

AGENDA

REGULAR CITY COUNCIL MEETING

May 9, 2011

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. PRESENTATIONS/PROCLAMATIONS
6. 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.

7. CITY MANAGER REPORT
8. CITY ATTORNEY REPORT
9. CITY COUNCIL REPORTS
10. 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 25, 2011 Regular City Council Meeting Minutes
- B. Resolution No. 11-012 Concurring With the Mayor's Appointments to Various Committees

OFFICE OF THE CITY MANAGER

COUNCIL AGENDA

11. PUBLIC HEARINGS

- A. Continuation of Public Hearing to Receive Testimony Regarding Proposed Amendments to the Comprehensive Plan and Land Use Development Ordinance for Periodic Review [Agenda Staff Report #11-037]

12. CONTRACT REVIEW BOARD ACTIONS

- A. Award Contract for East 12th Street Storm Line Construction [Agenda Staff Report #11-038]
- B. Award Contract for East 10th Street Widening Project Concrete Work [Agenda Staff Report #11-039]

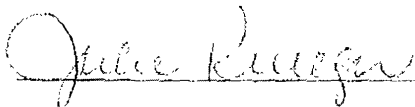
13. ACTION ITEMS

- A. General Ordinance No. 11-1311 Amending General Ordinance No. 93-1175 Concerning Certain Criminal Offenses [Agenda Staff Report #11-040]

14. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk

_____



AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
May 9, 2011	Consent Agenda 10, A - B	N/A

TO: Honorable Mayor and City Council

FROM: Julie Krueger, MMC, City Clerk

THRU: Nolan K. Young, City Manager

DATE: April 27, 2011

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

A. ITEM: Approval of April 25, 2011 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the April 25, 2011 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 25, 2011 regular City Council meeting.

B. ITEM: Resolution No. 11-012 Concurring With the Mayor's Appointments to Various Committees.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The Mayor has selected Eric Gleason and Bob McNary for re-appointment to the Historic Landmarks Commission; Duane Howell for re-appointment to the Traffic Safety Commission; and Jaime Van Den Bosch for appointment to the Traffic Safety Commission.

RECOMMENDATION: That City Council adopt Resolution No. 11-012 concurring with the Mayor's appointments to various committees.

MINUTES

REGULAR COUNCIL MEETING
OF
APRIL 25, 2011
5:30 P.M.
CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Jim Wilcox

COUNCIL PRESENT: Bill Dick, Dan Spatz, Brian Ahier, Tim McGlothlin

COUNCIL ABSENT: Carolyn Wood

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Finance Director Kate Mast, Community Development Director Dan Durow, Senior Planner Dick Gassman, Police Chief Jay Waterbury

CALL TO ORDER

Mayor Wilcox called the meeting to order at 5:33 p.m.

ROLL CALL

Roll call was conducted by City Clerk Krueger; Councilor Wood absent.

PLEDGE OF ALLEGIANCE

Mayor Wilcox invited the audience to join in the Pledge of Allegiance.

APPROVAL OF AGENDA

Mayor Wilcox asked the Council to add approval of an OLCC license application for Juanita's and an Executive Session to conduct deliberations regarding labor negotiations.

MINUTES (Continued)
Regular Council Meeting
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It was moved by Spatz and seconded by McGlothlin to approve the Agenda as amended. The motion carried unanimously, Wood absent.

PRESENTATIONS/PROCLAMATIONS

Arts and Culture Month Proclamation

Mayor Wileox read a Proclamation, declaring the month of May, 2011, as Arts and Culture Month.

AUDIENCE PARTICIPATION

Doug Leash, 1623 East Ninth Street, The Dalles, provided photographs of graffiti in the City and asked the City Council to consider implementation of regulations against graffiti. He said it was important to get it cleaned up to avoid people adding to it and said there didn't seem to be a plan to take care of it. He noted some of the graffiti had been on Brewery Grade for over six months.

City Manager Young said he would confer with staff and provide a report to the City Council and Mr. Leash regarding how the City handled graffiti.

CITY MANAGER REPORT

City Manager Young said he and the Mayor had met with Stephanie Hollick regarding industrial wetland issues. He said they would continue to work on a summary of issues and report to City Council.

Young said the City had met with the Corps of Engineers and Confederated Tribes of the Warm Springs regarding the commercial dock. He said they planned to meet again in two weeks.

