AGENDA

REGULAR CITY COUNCIL MEETING
July 26, 2010
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

   A. Americans With Disabilities Act Commemoration Proclamation

   B. Patriot Day Proclamation

   C. Presentation by Kathy Heitkemper Regarding Burn Ban for City of The Dalles

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 July 14, 2010 Regular City Council Meeting Minutes

B Authorization for City Clerk to Endorse OLCC New Outlet Application for the Civic Auditorium

11 PUBLIC HEARINGS

A. Public Hearing to Receive Testimony Regarding Proposed Surplus Real Property Described as 1N 13E 3BD #2700 **[Agenda Staff Report #10-063]**

1. Resolution No. 10-016 Declaring a Parcel of Real Property Described as 1N 13E 3BD Tax Lot 2700 to be Surplus Property and Accepting an Offer from Lisa Wallace to Purchase Said Property

12 CONTRACT REVIEW BOARD ACTIONS

A. Award Contract for the East Tenth Street Sewer Project **[Agenda Staff Report #10-057]**

13 ACTION ITEMS

A. Recommendation from Columbia Gorge Regional Airport Board to Approve a Three Year Airport Management Agreement With Aeronautical Management, Inc. **[Agenda Staff Report #10-058]**

B. Authorization for City Manager to Sign Amendment to the Third Intergovernmental Agreement to Provide Library Services to Wasco County Library Service District **[Agenda Staff Report #10-059]**

C. Resolution No. 10-015 Initiating a Street Vacation Procedure for a Portion of West Seventh Street **[Agenda Staff Report #10-060]**

D Approval of Airport Master Plan **[Agenda Staff Report #10-062]**

14 DISCUSSION ITEMS

A. Update Regarding Yard Sale Sign Program **[Agenda Staff Report #10-061]**

15 ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk

PROCLAMATION

WHEREAS, the Americans with Disabilities Act was signed into law by President George H. W. Bush on July 26, 1990; and WHEREAS the ADA affords civil rights and guarantees full inclusion to 58,000,000 Americans who experience disabilities; and

WHEREAS, employers, state, and local governments and places of public accommodation have implemented strategies for full and equal participation of persons with disabilities in all aspects of community life; and

WHEREAS, all Americans, including those with disabilities, share in birthright of America and its institutions;

NOW THEREFORE, I, Jim Wilcox, Mayor of the City of The Dalles, Oregon, proclaim July 26, 2010, as a day of commemoration of the Americans with Disabilities Act, and call upon all residents of The Dalles to reaffirm their commitment to the full participation of persons with disabilities in all aspects of the city's services and activities. Further, I congratulate employers, businesses, and government agencies for their continuing efforts to ensure access for all persons with disabilities.

APPROVED AND DATED THIS 26th DAY OF JULY, 2010

SIGNED: _____

James L. Wilcox, Mayor

ATTEST: _____

Julie Krueger, MMC, City Clerk

PROCLAMATION

WHEREAS, President George H. W. Bush Proclaimed September 11, 2001 as Patriot Day in memory of the victims and heroes of the September 11, 2001 terrorist attacks against the United States; and

WHEREAS, it is important to remember how Americans responded to the attacks with heroism and selflessness; compassion and courage; prayer and hope; and

WHEREAS, the heroic sacrifices of our firefighters, rescue and law enforcement personnel, military service members and other citizens inspire an outpouring of compassion; and

WHEREAS, we find healing through candlelight vigils, moments of silence and other community activities and renew our spirit of national pride on the anniversary of the attacks.

NOW THEREFORE, I, Jim Wilcox, Mayor of the City of The Dalles, proclaim September 11th each year as

"PATRIOT DAY"

a day of remembrance of the victims and heroes of the September 11, 2001 terrorist attacks on the United States and encourage citizens to join in community activities and to display the American flag at half staff each September 11th.

APPROVED AND DATED THIS 26th DAY OF JULY, 2010

SIGNED: _____
James L. Wilcox, Mayor

ATTEST: _____
Julie Krueger, MMC, City Clerk

CITY OF THE DALLES OREGON

July 26, 2010

~~~THE PROPOSAL~~~

...It would be my goal that The Dalles City Council pass a resolution effective no later than October 1, 2010 to ban back yard burning in The Dalles Urban Growth Area. [Exhibit A]

~~~ THE REASON ~~~

...concerns for my health and the health of my family, my neighbors and the citizens of The Dalles.

~~~ THE ALTERNATIVES~~~

.are already in place and can be easily accessed by citizens of The Dalles.

Fall is my favorite time of year and I love to have my doors and windows open. So, there is a great deal of frustration on my part when I see my neighbor approach an ever-increasing yard debris pile with a blowtorch. It's legal – he has a burn permit – I've called the fire department to check. But like second-hand cigarette smoke, the smoke from the yard debris burn doesn't stay in my neighbor's yard. For several years I have fussed and fumed about the backyard burning that takes place in The Dalles, especially during the early spring and late fall months. And that's all I did -- fuss and fume (no pun intended).

~~~ THE BIG STINK~~~

I was amazed at the citizen complaints that appeared in the Chronicle, and were taken by City Commissioners, when a pond at the Oregon Cherry Growers went septic in June 2007. Quoting the Chronicle (June 10, 2007) *"The odor problem from The Dalles Cherry Growers has assumed biblical proportions in the minds of many local residents."... "Most of the 25 residents who were on hand for the* [Monday night City Council] *meeting..." "Mayor Van Cleave said, "I've had more complaints on this than anything in the 12 years I've been on city council and mayor...."* [Exhibit B]

Yes, it was a very smelly situation for the east end of The Dalles. So I wondered why there wasn't the same number of citizen complaints regarding backyard burning. Backyard burning has many of the same characteristics of the septic pond only more so

- it smells
- it permeates homes through doors, windows and heat pumps
- it makes being outside next to impossible
- it could affect the sale-ability of property
- of greatest consequence, it affects people's health

So why the big stink about the septic pond and not backyard burning? It was easy to complain about a business being responsible for the stinky situation. It wasn't personal. The backyard burning issue is personal. It involves one's neighbor...the family one lives next door to 24/7. Any type of confrontation is difficult. It's easier to sometimes close the window, shut the door, go for a ride and hope the fire is out by the time one gets back home.

~~~TO YOUR HEALTH~~~

Thus began my quest to find out about backyard burning. Across the nation, backyard burning (both barrel and yard debris) has been addressed for years, and is banned in cities and counties, small and large, as well as statewide in at least seven states. Historically, waste to be burned was made up of simple things like wood, paper and organically produced food waste. However, modern science has changed this and most of what goes into our waste is made up of chemicals, plastics and solvents. Burning 'modern' waste in open barrels, and yard debris at low temperatures, produces toxic fumes and can have long-term health affects, not unlike second-hand cigarette smoke. In a nutshell, the combustion from backyard burning pollutes the air with dioxins, particulates, carbon

monoxide, nitrogen, and sulfur oxides. The particulates can be carcinogenic and the other substances can irritate the eyes and lungs and stress the cardiovascular system. Currently, the uncontrolled burning of residential waste is thought to be the largest source of dioxins (think Agent Orange) to the environment in the U.S. The attached [Exhibit C] is from the FDA and EPA websites that list the pollutants emitted from backyard burning and their specific health effects.

~ LOCAL AIR QUALITY HISTORY ~

In January of 2006 an Air Quality Task Force was convened with the goal and objective *"To improve the air quality of Wasco County through local interventions to ensure the optimal health of its citizens."* There must have been some deep concern at that time about the air quality and health of citizens for the task force to be formed in the first place, and for representatives from the following organizations to participate:

Jennifer Vines MD OHSU acting as facilitator
Wasco Sherman Health Department Director (4 representatives)
DEQ (3)
Concerned citizen (4)
Mel's Sanitary Service
US Department of Forestry
Mid Columbia Medical Center
Maupin Stoves-N-Spas
The Dalles Chronicle
City of the Dalles
The Dalles City Council
Mid Columbia Fire and Rescue

The task force completed its work in early 2007 with hopes of having volunteers continue the process, as there was no funding for staff time or resources. Without a commitment by one of the agencies involved to keep the task force suggestions moving forward, only meeting minutes remain. A summary of the task force project appeared in The Chronicle in June 2006. [Exhibit D]

~~~DEQ ~~

According to the Oregon Administrative Rules (340264-0020) "In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: (1) To eliminate open burning disposal practices where alternative disposal methods are feasible and practicable; (2) To encourage the development of alternative disposal methods." Rule 340-264-0060 states "(3) No person may cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, asbestos, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber produce, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or

of any other material which normally emits dense smoke or noxious odors." A Google search of petroleum products, brings up lists of thousands items used every day. Items from these lists are more than likely being burned today. During a meeting with Fire Chief, Bob Palmer, he indicated that it is likely at least half the contents of today's burn barrels are material that should not be burned.

While DEQ is interested in the air quality of the entire State of Oregon, in December 2008 DEQ had concerns about the air quality in The Dalles in particular, and forwarded a letter to all City officials with their concerns. They do not have a response on record. [Exhibit E]

~ RECYCLING ~
~An available alternative~

The Tri County Hazardous Waste and Recycling Program has done an incredible job of educating the public about managing waste. In The Dalles they have partnered with The Dalles Disposal Service to educate the public about recycling. They have educated through brochures, newsletters, mailers, and newspaper ads. The Dalles Disposal has made curbside recycling easy – collecting everything from newspapers to plastic bottles and tubs, to glass and cardboard. The transfer station is open six days a week to collect recyclable matter. There are free collection dates for recycling hazardous materials such as oil-based paints; pesticides; household cleansers and chemicals, antifreeze and old gas, batteries, fluorescent bulbs, thermometers. Computer towers, laptops, monitors and TV's can be e-cycled for free. Perhaps the Recycling Program could assist with paper shredding service for confidential paper during the hazardous waste collection events. [Exhibit F]

~ YARD DEBRIS ~
~An available alternative~

Is there an alternative for yard debris? The Dalles Disposal offers yard debris roll-bins for curbside pickup throughout the year for a monthly fee. There are two months (one in the spring and one in the fall) when yard debris can be taken to the transfer station for free. There are other alternatives as well. Grasscycling. Just remove the bag from the lawn mower and leave the clippings. They are a natural organic fertilizer. Mulching can save water and inhibit weeds and releases nutrients as it decomposes. Home composting ordinary yard debris and kitchen waste can produce a superior soil conditioner that can be added to garden soil to help water absorption and minimizes the need for chemical fertilizers. Racking leaves into the street is **not** an alternative. A November 2009 Chronicle front-page article from Public Works reminded citizens *"leaves should either be composted or bagged for disposal."* City ordinance 93-1175 Section 13 provides enforcement and penalties for dumping leaves in the street.

