

AGENDA

REGULAR CITY COUNCIL MEETING

April 25, 2016

5:30 p.m.

CITY HALL COUNCIL CHAMBER

313 COURT STREET

THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Five minutes per person will be allowed. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

6. CITY MANAGER REPORT
7. CITY ATTORNEY REPORT
8. CITY COUNCIL REPORTS
9. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be "pulled" from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the "Action Items" section.

A. Approval of April 11, 2016 Regular City Council Meeting Minutes

10. CONTRACT REVIEW BOARD ACTIONS

A. Award Contract No. 2016-003 Housing Needs & Residential Land Needs Assessment

CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles"

11. ACTION ITEMS

- A. Funding Request for Community Concert Series
- B. Consideration of a Compensation Package for Exempt Employees for Fiscal Year 2016-17
- C. Authorization to Construct a Portion of East 19th Street Extending East from Oakwood Drive

12. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Izetta Grossman
City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Item #9 A

MEETING DATE: April 25, 2016

TO: Honorable Mayor and City Council

FROM: Izetta Grossman, City Clerk

ISSUE: Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

- A. **ITEM:** Approval of the April 11, 2016 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the April 11, 2016 Regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the April 11, 2016 City Council meeting.

MINUTES
REGULAR COUNCIL MEETING
OF
April 11, 2016
5:30 p.m.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Stephen Lawrence

COUNCIL PRESENT: Russ Brown, Tim McGlothlin, Taner Elliott, Linda Miller, Dan Spatz

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Julie Krueger, City Clerk Izetta Grossman, Planning Director Richard Gassman, Finance Director Kate Mast, Public Works Director Dave Anderson, Chief Jay Waterbury, Project Coordinator Daniel Hunter, City Engineer Dale McCabe

CALL TO ORDER

The meeting was called to order by Mayor Lawrence at 5:30 p.m.

ROLL CALL

Roll call was conducted by City Clerk Grossman, all Councilors present.

PLEDGE OF ALLEGIANCE

Mayor Lawrence introduced Boy Scout Rilan Tepoel and asked him to lead the Pledge of Allegiance. Mr. Tepoel asked the audience to join him in the Pledge of Allegiance.

APPROVAL OF AGENDA

Mayor Lawrence added Item #11-B Disbursement of Enterprise Zone funds.

It was moved by Elliott and seconded by Miller to approve the agenda as modified. The motion carried unanimously.

AUDIENCE PARTICIPATION

Gary Casady, 2500 Badger View Drive representing the Youth Empowerment Shelter said he wanted to publicly thank the Council for the grant award for fiscal year 2015-16. He said they have purchased a home at 415 East Ninth, had fire detectors installed and that State Licensing would come for site visit this week.

CITY MANAGER REPORT

City Manager Krueger handed out “River Crews News”, saying it was sent out to the cruise ship crews via email every two weeks. She said the Chamber was doing a great job reaching out to the crew.

Krueger asked for consensus to use funds in the Safety line item to replace council chairs that no longer met OSHA standards, and \$23,000 for safety glass in the lobby at the Police Station. She said the safety glass for the Police Station was in the proposed budget for fiscal year 2016-17, but funds were available and asked for consensus to move the project up to this fiscal year.

It was the consensus of the Council to purchase new chairs and to have the safety glass installed at the Police Station as requested.

Krueger reported that Fannie Mae had contacted Codes Enforcement, and they would be demolishing the Mt. Hood Street house.

CITY COUNCIL REPORTS

Spatz read a letter to the Port of Vancouver asking them to terminate their oil by rail project, and asked for the Council to support the request by authorizing signature of the letter.

Elliott asked what was done in the fall, and wasn’t it decided that they had overstepped.

Spatz reviewed the process, and said the process had been followed.

Mayor Lawrence said the vote had to be unanimous, and asked if there was opposition.

MINUTES

Regular City Council Meeting

April 11, 2016

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Miller said she was opposed, she wouldn't want someone coming here telling the City what to do. She said the City wasn't in Washington or near Vancouver.

Mayor Lawrence said there wasn't a unanimous vote. The issue died.

McGlothlin reported on attending the Airport Board meeting. He said the Airport was proceeding with grant applications for the taxiway.

He read a letter that noted progress being made on homeless issues. He said the next Ad Hoc Meeting would be April 13, from 9 a.m. -11 a.m. at City Hall.

Elliott reported on attending the March 31 QLife meeting where Nolan Young was awarded a plaque for his years of service to the Agency. He said Wasco County was taking over the administration of QLife.

Miller reported on attending the Joint Urban Renewal Agency/Urban Renewal Advisory Committee where the future structure of the board was discussed.

Mayor Lawrence reported on meeting with Tyler Stone, Administrator of Wasco County and Bob Francis, Director of Mid Columbia Council of Governments regarding having a Greyhound stop at the new Transit Center.

Krueger said that the Public Works Director had contacted them to let them know that part of the grant included having a contract with Greyhound.

Public Works Director Anderson said he had made copies of the grant application for Mr. Francis, noting that he was the new director of Mid Columbia Council of Governments and was not there when the grant application was made.

Adoption of City Council Goals for Fiscal Year 2016-17

Mayor Lawrence said the Goals reflected his recollection of the meeting.

It was moved by McGlothlin and seconded by Spatz to adopt the City Council Goals for Fiscal Year 2016-17 as presented. The motion carried unanimously.

CONSENT AGENDA

It was moved by Elliott and seconded by McGlothlin to approve the Consent Agenda as presented. The motion carried unanimously.

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Items approved by Consent Agenda were: 1) Approval of March 21, 2016 Goal Setting Meeting Minutes; 2) Approval of March 28, 2016 Regular City Council Meeting Minutes; 3) Adoption of Resolution No. 16-015 Concurring with Mayor's Appointments to Various Committees; 4) Adoption of Resolution No. 16-016 Amending the City Fee Schedule to Change the Calculation Rate for Sanitary Sewer Services for Restaurants.

CONTACT REVIEW BOARD ACTIONS

Award Contract No. 2016-006 Federal Street Water Line

City Engineer Dale McCabe reviewed the Staff Report.

Miller asked if property owners could connect to the water line at any time.

McCabe said they would be able to connect at any time, and would be responsible for the private property hook up costs.

It was moved by Miller and seconded by Brown to authorize the City Manager to enter into a contract with Crestline Construction Company, in an amount not to exceed \$58,336.00. The motion carried unanimously.

Approval of Asphalt Purchases for Various Projects

Public Works Director Dave Anderson reviewed the staff report.

It was moved by Elliott and seconded by Miller to authorize the purchase of hot-mix asphalt needed for street maintenance from the lowest-cost supplier available at the time of the projects in an amount not to exceed \$207,241. The motion carried unanimously.

ACTION ITEMS

Approve The Dalles Chamber of Commerce Scope of Work and Budget

City Manager Krueger reviewed the staff report.

Lisa Farquharson, President of The Dalles Area Chamber of Commerce handed out maps and Cherry Festival Key Chains. She then asked if there were any questions.

Mayor Lawrence said the Chamber was doing a stellar job. He said it was great to have the Chamber as a partner. Spatz agreed.

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Farquharson commended Councilor Miller for her participation in tourism by handing out welcome packets to the truckers at the landfill.

Farquharson said that the Chamber was receiving daily inquiries for an RV park.

It was moved by McGlothlin and seconded by Spatz to approve The Dalles Chamber of Commerce scope of work and budget as presented. The motion carried unanimously.

Elliott thanked Farquharson for the attention to detail.

Disbursement of Enterprise Zone Initial Fee

City Manager Krueger reviewed the staff report. She said the funds had been received by the County.

Mayor Lawrence said \$250,000 had been set aside for low cost, immediate impact projects that would have to be approved by the County and the City.

Elliott asked how these projects would be identified.

Mayor Lawrence said he and Commissioner Hege had met with the taxing districts asking for proposals for the annual fee.

Spatz said in the future a more impartial approach might be considered, such as a percentage split between the taxing districts to use as they see fit.

Mayor Lawrence said a percentage split would be weighted toward the City and County. He said other options were being considered.

It was moved by Elliott and seconded by McGlothlin to accept the initial fee of \$1.45 million from Design LLC's third Enterprise Zone Agreement, setting aside \$250,000 for immediate impact projects and equally dividing the remaining \$1.2 million between Wasco County and City of The Dalles, knowing that a future discussion regarding the disbursement of those funds would be scheduled. The motion carried unanimously.

Concert Funding Proposal

Mayor Lawrence reviewed the updated proposal for the concert series. He asked that the Council consider agreeing to underwrite the concerts with the enterprise zone funds. He said the City would be paid back with ticket sales, if there were enough proceeds from ticket sales to cover the underwriting of the concerts.

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Miller asked if the Maryhill Concert series would hurt the attendance for the concerts. Haines said not really, the venues were very different.

Spatz asked if funding the concert series would impact ability to assist Northern Wasco County Parks & Recreation with the Movies in the Park request.

In response to a question Krueger said she would contact Phil Lewis at Parks and Recreation asking them to submit a request for funding of Movies in the Park through the “immediate impact” funds.

It was the consensus of the Council to have the City Manager research budget implications of funding the proposal.

Mayor Lawrence reminded the Council that the Civic Beer Fest would be held in June at the Lewis and Clark Festival Park and would include the new brew pubs in town.

ADJOURNMENT

Being no further business, the meeting adjourned at 6:25 p.m.

Submitted by/
Izetta Grossman
City Clerk

SIGNED:

Stephen E. Lawrence, Mayor

ATTEST:

Izetta Grossman, City Clerk

Izetta F. Grossman

From: Julie Krueger
Sent: Wednesday, April 06, 2016 3:48 PM
To: Dan Spatz at home; Linda Miller (caelmillercc@yahoo.com); Russ Brown (rbrown@skyride.net); Steve Lawrence; Taner Elliott (tanerelliott@gmail.com); Tim McGlothlin
Cc: Izetta F. Grossman
Subject: FW: Oil Train - leveraged sign on letter
Attachments: Gorge Ltr to Port of Vancouver (4) DS.docx

Honorable Mayor and City Council,

Mr. Cornelison has provided this email and has asked Councilor Spatz to bring for consideration at the next Council meeting, during City Council Reports. Below is the information from your Council Rules regarding process for this type of request. Step 2 indicates you would receive a recommendation regarding support, opposition or no action. The issue of oil trains, in general, has been before the Council in the past and the Council has chosen to take no action. I don't think I should provide a recommendation to you on this issue. My only concern is in opposing something that could harm economic development of another City, as I know we would not want other cities to do the same to us.

I believe Councilor Spatz will provide his thoughts to help start a dialogue if the Council wishes to consider endorsing the letter. As the rules state below, a unanimous vote is required to take action, and that action would be at a future meeting. I believe this person is requesting immediate action.