Young reminded the City Council of the Budget Committee meetings, beginning on May 2nd at 5:30 p.m.

CITY ATTORNEY REPORT

City Attorney Parker said he would bring a proposed amendment to the general offenses ordinance on May 9th. He said the primary issue was to make it a local offense to possess less than one ounce of marijuana. Parker said the amendment would allow the City to keep the fines collected instead of turning them over to the State.

MINUTES (Continued)
Regular Council Meeting
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Parker said he would be attending a City Attorney's seminar regarding employment law, elections law and public records law.

CITY COUNCIL REPORTS

Councilor McGlothlin highlighted activities of the Traffic Safety Commission, including discussion regarding a cross walk at Brewery Grade, increasing the speed limit at the east end of the round about and the East 10th Street widening project.

Councilor Dick reported the Urban Renewal Advisory Committee meeting had been a tour of the Civic Auditorium and the Granada Block buildings.

Mayor Wilcox said he had enjoyed the League of Oregon Cities bulletin article by the Executive Director and urged the City Council to read it.

Wilcox said he would be attending a Department of Environmental Quality (DEQ) meeting on May 2nd regarding the Wal-Mart application. He said he would be attending Senator Wyden's town hall meeting on April 26th at the Discovery Center. Wilcox said he would attend a meeting at the college later in the week regarding accreditation for the college.

Mayor Wilcox said the three ad-hoc committees he had appointed were all working on their projects and he expected to have the report from the Tree Policy Committee at the May 23rd meeting.

Approval of Mission Statement

Councilor McGlothlin suggested adding the words " we will" to the Mission Statement. It was moved by Ahier and seconded by Dick to approve the Mission Statement: "By working together, we will provide services that enhance the vitality of The Dalles". The motion carried unanimously, Wood absent.

CONSENT AGENDA

It was moved by Spatz and seconded by Dick to approve the Consent Agenda as amended. The motion carried unanimously, Wood absent.

Items approved by Consent Agenda were: 1) approval of April 11, 2011 regular City Council meeting minutes; 2) Resolution No. 11-010 concurring with the Mayor's appointment to the Planning Commission; and 3) authorization for the City Clerk to endorse an OLCC application for Juanita's Market.

PUBLIC HEARINGS

Public Hearing to receive Testimony Regarding Proposed Amendments to the Comprehensive Plan and Land Use Development Ordinance for Periodic Review

Mayor Wilcox reviewed the procedures to be followed for the public hearing.

The staff report was reviewed by Community Development Director Dan Durow, Senior Planner Dick Gassman, and Consultant Greg Winteroud.

A history of the process was reviewed, noting the process had started in 2006 with the thought the Plan would coincide with the expansion of the urban growth boundary and that the Plan had originally been prepared with the expansion in mind. Winteroud said once it was determined the expansion would not be included, the Plan had to be modified. He said during the process, many things had changed, such as the name of the Airport and asked if the Council had any corrections, they provide them to staff to make changes.

It was noted the major changes were stream corridor protection and industrial zone parcels. Regarding stream corridor protection, many agencies required buffering for the Chenowith, Mill and Three Mile Creeks within the urban growth boundary. He said it was proposed to require a 50 foot buffer for undeveloped properties, which there were very few of in the urban growth boundary. Winteroud said properties that were already developed would be exempt from the regulation. He said the language included a provision to allow for a 25 foot buffer if it was enhanced with natural vegetation.

Regarding the industrial designations, Winteroud said there had been a lot of input through work sessions between the Planning Commission and City Council, small group work sessions and Planning Commission hearings. He said the proposed language was on the edge of what the State would accept.

Winteroud said during the Comprehensive Plan update process, the population projection and Economic Opportunities Analysis (EOA) had been adopted by Wasco County and tentatively approved by the City Council in 2007. He said when the Columbia River Gorge Commission did not allow the City to submit the change as a minor amendment, other elements needed to be completed, including cultural and natural features studies. Winteroud said the work was nearly complete, and now there were three major concerns that needed to be resolved.

MINUTES (Continued)
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He said one issue was preservation of large industrial sites, noting that 94% of the demand for industrial land was for small sites. Winteroud said the requirement for a concept plan had been removed due to the objection of the Port. He said the third issue of wetlands had not been answered yet.