"COMPOSTING NATURE'S WAY" ~ kitchen waste
~Another available alternative~

Earth Machine compost bins [www.earthmachine.com] are available from The Dalles Disposal for $35. According to the EPA the average American throws away 1.3 pounds of food scraps daily; 475 pounds per year. Food waste (and yard trimmings) comprises 24% of the US Municipal solid waste stream. When food waste goes to landfills, the end product is methane, one of the most harmful greenhouse gases. On average, residents who compost at home can divert a minimum of 650 pounds per year from the solid waste stream. [www.epa.gov/wastes/conserve/materials/organics/food/fd-gener.htm]

~~~THE DALLES DISPOSAL~~~
~~~THE 4B PROGRAM - BURN BARREL BUY BACK~~~
~~~FREE YARD DEBRIS BAGS~~~

I have had an initial discussion with The Dalles Disposal about incentives for citizens who would be impacted by a ban. Providing free yard debris bags, similar to the PUD's program to distribute free water-meter blankets, may make it easier for citizens to actually take their yard debris to the transfer station during the free drop-off months.

Adopting an incentive program ~ *4Bs-Program. Burn Barrel Buy Back*~ to stop burning household wastes by providing garbage pick up either free or at a discounted rate for a certain number of months for former burners who are willing to give up their burn barrels was also discussed and may be another option. With the City working together with The Dalles Disposal regarding a buy back program, it may make the program more attractive to current burners. [Exhibit G – Current TDD curbside information sheet]

~2007-2009 WASCO COUNTY WATERSHED RECOVERY PLAN UPDATE REPORT~

In 2007, Wasco County was significantly below its target level for waste recovery and recycling. As a result, a statutorily required review of its recycling service levels was required. In October 2007, the Tri County Hazardous Waste & Recycling Program Manager produced the 2007-2009 Wasco County Watershed Recovery Plan Update outlining barriers to increased yard debris recovery, which included *"The ideal solution would be to have a local commercial composting operation that could use our material."* [Exhibit H]

~ DIRT HUGGER LLC ~

In May 2010 The Dalles Planning Commission approved a conditional use permit for a commercial compost facility ~ Dirt Hugger LLC ~ (www.dirthugger.com ~ also see ~ http://www.youtube.com/watch?v=Ti5uXILiCuM) on part of the Mountain Fir Lumber Co. site at the Port. According to a recent Chronicle article, *"the feed stock for the composting process would be brought to the site from trucks from the local garbage collection company, although the plans could include some drop off of yard debris by the public."* At the time of the drafting of this proposal documentation, the facility is not yet operational. They hope to have a permit in place by August 1, 2010.

~TRI COUNTY HAZARDOUS WASTE & RECYCLING PROGRAM ORGANICS MANAGEMENT STRATEGY~

The Tri County Hazardous Waste & Recycling Program hired Cascadia Consulting Group to prepare an assessment, and develop options, for organic material management in the Columbia Gorge region. One of the options for the near term included increasing curbside collection of residential curbside leaves and grass. With the implementation of a *4-B's Program*, and the real possibility of a local composting facility, this might help to meet a small portion of the Tri-County Hazardous Waste & Recycling Program's goal for managing local waste. [http://tricountyrecycle.com/Documents/TriCountyOMS2010.pdf ~ especially pages 4, 12, 26, 69-70 ~ Exhibit I]

~LETTERS TO THE EDITOR ~

In March 2010 I wrote a letter to the editor of the Chronicle to ask for comments on banning backyard burning. I received 12 responses. Of those responses, none were negative. One asked *"How will you draw the line between methed-out hillbillies burning Styrofoam and me doing all-wood style BBQ?"* I responded that recreational BBQ's were not affected by the ban and suggested that he invite his neighbors! There was one letter to the editor following mine suggesting that there be a ban to banning back yard burning. After speaking with the writer, his real question was, "What do I do with all the pine needles?" I have been personally approached by at least a dozen people saying they support a ban on backyard burning.

~EXEMPTIONS~

Industrial, commercial, construction waste, demolition waste, and slash burns are regulated by DEQ and are not part of this request. [OAR 340-264-0100] [Exhibit J]

Recreational fires, including cooking fires, and backyard bar-b-ques are not part this request. Recreational fires are discussed in the Mid-Columbia Fire & Rescue Resolution No. 2008-16. [Exhibit K]

Fireplaces/wood-burning stoves are not part of this request. While fireplaces and wood-burning stoves create unhealthy air quality particularly during the winter months, it appears that the State of Oregon is considering statewide action. Beginning August 1, 2010 the State will require any uncertified woodstove to be removed prior to a home being sold. There are already financial incentives in place for homeowners to switch from uncertified woodstoves. [Exhibit L]

~CITIZEN NOTIFICATION~

Tri County Hazardous Waste & Recycling has indicated, that in the event a burn ban resolution is passed by the City, they will report about the ban in their semi-annual newsletter, which goes to all postal patrons in the City of The Dalles.

~FINANCIAL IMPACT~

According to Mid-Columbia Fire & Rescue about 750 burn permits are issued during a burn season. A breakdown between commercial, industrial, agricultural and domestic burn permit requests was not available. It would not seem out of line to assume there might be fewer than three hundred backyard burn permits issued. Of those, a large percentage may be for burning of just yard debris. The smaller percentage of those seeking permits for burn barrels would appear to be easily absorbed into regular neighborhood garbage and recycling pickups without a significant impact to The Dalles Disposal. There may be some impact with the yard debris, in the event that the proposed compost facility does not begin operation before October 2010.

The minimal $5 burn permit fee that Mid-Columbia Fire & Rescue charges covers the administrative cost of issuing the permits. If permits were not issued there would be nothing to administer so technically there would be no significant or substantial revenue loss.

~FEES AND FINES~

Mid-Columbia Fire and Rescue handles fire calls in The Dalles. They currently have a resolution in place (No. 2008-16), which provides for a reasonable Burn Permit and Cost Recovery Fee Schedule to reimburse the District for the costs incurred. Perhaps the Fee Schedule could be adjusted to include a first time warning and a ticket for a second call for backyard burning offences when MCFR makes a fire run. City Ordinances allow for up to a 1-year jail sentence, and up to $6,250 in fines for ordinance refractions. Fines larger than the garbage collection service may dissuade those who continue to backyard burn. [Exhibit M]

There is a concern that current burn barrel individuals might switch to indoor stoves or fireplaces to burn "modern" waste. Part of the reporting of illegal burns should include fireplace smoke that emits odors or unusually dense smoke. Educating the public about the potential financial cost of indoor burns should be considered.

~ THE SUMMARY ~

Backyard burning is the most significant remaining source of dioxin, which is a serious health concern. Our individual choice to burn impacts one's health, the health of one's family and one's neighbors. It impacts the quality of life. As citizens, we *should* act responsibly and do the right thing. But sometimes we need a little nudge. On a given day, one or two burns pollute a whole neighborhood; five or six backyard burns pollute the whole city and affect hundreds of people. The May 7, 2010 fire run report, as reported in the Chronicle, stated *"Responded to burn complaint...Smoke was getting into neighbor's house."* Smoke doesn't know to stay home. A new type of household discipline needs to be established -- one of really reducing waste and recycling more. All the i's may not be dotted, and the t's might not all be crossed in my proposal, but it's time to move beyond the task forces and the studies. The alternatives are in place. There is no

reason not to move forward. In a March 2010 newspaper article, City Manager Nolan Young was quoted as writing, "The city council is also an elected body under a representative form of government. They have a much bigger responsibility not only to maintain and provide the services that the city specifically provides, but also to provide leadership and direction in the bigger picture of quality of life for the community, which includes all aspects of the community." I would encourage the city council to provide the leadership and direction necessary to resolve to ban back yard burning in The Dalles by October 1, 2010.

Thank you.
Respectfully Submitted,

Kathy Heitkemper

Kathy Heitkemper, A concerned citizen

~ADDITIONAL WEBSITE INFORMATION~

http://www.ci.the-dalles.or.us/newsite/node/70?q=node/39
City of The Dalles ~ General Ordinances (particularly chapters 4 & 5)

http://www.ci.the-Dalles.or.us/newsite/sites/default/files/imported/agendas/planning/commission/PDFs/Minutes050610.pdf
Conditional Use Permit – Dirt Huggers LLC

http://www.deq.state.or.us/lab/aqm/stations/tdc21252.htm
Air quality monitor -- Cherry Heights

http://arcweb.sos.state.or.us/rules/OARs_300/OAR_340/340_264.html
Oregon Administrative Rules that apply to Open Burning
Construction & Demolition, commercial, industrial, and agricultural open burning.

http://www.deq.state.or.us/aq/burning/woodstoves/heatSmart.htm
The August 2010 law that requires uncertified wood stoves to be removed from a home before being sold.

http://www.epa.gov/osw/nonhaz/municipal/backyard/
EPA's backyard burning website

http://www.deq.state.or.us/aq/burning/index.htm
Oregon DEQ Air Quality Site (Burning and Smoke)

www.mcfr.org
Burning is allowed until June 15th following these guidelines: (in 2010 the date was July 1st)
A permit is required and available at the Fire Station.

http://landru.leg.state.or.us/ors/478.html
ORS Chapter 478 as referenced in MCFR Burn Permit information

www.burnbarrel.org
A project by the American Environmental Health Studies Project. Various links to national burn barrel issues.

http://www.pca.state.mn.us/index.php/living-green/living-green-citizen/reduce-reuse-recycle/don-t-burn-garbage/the-4bs-program-burn-barrel-buy-back.html
4-B's Program – Burn Barrel Buy Back Program

AMERICAN LUNG ASSOCIATION®
IN OREGON

7420 SW Bridgeport Road, Suite 200
Tigard, OR 97224-7790

(503) 924-4094
1-866-661-5864
FAX: (503) 924-4120
info@lungoregon.org
www.lungoregon.org

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July 2, 2010

Dear The Dalles City Council Members,

It has been brought to the attention of the American Lung Association in Oregon that there is a proposed burn ban being debated in The Dalles. As Oregon's oldest not-for-profit voluntary health agency, our mission is to save lives by improving lung health and preventing lung disease. Following our mission, the American Lung Association in Oregon would like to express support of a burn ban/tighter regulations on burning in The Dalles, Oregon.

The practice of burning crops, trash, or wood in fields produces large amounts of particle pollution, or particulate matter, which are tiny bits of ash and soot that can lodge deep inside the lungs and harm the body. They produce both fine (PM 2.5) and coarse particles (PM 10). Particle pollution from crop burning can cause these threats to human health:

- Particle pollution significantly increases the risk of dying early. High levels of particle pollution can shorten life, even if the exposure is over a short period, like hours or days. People can die within days or weeks when breathing high levels, which field burning can produce. Many studies over the past two decades have confirmed this, including large studies around the world. (Pope CA, Dockery DW. Health Effects of Fine Particulate Air Pollution: Lines that Connect. *J Air Waste Mange Assoc* 2006; 56:709-742.)

- More than 2,000 peer-reviewed studies on the subject have been published since 1996, confirming the strong relationship between particle pollution, illness, hospitalization and premature death. The U.S. Environmental Protection Agency recently completed a review of these studies and linked particle pollution to premature death from cardiovascular disease, heart attacks and strokes, as well as worsening asthma, COPD, and may cause lung cancer. (U.S. EPA. Air Quality Criteria for Particulate Matter, October 2004.)

- Those most at risk and the most vulnerable among us: children under 18, those over 65, those with lung diseases like asthma and COPD, those with cardiovascular diseases and diabetes.

- Children's lungs develop mostly after they're born and air pollution from burning can affect the ability of the lungs to develop normally, leading to a lifetime of breathing problems. Children are also outside more than adults, so they risk breathing more of this pollution. The American Academy of Pediatricians warns that particle pollution has been linked to infant death, low birth weight and premature birth. (American Academy of Pediatrics Committee on Environmental Health, Ambient Air Pollution: health hazards to children. *Pediatrics* 2004; 114: 1699-1707.)

- People with lung diseases already have difficulty breathing because their lungs don't work as well. Particle pollution triggers asthma attacks, increased risk of hospitalization and emergency room visits, increased use of medicines. New studies are finding that particles may increase risk of developing chronic bronchitis as well as lung cancer. (U.S. EPA, 2004).

AMERICAN LUNG ASSOCIATION®
IN OREGON

- People with cardiovascular diseases have an increased risk of developing problems and like diabetics can suffer increased heart disease, heart failure, heart attacks, and dysrhythmias, strokes and hospital admissions for these conditions. (Pope and Dockery, 2006).

- Seniors are also more likely to suffer from worsened cardiovascular and respiratory diseases as well as premature death because of breathing high levels of particle pollution. (U.S. EPA, 2004).

The affects of burning negatively impact the health of The Dalles' residents. Please join the American Lung Association in Oregon and stand up for their health.

Fighting for Air.™

Sincerely,

Beverly Stewart, CHES, AE-C
Regional Mission Development Director
American Lung Association in Oregon
7420 SW Bridgeport Road, Ste 200
Tigard, OR 97224
503-718-6146
Beverly@lungoregon.org

