

**John Day City Council Meeting
Tuesday, February 1, 2022
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:

- None

ACTION ITEMS

5. **CONDITIONAL USE PERMIT CUP-21-05**

Attachments:

- Exhibit L. Morris Rebuttal Statement – 01.25.2022

6. **CORONAVIRUS STATE FISCAL RECOVERY FUNDING (CSFRF) GRANT AGREEMENT**

Attachments:

- CSFRF Grant Agreement No. 8154

7. **RESOLUTION NO. 22-880-01**

Attachments:

- Resolution No. 22-880-01

8. **OTHER BUSINESS & UPCOMING MEETINGS**

Attachments:

- February 8, City Council Meeting – Fire Hall, 7:00 PM

- February 22, City Council Meeting – Fire Hall, 7:00 PM

9. COUNCIL WORK SESSION – CITY MANAGER TRANSITION PLANNING

Attachments:

- Current City Manager Job Description
- Current CDD/DCM Job Description

10. COUNCIL WORK SESSION – POLICE AGREEMENT

Attachments:

- Grant County Proposed Agreement
- January 2022 Email to City Council
- April 2021 Email to County Court
- SRS Memo on Permissible Use of Funds

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: February 1, 2022
SUBJECT: Agenda Item #4: Consent Agenda Items
Attachment(s)

- None

BACKGROUND

No items on the consent agenda.

Item 1) N/A

N/A

Recommendation: N/A

Item 2) N/A

N/A

Recommendation: N/A

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: February 1, 2022
SUBJECT: Agenda Item #5: Conditional Use Permit CUP-21-05
• Exhibit L. Morris Rebuttal Statement – 01.25.2022

BACKGROUND

A rebuttal statement with additional testimony was submitted by Mr. Morris to city hall at 2:22 p.m. on January 25th, the day the council met to review the draft final order. Mr. Morris's testimony was not provided to me by my staff in advance of the meeting. I didn't learn of its existence until the following day.

The motion that Council adopted at its January 11th meeting gave Mr. Morris free rein to submit up to the 25th. It was not limited to rebuttal or any other parameters.

DISCUSSION

This document should have been provided to the city council for their review prior to the council's verbal motion, and had I known it had been submitted, it would have been.

For clarification, there is a distinction between a "continuance," which is where the public hearing is continued to another date and time certain and involves additional oral testimony, versus closing the public hearing but leaving the written record open.

Council did not continue the hearing past January 11th, but did leave the written record open. Therefore, I am requesting Council move to accept Exhibit L. Morris Rebuttal Statement – dated January 25, 2022 into the official record.

I am also requesting Council re-deliberate based on this additional information. If it's properly in the record, even if wholly irrelevant, council must "consider" it – meaning that you acknowledge it's inclusion in the record and, at a minimum, evaluate it for relevance.

SUMMARY & RECOMMENDATIONS

There is no signed written order and no notice of decision has been mailed to participants. Nothing becomes final until a written decision is made. Therefore, councilors may amend their votes (or not) based on this information.

My recommendations are threefold:

- 1) Move to incorporate Exhibit L into the official record
- 2) Make a verbal decision (re-vote) based on the additional testimony
- 3) Make a motion to instruct staff to update the written findings and final decision based on this additional information and re-vote and to bring the Final Written Order and Findings for formal approval at the February 8th council meeting.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: February 1, 2022

SUBJECT: Agenda Item #6: Coronavirus State Fiscal Recovery Funding (CSFR) Grant Agreement

- CSFR Grant Agreement No. 8154

BACKGROUND

The enclosed grant agreement from the Department of Administrative Services authorizes the City to accept \$1.5 million in CSFR grant funding for the new wastewater treatment plant. This grant agreement (“Contract”), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Oregon Department of Administrative Services (“DAS”), and City of John Day (“Recipient”).

Exhibit A to the Contract describes the use of funds and the project description and reporting requirements.

RECOMMENDATION

Move to approve CSFR Grant Agreement No. 8154 and authorize Mayor Lundbom to sign the agreement on behalf of the City.

TO: John Day City Council
FROM: Nicholas Green, City Manager
DATE: February 1, 2022
SUBJECT: Agenda Item #7: Resolution No. 22-880-01
• Resolution No. 22-880-01

BACKGROUND

The enclosed Resolution No. 22-880-01 is required to apply for USDA's 2021 ReConnect grant. This grant program now allows for us to build the broadband route from Seneca to Burns with no match required. It is included in the 100% grant area for socioeconomically distressed areas.

DISCUSSION

Commstructure is moving quickly this week working with CTC as needed to get the Opinion of Probable Construction Cost updated for inclusion in the grant application. Because this route has already been planned and preliminary design is complete, as discussed previously with the city council for both prior Community Connect applications. Most of this route segment was thoroughly fleshed out on these prior grant applications, so we will drop in the collocation pre-cast shelter and site work in Burns to terminate the line and should be good to go to submit by the application deadline of February 22nd.

