

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

August 27, 2019

COUCILORS PRESENT:

Ron Lundbom, Mayor
David Holland, Councilor
Paul Smith, Councilor
Elliot Sky, Councilor
Shannon Adair, Councilor
Steve Schuette, Council President
Gregg Haberly, Councilor

COUNCILORS ABSENT:

STAFF PRESENT:

Nicholas Green, City Manager
Monte Legg, Public Works Director
Aaron Lieuallen, Senior Project Manager

Julie Larson, Senior Account Clerk
Scott Moore, Sergeant
Matt Manitsas, Agribusiness Project Manager

GUESTS PRESENT:

Logan Bagett, Elkhorn Media Group
Jim Spell
Carl Swank
Heather Swank
Levi Manitsas

Sherrie Rininger, etc.
Adam Heninger
Chris Cronin, PAC
Tim Unterwegner, Planning Commission

Agenda Item No. 1—Open and Note Attendance

Mayor Lundbom called the meeting to order at 7:04 pm, noting everyone was present.

Agenda Item No. 2—Approval of Prior City Council Minutes

Councilor Schuette moved to adopt the minutes of July 23, 2019 as presented. The motion was seconded by Councilor Holland and passed unanimously.

Councilor Holland moved to approve the August 13, 2019 council minutes as presented. The motion was seconded by Councilor Smith and passed unanimously.

Agenda Item No. 4—Consent Agenda

No items for approval.

Agenda Item No. 5—Finish Development Code Presentation & Code Enforcement Practices & Recommended Actions

Matt finished his presentation on changes to the city Development Code that will go with the development of the innovation gateway. Commercial areas have a lot of codes relating to block layout

and development of parking areas and walkways which are not applicable so the recommended change would be that the building entrance be directly accessible from a road, no parking between the building entrance and the way of getting to the entrance, and walkways connecting parking areas to entrances. Given character of area some of the existing codes are unnecessary.

He also talked about architectural design standards which is fairly detailed in the Development Code for existing areas. They are recommending that in the area south of the river some of those same standards be applied to new buildings to include pathway connections, awnings or weather protection over entrances, regularly shaped windows and roof design standards. These standards are not currently applied north of the river but Matt suggested the council should be thinking about what standards should be applied there.

Nick asked how it would be addressed if development was coming in that didn't fit with the industrial look of the south side of the river. Matt said there were two possible approaches, the city could either adhere to the existing design codes or provide an alternative by having prospective development show how they plan to meet the intent of the standards. This would be done during site design review after they have applied for development.

The last part was special use standards. In some parts of the code there are special use standards and some make sense for the Gateway area. The first was landscaping using native, drought-tolerant and flood-resistant plants from a list of plants found at the OSU Extension source. Second was exterior lighting that should be focused downwards, a 20 foot limit for lights that are on poles, only downward facing façade lighting and that pedestrian lighting be required in some places (any public walkway, plaza or courtyard open to the public after dark).

A question was asked regarding why drought-resistant plants would be needed when the city has an abundance of reclaimed sewer water needing used. Matt advised maybe the drought-resistant standard was less important in terms of landscaping, the point is just to prevent the need for irrigation to maintain the plants. Nick asked if the requirement to use reclaimed water for any non-potable uses in newer development was still in play, Matt was unsure if it was so Nick suggested maybe switching out the drought-resistant landscaping requirement for the reclaimed water use requirement.

Another question was if solar powering was applicable to the lighting requirements to which the council was told it was.

City Council addressed downtown parking next. They had previously discussed connecting downtown and residential areas to the Innovation Gateway in the form of artwalks, appropriate design and creating opportunities for play areas and access to public amenities. A big topic has been parking. There are 4 potential areas for parking development: behind the main offices on E Main Street on the north side, across from the post office before 1st Avenue, in the old City Hall building lot with the right of way, and the Wright Chevrolet car lot. These would require working with local business and property owners. A councilor asked about acquiring the Randleas property next to Dairy Queen, Nick advised that that was no longer an option. Mrs. Swank, one of the property owners across from the Post Office, spoke and said she sees the traffic on that road and often has people blocking her driveway, a lot of it is Post Office customer traffic.