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 26, 2010	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: July 13, 2010

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

A. **ITEM:** Approval of July 12, 2010 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the July 12, 2010 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 July 12, 2010 regular City Council meeting.

B. **ITEM**: Authorization for City Clerk to Endorse OLCC New Outlet Application for The Dalles Civic Auditorium.

BUDGET IMPLICATIONS: If approved, a $100 fee will be collected and credited to the General Fund.

SYNOPSIS. The Dalles Civic Auditorium has applied for an OLCC license. The Police Department has investigated the application and recommends approval.

RECOMMENDATION: That City Council authorize the City Clerk to endorse the OLCC New Outlet application for The Dalles Civic Auditorium.

MINUTES

REGULAR COUNCIL MEETING
OF
JULY 12, 2010
5:30 P.M.
CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

PRESIDING:	Mayor Jim Wilcox
COUNCIL PRESENT:	Bill Dick, Carolyn Wood, Dan Spatz, Brian Ahier, Tim McGlothlin
COUNCIL ABSENT:	None
STAFF PRESENT:	City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Finance Director Kate Mast, Community Development Director Dan Durow, Police Chief Jay Waterbury, Administrative Intern Cooper Whitman, Engineer Dale McCabe

CALL TO ORDER

Mayor Wilcox called the meeting to order at 5:30 p.m.

ROLL CALL

Roll call was conducted by City Clerk Krueger; all Councilors present.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

It was moved by Wood and seconded by McGlothlin to approve the agenda as presented. The motion carried unanimously.

AUDIENCE PARTICIPATION

None.

CITY MANAGER REPORT

None.

CITY ATTORNEY REPORT

City Attorney Parker said he had been working with staff to resolve issues with the Interchange Area Management Plan (IAMP), working on codes enforcement issues and urban renewal agreements.

CITY COUNCIL REPORTS

Councilor Ahier reported that the Council of Governments had been subjected to many positions being laid off due to State budget cuts. He said Project Independence had been cut, causing 16 people in the area to lose that service; workforce investment program cuts had caused the loss of seven employees; and the transportation program was being relocated back to the Kelly Avenue office. Ahier said they had hired a Community Development Director who would be working to help secure grants and funding for programs.

Councilor Spatz said the new Community Development Director for the Council of Governments was also involved in Mid Columbia Economic Development District grant work. He said they were working on a grant for sustainable communities to support regional transportation and housing needs.

Councilor Dick recognized Natisha Nesse as a local hero, saying she had saved the life of someone recently who may have drowned in the river. Dick said Natisha had learned to swim at our local swimming pool and that it was important to keep that facility operating so more people could learn that skill.

Councilor McGlothlin said the next Traffic Safety Commission meeting was scheduled for July 21, 2010.

Councilor Wood said there had not been a Historic Landmarks Commission meeting this month. She asked if the Codes Enforcement Officer was working on a puncture vine program as they did last year, noting it was growing everywhere.

City Attorney Parker said the Codes Enforcement Officer didn't have time to devote to a puncture vine bounty program this year, but they would develop some type of program for next Spring. He said the City had not purchased weevils this year.

The Council asked that staff provide information to the public on disposal of puncture vine.

Mayor Wilcox said the Sister City Association was preparing to send a student delegation to Myoshi City in August. He reported the Airport Master Plan was being worked on to include economic information and would be coming to the City Council for approval in the near future.

CONSENT AGENDA

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

Items approved by Consent Agenda were: 1) approval of June 28, 2010 regular City Council meeting minutes; and 2) approval of June 21, 2010 Town Hall meeting minutes.

PUBLIC HEARINGS

Public Hearing to Receive Testimony Regarding Objections to the Cost of Assessment of the West First Street, terminal Way and Bargeway Road Reconstruction Project

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

City Clerk Krueger reviewed the staff report, noting no remonstrances had been received for the project. It was noted that if the Council proceeded with adoption of the ordinance after the hearing, it could be adopted by title only, having met Charter requirements for that process.

Testimony

Hearing no testimony, the public hearing was closed.

Special Ordinance No. 10-537 Assessing Certain Lots and Tracts of Land Within the City of The Dalles, a Proportionate Share of the Cost of the West First Street, Terminal Way and Bargeway Road Reconstruction Project

City Clerk Krueger read Special Ordinance No. 10-537 by title.

It was moved by Wood and seconded by Ahier to adopt Special Ordinance No. 10-537 assessing certain lots and tracts of land within the City of The Dalles a proportionate share of the cost of the West First Street, Terminal Way and Bargeway Road Reconstruction Project, by title. The motion carried unanimously.

ACTION ITEMS

Approval of Design for East Tenth Street Widening Project Between "J" and Lewis Streets

Engineer Dale McCabe reviewed the staff report. McCabe said with parking on the south side of the street in the narrow area, a small jog would be created in the street, which would actually slow traffic a small amount.

Councilor Spatz said the survey completed by staff had been very helpful.

Mayor Wilcox asked where residents could park during the construction period. McCabe said there would be an approximate two week period during which there would be no parking available during the day. He said the parking questions would all be worked out prior to the construction project.

Councilor McGlothlin said he appreciated the extra work staff had done to resolve questions of the City Council.

Public Comment

Kathy Ursprung, 1525 East Tenth Street, The Dalles, expressed concern regarding traffic speeds in the area. She asked the City Council to consider traffic calming methods in the design of the project.

Councilor McGlothlin said he would bring up the request at the next Traffic Safety Commission meeting.

David Drive, 1512 East Tenth Street, The Dalles, complimented the staff, saying they had been excellent to work with, listened to the residents and should be commended for their work.

It was moved by Wood and seconded by McGlothlin to authorize staff to complete the design for the widening of East Tenth Street between Lewis and "J" Streets within the existing rights of way and provide on street parking on the south side in areas where the right of way is 40 feet wide. The motion carried unanimously.

General Ordinance No. 10-1306 Adopting the I-84 Chenowith Interchange Area Management Plan Dated December, 2009

The staff report was reviewed by City Attorney Parker. He said a letter had been received from Mr. Hattenhauer's attorney, requesting additional language changes. Parker provided a memorandum containing proposed amendments to the IAMP, which had been agreed to by Oregon Department of Transportation (ODOT), City staff and Mr. Hattenhauer (attached as Exhibit "A").

It was moved by Ahier and seconded by Dick to amend General Ordinance No. 10-1306 to including the following revisions to the I-84 Chenowith Interchange Management Plan:

A. On page 174, at the top of the page, replace the sentence which begins with the words "Once completed", with the following language: "Once the review process at the staff level as described above has been completed, any proposed IAMP updates will be required to go through a legislative process, requiring public hearings before the Planning Commission and City Council, and adoption of the update by the City Council as an amendment to the City of The Dalles Transportation System Plan, which update would need to be adopted by the Wasco County Board of Commissioners (if affected) and the Oregon Transportation Commission as an update to the Oregon Highway Plan".

B. On page 140, the following language will replace the seventh bulleted item under Phase 2 - Mid Term Improvements and Actions (Figure 7-6) "I-84 Chenowith IAMP Projects, including West 6th Street widening, will be reconsidered during future development of the Webber Street IAMP".

C. Regarding Amendment C which concerns Project W-2, ODOT staff agrees that the proposed improvement for the intersection of River Road and West 6th will be presented in the alternative as either a roundabout or a traffic signal. If there are still references in the IAMP plan that refer to only a roundabout for this intersection, the language will be cleaned up by indicating the intersection could include either a roundabout or a traffic signal.

D. On page 152, revise the second sentence in the first paragraph to read as follows: "ODOT guarantees Access permit protection, as allowed within ORS 374.305 & 310, to all existing private accesses, notably including access #13." On page 152, insert the following sentence in front of the last sentence in the first paragraph which introduces the bulleted list: "It is ODOT's express intent that, notwithstanding any provision herein, no access modifications will be made to the existing private accesses outside the scope of currently applicable law, specifically including OAR 734-051-0045 regarding change in use"

The motion carried unanimously.

City Clerk Krueger read General Ordinance No. 10-1306 by title.

It was moved by Spatz and seconded by Wood to adopt General Ordinance No. 10-1301, as amended, by title. The motion carried unanimously.

Approval of Amendment to QualityLife Agency (QLife) Intergovernmental Agreement

City Manager Young reviewed the staff report.

It was moved by Dick and seconded by Spatz to adopt the amendment to the QLife Intergovernmental Agreement. The motion carried unanimously.

General Ordinance No. 10-1305 Amending General Ordinance No. 07-1286, Establishing Additional Credits Toward Transportation Systems Development Charges

City Attorney Parker reviewed the staff report. He noted Mayor Wilcox had asked that the word "vacant" be removed in Sections 6 (A) and (B).

It was moved by McGlothlin and seconded by Ahier to amend Sections 6 (A) and (B) of General Ordinance 10-1305 by deleting the word "vacant" which appears a total of four times. The motion carried unanimously.

City Clerk Krueger read General Ordinance No. 10-1305 by title.

It was moved by Wood and seconded by Spatz to adopt General Ordinance No. 10-1305 amending General Ordinance No. 07-1286, establishing additional credits toward Transportation Systems Development Charges as amended, by title. The motion carried unanimously.

Request by Northern Wasco County Parks and Recreation District to Waive the Fee for a Conditional Use Permit Application for the Thompson Skate Park

City Manager Young reviewed the staff report.

It was moved by Spatz and seconded by Dick to approve the request by Northern Wasco County Parks and Recreation District to waive the filing fee for a conditional use permit application in the amount of $420 for a skate park at Thompson Park.

Councilor McGlothlin expressed concern that approval of the request would set a precedent for other entities.

City Manager Young said it was common to approve fee waivers for public entities where there was a public benefit for the use.

Councilor Spatz and Councilor Ahier both expressed support for the request, saying the public benefit of the skate park outweighed the cost for the fee.

The motion to approve the request by Northern Wasco County Parks and Recreation District to waive the filing fee for a conditional use permit application in the amount of $420 for a skate park at Thompson Park was voted on and carried, McGlothlin opposed.

EXECUTIVE SESSION

Mayor Wilcox recessed the meeting to Executive Session at 6:40 p.m. in accordance with ORS 192.660 (2) (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

Reconvene to Open Session

The meeting reconvened to open session at 7:08 p.m.

DECISIONS FOLLOWING EXECUTIVE SESSION

None.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:09 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED: _____
James L. Wilcox, Mayor

ATTEST: _____
Julie Krueger, MMC, City Clerk

MEMORANDUM

TO: Mayor and City Council

FROM: Gene Parker, City Attorney

DATE: July 12, 2010

RE: Proposed additional amendments for Chenoweth IAMP Plan

On July 9, 2010, I received a letter from Karen Feil, representing Doug Hattenhauer, setting forth additional comments concerning the Chenoweth IAMP Plan which the Council is being asked to approve by adoption of General Ordinance No. 10-1306. After reviewing Ms. Feil's letter, and consulting with ODOT staff, City staff believes that we have reached a resolution which resolves Mr. Hattenhauer's concerns, and which is acceptable to both the City and ODOT.

As part of this resolution, City staff will be requesting ODOT to investigate whether Mr. Hattenhauer's approach qualifies for a "grandfathered status", and to notify Mr. Hattenhauer in writing as to the results of their investigation. City staff has also represented to Mr. Hattenhauer that the final version of the IAMP plan, which has been previously approved by the Oregon Transportation Commission, will include the proposed revisions which are outlined below in this memorandum (assuming that the Council approves the proposed amendments). It is staff's understanding that the Transportation Commission will accept these proposed additional amendments which are outlined in this memorandum.

City staff is now recommending a different form of the two part alternative motion which was listed as an option in the Agenda Staff Report. The revised two part motion would include the following information:

1. First part: Move to amend General Ordinance No. 10-1306 to include the following revisions to the I-84 Chenoweth Interchange Area Management Plan.

    A. On page 174, at the top of the page, replace the sentence which begins with the words "Once completed", with the following language: "Once the review process at the staff level as described above has been completed, any proposed IAMP updates will be required to go through a legislative process, requiring public hearings before the Planning Commission and City Council, and adoption of the update by the City Council as an amendment to the City of The Dalles Transportation System Plan, which update would need to be adopted by the Wasco County Board of Commissioners (if affected) and the Oregon Transportation Commission as an update to the Oregon Highway Plan".