Completing this line has been a priority project since 2017. We are going to be in a solid position to win this award and now that no match is required, it will not result in any increase in local costs.

RECOMMENDATION

Move to approve Resolution No. 22-880-01.

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: February 1, 2022

SUBJECT: Agenda Item #8: Other Business and Upcoming Meetings
Attachment(s)

- None

OTHER BUSINESS

- None

UPCOMING MEETINGS

- February 8, City Council Meeting – Fire Hall, 7:00 PM
- February 25, City Council Meeting – Fire Hall, 7:00 PM

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: February 1, 2022

SUBJECT: Agenda Item #9: Council Work Session – City Manager Transition Planning Attachment(s)

- Current City Manager Job Description
- Current CDD/DCM Job Description

BACKGROUND

Council will meet for a work session to discuss the timeline for the city manager transition plan. A copy of the current City Manager Job Description is attached, along with a copy of the current Community Development Director / Deputy City Manager Job Description.

DISCUSSION

Council needs to discuss getting the right leadership team in place for the transition after July 1st. As we have discussed previously, the City Manager role concentrates too many responsibilities on one position, with little to no redundancy. This concentrates risk in a very complex budget and organization with millions of dollars in capital outlay.

The current job description includes designating the City Manager as the Chief Planning Official and does not include or mention the Urban Renewal Agency or Grant County Digital, which were created in the last five years and are also managing director responsibilities for the current City Manager.

We need to reconsider how this position is structured and supported.

I am recommending the council de-couple the Chief Planning Official role from the City Manager's job description due to the following reasons:

- The significant increase in land use applications, site design reviews, annexations, master planned developments, code amendments and other requests over the past five years;
- The anticipated increase in new home applications as a result of the master planned housing developments already approved or in pre-application status
- The potential for staff error by not having a dedicating planning official
- Submittal of voluminous documents by both applicants and participants in planning hearings; and
- The time involved and complexity of preparing staff reports and conducting land use hearings at the planning commission and city council level.

De-coupling these roles would also effectively eliminate arguments that the City Manager's responsibilities for grant fundraising, legislative advocacy, and financial management of city projects somehow bias his or her ability to objectively administer the code as a planning official when performing ministerial acts (i.e. reviewing applications for land use decisions, preparing staff reports, etc.). I have always done my best to administer both roles independently and in accordance with the legal authority and procedures established by the council without exercising individual judgment on the merits of an application or response. However, adding a degree of separation for the City Manager from the planning functions would be prudent as it effectively negates a participant's ability to accuse the City Manager of bias, acting unethically, etc. in his or her role as a code administrator.

If council concurs, I would recommend we re-structure these positions to remove the following functions from the City Manager job description and designate the Chief Planning Official as a new position for the city, responsible for:

- Maintaining and updating the City's Comprehensive Land Use Plan
- Administering the Land Use Development Code
- Maintaining and updated the City's Code of Ordinances
- Managing Director of the John Day Urban Renewal Agency
- Floodplain Administrator for the City of John Day
- Deputy City Manager

I would further recommend that council implement a new policy that any form of written communication (mail, fax, email, hand delivery, etc.) for a land use hearing or city council meeting must be received in the office no later than 4:00 p.m. the day prior to the meeting. That way council will have at least 24 hours to consider it and we can avoid missing material submitted a few hours before the meeting begins.

The Community Development Director / Deputy City Manager is a currently advertised position with two candidates in the final round of interviews. Both will be in attendance for the work session.

The CDD position is funded by the Ford Family and is already dual-hatted as the Growing Rural Oregon (GRO) Coordinator. I would recommend we keep this position, but retitle it as Community Development Director only, with the Deputy City Manager role removed. That would allow this position to focus on externally facing activities (GRO, RAIN, Main Street Revitalization, Parks System Improvements, Greenhouse Co-operative, etc.) that involve significant public interaction, and would de-conflict the position with internal functions like staff management and supervision that can be very time consuming and could potentially limit the amount of time the CDD Director has to interact with our residents. In other words, don't let the new director get sucked in to the administration.

Were council to approve these positions (and we'll need to crunch the numbers), the revised role of the City Manager would focus on:

- Directing day-to-day administration of the City through the Department Directors
- Overseeing the Administrative Department (front office staff)
- Organize, coordinate and manage the city government and council-manager relations, including agendas and meeting preparation
- Ensuring city is operating in compliance with local ordinances, state and federal statutes
- Overseeing franchise agreements and other professional services agreements
- Budget preparation, auditing (MD&A) and financial accountability citywide
- Implementing citywide communication, planning and strategy

Finally, the Grant County Digital Network Coalition currently has the City of John Day as its fiduciary agent and the city manager is designated as the Executive Director. We will need to discuss this role, but given how unlikely it is to find a city manager who knows anything about managing a municipal broadband network, I would recommend we coordinate with the Grant County Digital board to create a new financial structure independent of the City's budget and hire (or appoint) a new Director – all of which could happen as part of this year's budget process and could take effect on July 1 at the start of the new fiscal year. The board and council should also discuss the status of the CyberMills in John Day and Seneca and whether those buildings should also transfer ownership to Grant County Digital.

