

**John Day City Council Meeting
December 8, 2020
316 S. Canyon Boulevard**

**7:00 PM CITY COUNCIL MEETING
VIRTUAL ONLY**

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1. **OPEN AND NOTE ATTENDANCE**
2. **APPROVAL OF PRIOR MINUTES**-No minutes ready to present
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. **U.S. 395S SIDEWALK IMPROVEMENT PROJECT – RIGHT OF WAY SERVICES AGREEMENT**
Attachments:
 - ROW Services Agreement

ACTION ITEMS

5. **CITY COUNCIL ELECTION RESULTS**
Attachments:
 - Certified Election Results
6. **FY20 AUDIT REPORT**
Attachments:
 - (Draft) Letter to City Council
 - (Draft) FY20 Independent Auditor’s Report and Financial Statements

- (Draft) Management Discussion and Analysis

7. RESOLUTION NO. 20-850-23, A RESOLUTION AUTHORIZING AND APPROVING CITY OF JOHN DAY OBTAINING A LOAN FROM STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON BUSINESS DEVELOPMENT DEPARTMENT, PURSUANT TO THE TERMS AND CONDITIONS OF A CERTAIN OREGON BUSINESS DEVELOPMENT DEPARTMENT BROWNFIELDS REDEVELOPMENT FUND FINANCING CONTRACT.

Attachments:

- Resolution 20-850-23

8. RESOLUTION NO. 20-851-24, A RESOLUTION TO CORRECT RESOLUTION 20-835-08

Attachments:

- Resolution 20-851-24

9. TOUCHSTONE ENERGY COOPERATIVE – FINAL REPORT (PAINTED SKY)

Attachments:

- Painted Sky Final Report

10. RECREATION ECONOMY FOR RURAL COMMUNITIES – FINAL REPORT

Attachments:

- RERC Final Report
- Action Item Summary

11. FORD INSTITUTE FOR COMMUNITY BUILDING GRANT

Attachments:

- Ford Institute CBA Wheel
- Ford Institute Practices

12. BUSINESS OWNER UTILITY REIMBURSEMENT REQUESTS

Attachments:

- Rininger request and water usage
- Duncan request and water usage
- Wilson request and water usage

13. CAPITAL IMPROVEMENT PROJECT UPDATES

Attachments:

- Iron Triangle Environmental Assessment
- Approved Innovation Gateway Business Park Site Design
- EDA FY20 CARES Grant – John Day Community Broadband
- Approved Hill Park Site Design
- Wastewater Treatment Plant Field Memo
- PSU Population Projections
- Oregon Pine Environmental Assessment
- Future Riverfront Recreation Concepts

14. CODE ENFORCEMENT UPDATES

Attachments:

- Boring Properties Enforcement Letter
- Boring Properties 2020 Account History

OTHER BUSINESS & UPCOMING MEETINGS

15. OTHER BUSINESS & UPCOMING MEETINGS

- January 12, Planning Commission Hearing (Fire Hall/Virtual, 5 P.M.)
- January 12, City Council Meeting – New Position Appointments (Fire Hall/Virtual, 7 P.M.)
- January 26, City Council Meeting – Supplemental Budget (Fire Hall/Virtual, 7 P.M.)

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: December 8, 2020
SUBJECT: Agenda Item #4: Consent Agenda – U.S. 395S Sidewalk Improvement Project – Right of Way Services Agreement
Attachment(s)

- ROW Services Agreement

BACKGROUND

The only item on the consent agenda is an addition to our U.S. 395S Sidewalk Project to allow ODOT to acquire the necessary right of way to complete the project.

Item 1) U.S. 395S Sidewalk Improvement Project – Right of Way Services Agreement

ODOT is ready to get started on the Right of Way phase for the US395: Sidewalk Improvements project. Attached is the Right of Way Services Agreement for council review and approval. Included in the attachment is a copy of the Local Agency Agreement which was recently amended to allow the City to perform utility relocates.

