

**John Day City Council Meeting
Thursday, December 29, 2022
316 S. Canyon Boulevard**

6:00 PM 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>

Suggested Public Meeting Process per League of Oregon Cities

1. The Mayor will begin an agenda item
2. Staff and/or the presenter will provide context
3. City Council will deliberate
 - a. City Council may ask questions of Staff and/or the presenter
4. The Mayor may solicit public comment
 - a. Members of the public will then be invited to the podium to speak for no more than 3 minutes on the topic. Members of the public must address the Mayor in their comments
 - b. The Mayor may then direct comments towards other members of Council or City Staff
5. The Mayor will request a motion on the topic if applicable

1. **OPEN AND NOTE ATTENDANCE**
2. **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.
3. **APPROVAL OF PRIOR MINUTES**

CONSENT AGENDA

4. **CONSENT AGENDA ITEMS**
Attachments:
 - 4a. Catalyst Termination Agreement
 - 4b. Catalyst Invoice – December 2022

PUBLIC HEARINGS

5. **HEARING ON ORDINANCE NO. 22-203-14, AN ORDINANCE ANNEXING APPROXIMATELY 1.08 ACRES OF LAND COMPRISING 373 PATTERSON**

BRIDGE ROAD; AND ASSIGNING CITY ZONING DESIGNATIONS TO PROPERTIES WITHIN THE ANNEXED TERRITORY (AMD-22-04) TYPE IV PROCEDURE

Attachments:

- 5. Planning Commission Staff Report for AMD-22-04
- 5a. Certification of Public Notice [Exhibit A]
- 5b. Affidavit of Publication [Exhibit B]
- 5c. Pereira written testimony to planning commission and city council
- 5d. As-is and To-be Zoning Maps [Proposed]

6. HEARING ON ORDINANCE NO. 22-201-12, AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE TO ALLOW FOR RESIDENTIAL USES (HOUSEHOLD LIVING AND GROUP LIVING) IN INDUSTRIAL (I) DISTRICTS SUBJECT TO A CONDITIONAL USE PERMIT ISSUED BY THE PLANNING COMMISSION THROUGH A TYPE III (QUASI-JUDICIAL) REVIEW (AMD-22-02) TYPE IV PROCEDURE

Attachments:

- 6.1 Planning Commission Staff Report for AMD-22-02
- 6.2 Planning Commission Supplemental Staff Report for AMD-22-02
- 6a. Certification of Public Notice [Exhibit A]
- 6b. Affidavit of Publication [Exhibit B]
- 6c. Ordinance No. 22-201-12 [Exhibit C]
- 6d. Legislative Public Hearing Script

7. HEARING ON ORDINANCE NO. 22-202-13, AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE AIRPORT INDUSTRIAL PARK LAND USE DISTRICT TEXT TO ALLOW FOR A WIDER VARIETY OF APPROVED LAND USES (AMD-22-03) TYPE IV PROCEDURE

Attachments:

- 7.1 Planning Commission Staff Report for AMD-22-03
- 7.2 Planning Commission Supplemental Staff Report for AMD-22-03
- 7a. Certification of Public Notice [Exhibit A]
- 7b. Affidavit of Publication [Exhibit B]
- 7c. Ordinance No. 22-202-13 [Exhibit C]
- 7d. Legislative Public Hearing Script

ACTION ITEMS

8. WASTEWATER TREATMENT PLANT UPDATE; AUTHORIZING SOLICITATIONS AND PROFESSIONAL SERVICES AGREEMENTS

Attachments:

- 8a. Catalyst Memo on Wastewater Treatment Plant
- 8b. P18001-AMD04
- 8c. CWM-PSA-061422-Project2111003
- 8d. CWM-PSA-061422-Project2111005
- 8e. CWM-PSA-061422-Project2111006
- 8f. CWM-PSA-061422-Project2111007
- 8g. CWM-PSA-061422-Project2111008
- 8h. MGB-ESACompliance-AMD01
- 8i. RFP for purple pipe engineering

8j. Findings hearing for progressive design-build solicitation for the wastewater treatment plant construction

9. STREET IMPROVEMENT CHANGE ORDER(S)

Attachments:

- 9a. Knife River Change Order
- 9b. Knife River Pay App 02
- 9c. Sisul Engineering Invoices

10. OTHER BUSINESS & UPCOMING MEETINGS

Other Business:

- a) Topics for next meeting
 - o Interim City Manager Recruitment
 - o City Handbook
 - o Council Rules
 - o Supplemental Budget
- b) Advertising Position Vacancies
- c) Other Business

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #4: Consent Agenda
Attachments:
4a. Catalyst Termination Agreement
4b. Catalyst Invoice – December 2022

BACKGROUND

Council approved the early termination agreement for Catalyst Public Policy Advisors, LLC during the December 13 council meeting.