Nick wants to know if the council wants to pursue a downtown parking plan, if so he will work with property owners and downtown businesses to get numbers together to present. The question of where

public restrooms might go was also asked, the proposed locations would be at the north side of E Main Street and the Wright Chevrolet lot. The consensus was for Nick to get back to the council with numbers.

Code Enforcement is not something we have done a lot of in John Day so Nick wants to go over his plans. The council was given a memo explaining what the codes are, it includes the Code of Ordinances and Development Code, specific aspects of the city's comprehensive plan and any other ordinances that place restrictions on what you can do in John Day. When necessary the council has the ability to change the code, staff do not. People often ask to have it changed for special use cases. There are provisions for granting variance but in order to change it, it has to be voted by the council. Variances cannot be granted for prohibited uses but there is a code amendment process currently in place.

Within the Development Code any change to an existing structure requires a land use review. Land use review and site review are a higher level of scrutiny and must be done before building permits will be signed. There are different levels of review: Type I can just be signed, Type II have to be sent out to anyone living within 100 feet, some require a public hearing in front of the Planning Commission or, rarely, legislative review by the city council.

Nick is going to go over the Code Amendment process and is also going to go over current enforcement action that is in direct violation of the code. With regard to the Development Code, the city is pursuing 3 potential enforcement actions. One is construction in progress on NW 9th Ave without a land use review or construction permit, a stop work order was issued. There is also construction in progress at 677 W Main St that is being done without land use review or a permit and is also on a floodplain. There is also at least one property owner living in an RV, that is not in an RV park, during construction of a house on the property. The council may want to give some flexibility on the temporary RV dwelling while there is construction in progress.

Nick advised he also very recently became aware that there may have been RV connections permitted for public agencies within the general industrial zone, for seasonal staff that couldn't find housing. This also might be a valid reason to grant exception to RV dwelling but it is an unallowed use in the general industrial zone and is not something the staff have the ability to permit. These are 2 examples of reasons that the council might want to amend the code to provide flexibility.

Patty Salvino, not present at the meeting, has also asked to have an exception granted for her to live in an RV on her 1 acre property because she can't find other housing and she has a nice RV. She is asking for the council to considering amending the code for this. Nick wants the council to consider what all this would entail as far as water/sewer connections and fees, whether they should be able to add-on an Arizona room, and where it should or should not be parked on the property.

Another request submitted for amendment to the code, by Dan and Chris Cronin, was to look at the small number of downtown businesses in the general commercial zone that are in single family homes but were operating as businesses before the code changed in 2005 and now cannot revert back to residential use. The majority were used as homes when the code was amended in 2005 and, therefore, could continue to be used as homes, but those that were used as business cannot revert back. There is a demand for housing right now that one could argue is greater than the demand for commercial space. The council could amend the code by a deletion of the language that prohibits residential dwelling in those units. This would affect about 6 property owners by giving flexibility but does not give anyone the authority to replace an existing residence with a new one or to expand the existing footprint, it would

only allow a change in use. This change would apply to anything zoned general commercial or downtown.

One potential downside is that a personal dwelling might not take as good of care of the property as a business might. You could end up with yard toys, ATVs, bikes and cars parked around. There would also be a need to clarify water/sewer rates for a business in a home as there are rates for businesses or for residential dwellings. The nuisance code would be enforced to deal with the more egregious violations than just cars parked around.