This Right of Way Services Agreement is set up so that the acquisitions are purchased in the name of ODOT, and afterward ODOT will deed those acquisitions to the City. This direction will not require a resolution employing eminent domain from the City and instead the Oregon Department of Justice will represent ODOT for any necessary condemnation actions. All property owners have been notified by ODOT of the sidewalk improvements and the impacts to their property. In most cases, this is a minimal extension of the right of way to allow for placement of the sidewalks and to perform the utility relocates.

The identified right of way necessary for the project are from the following landowners:

001 Grant School District 3
002 Susan Kelso
003 William J & Lloydene Thomas
004 Old West FCE
005 Grant County ESD
006 Daniel & Casey Komning
007 Pete & Jan Teague (PJT, Inc)
008 Melvin Vignery,
009 Belshaw Enterprises LLC
010 Karolis Bruzas,
011 Dice Elkhorn Prop, Attn: Dennis Dice
012 Grant Soil & Water Conservation District
013 Boring Properties, LLC

Recommendation: Approve the City Manager and Mayor to sign the Right-of-Way Services Agreement.

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: December 8, 2020
SUBJECT: Agenda Item #5: City Council Election Results
• Certified Election Results

BACKGROUND

The certified elections results for the November 2020 election are attached. Councilor Holland and Councilor Sky were re-elected to new four year terms. Following a hand count, Chris Labhart and Heather Rookstool remain tied at 470 votes each.

DISCUSSION

The process for breaking a tie in a city council election is governed by Oregon Revised Statute 254.575 "Procedure when tie vote," which states, "When two or more candidates for the same office, after a full recount of votes, have an equal and the highest number of votes...(4) For nomination by one major political party to an office, the elections officer who receives filings for nomination to the office shall have the candidates meet publicly to decide by lot who is nominated." [1979 c.190 §279; 2001 c.965 §43]

The statute requires that the process be fair and impartial, and that both candidates be present to observe the results. I have invited both to attend the meeting and they have committed to attending.

RECOMMENDATION

After conferring with the City's legal counsel, we are recommending the following:

- 1) Council should motion how they wish to resolve the tie. Our legal counsel is recommending a coin toss as the most straight forward method.
- 2) Council should determine who will be designated as "heads" and "tails" or if by some other method, how the lot will be determined.
- 3) A neutral third party should execute the process while the candidates and council observe. I can fill that role or another person council wishes to appoint for that purpose.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #6: FY20 Audit Report
Attachment(s)

- (Draft) Letter to City Council
- (Draft) FY20 Independent Auditor's Report and Financial Statements
- (Draft) Management Discussion and Analysis

BACKGROUND

Robert Gaslin, CPA will present the FY20 audit report to the city council. The audited financial statements will be available electronically by close of business Tuesday.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #7: Resolution No. 20-850-23, A Resolution Authorizing And Approving City Of John Day Obtaining A Loan From State Of Oregon, Acting By And Through Its Oregon Business Development Department, Pursuant To The Terms And Conditions Of A Certain Oregon Business Development Department Brownfields Redevelopment Fund Financing Contract.

Attachment(s)

- Resolution 20-850-23

BACKGROUND

The loan agreement between the City of John Day and the Oregon Business Development Department (OBDD) for the Iron Triangle property purchase has been approved and is ready for signature following the passage of this resolution, which authorizes the City to accept the principal amount of the loan from OBDD not in excess of \$595,000 (with \$60,000 eligible for principal forgiveness if contract conditions are met) and an interest rate of 2.00% per annum.

RECOMMENDED MOTION

“I move to adopt Resolution No. 20-850-23, A Resolution Authorizing And Approving City Of John Day Obtaining A Loan From State Of Oregon, Acting By And Through Its Oregon Business Development Department, Pursuant To The Terms And Conditions Of A Certain Oregon Business Development Department Brownfields Redevelopment Fund Financing Contract.”

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #8: Resolution No. 20-851-24, A Resolution to Correct Resolution 20-835-08
Attachment(s)
• Resolution 20-851-24

BACKGROUND

A clerical error was found in Resolution 20-835-08, a Resolution to Appropriate the Budget for the Fiscal Year Beginning July 1, 2020 and Ending June 30, 2021.

The correct figures were presented at the Budget Committee meeting and approved by the Budget Committee as well as included in the budget hearing publication, but incorrect figures were included in the resolution itself.

