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Regular City Council Meeting
October 24, 2022
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MINUTES

CITY COUNCIL MEETING
COUNCIL CHAMBER, CITY HALL
OCTOBER 24, 2022
5:30 p.m.

VIA ZOOM/ IN PERSON

PRESIDING: Council President Tim McGlothlin

COUNCIL PRESENT: Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

COUNCIL ABSENT: Darcy Long, Mayor Mays

STAFF PRESENT: City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Izetta Grossman, Finance Director Angie Wilson, Community Development Director Joshua Chandler, Public Works Director Dave Anderson, Police Chief Tom Worthy, Human Resources Director Daniel Hunter

CALL TO ORDER

The meeting was called to order by Council President Tim McGlothlin at 5:30 p.m.

ROLL CALL OF COUNCIL

Roll Call was conducted by City Clerk Grossman. McGlothlin, Runyon, Randall, Richardson present. Long and Mayor Mays absent.

PLEDGE OF ALLEGIANCE

Council President McGlothlin asked Councilor Richardson to lead the Pledge of Allegiance.

Councilor Richardson invited the audience to join in the Pledge of Allegiance.

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APPROVAL OF AGENDA

Council President McGlothlin stated the Executive Session had been removed from the agenda and the Supplement agenda item 12D had been moved to 12A.

It was moved by Richardson and seconded by Randall to approve the agenda as submitted. The motion carried 4 to 0; Richardson, Randall, McGlothlin, Runyon voting in favor; none opposed; Long absent.

PRESENTATIONS PROCLAMATIONS

Underground Feasibility Study – Martin Stoddard, Stoddard Power Systems

Martin Stoddard and Jerry Witkowski presented the PowerPoint.

In response to a question Mr. Stoddard said the project could be done in phases, however more disruptive

Roger Kline, General Manager of Northern Wasco County PUD thanked Stoddard and Witkowski for their excellent work. He said he recalled talking with Mayor Mays about the possibility of underground utilities a few years ago.

Kline said the City determined a feasibility study was needed. He said the PUD partnered with the City on the study.

He said the PUD had higher priorities for the next 15 years, making improvements to existing systems. He said to move all utilities underground was not practical or financially feasible.

In response to a question Kline said the project could be done by sections, or by property.

AUDIENCE PARTICIPATION

Judy Merrill, 400 West 11th Street asked for an update on the Mayor's Homeless Taskforce. She said she heard a lot of rumors that she feels were not good for the community.

Merrill asked if there would be a warming shelter this year, and if St. Vincent de Paul would be closing.

City Manager Klebes said he would pull together the finer points for her. He said there had been talk of St. Vincent de Paul moving locations, but nothing final.

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He said the Taskforce couldn't direct the work of any entity.

Klebes said there were ongoing conversations regarding the warming shelter options.

Kenny LaPointe, Executive Director of Mid-Columbia Community Action Council reported

- Looking at options for warming shelter
- 34 beds in town at the pallet shelter site, there are still a few beds available
- 2000 shelter bed nights in 2021 – more year to date 2022
- Taskforce cannot make the decision on warming shelter; that is a St. Vincent de Paul decision

Merrill asked how would the public be informed of the progress of the Taskforce.

City Manager Klebes said there was a meeting of all agencies to improve communication.

Lisa Farquharson, The Dalles Area Chamber of Commerce CEO/President gave an update:
100 year celebration of the Columbia Highway was well attended. She thanked those involved:

- Oregon Department of Transportation
 - St. Peter's Landmark
 - Floozies and Friends
 - Friends of the Columbia Highway
 - Karl Vercooteren, Emcee for the entire event
- Historian / Kiwanis Member (Kiwanis put on the celebration 100 years ago) /
Muralfest representative / Original County Courthouse

Farquharson reminded Council and community of:

- November 11th at 11 a.m. Veteran's Day Parade; with fly over at 10:50 a.m.
 - Entries are free, must fill out the entry form
- November 25th annual Community Tree Lighting and Starlight Parade
 - Entries for parade on Chamber website

CITY MANAGER REPORT

City Manager Matthew Klebes reported:

- Joshua Chandler had been hired at the Community Development Director, his first day was October 24th. He said Mr. Chandler had worked for the City for 3 years beginning as a Planning Tech, Planner and Senior Planner before taking the Interim position in June.
- November 4th is the Gorge Economic Symposium put on by Mid-Columbia

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- Economic Development District, at the Civic Auditorium, 8:30 a.m. to Noon
- Only one regular city council meeting in November on the 14th; the November 28th regular meeting has been cancelled
- City Council Goal Setting Session November 29th, 1:00 p.m. to 5:00

CITY COUNCIL REPORTS

Councilor Runyon reported:

- Meeting with City Manager on future location of the Veteran's Museum

Councilor Richardson reported:

- Climate Resiliency meeting
- Litter pick up

CONSENT AGENDA

Council President McGlothlin noted the Executive Session had been removed from the agenda and Item 12D from the supplemental agenda was renumbered to Item 12A.