Nick advised that he was going to pursue the unpermitted construction violations unless the council told him tonight they were wanting to entertain an amendment for those violations. **Nick wants to know if the council wants an amendment for RV dwelling during the course of construction on a permitted development with an appropriate time constraint. The council said yes, Nick will submit this amendment with the land use changes being proposed for the Gateway. The submission will go to DLCDD, there will be a public comment period, a public hearing and at the end of the hearing the council will vote.**

The council needs to decide on Chris Cronin's request to amend the 2005 restriction on use without modifying the restriction on additional development and expansion which would allow businesses that were residences to revert back to residences. The council agreed that it would make sense, especially now, because housing is more in demand than commercial space and as a business it would not be a sellable commodity with the code preventing it reverting to a dwelling. Mayor Lundbom asked if Chris was specifically talking about the buildings south of her location and Chris wasn't sure which ones had been residences previously. Another council member suggested stricter code enforcement for aesthetic violations on main street to which Nick advised that was going to be done city-wide. **Councilor Adair said she thinks they should allow it, Mayor Lundbom agreed and asked for a consensus.** Another councilor asked if this was preventing people from selling in that area, Chris Cronin advised she had a buyer wanting to convert it to a residence get discouraged from buying due to the lengthy process. **The council agreed to the proposed amendment.**

The fire camp at the fairgrounds was okayed by the fairgrounds but the city just allowed it and didn't make them go through the process of approval. **Nick asked if, as an area with limited housing and agencies that bring in a lot of seasonal employees, the council wanted to create standards for places that have the space to allow them to connect and live in RV's on their property.** Mayor Lundbom asked if room tax could be collected, Nick said he thought any additional burden on the system should be considered as a separate account. Nick advised he had heard that there were hookups being created at the ODF building off of Patterson Bridge Rd. Councilor Adair said there did need to be a charge for it. Nick said he is stuck because he can't charge rates for a non-permitted use, it has to be decided whether it will be allowed or not and then it can be charged for. The council will have to come up with some sort of standard for charging. **The council said they will consider it if Nick will come back to them with more information and a path forward.**

Another councilor said it would just be a bandaid on the larger housing issue. It was discussed that if they would allow it and charge for it, it would help with the housing issue. A councilor voiced concern that the city wouldn't allow RV dwelling on personal property but would allow it on government property and didn't feel that it was right. Nick advised he should not be charging water and sewer rates for unpermitted uses, those should be getting shut down; it is a problem without a clean solution. Councilor Adair advised that it was a situation happening all over where we need the temporary

seasonal employees but lack the housing and are trying to find a long term solution when we need to see what a short term solution would look like. Nick advised that was what a conditional use permit was intended for and could be approved by the Planning Commission and they could imposed the restrictions as far as location, time limits and number of RV's. A councilor advised that the whole state property already went through the Planning Commission and land use review when they put the new state forestry building in on Patterson. He also advised that there was an agreement to put in sidewalks if there was ever any improvements that required them.

A councilor requested to be careful about setting precedent and getting overrun by RV's, another councilor advised that the Forestry Compound was supposed to only be set up for a maximum of 2 seasonal use hookups. It was suggested to look at what the City of Prineville had just done with a similar temporary housing allowance. Nick advised that he will come back with more information for this matter.

Mayor Lundbom asked Nick why he was the person enforcing the codes for the State of Oregon as far as building codes were concerned. Nick advised that the city adopted international building codes as part of their codes and that the city manager is the official assigned to enforce those codes for the city. Nick advised we also have to enforce federal guidelines with the floodplain.

Moving on to the floodplain issue, we have new floodplain insurance maps that will take effect September 15, 2019. Until then we are governed by the 1982 maps. If you create a floodplain violation it can affect insurance for the entire city and for every property owner within the city. There are Community Assistance Visits done that are like an audit of the city's floodplains. The city does not have a standard floodplain development permit, Nick advised that the council needs to adopt one. The city also needs a standard procedure for processing floodplain permits. There is a model that is approved by FEMA and DLCD that should be looked at. There were several properties discussed that needed corrective actions to be taken for floodplain compliance.