Julie

7.10 The City Council will not provide support or opposition for any political candidate. If a request is received to support or oppose environmental and/or human rights issues, initiatives, or ballot measures, the following steps will be taken:

- (1) The request must be made in writing and submitted to the City Manager's Office and must include a specific request for action.
- (2) The City Manager and City Attorney will review the request and forward to the Mayor with a recommendation to either support, oppose, or take no action.
- (3) The Mayor will present the information to the City Council and the City Council will determine whether they wish to take action on the request.

If the Council wishes to take an action, it must be by unanimous vote and the matter will be scheduled for consideration at a future City Council meeting. If approved, a letter will be sent on behalf of the Council, stating their position on the request.

If the Council chooses to take no action, a letter will be sent on behalf of the City Council stating the Council has decided to take no position on the request.

3. WHEREAS, human error, acts of nature and unforeseen disasters are beyond the control of measures proposed for the Vancouver oil terminal project and could have devastating effects on the entire community; and

4. WHEREAS, the rail lines that will carry this volatile crude oil run through and by the City of Vancouver neighborhoods, parks, the I-5 corridor, commercial and industrial areas, the waterfront, the Columbia River, creeks and other natural areas; and

5. WHEREAS, according to the Association of American Railroads (“AAR”) the volume of crude oil shipped by rail has increased from 9,500 carloads in 2008 to 400,000 carloads in 2013; and

6. WHEREAS, the volume of petroleum transported by rail through Vancouver is expected to increase in the future, and the planned oil terminal in the Port of Vancouver will increase that volume by more than 360,000 barrels per day, with the potential for future expansion; and

7. WHEREAS, possible derailments, spills, explosions and fallout pose a serious threat to this community; and

8. WHEREAS, the primary source of the petroleum anticipated to be transported by rail through Vancouver is from the Bakken formation, which the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (“PHMSA”) has determined may be more flammable than traditional heavy crude oil; and

9. WHEREAS, the PHMSA’s 2013 investigation into the transportation of Bakken oil, known as Operation Classification, showed that crude oil taken from cargo tanks en route to rail loading facilities was not properly classified on numerous occasions leading DOT to issue an

18. WHEREAS, the increase in the production of Bakken crude oil has placed such a demand on tank cars that older DOT 111 cars are being used to transport Bakken crude oil; and

19. WHEREAS, according to the AAR, approximately 92,000 DOT-111 tank cars are used to move flammable liquids, such as crude oil and ethanol, with only approximately 14,000 (15%) of those tank cars being built to the latest industry safety standards; and

20. WHEREAS, in light of the incident in Lac-Megantic, Quebec, the Canadian government has ordered the phase out of the use of older DOT 111 tank cars that do not provide necessary protections against punctures, failures and explosions for the transportation of crude oil within three years; and

21. WHEREAS, while, PHMSA has not ordered the phase out of older DOT 111 tank cars; and

22. WHEREAS, oil tank cars built since 2011 are designed to the CPC 1232 standard and Tesoro Savage has indicated that it would only accept CPC 1232 cars. However, in comments to the PHMSA the AAR “now supports even more [than CPC 1232] stringent standards...retrofits of existing cars...and an aggressive phase-out of cars that cannot meet retrofit requirements”; and

23. WHEREAS, one of the tank cars that ruptured in Lynchburg, Virginia, was a CPC 1232 tank car and was travelling 24 mph, well below the recently agreed upon 40 mph speed limit for urban areas; and

24. WHEREAS, it will be at least five to seven years before new model tank cars ordered by BNSF could be delivered and, even after they are delivered, BNSF will have to accept older cars from shippers transporting crude oil so long as those cars meet minimum safety requirements; and

32. WHEREAS, the City has invested approximately \$45 million in transportation infrastructure to serve the Waterfront Development Project; and

33. WHEREAS, the Port of Vancouver has been a key partner in assisting the City to make the transportation improvements for the Waterfront Development project. The Port interrupted their construction schedule for the West Freight Access Project to facilitate the City's construction; the Port also allowed the City to use Port property temporarily for detouring rail traffic while the City constructed the new rail line; and the Port also engaged in land exchanges with the City for the new right-of-way within the site; and

34. WHEREAS, the Waterfront Development Project site is bordered by the BNSF railroad tracks that will be used to transport the oil to the terminal and could be impacted by the Project; and

35. WHEREAS, the City has concerns regarding the potential impacts of the oil terminal upon the residents of the adjacent Fruit Valley Neighborhood; and

36. WHEREAS, the National Transportation Safety Board in January 2014 recommended that unit trains transporting Bakken crude oil be rerouted to avoid populated areas where technically feasible; and

37. WHEREAS, the City has a paramount interest in the health, safety and welfare of its citizens and believes that the development of the proposed Tesoro Savage crude by rail oil terminal is contrary to the health, safety and welfare of its citizens and business community;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VANCOUVER:

Section 1. The City of Vancouver asks the Port of Vancouver Commissioners to terminate the property lease to Tesoro Savage which will result in Bakken oil being shipped through urban centers.

explosive materials.

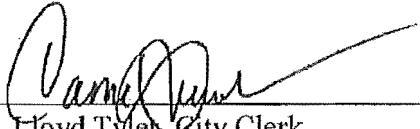
Section 7. The City of Vancouver wants transportation of crude oil by rail to meet all state, federal and local transportation rules and regulations and to exhibit a sufficient accident-free record for a sustained period of time. The City of Vancouver does not believe that there are sufficient answers to the important questions regarding environment and physical safety to proceed with any type of development at this time.

ADOPTED at a regular session of the Vancouver City Council this 3rd day of June, 2014.



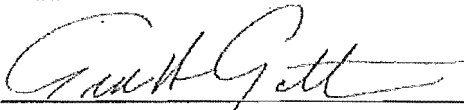
Timothy D. Leavitt, Mayor

Attest:



R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



Ted H. Gathe, City Attorney



CITY OF BINGEN

Steven Lawrence, Mayor



Arlene Burns, Mayor



Betty Barnes, Mayor

Paul Blackburn, Mayor



Frank Cox, Mayor



Don Stevens, Mayor



**WASHOUGAL
SCHOOL DISTRICT**

Sean Guard, Mayor

Fire Commissioner
Skamania County Fire District #4

Dr. Mike Stromme,
Superintendent

Izetta F. Grossman

From: Timothy McGlothlin <timothymcglathlin@gmail.com>
Sent: Tuesday, April 12, 2016 10:24 AM
To: Izetta F. Grossman
Subject: Re: Letter

Here is an update - please feel free to share!

Through the first part of the calendar year, there have been few homeless related issues around 2nd Place and Pentland and through our neighborhood. We say this realizing problems in the neighborhood follow the warmer weather, which we are just starting to see.

There are some folks who appear to be currently living in their vehicles along Pentland in front of the Community Meal. Last year they were regularly on 2nd Place in front of the residences - we haven't seen that this year as they have stayed on Pentland. We are thankful for this change be it by design or otherwise.

There appear to be less folks congregating on the Chamber property. Again, it is early in the year and we will see what the warmer weather brings. It appears that measures taken by the Chamber last summer to make the lawn less inviting have had a positive effect.

The home just east of ours on 2nd Place has been renovated and we understand there is an offer on the house. This is good news as the house had previously fallen into disrepair and had been utilized, at times, for drug activities.

Jane, I and the residents in the area are thankful for the continuing efforts of the Committee to address the significant issues of homelessness in The Dalles, and in the Trevlth neighborhood in particular. We are grateful to The Dalles PD for always being responsive and professional when called upon. We are pleased to live in a community that seeks solutions, rather than avoiding issues.

We are friendly with many of the folks who utilize the Community Meal and warming shelter and support them receiving the assistance they need - while at the same time respecting the interests of residents, businesses, and visitors to the neighborhood who also have reasonable expectations related to conduct and behavior.

Very respectfully...

Kevin and Jane Moynahan

On Tue, Apr 12, 2016 at 7:55 AM, Izetta F. Grossman <igrossman@ci.the-dalles.or.us> wrote:

Tim

You read a letter into the record last night on Homeless population – please send me a copy for the minutes,

Thank you

Izetta Grossman

City Clerk

Administrative Assistant to City Manager

River Crew News

Volume 1, Issue 2
April 10, 2016

The Dalles, Oregon
The Sun, The Gorge, The Dalles

www.visitthedalles.com

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RED WAGON ANTIQUES

ALWAYS SOMETHING NEW TO SEE



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Entertainment Music, Activities & More

Susan's Custom Sewing:

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Clock Tower Ales:

Paint Night every Tuesday at 7pm
Trivia every Thursday at 6:30pm

Zim's Brau Haus:

Open Mic. Tuesday at 7-9pm
1/2 price on all appetizers

Pure Yoga:

Variety of daily classes and times. Located down-
town at 102 2nd Street. www.purehotyoga.com

Rivertap:

4/14 - Alameda Brewing's Tap Takeover 5-8pm

Holistic Essentials:

Daily Specials

Big 5 Sports:

Featuring workout clothing and sports equipment

Lines of Design:

Custom clothing created by local artist and known
designers. Downtown at 110 2nd Street

Big Jim's Drive-in:

Specialty burgers, fries and shakes

WEATHER

Monday April 11th

Mostly sunny, Hi 77°/Lo 48°

Tuesday April 12th

Cloudy most of the time, Hi 63°/Lo 48°

Wednesday April 13th

Mostly cloudy w/rain possible, Hi 69°/Lo 46°

Thursday Apr 14th

Cloudy, Hi 69°/Lo 46°

Friday April 15th

Times of clouds and sun, Hi 65°/Lo 43°

Saturday April 16th

Clouds and sunshine, Hi 68°/Lo 42°

Sunday April 17th

Partly sunny w/ showers, Hi 69°/Lo 47°

Columbia Cinema Movie Times

The Boss

7:00pm

Batman v Superman:

Dawn Of Justice

1:00, 4:30, & 7:30pm

Batman v Superman: 3D

9:20pm

Hardcore Henry

9:10pm

The Divergent Series:

Allegiant

1:15 & 3:50pm

Zootopia

12:00 2:15, 4:30 & 7:00pm

www.moviesinthedalles.com

(541) 296-8081

2727 West 7th Street

April 5 - 30th
"Pottery • Painting • & Jewels"
feat. Arlene Larison,
Rebecca Brochu,
& Rebecca Beitt
+special GAOS feature
Opening Reception:
Thurs. April 7, 5 - 7pm
Sponsored By:
Celeste Minnis & Trish Surber
Hosted By:
Talie
& Nancy Russell
Wine By:
15 Mile

The Dalles Art Center
220 east 4th - Free Admission



**2016
April 22 - 24**



For more information

Taxi Cabs

The Dalles Taxi (541) 296-3965

\$5.00 Taxi (541) 296-8900



THE DALLES AREA
CHAMBER OF COMMERCE
The Dalles...Simply Sensational

Proposal: City of The Dalles Concert Series partnership

From: Local entertainment producers Randy Haines & Nolan Hare

Contacts:

Randy Haines 541.993.3198

Nolan Hare 541.980.3997

4.7.16

Studies show and current trends verify that people are more willing today to spend money on experiences over things. The Dalles is in a perfect position to bring signature event experiences to the area that people will be happy to travel for. We have the best climate in the Northwest and we need more ways to help people discover it.