This resolution corrects these clerical errors for the record, and the corrected resolution will be filed with the county clerk.

RECOMMENDED MOTION

“I move to adopt Resolution No. 20-851-24, A Resolution to Correct Resolution 20-835-08.”

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #9: Touchstone Energy Cooperative – Final Report (Painted Sky)
Attachment(s)

- Painted Sky Center for the Arts Final Report

BACKGROUND

The Oregon Trail Electric Cooperative (OTEC) applied for a planning and technical assistance grant in 2019 for the City through Touchstone Energy Cooperative. This was a non-monetary award that provided technical assistance to the City for a project of our choosing. We elected to use this project to assist the Painted Sky Center for the Arts to develop a strategy for a new John Day location.

DISCUSSION

Painted Sky has been operating in Canyon City in a space that works for their initial programming, but is far from adequate to accommodate the vision that leadership and patrons share. This project explored four spaces in John Day for potential expansion. Kim Randleas, Painted Sky's Director, will present the results to the city council and provide an overview of the organization's vision and next steps in this process.

The Touchstone planning effort focused on seven key areas:

- Maker space
- Performance space
- Private studio space
- Retail and/or hospitality
- Other structured classes
- Co-working space
- Children's programming including after school and camps

In conjunction with the Touchstone project, we began brainstorming a broader series of goals for the City that would allow us to strengthen non-profits operating in John Day whose vision and mission align with our Strategy for Growth. An early draft of these goals was included in this report and a refined set of goals with a proposal for implementing them will be presented in Agenda Item 11.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #10: Recreation Economy for Rural Communities – Final Report
Attachment(s)

- RERC Final Report
- Action Item Summary

BACKGROUND

The RERC Final Report is enclosed. This was a great project to work on and we had a lot of really good participation from the community.

DISCUSSION

Four goals were adopted by the committee for inclusion in the RERC strategy. They are:

- *Goal 1: Promote John Day's Main Street as a gateway to nearby public lands and communities with new marketing and branding concepts.*
- *Goal 2: Accelerate and incubate John Day businesses to expand services surrounding outdoor recreation.*
- *Goal 3: Galvanize community support and participation (residents and business owners) in John Day's recreation economy.*
- *Goal 4: Expand outdoor recreation opportunities for all in John Day.*

A summary of the recommended action items for each goal is attached to this memo.

RECOMMENDATION

Oregon's Goal 8: Recreation Needs is part of the statewide comprehensive planning process. Goal 8 requires local governments to plan for the recreation needs of their residents and visitors. The work product we developed for the RERC can be incorporated into a Goal 8 update to John Day's comprehensive plan and could also be included in the Grant County comprehensive plan if they choose to. These goal updates are adopted by an order of the city council following a hearing before the planning commission.

Additional information on Goal 8 can be found here: <https://www.oregon.gov/lcd/OP/Pages/Goal-8.aspx#:~:text=Goal%208%20requires%20local%20governments,options%20and%20limited%20financia1%20resources>.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #11: Ford Institute for Community Building Grant Attachment(s)

- Ford Institute CBA Wheel
- Ford Institute Practices

BACKGROUND

We have been meeting with representative from the Ford Institute for Community Building to explore ways to create greater synergy between the City and local non-profits and also expand our outreach to the community.

DISCUSSION

The Ford Institute has developed a community building approach (see docs attached) that would allow a local team to work with a paid consultant to deliver services across a broader range of initiatives. As part of our initial scoping, we held a series of meetings with the Institute's Director (Roque Barros) and others at the Ford Institute. They have asked us to respond to a series of questions prior to making a formal application for funding, and the local "vision team" is working on those responses now.

