

**John Day City Council Meeting
October 13, 2020
316 S. Canyon Blvd (John Day Fire Hall)**

**7:00 PM VIRTUAL CITY COUNCIL MEETING
VIRTUAL STUDY SESSION (FOLLOWING COUNCIL MEETING)**

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/333257157>

You can also dial in using your phone.

United States: [+1 \(646\) 749-3122](tel:+16467493122)

Access Code: 333-257-157

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/333257157>

Please note: As ordered by Governor Brown, face masks are required for entrance to the building and social distancing guidelines will be maintained for participants. Seating is extremely limited and preference will be given to those on the agenda. If seating is unavailable, participants will be asked to wait outside the building and may join by phone or computer using the information provided above.

- 1. OPEN AND NOTE ATTENDANCE**
- 2. APPROVAL OF PRIOR MINUTES**
- 3. APPEARANCE OF INTERESTED CITIZENS** – At this time Mayor Lundbom will welcome the public and ask if there is anything they would like to add to tonight’s agenda.

CONSENT AGENDA

- 4. CONSENT ITEMS**
Attachments:
 - None

PROJECT UPDATES

- 5. WASTEWATER TREATMENT PLANT & INNOVATION GATEWAY UPDATE**
Attachments:
 - Loan Terms
- 6. HUMBOLT BROADBAND UPDATE**
Attachments:
 - None

OTHER BUSINESS & UPCOMING MEETINGS

7. OTHER BUSINESS & UPCOMING MEETINGS

- Volunteers needed for grill @ Farmer's Market (Friday, 4:30 P.M.)
- October 14, County Court Study Session (Airport/Virtual, 1 P.M.)
- October 16, Friday Night Farmer's Market (Heritage Barn, 5-9 P.M.)
- October 17, Farmer's Market Harvest Festival (Heritage Barn, 8:30 A.M. – 1 P.M.)
- October 27, City Council Meeting Regular Session (Fire Hall/Virtual, 7 P.M.)
- November 10, City Council Meeting (Fire Hall/Virtual, 7 P.M.)
- December 8, City Council Meeting (Fire Hall/Virtual, 7 P.M.)

STUDY SESSION

1. INDUSTRIAL LOTS – REGULATIONS & SALE PROCEDURES

Attachments:

- Airport Industrial Park Subdivision
- GCED – Come and Play Brochure
- Recertification (2016)

2. MARIJUANA ORDINANCE

Attachments:

- None

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: October 13, 2020
SUBJECT: Agenda Item #4: Consent Agenda
Attachment(s)

- None

BACKGROUND

No items on the consent agenda.

Item 1) N/A

N/A

Recommendation: N/A

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: October 13, 2020

SUBJECT: Agenda Item #5: Wastewater Treatment Plant & Innovation Gateway Update Attachment(s)

- Scope of Work from E-525 Agreement
- Summary of Loan Terms (Innovation Gateway Industrial Park)

BACKGROUND

This topic will update the city council on the status of the wastewater treatment plant and Innovation Gateway developments.

DISCUSSION

The Flagline/Kennedy Jenks engineering services E-525 agreement was approved by USDA on October 1st. The scope of work from the agreement is attached. The USDA kickoff call for the Flagline/Kennedy Jenks design team is scheduled for Tuesday at 2 P.M. Topics to be discussed include:

- Scope of work, milestones, and overall approach (updated milestones attached).
- Review of USDA engineering requirements to ensure technical approach and deliverables for each task are fully understood by all parties
- Review of the two alternatives for package treatment plants at the new location and one alternative to improve the current plant in place, which would require the City to bring the plant up to current floodplain development standards as a substantial improvement
- Environmental and permitting review
- Additional topics as needed

I will provide council an update from the call during the council meeting.

On Friday, October 2nd the Infrastructure Finance Authority board met and awarded \$3 million in funding from Business Oregon for the City's new wastewater treatment plant and the John Day Innovation Gateway.

Treatment Plant Financing. The first award is from the Business Oregon Water/Wastewater Program. It consists of \$750,000 in grant funding and \$1.75 million in loan funds for 30 years at one percent interest. This award will allow the City to complete the design and begin construction of the new wastewater treatment plant. Loan terms and the final agreement will be presented for approval when received.