Randy Haines and Nolan Hare are capable of producing a series of signature events to encourage people to discover The Dalles. This team has the experience and expertise to produce signature concerts and achieve needed exposure for our city thereby stimulating economic development and tourism and providing a social benefit for the City of The Dalles community.

By supporting an exciting Concert Series, the City of The Dalles will be able to better compete with other cities for tourism dollars. The Dalles can become a destination for entertainment.

In '94 Randy Haines proved that a signature concert in The Dalles could attract people from out of the area. He produced 15 summer Neon Nights concerts. After the second Neon Nights concert, Haines had a larger vision to benefit all parties involved, mainly The City of The Dalles. The result was the most anticipated weekend of the summer, The Neon Nights Classic Weekend! Haines reached out to the Mid Columbia Car Club and invited the Club to produce their event on the same weekend as the concert.

Nolan Hare is proposing to produce the 4th of July entertainment program for the third straight summer which will be the 2nd signature concert event featuring a national touring act.

How will they move this series forward? By relying on 25 years of experience in the entertainment business, by utilizing industry contacts, local business partners, and most importantly, by making educated decisions based on their combined knowledge. Also, by knowing how to reach out to important out-of-area media partners to assist in promoting this Concert Series. Most importantly, by working closely with the Chamber to collaborate marketing efforts.

People have more and more reasons to travel to The Dalles, and these proposed signature national level entertainment Concerts will help people discover The Dalles!

Together, The Dalles, Randy Haines & Nolan Hare will make this experience happen.

Presenting sponsorship proposal

City of The Dalles

2016 Summer Concert Series

Partnership role

- ✚ ***Underwrite regional & Gorge area marketing support (print/radio) for Concerts***
\$6k ea. for July & Aug. shows (marketing expense not included in concert budgets)
\$3,000 for September show (marketing expense not included in concert budget)
- ✚ ***Underwrite July 3rd and August 13th Concerts***
Not to exceed estimated show budgets below
- ✚ ***Underwrite End of Summer Concert (Back to school event supporting our schools. Supporting as many programs as possible with the primary focus our sports programs and Booster Club)***
Not to exceed estimated show budget below

Compensation

- ✚ **Presenting sponsor on all three concerts (value: \$10,000 ea.)**
- ✚ **City of The Dalles receives 100% of all ticket sales from all three Concerts**
 - **Potential gross ticket sales:**
 - **July 3rd Concert: \$54,000 (based on venue capacity of 2,700 @ \$20)**
 - **Aug 13th Concert: \$40,500 (based on venue capacity of 2,700 @ \$15)**
 - **\$27,000 (based on 2,700 adult tickets sold @ \$10)**

Benefits

- ✚ Regional exposure for City of The Dalles
- ✚ Stimulate economic development and tourism in the community
- ✚ The series will provide a positive social entertainment outlet for the community
- ✚ Investing in a Concert Series that will have an impact on local businesses

Estimated show costs for all three concerts (not to exceed numbers below)

<u>Show budgets</u>	<u>July 3rd</u>	<u>Aug 13th</u>	<u>Sept 10th</u>
Talent:	\$20,000	\$10,000	\$4,000
Stage:	\$2,000	\$2,000	\$0
Sound/Light:	\$5,500	\$5,500	\$3,500
Backline: (Talents equipment rental)	\$1,500	\$0	\$0
Agent Fee:	\$1,500	\$500	\$0
Lodging: (Talent/production)	\$1,000	\$1,000	\$500
Hospitality: (Production/talent/staff)	\$1,000	\$1,000	\$500
Ticket Commissions & Processing:	\$1,500	\$1,500	\$500
Security:	\$1,500	\$1,500	\$1,000
Staff:	\$500	\$500	\$500
Infrastructure: (tents, fencing, etc.)	\$3,000	\$3,000	\$3,000
Porta-potties:	\$1,000	\$1,000	\$500
TOTAL:	\$40,000	\$27,500	\$14,000

***All budget items will be invoiced directly to a designated department, determined by City of The Dalles. Invoices will be paid directly to those submitting invoices by said department.**

***Ticket sales accounting will be determined by City of The Dalles and Randy & Nolan. Using the best possible ticket accounting structure possible. We will use on-line ticket software for internet sales. In addition, structure a reliable local-ticket outlet plan.**

total ask \$96,500



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review #10-A

MEETING DATE: April 25, 2016

TO: Contract Review Board

FROM: Daniel Hunter, Project Coordinator

ISSUE: Approval of Contract for Housing Needs and Residential Buildable Land Needs Assessments

BACKGROUND: In May 2006 The Dalles had a Population Forecast completed. At the time, the population forecast for The Dalles was 15,472. As this was what would become known as the “housing bubble” the population and housing development was expected to continue. Since that time the Population Forecast has proven to be inaccurate. This forecast was adopted by Wasco County and is used in most of the City’s development planning, to include Residential Buildable Lands.

In March 2006 a Buildable Land Memorandum was presented to the City that utilized the Population Forecast. The memorandum identifies areas for further analysis regarding Residential Buildable Lands. In April 2007 a more thorough analysis was conducted, and a report was provided to the City. This report also used the 2006 Population Forecast as required by the law at the time. The report was primarily a Residential Buildable Lands Report and provided little in the way of Housing Needs Analysis. It did provide vacancy rates. The report did not provide baseline information on any present (2007) housing needs. It did provide a projection based on population forecasts, vacancy rates and known occupancy levels (2.4 people per household).

While the 2007 report includes some demographic information for control, it does not appear that economics was one of the controls. For instance, a low-income vacancy would not be suitable for a family that did not qualify; nor would a market rate home be appropriate for a low-income family. Controlling for the economics of the population, as well as the market the vacancies are in, provides a clearer picture of housing needs.

Beginning March 25, 2015 most cities and counties are required to use Population Forecasts provided by Portland State University Population Center (ORS 195.033). Populations are reported by the Center by July 1 of each year. They are distributed to county offices in

November for review and become certified in December of each year. The 2015 population of The Dalles was 14,515 (PSU), compared to the forecast done in 2006 which projected a population of 18,677 (28.6% increase).

In September 2015 staff submitted a grant application to Oregon Department of Land Conservation and Development (DLCD) of a Technical Assistance Grant. In December staff was notified of award of that grant. The grant award is \$30,000 for which the City Council, on October 12, 2015, approved matching funds of \$25,000.

On February 23, 2016 staff advertised a Request for Proposals (RFP) from qualified consultants and firms to complete the Assessments. The deadline for submitting proposals in response to the RFP was March 29, 2016. On March 28, 2016 the City Council appointed a nine-member Technical Advisory Committee (TAC) to review the proposals, provide recommendations to the Contract Review Board and work with the contracted consultant. On March 29, 2016 staff received two proposals, one from Winterbrook Planning, and one from Johnson Economics. The Winterbrook Planning proposal is for \$55,000; the Johnson Economics proposal is for \$46,913. On March 30, 2016 staff distributed both proposals, a copy of the RFP and a scoring sheet to the TAC members. The members were asked to review and score each proposal based on the scoring requirements in the RFP.

A meeting was set on April 11 for the TAC to discuss the proposals and provide staff with the recommendation to the Contract Review Board. That meeting resulted in a recommendation of contracting with Johnson Economics, LLC. The proposal scoring was based on criteria presented in the RFP, with 100 points maximum possible for each proposal from each TAC member. There were eight TAC members present at the meeting for a total possible score of 800 for each proposal. Winterbrook Planning received a total score of 763; Johnson Economics received a total score of 782.

BUDGET IMPLICATIONS: The grant matching funds have been budgeted in the Special Grants Fund by Resolution 15-041 in the amount of \$25,000. We have anticipated an additional \$5,000 worth of staff time in assisting the consultant and have entered an agreement with DLCD for the grant in the amount of \$30,000. Total funds available to the consultant are \$55,000. The expected costs of the consultant are \$46,913.

BOARD ALTERNATIVES:

1. ***Staff recommendation: Move to approve a contract in an amount not to exceed \$46,913 to Johnson Economics, LLC for completion of a Housing Need Analysis and Residential Buildable Lands Assessment.***
2. Move to approve a contract with Winterbrook Planning for an amount not to exceed \$55,000 for completion of a Housing Need Analysis and Residential Buildable Lands Assessment.
3. Reject both proposals.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Items #11-A

MEETING DATE: April 25, 2016

TO: Honorable Mayor and City Council

FROM: Julie Krueger, City Manager

ISSUE: Funding Request for Community Concert Program by Randy Haines and Nolan Hare

BACKGROUND: An updated proposal was submitted to the City Council at the April 11 meeting (attached). The new proposal includes a request for the City to pay \$15,000 in marketing costs and underwrite \$81,500 for the three shows. The City Council asked staff to provide financial information regarding funding of the proposal.

The proposal indicates the City will receive 100% of ticket sales and lists the potential sales, based on selling 2,700 tickets per event. It is not realistic to expect that all tickets would be sold at the full price for all events. Ticket sales from the first concert would be received as revenue which would help offset the cost for subsequent concerts. Also, under the compensation portion of the proposal, it lists a \$10,000 "value" for sponsorship. Value is not cash revenue, so it will not offset the costs of underwriting.

An additional component of the proposal was to have the City of The Dalles pay all associated invoices for the three events. The Finance Department will not be able to provide that service. We would expect the promoters to pay their invoices directly and the City reimburse the promoters from an invoice per event. In addition, the City should expect a full accounting at the end of each event. The local grant policy, recently adopted by the City Council requires grantees to provide a report, including proof that funds were spent as indicated and is a very reasonable expectation for providing funding for any event.

Funds were not included in the proposed 2016-17 budget for this proposal. The Budget Committee will need to consider adding \$96,500; or the City Council could direct staff to identify funding in the current year's budget, if this request is granted.

BUDGET IMPLICATIONS:

GENERAL FUND				
		PROJECTED		
FUND	DESCRIPTION	YEAR END	BUDGET	BALANCE
REVENUES				
	BEGINNING BALANCE	2,031,249	1,926,810	104,439
	NEW REVENUES	7,390,336	7,240,581	149,755
001	TOTAL GENERAL FUND	9,421,585	9,167,391	254,194
EXPENSES				
001	CITY COUNCIL	286,613	379,168	92,555
	CITY CLERK	136,777	145,635	8,858
	CITY MANAGER	361,131	335,307	(25,824)
	ECONOMIC DEVELOPMENT	182,828	185,917	3,089
	LEGAL	246,413	271,852	25,439
	JUDICIAL	203,645	233,147	29,502
	FINANCE	344,701	362,114	17,413
	UTILITY BILLING	173,088	184,760	11,672
	PERSONNEL	34,100	36,900	2,800
	PLANNING	471,828	493,818	21,990
	POLICE	3,403,745	3,498,022	94,277
	TECHNOLOGY	285,719	340,997	55,278
	GENERAL SERVICES	399,160	442,292	43,132
	CODES ENFORCEMENT	89,625	91,134	1,509
	ANIMAL CONTROL	53,053	78,684	25,631
	IF TRANS - CHG SVC - SPCL PMTS	778,428	782,477	4,049
	TOTAL OPERATING EXPENSES	7,450,854	7,862,224	411,370
	CONTINGENCY	-	417,862	417,862
	UNAPPROPRIATED ENDING BALANCE	-	887,305	887,305
001	TOTAL GENERAL FUND	7,450,854	9,167,391	1,970,731
		1,970,731.00	TOTAL REVENUES LESS EXPENSES	

The projected FY15/16 year-end balance of \$1,970,731 is \$60,518 less than the beginning balance of \$2,031,249.