The vision team identified ten community goals that broadly capture our strategic interests. Each goal is aligned with an organization or group that currently provides these services. They are:

- Goal 1.** Broadband Expansion ([Grant County Digital](#))
- Goal 2.** 21st Century Workforce/Education (GC Co-works)
- Goal 3.** Entrepreneurship in the Digital Economy ([Oregon RAIN](#))
- Goal 4.** Tourism, Main Street Revitalization and Cultural Preservation (TBD)
- Goal 5.** Arts & Culture ([Painted Sky Center for the Arts](#))
- Goal 6.** Recreation Economy (City of John Day/[JDCC Parks & Recreation District](#))
- Goal 7.** Healthy Communities ([Grant County Community Health Improvement Coalition](#))
- Goal 8.** Regional Food Systems/Food Security ([City of John Day Greenhouse](#))
- Goal 9.** Commercial and Industrial Development ([City of John Day](#))
- Goal 10.** Economic Resilience & Recovery ([Grant County Economic Development](#))

The team will need to establish its mission and shared vision for what they want to accomplish using the Ford Institute's framework. These goals were simply presented as an initial set of concepts that could frame their approach. In practice, both John Day and other communities / organizations could work with this team to increase cross-agency collaboration and share resources toward these goals. The intent is not to supersede any existing organization but to amplify their aims and work more effectively between organizations.

As the group met and discussed their interests, some areas were identified as gaps that need to be addressed. Specifically, Goals 2 and 4. The GC Co-works group is standing up now and has secured a location in Seneca. The John Day location was included in the EDA Community Broadband Grant, discussed later in the agenda. Goal 4 has been split between organizations historically and resulted in duplication of efforts and inefficient service delivery, specifically as it relates to Main Street investments.

The City of John Day is currently designated as the lead for the Oregon Main Street Program. We have been successful in two rounds of Main Street Revitalization grants (2017 for the Weaver building and 2019 for Len's Drug's remodel) but have not submitted for recognition as a Certified Local Government (CLG) by the National Park Service (NPS) and the State Historic Preservation Office (SHPO), which increases access for historic preservation funds and technical assistance but requires us to adopt a preservation ordinance and establish a historic preservation commission.

We will also have an increase in requirements and also funding opportunities under the RERC program that will require a community approach to implement. For these reasons, I believe it would be worthwhile to support the vision team's efforts in securing funding that they can use to help implement these objectives, which benefit John Day as well as the organizations participating.

At its simplest, this group (which represents multiple agencies) would get in a room together periodically and update each other on their various projects and see if there are any opportunities to collaborate. At its highest, the group would build nonprofit capacity by pooling resources (funding, human capital, etc.) and jointly investing in projects that have higher impact and throughput than any individual organization could accomplish on its own. They could select projects to work on that benefit the entire county with the intent to get to momentum instead of resistance for community benefit projects.

Specific areas for collaboration between the vision team and the City of John Day could include:

- Downtown/Main Street revitalization
- Implementing action items in the RERC strategy
- Promoting public art
- Developing community engagement strategies for community development projects like the integrated park system, planar shed restoration, and riverfront recreation areas
- Event planning and coordination for tourism and recreation promotion in John Day

NEXT STEPS

We are already financially invested with each of the key organizations we've identified but some financial assistance for the vision team, likely in the form of grant match, will be needed to help kickstart this initiative. More information will be forthcoming as the team works through the rest of the application process.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #12: Business Owner Utility Reimbursement Requests
Attachment(s)

- Rininger request and water usage
- Duncan request and water usage
- Wilson request and water usage

BACKGROUND

Three business owners are requesting reimbursement for water and sewer utility bills from the City of John Day from March through May due to mandated state closures related to COVID-19, along with credits for future closures that may be mandated by the State.

Staff do not have the authority to reduce utility bills without the approval of the city council, unless it is for a leak that the owner or occupant has identified and is in the process of correcting. We have attached to each request a summary of water usage for their buildings year-to-date. Two business owners (Rininger and Duncan) share meters with other tenants/businesses. All meters show usage during the months they were closed with the exception of April for Wilson.

DISCUSSION

The City only received \$52,000 in CRF funds (equivalent to \$30 per resident) and has expended all of it. The County recently received an additional \$500,000 in allocation from the State this month and several business economic recovery programs have been implemented at the county and regional level for economic cost recovery. It is unclear if John Day will receive additional funding, though we have requested it via surveys to the League of Oregon Cities and other mechanisms.

RECOMMENDATION

Any financial commitments the council makes for utility bill relief will have to be logged as a direct, unbudgeted expense to the water and sewer funds. Staff would need to create a line item in the budget for these expenditures and at present they will not be recoverable through our current Coronavirus Relief Funds, which means our other utility customers will be subsidizing the cost of these business owners' requests.