Catalyst has met the obligations included in Exhibit A and has returned the City equipment provided under their agreement.

This action item formalizes the agreement's termination effective December 31, 2022.

RECOMMENDATION

Approve the consent agenda and authorize Mayor Lundbom to sign the termination agreement and issue payment for the December 2022 invoice.

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #5: Hearing on Ordinance No. 22-203-14, An Ordinance Annexing Approximately 1.08 Acres of Land Comprising 373 Patterson Bridge Road; and Assigning City Zoning Designations to Properties within the Annexed Territory (AMD-22-04) Type IV Procedure

Attachments:

- 5. Planning Commission Staff Report for AMD-22-04
- 5a. Certification of Public Notice [Exhibit A]
- 5b. Affidavit of Publication [Exhibit B]
- 5d. As-is and To-be Zoning Maps [Proposed]

BACKGROUND – STAFF REPORT

Per ORS 222.750(2), when the corporate boundaries of the city surround territory not within a city, the city may annex the territory pursuant to this section after holding at least one public hearing on the question for which notice has been mailed to each record owner of real property in the territory proposed to be annexed.

The John Day Development Code identifies an additional requirement: a formal action of the city council must initiate annexation per Section 5-4.10.040, which states that:

The Council on its own motion may initiate an annexation. The approval criteria in section 5-4.10.050 shall apply. Provided, however, that in the case of annexation where current or probable public health hazard due to lack of full City sanitary sewer or water services or the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits, the only standards that apply shall be 5-4.10.050(A).

Mr. Bob Pereira (373 Patterson Bridge Road) owns a 1.08-acre parcel identified as Map Number 13S31E22C Tax Lot 200 in John Day. This parcel is subject to annexation under ORS 222.750(2). Mr. Pereira's property is an island surrounded by lands within the city limits and is the only island within the city limits.

Staff initiated annexation through AMD-22-04 following the identification of this property as an island, which came up during the planning review process for the Iron Ridge subdivision annexation at the western end of the urban growth boundary.

Iron Ridge requested annexation in conjunction with their application to the Grant County Planning Department for the approval of a new subdivision above the John Day golf course. Their Consent to Annexation was recorded with the Grant County Clerk on September 19, 2022, following approval of the subdivision by the County (Document No. 20221753). Two additional voluntary annexations are pending for properties closer to this property. They are currently under review by staff, one for the Parson's property and another for the Magden development at the north end of Patterson Bridge Road.

The City's comprehensive plan sets forth policies for the urban growth boundary consistent with State Planning Goal 14 – Urbanization. The UGB is designed to provide an efficient transition from urbanizable to urban use, and to accommodate projected growth.

The City's comprehensive plan states: "standards for development within the UGB shall be uniform between City and County" (page 81) and "City water and sewer services will not be provided unless an area has been annexed to the city, or a —consent to annex has been set forth and approved by the City" (page 82).

The pending annexation of the Iron Ridge subdivision will further isolate this property, which meets all of the criteria for annexation under state statute and the City's comprehensive plan, is accessed from a city street over a city bridge, and has access to all city utilities.

It is unclear why the city council or staff would create or permit an exception to annexation for this property that has not been granted to other property owners. The City has annexed all prior islands and developable areas either before receiving services or upon the island's identification following the development and annexation of surrounding properties.

There is no precedent in code or past practice to allow property owners to receive the full benefit of city services but remain outside the city limits simply because they do not want to be annexed or find the city staff disagreeable. If the city council wishes to set this precedent, they may find it challenging to annex any properties in the future.

This proposed amendment, if approved by Council, would be reviewed as a Type IV (Legislative) Procedure pursuant to Code Section 5-4.1.050 and the decision-making criteria in Section 5-4.1.050(G) and the approval process in 5-4.1.050(H) and as required by ORS 222.750(2) before effecting the annexation.

Upon annexation, there will be and corresponding Comprehensive Plan Map Change from County Commercial to City General Commercial (GC) (see Enclosure 5.f).

STAFF RECOMMENDATION

Regardless of the Council's decision, a motion must be made with regard to the current application, and since the Council did not initiate this legislative change by formal action, the application should be withdrawn [Motion 1].

Staff recommends that the City Council move forward with formal annexation and has provided a recommended motion to that effect [Motion 2].

MOTIONS

"I move to withdraw application AMD 22-04 and Ordinance No. 22-203-14 on the basis that formal initiation by the city council was not documented in accordance with code section 5-4.10.040."

[Optional] "I move to initiate annexation of 1.08 Acres of Land Comprising 373 Patterson Bridge Road and instruct the City's planning staff and legal counsel to submit a formal planning application under code section 5-4.10.040."