This might look like we're doing okay, given several unusual expenses incurred this year, and we are still preserving most of our beginning balance for Contingency and Unappropriated Ending Fund Balance. However, when you consider that the new revenues are only \$149,755 more than our budgeted revenues, after we receive the \$600,000 for the initial fee for the new Enterprise Zone, we can see that \$450,245 of those one-time funds covered expenses due to other revenues that we expect to come in short of what was budgeted, mostly property taxes, PUD franchise fees, and miscellaneous revenues.

Costs to the General Fund other than the normal operating expenses this year included approximately \$68,800 for software conversion, \$185,755 for the City Manager's severance package, \$22,000 for City Manager Recruitment, \$150,000 contribution to the Streets Fund, and \$156,650 for the Council's contributions to other programs.

Contingency was tapped for \$153,073 of these costs.

COUNCIL ALTERNATIVES:

1. Decline to underwrite the project, but offer to support the program by paying the "Presenting Sponsor" fee of \$10,000 per show. This option would require a \$30,000 expenditure by the City.
2. Underwrite the shows, but decline to pay for the marketing costs, requiring the promoters to submit funding drawdowns prior to each event and pay their own invoices, requiring the promoters to provide a final report after each event, including proof that funds were spent as indicated, and requiring promoters to manage all ticket sales and to provide a full accounting the sales and funds returned to the City. This option would reduce the City's liability by \$15,000, with a total commitment of \$81,500.
3. Approve the full request for funding in the amount of \$96,500, requiring the promoters to submit funding drawdowns prior to each event and pay their own invoices, requiring the promoters to provide a final report after each event, including proof that funds were spent as indicated, and requiring promoters to manage all ticket sales and to provide a full accounting the sales and funds returned to the City.
4. Decline to provide financial support for the proposal.

Proposal: City of The Dalles Concert Series partnership

From: Local entertainment producers Randy Haines & Nolan Hare

Contacts:

Randy Haines 541.993.3198

Nolan Hare 541.980.3997

4.7.16

Studies show and current trends verify that people are more willing today to spend money on experiences over things. The Dalles is in a perfect position to bring signature event experiences to the area that people will be happy to travel for. We have the best climate in the Northwest and we need more ways to help people discover it.

Randy Haines and Nolan Hare are capable of producing a series of signature events to encourage people to discover The Dalles. This team has the experience and expertise to produce signature concerts and achieve needed exposure for our city thereby stimulating economic development and tourism and providing a social benefit for the City of The Dalles community.

By supporting an exciting Concert Series, the City of The Dalles will be able to better compete with other cities for tourism dollars. The Dalles can become a destination for entertainment.

In '94 Randy Haines proved that a signature concert in The Dalles could attract people from out of the area. He produced 15 summer Neon Nights concerts. After the second Neon Nights concert, Haines had a larger vision to benefit all parties involved, mainly The City of The Dalles. The result was the most anticipated weekend of the summer, The Neon Nights Classic Weekend! Haines reached out to the Mid Columbia Car Club and Invited the Club to produce their event on the same weekend as the concert.

Nolan Hare is proposing to produce the 4th of July entertainment program for the third straight summer which will be the 2nd signature concert event featuring a national touring act.

How will they move this series forward? By relying on 25 years of experience in the entertainment business, by utilizing industry contacts, local business partners, and most importantly, by making educated decisions based on their combined knowledge. Also, by knowing how to reach out to important out-of-area media partners to assist in promoting this Concert Series. Most importantly, by working closely with the Chamber to collaborate marketing efforts.

People have more and more reasons to travel to The Dalles, and these proposed signature national level entertainment Concerts will help people discover The Dalles!

Together, The Dalles, Randy Haines & Nolan Hare will make this experience happen.

Presenting sponsorship proposal

City of The Dalles

2016 Summer Concert Series

Partnership role

- ✚ ***Underwrite regional & Gorge area marketing support (print/radio) for Concerts***
\$6k ea. for July & Aug. shows (marketing expense not included in concert budgets)
\$3,000 for September show (marketing expense not included in concert budget)
- ✚ ***Underwrite July 3rd and August 13th Concerts***
Not to exceed estimated show budgets below
- ✚ ***Underwrite End of Summer Concert (Back to school event supporting our schools. Supporting as many programs as possible with the primary focus our sports programs and Booster Club)***
Not to exceed estimated show budget below

Compensation

- ✚ **Presenting sponsor on all three concerts (value: \$10,000 ea.)**
- ✚ **City of The Dalles receives 100% of all ticket sales from all three Concerts**
 - **Potential gross ticket sales:**
 - **July 3rd Concert: \$54,000 (based on venue capacity of 2,700 @ \$20)**
 - **Aug 13th Concert: \$40,500 (based on venue capacity of 2,700 @ \$15)**
 - **\$27,000 (based on 2,700 adult tickets sold @ \$10)**

Benefits

- ✦ Regional exposure for City of The Dalles
- ✦ Stimulate economic development and tourism in the community
- ✦ The series will provide a positive social entertainment outlet for the community
- ✦ Investing in a Concert Series that will have an impact on local businesses

Estimated show costs for all three concerts (not to exceed numbers below)

<u>Show budgets</u>	<u>July 3rd</u>	<u>Aug 13th</u>	<u>Sept 10th</u>
Talent:	\$20,000	\$10,000	\$4,000
Stage:	\$2,000	\$2,000	\$0
Sound/Light:	\$5,500	\$5,500	\$3,500
Backline: (Talents equipment rental)	\$1,500	\$0	\$0
Agent Fee:	\$1,500	\$500	\$0
Lodging: (Talent/production)	\$1,000	\$1,000	\$500
Hospitality: (Production/talent/staff)	\$1,000	\$1,000	\$500
Ticket Commissions & Processing:	\$1,500	\$1,500	\$500
Security:	\$1,500	\$1,500	\$1,000
Staff:	\$500	\$500	\$500
Infrastructure: (tents, fencing, etc.)	\$3,000	\$3,000	\$3,000
Porta-potties:	\$1,000	\$1,000	\$500
TOTAL:	\$40,000	\$27,500	\$14,000

***All budget items will be invoiced directly to a designated department, determined by City of The Dalles. Invoices will be paid directly to those submitting invoices by said department.**

***Ticket sales accounting will be determined by City of The Dalles and Randy & Nolan. Using the best possible ticket accounting structure possible. We will use on-line ticket software for internet sales. In addition, structure a reliable local-ticket outlet plan.**



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-B

MEETING DATE: May 9, 2016

TO: Honorable Mayor and City Council

FROM: Julie Krueger, City Manager

ISSUE: Consideration of a Compensation Package for Exempt Employees for Fiscal Year 2016-17.

BACKGROUND: For compensation purposes, the City has four categories of employees:

- 1) Exempt employees (Department Managers, Supervisors, Confidential Secretaries, Planning Staff);
- 2) Contract employees (City Manager, City Attorney, and Municipal Court Judge);
- 3) SEIU represented general employees; and
- 4) Police association employees.

For the last two categories, the City negotiates a labor contract. The SEIU employees will be in the third year of a three-year contract in FY 2016-17. They are scheduled to receive a 2% COLA on July 1, 2016. The City's insurance premium payment increase was capped at 8% in FY 2014-15 for SEIU employees.

The three year Police Association contract is currently being negotiated and expires June 30. The City's insurance premium payment increase is capped at 8% for the Police Association employees as well.

The City has three contract employees; City Attorney, City Manager, and Municipal Court Judge. The City Council annually considers a COLA and/or salary adjustment for these three after their annual evaluations. Evaluations are being scheduled for May.

The City is currently paying 85% dependent insurance pick up for all benefit-eligible employees, including the City Manager and City Attorney.

Annually, the City Council also considers cost of living adjustment (COLA) or other salary adjustments for exempt employees. The exempt group has typically lagged behind salaries in comparable cities. In FY 2014-15 this group received a 2% COLA on July 1, 2014. In FY 2015-16, no cost of living increase was approved. Many positions in this group continue to fall behind in salary. During the current fiscal year, the City Council did approve salary corrections for the Police Sergeant and Captain classifications. Below is a table showing a recent salary comparison with comparable cities.

City of The Dalles Exempt Positions	Salary Average Low	The Dalles % of Low Average	Salary High	The Dalles % of High Average	# of Comps
Public Works Director	6,483.81	-0.14%	8,600.07	-7.41%	5
Police Chief	6,878.33	-5.87%	8,611.95	-7.53%	7
City Clerk	5,423.13	15.92%	6,917.49	11.76%	6
Finance Director	6,567.09	-4.28%	8,568.60	-9.77%	6
Library Director	5,659.07	11.08%	7,337.52	5.37%	5
Planning Director	6,530.55	-3.74%	7,935.36	-2.57%	5
Human Resources Director	5,485.45	14.60%	6,860.06	12.70%	5
Engineer	6,326.02	-9.061%	8,371.88	-15.49%	4
Police Captain (2nd in command)	5,985.07	-3.88%	7,847.32	-9.84%	6
Water Quality Supervisor	* No comps Available				
Water Distribution Manager	5,551.93	-10.62%	7,238.86	-15.69%	4
Wastewater Manager	5,299.36	-6.36%	6,771.04	-9.86%	4
Transportation Manager	4,851.08	2.30%	6,422.32	-4.97%	2
Regulatory Manager	4,920.71	0.85%	6,310.08	-3.28%	2
Police Sgt (Supervisor)	5,414.53	-2.77%	6,771.74	-4.38%	6
Senior Planner	4,540.80	6.10%	5,869.66	0.95%	3
Accountant In Training	* No comps Available				
Associate Planner (1/2 Time)	4,160.07	2.90%	4,653.57	13.20%	2
Development Inspector/Project Manager	5,142.54	-16.76%	6,646.21	-20.79%	3
Executive Secretary	3,511.43	-0.88%	4,475.84	-4.36%	5
Administrative Secretary	3,544.87	-15.30%	4,152.25	-11.07%	3
Codes Enforcement	3,244.77	-10.17%	3,836.16	-6.55%	6
Animal Control Officer (3/4Time)	2,732.66	6.67%	3,471.32	3.27%	2
* Comps for these two positions on the raw data list were not actually comparable with our positions.					
Note: Wages shown are the low and high for each position based on a full-time schedule per our current wage table. Comps received for positions less than full time have been adjusted to reflect wages at the full time level.					

