

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

November 14, 2017

**COUCILORS PRESENT:**

Paul Smith, Councilor  
Ron Lundbom, Mayor  
Gregg Haberly, Councilor  
Shannon Adair, Councilor  
Donn Willey, Councilor  
David Holland, Councilor

**COUNCILORS ABSENT:**

Steve Schuette, Council President

**STAFF PRESENT:**

Nicholas Green, City Manager  
Valerie Maynard, ECC Director  
Monte Legg, Public Works Director  
Matt Manitsas, Agribusiness Project Manager

Chantal DesJardin, Secretary  
Damon Rand, Police Department  
Aaron Lieuallen, Senior Project Manager

**GUESTS PRESENT:**

Sherrie Rininger, John Day  
Logan Bagett, Elkhorn Media Group  
Brett Moore, Anderson Perry  
Mike Lees, Anderson Perry  
Daniel Allison, Sustainable Water  
Eric Lohan, Sustainable Water  
Elliot Sky, John Day

Hannah Hinman, John Day  
Joe Madden, Blue Mtn. Custom Homes  
Lindsey Madden, Easter Oregon Realty  
Robert Stewart, John Day  
Judy Schuette, John Day  
Rick Hanners, Blue Mountain Eagle  
Kattie Piazza, House to Home

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

Mayor Lundbom called the John Day City Council meeting to order at 7:00 p.m.

**Agenda Item No. 2—Approval of City Council Minutes of October 24, 2017**

**Councilor Holland moved to approve October 24th minutes, as amended. Motion was seconded by Councilor Haberly and passed unanimously.**

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

Mayor Lundbom asked if the audience had any items they wished to be added to the agenda.

**Agenda Item No. 4—Wastewater Treatment Plant Feasibility Study Update**

City Manager Green introduced Brett Moore and Michael Lees from Anderson Perry along with Daniel Allison and Eric Lohan from Sustainable Water (Glen Allen, Virginia). The team kickoff started today and will continue tomorrow with the state agencies that have a role to play in the process of designing and permitting the new treatment plant. Last week he spoke with Richard Whitman, Oregon Director of

DEQ, who is very supportive of the vision the City has for the new treatment plant, to take a liability and turn it into an asset. They have committed the support of all the state agencies to try to realize that vision. The first few chapters of the new facility plan are drafted and were reviewed today with the team. Different parameters of design options, wastewater classes, and opportunities for reuse were discussed. Everything is going well so far and tomorrow they will meet with the state agencies, to help narrow down the range of possibilities and limits. They will discuss permitting requirements, financing options, constraints, and opportunities. DEQ, Rural Community Assistance Corporation (RCAC) and USDA Rural Development will provide feedback on potential funding options and allow the team to ask pointed questions to prepare for the One Stop. Green asked Brett Moore to explain the water treatment portfolio.

Brett Moore (Anderson Perry) explained that perceiving wastewater as a resource opens the gates for what it can be used for. The disposal options drive how water is treated and to what level. The water could be discharged directly into the John Day River or indirectly through seepage beds and the groundwater. Like many eastern Oregon communities, it could be used to grow hay/pasture. There are industrial reuse options such as public contact irrigation by way of irrigating the ball fields, golf course, or parks. Another option is to grow crops for human consumption, like with the greenhouse at the Innovation Gateway. It could be expanded to distribute through a purple pipe (reuse pipe), to use virtually any way that does not require potable water. For each of these disposal options, classes of treatment have to be met for each of the purposes. There is a big difference in cost for facility improvements between some of the classes such as C and D. In comparison, between Class C and Class A, the technology has increased so much that there isn't much difference in capital cost. This is why identifying potential needs or avenues for reuse is important, to narrow down to the treatment class needed. One of the challenges is the benefit to not discharging the waste into the river; the regulations for aquatic species can sometimes be more stringent than those for drinking water. Also, a good plan for disposing of wastewater in the winter has not been identified. Some of the industrial reuse options may not be in existence in the future and it is important to think through the flexibility of the system to ensure you are not tied to one means of disposal. These concerns are some of the issues being brainstormed this week and will be brought up with the agencies tomorrow. It will be a good opportunity to talk on a technical basis about concerns, water quality limits for reuse, and ways to assuage their concerns. Mr. Moore encouraged the audience to propose any ideas for reuse, no matter how odd, to the city employees for Anderson Perry to consider.

