

**John Day City Council Meeting
May 11, 2021
316 S. Canyon Boulevard**

7:00 PM CITY COUNCIL MEETING

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

CONSENT AGENDA

4. **CONSENT AGENDA ITEMS**

Attachments:

- Contractor Quotes
- Tidewater Contract
- Notice to Proceed

ACTION ITEMS

5. **WASTEWATER IMPROVEMENTS PROJECT UPDATES**

Attachments:

- Ducote Contract Amendment No. 01
- CwM H2O Contract

6. **BUDGET PROCESS / 4th STREET UPDATES**

Attachments:

- Letter to the Editor and to all John Day Residents
- Draft Resolution – Referral of Local Option Levy

7. CYBERMILL AND EDA GRANT UPDATE

Attachments:

- Letter of Further Consideration (if received)
- Purchase and Sale Agreement – 241 W. Main Street

8. GRANT COUNTY ENTERPRISE ZONE

Attachments:

- None

9. WHAT BAKER CITY DID

Attachments:

- None

OTHER BUSINESS & UPCOMING MEETINGS

10. OTHER BUSINESS & UPCOMING MEETINGS

- May 18, Canyon City Council Meeting
- May 20, Planning Commission Hearing – Fire Hall/Virtual, 6 PM
- May 25, No City Council Meeting
- June 8, City Council Meeting – Fire Hall/Virtual, 7 PM
 - FY21 Supplemental Budget Hearing
 - FY22 Budget Adoption Hearing
- June 8, URA Meeting – Fire Hall/Virtual, 7 PM
 - FY22 Budget Adoption Hearing
 - URA Plan Amendment
- June 22, City Council Meeting – Fire Hall/Virtual, PM

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #4: Consent Agenda Items
Attachment(s)

- Contractor Quotes
- Tidewater Contract
- Notice to Proceed

BACKGROUND

There is one item on the consent agenda. Approval of the consent agenda will approve each of the recommendations submitted. Council may request to have items removed from the consent agenda and added to the regular agenda for discussion, if needed.

Item 1) Tidewater Contract

We solicited quotes for the Government Way Road improvements as discussed in the last council meeting. Two quotes were received. Iron Triangle submitted a bid of \$86,615.75. Tidewater submitted a bid of \$29,000. An agreement for Tidewater to perform the work is enclosed, along with a notice to proceed. Under this agreement, the scope of work must be completed by June 20th of this year.

Recommendation: Approve the Tidewater quote and authorize the city manager to sign the contract and notice to proceed dated May 12, 2021 as enclosed.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #5: Wastewater Improvements Project Updates
Attachment(s)

- Ducote Contract Amendment No. 01
- CwM H2O Contract

BACKGROUND

The CDBG Program Office has approved an amendment to the Ducote contract for grant administration and environmental services and the agreement with CwM H2O to perform the onsite hydrogeological assessment required by DEQ. This item will also update the council on the financing for the treatment plant and project milestones.

DISCUSSION

Ducote LLC Contract Amendment. The professional services agreement with Ducote Consulting LLC needs to be extended and amended to increase the ceiling for the award. Subsequent to the initial block grant award in March 2019 for \$200,000 (P18011), additional funds were added to increase the award to \$235,000 (P18011 Amendment No. 01) and to extend the project completion deadline for design to July 31, 2021 (P18011 Amendment No. 02).

Business Oregon then awarded the Water/Wastewater financing for \$2.5 million (Y21006) with a new project completion deadline of April 5, 2023 for design and procurement of the package treatment plant.

Business Oregon has approved an amendment to Ducote Consulting LLC's contract with three changes: (1) increase Grant Administration by \$15,000 to \$25,000; (2) increase environmental services by \$10,000 to \$30,000; (3) extending the contract completion date to April 5, 2023 (corresponding to the end of the Water/Wastewater agreement). These amendments require council approval.

CwM H2O Contract. The CDBG office also reviewed and approved the attached CwM-H2O professional services agreement. They were competitively awarded this contract after our original hydroengineer submitted a no-bid on the work. There will also be sub-contracts for this scope of work that will have to be issued for the well driller and additional specialized data logging equipment that will be used for project monitoring. I will solicit quotes for those tasks and send them to you within the next couple of weeks for review once I have the final quotes. Agreement Y21006 will be amended to move \$200K from Package Treatment Plant to permitting and is currently with Business Oregon's Contract team, they will update us as soon as they hear back from them, but we are cleared to proceed with this work prior to the formal amendment and the CwM H2O team began their field surveying work last week. A copy of the agreement for council approval is enclosed.