The annual Consumer Price Index (CPI) increase for 2014 was 1.7%. The SEIU and Police Association positions received a 2% increase, while the Exempt positions did not receive a COLA. As stated above, subsequently the Police Captain and Police Sergeants received an adjustment to their ranges on the Exempt wage table, retroactive to July 1, 2015.

The annual Consumer Price Index (CPI) increase for 2015 was 0.7%. The SEIU positions will receive a 2% increase. The Police Association contract is the negotiations, so the amount of increase for those positions is not known at this time.

Insurance Cost Share: The City Council expressed a desire to have the employees pick up more of the insurance cost. The exempt positions follow the 8% maximum increase of the City contribution toward the cost of monthly insurance premiums given to the SEUI and Police Association employees.

We are hoping to add an additional plan this year which would have a higher deductible and lower premium and begin to allow all employees to choose an option. We don't have our proposed rates for the upcoming year, so it is unknown how much more than the 8% cap would be passed on to the employees.

BUDGET IMPLICATIONS: The proposed budget has been prepared with a 2% COLA for all employees and an 8% increase in insurance premiums

RECOMMENDATION:

We have identified three alternatives for addressing the COLA for exempt employees.

1. Staff recommendation: A 2% COLA on July 1, 2016. This amount is the amount in the SEIU and Police Association contracts.
2. 3% on July 1, 2016. This option would begin to help offset the lack of an adjustment last year. A 3% COLA would increase the proposed budget by \$31,256 (\$20,373 in General Fund, \$1,478 in Library, \$1,841 in Street, \$4,601 in Water and \$2,963 in Wastewater).
3. Approve some other COLA increase for exempt employees in fiscal year 2016-17.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-C

MEETING DATE: April 25, 2016

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

ISSUE: Authorization to construct a portion of East 19th Street extending east from Oakwood Drive

BACKGROUND: On February 22, 2016 City Council held a discussion about a request from Jeff and Jill Kienlen seeking a “refund” of monies originally paid for the construction of half-street improvements on East 19th Street adjacent to their home at 1910 Golden Way. A copy of the staff report prepared by City Attorney Gene Parker from that meeting is attached. After that discussion, Council referred the issue back to the City Attorney for further review.

Some of the key issues raised in the February 22nd discussion were:

- As a condition of approval for the Sunridge Estates Subdivision, \$45,456.37 was deposited with the City in 2006 to fund half-street improvements on East 19th Street along Lots 11, 12 and 13.
- The Kienlens have since purchased Lot 11. They have indicated that it was their understanding that, at the time they purchased their property, about one third of the amount that had been deposited with the City (which would be approximately \$15,000) for public improvements on East 19th Street was included in the sale price for their property. They believe that, due to the adoption of Resolution No. 15-017 which revised the obligations of property owners developing single lots, they are entitled to a “refund” of those monies and would only be responsible for construction of sidewalks rather than half-street improvements.
- Mr. Kienlen stated that there was a document signed by former City Manager Nolan Young signing off on the improvements as complete and stating that the previous agreement was null and void.

The City Attorney has researched the issues raised. Attached to this report are copies of the original 2001 agreement related to the Sunridge Estates Subdivision which was superseded by agreements from 2006 and 2008 (copies of which were provided with the Staff Report for the February 22nd discussion), and the 2009 document signed by Nolan Young to which Mr. Kienlen referred. Based upon his review, the City Attorney provided the following opinions:

“I have done some further review of the documents related to Jeff Kienlen’s property, and the various agreements that were negotiated concerning the funds that were deposited with the City to pay for the costs of half-street improvements along East 19th Street, for the three lots that were part of the Sunridge Estates Subdivision. On February 6, 2008, the City entered into an agreement with Kay Tenold, one of the original applicants for the subdivision, and Kenneth Corbett and Jerry Olson who had purchased Lots 12 and 13 from Ms. Tenold. This agreement provided that in exchange for the City endorsing the cashier’s check which had been deposited with the City in the amount of \$45,456.37, the City would use these funds to proceed with the installation of the full-half street improvements. The agreement also included the following language: “Owners and Subdivider are hereby released from the obligations for installing said listed improvements”.

“The Kienlens purchased Lot 11 from Mr. Corbett in December, 2006. The 2008 agreement provided that its terms would be binding upon the City, the Subdivider, and the Owners, and their respective heirs, assigns or successors in interest. The Kienlens would be considered to be a “successor in interest” to Mr. Corbett. If a court were called upon to determine the intent of the language in the 2008 agreement related to the installation of the full street improvements, it is my opinion that the Court would determine that the parties contemplated that the City would proceed with construction of the improvements, and that the subdivider and the owners of the property had been released from their obligations. As a successor in interest to the agreement, the Kienlens would be in a position where they could pursue a legal remedy known as “specific performance” to require the City to proceed with the installation of the improvements.

“The Kienlens should have been included as a party to the 2008 agreement, since they were the actual owners of Lot 11 in 2008, and it was an error to not include them. As Jeff pointed out at the City Council meeting, a document was prepared which Nolan signed on July 2009 indicating that the improvements had been constructed, and that Lots 11, 12, and 13 were released from any obligations concerning the installation of the improvements. This document was never recorded, but it also should not have been signed by Nolan.

“My thinking at this point is to advise the Council as to the likely interpretation of the 2008 agreement, and that it puts the City in the position of either doing the improvements, or refunding the money which was paid.”

In a subsequent memo, the City Attorney expanded further on his opinions related to the request:

“I was recently provided with a letter from John Geiger indicating that they had loaned the sum of \$45,456.37 to Kay Tenold which was intended to satisfy the obligation to pay for the half-street improvements for the three lots adjacent to East 19th Street in the Sunridge Estates Subdivision, and that this amount had been repaid on behalf of Mrs. Tenold. I understand that Jeff Kienlen is claiming that he paid an additional \$15,000 as part of his purchase price for his property’s share of the obligation for the assessments. It appears we now have competing claims for the return of the \$45,456.37.

“I am considering recommending to the Council that they direct staff to proceed with the construction of the half-street improvements on the portion of East 19th Street which fronts the three properties, including Jeff Kienlen’s property. The 2008 agreement signed by Mrs. Tenold and the owners of the property indicated the payment of the sum of \$45,456.37 was intended to release Mrs. Tenold and the property owners from their obligations to install the half-street improvements. In light of this provision, I was considering recommending that the City incur the cost for these improvements, and that none of the costs of the improvements be imposed upon Mrs. Tenold or the owners of the three properties.”

Staff concurs with the City Attorney’s views on this matter – the best solution is to construct the improvements on East 19th Street adjacent to Lots 11, 12 and 13. Staff believes that the following factors support the recommendation.

- The funds deposited with the City for the half-street improvements on East 19th Street adjacent to Lots 11, 12 and 13 have not been spent and are dedicated for this purpose only in Fund 36, the Special Assessments Fund.
- No monies were received by the City from the Kienlens. If monies were to be refunded, lacking any further documentation, it appears they would have to be paid to the Tenolds on whose behalf the monies were deposited with the City.
- The property owned by the Kienlens was developed as part of a subdivision in compliance with requirements in place at the time of development. All those same requirements still exist today for subdivisions and were not amended by Resolution No. 15-017.
- The agreement identifying the requirement to pay for half-street improvements clearly indicate that the terms of the agreement apply to any “successors in interest”; the Kienlens are “successors in interest”.
- The 2009 document signed by Nolan Young was written within the context of the obligations of the developer and subsequent property owners having been met through the deposit of \$45,456.37 with the City; there is no mention in that document of refunding the deposit.
- The engineering design for the short extension of East 19th Street from Oakwood Drive east along Lots 11, 12 and 13 was done in 2006 and is still valid. The updated cost estimate to construct the improvements is \$150,373.30. Since this is a project that would increase the capacity of the transportation system, Transportation SDCs (\$104,916.93) could be used to fund the balance of the

project beyond the pre-paid assessment. The 2015/16 budget identifies \$662,663 in Fund 13 as Transportation SDCs available for capacity-enhancing projects.

BUDGET IMPLICATIONS: If this short section of East 19th Street, about 285 feet, is to be constructed, \$45,4546.37 that was deposited with the City to construct these improvements will be spent from Fund 36 and \$104,916.93 in Transportation SDCs will be spent from Fund 13. There are adequate funds budgeted for the project.

If the pre-paid assessment is to be refunded to Mrs. Tenold, \$45,456.37 will be spent from Fund 36.

COUNCIL ALTERNATIVES:

1. *Staff Recommendation:* **Direct staff to proceed with the public improvements to East 19th Street along Lots 11, 12 and 13 of the Sunridge Estates Subdivision using pre-paid assessment funds and Transportation SDCs.**
2. Postpone a decision until the Transportation System Plan update is completed and see if a future extension of East 19th Street from Oakwood Drive to Thompson Street remains as a planned project, then resume the discussion regarding the Kienlen's request.
3. Direct Staff to refund \$45,456.37 to Kay Tenold.



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX: (541) 296-6906

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
February 22, 2016		

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Julie Krueger, Interim City Manager

DATE: February 1, 2016

ISSUE: Discussion item related to request by Jeff & Jill Kienlen for refund of money paid for public improvements associated with East 19th Street

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: None.

BACKGROUND: Jeff & Jill Kienlen are the current owners of the property located at 1910 Golden Way. This property, also known as Lot 11, was part of a larger parcel of real property that was initially developed as a subdivision known as Sunridge Estates Subdivision. Kay Tenold, who was one of the original parties who developed the subdivision, entered into an agreement on November 30, 2001 which set forth the obligations of the Subdivider to pay for a proportional share of the costs for a half-street improvement for the portion of the public right-of-way of East 19th Street which fronted the Kienlen's property, and two other lots in the subdivision, known as Lots 12 and 13.

In 2006, Kenneth Corbett and Jerry Olson purchased Lots 12 and 13 from Ms. Tenold. Mr. Corbett and Mr. Olson submitted an application for a minor partition of Lot 12. The City Planning Department approved the request for the minor partition with certain conditions, one of which required that full improvements, which would include sidewalk, curb, gutter, storm water, and sewer extension, would need to be installed for the half street portion of public right-of-way

which fronted East 19th Street for Lots 11, 12 and 13. The City entered into an agreement with Ms. Tenold, and Mr. Corbett and Mr. Olson that allowed Mr. Corbett to proceed with the placement of a single family dwelling upon a portion of the property that was identified as Parcel 1 of Lot 12. This parcel was released from any obligation to pay for the costs of the public improvements associated with East 19th Street. Lot 11, the remaining portion of Lot 12, and Lot 13 were expected to continue to be subject to the obligation to pay for the proportionate share of the half-street improvements for East 19th Street.

