

**AGENDA**

**REGULAR CITY COUNCIL MEETING**

October 8, 2012

5:30 p.m.

CITY HALL COUNCIL CHAMBER  
313 COURT STREET  
THE DALLES, OREGON

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

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

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

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

- A. Approval of September 24, 2012 Regular City Council Meeting Minutes

**CITY OF THE DALLES**

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

- B. Approval to Declare Pick Up Utility Box as Surplus Property
- C. Approval to Provide Sanitary Sewer Service to Property Located at 3821 West Tenth Street, Outside the City Limits

11. ACTION ITEMS

- A. Special Ordinance No. 12-550 Assessing Four Properties for the Cost of Abatement of Hazardous Vegetation and Junk [Agenda Staff Report #12-067]
- B. Resolution No. 12-016 Directing the City Engineer to Proceed With Preparation of a Study and Report for Local Improvement District for the Reconstruction of West First Street and Bargeway Road [Agenda Staff Report #12-066]

12. DISCUSSION ITEMS

- A. Annual Review of Transportation SDC Credits [Agenda Staff Report #12-065]
- B. Discussion Regarding Draft Lease With Wasco County for the Transportation Center Building [Agenda Staff Report #12-068]

13. ADJOURNMENT

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**This meeting conducted in a handicap accessible room.**

Prepared by/  
Julie Krueger, MMC  
City Clerk

  
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**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
October 8, 2012	Consent Agenda 10, A - C	N/A

**TO:** Honorable Mayor and City Council

**FROM:** Julie Krueger, MMC, City Clerk

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

**DATE:** September 26, 2012

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

A. **ITEM:** Approval of September 24, 2012 Regular City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the September 24, 2012 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 September 24, 2012 regular City Council meeting.

B. **ITEM:** Approval to Declare Public Works Department Pickup Utility Box as Surplus Property.

**BUDGET IMPLICATIONS:** The utility box is proposed to be sold to a local car dealer.

**SYNOPSIS:** The utility box and lift gate will not fit the new service pickups being purchased by the Public Works Department. A local car dealer would like to purchase it

for a customer at full used value. The utility box is model LP108PASW-99-R, serial number 500450 and the lift gate is model 38x48, serial number 2018.

**RECOMMENDATION:** That City Council declare the utility box and lift gate as surplus property and allow to be sold to a local car dealer.

C. **ITEM:** Approval to Provide Sanitary Sewer Service to Property Located at 3821 Tenth Street, Outside City Limits.

**BUDGET IMPLICATIONS:** Prior to connection, the applicant will be charged a sewer SDC of \$1,789 to connect to the system. The applicant can then either pay the City on a time and materials basis for work to make the connection to the public sewer system or pay a contractor approved by the City to make that connection. Lastly, the applicant will be charged out of City rates for monthly sanitary sewer service, currently \$71.15 per month.

**SYNOPSIS:** The City has received a request from Sharon Hazen with a residence located at 3821 West Tenth Street to connect to the City's sanitary sewer system due to a failing septic system. The City's sewer ordinance required City Council authorization to provide sanitary sewer service to properties outside the city limits. If allowed, this service would be connected to an existing sanitary sewer line located in the road adjacent to the property. The pipeline and pumping systems have the capacity to accommodate the request.

**RECOMMENDATION:** That City Council approve the request to provide sanitary sewer service to 3821 West Tenth Street.

## **MINUTES**

REGULAR COUNCIL MEETING  
OF  
SEPTEMBER 24, 2012  
5:30 P.M.  
THE DALLES CITY HALL  
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, Police Chief Jay Waterbury, Public Works Director Dave Anderson, Finance Director Kate Mast, Administrative Fellow Garrett Chrostek

### **CALL TO ORDER**

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

### **ROLL CALL**

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

### **PLEDGE OF ALLEGIANCE**

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

### **APPROVAL OF AGENDA**

Mayor Wilcox added a "Paint the Town Pink" proclamation. It was moved by Ahier and seconded by McGlothlin to approve the agenda as amended. The motion carried unanimously.

MINUTES (Continued)  
Regular Council Meeting  
September 24, 2012  
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## **PRESENTATIONS/PROCLAMATIONS**

### **World Habitat Day Proclamation**

Mayor Wilcox read a Proclamation declaring October 1, 2012 as World Habitat Day.

Corliss Marsh accepted the Proclamation. She presented a hat to the Mayor and noted the local Habitat for Humanity group was currently working on its 18<sup>th</sup> home in the area. She introduced the current President, Chad Krause.

### **Oregon Days of Culture Proclamation**

Mayor Wilcox read a Proclamation declaring October 1 through 8, 2012 as Oregon Days of Culture.

Corliss Marsh accepted the Proclamation and provide the City Council with a fact sheet about the Wasco County Cultural Trust Coalition. She talked about grants available from the Coalition and distributed book marks to the Council and audience.

### **Paint the Town Pink Proclamation**

Mayor Wilcox read a Proclamation declaring the month of October as Paint the Town Pink month and asked everyone to wear pink on October 13<sup>th</sup> to celebrate breast cancer awareness.

### **School District #21 Report**

Superintendent Candy Armstrong provided an update on enrollment, noting it had increased slightly over the previous year.

## **AUDIENCE PARTICIPATION**

Rose Sherrell, 1107 East Ninth Street, The Dalles, expressed concern regarding residents living in the Rose Garden facility on East Ninth Street. She said the residents were unsupervised and there was no on-site manager. Ms. Sherrell said some of the residents were dangerous and it was very disruptive to the neighborhood. Sherrell said she hired homeless people to work on her property on Trevitt Street and hoped to make this property a place for veterans and wounded warriors to congregate.

MINUTES (Continued)  
Regular Council Meeting  
September 24, 2012  
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Mayor Wilcox complimented Ms. Sherrell for making improvements to the property on Trevitt Street. He said the City was working to develop a mental health court and he hoped that would be a positive change for the community.

Heather Thompson, 4405 Highway 30 West, The Dalles, thanked Councilor Wood and City Attorney Parker for attending the candle light vigil at City Park over the weekend. She said she appreciated their show of support for the positive promotion of our community.

### **CITY CLERK REPORT**

Mayor Wilcox asked the City Clerk to provide an update regarding the commercial dock facility and Lewis and Clark Festival Park activities.

City Clerk Krueger reported on the dock dedication, cruise ships docking and the partnerships being created. She said passengers were able to walk into the downtown area. She noted the Chamber of Commerce would be hosting a Connect to the River Festival on October 6 at the Lewis and Clark Festival Park.

### **CITY MANAGER REPORT**

City Manager Young reported the Memorandum of Understanding with the Granada Block developers had been signed on August 28. He said if there were no objections from the City Council, the City would administratively extend the deadline for the Disposition and Development Agreement to mid-November.

Young reported the City had received a grant from Google for \$130,000 to extend the public Wi Fi system. He said it would be extended to the Discovery Center and Sorosis Park. Young said QLife Agency was also considering adding funding to the project to extend the service to Kramer Field.

Young said the Mid Columbia Economic Development District had just released their comprehensive strategy report and that the City had three of the five top projects, including the Washington Street Connection and two projects at the airport.

### **CITY ATTORNEY REPORT**

City Attorney Parker reported he had been working on the final draft of the dog control ordinance and hoped to bring it to City Council for their consideration at the October 22 meeting.

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Regular Council Meeting  
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Parker said he would be attending the League of Oregon Cities conference and would be on vacation September 28 through October 5.