Mayor Ron Lundbom asked if anyone else is treating water to dispose back into the rivers. Brett Moore clarified many facilities currently are successfully; the issue is that the EPA regulations are continually evaluating and modifying the water quality limits. For example, in Malheur County there is a lot of arsenic in the groundwater. The drinking water limits for arsenic in groundwater has been reduced from 30 parts per billion to 10 parts per billion. On the wastewater side, however, they have added arsenic for a potential pollutant of concern for freshwater mussels. The permissible limit of arsenic in the wastewater stream is lower for freshwater mussels than the limit for drinking water. Resulting in towns, such as Ontario, who can meet the drinking water limit but cannot meet the limit for discharging into the river. Moore noted that direct discharge to the river is a different beast; when we go to discharge, it is important to have a system that can handle continual revisions by the EPA to the receiving streams. The permit for discharge is renewable every five years and they should be able to predict 15-20 years what the limits will be. The team will try to encourage DEQ to enlighten them on potential concerns being evaluated but it is important to be prepared for these variables.

City Manager Green noted these are some of the risks they are going to evaluate. On the opportunity side, the experience with industrial users in the recent past has been negative due to the loss of industry but we don't know what it will look like ten to twenty years from now; we want to be able to respond

positively to attract new industries, such as controlled environment agriculture. Having a Class A water source with multiple industrial uses, is an asset for industries to scale in our community.

Mayor Lundbom asked how big of a reservoir it would take to hold ninety million gallons. Green responded that the bigger concern is just during winter, when there is excess capacity and lower demand. The number will be more like twenty to thirty million. Lundbom asked, in general, how big a reservoir would be to hold ninety million gallons. Mr. Moore responded that it would be twenty acres at seven to eight feet deep.

City Manager Green invited Daniel Allison to add anything about Sustainable Water. Mr. Allison applauded the City's vision. Larger communities are realizing that water reclamation is the future and there is a limited supply of freshwater. Capitalizing on the City's vision to have Class A reclaimed water rather than dumping it in the river is of significant economic value.

Councilor Haberly asked how many gallons a hotel would be able to reuse in their toilets. Mr. Moore clarified that each room in a hotel uses sixty percent of a standard home; a 100-room hotel would use as much as 60 houses. Haberly asked if the water is clean enough to use in a swimming pool. Green noted that Class A is not rated for that type of direct human contact.

Councilor Smith asked if you were to go with a Sustainable Water system for Class A, wouldn't there be plenty of industrial avenues to use the water, even in the wintertime? Green clarified that a demand profile will be completed to show in detail, but an example is that irrigation type uses will halt in the winter. As the demand in the winter declines but freshwater consumption maintains, the excess capacity builds up. Smith noted that with water shortages everywhere, there must be a way to reclaim the water year round. Mr. Allison clarified while that was the goal, a detailed resource demand versus supply model will be developed through the process with Anderson Perry. Once the shortage is seen, a decision about the excess will need to be made. There is a long way to go in order to realize what the delta is; input from several agencies will be needed to narrow down the model.

Councilor Smith asked if Sustainable Water has two plants currently in the United States. Mr. Allison noted that their design team has been a part of over 40 different designs. They own one plant, operate two plants, and are about to break ground on their third plant in January. Councilor Smith asked if they have had any difficulty getting rid of reclaimed water on a calendar year basis. Mr. Allison responded that they were not but those systems were designed differently, such as to provide on demand recycled water 100% of the time for a plant with massive evaporative cooling. Brett Moore added that choosing Class A provides a lot more options for reuse.

**Agenda Item No. 5—Ordinance 17-170-01, An Ordinance of the City of John Day Ratifying the Creation of the Grant County Digital Network Coalition in Accordance with ORS 190.085**

City Manager Green noted they are ready to launch the Grant County Digital Network Coalition, a three party agreement between John Day, Seneca, and the Grant County Court. Prairie City and Canyon City have opted out. Under the current proposal, the Coalition will take the state appropriation and build the main line from John Day to Burns. They will then build extensions off the line to service Seneca, John Day, and the unincorporated areas in the County that can be reached within the funding profile. Seneca will adopt the ordinance tonight also. The Court is scheduled to adopt the ordinance next Wednesday (first reading); the ordinances will then go to the Secretary of State along with the agreement (following the County's second reading). The updated agreement is still being reviewed by Ron Yokim (county attorney), who is working with the city attorney who drafted the agreement, and we expect some minor changes.