The City, Ms. Tenold, and Mr. Corbett and Mr. Olson entered into an agreement that provided for two options associated with the half-street improvements for East 19th Street. Under the first option, the improvements could be installed within 6 months of the date of the agreement. Under the second option, within 120 days of the date that Ms. Tenold and Mr. Corbett and Mr. Olson would receive a set of engineering plans and cost estimates from the City, Ms. Tenold and Mr. Corbett and Mr. Olson would either have the improvements installed or provide a performance guarantee approved by the City to bond the installation of the improvements. Ms. Tenold and Mr. Corbett and Mr. Olson selected the second option and entered into agreement dated February 24, 2006. A copy of that agreement is enclosed with this staff report.

On February 28, 2006, a cashier's check on behalf of Ms. Tenold, Mr. Corbett, and Mr. Olson was deposited with the City. A copy of the transmittal letter from John Geiger enclosing the check is included with this staff report. The City entered into a second agreement with Ms. Tenold, Mr. Corbett and Mr. Olson. A copy of that agreement is enclosed with this staff report.

Under this second agreement, Ms. Tenold, Mr. Corbett, and Mr. Olson agreed to allow the City to endorse the cashier's check in the amount of \$45,456.37. The City was to use the proceeds to fund the installation of the full half-street improvements for Lots 11, 12, and 13 for East 19th Street. The agreement provided that Ms. Tenold, Mr. Corbett, and Mr. Olson would be released from their obligations for installing the listed improvements. The City proceeded with plans to extend East 19th Street, and showed the amount of \$45,456.37 as a prepaid assessment, as part of a proposed funding package for the project to extend East 19th Street. When the City was unable to acquire the right-of-way necessary for the extension of East 19th Street, that project was put on hold, and the improvements adjacent to the Kienlen's lot and Lots 12 and 13 were not installed. The sum of \$45,456.37 has not been spent.

With the adoption of Resolution No. 15-017 which established public improvement guidelines for residential streets, the Council established a system of network streets. The portion of East 19th Street which fronts the Kienlen's property is considered to be a portion of the network street system. The Kienlens have indicated that it was their understanding that at the time they purchased their property, there was an understanding that approximately one third of the amount that had been deposited with the City (which would be approximately \$15,000) for public improvements on East 19th Street was included in the sales price for the property. The Kienlens have also indicated they believe under the provisions of Resolution No. 15-017, they would only be obligated for the costs of installing a sidewalk along the portion of East 19th Street which is adjacent to their property.

Item #6 of the Residential Street Public Improvement Guidelines provides as follows:

“For single family dwellings that abut a network street and placed on an individual lot which are not part of a subdivision, the property owner shall be required to install a sidewalk if the City has established a curb line”.

Item #8 of the Residential Street Public Improvement Guidelines provides as follows:

“Street engineering and construction and stormwater engineering and construction on network streets shall be the responsibility of the City, the timing and selection of projects at the City’s discretion”.

Although the Kienlen’s property was developed as part of a subdivision, it would appear under the language in item #8 of the Residential Street Public Improvement Guidelines, that the responsibility for improvement of public improvements for network streets, except for sidewalks, lies with the City.

City staff is seeking direction from the Council as to whether any sum should be refunded to the Kienlens, and if so, whether that amount should be limited to the sum of \$15,000 which they claim was included as part of their cost of purchasing their property.

BUDGET IMPLICATIONS: The sum which apparently is being requested to be refunded is \$15,000.

ALTERNATIVES:

- A. Staff Recommendation. The staff is requesting that the Council provide direction concerning the request by the Kienlens for a refund of the portion of the money which had been deposited by the City for half street improvements for a portion of East 19th Street.

AGREEMENT

WHEREAS, Kay Tenold, hereinafter referred to as "Subdivider", was one of the original applicants for the Sunridge Estates Subdivision, which subdivision includes the following described parcels of property:

Lots 11, 12, and 13, Sunridge Estates Subdivision, in the City of The Dalles, Wasco County, Oregon, as shown in the Subdivision Plat recorded as MP 2001-0024 Slide C-161A in the Wasco County Deed Records

and

WHEREAS, Subdivider entered into an agreement with the City of The Dalles, hereinafter referred to as "City", on November 30, 2001, which set forth the obligations of Subdivider to pay for a proportional share of the costs for a half street improvement for that portion of the right-of-way fronting Lots 11, 12, and 13, along the north side of the remainder of East 19th Street, in an easterly direction from the developed portion of East 19th Street to the subdivision boundary line; and

WHEREAS, Kenneth J. Corbett and Jerry Olsen, hereinafter referred to as "Owners", have purchased Lots 12 and 13 from the Subdivider, and has submitted an application for a Minor Partition and Property Line Adjustment for Lot 12, which have been assigned the file numbers MIP 248-05 and PLA 142-06 by the City; and

WHEREAS, on January 23, 2006, the City issued a Notice of Administrative Decision approving the request to divide two lots into three smaller lots with a property line adjustment, subject to certain conditions of approval; and

WHEREAS, one of the conditions of approval provided that full improvements would be required to be installed upon the portion of East 19th Street which fronts Lots 11, 12, and 13, which improvements would include sidewalk, curb, gutter, storm water, and sewer extension; and further, that the improvements would need to be installed or bonded, or a local improvement district would need to be formed prior to the final plat being signed; and

WHEREAS, the Owners has a pending sale for a portion of Lot 12, which is anticipated to be identified as Parcel 1 of Lot 12 in the partition plat that will be filed for MIP 248-05; and

WHEREAS, the City, Subdivider, and Owners have mutually agreed upon the terms of an agreement that will allow that portion of property to be identified as Parcel 1 of Lot 12 in the partition plat to be filed for MIP 248-05, to be relieved from the obligation to pay for the proportional share of the costs for the improvements to the designated portion of East 19th Street, and to allow Subdivider and Owners to enter into a delayed improvement agreement for installation of the improvements;

Page 1 of 4 - Agreement/Tenold-Corbett

(022306 Tenold-Corbett.agr)

After recording, please return to:

City Clerk
313 Court Street
The Dalles, OR 97058

Wasco County Official Records **2006-001488**
DEED-AGMT
Cnt=1 SIn=3 LISA **03/14/2006 01:36 PM**
\$20.00 \$11.00 \$10.00 **\$41.00**



00009888200600014880040049

I, Karen LeBreton Coats, County Clerk for Wasco County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



3/14/06 CC KLG

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is mutually agreed as follows:

1. City, Subdivider, and Owners understand and agree that Owners will be allowed to proceed with the placement of a single family dwelling upon that portion of Lot 12, which is anticipated to be identified as Parcel 1 of Lot 12 in the partition plat that will be filed for MIP 248-05 and PLA 142-06. City, Subdivider, and Owners understand and agree that this portion of Lot 12 shall be released from any responsibility for the proportional share of the costs for the improvements to East 19th Street as outlined in this agreement, and that any future purchaser of this portion of Lot 12 shall be released from any and all responsibility to pay for the proportional costs of such improvements.

2. City, Subdivider, and Owners understand and agree that no development shall be allowed to occur upon the remaining portion of Lot 12, which is anticipated to be identified as Parcel 2 of Lot 12 in the partition plat to be filed for MIP 248-05 and PLA 142-06, and upon the parcel identified as Lot 13, until the provisions of this Agreement have been satisfied. City, Subdivider, and Owners understand and agree that development may occur upon these identified properties if a performance guarantee is provided pursuant to the conditions set forth in Section 3 of this Agreement.

3. City, Subdivider, and Owners understand and agree the Subdivider and Owners shall be responsible for installation of full improvements, which include sidewalk, curb, gutter, storm water, and sewer extension, for that half-street portion of East 19th Street which fronts along Lots 11, 12, and 13, in an easterly direction from the developed portion of East 19th Street to the Sunridge Estates Subdivision boundary line. Subdivider and Owners shall have two options to choose from for installation of these improvements. Under the first option, the improvements shall be completely installed within six (6) months of the date of this agreement. Under the second option, within one hundred twenty (120) days of the date the Owners and Subdivider receive a set of engineering plans and cost estimates for installation of the improvements from the City, the Owners and Subdivider shall either have completed installation of the improvements, or provided a performance guarantee approved by the City to bond the installation of the improvements. Under either of the two options, in the event Owners and Subdivider are unable to complete installation of the improvements within the stated deadline due to circumstances beyond the control of the Owners and Subdivider, the City agrees to grant a reasonable extension of time to complete installation of the improvements.

4. The City has agreed to complete engineering work necessary to provide engineering plans and cost estimates for installation of the improvements described in this Agreement. In the event the actual final costs for installation of these improvements exceeds the amount included in the estimates prepared by the City, the City shall be responsible for paying for the additional amount which exceeds the City's cost estimate. In the event the actual final costs for installation of the improvements is lower than the estimate prepared by the City, the City understands and agrees that any performance guarantee provided by the Owners and Subdivider shall be modified to ensure that the actual amount of the performance guarantee does not exceed the actual costs of installing the improvements. This modification of the performance

guarantee may take the form of a revised performance guarantee, or a refund of a portion of the performance guarantee to the appropriate party.

5. City, Subdivider, and Owners understand and agree that Subdivider and Owners shall be responsible for installation of improvements which comply with the City's standards for providing service to residential structures, and that Subdivider and Owners shall not be responsible for installing any laterals or other improvements which specifically benefit the properties which are adjacent to the south side of East 19th Street, across from Lots 11, 12, and 13.

6. City, Subdivider, and Owners understand and agree the provisions of this agreement requiring public improvements shall be a covenant running with the land, and the terms hereof shall be included in any deed or contract of sale purporting to convey any legal or equitable interest in Lots 11, 12, or 13 of Sunridge Estates Subdivision. This agreement shall be legally binding upon the City, the Subdivider, and the Owners, and their respective heirs, assigns, or successors in interest.

Dated this 24th day of February, 2006.

CITY OF THE DALLES

SUBDIVIDER

Nolan K. Young
Nolan K. Young, City Manager

Kay Tenold
Kay Tenold

OWNERS

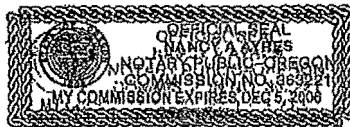
Kenneth J. Corbett
Kenneth J. Corbett

Jerry Olsen
Jerry Olsen

STATE OF OREGON)

) ss.
County of Wasco)

Personally appeared before me, Nolan K. Young, acting as City Manager for the City of The Dalles, and acknowledged the foregoing instrument to be his voluntary act and deed.

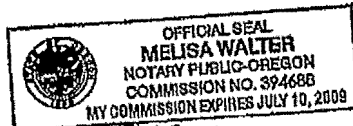


Nancy A. Dyer
Notary Public for Oregon
My commission expires: 12/5/06

STATE OF OREGON)

County of Wasco) ss

Personally appeared before me Kay Tenold and acknowledged the foregoing instrument as her voluntary act and deed.