It was moved by Randall and seconded by Richardson to approve the Consent Agenda as presented. The motion carried 4 to 0, Randall, Richardson, Runyon, McGlothlin voting in favor; none opposed; Long absent.

Items approved on the consent agenda were: A) The minutes of the October 10, 2022 Regular City Council Meeting; B) Resolution No. 22-036 A Resolution Authorizing the City Manager to Execute a Grant Application on Behalf of Mid-Columbia Community Action Council for the Oregon Department of Energy's Community Renewable Energy Grant Program; C) Resolution No. 22-035 Authorizing the City Manager to Execute Intergovernmental Agreements with Oregon Department of Transportation and Oregon Business Development Department to Partner in the Administration of the Disadvantaged Business Enterprise Unified Certification Program.

PUBLIC HEARING

Supplemental Budget

Council President McGlothlin reviewed the public hearing process.

Finance Director Angie Wilson reviewed the staff report.

In response to a question Police Chief Tom Worthy said the title of the grant wasn't just for DUII

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overtime. He said it was a grant for traffic safety, seat belt, speed. He said a more accurate title would be "Enforcement Overtime".

Councilor Richardson said there had been a robust conversation during the Budget Committee meetings regarding the State Office Building, this action was carrying out the direction.

Council President McGlothlin asked for public testimony, hearing none he closed the hearing.

Resolution No. 22-034 Adopting a Supplemental Budget for Fiscal Year 2022/2023, Making Appropriations and Authorizing Expenditures from and within Various Funds of the City of The Dalles Adopted Budget

It was moved by Runyon and seconded by Richardson to adopt Resolution No. 22-034 Adopting a Supplemental Budget for Fiscal Year 2022/2023, Making Appropriations and Authorizing Expenditures from and within Various Funds of the City of The Dalles Adopted Budget. The motion carried 4 to 0, Runyon, Richardson, Randall, McGlothlin voting in favor; none opposed; Long absent.

CONTRACT REVIEW BOARD

Contract No. 2022-005 City Water Master Plan Update

Public Works Director Dave Anderson reviewed the staff report.

Councilor Runyon asked that it be noted the optional items funds could only be used for those items. He also noted that the city wasn't late in updating the Master Plan. He said common practice was every 20 years.

Councilor Richardson asked what the timeline was for the project.

Anderson said the plan should be complete for Council review in 18 months.

It was moved by Richardson and seconded by Runyon to authorize the City Manager to enter into contract with Consor Engineering LLC in an amount not to exceed \$734,887.00 for Contract No. 2022-005, the Water Master Plan Update contract. The motion carried 4 to 0; Richardson, Runyon, Randall, McGlothlin voting in favor; none opposed. Long absent.

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ACTION ITEMS

Abatement Appeal – R. Douglas Powell

City Attorney Jonathan Kara reviewed the staff report. He reminded Council the only question before them was “Is the house a nuisance pursuant to The Dalles Municipal Code Chapter 5.04”.

Kara noted that City Codes Enforcement Officer, Nikki Lesich was in attendance if questions came up.

He asked if Council had any ex parte contact, bias or conflict of interest which would prevent an impartial decision. Hearing none he proceeded with the staff report.

R. Douglas Powell, 1423 East 11th Street, presented the Council with a written statement (see attached). He said the house was legally placed in the right of way and he pays taxes on it. He said the house was at that location in 1896.

Mr. Powell said he never consulted with the attorney that Mr. Kara was negotiating with on his behalf. He said he would like to negotiate a resolution with Council in Executive Session. He said he unknowingly purchased the property and shouldn't be responsible for the cost of removal.

Kara said the Executive Session on the agenda had been canceled.

Powell said the City knew the house was in the right of way for a long time. He said the issue should have been addressed a long time ago. He offered to sell the property to the City for \$150,000.

In response to questions Powell said he:
owned a number of properties
purchased the property from the estate of a friend
did not have a survey done at the time of purchase
assumed the house was on the property he purchased
paid \$25,000 about 7 years ago

Councilor Randall asked if the offer to remove the structure at no cost was still on the table.

City Attorney Kara said probably not. He said as the attorney for the City he did not recommend negotiations.

Kara restated the issue before Council: Is the house a nuisance.

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City Manager Matthew Klebes said if the Council decides a nuisance exists, Mr. Powell had 3 days to demo the house or the City could abate at City's costs that would be passed on to Mr. Powell.

Councilor Runyon asked who City Attorney Kara was negotiating with. Kara said Timothy B. Ramus who was representing Mr. Powell.

Mr. Powell said he knew nothing about negotiations until he got a bill, and the name on the bill was not Mr. Ramus.