TO: John Day City Council

FROM: Ron Lundbom, Mayor

DATE: December 29, 2022

SUBJECT: Agenda Item #6: Hearing on Ordinance No. 22-201-12, An Ordinance Amending the John Day Development Code to Allow for Residential Uses (Household Living and Group Living) in Industrial (I) Districts subject to a Conditional Use Permit Issued by the Planning Commission through a Type III (Quasi-Judicial) Review (AMD-22-02) Type IV Procedure

Attachments:

- 6.1. Planning Commission Staff Report for AMD-22-02
- 6.2. Planning Commission Supplemental Staff Report for AMD-22-02
- 6a. Certification of Public Notice [Exhibit A]
- 6b. Affidavit of Publication [Exhibit B]
- 6c. Ordinance No. 22-201-12
- 6d. Legislative Public Hearing Script

BACKGROUND – STAFF REPORT

In response to resident and property owner requests, the City of John Day submitted AMD-22-02 to amend the allowed land uses within the Code's Industrial (I) Districts. These Comprehensive Plan and Code Text amendments shall allow for Residential Uses (Household Living and Group Living) subject to a Conditional Use Permit issued by the Planning Commission through a Type III (Quasi-Judicial) Review as outlined in Code Section 5-4.4 - Conditional Use Permits.

This proposed amendment will be reviewed as a Type IV (Legislative) Procedure pursuant to Code Section 5-4.1.050 and the decision-making criteria in Section 5-4.1.050(G).

The City Council's review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under Section 5-4.7.020. The City Council should accept the Planning Commission's recommendation and adopt the ordinance if it conforms to the approval criteria.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt Ordinance 22-201-12 with amendments (if any, as applicable) as described in the findings in the staff report (enclosure 6a).

PUBLIC NOTIFICATION

Notice of this hearing was sent to all affected property owners on November 29, 2022 (enclosure 6b). Notice was also published in the Blue Mountain Eagle on December 7, 2022 (enclosure 6c).

HEARING PROCESS

Hearings were held before the John Day Planning Commission on July 21, 2022 and August 23, 2022.

Procedures for the conduct of this hearing before the City Council are provided in the legislative script (enclosure 6d).

Unless otherwise provided in the rules of procedure adopted by the City Council:

- a. The presiding officer shall have the authority to:
 - 1) Regulate the course, sequence, and decorum of the hearing;
 - 2) Direct procedural requirements or similar matters; and
 - 3) Impose reasonable time limits for oral presentations.
- b. No person shall address the Commission or the Council without:
 - 1) Receiving recognition from the presiding officer; and
 - 2) Stating their full name and address.
- c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

The presiding officer shall conduct the hearing as follows:

- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- b. The City Planning Official's report and other applicable staff reports shall be presented;
- c. The public shall be invited to testify;
- d. The public hearing may be continued to allow additional testimony or it may be closed; and
- e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

APPROVAL PROCESS

The City Council shall:

1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
2. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
3. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #7: Hearing on Ordinance No. 22-202-13, An Ordinance Amending the John Day Development Code Airport Industrial Park Land Use District Text to Allow for a Wider Variety of Approved Land Uses (AMD-22-03) Type IV Procedure

Attachment:

- 7.1 Planning Commission Staff Report for AMD-22-03
- 7.2 Planning Commission Supplemental Staff Report for AMD-22-03
- 7a. Certification of Public Notice [Exhibit A]
- 7b. Affidavit of Publication [Exhibit B]
- 7c. Ordinance No. 22-202-13 [Exhibit C]
- 7d. Legislative Public Hearing Script

BACKGROUND – STAFF REPORT

In response to resident and property owner requests, the City of John Day submitted AMD-22-03 to amend the allowed land uses within the Airport Industrial Park (AIP) to include uses currently prohibited that are allowed within the Light Industrial (LI) zone, specifically the use of Self-Service Storage, which is not permitted in the AIP zone, as well as other light industrial and some limited commercial uses. This proposed amendment will be reviewed as a Type IV (Legislative) Procedure pursuant to Code Section 5-4.1.050 and the decision-making criteria in Section 5-4.1.050(G).

The City Council's review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under Section 5-4.7.020. The City Council should accept the Planning Commission's recommendation and adopt the ordinance if it conforms to the approval criteria.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt Ordinance 22-202-13 with amendments (if any, as applicable) as described in the findings in the staff report (enclosure 7a).

PUBLIC NOTIFICATION

Notice of this hearing was sent to all affected property owners on November 29, 2022 (enclosure 7b). Notice was also published in the Blue Mountain Eagle on December 7, 2022 (enclosure 7c).

HEARING PROCESS

Hearings were held before the John Day Planning Commission on July 21, 2022 and August 23, 2022.

Procedures for the conduct of this hearing before the City Council are provided in the legislative script (enclosure 7d).