### **CITY COUNCIL REPORTS**

Councilor Wood said the Historic Landmarks Commission had approved the demolition of the Recreation Building and the Blue Building, with a 120 day delay on the Blue Building. She said they would be discussing the Pioneer Cemetery at their next meeting.

Councilor McGlothlin said there had not been a quorum at the last Traffic Safety Commission meeting, but there had been an informal discussion regarding the Brewery Grade intersection work. He said the project should be completed soon.

McGlothlin reported the shelter over the Lewis and Clark monument at Thompson Park had been removed over the past weekend and thanked Councilor Spatz and Administrative Fellow Garrett Chrostek for their participation on the project.

McGlothlin said he had observed people enjoying the new dock facility and park and it was rewarding to see the community enjoying the facilities.

Councilor Dick said the Urban Renewal Advisory Committee had received a summary of Urban Renewal projects and said it was rewarding to learn how much the urban renewal program had helped to enhance the community.

Councilor Spatz said the Community Outreach Team had recently returned from Washington, D.C. and had opportunities to talk about airport projects, port lands development, and other projects in the community.

Spatz said the Readiness Center project was making good progress. He said a grant had been received by the college from Sherman County to install a welding lab. He said the new Shepard's Flat wind farm had donated \$250,000 toward the renewable training program at the college.

Spatz reported that Google, the City, college, and School District #21 were partnering to conduct the Gorge Gravity Games, a soap box derby, to involve students and to promote science and technology to students.

Spatz reported that a new federal program to advance manufacturing strategies mirrored the Mid Columbia Economic Development District's Strengthening Communities Program and we were well positioned to participate in the new federal program.



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Councilor Ahier said the Council of Governments was in the process of filling the position for Director of the Area Agency on Aging.

Mayor Wilcox reported the airport runway project was nearly completed and under budget, so they would be able to fund some small projects that had been associated with the rehabilitation. He said the airport was also moving forward with the industrial park, a maintenance hangar project, a flex space project, the golf course, and a new water system.

Wilcox said delegates from the Sister City would be in the community October 3 through 10. He said there would be 18 middle school students and five adult chaperones.

Wilcox expressed his support of the Police Department. He said they were going through a difficult time and it was important for the community to support them.

### **CONSENT AGENDA**

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

Items approved by Consent Agenda were: 1) approval of September 10, 2012 regular City Council meeting minutes; and 2) Resolution No. 12-014 concurring with the Mayor's appointment to the Traffic Safety Commission.

### **DISCUSSION ITEMS**

#### **Discussion Regarding Opposition of Coal Trains**

City Attorney Parker reviewed the staff report. Mayor Wilcox noted letters had been provided by email from Union Pacific Railroad and BNSF Railroad. He said there had been two town hall meetings regarding the subject and said he did not plan to take any further testimony, rather to allow the Council to discuss the issue among themselves.

The Council agreed to hear public comments if there was any new information to be presented.

There was a discussion by the City Council regarding concerns of economic impact to the community, in addition to environmental impacts. There was agreement that economic impacts should be included as a concern in the Resolution.

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Regular Council Meeting  
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Councilor Spatz said more information regarding the number of trains proposed to travel through the community should be provided. He said he had followed a coal train in Washington and that dust did blow off the cars.

Councilor Ahier said he had found through his own research that both Oregon and Washington Governors and congressional representatives had concerns but said the permitting process would include environmental concerns. He said the City could not limit the number of trains going through the community nor the cargo they carry. He said it would be important to have more information but that it would become available through the permitting process.

Councilor Wood said wheat train cars were covered. She said covered wheat could be subject to explode like coal, but if it could be covered, that coal cars could also be covered. Wood said she would support Option A of the Resolution, to express that the City had concerns.

Councilor McGlothlin said he had done his own research and said the data was inconclusive. He said he believed it would be best to allow the federal permitting process to be completed and to revisit when the City has full information; then decide if any further action should be taken by the City Council.

Councilor Dick said he was concerned about the impact of the trains within our community, both environmental and economic. He said the City had worked hard to reconnect to the river and additional trains through the community could hinder that. Dick said he would support Option A of the Resolution as a way for the City to express its concerns about the community's quality of life.

It was the consensus of the City Council that if Option A was adopted, it should include the ninth "whereas" clause that was listed in Option B (Whereas, the route which the coal trains would follow is adjacent to the historic downtown area of the City and to the recently completed Lewis and Clark Festival Park, and the City Council is concerned about the potential negative impact of the increased number of coal trains upon customers of local businesses, and visitors to downtown area and the festival park).

Mayor Wilcox said he believed it would be in the best interest of the City Council to take no action until additional information was made available through the permitting process. He said the City had worked very hard to not allow outside agencies dictate what businesses could locate in our community and we had no right to influence what businesses develop in other communities. Wilcox urged the Council to allow the permitting process to be completed and revisit the issue when more information was made available through that process.

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Regular Council Meeting  
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It was moved by Ahier to table the discussion until more information was available to the City. The motion died for lack of second.

It was moved by Ahier and seconded by Wood to adopt Option A of Resolution No. 12-013, including the ninth Whereas clause listed in Option B and to add the word "economic" to Section 1. The motion carried, Ahier voting no.

Update Regarding Revenue Impacts From Residential Water Rate Adjustments Implemented in December 2011

Public Works Director Anderson reviewed the staff report. He noted the revenue projections were very close to the budgeted amount. Anderson reminded the Council that the commercial rates had been implemented in September and this discussion was only for the residential rates.

Ahier said he would prefer to increase the consumption rates so there would be less impact to customers who did not use more than the base amount.

Public Works Director Anderson said the previous plan had not met target revenues because it had included projections for population growth and increased commercial use. He said those two things had not happened. Anderson said the current alternatives were more conservative and did not project additional growth.

It was noted there was a program in place to assist low income customers in offsetting water utility bills, through the Community Action Program.

There was general agreement that the water rate increases were necessary in order to properly maintain the water system.

Councilor Ahier said he favored alternative 2 or 4 in the recommendations from staff. Councilor McGlothlin said he also would support alternative 2 or 4.

There was general agreement to leave the base volume at 10,000 gallons, noting large families, who could least afford an increase, would be negatively impacted if the base was reduced to 8,000 gallons.

Bruce Harris, The Dalles, addressed the Council, saying the weather would have an impact on consumption. He recommended the City leave the base at 10,000 gallons and said it had been a great improvement to the water system when the City installed water meters several years ago.

Rodger Nichols, The Dalles, reminded the Council that the base rate had to be set at a certain level in order to supply the service to the community.

It was moved by Ahier and seconded by Dick to adopt Resolution No. 12-016 with residential rate alternative 1: residential water rate increase of 7.5% in base rates and 35.1% in consumptive rates and maintaining a base volume of 10,000 gallons per month, effective November 1, 2012 to fund the adopted Water Capital Improvement Plan. The motion failed: voting yes Ahier and Dick; voting no, McGlothlin, Spatz and Wood.

It was moved by Wood and seconded by Spatz to adopt Resolution No. 12-016 to allow the rate schedule providing a 10% residential water rate increase and maintaining a base volume of 10,000 gallons per month, adopted in Resolution No. 11-026, to become effective November 1, 2012 to fund the adopted Water Capital Improvement Plan. The motion carried; Ahier and McGlothlin voting no.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 7:45 p.m.