Council will also need to provide clear guidance as to the mechanism by which staff will make the determination as to who qualifies, and how they will be reimbursed, since several business owners share meters and we have no way to determine who is or is not using the water and sewer services at these shared locations.

We currently have 199 businesses licensed in John Day, and as noted in at least two instances, the City continued to provide water and sewer service to these locations that was consumed during the months they were closed (and in some cases at a higher rate than at any other time during the year). Any program we choose to implement would need clear metrics and guidelines established to ensure the requests for refunds or cost waivers are affordable within our current budget and are not inappropriately applied.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #13: Capital Improvement Project Updates
Attachment(s)

- Iron Triangle Environmental Assessment
- Approved Innovation Gateway Business Park Site Design
- EDA FY20 CARES Grant – John Day Community Broadband
- Approved Hill Park Site Design
- Wastewater Treatment Plant Field Memo
- PSU Population Projections
- Oregon Pine Environmental Assessment
- Future Riverfront Recreation Concepts

BACKGROUND

This agenda item provides quarterly updates on our ongoing capital improvement projects. These projects have been organized by the budget fund with which they are aligned.

GENERAL FUND

Main Street Revitalization - Len's Drug. Len's received their first reimbursement check for \$69,315.37 for progress made on the Len's Drug Renovation and Expansion project (Main Street Revitalization Grant MSR-19-18). This reimbursement includes the grant portion of the invoices paid for Stemach Architecture and two CB Construction invoices, which totaled \$69,958.77, minus \$643.40 for the City's grant administration fee applied to the eligible grant expenditures. There are \$130,041.23 in grant funds remaining for disbursement, or approximately 65% of the original \$200,000 award. Project construction is proceeding on schedule and the project was approximately 20 percent complete in November. Sheedy's have paid \$55,000 in additional payments on the Weaver building. These funds will be deferred at the council's request to next year's budget process. Letters to Rep. Owens and Sen. Findley were submitted and received in support of refunding the Main Street Revitalization grants for the next biennium and Rep. Owens is scheduled to do a site visit of the downtown buildings that received awards on Tuesday. Governor Brown has include \$5 million for this program in her budget that was released on December 1st. The budget summary is available at: https://www.oregon.gov/das/financial/documents/2021-23_gb.pdf

Aquatic Center Planning & Feasibility Study. The planning for this project is complete. OPRD is planning to have Gleason Pool reassessed and will re-engage the City in 2021 on the sale procedures. We met with the county court in October for a planning session to discuss next steps on the pool but have not reached a consensus on how to proceed and have not yet scheduled a follow up study session.

Coronavirus Disaster Recovery. All funds are allocated and reimbursement requests have been submitted for the City's CRF Funds.

City Hall Building Improvements. The building improvements are City Hall are now complete. The front entry has been remodeled, all flooring replaced except the back office, and walls were repainted.

Police Department Building Improvements. The new HVAC unit for the police department was ordered and installed. All building improvements at the PD are now complete.

WATER FUND

Brownfield Redevelopment – Innovation Gateway Business Park. The Planning Commission approved the Site Design package on November 18th (enclosed electronically). The wetland delineation is pending approval by the Department of State Lands ([WD2020-0439](#)). With the approval of the Business Oregon loan/grant we can proceed with final site remediation and construction of the business park utilities. A copy of the final environmental assessment is enclosed electronically.

New Shop Tenant Improvements. The City had a structural evaluation of the shop at the Iron Triangle property by Strux Engineering that determined it is in structurally sound condition and could be occupied as-is. The garage doors and electronic opener are functional but in need of replacement. Additional insulation and radiant heat is also needed. We have budgeted for some additional expenditures related to this project site through the Business Oregon loan funds and will request quotes for these improvements in January. Two individuals have expressed interest in using the site and we will discuss their requests as well as the RERC strategic action related to this location during this topic.