Elliot Sky asked for an explanation of the impact of Prairie City and Canyon City opting out of the coalition. Green responded that part of the initial network design includes the specific drops with line extensions off the mainline to service municipalities. Those opting out will not have line service extended to those communities but rather focus will be on those originally in the coalition. There are provisions to add cities later, including those who could not be included initially because they were not along the main line. Joe Madden asked if the funding changed with only three entities versus five. Green noted that the total amount does not change, rather the distribution; funds will be greater among three compared to five.

**Councilor Willey motioned to adopt ordinance 17-170-01, an ordinance of the City of John Day ratifying the creation of the Grant County Digital Network Coalition in accordance with ORS 190.085. Councilor Haberly seconded the motion and it passed unanimously.**

### **Agenda Item No. 6—9-1-1 Center Next Steps**

City Manager Green noted that a lot of good questions came from the community throughout the voting process. Some of them, the City did not know the answer but they learned a lot through the process of seeking them out. The big question related to the proposal on how to fund the deficit, is the tax principle of fairness. Why should property owners pay a disproportionate share of the cost for the service when anyone can dial 9-1-1, shouldn't it be paid for on a more equal basis? The answer is absolutely, the problem is that on the county level there isn't a tool that allows that kind of taxing. We have to work with the tools the state has given us; we don't have a way to directly charge phone companies, or to even determine what phones are in the county to charge for. The tax principle is a valid concern but must be addressed at the state level; the city continues to message to the state. The fact that 44% of the voters were willing to pay despite this, says a lot; hopefully this message, in combination with other communities, will pressure the state to update the phone tax.

Another question was, "Why does John Day run 9-1-1 for the county?" Valerie Maynard, ECC Director, did some research and found the original ORS 190 agreement from 1989. The agreement states what John Day would assume the 9-1-1 center and employ the staff. A community wide budgeting process would be used and in exchange every signatory would remit their 9-1-1 tax to John Day. Any expense overages, above tax collected, would be split on a per capita basis. At some point in the last 28 years, John Day stopped having the user board meetings and employing a collaborative budget process; the signatories also stopped paying for the overages. We ended with an awkward situation where the City is providing services at their expense to other cities, who do not want to pay when they do not have a say in the budget. We are left with a stalemate in the agreement. The question is where we go now.

Green is continuing to advocate at the state level for an increase in the 9-1-1 tax, but the city has very little control or influence over that decision. Green proposed organizing a taskforce, represented by people who currently, directly contribute funding to the system. The four big users, at a minimum, should be on the taskforce. The taskforce should explore options that remain to us, that we can control. We can't form a taskforce to change tax at the state level, because we have very little control over that option. We can look at the other options: to consolidate with the regional center in Condon; to try to identify an adjacent center, in an adjacent county, who would consider doing a two-county cooperative 9-1-1 center; or to try to bring the public agencies together to reach a new local cost sharing agreement. Last fall, a new cost sharing agreement was proposed. Green feels it is the best option because it keeps 9-1-1 local, including local control over the center. John Day is currently paying more than their share of the cost; they are willing to pay their share in the future but could an agreement be formed with others paying their share? In order to do this, they may prefer dispatch to no longer be an entity of the city. Green supports an idea, such as an independent agency, with an independent board of directors, which are represented by everyone in the county. There is no benefit to the city by having direct ownership of

the countywide service; they inherited the center due to conditions thirty years ago. Green is willing to transition operational control to a joint board, whether elected or appointed, to make the governance more collaborative. It is important to recognize that this will not change the cost, and everyone will need to contribute some amount of money. He noted that the city cannot move forward with their strategy for growth while still subsidizing 9-1-1 services for other tax jurisdictions.

Mayor Lundbom asked if there is any teeth in the 1989 agreement, there does not seem to be an end date. Green responded that we could try to litigate it, but the City of John Day has not done their part. There are also some challenges, the agreement was written for a situation thirty years ago. For example, how do you know what the population of a rural fire protection district is, without going door to door? It is the incorporated cities, the county, and the power users, such as the USFS and hospital, who need to come to a consensus regarding a cost sharing agreement. It is a solvable problem, but with so much politicizing it is hard to solve a policy issue.