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Submitted by/  
Julie Krueger, MMC  
City Clerk

SIGNED:

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James L. Wilcox, Mayor

ATTEST:

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Julie Krueger, MMC, City Clerk



# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
October 8, 2012	Action Items 11, A	12-067

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

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

**DATE:** September 17, 2012

**ISSUE:** Special Ordinance No. 12-550, assessing the real properties located at 1290 West Eighth Street, 509 East 10<sup>th</sup> Street, 324 East 14<sup>th</sup> Street, and 1904 East 14<sup>th</sup> Street for the costs of abatement of junk and hazardous vegetation.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** The City's Code Enforcement Officer recently initiated enforcement proceedings against four properties. The process was initiated by the posting of a notice to abate nuisance conditions on the properties on the dates set forth in the ordinance. The nuisance conditions were not removed by the property owners, and the City hired local contractors to abate the nuisance conditions upon the properties. The costs for each abatement is also set forth in Special Ordinance No. 12-550.

A Notice of Assessment for each property was sent to each property owner advising them of the proposed assessment, the due date for payment of the assessment, and the date for filing any objections to the proposed assessments. Copies of the notices for the four properties are included with this staff report. Sandra Brinckerhoff, the owner of the property located at 324 East 14<sup>th</sup> sent a letter dated August 2, 2012, advising the City that the property was subject to a foreclosure

sale, and that her sister, who was a former owner of the property, had passed away. A copy of that letter is enclosed with this staff report. The letter did not assert any specific objections to the proposed assessment. The County Assessor's records do not have any record of the foreclosure process being completed, and they show Ms. Brinckerhoff as the last known owner of the property. No other property owners filed any objections, and no payments have been received for any of the proposed assessments.

Notice of the proposed adoption of the ordinance has been posted in accordance with the requirements of the City Charter.

**BUDGET IMPLICATIONS:** Imposition of the proposed assessments will place a lien upon the affected properties. The total amount proposed to be assessed is \$4,400.00

**ALTERNATIVES:**

- A. Staff Recommendation. *Move to adopt Special Ordinance No. 12-550 by title only.*

**SPECIAL ORDINANCE NO. 12-550**

**AN ORDINANCE ASSESSING THE REAL PROPERTIES LOCATED  
AT 1290 WEST EIGHTH STREET, 509 EAST 10TH STREET,  
324 EAST 14<sup>TH</sup> STREET AND 1904 EAST 14<sup>TH</sup> STREET FOR THE  
COSTS OF ABATEMENT OF JUNK AND HAZARDOUS VEGETATION**

**WHEREAS**, the City Code Enforcement Officer, posted a Notice to Abate Nuisance for the following listed properties on the dates shown below:

1290 West 8 <sup>th</sup> Street 1N13E 4 Tax Lot #103	August 15, 2012
509 East 10th Street 1N13E 3CA Tax Lot #16000	August 15, 2012
324 East 14 <sup>th</sup> Street, 1N13E 3CC Tax Lot #8800	July 10, 2012
1904 East 14 <sup>th</sup> Street, 1N 13E 2CD Tax Lot #14800	August 21, 2012;

and

**WHEREAS**, the above listed properties are owned by the following listed persons:

1290 West 8th Street	Rae Ann Clark
509 East 10th Street	James McCall
324 East 14 <sup>th</sup> Street	Sandra Brinckerhoff
1904 East 14 <sup>th</sup> Street	Peter and Kristie Fournier;

and

**WHEREAS**, the Notice to Abate Nuisance posted for the properties at 1290 West 8<sup>th</sup>, 509 East 10<sup>th</sup>, and 1904 East 14<sup>th</sup> Street required the removal of junk and hazardous vegetation from the property pursuant to the provisions of General Ordinance Nos. 99-1234 and 93-1162, and the notice posted for the property at 324 East 14<sup>th</sup> Street required the removal of hazardous vegetation pursuant to General Ordinance No. 99-1234; and

**WHEREAS**, the Notices to Abate Nuisance further provided that if the nuisance conditions were not abated, the City would hire a contractor to abate the nuisance conditions, and the costs of the abatement would be charged to the owner of the property, and become a lien upon the property; and

**WHEREAS**, as a result of the owners failure to abate the nuisance conditions on their properties, the City hired contractors who abated the nuisance conditions, and the costs of each abatement are set forth below:

1290 West 8 <sup>th</sup> Street	\$1,450.00*
509 East 10 <sup>th</sup> Street	\$1,200.00*
324 East 14th Street	\$500.00
1904 East 14 <sup>th</sup> Street	\$1,250.00*

\*includes \$500 administrative fee

and

**WHEREAS**, pursuant to Section 7 of General Ordinance No. 99-1234, for the property located at 324 East 14<sup>th</sup>, the City Clerk sent a Notice of Assessment by certified mail on July 31, 2012, to the property owner

listed above, advising them of the sum that had been incurred for the abatement, and the respective sum would become a lien upon the property if the amount listed was not paid by August 30, 2012; and

**WHEREAS**, the July 31, 2012 Notice of Assessment also advised the owner that they had until August 6, 2012 to file any objection to the proposed assessment; and

**WHEREAS**, pursuant to Section 34 of General Ordinance No. 93-1162, for the properties located at 1290 West 8<sup>th</sup>, and 509 East 10<sup>th</sup>, the City Clerk sent a Notice of Assessment by certified mail on August 16, 2012 to the respective owners of the properties. For the property located at 1904 East 14<sup>th</sup> Street, the City Clerk sent a Notice of Assessment by certified mail on August 29, 2012 to the property owners. The Notices of Assessment advised the property owners of the sum that had been incurred for the abatements, and the respective sums would become a lien upon the properties if the amount listed were not paid by August 31, 2012 for the properties at 509 East 10<sup>th</sup> and 1290 West 8<sup>th</sup>; and by September 13, 2012 for the property at 1904 East 14<sup>th</sup>; and

**WHEREAS**, the August 16, 2012 Notices of Assessment also advised the property owner that they had until August 21, 2012 to file any objection to the proposed assessments, and the August 29, 2012 Notice of Assessment advised the property owners that they had until September 6, 2012 to file any objection to the proposed assessment; and

**WHEREAS**, none of the listed owners have filed any objections to the proposed assessments, and none of the listed owners have paid their respective assessments by the stated deadlines, and the City Council finds that the statement of the amount of the proposed assessments is correct, and that no reason exists not to proceed with the imposition of a lien upon the properties for the costs of the assessments;

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

Section 1. Assessment. The cost of the abatement of the nuisance conditions consisting of the removal of junk and hazardous vegetation for the properties listed below is assessed upon the following properties:

<u>Name/Address</u>	<u>Description</u>	<u>Final Assessment</u>
Rae Ann Clark 11712 NE 41 <sup>st</sup> Avenue Vancouver, WA 98686-5975	1N 13E 4 #103	\$1,450.00
James McCall 509 East 10 <sup>th</sup> Street The Dalles, OR 97058	1N 13E 3CA #16000	\$1,200.00
Sandra Brinckerhoff 722 SW 14th Troutdale, OR 97060-1417	1N 13E 3CC #8800	\$500.00
Peter and Kristie Fournier 3316 SE Ankeny Street Portland, OR 97214	1N 13E 2CD #14800	\$1,250.00



The legal descriptions for the above listed properties are set forth in Exhibit "A".

Section 2. Docket Entry. Upon passage of this Ordinance and its approval by the Mayor, the City Clerk is instructed and directed to enter into the Docket of City Liens the following matters in relation to the assessment:

- a. The foregoing legal description of the property assessed.
- b. The name of the owners or statement that the owners are unknown.
- c. The sum assessed upon each lot or tract of land.
- d. The date of the docket entry.

Section 3. Notices/Collection of Assessment. The City Clerk is directed to proceed with notice and collection of the assessment in accordance with the procedures set forth in Section 9 of General Ordinance No. 91-1127, and to proceed with collection of the assessed amount in the manner provided by law.