B On page 140, the following language will replace the seventh bulleted item under Phase 2 - Mid Term Improvements and Actions (Figure 7-6): "I-84 Chenoweth IAMP Projects, including West 6th Street widening, will be reconsidered during future development of the Webber Street IAMP"

C Regarding Amendment C which concerns Project W-2, ODOT staff agrees that the proposed improvement for the intersection of River Road and West 6th will be presented in the alternative as either a roundabout or a traffic signal. If there are still references in the IAMP plan that refer to only a roundabout for this intersection, the language will be cleaned up by indicating the intersection could include either a roundabout or a traffic signal.

D. On page 152, revise the second sentence in the first paragraph to read as follows: "ODOT guarantees Access permit protection, as allowed within ORS 374.305 & 310, to all existing private accesses, notably including access #13." On page 152, insert the following sentence in front of the last sentence in the first paragraph which introduces the bulleted list. "It is ODOT's express intent that, notwithstanding any provision herein, no access modifications will be made to the existing private accesses outside the scope of currently applicable law, specifically including OAR 734-051-0045 regarding change in use"

2. Second Part: Move to adopt General Ordinance No. 10-1306, as amended, by title only.

I have enclosed copies of the current pages from the IAMP plan, with arrows indicating the location of the language that would be revised, if the Council approves the proposed amendments outlined in this memorandum.

updating the IAMP will include scoping the planning process, identifying funding, and outlining a schedule for plan completion. Once completed, IAMP updates will be required to be legislatively adopted, requiring a City Council public hearing, as an amendment to the City of The Dalles Transportation System Plan and will be adopted by Wasco County Court (if affected) and the Oregon Transportation Commission as an update to the Oregon Highway Plan.

IAMP Review Triggers

Periodically, the IAMP implementation program will need to be evaluated to ensure it is accomplishing this goal. Events that will trigger an IAMP review include:

- Every fifth year from the date of IAMP adoption or latest update.
- Every cumulative addition of 250,000 sq. ft. of floor area within the IMSA.
- Cumulative trips from approved development within the IMSA exceed the combined trip budget for the subject parcels by more than 200 trips.
- Plan map and zone changes that have a "significant affect" per the Transportation Planning Rule[4] and impact the I-84 Chenoweth Interchange.[5]
- Mobility measures at the River Road/I-84 Ramp Terminal intersections or River Road/West 6th Street/US 30 intersection exceed the forecasted mobility measures presented in Section 7.

It is recommended that the IAMP monitoring program be linked to a review of the system development charge methodology and fees associated with the Overlay District Examining the STSDC program as part of an IAMP update will ensure that sufficient revenue is being generated to finance necessary improvements. During an IAMP review, trips may be reallocated, provided that the overall area total for the Overlay District is not exceeded.

Development Review within the Overlay District

The following outlines the transportation requirements for development and zone change applications within the Chenoweth Interchange Overlay District and describes how The City of The

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[4] Plan map or zone changes that result in equal to or less trips than included in the Trip Allocation Budget (*see Appendix "C"*) would not have a "significant affect".

[5] A City amendment of the UGB in the vicinity of the interchange would also require an IAMP update, as land would be re-designated to allow urban uses. The Dalles Growth Management Report (2007) documents the City's intent to amend the Urban Growth Boundary and designate URA areas to the north/northwest of the city, including lands in the vicinity of the interchange. While the City has not adopted the report in its entirety through a legislative process, supportive source reports and analyses, such as the population forecast, have been adopted. Due to uncertainty as to when, or if, the UGB may be expanded within the National Scenic Area, the IAMP assumes that areas outside of the current UGB will not generate new trips within the 20-year planning horizon. The IAMP should be amended to reflect a revised future growth scenario when the UGB is updated.

In the near- and mid-term no access modifications will be made to the four existing private access approaches located on the west side of West 6th Street unless land use changes occur involving the properties served by these accesses or if increases in traffic volumes on West 6th Street warrant a modification for operation and safety reasons. ODOT guarantees Access Permit protection, as allowed within ORS374.305 & 310, to all existing private accesses. Each will remain a valid access as long as the existing uses remain on property/site (per OAR734.051.0045) and there is no capital improvement project that would trigger review of the access (per OAR734.051.0285). An access evaluation will be required, but is not limited to, when any of the following land use actions occur within 1,320 feet of the I-84 ramp terminal intersections:

- Modifications to existing land use or zoning,
- Changes to plan amendment designations;
- Construction of new buildings;
- Increases in floor space of existing buildings;
- Division or consolidation of property boundaries;
- Changes in the character of traffic using the driveway/approach;
- Safety or operational improvements;
- Changes to internal site circulation design or inter-parcel circulation;
- Reestablishment of a property's use (after discontinuance for two years or more that trigger a Traffic Impact Assessment as defined below) that occurs on the parcels served by the approaches; or,
- Capital improvement projects.

Long-Term Access Management Implementation

As traffic volumes increase with new development, access management can help maintain the operational integrity and safety of the primary roadways. Access management goals for each access identified in Figure 7-11 are outlined in Table 7-5. In general, the types of improvements identified include:

- Modifying, mitigating or removing existing approaches pursuant to an access management strategy as part of the highway project development and delivery process (OAR 734-051). This may include restricting left-turning egress movements along West 6th Street by constructing a raised median;
- Improving traffic safety and operations by improving the local street network to provide alternate access, better local street connections to the highway, and reducing conflict points. This may include consolidating access on West 6th Street from private approaches and minor public streets where traffic can be rerouted to a major public approach; and,

Phasing Plan

Four roadway improvement phases (near-term, mid-term, long-term, and vision beyond planning horizon) were developed in order to estimate the amount of new development that could occur within the IMSA before implementation of various components of the local access and circulation plan are required. These phases were developed as planning milestones, since improvements will likely be needed incrementally as development occurs. The phases are intended to show the increments of development that can occur before major improvements (e.g., new east-west crossing, Chenoweth Interchange Bridge widening, intersection control treatments, etc.) are needed.

The major components of each improvement phase are summarized below. Figure 7-5 through Figure 7-8 illustrates the lane configurations at the study intersections under each of the following improvement phases:

Phase 1 – Near-term Improvements (Figure 7-5)

- Traffic signal installed at West 6th Street/Hostetler Street intersection (Project #W4)
- Restriping of River Road overpass of I-84 to provide 4-lane cross-section (Project #I1)

Phase 2 – Mid-term Improvements and Actions (Figure 7-6)

- Roundabout constructed at River Road/River Trail Way (Project #E10)
- Traffic signal installed at River Road/I-84 Westbound Ramp Terminal, westbound and off-ramp approach widening (Project #I2)
- Traffic signal installed at River Road/I-84 Eastbound Ramp Terminal and eastbound approach widening (Project #I3)
- Roundabout or signal constructed at River Road/West 6th Street (US 30) (Project #W2)
- Roundabout or signal installed at West 6th Street/Chenoweth Loop (Project #W3)
- At the first triggered IAMP review, reevaluate improvement projects shown in Table 7-2 (W-1: 6th Street Median and E-2: Grade-Separated Crossing of the UP Railroad at Hostetler) based on updated forecasts.
- During the future development of the Webber Street IAMP, reevaluate the need for 6th Street widening (Project W-5).

Phase 3 – Long-term Improvements (Figure 7-7)

- Construct new east-west connection at Hostetler Street, either as an at-grade crossing (pending approval by ODOT Rail and UPRR) or a railroad undercrossing of Hostetler Street (Projects #E2, E2B, E3)
- Construct new collector roadway that extends River Trail Way from River Road to the Hostetler Street Extension (Project #E1)
- Provide dual westbound left-turns at River Road/West 6th Street (US 30) roundabout or signal (Project #W2)

BRADLEY V. TIMMONS, PC
ATTORNEYS AT LAW

PO Box 2350
The Dalles, Oregon 97058

541.296.9900
fax 541.296.9904
timmons-law.com

Bradley V. Timmons*
Antoine J. Tissot*
Karen A. Feil
*also admitted in Washington

July 8, 2010

Mr. Gene Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058

Re: Proposed Final IAMP Language

Dear Gene:

Thank you for your Memorandum dated March 15, 2010, in response to my letter to you dated March 9, 2010, on behalf of Hattenhauer Distributing Co. and Doug Hattenhauer (hereinafter "Hattenhauer"). I appreciate the City giving careful consideration to my clients' concerns. I submit the following comments in response to the issues you raised.

Legal Authority Implicated by City Council Approved Amendment D

Thank you for identifying the statutory and administrative authority that ODOT has advised the City would be violated if the IAMP was amended to include the precise language adopted by the City Council at their November 9, 2009 meeting. I have responded to each cited statute and rule as follows:

1. ***ORS 374.305.*** ODOT suggests this statute requires Hattenhauer to apply for a private access permit to Highway 30. However, this statute does not apply to existing approach roads which are not being substantially altered or the use of which is not being changed. ORS 374.305(1). In addition, ORS 374.330 preserves prior status and states that any amendments to the statute after 1967 do not apply to approaches existing prior to September 13, 1967. ORS 374.330(2)(a). Hattenhauer's current private access (North driveway) has been in existence at its present location since at least 1965. Hence, this access is not implicated by ORS 374.305.

2. ***ORS 374.310.*** While it is true that ORS 374.310 allows ODOT the right to adopt reasonable rules and regulations for issuing access permits, ODOT's OAR 734-

Physical Address
Crates Building
3591 Klindt Drive, Suite 220
The Dalles, Oregon 97058

051-0035(2) provides that "Division 51 rules do not affect existing rights of owners of grandfathered approaches, except where these rules specifically state their application to grandfathered approaches, as in OAR 734-051-0045, Change of Use of an Approach."

Grandfathered approaches include "approaches intended to remain open that were improved in conjunction with a Department project prior to April 1, 2000, as set forth in OAR 734-051-0285(9)." Subsection 9 provides that "Notwithstanding other provisions of this Division, the Region Manager, not a designee, may recognize an approach to be in compliance where there is no Access Control, and where construction details for a Department project show the intention to preserve the approach as a part of that project, as documented by plans dated before April 1, 2000."

At the time the Chenowith Interchange was built in the 1990s, ODOT required Hattenhauer to relinquish one of his two then existing approach roads (the South driveway), in exchange for ODOT improving, expanding and continuing access to his business via the North driveway. ODOT closed Hattenhauer's South driveway and expanded and improved his North driveway access, including paving and adding curbing. By this action ODOT expressed a clear intent to preserve Hattenhauer's North driveway as part of ODOT's interchange construction project, which occurred prior to April 1, 2000. Accordingly, the North driveway access is a grandfathered approach under ODOT's Division 51 rules. As such, those rules only apply to Hattenhauer's private approach if the rule specifically states that it applies to grandfathered approach roads.

3. ***OAR 734-051-0135.*** ODOT's regulations, specifically OAR 734-051-0135 et seq., outline the provisions for granting deviations from Access Management Spacing Standards. This rule, including OAR 734-051-0135(3) which vests authority to approve or deny an application for a deviation in the Region Access Management Engineer (RAME), does not specifically provide that it applies to grandfathered approaches. Hence, access management spacing standards, and deviations therefrom, only apply to Hattenhauer's property if there is a change in use or there exists a legitimate and expressly identified safety concern. OAR 734-051-0125(1)(c).

4. ***OAR 734-051-0045.*** This administrative rule pertaining to Change of Use of an Approach is one of those rules that is expressly applicable to grandfathered approaches. It provides that if there is a change in use that results in any of the

following, then the property owner must apply for a private access permit, including a deviation from access management spacing standards, if applicable:

(A) Site traffic volume generation increases by more than 250 average daily trips or 25 peak hour trips (external trip generation for multi-use developments).
(B) Operational problems occur or are anticipated.
(C) The approach does not meet sight distance requirements.
(D) The approach is not consistent with the safety factors set forth in OAR 734-051-0080(9).
(E) Use of the approach by vehicles exceeding 20,000 pound gross vehicle weight increases by 10 vehicles or more per day.

Change of use is defined broadly as including:

(A) Zoning or plan amendment designation changes;
(B) Construction of new buildings;
(C) Floor space of existing buildings increases;
(D) Division or consolidation of property boundaries;