Unless otherwise provided in the rules of procedure adopted by the City Council:

- d. The presiding officer shall have the authority to:
 - 1) Regulate the course, sequence, and decorum of the hearing;
 - 2) Direct procedural requirements or similar matters; and
 - 3) Impose reasonable time limits for oral presentations.
- e. No person shall address the Commission or the Council without:
 - 1) Receiving recognition from the presiding officer; and
 - 2) Stating their full name and address.
- f. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

The presiding officer shall conduct the hearing as follows:

- f. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- g. The City Planning Official's report and other applicable staff reports shall be presented;
- h. The public shall be invited to testify;
- i. The public hearing may be continued to allow additional testimony or it may be closed; and
- j. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

APPROVAL PROCESS

The City Council shall:

1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
2. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
3. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #8: Wastewater Treatment Plant Update; Authorizing Solicitations and Professional Services Agreements

Attachments:

- 8a. Catalyst Memo on Wastewater Treatment Plant
- 8b. P18001-AMD04
- 8c. CWM-PSA-061422-Project2111003
- 8d. CWM-PSA-061422-Project2111005
- 8e. CWM-PSA-061422-Project2111006
- 8f. CWM-PSA-061422-Project2111007
- 8g. CWM-PSA-061422-Project2111008
- 8h. MGB-ESACompliance-AMD01
- 8i. RFP for purple pipe engineering
- 8j. Findings hearing for progressive design-build solicitation for the wastewater treatment plant construction

BACKGROUND

The enclosed memo by Catalyst Public Policy Advisors updates Council on the status of the wastewater treatment plant and pending procurements.

DISCUSSION

Several professional services agreements are enclosed for council review and approval, along with an amendment to one existing agreement.

Council will also need to action the Community Renewable Energy Program (CREP) grant agreement for the solar array. There will not be a grant administrator or project point of contact for the Oregon Department of Energy for this work after this week.

RECOMMENDED MOTIONS

- 1) Authorize the following amendments to the City's grant agreements:
 - P18001-AMD04
- 2) Approve the following new professional services agreements:
 - CWM-PSA-061422-Project2111003
 - CWM-PSA-061422-Project2111005
 - CWM-PSA-061422-Project2111006
 - CWM-PSA-061422-Project2111007
 - CWM-PSA-061422-Project2111008
- 3) Authorize the following amendments to professional services agreements:
 - MGB-ESACompliance-AMD01

4) Authorize the publication of the following solicitation notices:

- RFP for purple pipe engineering
- Findings hearing for progressive design-build solicitation for the wastewater treatment plant construction

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #9: Street Improvement Change Order(s)

Attachments:

- 9a. Knife River Change Order
- 9b. Knife River Pay App 02
- 9c. Sisul Engineering Invoices

BACKGROUND

Change orders are needed for two contractors on three street improvement projects: East Charolais Heights and SW 4th Avenue (Tidewater Contractors, LLC; and the 7th Street Improvements (Knife River).

DISCUSSION

Joe Hitz, the City's engineer of record, will present the change orders to the city council for the Knife River agreement.

The City attorney would like to meet with council in executive session in January to discuss the City's options concerning the fourth avenue repair work.

Council also needs to authorize payment of \$160,715.68 for pay app 02 for Knife River and payment of Sisul Engineering's invoices enclosed in 9c.

RECOMMENDATION

Approve the change order for 7th Street, Pay App 02 and payment of Sisul Engineering's invoices.

Schedule a date to meet with the city attorney and public works staff in executive session.

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #10: Resolution No. 22-901-22 – Purchase and Sale Agreement for Lot 20 Airport Industrial Park

Attachments:

10. Resolution No. 22-901-22

BACKGROUND

Benjamin Ariff and Ben Gates submitted a letter of intent to purchase lot 20 of the airport industrial park. Their purchase hinges on their ability to approve the design through the planning commission under a conditional use permit (CUP).

DISCUSSION

The enclosed resolution will allow them to proceed with the CUP application and purchase the property if the CUP is approved. It does not obligate them to close on the purchase, but would reserve the property and give them site control to allow them to submit an application to the planning commission and move forward if approved.

RECOMMENDATION

Approve the resolution.

TO: John Day City Council
FROM: Ron Lundbom, Mayor
DATE: December 29, 2022
SUBJECT: Agenda Item #11: Other Business and Upcoming Meetings

OTHER BUSINESS

- a) Sean Maloney – ODOT update on 395 S. Sidewalk Project
- b) Topics for next meeting
 - Interim City Manager hiring
 - City Handbook
 - Council Rules
 - Supplemental Budget
- c) Position vacancies
- d) Other Business

UPCOMING MEETINGS

- January 10th, City Council Meeting – Fire Hall, 7:00 PM
 - Includes the swearing in of the new councilors and Mayor
- January 27th, City Council Meeting – Fire Hall, 7:00 PM
 - Audit report and supplemental budget