Regarding the 20 acre industrial sites, Winteroud said the language had been re-written to address the need for smaller sites and that based on the EOA, there was a surplus of industrial land available.

Mayor Wilcox said the Council was being asked to approve four separate documents and suggested the Council address one document at a time.

City Manager Young said the process for this meeting was to conduct a public hearing and suggested the Mayor continue with the hearing and then have a discussion among the City Council.

Winteroud said the language regarding wetlands was included because the City Council had said they wanted language pointing out that there could be an impact on the available land inventory. He said it was an observation, not a policy. City Manager Young said the language could be changed to state that the wetlands were a concern and may restrict the land inventory, but not to state it as a fact.

Testimony

Bob McFadden, 2472 Badger View Drive, The Dalles, urged the City Council to wait until all the documents were completed before adopting any of them. He said there was a lot of discussion regarding what was expected to be included in the Comprehensive Plan by State agencies, but not what the local citizens wanted.

Gary Honald, 2505 Wright Drive, The Dalles, testified regarding the stream protection proposal, saying there were already many trees along Mill Creek. He said the City should be careful because if too many trees blocked the creek during flood events, the City could be liable. Honald said one of the main causes for warm stream temperatures was the City's reservoirs. He said the people who live along the creek were very good stewards of it and there didn't need to be too many restrictions for the creek.

Lenore Clifford, 531 West Third Place, The Dalles, asked who would be responsible for removal of noxious vegetation, what exceptions would be allowed for the 50 foot stream protection rules and how the water line would be defined.

Community Development Director Durow said there was no language regarding removal of noxious vegetation. He said exemptions to the rule would be public roads, bridges, utility lines and paths. Durow said when the Mill Creek Greenway trail was designed, the location would take into consideration flood levels and plant materials.

Durow said the high water mark would be used to measure the protection area. Greg Winteroud said it would be based on a two year flood mark to determine the ordinary high water line. He said the language regarding stream protection was in response to pollution concerns (warm temperature) and was not required by the State, but that many other agencies would want to see the City's Plan include protection language.

Mrs. Clifford said she didn't feel her questions were answered thoroughly. She said she cleaned up a lot of garbage along the creek, on her property, planted grass and irrigated it, even though it belonged to the City.

John Nelson, 524 West Third Place, The Dalles, said the Planning Commission had worked very hard to develop language regarding stream protection and said it was friendly to property owners, while still satisfying the agencies. He said creeks were suffering from pollution and some standards should be in place for their protection. Nelson said he also served on the Mill Creek Watershed Council and that group was also working to help with measures to cool the creek so fish could survive. He said there would be an event hosted by the Watershed Council, in June, to help people understand ways to help cool the water and said they had a showcase area where the old trailer court used to be to show people how to improve the creek with planting native vegetation. Regarding the wetlands issue, Nelson said it was important for the City to have an inventory of wetlands for future development purposes.

Gary Honald provided additional testimony that he believed measuring from the center of the creek for the protection zone would make more sense because the shore moves constantly.

Mayor Wilcox said he was opposed to the Appeal section which placed the burden of proof on the appellant. Senior Planner Gassman said the Planning Commission had removed that section at their last meeting.

Mayor Wilcox said he had a letter from Andrea Klaas of the Port of The Dalles who did not support the language regarding the 20 acre parcels and he did not support the language either. He said it was communist and written in an uncooperative tone.

Community Development Director Durow said staff had been working with the Port regarding the language and they had told him today that they were in agreement with the proposed language.

Winteroud said the Executive Director had been included in the process to develop the language and the EOA had been developed with considerable public input. He said this had been worked on for four years with cooperation and direction from the City Council.

Community Development Director Durow said it had been a long process and reminded the City Council that the grant deadline was nearing. He said it was important to complete the process by May 31 or grant funds could be required to be paid back.

Durow said the language could be softened regarding the wetlands issue and stream protection. He said the language was property owner friendly and noted the large industrial sites would not be specifically identified, but that staff would track to ensure there were sites available as required.

City Manager Young asked the Council to provide staff with lists of any items that were housekeeping in nature so the document could be cleaned up and then to identify major focus areas such as the industrial sites. He said the language could be changed to be more cooperative.

Mayor Wilcox recessed the public hearing to the May 9, 2011 City Council meeting.

Councilor Ahier expressed concern that citizens would not have the ability to know the location of the available 20 acre industrial sites.