CDBG Grant #2. On Friday, April 30th we submitted our final application for CDBG funds, for \$2,265,000 in grant funding for the treatment plant. A decision is expected in our favor to be awarded in August. This will complete the financing for the package treatment plant.

USDA WEP Financing. The final application for treatment plant funding is nearly complete and will be submitted this week for the balance of the project cost (\$7.4 million). We are asking for more funding than we will likely need in order to allow for contingencies.

OWRD WaterReuse Financing. We submitted our application for \$2.9 million in grant funding through the Oregon Water Resources Department for the reclaimed water distribution system. A copy of the completed application is available for review at this link:

<https://www.dropbox.com/sh/8pjknrqzimqhbqp/AADeEKXHbw9ejrnNO1TtGksJa?dl=0>.

Preliminary Engineering Report Addendum. The KJ/Flagline team has delivered the PER addendum. It is available at this link and is currently under review by our lenders at the CDBG and USDA program offices: <https://www.dropbox.com/s/l7lydacvdp8489n/John%20Day%20WWTF%20Report%20Final.pdf?dl=0>.

Environmental Report. Nick Ducote has also prepared the Environmental Report, which is available here: <https://www.dropbox.com/sh/kihwb9a9adxkbn/AAQqEM2INzB6Q7Bj7ZMo40Zla?dl=0>.

SUMMARY

With the completion of the PER and Environmental Report, we have achieved every milestone needed to begin construction but for the new hydrogeologic assessment required by DEQ. Based on our schedule, we should be able to receive a notice to proceed this fall provided DEQ can review and approve a permit pathway in a timely manner based on CwM H2O's report.

RECOMMENDED MOTIONS

“I move to approve the Ducote LLC Professional Services Agreement, Amendment No. 1.”

“I move to approve the CwM H2O Professional Services Agreement.”

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #6: Budget Process / 4th Street Updates
Attachment(s)

- Letter to the Editor and to all John Day Residents
- Draft Resolution – Referral of Local Option Levy

BACKGROUND

The County Court has not responded to our request for a meeting on the 4th Street Improvement Project or the proposed loan for street improvements for the Urban Renewal Agency.

Mayor Lundbom has requested the council be given time on the county court's agency this Wednesday to discuss the 4th Street funding request, which was discussed in our October work session and was submitted to the court via email on April 1st. A subsequent email sent April 13th with the City's legal opinion on the permissible uses of SRS funds was also ignored.

In response, the councilors drafted a letter to the Blue Mountain Eagle and asked that it be mailed to all John Day residents (enclosed).

DISCUSSION

4th Street Repairs. We need to get to a resolution on 4th Street. Council should discuss their concerns and approach for the meeting with the court.

Police Transition. The police transition will require a resolution, which is attached for your review and comment, to approve the referral as well as the ballot measure. I am in the process of reviewing this resolution with our legal counsel. Please note the following:

1. The tax may be a fixed dollar local option tax (e.g., \$50,000 per year). You may, although not required, include the estimated rate of 50 cents per \$1,000.00 of assessed value. This allows voters to more easily figure how the new taxes will affect their property. An advantage of a local option tax in the form of a rate per \$1,000 of assessed value is that revenue from the levy can increase over time if the value of the property in the City increases, but fixing this amount of \$50,000 would reduce the cost to the voters in that event.

2. If this tax is to be imposed in the 2021/2022 fiscal year, we will need the city council to adopt a written request to the assessor for an extension of the July 15 deadline for certifying property taxes.

I anticipate he will have additional comments and revisions. However, I am providing this to you in the interest of time.

As we begin preparing the referral documents for the local option levy, I draw your attention to a couple items:

1. Per ORS 221.230, the council must hold a public hearing for the purpose of making findings substantiating the fact that an emergency exists that requires an election sooner than the next available

election date to avoid extraordinary hardship to the community. This hearing must be held on a date other than a regularly scheduled council meeting date. The City must give “adequate notice” of such hearing.

2. The statute also requires the City provide the county elections authority notice of the City’s intent to hold an emergency election no later than 47 days preceding the election date. (This shouldn’t be a problem given the other required filings and dates.)

3. As a reminder, restrictions on political advocacy for a ballot measure referred by a governing body are triggered as soon as the measure is certified to the ballot. A city measure is “certified” when the elections official files the referral with the county election office. Elected officials are not subject to the prohibitions found under ORS 260.432 concerning political advocacy. For practical purposes, this means that the council (or a political action committee) will primarily be responsible for advocacy relating to the referral. Councilors may advocate for or oppose a particular ballot measure. An elected official may not, however, request a public employee, whether the public employee is on or off duty, to perform any political activity.

We can discuss these matters in more detail if you have questions.