IT FUND

John Day Community Broadband (EDA FY20 CARES Grant). The CARES grant has been submitted and revised multiple times based on feedback from the EDA. The final application has been accepted and scheduled for review by the Investment Review Committee (IRC) on December 9th. They will vote on the application and whether to award, but that decision is not final. If they vote to award, then we will get a “further consideration letter” that will come 2-3 weeks after their meeting, and move us to the next round of application development. After we make any needed adjustments, it goes back to the IRC for a final decision. If we get a further consideration they are hoping to have it to us by the end of the year and we would likely have a final decision in January or February on the award. An electronic version of the submission is enclosed. These are highly complex applications that often require multiple iterations and tremendous staff and contractor resources just to bring them to a state where they are ready to submit. Our core integrated planning team for this application included Ducote Consulting (Environmental), Commstructure Engineering (Broadband), and Sisul Engineering (Civil/Preliminary Engineering Report). GC Coworks, Oregon State University, Grant County Digital and the Grant County Emergency Communications Agency also contributed content and letters of support, along with OTC Connections, Iron Triangle and our Congressional delegation.

Humbolt Broadband. OTEC performed the fiber installation on December 1st. Here’s our next steps:

- 1) **Make ready.** Tye Parsons is going to coordinate with Robert Waltenburg and Bret Uptmor this Friday to get lined out on the proposed building entry locations for both the School District 3 building and Humbolt.
- 2) **Aerial Splicing.** Commstructure will provide a splicing schematic for the aerial splice outside the ESD building and coordinate with OTC on those plans. OTC will perform the splicing.
- 3) **Terminations.** Once the make ready is complete at Humbolt and SD3, OTC and OTEC will coordinate to terminate the fiber to both buildings.

USDA Community Connect Grant. OTC has not yet determined whether they will apply for funding through the Community Connect grant this year. The Grant County Digital board requested I seek reimbursement through the county for expenses incurred by Grant County Digital that are COVID-related. Those costs came to \$42,340.64 for the design and preliminary engineering of the county's portion of the EDA Community Broadband application (segments connecting to county facilities and the school buildings). I submitted the reimbursement request to the county court via email on November 23rd. Were the county to request reimbursement through their CRF allocation for these costs, these funds would be recovered in the IT Fund and would be available to commit as match for the Community Connect Grant or a future USDA ReConnect grant application with OTC as the applicant.

STREET FUND

April 2019 Flooding / 4th Street Repairs. We have submitted GHD's two design alternatives (soldier pile and MSE wall) along with a cost alternative for a third option, the realignment of 4th Ave into the hillside, which significantly exceeded the cost of both wall options. As discussed in our prior council meeting, construction of the soldier pile wall would include partial excavation of the 4th Ave roadway while allowing a single lane open for traffic to pass during construction. A temporary bench would be constructed behind the proposed wall for the pile driver and bucket loader to install the wall, perform necessary excavation near the wall and to install the RSP in at the toe of the wall. Once the wall and RSP are complete, the excavated portion of roadway would get back filled and re-compacted prior to roadway rehabilitation. This option includes a temporary creek bypass which may include a coffee dam at the upstream and downstream limits of the project, pumping system and fish screening. The MSE wall option would require the entire roadway section to be removed, causing the need for full road closure of 4th Ave and a temporary detour around the project site. This option is likely to require temporary shoring to support the uphill slope due to the 1.5:1 max cut slope to install the MSE system. This option also would require a temporary creek diversion system. The MSE wall option is less favorable than the soldier pile wall system due to the large area of excavation required, potential temporary shoring requirements and the traffic detour around the project. One concern of the road close is the emergency response time will increase significantly. FEMA is reviewing these options and we will discuss next steps in this project during this agenda item.

395S Sidewalk Enhance Project. ODOT is proceeding with environmental and right-of-way acquisition for the project. Design continues and modification/adjustments will be made as needed based on our utility relocates. The project is still on track for construction in the spring/summer of 2022.

Integrated Park System. Parking improvements at 7th Street are complete with the exception of the fence installation around the parking perimeter. The Planning Commission approved the site design plan for the Hill Family Park and bridge on November 18th (enclosed electronically). City will proceed with right-of-way acquisition and the bridge order in 2021 and construction on the next phase will resume early next spring, with the project scheduled for completion by early-to-mid summer.