These are my suggestions as we plan for the leadership transition. I am also including a final checklist below of work I started and would like to complete prior to transitioning out at the end of June.

Final checklist

I have a significant amount of work to do before the end of June. I am providing a summary of these activities. Because many of these are time consuming, I am going to try to avoid taking on new work/tasks between now and the end of my tenure as city manager.

Vacant positions

- Update city manager (and other) job descriptions
- Recruiting timeline / coordination for new city manager applicants
- Finalize hiring for Secretary/Cashier and CDD positions
- New city council, budget committee and planning commission appointments

Planning and Land Use Actions

- Multiple land use reviews, property line adjustments, and Type III applications have been submitted that need to be completed within 120 days of application
- Six lot sales and some additional land partitions related to the Airport Industrial Park and Innovation Gateway have been approved but need to be closed with Title Company and recorded with the County Clerk
- Two enforcement actions as well as annexations and zoning changes need to be completed

Preparation of FY2023 Budget & Resolutions

- Finalize budget for coming fiscal year
- Review applications for budget committee
- Participate in budget hearings process through adoption in June
- Water/Sewer rate resolutions updated

Wastewater Treatment Plant

- Finalize USDA Funding Application (USDA)
- Finalize DAS CSFRS Grant Agreement (DAS)
- Finalize DEQ Permit (DEQ)
- Finalize RFP for final design-build of the facility and site improvements (USDA and CDBG)
- Finalize Grant Agreement for the purple pipe network (OWRD)
- Complete water rights review with city's water attorney

Broadband

- 2019 ReConnect Agreement (GC Digital and OTC)
- 2021 ReConnect application (Seneca to Burns)
- EDA Grant Agreement (Community Broadband and CyberMill)

Streets

- Road mileage certification (annual)
- 4th Street Quarterly Reports x2
- SCA Agreement (4th Street Repairs)
- FEMA Agreement Extension (4th Street Repairs)
- RFP for 4th Street Repairs Construction
- SCA and FEMA Reimbursements
- Handoff of ODOT Sidewalk Project and curb ramp replacement PM responsibilities
- SCA Application for 2022 (TBD depending on bandwidth)

Aquatics Center

- Finalize DAS grant agreement
- Secure interim financing with D.A. Davidson for construction to begin this summer
- Finalize the RFP/Procurement for Construction Services to build the aquatics center
- Finalize the interagency agreement between City and Parks & Recreation District

Kam Wah Chung

- Complete the purchase and sale agreement for Gleason Park & Pool
- Gleason Pool demolition
- Professional services agreements and construction contracts for related improvements (i.e. The Pit Stop, signage, wayfinding, etc.)

Main Street

- 2021 Main Street Revitalization Grant (TBD depending on bandwidth)
- Presentation at Annual Main Street Conference (Richmond, VA)

Integrated Parks System

- RTP Grant Agreement for final Innovation Gateway Trail Construction (this spring)
- Finalize the IPS award and Hill Park agreement / closeout the Grant County ESD

Greenhouse

- Reconfigured systems fully operational
- Cooperative agreement approved

Housing / URA

- Complete URA loan application for Business Oregon for housing developments
- Contracts and grant agreement for home design (DLCD)
- 3x development agreements (The Ridge, Holmstroms and Ironwood Estates) for utilities

TO: John Day City Council

FROM: Nicholas Green, City Manager

DATE: February 1, 2022

SUBJECT: Agenda Item #10: Council Work Session – Police Agreement Attachment(s)

- Grant County Proposed Agreement
- January 2022 Email to City Council
- April 2021 Email to County Court
- SRS Memo on Permissible Use of Funds

BACKGROUND

Grant County's attorney provided our attorney with a proposed law enforcement services agreement (Item 9A) which I forwarded to the city council, the Blue Mountain Eagle, and KJDY (Item 9B).

I am also attaching our email from April 2021 (Item 9C) requesting a meeting with the court after they refused to respond to our meeting requests in February and January of that year, which includes a copy of the SRS legal memorandum they ignored after failing to provide a legal opinion they said they needed in order to meet with us (Item 9D).

DISCUSSION

For the past 12 months, the county court has consistently declined to meet as a quorum to discuss the police transition or SRS funding for street improvements. Now this agreement comes out of nowhere with no discussion on the part of the court. We don't even know if they would ratify it.

This is ultimately a city council decision. I don't have time to chase them around trying to figure out how they came up with it or what their intentions are.

I can say we have had no correspondence with DHS at all on the COPS grant. All of my emails and phone calls have gone unanswered. I cannot accept the grant unless I have a law enforcement executive within the city to sign for it, and we don't have one. As a result, the grant will likely be turned back as unanswered.

I can continue to contact them about transitioning it if the council wishes, but I can't make them respond.

RECOMMENDATION

If the council wants to discuss this agreement with the county, my recommendation is that they schedule an appointment with you to hold a public meeting and discuss it.