Councilor Smith asked if 9-1-1, after two years, has to be outsourced, would the regionalized center collect the state 9-1-1 tax but also have control over what they charge us for administrative costs? Would these costs then be out of our control? Green responded that we would become customers, most likely we would not have a seat on the board of directors or have any decision making authority. We would remit our tax in exchange for a service, as is. Smith asked if we would be starting off at square one again. Green noted that we have to consider it as an option and we didn't have the information for people during the voting process because we hadn't starting pursuing it. Without trying to negotiate an agreement, we cannot know the actual cost of the option. Green feels we need to pursue all three courses of action, in parallel, to come back to the users with the information on the different options. If an agreement can be reached, we will move forward with a local option; if not, John Day will execute the strategy in the city's best interest because they bear the financial liability. Green asked the council for input or clarification on whether they support this approach. Councilor Adair noted that she feels this is the only way to go. The voter results gave the feedback from the community, regarding paying through property tax. It is our responsibility to present them with the black and white solutions that are left to choose from. Councilor Haberly added that he felt most people who were against the tax were in support of the outsourcing option. Councilor Adair responded that we have to provide the actual cost of each option, to investigate and present the price of each option with details.

Mayor Lundbom asked who would be included, would every community and rural fire district? Green proposed representatives of core user agencies, those who pay above remitting their 9-1-1 tax, to negotiate the three courses of action, then present them to the rest of the user community. Trying to have twelve people involved doesn't change the outcome as much as it makes the negotiation process more difficult. The reason the ORS was cited in the packet is because it is no longer a democratic process like the levy vote. Because the vote was no, it is now an executive action; the power resides with the executive officer or governing body of each jurisdiction. The city councils and the County Court and executives for the other user agencies will have to collectively decide; if an agreement cannot be reached, John Day will make a choice. Green is hopeful we can reach an agreement, it will be important that everyone comes to the table with the intent of reaching an agreement. It is a problem that has to be solved and will affect everyone, making it more than "John Day's problem".

Councilor Holland added that he felt the best option for getting everyone to the table is to take the center out of John Day's hands, specifically, and make the center independent; it would eliminate the feeling that John Day is making all the decisions with everyone's money. Green agreed and stated that he would like to kill that dynamic. The agreement atrophied and died a slow death; without user board input the budget still had to be created, leading to the current situation. It is no longer about John Day but rather the whole county, an appointed or elected board will have the responsibility and do what is in the best interest of everyone because everyone will be liable.

Councilor Smith noted that we still cannot address the root of the problem, which is that the flavor of state legislature (portrayed by the representative and senator) and League of Oregon Cities doesn't seem to be in support. It is an outdated tax from 25 years ago but they don't want to pursue changes. Mayor Lundbom asked when a county service becomes a county problem; he thought the ORS stated that counties are responsible. Green clarified that ORS 401 clearly says that each governing body has responsibility for emergency communications and emergency services within their jurisdiction. The only way to relinquish that responsibility is by using ORS 190 to form an intergovernmental arrangement, a contractual agreement that states they are delegating that responsibility to another entity. This is what happened with the 1989 agreement. It was made 28 years ago and the contract is not enforceable; he could send a bill to the county but they would not have to pay it and John Day is not holding up their end of the agreement either. The thought is that with a void agreement (ORS 190) it should default back to ORS 401 and every group would decide what they will do. But, there is an ORS 403 that states the lead agency for a dispatch center has to follow a legal process to transition a center out of its control. You must notify the Office of Emergency Management and every public and private safety agency in the county that could be affected. A new strategy must be presented; the lead agency cannot simply stop providing services. However, they do not have a responsibility to financially cover the cost for other tax jurisdictions.