Councilor Richardson asked if the property tax changed anything.

Kara said it did not.

Richardson asked if Mr. Powell was collecting rent on the property.

Mr. Powell said yes, for six years. He said it currently rented for \$900.

Richardson noted that Mr. Powell had made his purchase price back.

Mr. Powell said he had to do lot of repairs as well.

It was moved by Randall and seconded by Richardson to determine the structure (on East 9th Street) constitutes an existing nuisance pursuant to The Dalles Municipal Code Chapter 5.04. The motion carried 4 to 0; Randall, Richardson, Runyon, McGlothlin voting in favor; none opposed; Long absent.

Consideration Termination of 1st Street Project Grant Partnership with Oregon Department of Transportation

Community Development Director Joshua Chandler reviewed the staff report and the attached PowerPoint presentation.

It was moved by Runyon and seconded by Randall to authorize the City Manager or designee to write, sign, and send a letter or email to ODOT indicating the City's desire to cancel the First Street/Downtown Riverfront Access Project and terminate Local Agency High Priority Project Agreement No. 24441. The motion carried 4 to 0, Runyon, Randall, Richardson, McGlothlin voting in favor; none opposed; Long absent.

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General Ordinance No. 22-1390 An ordinance amending The Dalles Municipal Code Chapter 2.20 (Sidewalk Maintenance) and Chapter 2.24 (Public Rights-of-Way) for Legal Sufficiency

City Attorney Jonathan Kara reviewed the staff report.

Councilor Runyon asked if Kara saw any ramifications of this ordinance.

Kara said the only change is in no way could the City be held liable for anything, for example injury from a fall on a sidewalk.

Councilor Richardson asked if maintenance included removal of ice and snow.

Rodger Nichols, Y102 Radio, asked if the ordinance would increase fines for people who don't clear their sidewalks. Kara said it would not.

Richardson asked for clarification regarding "owner or apparent owner".

Kara said the language was designed to be as overly inclusive as possible.

Mayor asked if any Councilor wanted the ordinance read in full. Hearing none, he asked the City Clerk to read the ordinance by title only.

City Clerk Grossman read General Ordinance No. 22-1390 by title only.

It was moved by Randall and seconded by Richardson to adopt General Ordinance No. 22-1390, an ordinance amending an ordinance amending The Dalles Municipal Code Chapter 2.20 (Sidewalk Maintenance) and Chapter 2.24 (Public Rights-of-Way) for legal sufficiency by title only. The motion carried 4 to 0, Randall, Richardson, Runyon, McGlothlin voting in favor; none opposed; Long absent.

Letter of Understanding for Purchase of Property Located within The Dalles Municipal Watershed

Public Works Director Dave Anderson reviewed the staff report.

Anderson noted that he received an email today suggesting a revision to the Letter of Understanding to be between the City of The Dalles and Lupine Forest, LLC. He said those changes would be made prior to signing the document.

In response to a question he said it would be between 2-4 years before the grant would be

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awarded.

It was moved by Runyon and seconded by Richardson to authorize the execution of a Letter of Understanding with Columbia Land Trust and The Conservation Fund to secure funding for the purchase of approximately 3,400 acres of land owned by Lupine Forest LLC located within and near the drainage of The Dalles Municipal Watershed. The motion carried 4 to 0, Runyon, Richardson, McGlothlin, Randall voting in favor; none opposed; Long absent.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:05 p.m.

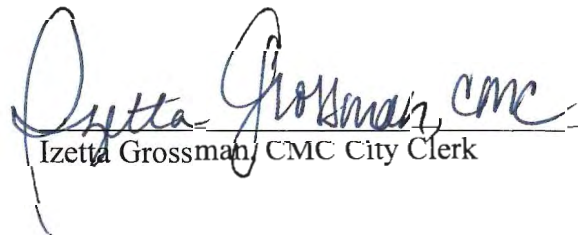
Submitted by/
Izetta Grossman, CMC
City Clerk



SIGNED:

Richard A. Mays, Mayor

ATTEST:


Izetta Grossman, CMC City Clerk

1. I have done nothing wrong. I inadvertently bought this problem property about 7 years ago. The City had had 113 years to fix this issue instead of springing it on an unsuspecting owner. At the least, the City should have taken care of this issue when they first became aware of it; something more than 20 years ago instead of waiting until I happen to be the unfortunate owner and victim of its nonfeasance.
2. It is I who should be suing the City, not the other way around.
3. This should never have gone as far as taking legal action, as I have always been willing to negotiate an agreement.
4. This is an Eminent Domain issue. A takings, which under Oregon's and the US constitutions requires compensation before acquiring someone's property and/or buildings.
5. I cannot be held liable for removing something on a city right of way that I did not put there, especially since the city was aware of this issue decades before I purchased the property.
6. According to deed research, the house was there in 1896, long before the street right of way was put in place. Not that it matters, compensation must be paid regardless. The 1920 date was an estimate made by a tax assessor in 1925. There were no inspections of Addition Plot Maps in 1909. Somehow, this house and at least a couple others fell under the radar.
7. The April 6th deadline does not apply as it was postponed when discussions began with my former attorney.
8. I do have permission from the City to have the house there, evidenced by the acceptance of property taxes by the city and county for this structure for many decades.
9. Wasco County should not have jurisdiction over any legal action taken on this matter due to conflicts of interest.
10. I am in contact with one of the best Eminent Domain attorneys in Oregon who is confident that we have an excellent case. We are waiting to see if this is really the direction the City wants to go before I retain him.
11. We can settle this right now. Last year the house was worth \$177,000. My asking price. You can counter offer with this year's value of \$145,000. I have other losses and expenditures including lost rent, attorney fees, lost value, repairs ect. So lets just settle on \$150,000 for the house and be done with it. I also want one week to get my property and anything else I want from the house before demolition.
12. I will not negotiate with Mr. Kara due to his abrasive and sour demeanor. Also;

He does not negotiate in good faith.

He changes the terms of an agreement.

He makes false statements, assumptions and allegations.

He is wasting my City's money, including paying my tenant an exorbitant amount of money related to vacating the unit.

He treats me like a criminal, which I am not.

R Douglas Powell



First Street Project

Consideration for the Termination of Local Agency
Agreement No. 24441 | Grant Agreement w/ ODOT

CITY OF THE DALLES

CITY COUNCIL


MONDAY OCTOBER 24, 2022

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Project Location



Project Background

- Original Grant Agreement ODOT/City of TD approved: **May 2008**
 - Project partially funded by federal **American Recovery and Reinvestment Act (ARRA) grant 2009-2010**
 - **\$1.6M Federal funds** awarded
 - Agreement amended and scope reduced by City Council: **June 2018**
 - HDR hired as owner's rep for City & ODOT coordinator: **March 2021**
- 

Project Status

- Project Design Firm: KPFF
- Plans are currently **95% complete**
- Major design and coordination tasks remaining:
 - Finalize retaining wall design from Union to Washington
 - Finalize ROW coordination with railroad

Finalization of plans and bid documents currently on hold to address funding questions and next steps



Project Status: Delays

- Fall 2021: KPFF performed structural assessment of masonry walls between Union and Washington
- Current plan requires the reconstruction of these walls, triggering additional federal funding requirements:
 - Section 106 NEPA permitting
 - 2-3 years of additional ODOT review/permitting
 - Construction Monitoring
 - **Overall project delay**



Federal Funding

Primary risks of using federal funds:

- Adds 2 to 3 years of review to schedule (2026 completion)
- Unprecedented construction cost escalation and labor shortage
- Challenges with federal funding aspects of the project:
 - Environmental and historic/cultural permitting
 - ROW coordination
 - Private property coordination and improvements

After receiving this information, staff researched the option of delivering the project “locally” and without grant funding




Project Delivery: ODOT or City of TD

ODOT w/ Federal funding:

- **2026 construction** and associated cost escalation (**app. \$1.7 million**)
- Extensive ODOT costs for construction monitoring and environmental permitting (**app. \$500K**)
- Approximately **\$5.1 million** anticipated cost-to-complete project and construction

City of TD w/ KPFF:

- **2024 construction** and substantially reduced cost escalation (2 fewer years of increases)
 - Simplified construction monitoring and environmental review
 - Approximately **\$4.3 million** anticipated cost to complete project and construction
 - **Conservative savings of approximately \$800K (including paying back federal funds)**
- 


URAB Meeting: July 19

- Staff recommend the “local”(City of TD/KPFF) project delivery
 - Void existing ARRA grant and funds awarded to The Dalles
 - **Repayment of \$320k** of ARRA funds used to date
 - **Contract with KPFF** to complete the following tasks:
 - Additional environmental and historic/cultural permitting
 - Additional construction management/monitoring tasks
 - Additional ROW coordination
- URAB was in favor of terminating the ODOT agreement, moving forward with completing the project locally w/o federal grant

Project Update

- September 23 email w/ David Amiton *ODOT Region 4 Planning & Programming Manager*:
 - ODOT confirmed their willingness to mutually terminate grant agreement; if City Council agrees
 - ODOT encouraged City to request an “exception” on repayment of the \$320K to FHWA

Council Alternatives

- 1. Staff recommendation: *Move to Authorize the City Manager or designee to write, sign, and send a letter or email to ODOT indicating the City's desire to cancel the First Street/Downtown Riverfront Access Project and terminate Local Agency High Priority Project Agreement No. 24441.***
 2. Decline to authorize the City Manager and provide additional direction.
- 



City of The Dalles City Council

QUESTIONS?