(E) Changes in the character of traffic using the approach;
(F) Internal site circulation design or inter-parcel circulation changes; or
(G) Reestablishment of a property's use after discontinuance for two years or more.

If Hattenhauer does not change its existing use of the grandfathered access, or if it does change its use but it does not result in any of the delineated results referenced above, then Hattenhauer's approach to its business is not subject to modification per the Oregon Administrative Rules, absent a showing of a specifically identified safety concern.

Amendment A

1. ***Preliminary Issue.*** In your response to my clients' concerns related to Amendment A to the IAMP as passed by the City Council, you indicate that the OTC approved the February 2010 revised version of the Chenowith IAMP, which contained different provisions than those cited in my letter.[1] The provisions cited

[1] Actually, you state that the OTC approved the version of the IAMP last revised in February *2009*. I assumed this was a typographical error, as the most recent version of the IAMP ODOT provided Mr Hattenhauer was revised February 2, *2010*. Please advise of the date of the IAMP adopted by the City Council, with amendments on November 9, 2009, and the date of the IAMP approved by the OTC in February 2010.

in my correspondence came from the version of the IAMP adopted by the City Council in November 2009 as amended. Hence, Hattenhauer would encourage the City Council to confirm that the version of the IAMP it has approved as amended and which Wasco County has also approved, is indeed the version of the IAMP that is ultimately adopted by the OTC and which becomes the operative plan.

2. ***Full Legislative Hearing Process.*** The language proposed by the City staff on Page 2 of your March 15, 2010, Memorandum to the Mayor, City Council and City Manager, specifically clarifying that a full legislative process is required, including public hearings before the Planning Commission and the City Council, is acceptable. Thank you for addressing my clients' concerns regarding public review prior to implementation of any Chenoweth IAMP proposed projects.

Amendment B

1. ***Reconsideration of Proposed Chenoweth IAMP Projects.*** City staff's proposed language still fails to include the exact language adopted by the City Council at its November 9, 2009 meeting, which specifically referenced West 6th Street widening as one of the Chenoweth IAMP projects to be reconsidered. I would propose the seventh bullet item under Phase 2 of the Phasing Plan on page 140 referenced in your March 15, 2010 Memorandum be revised as follows:

> *"I-84 Chenoweth IAMP projects, including West 6th Street widening, will be reconsidered during the future development of the Webber Street IAMP "*

Amendment C

If you meant to suggest in the Response to Amendment C on Page 2 of your March 15, 2010 Memorandum that the referenced tables "include the option for a signal ***or*** a roundabout at River Road and West 6th Street" instead of a "signal ***for the*** roundabout at River Road and West 6th Street", then the language is acceptable, provided however, that ODOT and City staff stipulate in writing that it is their intent that this proposed improvement be presented throughout the IAMP and its related documents as a signal or a roundabout, without preference indicated for one or the other traffic control device.

Amendment D

ODOT's language on page 152 of the IAMP attached to your March 15, 2010 Memorandum mirrors in part the Change in Use rule (OAR 734-051-0045) applicable to approaches, but unreasonably expands upon that rule as follows:

1. As written, it would require *all* private accesses to be evaluated when any of the listed actions occurred within 1320 feet of the I-84 ramp terminal intersections, regardless of whether the action occurred on a specific property owner's parcel [2]

2. By adding the phrase "including but not limited to" in the introductory sentence to the listed land use actions that trigger a required evaluation of an approach road, the listed actions become merely illustrative of the kinds of land use actions that will trigger a mandatory review, rather than an exclusive list. This is significantly broader than the specific provisions of ODOT's rule relating to change in use. *See* OAR 734-051-0045.

3. ODOT's language identifies "Safety or operational improvements" within 1320 feet of the Chenoweth interchange as the seventh bulleted land use action that would trigger an automatic evaluation of an access. How is "safety or operational improvements" defined? Safety or operational improvements by whom? What does this include? "Safety and operational improvements" is not a listed change in use covered by the administrative rule and should not be included. To include this action greatly expands the scope and breadth of the IAMP beyond what was intended by the City when it agreed to adopt the same.

4. ODOT adds "Capital improvement projects" as the final bulleted land use action which would trigger a mandatory evaluation of an access. Again, this is not a listed change in use covered by the administrative rule and thus should not be included. What if Hattenhauer remodels the facilities on the property, but does not increase floor space? Under the current Oregon administrative rule, Hattenhauer's approach would not be subject to modification. However, under the language proposed by the City staff and ODOT above, Hattenhauer's access would be subject to evaluation (and likely modification) because the remodel would constitute a "capital improvement project."

[2] The last sentence of the first paragraph on page 152 immediately preceding the bulleted list provides: *"An access evaluation will be required, but is not limited to, when any of the following land use actions occur within 1,320 feet of the I-84 ramp terminal intersections:"*

I recommend that the language in this section be no broader than that currently provided for by the existing applicable statutes and rules. I disagree with your suggestion in the third paragraph on page 3 of your March 15, 2010 Memorandum that "the language included in the version approved by the OTC, referring to potential modification of the accesses in the event of a capital improvement on the project site, or development/redevelopment of the project site, is consistent with the state administrative rules concerning the granting of a deviation from the state's access standards." The OTC/ODOT approved language exceeds the scope of the applicable state administrative rules, as indicated above.[3] Accordingly, I propose the following sentence be inserted just before the last sentence of the first paragraph on page 152 which introduces the bulleted list:

> *"It is ODOT's express intent that, notwithstanding any provision herein, no access modifications will be made to the existing private accesses outside the scope of currently applicable law, specifically including OAR 734-051-0045 regarding change in use."*

Thank you for your consideration of these comments of behalf of Hattenhauer Distributing Co. and Doug Hattenhauer. Please give me a call if you would like to further discuss these issues.

Sincerely,

BRADLEY V. TIMMONS, PC

Karen A. Feil
karen@timmons-law.com

KAF:ckl
cc: Doug Hattenhauer
Honorable Mayor, Jim Wilcox
Councilor Brian Ahier
Councilor Dan Spatz
Councilor Bill Dick
Councilor Carolyn Wood
Nolan Young, City Manager

[3] See attached Exhibit 1, Challenge to Breadth and Scope of IAMP.

Challenge To Breadth and Scope of IAMP

A. History – Why We are Here

ODOT is using the LUBA appeal process to require the City of The Dalles, through a settlement agreement, to create an expansive IAMP that grants ODOT impressive authority over land use and transportation planning decisions in the City of The Dalles and Wasco County, far beyond that contemplated by any contractual obligation or law. We are here today because of the following:

Developer WM3, Inc. applied for a change to the zoning and comprehensive plan designation for a 67.2 acre parcel of industrial zoned property located at the Southwest end of River Road and adjacent to the Chenoweth Interchange for I-84. On July 10, 2006, the City Council approved the zone change application with conditions, and ODOT appealed the City Council's decision to the Land Use Board of Appeals (LUBA). On May 22, 2007, ODOT, the City of The Dalles and WM3, Inc. entered into a Settlement Agreement resolving the appeal, the terms of which provide in relevant part:

1 The parties agreed that the 1999 Oregon Highway Plan performance standards established for the Chenoweth Interchange ramp intersections at River Road of .85 Volume-to-Capacity Ratio should be lowered to .75 for the purpose of reserving capacity until the IAMP is complete. (Sections 1(B), 1(C), 5, 6 and 7).

2. The City agreed to pay for any future capacity increasing improvements to the Chenoweth Interchange, Highway 30 and the Webber Street Interchange necessitated by increased traffic as a result of the City's approval of zoning changes in the IAMP Study Area. (Section 2). [1]

3. The parties agreed to develop an IAMP at ODOT's expense for the Chenoweth interchange. (Sections 3 and 8).

4. The purpose of the IAMP is to identify:

   - Land use management strategies;
   - Short term and long term transportation improvements;

[1] Through the provisions of the IAMP, the City is now passing the cost of the capacity increasing improvements necessitated by its zoning change for the benefit of Walmart on to existing business and property owners located on the opposite (South) side of the interstate.

- Access management; and
- Funding strategies to pay for identified improvements.

(Section 3)

5. The parties agreed that funding to pay for improvements to the Chenoweth interchange would be established upon adoption of the IAMP. (Section 1(D)).

6. The City agreed not to consider zone changes or comprehensive plan amendments or modifications to its industrial zone designation applicable to the IAMP Study Area until the City had adopted the IAMP. (Section 4).

7. WM3, Inc. agreed to place covenants on 42 of its subject 67.2 acres prohibiting "non-industrial" development until the sooner of the date the City adopts the IAMP or July 1, 2010. The City must provide ODOT notice and an opportunity to participate in any site plan review application submitted in the IAMP Study Area until the City adopts the IAMP. (Section 9) By its terms, these covenants may be removed from the deed to the property by the developer after July 1, 2010, regardless of whether or not the City has adopted an IAMP.

8. ODOT agreed to withdraw its LUBA appeal once WM3, Inc. placed the covenants on the remaining 42 acres. (Section 10).

B. <u>IAMP Provisions Required by Statute</u>

Oregon Administrative Rule 734-051-0155(7) recites the following exclusive criteria with which Interchange Area Management Plans (IAMPs) must comply, unless the IAMP documents why compliance with a criterion is not applicable:

(a) Be developed no later than the time an interchange is designed or is being redesigned.

(b) Identify opportunities to improve operations and safety in conjunction with roadway projects and property development or redevelopment and adopt policies, provisions, and development standards to capture those opportunities.

(c) Include short, medium, and long-range actions to improve operations and safety within the designated study area.

(d) Consider current and future traffic volumes and flows, roadway geometry, traffic control devices, current and planned land uses and zoning, and the location of all current and planned approaches.

(e) Provide adequate assurance of the safe operation of the facility through the design traffic forecast period, typically 20 years.

(f) Consider existing and proposed uses of all the property within the designated study area consistent with its comprehensive plan designations and zoning.

(g) Be consistent with any applicable Access Management Plan, corridor plan or other facility plan adopted by the Oregon Transportation Commission.

(h) Include polices, provisions and standards from local comprehensive plans, transportation system plans, and land use and subdivision codes that are relied upon for consistency and that are relied upon to implement the Interchange Area Management Plan.

These are the *only* criteria that must be addressed when an IAMP is developed. There is no requirement that an Access Management Plan be included as part of an IAMP. The settlement agreement recites only that one of the purposes of the IAMP is to "identify...access management." There is no requirement that the City must establish system development charges to pay for the proposed transportation infrastructure improvements mandated by the IAMP.

The way the IAMP currently reads, business owners like Hattenhauer Distributing Co. on the South side of the interstate, will be obligated to pay a supplemental transportation system development charge (STSDC) for any new or "redevelopment" of their property, for the purpose of funding the IAMP improvements, including the proposed median on West 6th Street and roundabouts. These improvements are primarily for the benefit of new development on the North side of the interstate. Redevelopment is defined as "the act or process of changing existing development including replacement, remodeling, or reuse of existing structures to accommodate new development that is consistent with current zoning." This definition could support the assessment of an STSDC when Hattenhauer simply remodels its existing building.

The City only agreed that funding to pay for improvements to the Chenoweth interchange would be established upon adoption of the IAMP. The City can decide for itself following adoption of the IAMP how it will fulfill this funding requirement, in addition to its obligation to pay for infrastructure improvements to the Webber Street interchange and Highway 30 that become necessary due to increased traffic resulting from the City's zoning change from industrial to commercial/light industrial. To the extent the Chenoweth IAMP addresses any matter not specifically required by the above criteria, it goes beyond the scope of both the Settlement Agreement and Oregon law.

C. Narrow Construction of IAMP Scope.

The above criteria should be narrowly, not broadly construed. A broad construction of the above criteria, as reflected in the current draft Chenoweth IAMP, greatly benefits ODOT to the City of The Dalles' detriment. ODOT is using the LUBA appeal process to require the City of The Dalles, through a settlement agreement, to create an expansive IAMP that grants ODOT impressive authority over land use and transportation planning decisions in the City of The Dalles and Wasco County, far beyond that contemplated by the settlement agreement or any law.