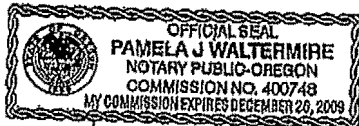
STATE OF Oregon)
County of Clackamas) ss

Personally appeared before me Kenneth J. Corbett and acknowledged the foregoing instrument to be his voluntary act and deed.

Melisa Walter
Notary Public for Oregon
My commission expires: July 10, 2009

STATE OF Oregon)
County of Clackamas) ss

Personally appeared before me Jerry Olsen and acknowledged the foregoing instrument to be his voluntary act and deed.



Pamela J. Waltermire
Notary Public for Oregon
My commission expires: 12-20-2009

Pamela J. Waltermire
Notary Public for Oregon
My commission expires: 12-20-2009

KARGL
ELWOOD
GEIGER REALTORS
INSURANCE

KARGL
ELWOOD
GEIGER, INC

212 EAST FOURTH
THE DALLES, OREGON 97058
PHONE: (541) 296-2127
FAX: (541) 296-3241
MAIL P. O. BOX 1010

February 28, 2006

City of The Dalles
Attn: Nolan Young, Manager
313 Court Street
The Dalles, OR 97058

RE: Tenold, Corbett, 19th Street Improvement

Dear Nolan:

Enclosed is a cashier's check for \$45,456.37 which represents the estimate for construction of 19th Street in 2001.

MIP 248-05 and PLA 142-06 require that a current estimate of the construction be completed. You have indicated that this could take several weeks to complete.

When the new revised estimate has been received by your office, I am prepared to increase the cash bond to reflect any increase in the estimate shown above. Please advise me when the estimate has been received.

Sincerely yours,



John E. Geiger, Principal Broker
Kargl, Elwood & Geiger Inc., Realtors

COPY

AGREEMENT

WHEREAS, Kay Tenold, hereinafter referred to as "Subdivider," was one of the original applicants for the Sunridge Estates Subdivision, which subdivision includes the following described parcels of property:

Lots 11, 12, and 13, Sunridge Estates Subdivision, in the City of The Dalles, Wasco County, Oregon, as shown in the Subdivision Plat recorded as MP 2001-0024 Slide C-161A in the Wasco County Deed Records

and

WHEREAS, Kenneth J. Corbett and Jerry Olsen, hereinafter referred to as "Owners," have purchased Lots 12 and 13 from the Subdivider, and have submitted an application for a Minor Partition and Property Line Adjustment for Lot 12, which have been assigned the file numbers MP 248-05 and PLA 142-06 by the City of The Dalles, hereinafter referred to as "City," and

WHEREAS, the City, Subdivider and Owners entered into an agreement which was recorded in the Wasco County Deed Records as Microfilm No. 2006-001488 on March 14, 2006, which provided that the portion of property to be identified as Parcel 1 of Lot 12 in the partition plat to be filed for MIP 248-05 would be relieved from the obligation to pay for the proportional share of the costs for the improvements to the designated portion of East 19th Street; and which agreement further set forth the terms of a delayed improvement agreement for the installation of the improvements; and

WHEREAS, pursuant to the terms of the agreement recorded as Microfilm No. 2006-001488, the Subdivider and Owners deposited a performance guarantee in the form of a cashier's check dated February 28, 2006, in the amount of \$45,456.37; and

WHEREAS, in consideration of the Owners and Subdivider granting consent to the City to endorse the cashier's check deposited with the City, the City has agreed to use the funds from the performance guarantee and to proceed with construction of the listed improvements, which will release the Owners and Subdivider from their obligations set forth in the agreement recorded as Microfilm No. 2006-001488;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is mutually agreed as follows:

1. Owners and Subdivider hereby consent to the City endorsing the cashier's check dated February 26, 2006, in the sum of \$45,456.37, and to the City using the proceeds from the check to proceed with the installation of full improvements, which include sidewalk, curb, gutter, storm water, and sewer extension, for that half-street portion of East 19th Street which fronts along Lots 11, 12, and 13, in an easterly direction from the developed portion of East 19th Street to the Sunridge Estate Subdivision boundary line. Owners and Subdivider are hereby released from their obligations for installing said listed improvements. City acknowledges that development may now be allowed to occur upon the remaining portion of Lot 12, which is anticipated to be identified as Parcel 2 of Lot 12 in the partition plat to be filed for MIP 248-05 and PLA 142-06, and upon the parcel identified as Lot 13.

After recording return to:
City of The Dalles
313 Court Street
The Dalles, Oregon 97058

Until a change is requested all
tax statements shall be sent to
the following address:
Kay Tenold
3750 Fifteen Mile Road
The Dalles, OR 97058

Wasco County Official Records 2008-000771
DEED-AGMT 02/22/2008 10:56 AM
Cmt=1 Snt=1 LYLAS
\$10.00 \$11.00 \$10.00 \$15.00 \$46.00



0002582720800007710020023
I, Karen LeBreton Coats, County Clerk for Wasco
County, Oregon, certify that the instrument
identified herein was recorded in the Clerk
records.



2/27/08
cc Kay Tenold
Ken Corbett
Jerry Olsen
PW + Dave

2. This agreement shall be legally binding upon the City, the Subdivider, and the Owners, and their respective heirs, assigns, or successors in interest.

Dated this 6th day of February, 2008.

CITY OF THE DALLES

SUBDIVIDER

Nolan K. Young
Nolan K. Young, City Manager

Kay Tenold
Kay Tenold

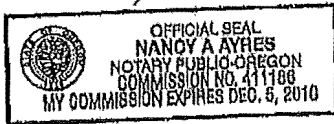
OWNERS

Kenneth J. Corbett
Kenneth J. Corbett

Jerry Olsen
Jerry Olsen

STATE OF OREGON, County of Wasco) ss.

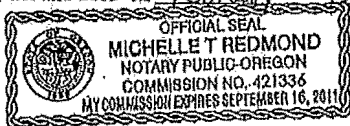
Personally appeared before me, Nolan K. Young, acting as City Manager for the City of The Dalles, and acknowledged the foregoing instrument to be his voluntary act and deed on February 12, 2008.



Nancy A. Ayres
Notary Public for Oregon
My commission expires: 12/5/10

STATE OF OREGON, County of Wasco) ss.

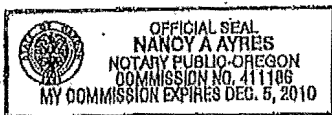
Personally appeared before me Kay Tenold and acknowledged the foregoing instrument as her voluntary act and deed on February 12, 2008.



Michelle Redmond
Notary Public for Oregon
My commission expires: September 16, 2011

STATE OF OREGON, County of Wasco) ss.

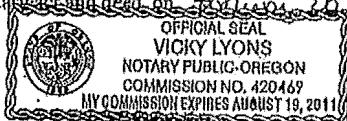
Personally appeared before me Kenneth J. Corbett and acknowledged the foregoing instrument as his voluntary act and deed on February 8, 2008.



Nancy A. Ayres
Notary Public for Oregon
My commission expires: 12/5/10

STATE OF OREGON, County of Clatsop) ss.

Personally appeared before me Jerry Olsen and acknowledged the foregoing instrument as his voluntary act and deed on February 20, 2008.



Vicki Lyons
Notary Public for Oregon
My commission expires: 2-19-11

AGREEMENT

WHEREAS, Rich and Kay Tenold, hereinafter referred to as "Subdivider", submitted an application for approval of a preliminary plat to subdivide 9.81 acres into 41 single family residential home lots, for Subdivision No. 43-98, on the property located North of East 19th Street and West of Thompson Track, which property is also described as Assessor's Map No. IN 13E 11BA, Tax Lots 1000 and 1001; and

WHEREAS, on June 18, 1998, the City of The Dalles Planning Commission adopted Resolution No. 399-98 granting approval of the preliminary plat for Subdivision No. 43-98; and

WHEREAS, Condition No. 2 of the Planning Commission's resolution provided that the City and the Subdivider shall reach an agreement acceptable to the City Attorney which binds the owner(s) of the Lots along East 19th Street, within the subdivision, to pay the cost for a proportional share of the project cost in the same manner that the cost is imposed upon other property owners and based upon lineal foot of property frontage, for a half street improvement along the north side of the remainder of East 19th Street, in an easterly direction from the developed portion of East 19th Street to the subdivision boundary line; and

WHEREAS, Section 9(12) of the General Ordinance No. 937 provides that as an alternative to compliance with any conditions imposed by the Planning Commission, the City Council may enter into an agreement which specifies the time within which certain improvements shall be completed; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties mutually agree as follows:

1. Attached hereto as Exhibit "A", and by this reference incorporated herein, is an estimate prepared by the City Engineer, outlining the costs on a lineal footage basis, for that portion of a

half street for East 19th Street, from the developed portion of East 19th Street, continuing in an easterly direction to the subdivision boundary line. Attached hereto as Exhibit "B" is a Waiver of Remonstrance Agreement executed by the Subdivider, by which the parties have agreed that the owners of Lots 11, 12 and 13 in the above-referenced subdivision will be responsible for costs assessed against those lots for their proportional share of any public improvement to East 19th Street.

2. A copy of this agreement shall be recorded with the City Clerk. The Subdivider agrees to provide a copy of this agreement to any prospective buyer of the lots subject to the waiver of remonstrance, and to make certain that a notation of the existence of the agreement appears in any title report which may be provided to any prospective buyer. In the event any of the lots subject to the waiver of remonstrance are sold by the Subdivider, the Subdivider shall immediately provide the City with the name and address of the purchaser. The terms and conditions of this agreement shall run with the real property described herein, and shall be binding upon the owner(s) of those lots described above. This obligation to pay for this improvement runs with and is an obligation of the lot owner(s) at the time of the assessment. Nothing in this agreement shall be construed to require that the Subdividers individually be responsible for the payment of the improvements should they be done on the street known as East 19th, adjacent to Lots 11, 12 and 13 except to the extent they own Lots 11, 12 or 13 at the time of the assessment and then they shall only be liable for the assessment for the lots they own at that time. All obligations for the payment of those improvements shall accrue solely to the owners of Lots 11, 12 and 13.

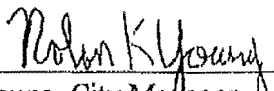
Dated this 30th day of November 2001.