Councilor Dick said the citizens who paid the bond to develop the Port area for industrial uses, were told the best use would be for smaller parcels of approximately two acres and that was how it had been developing over the years.

Councilor McGlothlin said he believed the Council should keep moving forward toward adoption of the documents, saying he had not heard anything that would be a major roadblock and he did not want to jeopardize the grant. McGlothlin said these were living documents that could be amended when necessary or conditions changed for the community.

Councilor Ahier said he supported providing emphasis on the wetlands issue and hoped the City could work toward an inventory. Community Development Director Durow said the Phase II portion of the urban growth boundary expansion work included the wetlands inventory and he hoped to receive grant funding for that project.

Councilor Dick said he believed the people who lived along Mill Creek were good stewards of it. He said he supported the testimony of Mr. Honald regarding measuring creeks from the center,

noting water courses were constantly changing direction. Dick asked if there was any risk in changing the standard method for measurement of the protection zone. City Manager Young suggested adding language that would better define the high water mark rather than changing the method of measuring to the center of the creek.

Greg Winteroud said measuring from the water line was a standard measuring practice. He said it would also allow staff to use common sense judgment and help protect property owners by being able to be more flexible.

Mayor Wilcox said language regarding a surplus of employment land (commercial and industrial) seemed in conflict with what the Council had been told regarding the need for an urban growth boundary expansion.

Mr. Winteroud said it was based on a higher expected population and that the definition of reducing to four 20 acres parcels created less burden to property owners.

It was the consensus of the City Council to take any additional testimony on May 9th, and to adopt the documents at the May 23rd Council meeting.

CONTRACT REVIEW BOARD ACTIONS

Award Contract for Towing Services

City Attorney Parker reviewed the staff report.

It was moved by McGlothlin and seconded by Ahier to authorize the City Manager to enter into a three year agreement commencing August 1, 2011, with Shaner Enterprises, Inc., doing business as Rivers Edge Towing, in accordance with their proposal submitted April 12, 2011. The motion carried unanimously, Wood absent.

ACTION ITEMS

Resolution No. 11-008 Initiating a Street Vacation Procedure for Library Property

Senior Planner Gassman reviewed the staff report.

It was moved by Dick and seconded by Spatz to adopt Resolution No. 11-008 initiating a street vacation procedure for a portion of East Seventh Place East of Court Street, a Portion of Washington Street East of Court Street and North of East Seventh Place, and an Alley East of Court Street. The motion carried unanimously, Wood absent.

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Resolution No. 11-011 Initiating a Right of Way Vacation Procedure for a Portion of Terrace Drive and East Terrace Drive

Senior Planner Gassman reviewed the staff report.

Councilor Dick said he had been Mr. Mayfield's attorney and was involved in the estate so would have a conflict of interest in this matter and would not participate in the discussion or vote.

It was moved by Spatz and seconded by McGlothlin to adopt Resolution No. 11-011 initiating a street vacation procedure for a portion of Terrace Drive and a portion of East Terrace Drive. The motion carried unanimously; Dick abstaining and Wood absent.

Approval of Agreement With the Chamber of Commerce to Provide Tourism Services

Chamber of Commerce Executive Director Dana Schmidling reviewed the proposed work plan and discussed some of the new proposals for the upcoming year. She asked the Council to consider allowing \$5,000 that was not spent on the current special project to be carried over into the next fiscal year for the special project.

It was moved by Ahier and seconded by McGlothlin to approve the proposed fiscal year 2011-12 Work Scope and budget for the Community Marketing Program as presented by the Chamber of Commerce and to carry over \$5,000 from the current budget to the 2011-12 fiscal year special project budget. The motion carried unanimously, Wood absent.

Extend Time of Meeting

It was moved by Ahier and seconded by Spatz to extend the time of the meeting to the conclusion of business. The motion carried unanimously, Wood absent.

EXECUTIVE SESSION

Mayor Wilcox recessed the meeting to Executive Session at 8:31 p.m. in accordance with ORS 192.660 (2) (d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

Reconvene to Open Session

The meeting reconvened to open session at 8:36 p.m.