Let's be crystal clear here. The law ***does not*** require the City to enter into an IAMP with ODOT. The City is contractually obligated to enter into an IAMP, the mandatory terms of which are set out in the agreement and in OAR 734-051-0155(7) cited above. To the extent that any portion of the IAMP exceeds the scope of these provisions, it should not be adopted by the City absent further justification of the basis for its adoption.

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 26, 2010	Public Hearings 11, A, 1	#10-063

TO: Mayor and City Council

FROM: Nolan K. Young, City Manager NY

DATE: July 13, 2010

ISSUE: Resolution No. 10-016, declaring the parcel of property at 313 2nd Street, further described as Assessor's Map No. 1N 13E 3BD tax lot 2700 to be surplus property, and accepting an offer from Lisa Wallace to purchase said property.

BACKGROUND: The City Council had previously approved a Request for Proposals (RFP) for either lease or purchase of the 2nd Street Breezeway formerly known as Klindts Annex, located at 313 2nd Street. Proposals were opened on June 15, 2010.

The only proposal received was a purchase offer from Lisa Wallace of Rerun Antiques and Old Threads at 421 E. 2nd Street. They are out of space in their current store, and have coveted being located next to Klindt's Bookstore because they feel the businesses complement one another. They will use the space as a second site in the same manner, which includes consignment of local artisan products, antiques, as well as upscale used and vintage clothing.

We have negotiated the following offer:

a. $4,000 down payment at closing
b. $6,000 to be waived if within one year of closing Ms. Wallace installs a new professional storefront on the existing building along 2nd Street. If required work is not complete in designated time period, a payment of $6,000 shall be made to the City of The Dalles one (1) year after closing.

c. $20,000 to be paid in 120 monthly installments of $222.04 beginning September 1, 2010 at six (6) % interest.

During the negotiations, it was agreed that they are purchasing just the shell of a building with needed improvements to bring the facility to its full potential. Their current ideas include a new professional storefront, taking down the false ceiling to reveal the tin ceiling, the addition of restrooms, and HVAC.

Rerun Antiques and Old Threads have been in business for 20 years including 10 years on Snipes and the last three years at the downtown location. Their clientele includes a strong tourism trade. Their intent is to be open seven days a week like Klindts and to create a place where people can come for vintage clothing and antiques. They have indicated they would work at keeping the walk through from the parking lot open because it would increase traffic through their business.

BUDGET IMPLICATIONS: The sales price has been established at $30,000 with $4,000 down, $6,000 waived if improvements are completed within one year, and $20,000 to be paid in 120 monthly installments of $222 04. The Purchaser will pay for the costs of recording the deed of sale.

COUNCIL ALTERNATIVES:

A. **Staff Recommendation:** Move to adopt Resolution 10-016 Declaring a parcel of property described as 1N 13E 3BD TAX LOT 2700 to be surplus property and accepting an offer from Lisa Wallace to purchase said property.
B. Amend and then adopt Resolution 10-xxx.
C. Postpone issue to allow for further research of negotiation.

RESOLUTION NO. 10-016

A RESOLUTION DECLARING A PARCEL OF PROPERTY DESCRIBED AS 1N 13E 3BD TAX LOT 2700 TO BE SURPLUS PROPERTY AND ACCEPTING AN OFFER FROM LISA WALLACE TO PURCHASE SAID PROPERTY

WHEREAS, The City of The Dalles owns a parcel of land known as Assessor's Map No. 1N 13E 3BD tax lot 2700, which property is described as:

The West 22 feet 11 inches of Lot 9, Block 2 (which said block is situated partly in Laughlin's and partly in Bigelow's Addition), in the City of The Dalles, County of Wasco and State of Oregon.

WHEREAS, the above described property is considered to be surplus property to the City's needs; and

WHEREAS, Lisa Wallace has submitted a request to the City to consider selling the property for the sum of $30,000.00, with $6,000 of purchase price waived if purchaser makes certain improvements; and

WHEREAS, a public hearing was held on July 26, 2010 to consider declaring the above described real property to be surplus and to consider a sale of the property to Lisa Wallace for the sum of $30,000.00; and

WHEREAS ORS 271.310 provides that a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of its interest in real property, when that property is not needed for public use or whenever transfer of the property may further the public interest;

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

Section 1 Property Declared Surplus. The real property described as Assessor's Map 1N 13E 3BD tax lot 2700 is hereby declared to be surplus property. The property is not needed for any public use. The proposed sale will provide for an opportunity for improvements to be made to the property, including new professional storefront, taking down the false ceiling to reveal tin ceiling, the addition of restrooms, and HVAC improvements. Such improvements will enhance the value of the property, which benefits the public interest. Sale of the property will allow the property to be placed back on the tax rolls, which will generate tax revenue for local government entities, which also benefits the public interest.

Section 2. Offer Accepted. The following offer by Lisa Wallace for the real property is hereby accepted and approved:

a. $4,000 down payment at closing
b. $6,000 to be waived if within one year of closing Ms. Wallace installs a new professional storefront on the existing building. If required work is not complete in designated time period, a payment of $6,000 shall be made to the City of The Dalles one (1) year after closing.
c. $20,000 to be paid in 120 monthly installments of $222.04 beginning September 1, 2010 at six (6) % interest.

Section 3. Execution of Deed. The City Manager, City Clerk and other officers and employees of the City of The Dalles are authorized to execute a deed on behalf of the City, transferring ownership of the above described property to Lisa Wallace upon payment of the deed recording fees, and payment of the purchase price in full, and to do such other acts as are necessary and proper. The City and Lisa Wallace have agreed that Ms. Wallace may take possession of the property as of the effective date of this Resolution.

Section 4. Effective Date. This Resolution shall be considered effective July 26, 2010.

PASSED AND ADOPTED THIS 26TH DAY OF JULY, 2010

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

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JULY, 2010

_____
James L. Wilcox, Mayor

ATTEST:

_____
Julie Krueger, MMC, City Clerk

CITY OF THE DALLES
Department of Public Works
1215 West 1st Street
The Dalles, Oregon 97058

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 26, 2010	Contract Review Board 12, A	10-057

TO: Honorable Mayor and City Council

FROM: Dale S. McCabe, City Engineer

THRU: Nolan K. Young, City Manager

DATE: July 14, 2010

ISSUE: **EAST 10TH STREET SEWER PROJECT - CONTRACT NO. 2011-001**

RELATED CITY COUNCIL GOAL: None.

BACKGROUND: The East 10TH Street Sewer Project consists of a Schedule A project and a Schedule B project. (See attached map for exact locations). The Schedule A project limits consist of replacing/upgrading the sanitary sewer from the alley located between 7th and 8th Streets beginning at Union Street, over to Court Street, up Court Street to 10th Street, along 10th Street from Court Street to Washington Street, and up Washington Street to near 12th Street. This project will replace/upgrade the existing sanitary sewer lines with new pvc pipe materials, while also modifying the existing pipeline alignment in a couple of locations to eliminate existing conflicts. There will also be upgrades made to sanitary sewer service laterals along the project limits.

The Schedule B project limits consist of replacing/upgrading the sanitary sewer on Federal Street between 10th Street and 7th Street. This project will also be replacing/upgrading the existing sanitary sewer lines with new pvc pipe materials, upgrading sanitary sewer service laterals along the alignment, and eliminating existing conflicts with other utilities. There will also be some additions/modifications to the storm system in this section to eliminate storm water from being discharged into the sanitary sewer system, therefore eliminating an I and I (infiltration and inflow) situation that currently exists.

The total project has been separated in to two project schedules for two reasons. The first and main reason for separating out the Schedule A project was to be able to require that this portion of the project be completed by the end of August, prior to the school year beginning on September 7th The second reason to separate the project in to two Schedules was a budgetary reason. From the low bid that was received, we will be able to proceed with both Schedules.

The City of The Dalles Public Works Department advertised for bids for the East 10th Street Sewer Project - Contract No. 2011-001 on June 16, 2010. 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 2750 lineal feet of 8 inch sanitary sewer main, 370 lineal feet of 6 inch sanitary sewer main, 570 lineal feet of 12 inch storm sewer main, concrete manholes, and sanitary sewer service connections. All Work will be conducted in accordance with the contract documents."

The bid opening for the contract was held on July 13th at 2:00 p.m. for which we received two bids. The bids received were as follows:

1. Cascade Equipment and Construction, in the amount of $457,173.00.

2. Crestline Construction Co. LLC, in the amount of $598,655.00.

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

BUDGET IMPLICATIONS: Within the 2010-2011 Budget, funding for this project has been allocated in Fund 56, Line Code 7630, in an amount of $500,000.00. The Department recommends the City move forward with the East 10th Street Sewer Project and award the contract to Cascade Equipment and Construction, in an amount not to exceed $457,173.00. (Based on our experience in the area, we are not anticipating a significant amount of rock excavation. There is a line item bid amount for rock excavation that Cascade Equipment and Construction bid on in the amount of $50.00 per cubic yard).

ALTERNATIVES:

a. Staff Recommendation: Authorize the City Manager to enter into contract with Cascade Equipment and Construction, in an amount not to exceed $457,173.00.
b. Provide additional research in response to questions raised by City Council.
c. Not to proceed with the contract.

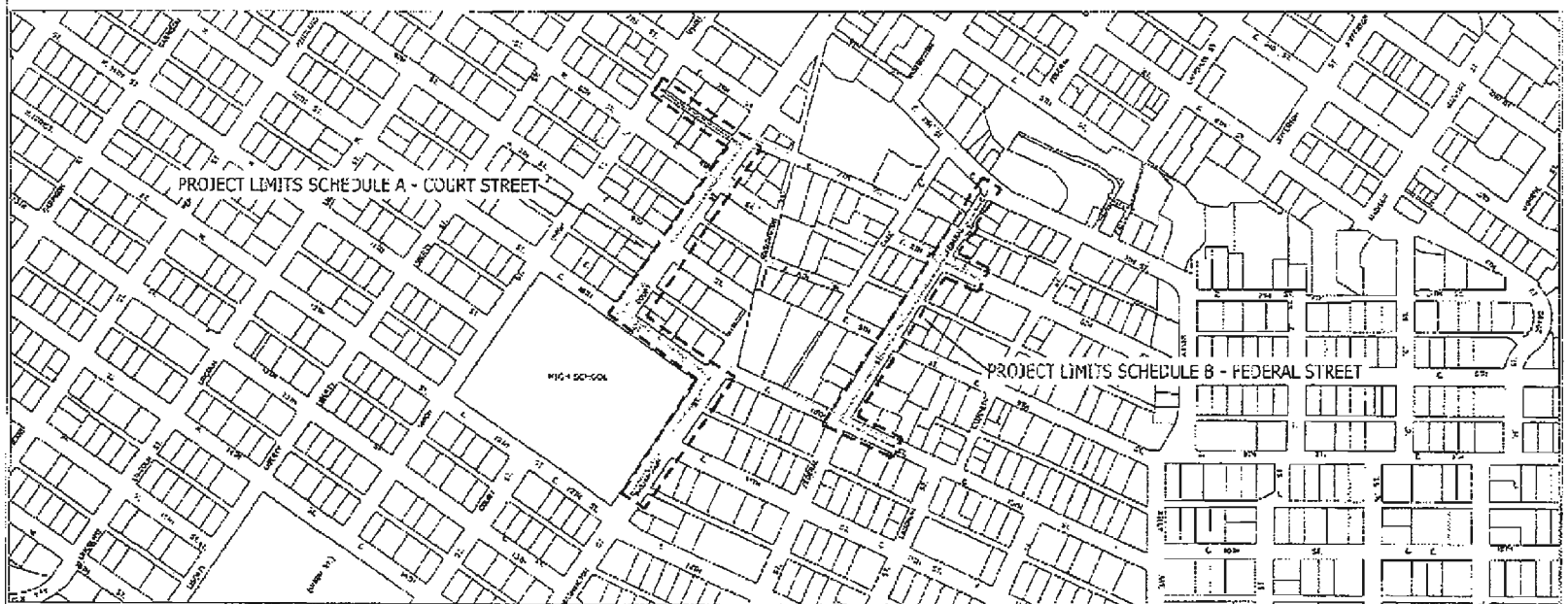
EAST 10TH STREET SEWER PROJECT

CITY OF THE DALLES, OREGON #2011-001

GENERAL NOTES

PROJECT SPECIFIC NOTES

PROJECT SHEET INDEX



VICINITY MAP

CITY OF THE DALLES
PUBLIC WORKS DEPARTMENT
1215 Main Street
The Dalles, Oregon 97058
(541) 296-5401

E. 10TH STREET SEWER PROJECT

0.1

REGISTERED PROFESSIONAL ENGINEER
48087
OREGON
DALE B. MICHABE

EXPIRES: 12/31/10

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 #
July 26, 2010	Action Items 13, A	10-057

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager NY

DATE: July 15, 2010

ISSUE: Recommendation from Columbia Gorge Regional Airport Board to Approve a Three Year Airport Management Agreement with Aeronautical Management, Inc.

RELATED CITY COUNCIL GOAL: None

PREVIOUS AGENDA REPORT NUMBERS: #10-049

BACKGROUND: The Columbia Regional Airport Board has recommended approval of a three year Airport Management Agreement with Aeronautical Management, Inc ("AMI"). Tim O'Neill, the Prosecuting Attorney who represents Klickitat County, proposed some potential language revisions for the agreement concerning clarification of the provisions concerning the compensation to be paid to AMI, the insurance and indemnification provisions, and to the termination provisions in the proposed agreement. Based upon Mr. O'Neill's suggested language, I drafted some proposed revisions for the agreement. AMI has indicated they are in agreement with the proposed revisions. As of the time this staff report was prepared, I had not received confirmation from Mr. O"Neill that he was in agreement with the proposed revisions. Assuming that I receive such confirmation from Mr. O'Neill, I will prepare a final original of the agreement with the proposed revisions, and will provide that final agreement to the Council as soon as possible.

BUDGET IMPLICATIONS: Under the proposed agreement, AMI would receive a "base" monthly compensation of $7,860 per month. This compensation would be retroactive to July 1, 2010. The agreement also provides for additional compensation to be paid in accordance with a fixed schedule, for rental of certain hangars, for development generated primarily or solely by AMI's efforts, and for the transfer of certain property interests.

ALTERNATIVES:

A. Staff Recommendation. Subject to verification of approval of the agreement by Klickitat County's attorney, move to authorize the City Manager, City Clerk, and City Attorney to execute the Three Year Airport Management Agreement with Aeronautical Management, effective July 1, 2010, as amended.

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 26, 2010	Action Item 13, B	10-059

TO: Honorable Mayor and City Council

FROM: Sheila Dooley, Library Director

THRU: Nolan K. Young, City Manager

DATE: July 5, 2010

ISSUE: Authorization for City Manager to Amend Third Intergovernmental Agreement to Provide Library Services to Wasco County Library Service District.

RELATED CITY COUNCIL GOAL : None.

PREVIOUS AGENDA REPORT NUMBERS: April 10, 2006, Action Item 12, A, Agenda Staff Report Number 06-025: Intergovernmental Agreement to Provide Library Services to the Proposed Wasco County Library Service District. June 9, 2008, Action Item 13, B, Agenda Staff Report Number 08-051: Approval of Agreement With Wasco County for Provision of Library Services. January 25, 2010, Action Item 11, A, Agenda Staff Report Number 10-006: Third Intergovernmental Agreement to Provide Library Services to Wasco County Library Service District

BACKGROUND: On April 10, 2006 the City Council approved an Intergovernmental agreement to provide library services to the proposed Library District. After the Council approved the agreement, the Library District's legal counsel made minor changes to the agreement. On June 25, 2007 the City Council approved the agreement with minor amendments on the Consent Agenda. This agreement was for a term of one year and expired on June 30, 2008. The second library agreement was approved on June 9, 2008 and included a term of two years with an automatic renewal unless a 90-day notice was given. This agreement expired on June 30, 2010. The third library agreement, approved on January 25, 2010 and taking effect on July 1, 2010, had the same general terms as the previous ones, including a term of two years and an automatic renewal unless a 90-day notice was given.