Charolais Heights Intersection Improvements. Final design of the intersection and utility relocates is proceeding. This project will begin construction in early spring and will be complete by the fall. A schedule for the project will be provided by Sisul Engineering early in 2021.

Downtown Parking Improvements. OTEC has submitted their plans to the county for the electrical permits to install the new EV parking system at the old city hall lot. We are finalizing the property line adjustment paperwork with OTEC and deeds of conveyance along with easements have been drawn up. These will be submitted for council approval at our next meeting. The City will self-perform some site prep for the new parking lot at City Hall and contract for fence installation. Additional improvements will need to be budgeted for next Fiscal Year.

Canton Street Cul-de-Sac. This project is now complete.

Oregon Pine Bridge Rehabilitation. The Oregon Pine bridge rehab was submitted in both the 2019 and 2020 BUILD grant applications. The structural plans are prepared but we do not have enough funding in this year's budget to begin construction on this project.

2020 BUILD Grant Application. The BUILD program office will debrief me on our 2020 application on Tuesday. I will update the council with the results of the debrief during this agenda item.

SEWER FUND

Wastewater System Improvements – New Treatment Plant Engineering. The Flagline/Kennedy Jenks team has been under contract for two months. Specific project components complete or underway are:

- **Field survey.** The Flagline/KJ team did their field visit October 29th and met with our staff, local civil engineer and surveyor to discuss the project during their visit. The visit also included a field tour and initial assessment of the current treatment plant (attached electronically).
- **Aerial survey.** The week of November 10th the survey team did the LIDAR aerial survey of the project site. That data is currently being processed.
- **Analysis of Alternatives/Flow Projections.** Work has begun on the treatment plant alternatives and staff are providing data on flow rates for the future hotel and industrial/residential areas. The Gateway Business Park is now approved and the Ironwood Estates Phase 2/3 housing developments will be presented to the planning commission for approval in January. These projects will be included in the flow projections for sizing the new treatment plant along with PSU's updated certified population estimate, which showed a 0.8 percent growth rate in John Day's population in the past year. With the addition of 15 new residents we have surpassed our population peak a decade ago in the 2010 Census. Staff have asked USDA to comment on the field memo to determine the extent of the financial analysis they would like to see for the rehabilitation alternative of the current treatment plant. As noted in their report, the combination of the current facility being located in the floodplain, its age and condition, and violations of NFPA 820 classification criteria, we're looking at a complete rebuild of the plant in a floodplain location we would never deliberately select today, all while working around the existing plant to keep it operational during the upgrades. Since we can't elevate the components to one foot above base flood elevation, we're also potentially looking at some form of flood hazard mitigation like diking along the riverbank. This is a cost-prohibitive alternative but one we must evaluate to meet USDA's funding criteria. We are asking for USDA to make a determination on the extent of the analysis they need to see to document we have performed our due diligence in ruling out this option.

Brownfield Redevelopment - Oregon Pine. The final environmental report for the Oregon Pine Site Characterization is enclosed electronically. No further action is needed at this location. The wetland delineation for this site has been submitted to DSL and is pending review and approval ([WD2020-0388](#)). This delineation along with the site characterization and flood map updates will allow us to apply for federal funding to rehabilitate the remaining structures on the site.

Planar Shed Restoration. Council reviewed the draft report and cost estimate on the planar shed restoration during our last council meeting and opted to defer this project to next year's budget process.

Sawmill Restoration. The sawmill restoration design concepts, business/operating model and preliminary engineering plans were developed for the EDA grant application that is pending submission based on EDA's decision on the Community Broadband Project. The application has been reviewed by EDA staff, however, the matching funds contribution for this project was tied to the hotel, which was delayed due to

COVID-19. This project is in a holding pattern while the hotel develops alternative options for design and construction.