**PASSED AND ADOPTED THIS 8th DAY OF OCTOBER, 2012**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8th DAY OF OCTOBER, 2012**

\_\_\_\_\_  
James L. Wilcox, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

**EXHIBIT "A"**

1N 13# 4 Tax Lot 103

Parcel 1 of Partition Plat 2000-026, filed for record December 29, 2000 under Microfilm No. 2000-5582, begin a portion of the Northwest Quarter of Section 4, Township 1 North, Range 13 East and the Southwest Quarter of Section 33, Township 2 North, Range 13 East of the Willamette Meridian, Wasco County, and State of Oregon

1N 13E 3CA Tax Lot 16000

Lot 13, Block 4, AMENDED MAYS ADDITION TO DALLES CITY, in the City of The Dalles, County of Wasco, and State of Oregon

1N 13E 3CC Tax Lot 8800

All of Lot 9, Block 1 of W.H. TAYLOR'S ADDITION TO DALLES CITY. Also 6 feet off the West side of Lot 8, Block 1 of the W.H. TAYLOR'S ADDITION TO DALLES CITY, in said county and state

1N 13E 2CD #14800

Beginning at the Northwest corner of Lot 1, Block 12, of THOMPSON'S ADDITION to Dalles City, Wasco County, Oregon; thence East 68 feet; thence South 100 feet; thence West 68 feet; thence North 100 feet to the point of beginning



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

## **AGENDA STAFF REPORT**

### **CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
October 8, 2012	Action Item 11, B	12-066

**TO:** Honorable Mayor and City Council

**FROM:** Dave Anderson, Public Works Director

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

**DATE:** September 14, 2012

**ISSUE:** Calling for the Engineer's Report for a Local Improvement District for "West 1st Street and Bargeway Road Reconstruction Project – Phase 2"

**CITY COUNCIL GOALS:** N.A.

**PREVIOUS AGENDA REPORT NUMBERS :** Agenda Staff Reports #02-091, #05-076, #05-082, #05-091, #08-103, #09-005, #09-016, and #10-041

**BACKGROUND:** The issue of establishing the West 1<sup>st</sup> Street/Bargeway/Terminal Way Local Improvement District [LID] along West 1<sup>st</sup> Street, Bargeway Road and Terminal Avenue has previously been discussed with City Council in 2002, 2005, 2008 and 2009. In 2009, the West 1<sup>st</sup> Street/Bargeway/Terminal Way Phase 1 LID was formed and the improvements were constructed. Also at that time, a majority of property owners in the northwestern portion of the proposed LID requested that City Council consider delaying the second phase of the project for 2 to 5 years due to concerns about the local and national economy, and signed agreements extending their obligations to participate in an LID. Those agreements will expire in April 2014 which means that the latest the LID can be formed and the improvements constructed under those agreements is the 2013 construction season. The issue of forming the Phase 2 LID is now being presented to Council to begin that process as agreed.

The West 1<sup>st</sup> Street and Bargeway Road Phase 2 LID Project design includes:

- Reconstruction of both streets including removal of surface and base material, re-grading and compaction of the sub-base, placing 10 inches of base rock and 6 inches of asphalt resulting in two traffic lanes on each road, with a center turn lane on W 1<sup>st</sup> Street from Webber to Terminal Way and no center turn lanes on Bargeway or Terminal Way.

- Curbs, gutters, and concrete drive approaches on both sides of both streets.
- Construction of a 5' wide sidewalk on the north side of W 1<sup>st</sup> Street from Webber Street to join the sidewalk constructed in Phase 1.
- Construction of a 12' wide extension of Riverfront Trail along the north side of Bargeway Road from its current Phase 1 terminus to the entrance of the Wind Seeker Restaurant.
- Construction of ADA ramps at all intersections and ADA bypasses at all drive approaches along the sidewalk and trail.
- Construction and upgrade of a stormwater collection system to serve the area at full build out.
- The design life of the street improvements is 40 years. The other project elements such as sidewalks and stormwater systems will have a longer useful life.

Based upon a preliminary update by City Engineering Staff, the construction cost of the Phase 2 project is now estimated to be **\$1,045,839.50**. The cost estimate includes the reconstruction of both streets and all the required utility work that would not be part of an assessment to property owners. A breakdown of the 2012 estimated construction costs by system is as follows:

	<b>2012 estimated project costs</b>
Street system improvements	\$774,183.50
Water system improvements	\$4,100.00
Stormwater system improvements	\$235,506.00
Riverfront Trail improvements	\$32,050.00
<b>Total</b>	<b>\$1,045,839.50</b>

In addition to the projected construction costs, and as provided in the Final Engineer's Report for Phase 1, the Phase 2 property owners also have a financial obligation for their share of the stormwater collection system improvements that were constructed in Phase 1 and from which they will benefit. That Phase 1 cost is \$286,331.34. Adding in the Phase 1 stormwater system cost provides a total estimated cost for Phase 2 of **\$1,332,170.84**.

Consistent with the concepts utilized in Phase 1, the City will contribute to the project by paying for the water system improvements, the center turn lane, and the Riverfront Trail. Multi-frontage relief will be provided to property owners whose parcels have frontage on more than one street within the project area. There has also been a pre-payment for this LID from one property owner so the City will be paying the assessment associated with that parcel. The following table summarizes the proposed City cash contributions to the project.

<b>Project Element</b>	<b>Funding Source</b>	<b>Amount</b>
Center turn lane on W 1 <sup>st</sup> Street	Fund 13, Street Reserve Fund (Trans SDCs)	\$60,984.94
Water system improvements	Fund 51, Water Fund	\$4,100.00
Riverfront Trail improvements	Fund 13, Street Reserve (Trans SDCs)	32,050.00
Multi-frontage relief	Fund 36, Special Assessments Fund	\$51,011.34
Pre-paid assessment	Fund 36, Special Assessments Fund	\$59,781.97
<b>TOTAL</b>		<b>\$207,928.25</b>

Funding for the project could be proposed to come from a number of sources:

Water Fund	-	\$ 4,100.00
Street Reserve	-	\$ 93,034.94
Multi-frontage relief	-	\$ 51,011.34
Pre-paid assessment	-	\$ 59,781.97
LID Property Owner Assessment	-	\$ 1,124,242.59

**Total Project Cost - \$ 1,332,170.84**

Staff recommends that assessments for street improvements be based upon frontage length and those for stormwater system improvements upon area, as they were in Phase 1. Parcels that do not directly abut one of the streets being improved but which have their main access from one are proposed to be included in the district and would be assessed based upon 50 feet of frontage, consistent with past practice. Multi-frontage relief would be provided for street improvements. Stormwater improvements would not be eligible for multi-frontage relief since they are proposed to be assessed based upon area rather than frontage. With an assessed frontage of **4545.77 feet and area of 28.56 acres** within the proposed LID, property owner contributions would come from estimated assessments of **\$156.89** per front foot for street improvements and **\$18,271.72** per acre for stormwater system improvements. Based upon these estimates, assessments to individual properties will range from \$8,327.07 to \$191,480.14.

There are a total of 15 property parcels within the proposed district. Ten of the 15 parcels have valid non-remonstrance or delayed development agreements associated with them for this LID and one parcel has pre-paid for this LID. Staff conducted an informational meeting with property owners on September 6, 2012 about the potential formation of the Phase 2 LID. Ten people attended that meeting representing 7 of the parcels in the proposed LID. A list of the comments and questions received at that meeting is attached and can be addressed in future reports.