Gateway Industrial Park Financing. The second award is \$60,000 in grant funds and \$535,000 in loan funds for 20 years at 2 percent interest (loan terms attached). The funding will reimburse the City for the purchase of the Iron Triangle property and allow us to begin developing the new 12-acre Innovation Gateway industrial park north of the John Day River. The final agreement will be presented for approval when received.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: October 13, 2020

SUBJECT: Agenda Item #6: Humbolt Broadband Update
Attachment(s)

- None

BACKGROUND

This memo provides an update on the Humbolt line extension, Grant County Co-works, and wireless expansions recently approved by Grant County Digital.

HUMBOLT BROADBAND UPDATE

Project milestones to date are described in the table, below.

Task/Milestone	Status	Notes
Planning and opinion of probable cost	Complete	
Design Agreement	Complete	
Field Survey	Complete	
Final Design	Complete	City staff, Commstructure and OTEC engineers reviewed the final route and construction drawing set.
Plans Approved	Complete	
Permitting & ROW	Complete	
Contracting	In Progress	OTEC can do most of the installation, we will need to contract for splicing at the termination points
Make Ready	In progress	Minor utility relocates will be needed at Humbolt to declutter their lines prior to installation of the fiber.
Construction	TBD	Fiber has shipped and is in transit to OTEC’s facility in John Day; construction will begin upon receipt of fiber
Operational Testing	TBD	Based on construction timeline
Post-Construction Inspection	TBD	Based on Operational Testing – OTEC will review to ensure no violations on pole attachments
Certification and Acceptance	TBD	Based on Inspection
Contract Closeout and Final Invoicing	TBD	Based on Certification and Acceptance – we will invoice each party for their portion of the construction costs once the final costs are tallied

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: October 13, 2020
SUBJECT: Agenda Item #7: Other Business and Upcoming Meetings
Attachment(s)

- None

OTHER BUSINESS

- Volunteers needed for grill @ Farmer's Market (Friday, 4:30 P.M.)

UPCOMING MEETINGS

- October 14, County Court Study Session (Airport/Virtual, 1 P.M.)
- October 16, Friday Night Farmer's Market (Heritage Barn, 5-9 P.M.)
- October 17, Farmer's Market Harvest Festival (Heritage Barn, 8:30 A.M. – 1 P.M.)
- October 27, City Council Meeting Regular Session (Fire Hall/Virtual, 7 P.M.)
- November 10, City Council Meeting (Fire Hall/Virtual, 7 P.M.)
- December 8, City Council Meeting (Fire Hall/Virtual, 7 P.M.)

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: October 13, 2020

SUBJECT: Study Session Agenda Item #1: Industrial Lots – Regulations & Sale Procedures Attachment(s)

- Airport Industrial Park Subdivision
- GCED – Come and Play Brochure
- Recertification (2016)

BACKGROUND

The City purchased 100 acres of land for the airport industrial park nearly 20 years ago (2001). A \$2 million Business Oregon Special Public Works Fund Loan (Loan# L03005) was originated in 2003 at 5.02% interest, with the first payment made in December 2002. In April 2018, the City paid off the remaining loan balance of \$1,232,593.79 with the WaFd consolidation loan. The property will be paid in full when this loan is paid off next December.

Enclosed is a map of the 89-acres of the Airport Industrial Park that is still owned by the City of John Day along with a (really old) brochure and the 2016 shovel-ready recertification, which is the last time we recertified the site with Business Oregon's Industrial Lands Certification program.

- Lot 29 is a 60-acre parcel with a partially improved road through it (road is graded and compacted, just not paved).
- Lot 28 is a 7.2-acre parcel on the south west corner of the park.
- The rest are subdivided into single acre lots: Lots 1-13 are all on the west side of the improved road and are developed with power, water, sewer. Same for the lots on the east side, lot 17, and 19-25 could be approved for through-the-fence operations at the airport once the airport runway improvements are completed.