DECISIONS FOLLOWING EXECUTIVE SESSION

City Manager Young reviewed the proposed contract, saying the agreement included a one percent cost of living adjustment January 1, 2012; two percent on January 1, 2013; and two percent on January 1, 2014. He said the City's contribution toward insurance premiums would be the same for the current year; July 1, 2012, maximum City contribution would increase by 9%; and July 1, 2013, maximum City contribution would increase by 8%. Young said the City would make available a second, less costly plan with reduced benefits allowing employees to select which plan they want for the insurance year.

It was moved by Spatz and seconded by McGlothlin to authorize the City Manager to sign the labor agreement with SEIU, as negotiated.

Councilor Ahier said he was pleased with the work staff had done on the contract and that there was a move toward employees participating more in the cost of their health care benefits.

The motion to authorize the City Manager to sign the labor agreement with SEIU, as negotiated was voted on and carried unanimously, Wood absent.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:40 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED:

James L. Wilcox, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk

RESOLUTION NO. 11-012

**A RESOLUTION CONCURRING WITH THE MAYOR'S
APPOINTMENTS TO VARIOUS COMMISSIONS**

WHEREAS, there is are vacancies on the Historic Landmarks Commission and Traffic Safety Commission; and

WHEREAS, Mayor Wilcox has selected Eric Gleason and Bob McNary for re-appointment to the Historic Landmarks Commission; and

WHEREAS, the Mayor has selected Duane Howell for re-appointment and Jaime Van Den Bosch for appointment to the Traffic Safety Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. The City Council hereby concurs with the re-appointment of Eric Gleason and Bob McNary to the Historic Landmarks Commission, terms to expire May31, 2015.

Section 2. The City Council concurs with the re-appointment of Duane Howell and appointment of Jaime Van Den Bosch to the Traffic Safety Commission, terms to expire April 30, 2015.

Section 3. This Resolution shall be effective May 9, 2011.

PASSED AND ADOPTED THIS 9th DAY OF MAY, 2011

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____
Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 9th DAY OF MAY, 2011

SIGNED:

James L. Wilcox, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490

AGENDA STAFF REPORT

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
May 9, 2011	Public Hearings 11, A	11-037

TO: Honorable Mayor and City Council

FROM: Dick Gassman, Senior Planner
Community Development Department

THRU: Nolan Young, City Manager

DATE: May 9, 2011

ISSUE: Period Review of Comprehensive Plan and Land Use and Development Ordinance, Continued Hearing.

RELATED CITY COUNCIL GOAL: N/A

PREVIOUS AGENDA REPORT NUMBERS: 11-031 on April 25, 2011

BACKGROUND: The City of The Dalles is currently in the process of conducting a Periodic Review. This is a formal process required by the State of Oregon for a jurisdiction to review its Comprehensive Plan and related policies. As part of this review, City staff and the City's consultant have reviewed not just the Comprehensive Plan and Land Use and Development Ordinance (LUDO), but also the Economic Opportunities Analysis, and new requirements from the U. S. Environmental Protection Agency and the State Department of Environmental Quality relating to stream and stream corridor protection.

PROCESS: This process started several years ago. The City held open houses for public input, had work sessions with the City Council and Planning Commission and held public hearings, all in anticipation of requesting an expansion of the Urban Growth Boundary (UGB). The UGB expansion project has been delayed, but due to grant deadlines the City needs to complete by the end of May this first phase of the Periodic Review work.

The documents have been rewritten without reference to the UGB expansion. After the rewrite, the City Council held a joint work session with the Planning Commission, then the Planning Commission held a formal public hearing to obtain public input on April 7, 2011. The Commission continued its deliberations to a special meeting on April 14 when they recommended approval of the series of documents in this part of the project. As stated previously, the reason for the special session of the Commission and for the tight schedule with the City Council is to comply with the grant deadline.

At their meeting on April 25, 2011 the Council held a public hearing, received public input, and held the hearing open to May 9 to give staff time to make alterations to the documents and to allow an additional opportunity for public input.

REVIEW: This is a legislative type hearing to review the Comprehensive Plan and related documents. Due to the size of the documents, we have not included them with this staff report. Instead, we will place them on the City website, as we did with the version recommended by the Planning Commission. The new version, including the changes from the April 25 Council session, will be on the website by Monday, May 9. They can be found on the city website www.thedalles.org under Agenda and Minutes City Council May 9, 2011 Agenda, additional information. In addition to the draft Comprehensive Plan, these supporting documents include a draft Economic Opportunities Analysis, a draft Stream Corridor Inventory, a draft Stream Corridor ESEE Analysis, and draft LUDO amendments.