Initiation of an LID requires that City Council adopt a resolution calling for the Preliminary Engineer's Report; that report would be filed with the City Clerk and could be considered by Council on October 22, 2012. At that time, Council may declare its intent to form the LID by resolution and call for a public hearing. The public hearing could be scheduled for November 26, 2012 to receive testimony and hear remonstrances. If Council desires to proceed with formation of the LID, it may accept the Preliminary Engineer's Report to form the LID and direct staff to proceed with bidding for the project.

**BUDGET IMPLICATIONS:** None at this time.

**RECOMMENDATIONS:**

1. **Staff Recommendation:** *Adopt Resolution No. 12-016 directing the City Engineer to prepare a preliminary study and report for the formation of an LID to reconstruct portions of West 1<sup>st</sup> Street and Bargeway Road – Phase 2.*
2. Provide addition direction to staff for the proposed Phase 2 LID and pass the Resolution.
3. Postpone adoption of the Resolution to allow for additional research.
4. Do not pass the Resolution.

West 1<sup>st</sup> and Bargeway Road Phase II LID  
Property owner informational meeting  
September 6, 2012

**Questions and comments by those in attendance.**

Gas Company does not extend down all of Bargeway. City will contact and coordinate with them and other utilities if the project moves forward.

If City isn't paying for the center turn lane (not going in), then would they pay towards some of the street improvements? Answer was no.

Are the properties on Bargeway Road paying for sidewalks on 1<sup>st</sup> Street? That is not fair and is a concern.

A question was asked about driveway widths and how they are determined and what is allowed.

Is Urban Renewal funding available or can a different pot of money be used to contribute to this project. What about the Port?

What about the portion of property on Lot 1 that was vacated by the City to the property owner and now the property owners are being assessed for that frontage and acreage which they would not be if it hadn't been vacated.

One attendee commented that she hopes we are building a "Volkswagen road" and not a "Ferrari road". She also said the economic times are not much different than the previous time in 2008.

Has the railroad paid anything toward this project?

Have any studies been done to poll businesses to see if the project goes through, the properties are assessed and their rent goes up by X amount, if they will be able to stay in business or not?

Comments were made about the money spent for the Dock and Festival Projects. These projects were extravagant and now businesses are being asked to pay for this entire project.

What are the street standards for Webber Road and River Road? How will the standards be in the future and how will that effect future development?

Did Dakine have to pay anything with their project?

One property owner said his property already has curb installed along his frontage. Is he going to be assessed for a new curb again?

How old are the bids that are being used for generating the estimates?

If the project was opened in January, rather than the end of February, would cost savings be possible?

What's the probability of the project being further delayed?

## RESOLUTION NO. 12-016

### **A RESOLUTION DIRECTING THE CITY ENGINEER TO PROCEED WITH PREPARATION OF A STUDY AND REPORT FOR A LOCAL IMPROVEMENT DISTRICT FOR THE RECONSTRUCTION OF WEST FIRST STREET AND BARGEWAY ROAD**

**WHEREAS**, City Council considers it necessary that a local improvement consisting of the reconstruction of West First Street and Bargeway Road including construction of associated stormwater systems, be initiated, and it appears to be in the interest of the health, safety, and welfare of the inhabitants of an area of the City that a project be undertaken to reconstruct portions of West First Street and Bargeway Road; and

**WHEREAS**, an informational meeting was held with the property owners within the proposed Local Improvement District on September 6, 2012; and

**WHEREAS**, a detailed study is necessary to determine the projected cost of improvements and the lands to be specially benefited thereby; and

**WHEREAS**, General Ordinance No. 91-1127 provides for the City Engineer to compile a study and report to the Council related to these matters;

#### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:**

Section 1. Engineer Directed to Make Study and Report. The City Engineer is hereby directed to make or cause to be made a study and report which shall be filed with the City Clerk within 30 days of the date of this resolution. The study and report shall address matters relating to the proposed reconstruction of portions of West First Street and Bargeway Road and associated underground utilities, including but not limited to:

- a. the cost of the proposed improvement;
- b. whether the improvement shall be constructed under contract or by City forces;
- c. a plat or map showing the general nature, location, and extent of the improvements and the lands to be assessed to pay any part of the costs thereof;
- d. a description of the type of the proposed improvement and an estimate as to the length of its useful life;
- e. a description of the location and land use of each lot, tract, or parcel benefited by the proposed improvement, the name of the owner of each parcel, and its estimated share of project costs;
- f. a map or description of the boundaries of the district to be benefited by and assessed for the improvement;

- g. the percentage of land within the district which is vacant and unused for urban purposes;
- h. the assessed valuation of each lot, tract, or parcel of land within the district according to the latest County assessment roll and the amount of any delinquent taxes or assessments upon each parcel and the amount of taxes and assessments levied but not delinquent for each lot, tract, and parcel of land within the district; and
- i. an estimate of the probable cost of the project, including legal, administrative, engineering, and construction costs attributable thereto, and any bond issuance costs, and a recommendation as to a fair apportionment of the cost of the project to the property specially benefited, including any potential multi-frontage relief which may be available for a property which has frontage adjacent to more than one side of an unimproved street, in accordance with a formula for calculating such multi-frontage relief as is established by the City.

Section 2. Cost of Report. Costs of the study and report authorized hereunder shall be deemed project costs assessable to the benefited properties in the event the Council elects to proceed with the proposed improvement.

Section 3. Report to be Opened for Public Inspection. The report of the Engineer shall be open for public inspection by interested persons once it is filed with the City Clerk.

Section 4. Report to be Transmitted to the City Council. The City Clerk shall transmit the original of the Engineer's study and report to the City Council for its consideration.

Section 5. Effective Date. This resolution shall be effective upon its passage and adoption on October 8, 2012.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF OCTOBER, 2012.**

Voting Yes, Councilors: \_\_\_\_\_  
 Voting No, Councilors: \_\_\_\_\_  
 Absent, Councilors: \_\_\_\_\_  
 Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF OCTOBER, 2012.**

SIGNED: \_\_\_\_\_  
 James L. Wilcox, Mayor

ATTEST: \_\_\_\_\_  
 Julie Krueger, MMC, City Clerk





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

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## **AGENDA STAFF REPORT**

### **CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
October 8, 2012	Discussion Item 12, A	12-065

**TO:** Honorable Mayor and City Council

**FROM:** Dave Anderson, Public Works Director

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

**DATE:** September 20, 2012

**ISSUE:** **SECOND ANNUAL REVIEW OF 2010 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE CREDITS**

**RELATED CITY COUNCIL GOALS:** NA

**PREVIOUS AGENDA REPORT NUMBERS:** 10-038; 10-055; 11-086

**BACKGROUND:** The City Council adopted General Ordinance No. 10-1305 (copy attached) on July 12, 2010. That General Ordinance provided additional credits towards Transportation System Development Charges (SDCs) in an effort to encourage economic development within the City consistent with recommendations from the Transportation SDC Work Group formed to study the issue. The General Ordinance also required that the City Council evaluate the implementation of new credits within one year, and that any changes to the SDC credits authorized in the General Ordinance be enacted by ordinance adopted by City Council. A report was provided to Council in September 2011 summarizing information from the first year of implementation. Following that report, Council decided to keep the additional credits in effect for another year. This report provides information from the second year of implementation related to new non-residential development or re-development applications received since the adoption of General Ordinance No. 10-1305 and associated Transportation SDCs.