RECOMMENDATION

- (1) Encourage the court to make a formal motion to approve our funding request, or deny it, and explain their reasoning so that we’ll be able to explain it to our residents.
- (2) Authorize the City Manager to apply for loan financing for the project. The final engineering is well underway and we need to solicit bids for the improvements. We cannot afford to delay due to the county’s failure to act decisively on these matters.
- (3) Set a date for the special council meeting to pass the resolution to hold the emergency election.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #7: CyberMill and EDA Grant Update
Attachment(s)

- Letter of Further Consideration (if received)
- Purchase and Sale Agreement – 241 W. Main Street

BACKGROUND

We were notified by phone last week that the EDA has agreed to submit a letter of further consideration to fund our community broadband project for \$1,944,754.80, which is 90% of the total project cost. The City will be responsible for the remaining 10% (approximately \$200,000).

The Oregon Community Foundation board of directors met on May 6th and approved a \$50,000 grant to the Cyber Mill project.

The Letter of Further Consideration from the EDA is in legal review and may not be received by the time we meet.

DISCUSSION

With these funds approved, we are ready to proceed with the purchase of the CyberMill location in John Day, which has been authorized by the EDA as a pre-agreement cost and will count toward our matching funds commitment.

The EDA is not requiring a Phase 1 Environmental Assessment and will assume lead-based paint and asbestos will likely be present, but those will be dealt with routinely during renovation.

RECOMMENDATION

The CyberMill team is requesting we move forward with the purchase and sale agreement so we can maintain site control of the John Day location. We will discuss the terms of this agreement during the meeting.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #8: Grant County Enterprise Zone
Attachment(s)

- None

BACKGROUND

The Grant County Enterprise Zone tax credits are expiring and must be renewed. Tory Stinnett, Grant County Economic Development Officer, will present information to the council on this program.

DISCUSSION

Enterprise zones provide property tax abatement for construction-in-progress (up to two years) for investment in enterprise zone. In addition, cities can coordinate approval of up to a five-year standard enterprise zone property tax exemption on top of the up-to two year construction window (no more than 7 years total). This can also be extended to 10 years if developers meet the criteria as outlined on the website (listed below). Note- this is not likely given the job requirements and median income of the positions being created.

<https://www.oregon4biz.com/Oregon-Business/Tax-Incentives/Enterprise-Zones/Long-Term-Rural/>

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: May 11, 2021

SUBJECT: Agenda Item #9: What Baker City Did
Attachment(s)

- None

BACKGROUND

Councilors and some Grant County residents have asked whether John Day would consider following Baker City's lead in creating a 'Common Sense Sanctuary City' over oppressive COVID lockdowns.

DISCUSSION

This is a controversial (and largely symbolic) gesture that could put our local businesses at additional risk. While I appreciate and to an extent admire the efforts of Baker City's council, we are experiencing a significant increase in infections in Grant County and we need to get those under control by maintaining social distancing and wearing masks in public. It is also unclear if there is any legal recourse for businesses that are fined by OSHA for failing to follow state guidelines even if a city council declares it a "sanctuary city." I would not want to see our businesses harmed financially because of a political statement made by our city council, especially at a time when we have requested millions of dollars (literally millions, like six of them) in state and federal funding for COVID economic recovery.

RECOMMENDATION

This is ultimately at the council's discretion. We can ask our attorneys to review their resolution and the legal basis for it, but we have not heard at this point that other cities are following suit, nor has the League of Oregon Cities recommended we pursue this approach.

I have testified recently to the House Ways and Means subcommittee for Transportation and Economic Development in favor of the Governor's broadband proposal to increase rural broadband funding by over \$100 million this year and to the Joint Ways and Means Committee for Capital Projects to advocate for additional funding for our wastewater treatment plant, pool and Kam Wah Chung interpretive center.

I would prefer we work within the existing legal and regulatory framework and give our state senator and state representative the opportunity to advocate for our businesses and our community within established channels for economic stimulus rather than blazing our own trail into an uncertain future.

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: May 11, 2021
SUBJECT: Agenda Item #10: Other Business and Upcoming Meetings
Attachment(s)

- None

OTHER BUSINESS

- None

UPCOMING MEETINGS

- May 18, Canyon City Council Meeting
- May 20, Planning Commission Hearing – Fire Hall/Virtual, 6 PM
- May 25, No City Council Meeting / TBD Date for Special Meeting this week
- June 8, City Council Meeting – Fire Hall/Virtual, 7 PM
 - FY21 Supplemental Budget Hearing
 - FY22 Budget Adoption Hearing
- June 8, URA Meeting – Fire Hall/Virtual, 7 PM
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