SUBDIVIDER

Rich Tenold
Rich Tenold

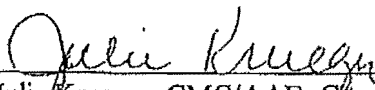
Kay Tenold
Kay Tenold

CITY OF THE DALLES



Nolan K. Young, City Manager

Attest:



Julie Krueger, CMC/AAE, City Clerk

CONSTRUCTION ESTIMATE

For Completion of 19th Street to Thompson Street

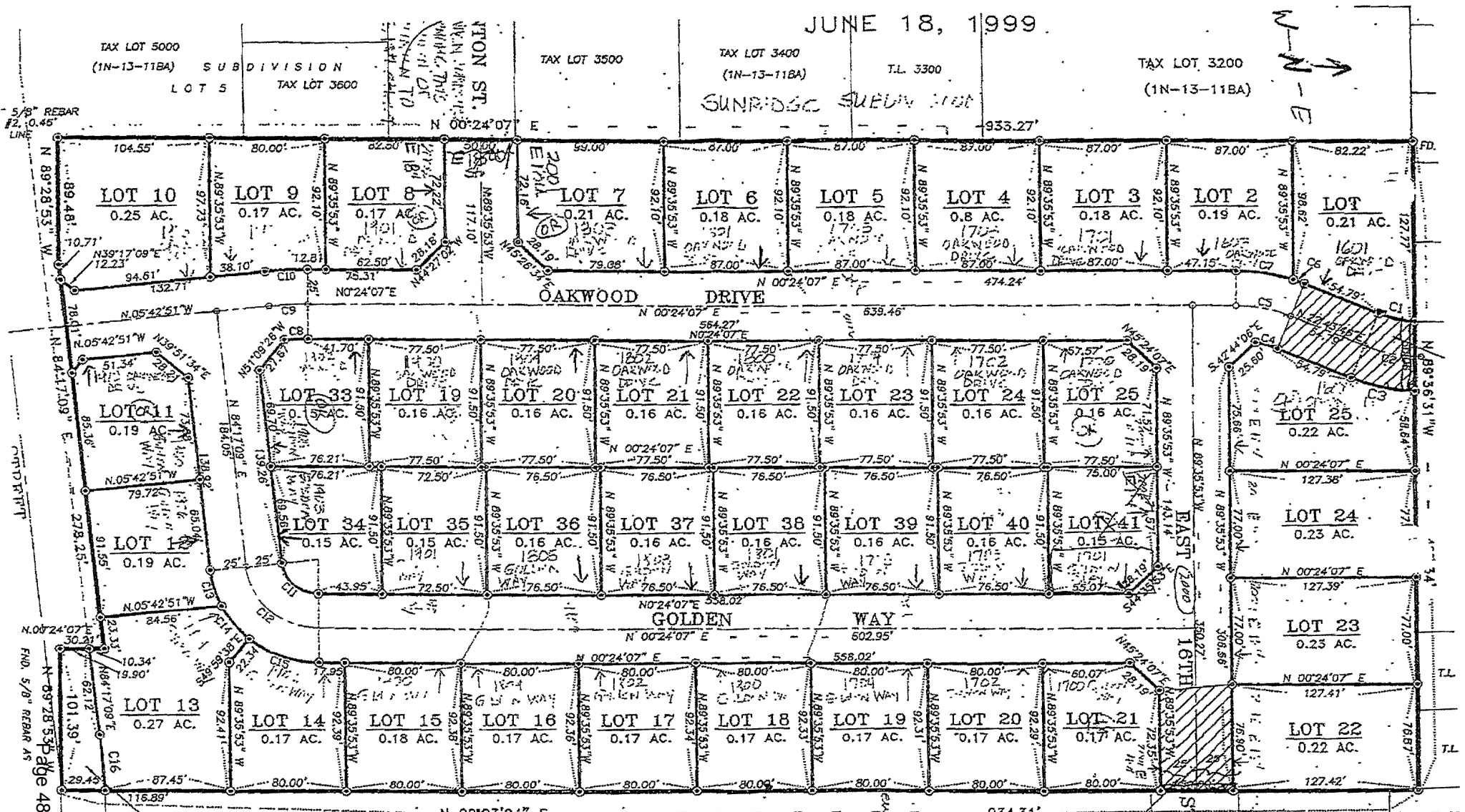
ITEM NAME	QUANTITY	UNIT PRICE	UNIT	TOTAL
Excavation & Grading	1623	\$ 15.00	cubic yd	\$ 24,338.89
3/4" Minus(Street)	250	\$ 42.00	cubic yd	\$ 10,484.44
1 1/2" Minus(Street)	874	\$ 25.00	cubic yd	\$ 21,842.59
Asphalt (4" Thick)	1011	\$ 42.00	ton	\$ 42,462.00
3/4" Minus(Sidewalk)	31	\$ 50.00	cubic yd	\$ 1,560.19
Sidewalk	5055	\$ 4.25	square ft.	\$ 21,483.75
Curb and Gutter	2022	\$ 14.00	linear ft.	\$ 28,308.00
Adjust Structures to Grade	1	\$ 50.00	each	\$ 50.00
Drive Approach	0	\$ 5.00	square ft.	\$ -
12" PVC SD Pipe	515	\$ 22.00	ft.	\$ 11,330.00
18" PVC SD Pipe	1310	\$ 36.00	ft.	\$ 47,160.00
Catch Basin	4	\$ 1,000.00	each	\$ 4,000.00
Manhole	7	\$ 1,500.00	each	\$ 10,500.00
8" PVC SS Pipe	900	\$ 22.00	ft.	\$ 19,800.00
4" SS Lateral	5	\$ 2,000.00	ft.	\$ 10,000.00
Manhole	3	\$ 1,500.00	each	\$ 4,500.00
Admin., Engineering, Contingency	1		each	\$ 38,672.98
			TOTAL	\$ 296,492.84

Tenold Frontage (Feet) = 310

Percentage of Project = 0.15

\$ 45,456.37

JUNE 18, 1999



PROPOSED ROAD DEDICATION
2,558 SQ. FT. = 0.06 AC.

CURVE	DELTA	RADIUS	ARC LENGTH	TANGENT	CHORD ANGLE	CHORD LENGTH
C1	18°50'14"	75.00'	24.86'	12.44'	N13°18'39"E	24.55'
C2	22°12'45"	100.00'	38.77'	19.63'	N11°37'23"E	38.53'

PROPOSED 50' DEDICATED RIGHT-OF-WAY STREET TO
BE CONSTRUCTED BY DEVELOPER OR HIS ASSIGNEES
WHEN CITY OF THE DALLES CONSTRUCTS REMAINDER
OF E. 19TH. STREET TO THOMPSON STREET. THIS

TAX LOT 500
LOT 5
MAYVIEW ADDITION

WAIVER OF REMONSTRANCE AGREEMENT

Agreement made this 30 day of November, 2001, by and between the City of The Dalles, a municipal corporation of the State of Oregon, hereinafter "City", and Rich and Kay Tenold, hereinafter collectively known as "Applicant".

RECITALS:

WHEREAS, Applicant desires to record the Final Plat for Subdivision No. 43-98 located within the City of The Dalles, at East 19th Street, and

WHEREAS, City land use laws, rules and policy require that certain public improvements be installed to serve the land proposed for such use;

NOW, THEREFORE, in return for the mutual promises and consideration contained herein, City and Applicant, as a condition to approval of above described project agree as follows:

1. City to Forbear Improvement Requirements. (A) Applicant, as the owner of Lots 11, 12 and 13 in the subdivision referred to above, and the City, agree to forbear requiring Applicant to construct the public improvements listed above as a requirement of the building permit approval.

2. Waiver of Remonstrance. In the event action is taken to implement a local improvement district for the completion of East 19th Street to Thompson Street, which includes the portion of the half-street of East 19th Street eastbound to the subdivision boundary line, measuring approximately 310 feet, adjacent to Lots 11, 12, and 13 in the subdivision,

APPLICANT, AS THE LAND OWNER OF LOTS 11, 12 AND 13, OR THEIR SUCCESSORS IN INTEREST IN THE OWNERSHIP OF THOSE LOTS WAIVE ANY RIGHT TO REMONSTRANCE AGAINST THE PROPOSED LOCAL IMPROVEMENT DISTRICT AND WAIVE ANY RIGHT TO REMONSTRATE AGAINST THE COST OF SUCH IMPROVEMENT.

Applicant, as the land owner of Lots 11, 12 and 13, further agrees that the owners of those Lots shall bear the cost of construction of public improvements by a local improvement district located upon or adjacent to the land described in this agreement. In the event that the owners of those Lots fail or refuse to construct improvements required by the City, the City shall be entitled to construct the improvements or to contract to have them constructed and to assess the cost of construction together with legal, engineering and administrative costs against those Lots. APPLICANT, AS THE OWNER OF THOSE LOTS, AND THEIR SUCCESSORS IN INTEREST AS TO THE OWNERSHIP OF THOSE LOTS, AGREE THAT THE ASSESSMENT LIEN SHALL BE SUBJECT TO FORECLOSURE BY THE CITY IN THE MANNER PROVIDED BY LAW.

3. Agreement to be Covenant Running with the Land. Applicant agrees that the provisions of this agreement regarding public improvements shall be a covenant running with the land and that the terms hereof shall be included in any deed or contract of sale purporting to convey any legal or equitable interest in the lands to which this agreement is applicable. The agreement shall be legally binding upon the owner of the Lots listed above. The obligation to pay for the cost of any City improvements adjacent to the Lots 11, 12 and 13 referenced above, shall be an obligation of the owners of those Lots and nothing in this agreement shall be construed to make the obligation to pay for any of those improvements an obligation of the Applicant or Applicants individually.

4. Agreement to be Recorded. This agreement shall be recorded in the City of The Dalles Clerk's Office.

5. Land to which Applicable. The real property to which this agreement applies is known as Lots 11, 12, and 13 of Sunridge Estates Subdivision, the plat of which was recorded in the Wasco County Deed Records as Microfilm No. 2001-5093.

6. Attorney Fees and Costs in the Event of Litigation. In the event of litigation concerning this agreement, Applicant agrees to save and hold the City harmless from any claim, award, or judgment and to pay all costs of litigation incurred by the City including attorney fees in defending its rights hereunder regardless of the outcome of the litigation.

DONE AND DATED THIS 30 DAY OF November, 2001.

CITY OF THE DALLES, a municipal corporation
of the State of Oregon

By David L. Sumner
Community and Economic Development Department

Approved as to form:

Gene E. Parker
Gene E. Parker, City Attorney

STATE OF OREGON, County of Wasco) ss.

The foregoing instrument was acknowledged before me on
Nov. 30, 2001, 2001, by Rich Tenold to

APPLICANT

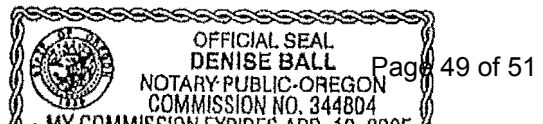
Rich Tenold
Rich Tenold

APPLICANT

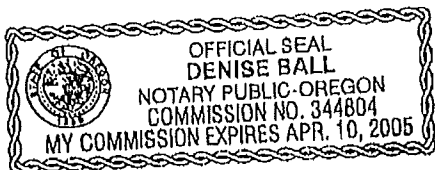
Kay Tenold
Kay Tenold

be his voluntary act and deed.

Denise Ball
Notary Public for Oregon



My commission expires: 4-10-05



STATE OF OREGON, County of Wasco) ss.

The foregoing instrument was acknowledged before me on Nov 30, 2, 2001, by Kay Tenold to be her voluntary act and deed.

Denise Ball
Notary Public for Oregon
My commission expires: 4-10-05