Between August 25, 2011 and August 31, 2012, 26 non-residential building permit applications were received by the City's Community Development Department for developments totaling \$23,508,012 in value. Nine of those 26 applications received assessments for Transportation SDCs and 8 of the 9 assessed projects qualified for additional credits provided under General

Ordinance No. 10-1305. The total amount of Transportation SDCs assessed over this period of time after credits were applied was \$157,520.25; the credits provided under General Ordinance No. 10-1305 in this 12-month period totaled \$124,691.79. All of the credits provided in the second year were at the 50% level. The total amount of Transportation SDC credits provided under the General Ordinance since it was adopted in 2010 has been \$192,933.72.

Staff is not aware of any potential applicants that expressed interest in initiating a development during this period of time but decided not to proceed due to SDC charges.

**BUDGET ALLOCATION:** None at this time – Discussion Item only.

**ALTERNATIVES:** Provide direction to staff regarding any desired revisions to the Transportation SDC credits.

AN ORDINANCE AMENDING SECTION 6 OF GENERAL ORDINANCE NO. 07-1286 TO ESTABLISH ADDITIONAL CREDITS TOWARDS THE TRANSPORTATION SYSTEM DEVELOPMENT CHARGES APPLICABLE AT THE TIME OF APPLICATION FOR A BUILDING PERMIT

WHEREAS, on November 13, 2007, the City Council adopted General Ordinance No. 07-1286, imposing Transportation System Development Charges on new development applicable at the time of application for a building permit; and

WHEREAS, on April 26, 2010, the City Council directed staff to form a Work Group to evaluate the potential impacts of the City's current Transportation System Development Charges on growth and development in the community, particularly any impact related to local businesses which desired to expand or relocate; and

WHEREAS, on June 14, 2010, the Transportation SDC Work Group presented a report to the City Council, including six specific recommendations related to the City's Transportation SDC's; and

WHEREAS, the rationale for the Work Group's recommendations included the following reasons: to provide incentives for businesses to relocate and/or expand within the City and facilitate the filling of existing vacant buildings within the City, with an emphasis on the Downtown Commercial District (CBC Zone); to reduce the costs of expansion for existing businesses which have been in the City for a minimum of two years, including businesses who seek to relocate to a new site involving the construction of new facilities; and to provide incentives to encourage new small scale developments, primarily by small businesses, to locate within The Dalles; and

WHEREAS, following the presentation of the report by the Transportation SDC Work Group to the City Council on June 14, 2010, the Council directed staff to prepare an ordinance implementing the Work Group's recommendations, for the Council's consideration at the July 12, 2010, Council meeting; and

WHEREAS, the City Council provided an opportunity for additional public testimony at the July 12, 2010, Council meeting, concerning the proposed ordinance to implement the recommendations submitted by the Transportation SDC Work Group; and

WHEREAS, based upon the comments and testimony provided by the Transportation SDC Work Group during the presentation of its report on June 14, 2010, and additional public testimony and comment received during the July 12, 2010 Council meeting, the City Council finds that adoption of the recommendations submitted by the Transportation SDC Work Group will have a positive and stimulating effect upon growth and development in the community, particularly for local businesses which desire to expand or relocate in The Dalles, and that adoption of General Ordinance No. 10-1035 is in the best interest of the health and welfare of the community;

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

Section 1. Section 6 of General Ordinance No. 07-1286, shall be amended by adding new subsections, 6(A), 6(A)(1), 6(A)(2), and 6(A)(3), which new subsections shall read as follows:

Section 6(A). Additional SDC Credits. In addition to the credits provided for in Section 6 of this Ordinance, the City shall grant the following additional credits against the City's SDC which is otherwise assessed for the following types of New Development:

- A. For New Development involving the re-use or redevelopment of an existing building, including an expansion of an existing vacant building, upon a parcel of property located within the Downtown Commercial District (CBC Zone). For an expansion to qualify for this credit, it cannot exceed fifty percent (50%) of the size of the existing footprint of the building, and the size of the expansion cannot exceed 5,000 square feet. Verification that the proposed expansion qualifies with the size restrictions set forth in this subsection shall occur at the time the applicant submits an application for a building permit. The amount of the credit shall be equivalent to one hundred percent (100%) of the proposed Transportation SDC.
- B. For New Development involving the re-use or redevelopment of an existing building, including an expansion of an existing vacant building, upon a parcel of property located within any zoning district within the City limits other than the Downtown Commercial District (CBC Zone). For an expansion to qualify for this credit, it cannot exceed fifty percent (50%) of the size of the existing footprint of the building, and the size of the expansion cannot exceed 5,000 square feet. Verification that the proposed expansion qualifies with the size restrictions set forth in this subsection shall occur at the time the applicant submits an application for a building permit. The amount of the credit shall be equivalent to seventy-five percent (75%) of the net amount of the proposed Transportation SDC, which net amount is determined by applying any other credits against the Transportation SDC to which the applicant would be entitled .
- C. For New Development involving expansion of an existing business through new construction on the current site of the business, upon a parcel of property located within any zoning district within the City limits. To qualify for this credit, the existing business must have been in operation in The Dalles for a minimum of two years. Verification that the existing business complies with the minimum requirement for years of operation shall occur at the time the applicant submits an application for a building permit. The amount of the credit shall be equivalent to fifty percent (50%) of the net amount of the proposed Transportation SDC, which net amount is determined by applying any other credits against the Transportation SDC to which the applicant would be entitled.

- D. For New Development involving the relocation of an existing business in the City to a new site with construction of new facilities, upon a parcel of property located within any zoning district within the City limits. To qualify for this credit, the existing business must have been in operation in The Dalles for a minimum of two years. Verification that the existing business complies with the minimum requirement for years of operation shall occur at the time the applicant submits an application for a building permit. The amount of the credit shall be equivalent to fifty percent (50%) of the net amount of the proposed Transportation SDC, which net amount is determined by applying any other credits against the Transportation SDC to which the applicant would be entitled.
- E. For New Development involving construction of a development which creates employment for ten (10) persons or less, and involves construction of a new facility which is limited in size to 5,000 square feet or less, upon a parcel of property located within any zoning district within the City limits. Verification that the New Development has complied with the eligibility requirements for the number of employees set forth in this subsection shall occur six (6) months after the date when the New Development opened for business. The amount of the credit shall be equivalent to seventy-five percent (75%) of the net amount of the proposed Transportation SDC, which net amount is determined by applying any other credits against the Transportation SDC to which the applicant would be entitled.
- F. For New Development involving construction of a development which creates employment for twenty (20) persons or less, and involves construction of a new facility which is limited in size to 10,000 square feet or less, upon a parcel of property located within any zoning district within the City limits. Verification that the New Development has complied with the eligibility requirements for the number of employees set forth in this subsection shall occur six (6) months after the date when the New Development opened for business. The amount of the credit shall be equivalent to fifty percent (50%) of the net amount of the proposed Transportation SDC, which net amount is determined by applying any other credits against the Transportation SDC to which the applicant would be entitled.

Section 6(A)(1). Relationship to Transportation System Development Charge for Chenoweth IAMP. The credits established under Section 6(A) of this Ordinance shall not be applicable to reduce the amount of the Transportation System Development Charges imposed for the Chenoweth Interchange Area Management Plan.

Section 6(A)(2). Appeal of Adverse Decision Concerning Credit Eligibility. Any applicant who desires to appeal an adverse determination of the Administrator or the City Manager concerning the applicant's eligibility for any of the credits listed in Section 6(A) of this ordinance, may appeal that decision to the City Council under the process set forth in Section 11(C) of this ordinance.