Hannah Hinman asked if in the next 18 months of state funding, the options could be pursued and a tax option presented again, to see, potentially, a different voter outcome. Green responded that he felt the only way another ballot measure would be proposed is through petition; a group of residents could gather enough signatures to put a proposal forward to the voters. The County has already referred it once, it is not likely they would refer it again; the City of John Day cannot refer a ballot measure to the entire county. The most likely way for that to happen is by petition. A special district could be created, where the board, who oversees the operations of the 9-1-1 center for the county, is elected rather than appointed; this is an alternative within option three. Green feels the cleanest and simplest option is for the public agencies to reach an agreement and set up a new governmental agency, independent of any city or the county, with an appointed or elected board to make decisions for the future. It requires every entity to be willing to come together like they did in 1989 to sign an agreement and hold each other accountable.

Councilor Adair asked if last fall anyone was willing to talk about a new cost sharing agreement. Green noted that Prairie City went so far as to include the cost in their budget, Seneca was willing, some did not respond, and some stated they did not have the funds to pay their share. Green noted that it is important to educate them about the different ways to contribute to their share of the cost, it doesn't all have to come from the general fund; the City of John Day is currently covering a portion of the deficit through their water and sewer funds. Adair asked if, as the lead agency we are required to find a solution, we could just refuse to continue with the status quo. If an agreement cannot be met, how do we maintain control without continuing to subsidize the cost? Green responded that if an agreement cannot be met, that option falls off the table and we must choose between a bi-county solution or outsourcing. The only other option right now, while we wait for the state to change the tax, is to continue with the status quo; continuing as we have will cost the city over a million dollars in the next ten years.

Councilor Smith asked if the council remembered what kind of budget hit they had taken every year, he thinks it is pretty significant.

Judy Schuette asked for clarification on if everyone were to come to the table, it would make it financially viable to keep the dispatch local. Green responded that if everyone comes to the table willing to contribute their share of the cost or something approximating that, such as if the county covered the cost for cities who struggle to keep the lights on, and collectively agree on how to operate, who will operate, and how to pay for it. Mrs. Schuette urged the council to strongly and vigorously pursue that

option and while outsourcing has to be on the table, she would like to see it on the edge, falling off the table. She feels it is important that we do not lose the jobs and there is no law that mandates dispatchers be absorbed into a regional dispatch center. She stated she checked up to the state level; our people will be offered first choice but only if there are openings at the regional center. The marketing director at Frontier indicated they could maybe look at two positions and we currently employ five people. She asked the council to pursue an agreement to an important and solvable problem. She encouraged everyone to speak to representatives of boards and entities. Councilors mentioned that they have spoken to other entities. Councilor Adair added that she thinks its beneficial to, instead of pushing one chosen option, put the three options on paper and present them, with reasons for preferring a certain option. Mrs. Schuette asked that there be a specific explanation in print. Green added that while some work needs to be done to educate; it is not technically in his job description to do this, though he has been to most of the councils in the county. On the evaluation criteria they have so far outlined: cost of service, today and tomorrow; level of control and decision making authority, over the services and future fees; anticipated quality of 9-1-1 service; and economic benefits to the county, retaining five or six jobs versus losing them. If we use these criteria he feels we would quickly zero in on the best value course of action. The question then becomes will everyone agree that it is the best value? It is import to dispel the idea that John Day will continue to keep subsidizing the service.

**Councilor Smith motioned to approve Mayor Lundbom to sign the grant agreement to receive the state appropriation of \$420,000 for the operation of the public safety answering point through the 2017-2019 biennium for the City of John Day. Councilor Willey seconded the motion and it passed unanimously.**

**Councilor Smith made a motion to authorize the city manager to organize an interagency task force with the purpose of dissolving the current 9-1-1 center and negotiating a transition plan for a new 9-1-1 jurisdiction plan to become operational by fiscal year 2020. Councilor Willey seconded the motion and it passed unanimously.**

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

Nov. 14-15—Anderson Perry & Sustainable Water Site Visit/ First Stop with DEQ

Dec. 12—December City Council Meeting (only one)

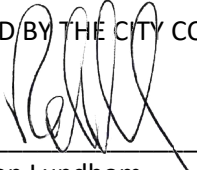
**Adjourn**

There being no further business before the council, Councilor Willey motioned to adjourn the meeting at 8:05 pm. The motion was seconded by Councilor Holland, and passed unanimously.

Respectfully Submitted:

Nicholas Green  
City Manager

ACCEPTED BY THE CITY COUNCIL ON DECEMBER 12, 2017

  
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Mayor Ron Lundbom