuring fence or even a fence for that matter. Examples are Ace Hardware, Thriftway Store, True Value Hardware, Len’s Drugs etc. Council worries that this is too restrictive for our small town; same issue with Section 11 (f).*
4. Dry Vegetation definition: Council recommends taking out the months and suggests the following wording: “Dry Vegetation” means dry vegetation, including, without limitation, grass, weeds, shrubs when it is determined to be a fire hazard.”

After Council discussion, it was the consensus of the Council to include the following sections (or a version of) of our current Nuisance Ordinance in the new Nuisance Ordinance:

1. Section 8-2-4-3: Snow and Ice Removal: *This is always an issue during the winter months. Council would like to see something to this effect in the new ordinance, maybe not so restrictive.*
2. Section 8-2-4-6: Trees: *Council would like you to expand the language for trees in the new ordinance. They like the language in the current City Code or something similar to it.*
3. Section 8-2-5-2: Unnecessary Noise: *Another issue within our town that we have used frequently. This section obviously needs updating; however, this section of our code is used a lot and needs to be included in the new ordinance.*

Included in the council packet was a redlined version for the council’s review of the revised ordinance. City Attorney Jeremy Green addressed suggested revisions with the exception of the snow and ice removal and the unnecessary noise sections. City Attorney Jeremy Green recommended the City not include these issues in the nuisance ordinance. Rather, the City should adopt a separate noise ordinance and a separate snow and ice removal ordinance comparable to what other municipalities have done recently. Jeremy stated that among other reasons, the nuisance ordinance is not a tool that provides the type of quick response the City requires when responding to these issues.

Jeremy stated he has a good starting point for the City’s noise ordinance (an ordinance that is current and provides the City (i.e. Police Department) the tools to quickly and effectively respond to noise disturbances). Jeremy’s recommendation is that the City adopts a noise ordinance next month. Staff will present to the Council a snow and ice removal ordinance later this summer/fall for their consideration.

City Manager Gray stated in reviewing the ordinance with City Attorney Jeremy Green, she discussed the “Derelict Structures” Sections 21 – 30.4. She asked Jeremy with having the “Derelict Structures” included in the new Nuisance Ordinance; do we need to keep the Dangerous Building Ordinance, Title 4, Chapter 3 of the John Day City Code as both ordinances essentially address the same issue. Jeremy reviewed the sections of the Dangerous Building Code language and determined, in order to avoid confusion and provide clarity, it would be best to repeal it along with the adoption of the new nuisance ordinance.

City Manager Gray presented the council with a revised Ordinance showing revisions made by City Attorney Jeremy Green that includes the language under Section 4 to repeal Title 4, Chapter 3

Dangerous Buildings. City Manager Gray stated that according to the City Charter in order for the City Council to adopt the revisions made to the Ordinance tonight, the Mayor has to read the revisions aloud before the adopting the ordinance.

At this time Mayor Lundbom read Section 4. Amendment and Restatement aloud to the City Council as follows:

4. Amendment and Restatement. This Ordinance amends, restates, supersedes, replaces, and repeals Title 8, Chapter 2 and Title 4, Chapter 3 of the Code in its entirety, and supersedes and repeals all ordinances, resolutions, and/or policies in conflict with this Ordinance; provided, however, (a) Section 8-2-5-2 of the Code concerning unnecessary noise will continue in full force and effect until replaced, superseded, and repealed by the City Council through passage and approval of separate ordinance, and (b) City may continue the prosecution, conviction, and/or punishment of any person who has or will violate Title 8, Chapter 2 and/or Title 4, Chapter 3 of the Code prior to the effective date of this Ordinance.

**Councilor Louis Provencher moved to have Mayor Lundbom read Ordinance No. 15-165-03 by title only. Councilor Steve Schuette seconded the motion. The motion passed unanimously.**

Mayor Lundbom read Ordinance No. 15-165-03 by title only as follows:

Ordinance No. 15-165-03, an ordinance amending and restating Title 8, Chapter 2 of the John Day City Code, commonly known and referred to as the “John Day Nuisance Ordinance,” with which Title 8, Chapter 2 establishes definitions of nuisance, penalties, and procedures for abatement of nuisance in the City of John Day; superseding and repealing any and all ordinances, resolutions, and/or policies in conflict with this ordinance; and declaring an emergency.

**Councilor Donn Willey moved to adopt Ordinance No. 15-165-03. Councilor Steve Schuette seconded the motion, the motion passed unanimously by a vote of 6-0.**

**Agenda Item No. 6 – Discuss for Signature 2016 Special City Allotment (SCA) Grant**

Included in the council packets was a letter from ODOT Region 5 Local Agency Liaison Michael P. Barry inviting the City of John Day to apply for a \$50,000 allotment from the Special City Allotment (SCA) fund for Fiscal Year 2016. The purpose of this program is to assist small cities in repairing or reconstructing city streets, which are inadequate for the capacity they serve and/or in condition detrimental to safety. The sum of \$1,000,000 is available for the 2016 program with a maximum of \$50,000 to be allotted to individual cities.

The City of John Day has received an Enhance Grant, Key No. 18918, US395: Sidewalk Improvements (John Day), 2018 construction date. The project begins at SW 6<sup>th</sup> Avenue and ends at the high school, the project will widen the highway to accommodate wider bike lanes and construct new curbs and 6-foot concrete sidewalks. A retaining wall with pedestrian railing is anticipated for a portion of this section.

Storm drain piping, inlets and manholes will be installed to accommodate storm drainage. The new storm pipe will connect to the City’s existing storm drain system at S.W. 4<sup>th</sup> Avenue.

City Manager Gray contacted ODOT Region 5 Local Agency Liaison Michael P. Barry asking him if the City could use this grant as part of the City's match for our Enhance project scheduled for 2018; he said yes and encouraged us to apply. Mr. Barry stated we may not get it this year but our time will come when the project does.

**Councilor Steve Schuette moved to adopt Special City Allotment Resolution No. 15-741-06 and allow Mayor Lundbom to sign the 2106 Special City Allotment (SCA) Application. Councilor Donn Willey 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. The May, 2015 Statement of Revenue and Expenditure Budget to Actual Reports were given to the John Day City Council.
3. Mayor Lundbom and City Manager Gray updated the council regarding the meeting with Meyer Memorial Trust. We should have a decision from Meyer Memorial Trust by July 21, 2015.

**Adjourn**

**There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Steve Schuette seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:05 p.m.**

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, JUNE 23, 2015

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Mayor Ron Lundbom