We have two zoning restrictions in play right now:

- Airport Industrial Park (AIP) zone:
[https://johnday.municipalcodeonline.com/book?type=development#name=5-2.4 Industrial \(I\) Districts](https://johnday.municipalcodeonline.com/book?type=development#name=5-2.4%20Industrial%20(I)%20Districts)
- Airport Safety and Compatibility (AASC) Zone:
[https://johnday.municipalcodeonline.com/book?type=development#name=5-2.5 Airport Safety And Compatibility Overlay \(AASC\) Zone](https://johnday.municipalcodeonline.com/book?type=development#name=5-2.5%20Airport%20Safety%20And%20Compatibility%20Overlay%20(AASC)%20Zone)

Code language and development requirements for both zones are at the links.

DISCUSSION

There are several challenges with regard to marketing and development at the Airport Industrial Park:

- (1) **Price.** We do not know the fair market value of the remaining properties. An appraisal is needed to establish fair market value without the incentives. At \$22,000 per acre, we would

- recover our initial investment (excluding interest), but added price flexibility may be needed to encourage development.
- (2) **Incentives.** Prior development incentives have not resulted in significant land sales or retention of startup businesses. The City was offering land at \$5,000 per acre (1/4 of the development cost) but required job creation as part of the enterprise zone tax abatement program. Property owners can still choose to participate in the State's Standard Enterprise Zone program (3 to 5 years of property tax abatement, <https://www.oregon4biz.com/Oregon-Business/Tax-Incentives/Enterprise-Zones/Eligibility/>) or Long-term Rural Enterprise Zone Facilities program (7–15 years of property tax abatement, <https://www.oregon4biz.com/Oregon-Business/Tax-Incentives/Enterprise-Zones/Long-Term-Rural/>) while offering land at Fair Market Value with no job creation restrictions.
 - (3) **Marketing.** Prior marketing efforts by the Grant County Economic Development Office did not result in significant development activity or land sales. Marketing materials including the website and brochures are outdated. A professional industrial/commercial real estate broker may be needed to market the property. It also needs to be relisted on the Oregon Prospector Industrial Lands website.
 - (4) **Land Use Restrictions.** The list of prohibited land uses is longer than the list of allowed uses, and the most commonly requested uses are not allowed. Offices are permitted at the industrial park, but all other commercial services (including storage) are prohibited. Wholesale sales are also not permitted unless accessory to an approved industrial facility. Basic utilities (i.e. solar farms) are prohibited. Parks and open space may be permitted under a Conditional Use Permit (CUP) but all Agriculture uses are prohibited. Radio transmission facilities are also prohibited. Greater land use flexibility may be needed to motivate land sales and development.
 - (5) **Building/Development Restrictions.** Several building restrictions are in place that must be accounted for at the industrial park. These are not excessive, but require buyer awareness prior to development.
 - **Build-to Height.** Structure height exceeding 35 feet may be approved only where it is supported in writing by the airport sponsor, and not opposed by the Department of Aviation or the FAA.
 - **Glare.** No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.
 - **Industrial Emissions.** No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use can cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level.
 - **Communications Facilities and Electrical Interference.** Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval.
 - **Avigation Easement Required.** Within the ASCC overlay zone, property owners who apply for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1,000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor.

RECOMMENDED OPTIONS

I recommend the council consider the following options (in priority order):

- 1) **Hire a professional industrial/commercial land appraiser.** This would help us establish fair market value for the remaining properties (relative to similar properties in eastern and central Oregon). This would give us a baseline for future land sale negotiations.
- 2) **Create greater flexibility in land uses.** Consider legislative amendments to create greater flexibility in approved land uses, specifically storage and agricultural uses as these seem to be the most in-demand facilities at present.
- 3) **Re-certify the site.** Once the market price has been determined and land use regulations updated, recertify the relist the site on Oregon Prospector (<https://www.oregonprospector.com/>) along with the Innovation Gateway site (gives developers more than one option/reason to look).
- 4) **Hire a broker/marketing team.** We may need to hire a broker with experience marketing commercial and industrial properties in our area. This would encourage interest at both sites. Updated photographs and marketing materials will be needed.
- 5) **Incentivize initial sales.** Consider lowering the price per acre below Fair Market Value to get some initial development interest.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: October 13, 2020