BUDGET IMPLICATIONS: There are no significant budget implications. There will be minor costs associated with printing new documents.

ALTERNATIVES: Adopt the changes to the Comprehensive Plan, LUDO, and Economic Opportunities Analysis as recommended by the Planning Commission, with modifications made from information obtained from the Council at the April 25, 2011 session. Adopt the Stream Corridor Inventory and Stream Corridor ESEE Analysis as recommended by the Planning Commission, with any changes by the Council.

A. Staff Recommendation: *Move to adopt the Comprehensive Plan, Economic Opportunities Analysis, LUDO, the Stream Corridor Inventory, and the Stream Corridor ESEE Analysis as recommended by the Planning Commission, with changes as approved by Council, and direct staff to return with an ordinance at a later meeting.*

B. ALTERNATE MOTION: Do not adopt these documents and give direction to staff on how to proceed.



CITY OF THE DALLES
Department of Public Works
1900 West Sixth Street
The Dalles, Oregon 97058

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
May 9, 2011	Contract Review Board 12, A	11-038

TO: Honorable Mayor and City Council

FROM: Dale S. McCabe, City Engineer

THRU: Nolan K. Young, City Manager

DATE: April 27, 2011

ISSUE: EAST 12TH STREET STORM LINE - CONTRACT NO. 2011-013

RELATED CITY COUNCIL GOAL: Tier I: Item C. - Complete construction of East 19th Street and Thompson Street extension.

BACKGROUND: The City of The Dalles Public Works Department advertised for bids for the East 12th Street Storm Line Project, Contract No. 2011- 013. The scope of work for the project was stated as follows: "The work to be performed shall consist of furnishing all materials, labor, and equipment necessary in the installation of approximately 1130 feet of 36" storm drain pipe, 240 feet of 30" storm drain pipe and 6 manholes. All work will be conducted in accordance with the contract documents."

The City's Storm Water Master Plan that was adopted in May of 2007 listed 10 major capital improvement projects that consisted of installing storm drain trunk lines for encompassing the next 20 year planning period and beyond. This specific project is phase one of a three phase project called the "14th Street Improvements from Dry Hollow Road to Morton Street". Phase I will be an alignment that begins at the intersection of Dry Hollow and East 12th Street and heads east along East 12th Street to Quinton, and then along Quinton from East 12th Street to E13th

Street. The 36" pipe will be installed along the East 12th Street alignment section and the 30" pipe will be installed along the Quinton Street section and continue on in the Phase II project. This project (Phase I) and the future Phase II project will accommodate and drain all storm water runoff from the future Thompson Street improvements and the extension of E 19th Street.

The bid opening for the contract was held on April 21st at 2:00 p.m. for which we received four bids. The four construction companies that submitted bids had all submitted the proper pre-qualification information and had pre-qualified to bid on the project. The bids received were as follows.

1. NW Kodiak Construction, LLC, in the amount of \$290,678.47.
2. Nutter Corporation, in the amount of \$343,970.22.
3. Crestline Construction Co. LLC, in the amount of \$346,195.00.
4. Cascade Equipment & Construction, Inc., in the amount of \$447,380.00.

The bids were reviewed by City staff to make sure that the proper material was submitted and the bids were deemed complete.

BUDGET IMPLICATIONS: A total of \$440,000 is budgeted for this project in the Wastewater Fund 56, Line Code 7640. The low bid for this project falls well under the amounts that were budgeted and available for this project and well under the Engineer's estimate for the project.

ALTERNATIVES:

- a. Staff Recommendation: *Authorize the City Manager to enter into contract with NW Kodiak Construction, LLC, in an amount not to exceed \$290,678.47.*
- b. Provide additional research in response to questions raised by City Council.
- c. Not to proceed with the contract.