Nick addressed subdivisions and annexation. Comprehensive plan requires development in urban growth boundary to conform to city code so that it is capable of being annexed. There are some developments that have the right size water main but the city never took it over, some never provided as-builts, with some water was provided but sewer was not, and in a number of places there are private water lines that were never adopted by the city that have other residents connected to them and those residents think they are part of the city's system but are not and the original developer is no longer around. The ones that need dealt with immediately are the ones in city limits such as the Krutsinger development. They will have to decide if they want to require the original developer to warranty it after-the-fact, after they have sold all the properties. The Comprehensive Plan is clear on not extending water and sewer lines outside of city limits without annexation and when we do there needs to be a plan for how they are going to be brought into city limits. In the case of Apple Road, it is not a public right of way, it is just a name that has been assigned to a collection of private properties. Everyone patronizing businesses in that area is technically trespassing on private property. Unconforming and substandard developments cannot be annexed. Nick's advice is to clean it up and until it is cleaned up, stop permitting new connections to private infrastructure.

Someone advised there was another instance on Carpenter Pond Road with an 8" water main, not owned by the city, that private individuals paid to have put in and they didn't want the city to take it over, even though it was engineered and put in correctly, because they wanted to recoup some of their costs. Monte advised this makes it really hard for PW because it isn't the city's job to come in and

explore where the stubs are for hookup, they know where their own are but with ones that they don't know it costs a lot in time and materials to find them. One of the councilors advised to check with Ferguson Engineering as they were probably who originally put the lines in. Nick advised that unless the council told him otherwise he was going back to the beginning and not allowing any new connections until it becomes public infrastructure.

As far as intergovernmental agreements, Nick is going to start holding EGB/IGA to city standards. If he can't the city will take back the EGB. There is no service agreement with the county but Nick doesn't think it is necessary for the building permits. Mayor Lundbom asked where the money went when people were fined, Nick advised it was the city's.

There are inconsistencies in the city practices regarding utility hookups. They have been charging in city or out of city rates based on location of the meter because people within city limits contribute to our state shared revenue and pay property taxes to the city and get to vote. It isn't actually about where your meter physically sits but about where your property or business sits so it should just be a course correction. The city can clarify with their next resolution so it is not subjective anymore.

Public nuisance violations that are being focused on right now are imminent and incipient hazards such as large dead trees, bulk solid waste and derelict structures with things like dry vegetation being less of a concern. Junk that is clearly visible from the street will probably be enforced. Burning household waste will be enforced, throwing yard debris or household waste in river will also be enforced. Most of the time it can be fixed with a phone call or a formal letter.

The council discussed the possibility of limiting the number of dogs that can be kept. There have been complaints about a house with seven dogs, this is not a violation of the code but has garnered complaints and the owners have been cited for noise ordinance violations and waste violations. **Council agreed the code should be enforced as is with as much clarity as possible.**

Enforcement approach will be to send notice for unintentional violations and if they are abated or remediated then no cite will be issued. If they are left unabated then the city will pursue code violations at the current rates of \$500/instance and \$500/day for every day the violation continues after notice. For intentional violations the city will just cite the violator, this will be at the City Managers discretion. **Council agreed this was ok.** Someone asked if this was in effect now, this is in effect now.

Agenda Item No. 6— Other Business & Upcoming Meetings

Matt Manitsas has been with the city 2 years, he is taking another position. Adam Heninger will be taking his place. The city thanked him for his time and dedicated service. Final inspection on the greenhouse will be Thursday August 29. After inspection they should get the certificate of occupancy. Final payment to EuroMax will be Friday August 30, as per the contract. Loan payments with Business Oregon start in December.

Nick and Grant County Digital Board will be at Reconnect Conference in Madras on Thursday on a panel to talk to other people interested in applying for the program.

Mayor Lundbom reviewed upcoming meetings. No council meeting the 24th of September. *No further comments.*

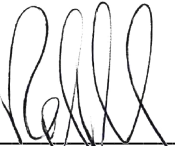
Adjourn

There being no further business before the council, Councilor Scheutte moved to adjourn the meeting at 8:54PM. The motion was seconded by Councilor Haberly and passed unanimously.

Respectfully Submitted:

Nicholas Green
City Manager

ACCEPTED BY THE CITY COUNCIL ON OCTOBER 8, 2019



Ron Lundbom, Mayor