SUBJECT: Study Session Agenda Item #2: Marijuana Ordinance Attachment(s)

- None

BACKGROUND

Title 8 (Health and Sanitation) Chapter 5 (Prohibition of Marijuana Establishments) of the John Day Municipal Code prohibits marijuana establishments under Ordinance No. 15-164-02, adopted April 28, 2015 (referred to as the Marijuana Banning Ordinance). The stated purpose of this chapter is to minimize any adverse public safety and health impacts that may result from allowing marijuana establishments to operate in city's jurisdictional limits.

This ordinance prohibits (bans) the establishment of the following in any area subject to city's jurisdiction (collectively, the "ban"):

- 1) marijuana processing sites
- 2) medical marijuana dispensaries
- 3) marijuana producers
- 4) marijuana processors
- 5) marijuana wholesalers
- 6) marijuana retailers
- 7) any combination of the entities described above.

The ordinance also prohibits the sale of limited marijuana retail products through medical marijuana dispensaries in any area subject to the city's jurisdiction. "Limited marijuana retail product" means the seeds of marijuana, the dried leaves and flowers of marijuana, and a marijuana plant that is not flowering.

The ban imposed under this chapter applies to any decision, action, and/or recommendation by the city, including, without limitation, the issuance of building permits, land use permits, business and regulatory licenses, and/or any other form of approval. This ban extends to any decision by the Oregon health authority ("OHA") acting under Oregon Revised Statutes 475.314, as amended, and/or section 85, chapter 614, Oregon laws 2015. This ban extends to any decision by the Oregon liquor control commission ("OLCC") acting under sections 19, 20, 21, and/or 22, chapter 1, Oregon laws 2015.

Ordinance 15-163-01, adopted April 14, 2015 establishes Time, Manner and Place restrictions in the event Ordinance 15-164-02 is repealed.

Title 3 (Business Regulations) Chapter 6 (Marijuana Tax) imposes a tax upon the retail sale of marijuana and marijuana infused products. Marijuana for purposes of this ordinance is defined as: All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, and/or preparation of the plant or its resin, as may be defined under the Oregon Revised Statutes, currently and as amended. The term "marijuana" does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, and/or

preparation of the mature stalks (except the resin extracted therefrom); fiber, oil, and/or cake; or the sterilized seed of the plant that is incapable of germination.

Title 3-6 automatically imposes a tax, which tax shall be determined by resolution of the city council, should Title 8-5 be rescinded by the council or repealed by John Day voters.

DISCUSSION

The council has the authority to rescind an existing ordinance through its legislative powers. The council may also refer a matter to the voters for their consideration, similar to what Grant County did in May 2018, when 53% of Grant County voters overturned the County's ban on recreational marijuana businesses.

To refer the ordinance to the voters, the City must file *Form SEL 802 Notice of Measure Election-City* at least 81 days before the election in which the matter is referred (by January 7 to be on the March 9 ballot or by March 18 to be on the May 18 ballot).

Oregon Revised Statute (ORS) 475B.928 authorizes local time, place and manner regulations during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate, transfer products, with regard to public access to the sites, and where such facilities may exist.

Our Ordinance 15-163-01 would take effect immediately upon the repeal of the Marijuana Banning Ordinance. This ordinance requires:

- The person responsible for the facility to apply for and maintain an annual license with the city
- To operate no earlier than 9 A.M. and no later than 7 P.M. Monday through Saturday
- Prohibits on-site production and consumption at dispensaries
- Prohibits siting a dispensary within 1,000 feet of an educational facility, library, park, or youth facility; as well as within 1,000 feet of another dispensary and
- Prohibits dispensaries in any area where it is prohibited by underlying land use in the John Day Development Code.

This ordinance would allow for annexation of the existing dispensary in the city's urban growth area and would allow siting grows at the airport industrial park if the underlying land use regulations were amended to allow for this use.

RECOMMENDATION

Council should deliberate on whether or not to rescind ordinance 15-164-02, either by legislative action of the council or referral to the John Day voters in an upcoming election.