The proposed amendment to the Third Intergovernmental Agreement addresses the change concerning reimbursing the City for the indirect administrative and overhead costs of the library. The Wasco County Board of Commissioners may be considering this amendment on July 21st. If so, City Council will be notified prior to the July 26th Council meeting as to any action taken on this issue.

The Library Board recommended approval of the proposed amendment to the Third Intergovernmental Agreement at its June 22nd meeting.

BUDGET IMPLICATIONS.
By clarifying Sections 4.3 and 4.4 of the agreement, the proposed amendment to the Third Intergovernmental Agreement will enable the City to receive $37,000 from the Library District for indirect administrative costs as budgeted in the approved City of The Dalles Budget for FY 2010-2011 The amount to be received in future years will be annually negotiated between the City of The Dalles and the Library District.

ALTERNATIVES:

A. **Staff Recommendation:** That City Council authorize the City Manager to amend the Third Intergovernmental Agreement for the City to provide library services to the Wasco County Library Service District as proposed.

B. Revise and then approve the Amendment to the Third Intergovernmental Agreement for library services.

C. Postpone action on this item to allow for further research.

FIRST AMENDMENT TO THE THIRD
INTERGOVERNMENTAL AGREEMENT BETWEEN
WASCO COUNTY LIBRARY SERVICE DISTRICT
AND CITY OF THE DALLES FOR LIBRARY SERVICES

WHEREAS, the Wasco County Library Service District, hereinafter referred to as "District", and the City of The Dalles, a municipal corporation of the State of Oregon, entered into a Third Intergovernmental Agreement which is scheduled to become effective as of July 1, 2010; and

WHEREAS, the District and the City desire to enter into an amendment to the Third Intergovernmental Agreement to clarify certain provisions of the Agreement concerning Indirect Administrative and Overhead Costs, and the Use of Awarded Funds;

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

1 Section 4.3 Indirect Administrative and Overhead Costs, of the Third Intergovernmental Agreement shall be amended to read as follows:

> Section 4.3 Indirect Administrative and Overhead Costs. The City shall be reimbursed in an amount to be annually negotiated between the City and the District, for the costs of providing indirect administrative services and overhead costs for the Main Branch operation, incurred by other City departments, including Financial, Personnel, Administrative, and Legal Services.

2. Section 4.4 Use of Awarded Funds, of the Third Intergovernmental Agreement shall be amended to read as follows:

> Section 4.4 Use of Awarded Funds. The City shall use awarded funds for operation of the Main Branch, including indirect administrative and overhead costs, postage, telephone, Gorge LINK annual recurring costs, payroll and benefits for Main Branch personnel and County Librarian, delivery of material to the other branch libraries, maintenance and operation of the Library Service Stations, including computer service

and supplies, training and travel for Main branch personnel, and Library processing supplies.

3 Except as modified by this First Amendment, the terms and conditions set forth in the Third Intergovernmental Agreement which takes effect July 1, 2010, shall remain in full force and effect.

Dated this _____ day of _____, 2010.

CITY OF THE DALLES

_____
Nolan K. Young, City Manager

Date:_____

ATTEST:

_____
Julie Krueger, MMC, City Clerk

Date:_____

APPROVED AS TO FORM:

_____
Gene E. Parker, City Attorney

Date:_____

WASCO COUNTY BOARD
OF COMMISSIONERS

_____
Dan Ericksen, Chair

Date:_____

_____
Sherry Holliday, Commissioner

Date:_____

_____
Bill Lennox, Commissioner

Date:_____

THIRD INTERGOVERNMENTAL AGREEMENT
BETWEEN WASCO COUNTY LIBRARY
AND CITY OF THE DALLES
FOR LIBRARY SERVICES

This agreement, effective July 1 2010, between the Wasco County Library Service District, hereinafter referred to as "District" and the City of The Dalles, a municipal corporation of the State of Oregon, hereinafter referred to as "City"

WHEREAS, ORS 190.010 provides that units of local government may enter into a written agreement with another unit of local government for the performance of any or all functions and activities that a party to the agreement has the authority to form; and

WHEREAS, the District and the City entered into an intergovernmental agreement for Library services, which agreement expires on June 30, 2010; and

WHEREAS, the District and the City have reached an agreement to continue in effect the intergovernmental agreement between the parties, and to include a provision for automatic renewal of the agreement subject to the right of either party to terminate this agreement;

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

1. Effective: This Agreement is effective July 1, 2010.

2. Term and Provision for Annual Renewal. The term of this Agreement shall be for a two year period, expiring on June 30, 2012, unless terminated as provided herein. Thereafter, this Agreement shall be automatically renewed on July 1 of each year, unless the Agreement is terminated by either one of the parties providing written notice of termination to the other party by no later than April 1 of each year.

3. General Roles of the Parties. Both parties acknowledge and agree that the District is primarily a funding mechanism to support and operate library services within Wasco County. The District has no employees and few assets. It plans to provide library services by contracting with the City and other entities that can provide these types of services to the public.

4. City Responsibilities:

   4.1 In General. Library facilities and services shall be made available to the public and the City shall work in coordination with other branches of the Wasco County Library.

   4.2 Facilities. The City shall provide facilities for the Main Branch Library.

4.2.1 The Main Branch Library is currently located at 722 Court Street in The Dalles. The location may be changed only in agreement with the District.

4.2.2 The City shall, at its own expense, be financially responsible for the major maintenance of the Main Branch Library building and grounds, including roofs, floor coverings, structural integrity of the structure, parking lots, sidewalks, landscaping and outside structural items such as decks and retaining walls. Major maintenance will be those items that cost more than $10,000.

4.3 Indirect Administrative and Overhead Costs. The City shall be reimbursed in an amount to be annually negotiated between the City and the District, for the costs of providing~~, at its own expense, continue to provide the~~ indirect administration and overhead costs for ~~of~~ the Main Branch operation, incurred by other City departments, including Financial, Personnel, Administrative, and Legal Services.

4.4 Use of Awarded Funds. The City shall use awarded funds for operation of the Main Branch, including indirect administrative and overhead costs, postage, telephone, Gorge LINK annual recurring costs, payroll and benefits for Main Branch personnel and the County Librarian, delivery of material to the other branch libraries, maintenance and operation of the Library Service Stations, including computer service and supplies, training and travel for Main Branch personnel, and Library processing supplies.

4.4.1 The City shall employ the County Librarian, a person agreed upon between the City and the District. That person shall be responsible for the administration of the Wasco County Library system, and will act as the District Budget Officer. The parties agree that the current Wasco County/The Dalles City Librarian shall serve as the initial County Librarian. At which time the current City/County Librarian is unable to serve, or desires to resign from this position, the City and District must mutually agree upon a replacement to fill the position. The City and District may also, upon joint agreement, remove any County Librarian at any time. The position of County Librarian is at-will and neither party shall take any action to contradict or degrade that status.

4.4.2 The City shall employ others as necessary to provide the general patron services, maintenance services, library collection services, information services, Gorge LINK services, youth services, and adult services, as outlined in the Service Plan dated January 10, 2006, presented by Ruth Metz Associates.

4.4.3 The City shall use at least $92,000 of the awarded funds to purchase library collection materials for each fiscal year that this Agreement is in effect, in consultation with the Library Board based upon a system-wide collection development plan.

4.4.4 The City may use money awarded to it from the District to provide for routine maintenance of electrical, plumbing, HVAC and other operational systems, and to pay for janitorial services. Utility charges and routine building and grounds maintenance, including minor repairs, may also be paid from funds awarded to the City. A minor repair is one that does not exceed $10,000.

4.4.5 Awarded funds cannot be used for expenses incurred prior to July 1, 2007, or any fiscal year prior to the award year without the District's prior approval.

4.5 Hours of Operation. The Main Branch's hours of operation for the public shall be based on the operational needs as established by the Library Board and the City, and as budgeted by the District.

4.6 Annual Reporting. The City will provide the Wasco County Board of Commissioners with an annual audit report, and make an oral presentation on activities throughout the Wasco County Library system for the year, at the time the audit report is presented to the District governing body.

4.7 Purchasing and Contracting Rules. For procurement, the City shall comply with the applicable provisions of the Public Contracting Code (ORS 279A, 279B and 279C, as may be amended) and the City's own procurement rules promulgated in connection with those statutes.

4.8 Insurance coverage. The City shall provide coverage as required under State of Oregon Workers' Compensation Act for all City employees and volunteers.

4.9 Indemnity and Hold Harmless. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, the City shall indemnify and hold harmless the District, its officers, agents and employees from any claims arising out of or relating to the activities of the City or its officers, employees, subcontractors, or agents under this Agreement.

5. District Responsibilities

5.1 Library Board. The District, with input from cities or communities who will have branch libraries, shall appoint a Library Board, which will have the following general responsibilities:

5.1.1 Manage this Intergovernmental Agreement and (other similar agreements for the other Library Branches); and recommend to the District governing body any amendments to the intergovernmental agreement(s).

5.1.2 Review and comment on future budgets and work plans developed under this Agreement.

5.1.3 Recommend and advise on the appointment and performance of the County Librarian.

5.1.4 Conduct an annual performance evaluation review of the County Librarian.

5.1.5 Develop a policy for the allocation of Library materials.

5.1.6 Adopt policies for the operation of the branch libraries, including late fees and fines, subject to review of the District's governing body.

5.1.7 Make recommendations on the acceptance and use of real or personal property or funds donated to the District.

5.2 Authorize funding in accordance with the adopted budget and local budget law to provide Library services in Wasco County. The amount of funding shall be at the discretion of the District.

6. <u>Financial Obligations and Considerations</u>

6.1 All library fees, fines or interest collected by the City are solely for the benefit of the Wasco County Library and shall be utilized by the City for operation of the Main Branch Library. These amounts shall be reported to the District at the annual audit and report.

6.2 The annual operating and capital expenditures budget for the Main Branch (including the County Librarian's compensation) shall be recommended by the Library Board to the City and District no later than the end of March of each year this Agreement is in effect and shall be considered for approval by the City and District no later than May 15 of each year this Agreement is in effect.

6.3 The annual budget of the Main Branch Library shall include an Unappropriated Ending Fund Balance equal to the operating costs for July through October.

6.4 Any surplus of revenue due to operating costs being less than projected will be maintained by the City as carry-over for budgeting for services to be provided under this agreement. Any shortage due to lack of District taxes collected may

result in the reduction in revenue received from the District, and may result in a corresponding reduction in services.

6.5 Assets currently owned by the City in the Main Branch Library shall continue to be considered the property of the City for the remaining life of the assets, and as the City expends District allocated funds to replace those assets or purchases new materials, including circulation materials, those items shall be considered property of the City for use in the Wasco County Library System.

6.6 Payment Schedule.

6.6.1 For each year this Agreement is in effect, the District shall distribute funds in four equal installments on November 30, December 31, February 28, and May 31. Provided however, that the final payment may be reduced if budgeted tax funds are not received by the District.

7. Performance of Responsibilities. While District can evaluate the quality of the performance of the City's responsibilities under this Agreement, the District will not control the day-to-day manner of the City's performance of its obligations. The City is responsible for those.

8. Funds Available. District expects to receive sufficient funds to finance the costs of this Agreement on an annual basis from each year's receipts. The City understands and agrees that the District's payments under this Agreement are contingent on the District's actual receipts, budgetary limitations and other expenditure authority sufficient to allow the District, in the exercise of its reasonable administrative discretion, to continue to make payments. District may terminate this Agreement, or reduce payments to the City, without penalty or liability to District, effective upon the delivery of written notice to the City, if the District determines that there are insufficient funds available to make payments under this Agreement. Any shortage due to lack of funds may result in a corresponding reduction in library services offered by the City.