Future Riverfront Recreation. With the completion of the Integrated Park System grant approaching, we are continuing to explore partnership opportunities with Parks and Recreation District that create economies of scale for our overlapping constituents. This approach proved successful during the 2017 eclipse, where \$50,000 in tourism revenue the city realized from in city camping was contributed toward the new playground and splashpad at the 7th Street Sports Complex, which resulted in over \$300,000 of improvements because they were used as matching funds along with the Parks and Rec District's funding toward OPRD's Large Government Grant program. A similar approach was used last year with the Integrated Park System application that allowed both agencies to leverage property acquisitions to receive just under \$500,000 in state funds to develop the riverfront parks and trails. As we transition to the next phase of development, we need to begin thinking about the future land use of the 14-acre wastewater treatment plant site for riverfront recreation and in-city camping. Both agencies share adjoining space in this area and we are looking at which buildings could/should be repurposed vs. salvaged and how to expand our partnership with the Parks & Rec District to redevelop this riverfront area with revenue-generating amenities like yurts, rentable event space, and additional equipment storage space, especially in light of the COVID-19 pandemic and the increased demand for socially distanced outdoor recreation amenities. Initial design concepts are enclosed that will be further refined next year.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: December 8, 2020

SUBJECT: Agenda Item #14: Code Enforcement Updates
Attachment(s)

- Boring Properties Enforcement Letter
- Boring Properties 2020 Account History

BACKGROUND

The City has been pursuing code enforcement against Boring Properties LLC for the 756 SW Brent Drive property. These units are in an advanced state of deterioration. The owners advertise the property as a “small (but growing) LLC that buys, renovates and rents single-family homes and small multiplexes” that started in the Midwest but is now purchasing building nationwide (see www.boringpropertiesllc.com).

Boring Properties currently owes the City over \$2,700 in past due utilities. Numerous formal complaints have been filed by tenants that include the presence of significant infestations of black mold, trash service that has not been collected for months, and tenants living in RV units on the property. Per our policies, the City disconnected service after multiple attempts to contact the owner and receive payment were unanswered. My own calls to the owner have also not been returned. We are now in a situation where the units have become unlivable and have not been able to obtain redress from the landlord.

DISCUSSION

Boring Properties’ tenants are currently without water and some are using river water from Canyon Creek to flush their toilets. We cannot afford to continue to offer service without payment, but these residents are being deprived of basic services as well as basic human dignity.

ORS 90.320 “Landlord to maintain premises in habitable condition” requires that a landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition, which is further described to include units capable of producing hot and cold running water and units that are in good repair.

ORS 90.360 “Effect of landlord noncompliance with rental agreement or obligation to maintain premises” allows tenants to give landlord’s notice of breach of contract and to terminate their agreements, but these are low income housing units and were the tenants to do so they would likely become homeless.

ORS 90.365 “Failure of landlord to supply essential services” provides for situations where the landlord intentionally or negligently fails to supply any essential service, the tenant may give written notice to the landlord specifying the breach and that the tenant may seek substitute services, diminution in rent damages or substitute housing.

ORS 90.380 “Effect of rental of dwelling in violation of building or housing codes” allows for a governmental agency, which has posted a dwelling unit as unsafe and unlawful to occupy due to the existence of conditions that violate state or local law and materially affect health or safety to an extent that, in the agency’s determination, the tenant must vacate the unit and another person may not take possession of the unit, a landlord may not continue a tenancy or enter into a new tenancy for the dwelling unit until the landlord corrects the conditions that led to the agency’s determination.

Due to the COVID-19 non-eviction orders in place, the tenants do not have to pay their rent, but the landlord must still comply with the statutes in ORS 90. However, local governments may not be able to enforce the eviction provisions of ORS 90.380.

QUESTIONS FOR THE COUNCIL

It could be a lengthy process to address these grievances and violations of our code.

- 1) Shall we restore water services to these properties and continue to provide water at a financial loss while pursuing code enforcement?
- 2) To what extent is the council willing to assist these tenants to pursue their rights and remedies under Oregon's Residential Landlord and Tenant provisions in ORS 90?

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: December 8, 2020
SUBJECT: Agenda Item #15: Other Business and Upcoming Meetings
Attachment(s)

- None

OTHER BUSINESS

- None

UPCOMING MEETINGS

- January 12, Planning Commission Hearing (Fire Hall/Virtual, 5 P.M.)
- January 12, City Council Meeting – New Position Appointments (Fire Hall/Virtual, 7 P.M.)
- January 26, City Council Meeting – Supplemental Budget (Fire Hall/Virtual, 7 P.M.)