Section 6(A)(3). Review of Credits; Modification. Within one year from adoption of this Ordinance, the City Council shall evaluate the implementation of the credits established by this Ordinance. Any increase, decrease, or termination of any of the credits at the time of this one year review, or at any future time, shall be enacted by an ordinance adopted by the City Council.

Section 2. Section 11(C)(2) of General Ordinance No. 07-1286 shall be amended by revising the last sentence in this Section to read as follows:


Such hearing shall be held within twenty-one (21) days of the date the appeal was filed, provided that the hearing date falls within a time period when the City Council is regularly scheduled to meet.

Section 3. Emergency. WHEREAS, in order to stimulate local economic growth and assist local businesses who desire to expand or relocate their businesses within the City, it is necessary and appropriate for the proposed credits against the Transportation System Development Charges to become effective as soon as possible, to benefit the economic welfare of the local community; NOW, THEREFORE, an emergency is declared to exist, and this Ordinance shall go into effect immediately upon its passage and approval.


PASSED AND ADOPTED THIS 12<sup>TH</sup> DAY OF JULY, 2010.

Voting Yes, Councilor: Wood, Spatz, Ahler, Dick, McGlothlin  
Voting No, Councilor: None  
Absent, Councilor: None  
Abstaining, Councilor: None

AND APPROVED BY THE MAYOR THIS 12<sup>TH</sup> DAY OF JULY, 2010.

  
James L. Wilcox, Mayor

Attest:

  
Julie Krueger, MMC, City Clerk



## 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 #
October 8, 2012	Discussion Item 12, B	12-068

**TO:** Mayor and City Council

**FROM:** Nolan K. Young, City Manager

**DATE:** September 25, 2012

**ISSUE:** Draft Lease of Transportation Center Building by Veterans Services

**BACKGROUND:** During the September 10, 2012 regular City Council Meeting the Council directed the City Manager to work on a new lease with the County for use of the Transportation Center by Veterans Services. Attached is a draft lease for the Council to review and give the City Manager direction as he pursues negotiation with Wasco County for extension of the current lease. The proposed lease has a term of five years beginning December 1, 2012. The current lease term ends December 1, 2013; the proposed lease ends in 2017.

The draft also includes a provision where, with 90 days' notice, the City can terminate the lease if the City has a transportation oriented need for the facility. This will meet the desire of the Council to be able to have the facility available should there be an Amtrak or other intermodal transportation need for the facility, since that was the original purpose.

**BUDGET IMPLICATIONS:** None, as the lease does not include any lease revenue.

#### **COUNCIL ALTERNATIVES:**

No action required, this is a discussion item. Council should give the City Manager direction, so that he can proceed with negotiations with Wasco County to bring a lease back for Council consideration.



## LEASE

This Agreement of Lease made as of the 1st day of December, 2010 between the City of The Dalles, a municipal corporation of the State of Oregon, hereinafter referred to as City, and Wasco County, a municipal corporation and political subdivision of the State of Oregon, hereinafter referred to as County;

WITNESSETH:

WHEREAS, City owns the property commonly known as the Transportation Center located at 201 E. Federal, in The Dalles, Oregon; and

~~WHEREAS, City issued a Request for Proposals from interested persons and organizations setting forth the terms for a potential lease agreement of the Transportation Center; and The County has been leasing the Transportation Center~~

~~WHEREAS, on behalf of the Mid-Columbia Veterans' organization, County submitted a response to the City's Request for Proposals; and~~

WHEREAS, City and County desire to extend the lease for the Transportation Center to provide continuity for the Veterans activities as the facility, and

WHEREAS, City and County have mutually agreed upon the terms of an extended lease for the Transportation Center based upon the response submitted by County;

NOW, THEREFORE, In consideration of the above stated facts and the mutual covenants and agreements contained herein, and other valuable consideration, the parties agree as follows:

### AGREEMENT

#### Section 1. Lease of Facilities.

City leases to County and grants to Wasco County for Mid-Columbia Veterans' organization, its employees, agents, officers and clients the use of the entire area located within the Transportation Center measuring approximately 50 feet by 30 feet, which area is shown on the map attached as Exhibit "A".

#### Section 2. Term.

The initial term of the Agreement of Lease shall be from the 1st day of December, ~~2010~~2012, until the 1st day of December, ~~2012~~2017. ~~City has agreed that representatives of the Wasco County for Mid-Columbia Veterans' organization may begin moving personal property into the leased premises prior to December 1, 2010.~~ This Agreement shall thereafter be automatically renewed on an annual basis, subject to the right of termination by either party as set forth in Section 24.

#### Section 3. Rental.

County shall pay no monetary rent to City for this Lease. In lieu of rent, County has agreed that County will have maintain the interior walls ~~repainted~~ and ~~replace the existing~~ carpet in the Transportation Center, and County will arrange to have the utilities placed in the name of County as set forth in Section 4 of this Lease. County will be responsible for the maintenance of the restroom located in the Transportation Center, including the costs or providing paper products and cleaning supplies for the restroom.



#### Section 4. Utilities.

County shall place all utility accounts in the name of County, and County shall be responsible for payment of the costs of all utilities for the leased premises.

#### Section 5. Uses of Premises.

County agrees to use the leased premises for the operation of a facility serving veterans. County has agreed to allow City to place a four foot by eight foot visitor kiosk in the foyer of the leased premises. Fifty percent of the space in the kiosk may be used for the display of brochures and information related to the activities and services of the Mid-Columbia Veterans' organization, and the remaining fifty percent of the space in the kiosk shall be used for the display of tourist related services. The Mid-Columbia Veterans' organization shall work with representatives of The Dalles Area Chamber of Commerce to facilitate placement of brochures and other information in the portion of the kiosk dedicated for tourism information. The restrooms in the Transportation Center will be posted with signs indicating they can be used by the public between 9:00 AM to 5:00 PM, Monday through Friday, except for holidays.

County also agrees the area consisting of the foyer in the leased premises will be available for use by representatives of The Dalles Chamber of Commerce and downtown merchants, on the day after Thanksgiving and every Saturday during the month of December, for Christmas and holiday-related activities. County and the Mid-Columbia Veterans' organization also agree they will work with representatives of The Dalles Chamber of Commerce and downtown merchants to provide access to the restrooms and the foyer in the leased premises for special events and activities in the downtown area.

County agrees to make no unlawful, improper or offensive use of the premises or to use the premises in such a manner as to constitute a nuisance to other tenants or the public, or for any purpose which would increase the fire hazard to the building, to the extent that fire insurance rates on the rented premises would increase.

#### Section 6. Remodeling and Repair.

County agrees to keep the premises in a neat, clean and proper condition at all times. City shall be responsible for repair and maintenance of the exterior of the Transportation Center building, and County will be responsible for repair and maintenance of the interior of the building. In the event County shall desire to renovate or remodel the premises or any part thereof, the same may be done by County only after first having obtained the express written consent of City and then only at the expense of County. County shall not permit any structural change or allow any changes to be made which will weaken the structure of the building in which the rented premises are located. Any remodeling or renovation of any kind and any maintenance and repair required to be performed by County shall not increase the fire hazard and shall conform with state laws, City ordinances and regulations and with rules of all political subdivisions, commissions, boards and agencies having authority over the premises in regard to safety, sanitation, fire protection and building requirements, and shall be constructed by licensed contractors.

#### Section 7. Assignment, Selling or Subletting.

County shall not assign, sell or transfer its interest in this agreement or sublet any part of the premises without first having obtained the express written consent of City, which consent shall not be unreasonably withheld by City. In the event County shall attempt to assign, sell or transfer its interest in this lease agreement or any part hereof, without having first obtained the

express written consent of City, this agreement shall be null and void and City shall have an immediate right of entry.