9. Audit. District shall have the right to audit the books of City as they relate to this Agreement. City hereby agrees that its books and records shall be available for inspection at reasonable times.

10. Nondiscrimination. The City and District agree that neither shall discriminate on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, disability, or veteran's status in any activity or operation carried out in the performance of this Agreement.

11 Insurance. City shall provide proof of general liability, automobile and worker's compensation insurance within 30 days of the date of this contract. The general liability insurance shall be for an amount not less than $1,000,000.00 per occurrence,

$2,000,000.00 annual aggregate, and the automobile insurance shall be for an amount not less than $1,000,000.00 per accident.

12. Subcontracts and Assignment; Successors in Interest. City shall not enter into any subcontracts for any of the services to be provided under this agreement, or assign or transfer any of its interest in this contract, without the prior written consent of the District. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

13. No Third Party Beneficiaries. City and District are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

14. Representations and Warranties. Each party represents and warrants to the other that it has the power and authority to enter into and perform this Agreement; and this Agreement, when executed and delivered, shall be a valid and binding obligation of the party. In addition, City represents and warrants that it has and will maintain personnel with the skill and knowledge possessed by well-informed members of its industry and profession; and those personnel shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed, if required, to perform the services of this Agreement.

15. Dispute Resolution. Any claim, action, suit or proceeding (collectively, "claim") between the parties that cannot be resolved and that arises from or relates to this Agreement shall be submitted to binding arbitration and not to litigation. The arbitrator's decision shall be final and binding and a judgment may be entered thereon. The party wishing to submit the claim to arbitration shall notify the other party of such intention. The parties shall choose an arbitrator within thirty (30) days of such notice.

16. Severability. If any term or provision of this Agreement is declared to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

17. Waiver. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

18. Amendments. This Agreement may be amended in writing only with the amendment signed by both parties.

19. Notices. All notices to the respective parties shall either be personally delivered or sent certified mail to the following addresses:

City of The Dalles
Nolan K. Young
City Manager
313 Court Street
The Dalles, OR 97058

Wasco County Library
Dan Ericksen, Chair
Wasco County Board of Commissioners
511 Washington Street, Suite 302
The Dalles, OR 97058

CITY OF THE DALLES

_____
Nolan K. Young, City Manager

Date:_____

ATTEST:

_____
Julie Krueger, MMC, City Clerk

Date:_____

APPROVED AS TO FORM:

_____
Gene E. Parker, City Attorney

Date:_____

WASCO COUNTY BOARD OF COMMISSIONERS

_____
Dan Ericksen, Chair

Date:_____

_____
Sherry Holliday, Commissioner

Date:_____

_____
Bill Lennox, Commissioner

Date:_____

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 #
July 26, 2010	Action Items 13, C	10-060

TO: Honorable Mayor and City Council

FROM: Dick Gassman, Senior Planner
Community Development Department

THRU: Nolan Young, City Manager

DATE: July 26, 2010

ISSUE: City Council Resolution to Initiate a Right of Way Vacation Process for a portion of West 7th Street

RELATED CITY COUNCIL GOAL: N/A

PREVIOUS AGENDA REPORT NUMBERS: N/A

BACKGROUND: Andrew Kerr has requested this partial right of way vacation process for a portion of the West 7th Street between Liberty and Lincoln Streets. For the requested vacation area see the attached map.

This has gone through the City's Site Team Review process. The only comment was that the City will require an easement for any existing public facilities. If approved, half of the vacated land will revert to Mr. Kerr and the other half will revert to Max and Amber Luguar, the other adjacent property owner. A consent has been signed by all the parties.

Enclosed with this staff report is Resolution No. 10-015, which will initiate the vacation proceeding. If the Resolution is adopted, a public hearing will be held on the proposed partial street vacation.

BUDGET IMPLICATIONS: The costs associated with the proposed partial right of way vacation are minimal; public notices and some staff time which will be covered by the filing fee. If the right of way is ultimately vacated, General Ordinance No. 99-1230 requires the Petitioner to pay for the costs associated with the filing and recording.

ALTERNATIVES:

A. Staff Recommendation: ***Move to adopt Resolution No. 10-015 initiating the right of way vacation process for a portion of West Seventh Street between Liberty and Lincoln Streets.***

B. Do not adopt the resolution and provide additional direction to staff.

RESOLUTION NO. 10-015

INITIATING A STREET VACATION PROCEDURE FOR A PORTION OF WEST SEVENTH STREET BETWEEN LIBERTY AND LINCOLN STREETS

WHEREAS, the City is requesting to initiate a street vacation for a portion of West Seventh Street between Liberty and Lincoln Streets, and

WHEREAS, street vacations are governed by General Ordinance No. 99-1230; and

WHEREAS, under General Ordinance No. 99-1230, Section 6, the City Council may initiate the vacation process by providing notice (ORS 271.110) of public hearing and posting of notice no less than 14 days prior to the hearing; and

WHEREAS, it is in the best interest of the public for the City to initiate a public hearing for the requested street vacation;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:

Section 1. Street Vacation Initiated. Street Vacation No. 59-10, which is shown on the attached map labeled as "Exhibit 1", is hereby initiated.

Section 2. Officers to Act. The Community Development Department of the City is directed to post and publish notice for the street vacation initiated in Section 1 according to the provisions of ORS 271.110.

Section 3. Effective Date. This resolution shall be effective as of July 26, 2010.

PASSED AND ADOPTED THIS 26th DAY OF JULY, 2010.

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

AND APPROVED BY THE MAYOR THIS 26th DAY OF JULY, 2010.

SIGNED:

_____
James L.Wilcox, Mayor

ATTEST:

_____
Julie Krueger, MMC City Clerk

MAX
LUGINBUHL
B
TONE
VACATED
B
A
ANDREW
KERR
A
203 W 7TH
7TH ST

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 26, 2010	Action Items 13, D	10-062

TO: Honorable Mayor and City Council

FROM: Jim Broehl and Chuck Covert
Aeronautical Management

THRU: Nolan K. Young, City Manager

DATE: July 15, 2010

ISSUE: Airport Master Plan.

BACKGROUND: The Master Plan for the airport has been completed. The Master Plan is required for the airport to obtain funding from the FAA for projects to be completed at the airport. The Master Plan has been reviewed by the Airport Board and the Advisory Committee. The Master Plan as presented is a Final Draft of the plan to be submitted to FAA. The final Master Plan will not be issued until FAA approval is received.

BUDGET IMPLICATIONS: None

ALTERNATIVES:

A. Staff Recommendation: Move to approve submitting the Master Plan of the Columbia Gorge Regional Airport to the FAA for review and approval.

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 #
July 26, 2010	Discussion Items 14, A	10-061

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager

DATE: July 15, 2010

ISSUE: Update and report on implementation of Yard Sale sign regulations

RELATED CITY COUNCIL GOAL: None

PREVIOUS AGENDA REPORT NUMBERS: None.

BACKGROUND: On April 12, 2010, the City Council approved new regulations concerning the public placement of yard and garage sale signs within the public right-of-way and on public property. On May 19th, City staff began a program to implement the new regulations. As part of this program, the City Code Enforcement officer collected information concerning the proposed sales, and that information was stocked in display cases in five locations in the City. The City Council indicated that the new regulations should be imposed upon a trial basis, and the Council requested a report covering the initial 60 day period of implementing the new regulations.

The City Code Enforcement Officer has been assigned primary responsibility for implementing the new yard and garage sale sign regulations. Her primary duties have included gathering and preparing the information for the yard sales which are posted in the public display cases; picking up signs which are improperly placed and keeping track of the addresses for the signs which are picked up; recycling boxes used for signs, and retaining other signs for 30 days as required by the ordinance before their disposal; and contact with the public by telephone and email concerning

information regarding the sign regulations. The email contact included 9 messages from Marilyn Clifford, seven of which were addressed to Ms. Lesich's office and two which were addressed to her personal email account. Ms. Lesich has estimated that she has spent an average of two hours per week performing the duties related to implementation of the yard and garage sale sign regulations. The payroll cost and benefits as of June 30, 2010 would result in an hourly rate of $20.80 for the costs of the services being provided by Ms. Lesich related to this program. The City incurred a total expense of $77.65 for the purchase of the plastic cases which are used to display the information concerning the garage sales.

In terms of public response to the new regulations, enclosed with this staff report is a copy of a spreadsheet listing the number of persons who contacted the City to provide information concerning their sale, and the number of improperly placed signs which were picked up by the Code Enforcement officer. Ms. Lesich has indicated there has been some positive response from the public that the streets look better without the display of the yard and garage sale signs One comment was received by a person who provided information for her yard sale to the City, who indicated she had very poor attendance at her yard sale.

Ms. Lesich has indicated that the time required to implement the program for the new yard and garage sign sale regulations has distracted her from being able to perform other functions and responsibilities of her position as Code Enforcement Officer. Ms. Lesich has indicated the following potential alternatives to improve the administration of the yard and garage sale sign regulations:

1. To establish a system where a fine is imposed upon persons who leave their garage and yard sale signs on Mondays, after the sales are typically over. Establishment of such a system would likely require additional staff time involved for issuance of citations and imposition and collection of any fines imposed, which could include appearance in court proceedings.

2. Work with St. Vincent de Paul to establish a self service sign board which would be used to display information concerning the yard and garage sales. One issue which would need to be clarified is who would be responsible for monitoring the information displayed on the board, to keep the information current and remove outdated information.

3. The Code Enforcement Officer would continue to pick up signs and boxes on Mondays which were improperly placed, after the sales were over.

4. Ms. Lesich has recommended that the regulations be amended to reduce the amount of time for which the City must retain a sign which has been impounded, from the 30 day period currently provided in the ordinance. This issue will likely require some further research, to determine if this amount of time can be reduced.

5. Ms. Lesich would continue to send letters to the addresses displayed upon the boxes being improperly displayed, in an effort to educate the persons displaying the boxes as to the applicable regulations.

At the City Manager's request, Ms. Lesich obtained information concerning a program in the Salem, Oregon Statesman Journal newspaper entitled "Garage Sale Finder" This section lists the yard sale information, and a map showing the location of the yard sales. The costs for this service is paid by the citizens having the sale, and those costs vary from $19.80 to $32.20 a week for each entry. Another suggestion which Ms. Lesich received involved the use of the City's web site. The concept would be that individuals would log on to the website and provide their information on the website. The information on the website would be designed to be automatically deleted every Monday. We have not had any discussion with the City's IT consultants to determine if such a program would be possible on the City's website. There also may be a question as to how many potential garage sale customers would access the City's website to obtain this information.

BUDGET IMPLICATIONS: The budget implications for the current program have been summarized previously in this report. If the Council considers directing staff to include a process for the implementation of fines for violation of the ordinance, there were be additional staff time that would need to be incurred to implement such a system. If the Council desires to pursue the option of establishing a self-service sign at St. Vincent de Paul, it is probable that the City could decide to purchase the sign. The costs of such a sign are not currently known.

ALTERNATIVES:

A. Staff Recommendation. This is a discussion item, and staff is requesting direction from the Council as to how to proceed with implementing the yard and garage sale sign regulations. The following are potential options for the Council to consider:

1. Continue the current program and implement the recommendations outlined in this staff report by the Code Enforcement Officer.

2. Keep the current ordinance provisions in effect, and do away with the program of gathering information concerning the sales and displaying that information in the public receptacles. Pick up signs left over after the sales are done, and not impose any fines or sanctions upon the violators.

Garage Sale Sign Program

as of 7/14/10

Date	Signs Picked Up*	Sales listed on City Notice
27-May	4	3
1-Jun	4	3
6-Jun	2	3
13-Jun	10	6
18-Jun	4	7
25-Jun	6	11
1-Jul	3	3
8-Jul	7	5
14-Jul		1
TOTAL	36	39

*letter sent