CITY OF THE DALLES
Department of Public Works
1900 West Sixth Street
The Dalles, Oregon 97058

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
May 9, 2011	Contract Review Board 12, B	11-039

TO: Honorable Mayor and City Council

FROM: Dale S. McCabe, City Engineer

THRU: Nolan K. Young, City Manager

DATE: April 27, 2011

ISSUE: 10th STREET WIDENING - CONCRETE WORK CONTRACT NO. 2011-016

RELATED CITY COUNCIL GOAL: Tier I: A. - Complete Tenth Street Widening Project

BACKGROUND: The City of The Dalles Public Works Department advertised for bids for the 10th Street Widening - Concrete Work Project, Contract No. 2011- 016. The scope of work for the project was stated as follows: "The work to be performed shall consist of furnishing all materials, labor, and equipment necessary in the installation of approximately 1940 feet of concrete curb, 580 square yards of concrete sidewalk, 280 square yards of concrete drive approaches, and 7 sidewalk ramps. All work will be conducted in accordance with the contract documents."

The City's public works street crew has performed the demolition of the existing sidewalks, curbs, and street section of the East 10th Street segment between J Street and Clark Street. The City's utility crews have now begun installing new utilities in that same segment. Once the utility work has been completed the successful bidder of the 10th Street Widening - Concrete Work, Contract No. 2011-016 will be able to install the new curbs, sidewalk, drive approaches,

and ADA sidewalk ramps as outlined on the construction plans for this project. Upon completion of the segment between J Street and Clark Street, the same process will be completed for the segment between Clark Street and Lewis Street. Once all of the utility work and concrete work is completed on both segments as described above, the City's street crew will pave the segments which in turn will complete the final segment of the 10th Street Widening Project.

The bid opening for the contract was held on April 26th at 2:00 p.m. for which we received two bids. The two Construction Companies that submitted bids had all submitted the proper pre-qualification information and had pre-qualified to bid on the project. The bids received were as follows.

1. Van Nevel Concrete & Curb, Inc., in the amount of \$59,318.26.
2. Jack Pincock Construction, in the amount of \$78,950.00.

The bids were reviewed by City staff to make sure that the proper material was submitted and the bids were deemed complete.

BUDGET IMPLICATIONS: A total of \$335,000 is budgeted for the entire 10th Street Widening Project in the Street Fund 13, Line Code 7510. The low bid for this project falls under the amounts that were budgeted and available for this project.

ALTERNATIVES:

- a. **Staff Recommendation: *Authorize the City Manager to enter into contract with Van Nevel Concrete & Curb, Inc., in an amount not to exceed \$59,318.26.***
- b. Provide additional research in response to questions raised by City Council.
- c. Not to proceed with the contract.



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

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AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
May 9, 2011	Action Items 13, A	11-040

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager *nyf*

DATE: April 27, 2011

ISSUE: Adoption of General Ordinance No. 11-1311, amending General Ordinance No. 93-1175 which regulates criminal offenses, to include prohibitions on certain public conduct and the Possession of Less than One Ounce of Marijuana

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: None.

BACKGROUND: The City Police Department routinely receives complaints involving persons who engage in the act of public defecation or urination. The City Attorney's office has traditionally charged persons who commit such acts with the offense of Disorderly Conduct in the Second Degree. In order to obtain a conviction for this offense, it is necessary to present evidence in court of the defendant's intent to cause public inconvenience, annoyance or alarm. In the majority of these incidents, the only witness to the defendant's actions is the police officer who arrests the defendant or issues the defendant a citation to appear in court. Without testimony from a member of the general public to establish the element of public inconvenience, annoyance or alarm, the City does not have sufficient proof to obtain a conviction for the offense of Disorderly Conduct in the Second Degree.

To rectify this problem, an amendment has been proposed for General Ordinance No. 93-1175, which is the City's ordinance which regulates certain criminal offenses. Under the proposed amendment,

the act of urinating or defecating in a public place or in view of a public place, except in a toilet provided for that purpose, will be prohibited. The penalty for this violation will be a fine of up to \$6,250 and/or a jail sentence of up to one year.

The second amendment proposed for General Ordinance No. 93-1175 is to provide that the offense of Possession of Less than One Ounce of Marijuana can be cited as a violation of a City ordinance. Under the current practice, persons charged with this offense are charged under state law, and state law provides that fines imposed for convictions of the offense are paid to the State of Oregon. Amending the City's ordinance will provide that revenues from the conviction for the offense will be paid to the City, which will increase the revenue collected by the Municipal Court and assist in the City's efforts to pay for the costs of enforcing the provisions that provide that possession of marijuana is a criminal violation. The penalties for this offense will be a minimum fine of \$500 and a maximum fine of \$1,000, which is consistent with the penalties imposed under state law. The amendment also provides for a diversion process for first-time offenders, consistent with state law.