Section 8. Hold Harmless and Indemnification.

County shall indemnify, defend, save, protect, and hold harmless City, its officers, agents and employees from any and all claims, costs, and liability, including reasonable attorneys' fees, for any damage, injury, or death, including without limitation all consequential damages from any cause whatsoever, to persons or property arising directly or indirectly from or connected with County's performance of their operations, the acts, errors or omissions of County, their agents, contractors, guests, or employees, or the use and possession of the premises, by County, or any sub-tenant, their agents, contractors, guests, or employees, save and except claims or litigation arising through (and only to the extent of) the sole negligence or sole willful misconduct of City, its agents, officers, or employees, and if required by City, will defend any such actions at the sole cost and expense of County.

Section 9. Insurance.

County shall maintain a policy of comprehensive premise liability insurance upon the leased premises, naming City as additional insured. The terms of such policy shall provide thirty (30) days notice to City prior to cancellation and shall be in the form of Comprehensive General Liability coverage and shall have combined single limit coverage of \$1,000,000 per occurrence. An original certificate showing coverage shall be presented to the City Attorney for approval, which approval may be withheld in the event that either the policy or the carrier are unsatisfactory to City. Failure of County to maintain an approved policy of insurance shall constitute a default under this agreement.

Section 10. Waiver of Subrogation.

Either party may insure the improvements on the leased premises as their interest may appear and for their separate insurable interest in whatever amount is desired against loss or damage or destruction by fire or other casualty without naming the other party as a named insured. Neither party shall be liable to the other for any loss or damage to the improvements caused by fire or any of the risks enumerated in a standard fire insurance policy with or without an extended coverage endorsement if such insurance was affordable at the time of such loss or damage. If requested by the other party, each party to this lease shall obtain from their respective fire insurance carriers, if issued, waivers of subrogation against the other party, and its agents, officers and employees.

Section 11. Access to Premises; Lessee Not to Commit Waste.

City and its agents may have free access to the premises at all times for the purposes of examining and inspecting the premises to ascertain whether covenants or agreements contained in this agreement are being performed by County. County shall not commit, or allow to be committed, any waste upon the premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of the use of the Transportation Center or surrounding property. County shall at all times comply with all applicable laws, rules and regulations of federal, state or local governmental agencies.

Section 12. Damage or Destruction by Fire or Other Casualty.

In the event the Transportation Center shall be partially or wholly damaged by fire or other casualty, City shall have the option to either rebuild the structure, or terminate this lease agreement. In the event City elects to proceed with rebuilding the structure, City will use its best efforts to allow County to remain in the structure while the rebuilding is in progress. In the event City elects to terminate the lease agreement, City shall provide notice of the termination to County within fourteen (14) days of the date the casualty occurred.

Section 13. Removal of Fixtures, Furniture and Equipment.

Upon termination of this agreement or during the term of this agreement, County shall have the right to remove all equipment, furniture and fixtures owned by County, which have not become attached to the leased premises. In the event County removes any said equipment, furniture or fixtures which County is empowered and entitled to remove and by such removal causes damage or injury to the leased premises, County agrees to repair the damages or injury immediately, at County's expense, and to restore the premises to as good a state or condition as the premises were at the beginning date of this agreement.

Section 14. Limitation of City's Responsibility.

City shall not be liable for any injury or damage of any kind to persons or property, including but not limited to County's equipment or property belonging to County's clients or customers, resulting from a condition of the premises created by an act or omission to act in regard to maintenance or repair of the leased premises. City shall not be responsible for any theft of or damage to equipment or personal property stored on the premises by County or Mid-Columbia Veterans' organizations clients or customers.

Section 15. Default.

If County breaches any of the covenants set forth in this agreement, then City may give thirty (30) days notice of intent to terminate the lease. If the default has not been cured within thirty (30) days after notice has been given to County, City may enter upon the premises and any part thereof, at its option, and repossess the premises. In case of a default, City may elect to use the remedy provided herein for repossession in addition to any other remedy provided by law. In the event it is necessary or desirable to institute a suit or action to enforce any of the covenants or provisions of this agreement, to affect reentry upon the premises let by City, County agrees to pay City its attorney fees and expenses in such suit or action. County agrees on the last day of occupancy, to peaceably and quietly surrender the premises to City in as good a state or condition as the same are now or hereafter may be put into, the reasonable use, wear and tear thereof, and damage by the elements excepted.

Section 16. Notices.

Any and all notices given under this Lease, or otherwise, may be served by enclosing the notice in a sealed envelope addressed to the party intended to receive the notice, at its address, and deposited in the United States Post Office as certified mail with postage prepaid. Unless otherwise provided in writing by the parties hereto, the address of City and County and the proper party to receive any such notices is set forth below:

CITY  
City Manager  
313 Court Street  
The Dalles, OR 97058

COUNTY  
Commission Chair  
511 Washington  
The Dalles, OR 97058

Section 17. Savings Clause.

In the event that any part of this agreement or application thereof shall be determined to be invalid by a court of competent jurisdiction such findings shall have no effect on the remaining portions of this lease.

Section 18. Mechanic's and Materialman's Liens.

Neither City nor County shall permit any mechanic's, materialman's, or other lien against the premises or the property of which the premises forms a part in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien shall be filed against the premises or property of which the premises form a part, the party charged with causing the lien will cause the same to be discharged; provided, however, that either party may contest any such lien, so long as the enforcement thereof is stayed.

Section 19. Waiver.

The waiver by City of performance by County of any covenant, term, or condition of this lease shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

Section 20. Written Agreement.

Neither party has relied upon any promise or representation not contained in this lease. All previous conversations, negotiations, and understandings are of no further force or effect. This lease agreement may be modified only in writing signed by both parties. The headings of the paragraphs are for convenience only and are not part of this lease, nor shall they be considered in construing the intent of this lease agreement.

Section 21. Applicable Law.

This agreement shall be governed by the law of the State of Oregon.

Section 22. Quiet Enjoyment.

The City agrees that it will not interfere with County's quiet and peaceful enjoyment of the demised premises, or that of County's employees, agents, officers, or clients, subject, however, to the provisions hereof.

Section 23. Signs.

All signs erected, placed or maintained by County or the Mid-Columbia Veterans' organization or allowed to be erected, placed, or maintained by it, on the demised premises must be first approved by City and shall relate to the business conducted by the Mid-Columbia Veterans' organization on the demised premises. County and the Mid-Columbia Veterans'

organization shall not place any sign on the demised premises in violation of any law or ordinance or rule of any governmental agency.

Section 24. Renewal.

It is understood and agreed that after the initial term of this Agreement of Lease, the agreement will be renewed on annual basis beginning with the lease term that will commence on December 1, 2012, unless either party provides written notice of intent to terminate the lease at least sixty (60) days prior to the annual renewal date of December 1. Either party The County may terminate this lease at any time with written 90 day notice. The City may terminate this lease each year with either a 90 day notice prior to December 1 of each year or 90 days' notice that the community has a transportation activity needing the facility.

IN WITNESS WHEREOF, the parties have caused this Agreement of Lease to be executed by the appropriate officers acting pursuant to due authorization all of the day and year first above written.

WASCO COUNTY, a municipal corporation and political subdivision of the State of Oregon

By \_\_\_\_\_  
Chair

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

\_\_\_\_\_  
Nolan K. Young, City Manager

Attest:

\_\_\_\_\_  
Julie Krueger, MMC City Clerk

Approved as to form:

Gene E. Parker, City Attorney