Notice of the adoption of General Ordinance No. 11-1311 has been posted in accordance with the provisions of the City Charter, and the Council can choose to adopt the ordinance by title only.

BUDGET IMPLICATIONS: Amending the City's criminal offense ordinance to provide that fines for convictions for the offense of Possession of Less than an Ounce of Marijuana should contribute to increased revenue being collected by the Municipal Court.

ALTERNATIVES:

- A. Staff Recommendation. *Move to adopt General Ordinance No. 11-1311 by title only.*

GENERAL ORDINANCE NO. 11-1311

**AN ORDINANCE AMENDING GENERAL ORDINANCE NO.
93-1175 WHICH REGULATES CRIMINAL OFFENSES, TO INCLUDE
PROHIBITIONS ON CERTAIN PUBLIC CONDUCT AND THE
POSSESSION OF LESS THAN ONE OUNCE OF MARIJUANA**

WHEREAS, the City Police Department routinely receives complaints involving persons who engage in the act of public urination or defecation; and

WHEREAS, the City Attorney's office has traditionally cited persons who commit such acts with the criminal offense of Disorderly Conduct in the Second Degree; and

WHEREAS, in order to obtain a conviction for the offense of Disorderly Conduct in the Second Degree, there needs to be evidence of the defendant's intent to cause public annoyance, inconvenience or alarm; and

WHEREAS, in many of these incidents, the only witness to the defendant's actions has been the police officer who arrests the defendant or issues a citation for an offense, which means without testimony from the public establishing the element of public inconvenience, annoyance or alarm, the City does not have sufficient proof to obtain a conviction for the offense of disorderly conduct; and

WHEREAS, adoption of an ordinance which specifically prohibits the act of urination or defecation in a public place, except in a toilet provided for that purpose, will provide the City Police Department and City Attorney's office with the necessary tools to prosecute and convict persons who engage in such behavior; and

WHEREAS, persons who engage in the offense of possession of less than one ounce of marijuana are cited by the City Police Department under the provisions of ORS 475.864, which provides that fines imposed by the City's Municipal Court are paid to the Oregon Department of Revenue for deposit in the State's Criminal Fine and Assessment Account; and

WHEREAS, the City has incurred significant costs in enforcing the state statute concerning possession of less than one ounce of marijuana, but receives no money from the fines imposed for convictions of the offense; and

WHEREAS, the City Council believes that it is in the best interest of the health, safety and welfare for the City Council to amend General Ordinance No. 93-1175 to establish that possession of less than an ounce of marijuana can be cited as a violation of a City ordinance;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES
ORDAINS AS FOLLOWS:**

Section 1. General Ordinance No. 93-1175 shall be amended to include two new Sections, Section 16(A). Public Urination and Defecation, and Section 16(B). Possession of Less than One Ounce of Marijuana, which Sections shall read as follows:

Section 16(A). Public Urination and Defecation. No person shall, while in a public place or in view of a public place, perform an act of urination or defecation, except in a toilet provided for that purpose.

Section 16(B). Possession of Less than One Ounce of Marijuana.

- (1) Definition. For purposes of this Section, the term “marijuana” shall mean all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound , manufacture, salt, derivative, mixture, or preparation of the plant or its resin. The term “marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term “marijuana” also does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products.
- (2) Possession of Marijuana. No person shall knowingly or intentionally possess marijuana, in an amount up to one avoirdupois ounce, except as otherwise authorized under the Oregon State Medical Marijuana Act.
- (3) Penalty. A violation of this Section is punishable by a fine of not less than \$500 and not more than \$1,000.
- (4) Diversion. A person charged with the offense of Possession of Less than One Ounce of Marijuana may be eligible for a diversion agreement, if the offense for which the defendant is before the Municipal Court is the defendant’s first such offense, and the defendant files a petition for a possession of marijuana diversion agreement with the Municipal Court, and pays the required diversion fee. Such petitions for a diversion agreement shall be available to the defendant at the Municipal Court. The

petition shall conform to the requirements of state law, and the diversion procedures shall be as prescribed by state statutes for possession of marijuana diversion agreements.

PASSED AND ADOPTED THIS 9TH DAY OF MAY, 2011.

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____
Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 9TH DAY OF MAY, 2011.

James L. Wilcox, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk