AGENDA

REGULAR CITY COUNCIL MEETING
June 22, 2015
5:30 p.m.

CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

1. CALL TO ORDER

2. ROLL CALL OF COUNCIL

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

5. PRESENTATIONS/PROCLAMATIONS

   A. Presentation of Water and Sewer Rates Study **[Agenda Staff Report #15-050]**

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 June 8, 2015 Regular City Council Meeting Minutes

B. Resolution No. 15-026 Accepting Deed of Dedication from Wasco County for a 20 Foot Portion of Property Adjacent to Shearer Street

C. Resolution No. 15-028 Concurring With the Mayor's Re-appointment of John Nelson to the Planning Commission

11. PUBLIC HEARINGS

A. Appeal Regarding Denial of Transient Merchant Permit **[Agenda Staff Report #15-049]**

12. CONTRACT REVIEW BOARD ACTIONS

A. Award Contract for 2015-16 Asphalt for Street Maintenance Projects **[Agenda Staff Report #15-047]**

13. ACTION ITEMS

A. Resolution No. 15-027 Authorizing Transfers of Funds Between Categories of Various Funds, Making Appropriations and Authorizing Expenditures for the Fiscal Year Ending June 30, 2015 **[Agenda Staff Report #15-051]**

14. DISCUSSION ITEMS

A. Discussion Regarding Extension of Sanitary Sewer Main in East 12th Street and Potential Establishment of a Reimbursement District **[Agenda Staff Report #15-046]**

B. Discussion Regarding Agreement With Wasco County Regarding Responsibility of Streets in the Urban Growth Area and Annexed Areas **[Agenda Staff Report #15-048]**

C. Discussion Regarding Proposed Downtown Business Incubator **[Agenda Staff Report #15-052]**

15. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk

Julie Krueger

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 #
June 22, 2015	Presentations 5, A	15-050

TO: Honorable Mayor and City Council

FROM: Daniel Hunter, Administrative Fellow

THRU: Nolan K. Young, City Manager

DATE: June 10, 2015

ISSUE: Presentation on Utility Rates Study.

RELATED COUNCIL GOAL: A-9 Water CIP/Rate

BACKGROUND: In March 2015 the League of Oregon Cities published their Water, Wastewater and Storm Water Rate Survey. Staff was directed to analyze that survey and provide a report on how The Dalles compares to other city's water and wastewater rates. A summary of the findings is provided below. The entire report and exhibits are attached. The League of Oregon Cities Rate Survey is posted to the City website with the Council Agenda.

Report Findings

When comparing city utilities in Oregon there does not appear to be a simple method of comparing like systems in like communities. Cities use different billing methods (monthly and bi-monthly); and they use dissimilar rate structures (e.g. flat, graduated and average winter). To this are added differences in climate, precipitation and water source (e.g. well or surface). Using population and a moderate quantity of water usage as the LOC Survey did provides knowledge of these differences. However, it does

not provide a readily available means of comparison that is meaningful. What we have done is attempt to compare similarities. In addition we took a broad view of utility service and populations they serve. Where possible other system units of measure and rate structures were converted to simulate that of The Dalles (e.g. cubic feet to gallons). This allowed for a more meaningful comparison to The Dalles.

This report also looked at communities substantially smaller and larger than The Dalles. There are two reasons for this. The first reason is because population does not equal residential customer. The second reason is to avoid the appearance of selective comparison (e.g. cherry-picking).

The data presented in the LOC Survey and that gathered for this report show, The Dalles water rates are higher than average and our wastewater rates are lower than average. In addition, The Dalles has more infrastructure to maintain than the average City in the same group. Lastly, the data shows cities that have not completed a rate study in the past 10 years tend to have lower rates. As stated in the LOC Survey, no assertion regarding the financial viability of any rate structure can be made. What we can say is the utility rates in The Dalles were increased recently to pay for needed upgrades and maintenance. These rates are similar to those of other cities. In addition, we are paying for currently planned upgrades as well as saving for those in the future.

As summarized in the League of Oregon Cities Survey, the City's water rate at 5,000 gallons is $57.94 (prior to November adjustment). This is because prior councils established a 10,000 gallon base rate to encourage green lawns. Most other cities have a progressive rate scale from 2,244 gallons to 20,000 gallons. At 13,000 gallons usage (the average summer time use in The Dalles) we are at $60.34 (Exhibit A). That is $2 below average.

On wastewater rates, The Dalles is .78 cents above average at 5,000 gallons; $18.22 below average at 10,000 gallons and $29.22 below average at 13,000 gallons (Exhibit D). When we look at cities that have not done a rate study in the last 10 years the differences are about the same (Exhibit F).

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

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

June 10, 2015

WATER & WASTE WATER RATE REPORT

Introduction

In March 2015 the League of Oregon Cities published its survey on water and waste water. That survey compared municipal water and waste water production, usage, capacity and residential rates. The survey uses a 5,000 gallon per month usage and city population for comparison. While this allows for comparisons of similar size communities at the same level of usage, it does present a problem relating to reality. In addition, the survey does not indicate whether the systems are ground water or surface water. Surface water systems generally have operating costs that are predominantly fixed like The Dalles. Ground water systems require pumping that makes costs variable depending on water depth, elevation change to customer and volume pumped. Ground water systems also tend to have higher concentrations of water-soluble minerals like iron and manganese. The League Survey did not include data on water source for the cities included in their survey.

This report is an analysis of the data presented in the League of Oregon Cities Survey. In order to provide a more meaningful analysis, cities with population between 5,000 and 25,000 were examined. In addition, numerous cities did not participate in the Leagues Survey. Water and wastewater rates from these cities are also included in this report. The information here and in the LOC Survey does not indicate whether the water/wastewater utilities are sufficiently funded to meet maintenance costs or provide funds for capital improvements.

Water

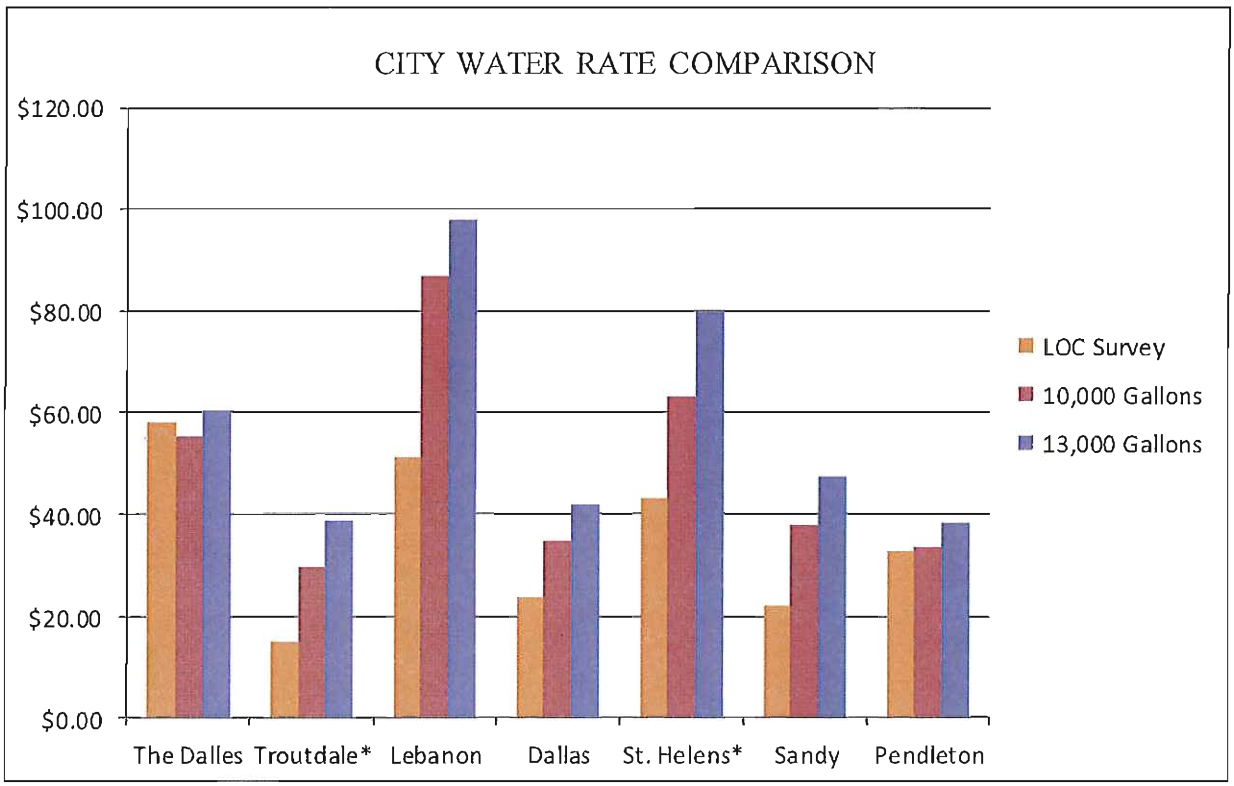
While The Dalles does have a population of about 14,400 we only have 4,850 residential water connections. Two local factors influence the difference. The first is residence in the Urban Growth Area some of whom are city water customers. This population is not counted in city population totals. The other factor is Chenowith PUD. The PUD has water customers that are counted into The Dalles population totals.

The water usage level also presents a slight issue in calculating rates. With the report base at 5,000 gallons per month on a ¾ inch meter, the usage is well below the 10,000 gallon base used in The Dalles. Below 10,000 gallons all residential customer rates are the same in The Dalles $55.30 on ¾ inch meter. Once a customer uses more than that, their rate goes up $1.68 for every 1,000 gallons. The average summer time per capita residential customer uses 13,000 gallons a month in The Dalles (June-September). Some communities use meters that measure gallons, others use cubic feet. In addition, each community establishes its own base quantity. As mentioned above, The Dalles base quantity is 10,000 gallons. Hermiston by comparison uses 3,000 gallon base quantity and Coos Bay uses 300 cubic feet (2,244.16 gallons). Some cities like Lebanon also use cubic feet and have no base usage. That is, customers are charged for every 100 cubic

feet used plus the base fee. In the case of Lebanon the base fee is $19.46 and the usage fee is $4.52 for every 100 cubic feet of water (748 gallons).

Water Rate Comparison

The League of Oregon Cities and a previous examination done by The Dalles city staff used different methodology. The League survey was intended to compare base rates, not the total rate paid by the average customer. A previous study done by The Dalles Administrative Fellow compared residential water and wastewater rates at the high end of the base rate (10,000 gallons). However, this does not account for summer-time average per capita usage (13,000) in The Dalles. Therefore, staff re-examined the rates and compared to like cities at 5,000; 10,000 and 13,000 gallon monthly equivalent rate. In addition, other local water suppliers were added to the comparison. All comparisons are done using the rates on a ¾ inch meter in gallons or equivalent cubic feet inside city limits at 5,000; 10,000 and 13,000 gallons (EXIBIT A & B). The graph below shows the rates for like sized cities that were part of the original study done by the City Fellow in 2011 and included in the League Survey. A (*) indicates the primary water sources is ground water.



The rates for the City of The Dalles reflect the rate roll-back in November 2014. The rate reported to the League of Oregon Cities was the old rate ($57.94). This explains why the 10,000 gallon line is lower than the LOC Survey line in the graph above. Our current rate is $55.30 for water at 10,000 gallons a month or less. The average monthly per capita use in The Dalles is 3,090 gallons. Summer time use is 3.7 times the winter time use on average. The summer time per capita use on average is over 13,000 gallons with several customers using over 20,000 gallons. The total annual water use in 2011 was 450 million gallons, with 65 million gallons per month used between June and September

(260MG). That means over half the annual usage is in 4 months of summer. Over the remaining eight months of the year the average monthly use is 23.75 million gallons.

One interesting aspect of rate structures is the differences between Eastern Oregon and Western Oregon. Western Oregon water rate structures tend to be highly progressive and have rate changes in blocks. Eastern Oregon rate structures tend to be flatter. This is likely due to the West side of the State receiving more precipitation as compared to the East. We can see this looking at the differences in the graph above in charge differences from 5,000 gallons to 13,000 gallons. The Dalles and Pendleton are relatively flat compared to the others. The Eastern Oregon rate structure does two things. It allows for more accurate forecasting of revenue and provides the customer with little variance in their water bill one month to the next. As an example, a customer in The Dalles who uses 3,000 gallons in November would be $55.30 for that water. The same customer using 13,000 gallons in July would pay $60.34 a difference of 9.1%. By contrast a customer in Lebanon with the same usage would pay $51.10 in November and $98.01 in July, a difference of 91.8%. The League of Oregon Cities Survey also shows the average statewide for cities with populations under 50,000 at $40 per month.

In order to broaden our view of what other city water rates are we look at all cities in the League of Oregon cities Survey with populations between 5,000 and 25,000. In this list there are 33 cities (EXIBIT A). Another 18 cities in Oregon fall into this group and did not participate in the survey (EXIBIT B). Hermiston, Umatilla, Prineville, Ontario and La Grande were among those who did not participate.

Water Infrastructure

When it comes to water infrastructure The Dalles has 104 miles of main lines (not including laterals). This is comparable to Pendleton with 108 miles of main line and a population of 16,600. The Dalles and Pendleton are the standouts in the League of Oregon Cities Survey for cities with populations under 20,000. All other cities in that group have far less infrastructure to maintain. The next highest is Warrenton with 85 miles of main line and a population of 5,050. The average annual water consumption by residential customers in The Dalles is not extraordinary. At 449.6 million gallons per year water consumption is between consumption levels of St. Helens and Dallas. St Helens has a slightly lower population and Dallas has a slightly larger population. Both of these cities are located west of the cascades and receive far more precipitation. In the League of Oregon Cities Survey, Pendleton is again the closest city to The Dalles east of the cascades in terms of water consumption. Pendleton also has several small water utilities that serve communities within the city. These utilities use well water to serve their customers. The result of this is Pendleton's municipal water service provides water to fewer residential customers than does The Dalles. This is important to consider since Pendleton has a population of 16,600, while The Dalles population is closer to 14,400. Just look at residential water meters Pendleton has 4,800 while The Dalles is 4,850.

While the League of Oregon Cities Survey allows us to compare cities based on population, those numbers do not correspond to residential water customers. Residential water customers are the ones who pay into the system for maintenance and development. We should also not ignore there are commercial and industrial customers that also pay into the system. However, this report is specific to residential service and rates.

Currently about 1/3 of the rate revenue is going to the capital improvement plan. This is divided between water (16.6%) and wastewater (12.4%). From 1994 to 2006

water rates did not change and no funds were designated or saved for capital improvement. As a result the capital improvement plan was suspended, delaying needed projects that are now overlapping other project schedules.

The League of Oregon Cities Survey shows 117 municipal water providers have increased water rates in the past three years. Eleven municipal water providers have conducted water rate studies in the past five years. The Dalles water rate study was completed in 2012 (Exhibit C).

Water Rate Findings

The City of The Dalles has a higher base water fee than other cities. Our fee structure is relatively flat as compared to cities on the west side of the Cascades. It is similar to cities on the east side of the Cascades. Due to significant delays in systems improvements and the lack of a capital reserve over the last twenty years, rates have increased to compensate. In addition, while an analysis by population provides an easy means of comparison, that comparison has a methodological flaw. That is, residential population does not necessarily equate to residential water customers. The Dalles water rates are $23.30 above average at 5,000 gallons; $4.30 above average at 10,000 gallons and $1.66 less than average at 13,000 gallons (Exhibit A). When we look at cities that have not done a water rate study in the last 10 years the differences are as follows: The Dalles is $21 above average at 5,000 gallons; $2 above average at 10,000 gallons and $5 below the average for 13,000 gallons (Exhibit C). At 13,000 gallons 19 of the 49 cities identified on exhibits A & B are higher than The Dalles (39%).

Wastewater

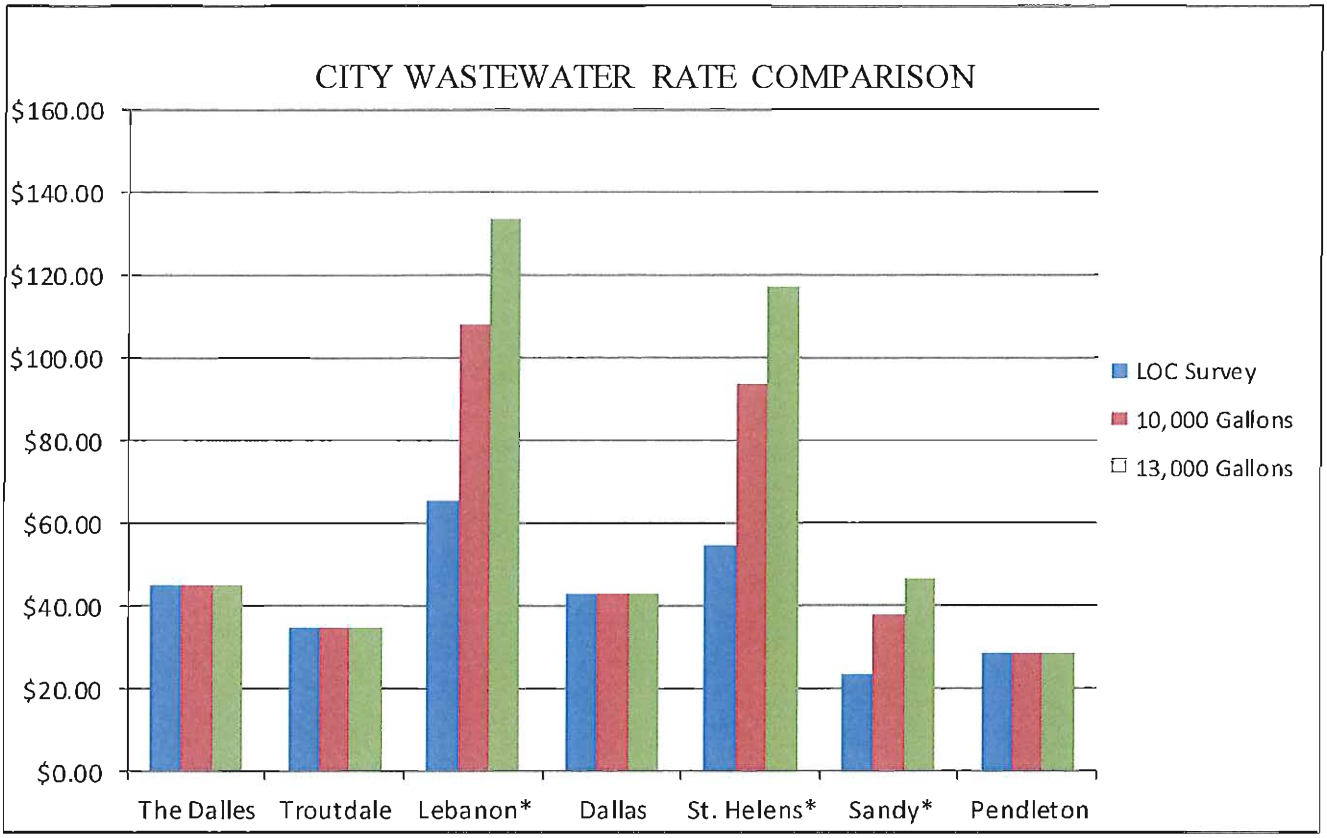
As with water rates, wastewater rates were compared at 5,000 gallons of water use per month in the LOC Survey. The Dalles uses a flat-rate wastewater billing method. The rationale for a flat-rate in The Dalles is due to our high summer time water usage that does not necessarily correlate to high demand on the wastewater system. This is due to irrigation of gardens, lawns and other residential plant maintenance. Similar to the water customer totals, population is not the same as wastewater customers. The Dalles has 4,180 residential wastewater connections.

To provide a wastewater rate comparison and analysis present more difficulties than the water rate comparison. Not only do residential customer counts differ from the population, they also differ from water customers. In addition, cities in the survey use multiple different methods of billing. Some, like The Dalles, use a flat-rate year round. Others use a matrix of winter month averages. The cities using a winter month average either use that billing year round or they bill at winter use levels during the summer. A few others use different methods such as metering and graduated rates. Due to this, we are providing a graph with the same cities as the water rate graph above. Three of these cities use winter rate average billing method. As we do not know the winter average for these cities, their rates reflect water consumption at the graduated rate.

The cities in the graph below with an (*) are those cities that use a winter rate average for summer month wastewater billing. If we looked at these cities as a flat rate using the LOC Survey data, two would have wastewater rates higher than The Dalles. A broader view of cities can be found in Exhibit D for those participating in the LOC Survey. Of the cities in the graph below, only Pendleton is close to the infrastructure size of The Dalles (Troutdale did not respond: See page 101 of LOC Survey). Pendleton shows 82 miles of mainlines, while The Dalles has 94 miles of mainlines. In addition,

Pendleton has 6 pump stations where as The Dalles has 8.

There are a number of cities that did not participate in the LOC Survey. Wastewater rates for those cities can be found on Exhibit E. At 5,000 gallons of water usage Seaside has the highest rate and Hermiston has the lowest in this group (Exhibit E). At the higher levels, Newport has the highest rate and North Bend has the lowest. None of these cities has completed a rate study in the past 10 years (Exhibit E).



Cities that have completed a wastewater rate study in the past 10 years are provided on Exhibit F. Amoung these cities, The Dalles water rate is in the upper half of rates for the 5,000 gallons of water use. Since The Dalles uses a flat-rate, as water use rises most city rates rise in comparison to The Dalles (Exhibit F). Also shown in the table on Exhibit F is the devaiation of the average from The Dalles rates. At the 5,000 gallon use level the average is $1 less than The Dalles. As use increases the deviation from The Dalles grows to $29 higher than The Dalles at 13,000 gallons of use (Exhibit F). Several of the cities in the table on Exhibit F use winter rate averages. These cities were excluded from the high-low comparison in the table (Exhibit F).

Wastewater Infrastructure

Looking at the wastewater infrastructure in the LOC Survey The Dalles is above the average for cities of 25,000 and lower population (pg. 98). That average of 71 miles of main line and 7 pump stations compares to The Dalles at 94 miles of main line and 8 pump stations. Comparing other wastewater facilities, the average original construction (1965) is newer than The Dalles (1960). The Dalles latest major update matches the average at 2005 (LOC pg. 103). The year of the next major capital improvement for The Dalles was 2014, the LOC Survey average is 2026 (pg. 103).

What this shows is The Dalles has substantial wastewater infrastructure to maintain. That infrastructure is slightly older than the average, the last improvement is the average and present capital improvements are ahead of other cities. Also among this group, The Dalles wastewater rates are average at 5,000 gallons of water use and below average above that level (Exhibit D). Compared with cities not in the LOC Survey, The Dalles rate is slightly higher at 5,000 gallons of water use and lower than the average for higher quantity of use (Exhibit E).

Report Findings

When comparing city utilities in Oregon there does not appear to be a simple method of comparing like systems in like communities. Cities use different billing methods (monthly and bi-monthly); and they use dissimilar rate structures (e.g. flat, graduated and average winter). To this are added differences in climate, precipitation and water source (e.g. well or surface). Using population and a moderate quantity of water usage as the LOC Survey did provides knowledge of these differences. However, it does not provide a readily available means of comparison that is meaningful. What we have done is attempt to compare similarities. In addition we took a broad view of utility service and populations they serve. Where possible other system units of measure and rate structures were converted to simulate that of The Dalles (e.g. cubic feet to gallons). This allowed for a more meaningful comparison to The Dalles. On wastewater rates, The Dalles is .78 cents above average at 5,000 gallons; $18.22 below average at 10,000 gallons and $29.22 below average at 13,000 gallons (Exhibit D). When we look at cities that have not done a rate study in the last 10 years the differences are about the same (Exhibit F).

This report also looked at communities substantially smaller and larger than The Dalles. There are two reasons for this. The first reason is because population does not equal residential customer. The second reason is to avoid the appearance of selective comparison (e.g. cherry-picking).

The data presented in the LOC Survey and that gathered for this report show, The Dalles water rates are higher than average and our wastewater rates are lower than average. In addition, The Dalles has more infrastructure to maintain than the average City in the same group. Lastly, the data shows cities that have not completed a rate study in the past 10 years tend to have lower rates. As stated in the LOC Survey, no assertion regarding the financial viability of any rate structure can be made. What we can say is the utility rates in The Dalles were increased recently to pay for needed upgrades and maintenance. These rates are similar to those of other cities. In addition, we are paying for currently planned upgrades as well as saving for those in the future.

CITY WASTEWATER RATE STUDY IN LAST 10 YEARS

City	Population	Wastewater Rate 5k	Wastewater Rate 10k	Wastewater Rate 13k
Creswell	5,031	$50.42	$59.74	$69.89
Warrenton	5,050	$48.66	$48.66	$48.66
Sheridan	6,170	$34.25	$34.25	$34.25
Madras	6,255	$53.00	$53.00	$53.00
Sutherlin	7,930	$34.10	$34.10	$34.10
Molalla	8,200	$40.99	$55.31	$65.09
Florence	8,466	$50.71	$50.71	$50.71
Independence	8,585	$42.93	$42.93	$42.93
Sweet Home*	9,065	$54.01	$97.12	$122.99
Silverton*	9,330	$63.85	$105.69	$130.80
Astoria	9,500	$41.35	$63.15	$76.23
Cottage Grove	9,785	$25.98	$44.68	$55.90
Sandy	9,980	$23.05	$37.62	$46.37
Cornelius	12,161	$44.08	$55.58	$62.48
St Helens*	12,895	$54.33	$93.43	$116.89
The Dalles	14,400	$44.78	$44.78	$44.78
Dallas	14,800	$42.90	$42.90	$42.90
Lebanon*	15,660	$65.06	$107.77	$133.40
Troutdale	16,015	$34.36	$34.36	$34.36
Coos Bay*	16,160	$60.15	$102.60	$128.06
Pendleton	16,600	$29.70	$29.70	$29.70
Sherwood	18,771	$18.89	$32.89	$41.29
Ashland	20,295	$33.41	$59.75	$74.66
Milwaukie*	20,500	$52.99	$70.67	$80.79
Klamath Falls'	21,200	$55.27	$110.55	$143.72
Wilsonville*	21,550	$61.29	$120.45	$155.93
Forest Grove	22,000	$30.80	$30.80	$30.80
Newberg*	22,396	$51.93	$103.87	$135.03
West Linn	25,425	$33.62	$33.62	$33.62
Average	13,563	$44	$63	$74
Deviation	-837	-$0.78	$17.93	$29.31

Column High Non-Winter Average
Column Low
*Winter Average Billing

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

(541) 296-5481

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
June 22, 2015	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: June 10, 2015

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

A. **ITEM**: Approval of June 8, 2015 City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the June 8, 2015 City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the June 8, 2015 City Council meeting.

B. **ITEM**: Resolution No. 15-026 Accepting a Dedication of Property Adjacent to Shearer Street for Public Street Purposes from Wasco County.

BUDGET IMPLICATIONS: None.

SYNOPSIS: For several months, Wasco County has been working with several property owners who own parcels of property adjacent to East 10th and Shearer Streets to address boundary line issues for the parcels. A survey was done to establish correct boundary lines for the properties. A copy of the survey is attached. As part of the plan to address the boundary line issues, Wasco County has proposed to dedicate a twenty foot strip of property adjacent to Shearer Street to the City, which has jurisdiction over Shearer Street. A copy of the proposed deed is included with Resolution No. 15-026. In order for the deed to be recorded, the City needs to adopt Resolution No. 15-026.

RECOMMENDATION: That City Council adopt Resolution No. 15-026 accepting a dedication of property adjacent to Shearer Street for public purposes from Wasco County.

C. **ITEM**: Resolution No. 15-028 Concurring With the Mayor's Re-appointment of John Nelson to the Planning Commission.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The Mayor has selected John Nelson for re-appointment to the Planning Commission for a four year term. The new term will expires April 30, 2019.

RECOMMENDATION: That City Council adopt Resolution No. 15-028.

MINUTES

REGULAR COUNCIL MEETING
OF
JUNE 8, 2015
5:30 P.M.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING:	Mayor Steve Lawrence
COUNCIL PRESENT:	Dan Spatz, Tim McGlothlin, Linda Miller, Russ Brown, Taner Elliott
COUNCIL ABSENT:	None
STAFF PRESENT:	City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Administrative Fellow Daniel Hunter, Public Works Director Dave Anderson, Finance Director Kate Mast, Police Chief Jay Waterbury

CALL TO ORDER

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

ROLL CALL

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

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

It was moved by Spatz and seconded by McGlothlin to approve the agenda, including the supplemental agenda. The motion carried unanimously.

Mayor Lawrence noted the passing of Gary Honald, saying he was a friend to everyone, a great historian and friend, offering advice to him as he served as Mayor and said he would miss him very much.

AUDIENCE PARTICIPATION

None.

CITY MANAGER REPORT

City Manager Young said he had sent a memorandum to the Council regarding the purchase of a new tack truck. He said the price was less than $50,000 and he would authorize the purchase, unless there were any concerns.

Young reminded the Council of the June 15 Town Hall meeting and said staff was scheduling a Special meeting for June 15, at Noon for an Executive Session.

Councilor Elliott said he had heard from several citizens who didn't have a good understanding of the Enterprise Zone and tax abatement process. He suggested this be the topic for the next Town Hall meeting.

Elliott said he and Councilor Brown both wanted to have an Urban Renewal work session to discuss whether Urban Renewal funds should be used for infrastructure projects. City Manager Young said he was preparing information and a work session could be scheduled after the information was completed.

CITY ATTORNEY REPORT

City Attorney Parker said he had provided an email to the Council regarding updates to a few codes enforcement issues.

Parker discussed the request from Restore Oregon to join in a lawsuit concerning removal of historic designation for properties. He said the City had been asked to join as a friend of the court.

There was discussion regarding whether this may infringe on personal property rights and whether the City should just watch the proceedings instead of joining the lawsuit. Concern was raised that removal of the designations could harm historic districts.

Following discussion, it was moved by Spatz and seconded by McGlothlin to join the lawsuit as a friend of the court. The motion carried, Brown voting no.

Mayor Lawrence asked if there was an update regarding the marijuana legislation. City Attorney Parker said the bill was 180 pages and he had not reviewed it, but would be doing so this week.

CITY COUNCIL REPORTS

Councilor Brown reported on activities at Council of Governments meeting, including the surplussing of a vehicle, resignation of the Director, updated employee handbook, adopted their budget, and said the Transportation Building was expected to open July, 2016. He said the Traffic Safety Commission discussed several issues with overgrown trees and shrubs.

Councilor Spatz said the Sister City visitation plans were being finalized and said the Governor of Tokoshima may be in attendance to meet the delegation.

Councilor McGlothlin said he had attended the Library open house and reminded everyone the Airport Fly-In was scheduled for June 13.

Councilor Elliott said the QLife Agency had received a letter from the City of Maupin discussion possible expansion into south Wasco County. He said he attended a fundraiser at the Civic Auditorium in honor of the Mayor's birthday.

In response to a question, Elliot said the QLife Board was working to develop a plan on how to use profits.

Councilor Miller said she had attended the Urban Renewal Advisory Committee, noting the facade grant would be considered by the Agency at their meeting tonight. Miller said she also attended the Library open house, the Memorial Day ceremony, Rocket City Museum reception, Historic Landmarks Commission meeting, and the Mayor's birthday fundraiser at the Civic Auditorium.

Mayor Lawrence said the fundraiser had collected approximately $3,400 for the Civic Auditorium restoration. Lawrence said he had attended a meeting at the swimming pool to see their progress, noting they planned to have a soft opening on June 13 and ribbon cutting on June 20. Mayor Lawrence said he gave a presentation at the Middle School regarding leadership, spoke at the Memorial Day ceremony, visited with cruise ship passengers and attended the Rocket City Museum reception.

Mayor Lawrence said he had recently driven past the intersection of 10th and Trevitt Streets and said the yard sale board seemed to be working very well.

CONSENT AGENDA

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

Items approved by Consent Agenda were: 1) approval of May 11, 2015 regular City Council meeting minutes; 2) approval of May 12, 2015 special City Council meeting minutes; 3) Resolution No. 15-021 supporting assisted housing programs in the community; and 4) approval of an amendment to the City Council Rules.

PUBLIC HEARINGS

Public Hearing to Receive Testimony Regarding Proposed Uses of State Shared Revenue

Mayor Lawrence reviewed the procedure to be followed for the public hearing.

Finance Director Mast reviewed the staff report.

Testimony

Hearing no testimony, the public hearing was closed.

Resolution No. 15-023 Declaring the City's Election to Receive State Revenues for Fiscal Year 2015-16

It was moved by McGlothlin and seconded by Spatz to adopt Resolution No. 15-023 declaring the City's election to receive State revenues for Fiscal Year 2015-16. The motion carried unanimously.

Public Hearing to Receive Testimony Regarding Proposed 2015-16 Fiscal Year Budget

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

Finance Director Mast reviewed the staff report and distributed an amended report, adding two items. The items were an amendment to the Library Fund of $6,680 to contract for cataloging assistance and provide Spanish language presenters; and an amendment to the State Office Building Fund to roll $9,000 from the current year to next year because a project would not be able to be completed by June 30.

In response to a question regarding Fund 013 and 051, Mast explained the changes were due to the fact that projects would not be able to be completed by June 30, so the funds needed to be moved into the next year's budget.

Testimony

Hearing no testimony, the public hearing was closed.

Resolution No. 15-024 Adopting the 2015-16 Fiscal Year Budget for the City of The Dalles, Making Appropriations, Authorizing Expenditures, Levying Taxes, and Authorizing the City Manager to Take Such Action as Necessary to Carry Out the Adopted Budget

It was moved by Spatz and seconded by Miller to adopt Resolution No. 15-024 adopting the 2015-16 fiscal year budget for the City of The Dalles, making appropriations, authorizing expenditures, levying taxes and authorizing the City Manager to take such action as necessary to carry out the adopted budget, as amended by adding the two staff-proposed amendments. The motion carried unanimously.

ACTION ITEMS

Resolution No. 15-025 Authorizing Transfers of Funds Between Categories of the Special Assessments Fund

Finance Director Mast reviewed the staff report.

Councilor Miller asked if staff was sure they had found all of the property owners who had paid into the improvement fund. Finance Director Mast said staff was confident they had because they had a tracking system in place for the improvement fund.

It was moved by Miller and seconded by Elliott to adopt Resolution No. 15-025 authorizing transfers of funds between categories of the Special Assessments Fund. The motion carried unanimously.

Approval of Addendum to OMI Contract for Operation of the Wastewater Treatment Plant

Public Works Director Anderson reviewed the staff report.

There was discussion regarding the timing for a Request for Proposals. It was noted this would need to be started a year before the contract expired. Public Works Director Anderson said staff would be working on it beginning next year and would include information on the feasibility of the City resuming operations. He noted the long term contract with OMI had been very successful.

It was moved by Elliott and seconded by Miller to authorize the City Manager to sign Amendment No. 8 to the Operations Management International agreement, in an amount no to exceed $921,359.00. The motion carried unanimously.

Approval of Exempt Employee Pay Plan

City Manager Young reviewed the staff report.

Councilor Elliott said he supported changing the insurance to a higher deductible and to have more buy in from the employees, but said he would be more comfortable waiting a year to include in union negotiations. He said he was opposed to giving an automatic pay raise and said any pay increased should be merit based. Councilors Miller and McGlothlin were in agreement with Councilor Elliott.

It was moved by Elliott and seconded by Brown to continue with the current health care benefits program and to decline giving a cost of living adjustment for the upcoming fiscal year.

Councilor Spatz said he didn't agree with a wage freeze and said a cost of living adjustment was not a pay raise. He said he supported a cost of living increase but did want to see the employees pay more of their insurance premiums.

Mayor Lawrence said he agreed it would be good to compare the City's benefits and salaries with other cities, but the Council should also consider the health of the budget, saying it was healthy and would continue to be so.

The motion to continue with the current health care benefits program and to decline giving a cost of living adjustment for the upcoming fiscal year was voted on and carried; Spatz voting no.

City Manager Young said staff could look at merit increase programs and provide additional information to Council. He said staff would prepare salary comparison information, and also compare with other local governmental entities. He said the staff would prepare the information early and include any proposals in upcoming union negotiations.

Approval of Annual Insurance Renewals for Liability, Property, and Worker's Compensation

The information was presented by Mike Luebke and Colleen Clark of Oregon Trail Insurance.

There was discussion regarding the worker's compensation premium increases and it was noted that better experience ratings would not be reflected in the premiums for two more years.

It was moved by Elliott and seconded by Spatz to approve the renewal of the City's property, liability/auto, and worker's compensation coverages as presented. The motion carried unanimously.

DISCUSSION ITEMS

Discussion Regarding Allocation of SAIF Refund and Review of Safety Program

City Manager Young reviewed the staff report. The City Council discussed the proposed uses of the SAIF funds. It was noted the funding for body cameras for the Police Department was included in the upcoming budget, but staff was waiting to see if the Legislature addressed issues before deciding whether to purchase them.

There was discussion regarding the Public Works entry cameras. Staff was asked to provide additional information regarding the need for monitors, an audible alarm, and whether the system would have recorded footage or only be in real time.

There was general agreement that the funds should focus on safety training programs and education.

It was the consensus of the Council to approve a sign board to report days without time loss injuries at the Public Works building and to provide mats at the Library circulation desk. The Council declined the proposal for entry key pads at the Public Works building.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:33 p.m.

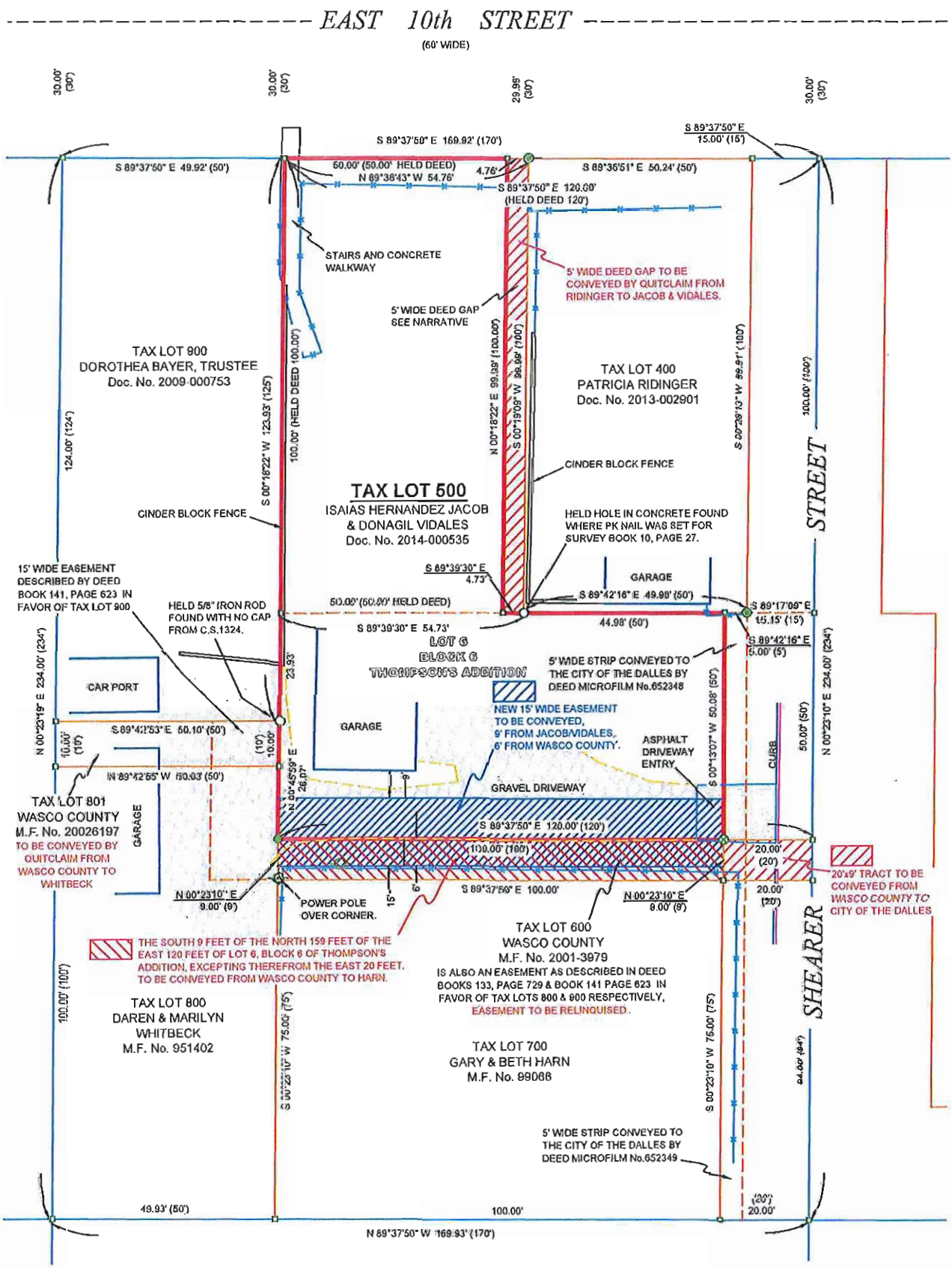
Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED: _____
Stephen E. Lawrence, Mayor

ATTEST: _____
Julie Krueger, MMC, City Clerk

EXHIBIT ____

DRAWING DATED APRIL 22, 2015.



RESOLUTION NO. 15-026

A RESOLUTION ACCEPTING A DEDICATION OF PROPERTY ADJACENT TO SHEARER STREET FOR PUBLIC STREET PURPOSES FROM WASCO COUNTY

WHEREAS, Wasco County has been working for several months with several property owners to address boundary line issues for properties adjacent to East 10th Street and Shearer Street; and

WHEREAS, as part of the resolution of the boundary line issues, Wasco County has proposed to convey a twenty foot parcel adjacent to Shearer Street to the City of The Dalles; and

WHEREAS, the City of The Dalles has jurisdiction over Shearer Street; and

WHEREAS, the City Council has determined that acceptance of the dedication of the twenty foot parcel of property by Wasco County is in the best interests of the public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:

Section 1. Dedication Accepted. The dedication for public street purposes set forth in the attached deed is hereby accepted. The City Manager and City Clerk are authorized to execute the acceptance of the dedication and to take other necessary action to record the Deed of Dedication.

Section 2. Effective Date. This Resolution shall be effective as of June 22, 2015.

PASSED AND ADOPTED THIS 22nd DAY OF JUNE, 2015

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

AND APPROVED BY THE MAYOR THIS 22nd DAY OF JUNE, 2015

_____
Stephen E. Lawrence, Mayor

Attest:

_____
Julie Krueger, MMC, City Clerk

After recording return to:
City of the Dalles
City Hall
313 Court Street
The Dalles, OR 97058

Consideration: Public Purpose, ORS 271.330

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS that WASCO COUNTY, herein called Grantor, does hereby dedicate to the CITY OF THE DALLES, a local access road (as defined in ORS 368.001) over and across the following real property:

(A PORTION OF TAX LOT 1N 13E 2CD 600)

A portion of real property granted by the Circuit Court of the State of Oregon Judgment dated September 20, 2001 and recorded September 21, 2001, as Microfilm No. 20013979, Wasco County Deed Records, to Wasco County, more particularly described as follows:

The East 20 feet of the South 9 feet of the North 159 feet of Lot 6, Block 6, THOMPSON'S ADDITION TO DALLES CITY, Wasco County, State of Oregon,

The true consideration for this conveyance is the value to the public of the land dedicated herein for Shearer Street.

Dated this 4th day of June, 2015.

Scott Hege, Commissioner

Rod Runyon, Commissioner

Steve Kramer, Commissioner

STATE OF OREGON)
) ss.
County of Wasco)

Personally appeared before me this 4th day of June, 2015, the above named Rod Runyon, Commissioner of Wasco County, Oregon, and acknowledged the foregoing to be his voluntary act and deed.

Kathleen Rochelle White
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Wasco)

Personally appeared before me this 4th day of June, 2015, the above named Steve Kramer, Commissioner of Wasco County, Oregon, and acknowledged the foregoing to be his voluntary act and deed.

Kathleen Rochelle White
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Wasco)

Personally appeared before me this 4th day of June, 2015, the above named Scott Hege, Commissioner of Wasco County, Oregon, and acknowledged the foregoing to be his voluntary act and deed.

Kathleen Rochelle White
Notary Public for Oregon

This dedication is accepted by the City of The Dalles, for the public, pursuant to the provisions of Resolution No. 15-____ _____, adopted on _____, 2015.

CITY OF THE DALLES

By: _____
Steve Lawrence, Mayor

ATTEST:

_____
Julie Krueger, MMC, City Clerk

APPROVED AS TO FORM:

_____

Gene Parker, City Attorney

RESOLUTION NO. 15-028

A RESOLUTION CONCURRING WITH THE MAYOR'S RE-APPOINTMENT OF JOHN NELSON TO THE PLANNING COMMISSION

WHEREAS, there is an expired term on the Planning Commission; and

WHEREAS, the Mayor has selected John Nelson for re-appointment to the Planning Commission;

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

Section 1. The City Council concurs with the re-appointment of John Nelson to the Planning Commission, term to expire April 30, 2019.

Section 2. This Resolution shall be effective June 22, 2015.

PASSED AND ADOPTED THIS 22nd DAY OF JUNE, 2015

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

AND APPROVED BY THE MAYOR THIS 22nd DAY OF JUNE, 2015

SIGNED: ATTEST:

_____ _____

Stephen E. Lawrence, Mayor Julie Krueger, MMC, City Clerk

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

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

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
June 22, 2015	Public Hearings 11, A	15-049

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager

DATE: June 10, 2015

ISSUE: Hearing on appeal filed by Norman Duncan for denial of transient merchant license.

RELATED CITY COUNCIL GOAL: NONE.

PREVIOUS AGENDA REPORT NUMBERS: NONE.

BACKGROUND: On April 17, 2015, Mr. Duncan submitted an application for a transient merchant license for the purpose of selling packaged jerky. Mr. Duncan proposed to conduct this activity on a portion of public right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT), which is adjacent to the corner of Webber and West Sixth Street, on the north side of Sixth Street. Mr. Duncan was proposing to use a card table to display the product, and not be parking a vehicle in the public right-of-way.

The application form for a transient merchant license requires that the applicant provide information as to the owner of the property upon which the commercial activity is to be conducted, and that the applicant provide proof that the owner has consented to such activity occurring upon the property. On his application, Mr. Duncan took the position that he did not need ODOT's permission to conduct his commercial activity upon the property, since the property belonged to the public. The City's policy has been that applicants for a transient merchant license need to submit proof that the owner of the property upon which the activity is

proposed to be conducted, has consented to such activity to avoid creating a situation where the applicant is committing an act of criminal trespass if the owner has not consented to the approval of the application for a transient merchant license.

Enclosed with this staff report is a copy of an email exchange between myself and representatives from ODOT confirming that they would not grant permission to Mr. Duncan to conduct the proposed commercial activity upon the portion of public right-of-way, primarily because such an activity would create a safety hazard. Enclosed with this staff report is a copy of a letter from myself to Mr. Duncan dated May 8, 2015, notifying him that his application for the transient merchant license had been denied. The denial was based upon the following reasons: (1) the local ODOT District Manager had determined the proposed business activity would constitute a safety hazard, (2) the ODOT District Manager's decision that a required permit for a pedestrian activity to sell goods from the public right-of-way would not be granted, and (3) the location for the proposed business activity did not satisfy the requirements for the issuance of a required permit for a pedestrian activity, as defined in ODOT's administrative rules.

On May 15, 2015, Mr. Duncan filed a notice of appeal, a copy of which is enclosed. In his appeal, Mr. Duncan raised two primary points. First, he asserted the City's transient merchant license ordinance did not include any specific language requiring an applicant to provide proof that the owner of the property upon which the commercial activity was to occur, had granted approval for the activity to occur. Secondly, Mr. Duncan asserted that ODOT's administrative rules which require a permit to conduct "pedestrian activity" upon state highway right-of-way do not apply to a portion of the area which is "non-operational".

As to the first point raised by Mr. Duncan, although he is correct that General Ordinance No. 97-1216 (which regulates transient merchants) does not contain any specific language indicating that an applicant must submit proof of consent from the owner of the property upon which the transient merchant activity is to be conducted, as noted above the City's policy has been to include this information as part of the application process, to ensure that a potential applicant is not engaging in an act of criminal trespass. Furthermore, Section 8(E) of General Ordinance No. 97-1216 provides that a transient merchant license shall not be issued if the applicant is unable to provide proof of compliance with all applicable State and County licensing requirements, and as noted in the letter of May 8, 2015 to Mr. Duncan, the City determined that his application could not meet ODOT's requirements for licensing pedestrian activity upon state highway right-of-way.

Concerning Mr. Duncan's second point, a review of ODOT's administrative rules, particularly OAR 734-058-0010 subsection (7) which defines "pedestrian activity", and subsection (9) which defines "right of way" indicates ODOT does not define "right of way" in terms of whether the right-of-way is actually operational and has motor vehicle traffic, or whether the right-of-way is not used by vehicular traffic. ODOT's District Manager clearly indicated the request to conduct the transient merchant activity on the subject right-of-way was being denied due to safety concerns.

The purpose of the hearing is for the Council to consider any additional testimony or evidence concerning the appeal. Following the conclusion of the hearing, the Council will need to

deliberate and make a decision as to whether to deny the appeal, or grant the appeal. The Council will need to adopt a motion setting forth its decision, and directing staff to prepare a resolution explaining the decision, including any findings of fact and conclusions of law.

BUDGET IMPLICATIONS: NONE.

ALTERNATIVES:

A. Staff Recommendation. ***Move to adopt a motion denying the appeal of the application for a transient merchant license application submitted by Norman Duncan, and direct staff to prepare a resolution setting forth the Council's decision, including applicable findings of fact and conclusions of law.***

B. Move to adopt a motion granting the appeal of the application for a transient merchant license application submitted by Norman Duncan, and direct staff to prepare a resolution setting forth the Council's decision, including applicable findings of fact and conclusions of law.

Gene Parker

From: PETERS Scott <Scott.PETERS@odot.state.or.us>
Sent: Friday, May 08, 2015 2:06 PM
To: DEHART Brad; Gene Parker
Cc: CIMMIYOTTI Patrick N
Subject: RE: Question concerning issuance of transient merchant license

Mr. Parker –
If Mr. Duncan's request is to set up a table on state highway right of way for the purpose of selling jerky, we would deny his request. We feel this activity would cause interference with traffic and motorists entering or existing the highway where it isn't designed for this purpose and other drivers would not be expecting this. The Pedestrian Activity rules (OAR Chapter 734, Division 58) are intended to allow a person to collect contributions or solicit business from drivers, not to allow a table or a stand of any kind to be placed along the highway to vend their goods or services. There are several laws (you stated one in your email) we could also rely on ORS 374.305 which prohibits a person from building or placing an item on state highway property or altering the regular use of the property without ODOT permission. We would not grant permission primarily due to this activity creating a safety hazard.
If Mr. Duncan wants to delve deeper into the rules and statutes, here is some further explanation of our position. We can't allow a table or other stand for vending to be placed on highway property, however a person standing on the roadside holding their product may be ok provided the person doesn't interfere with traffic. So, a person standing on the sidewalk with a bag over their shoulder selling their product to drivers already stopped at a signal could be "soliciting business" under the Pedestrian Activity rules. While a permit is not required since the person must remain on the sidewalk or shoulder and not interfere with traffic, a permit is available. If a permit is issued, there are requirements the applicant must meet including provide traffic control, wear a ANSI Class 2 safety vest, and have at least $1M of liability insurance.
I hope that makes sense, please call if you need anything additional from me.

Thanks,
Scott

From: DEHART Brad
Sent: Monday, May 04, 2015 11:06 AM
To: 'Gene Parker'
Cc: PETERS Scott
Subject: RE: Question concerning issuance of transient merchant license

Gene,
First of all, thanks for contacting us on this matter. You are correct that we have been working to eliminate the merchant and camping activity at this location for quite some time, and Mr. Duncan is incorrect in thinking that he does not need permission, which I do not believe the District would be willing to grant at this location. I'm forwarding this email on to Scott Peters, the District 9 Operations Coordinator. Scott will be able to look into this further with our Office of Maintenance (if necessary) and hopefully give you a legal (ORS) basis for our position.
Thanks
Brad

From: Gene Parker [mailto:gparker@ci.the-dalles.or.us]
Sent: Monday, May 04, 2015 9:22 AM
To: DEHART Brad
Subject: Question concerning issuance of transient merchant license

Hi Brad: I am not sure if you are the appropriate person to address this question to, but I thought I would start with you. The City was recently approached by a gentleman named Norman Duncan, who lives in Lyle, Washington. Mr.

Duncan submitted an application for a transient merchant license to sell packaged jerky, in the portion of ODOT right-of-way which is adjacent to the corner of Webber and West Sixth Street, on the north side of 6th Street. Mr. Duncan apparently wants to set up a card table in this area to sell his product, and he would not be parking a vehicle in this area. He takes the position this is a public area, and he does not need to the permission of ODOT to put up the card table and sell the jerky. Mr. Duncan pointed out that the City ordinance which regulates transient merchants does not specifically state that an applicant for the license must submit proof that they have the permission of the property owner to conduct the business; however, this information is required by the application and the City has typically interpreted the ordinance as requiring such proof to avoid a situation where an applicant may be committing an act of criminal trespass.

It is my understanding that ODOT placed large boulders along this portion of state right-of-way, and that ODOT does not want to grant permission to persons who wish to use this area to display goods or products for sale. Could you confirm for me that ODOT would not be willing to allow Mr. Duncan, or anyone else, to occupy this area and use it for the purpose of selling goods, and that if they did, that ODOT would pursue criminal trespass charges against that person? I found an administrative rule ORS 724-020-0095 (a copy of which is enclosed) which provides that a person cannot establish occupancy upon a state highway right-of-way, or erect any building or facility upon the right-of-way, and I was not sure if this rule would provide the authority for ODOT to tell Mr. Duncan he cannot occupy or use the public right-of-way for the purpose of selling goods.

Gene E. Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058
gparker@ci.the-dalles.or.us
telephone – 541 296-5481 ext. 1123
fax – 541 296-6906

CITY OF THE DALLES
313 COURT STREETS
THE DALLES, OREGON 97058

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

May 8, 2015

Mr. Norman Duncan
P.O. Box 24
Lyle, WA 98635

Re: Notice of Denial of Application for Transient Merchant License Application

Dear Mr. Duncan:

On April 17, 2015, you submitted an application for a Transient Merchant License to sell packaged jerky, upon a portion of public right-of-way belonging to the Oregon Department of Transportation, located on the North side of 6th Street between Webber Street and the Interstate 84 freeway ramp. You indicated on your application that you did not need the permission of the State of Oregon to conduct this activity upon public right-of-way.

For your information, I contacted the local maintenance district for the Oregon State Department of Transportation, to inquire whether anyone who seeks to conduct the sale of goods upon a public right-of-way needs permission from the State of Oregon. Scott Peters, the District Manager for the local maintenance district for the Oregon Department of Transportation, referred me to the provisions in the state administrative rules adopted by the Department of Transportation concerning pedestrian activities. For your information, I am enclosing a copy of those rules.

Under these rules, a person who seeks to conduct a "pedestrian activity" on a state highway must obtain permission from the District Manager for the Department of Transportation. OAR 734-058-0020(7) defines a pedestrian activity to include the solicitation of contributions, business or interest from motorists using the highway "provided the activity does not impede traffic or cause a traffic hazard." OAR 734-058-0030(4) provides that the pedestrian activity must occur in a location "where traffic would otherwise stop as a result of an established official traffic control device such as a traffic signal or stop sign".

On May 8, Mr. Peters sent me an email advising me that he would not approve the issuance of a permit for the sale of jerky as you have proposed, because this activity would cause interference with traffic and motorists entering or exiting the highway where the highway is not designed for this purpose, and other drivers would not be expecting to have motorists stopping along the highway, and pulling out into traffic from alongside the highway. Mr. Peters has determined that the proposed activity would present a safety hazard. It should also be noted that the proposed location of

the activity does not comply with the requirements of OAR 734-058-0030(4), as there are no established traffic control devices such as a traffic signal or traffic sign that would otherwise require a motorist to stop at the location.

Section 8 of General Ordinance No. 97-1216 which regulates Transient Merchant Licenses, provides that a license shall not be issued if the following circumstances exist:

D) The applicant's proposed actual business operation presents a danger to the public health, safety and general welfare which cannot be alleviated through the imposition of a condition of operation.

E) The applicant is unable to provide proof of compliance with all applicable State and County licensing requirements.

In light of the determination by the local District Manager that the proposed business activity will constitute a safety hazard, the District Manager's determination that the required permit for a pedestrian activity will not be allowed, and that the location of the proposed business activity does not satisfy the requirements for the issuance of the required permit for a pedestrian activity, the City has determined that it must deny your application for a Transient Merchant License.

You have the right to appeal this denial of the application to the City Council, by filing a written notice of appeal with Julie Krueger, the City Clerk. The written notice of appeal must set forth the grounds for the appeal, and be filed with the City Clerk by 5:00 PM on May 15, 2015. The address for the City Clerk is 313 Court Street, The Dalles, OR 97058. Notice of the date and time of any appeal hearing will be provided to you.

Regards,

Gene E. Parker

Gene E. Parker
City Attorney

GEP/cmb

Enclosure: one (1)

cc: Julie Krueger
Finance Department
Planning Department
Police Department

received
5-15-15

05-15-15 NOTICE OF APPEAL

RE: TRANSIENT MERCHANT LICENSE DENIALS FOR NORMAN DUNCAN DATED 4-20-15 & 5-8-15

GROUNDS FOR THE APPEAL

Applicant, Norman Duncan, has satisfactorily met all requirements necessary to obtain a Transient Merchant License in my application of April 17, 2015, *as set forth* in General Ordinance No. 97-1216.

First Denial 4-20-15 Upon review, the application was signed off by the Chief of Police but the Community Development Office denied issuance of a license, based upon an additional requirement *not stated or mentioned in the above ordinance*, noting that applicant would be denied a Transient License "until ODOT approval" was submitted. No such requirement is included in Ordinance No. 97-1216 and thus the license should be issued.

Second Denial dated 5-08-16 Subsequent to discussions between ODOT District Manager Peters and City Attorney Gene Parker, I was informed of a second grounds for denial, that "In light of the determination by the local District Manager [Peters] that [my] proposed business activity will constitute a safety hazard, ...[a] required permit for a pedestrian actity will not be allowed. and that the location of the proposed business activity does not satisfy the requirements for the issusance of the required permit for pedestrian activity, the City has determined that it must deny your application for a Transient Merchant License".

My proposed business and location has nothing to do with any "pedestrian activity" as defined in ODOT Administrative Rules OAR 734-0578-0010 through 734-058-0080. "Pedestrian activity" discussed between Manager Peters and City Attorney Parker pertains to a hypothetical in reference to activities on *Operational* Right of Way at the I-84 Exit, whereas my business would be located on a *Non-operational* Right of Way vacant parcel on the North side of 6th St. on the West side of Webber.

I question whether the city's license process should get involved in determining legal and non-legal use of State of the Oregon Publicly Owned property. There are proper channels for private-citizen use of public state-owned property and for resolving disagreements over such use. The city's licensing process is not one of them.

About Us Work With Us Media Resources State Agency Directory

Search

The Oregon Administrative Rules contain OARs filed through May 15, 2015

QUESTIONS ABOUT THE CONTENT OR MEANING OF THIS AGENCY'S RULES?
CLICK HERE TO ACCESS RULES COORDINATOR CONTACT INFORMATION

DEPARTMENT OF TRANSPORTATION, HIGHWAY DIVISION

DIVISION 58

PEDESTRIAN ACTIVITIES

734-058-0010

Purpose

OAR 734-058-0010 through 734-058-0080 establish criteria for issuing permits for pedestrian activities, as defined in division 58 rules, on state highway right of way.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0020

Definitions

As used in OAR 734-058-0010 through 734-058-0080, the following definitions apply:

(1) "Applicant" means the individual or individuals, corporation, company, firm, business, partnership, organization or agency named in and signing the Permit and to whom the Permit is issued.

(2) "Department" means the Oregon Department of Transportation (ODOT).

(3) "DM" means the ODOT District Manager or designee. DMs are responsible for highway maintenance, operations and issuing permits for use of Right of Way for all State highways within a specific geographic area or "District."

(4) "General Provisions" means those provisions attached and made part of an issued Permit, which are generally applicable to all Permits. General Provisions are superior to any Standard or Special Provisions in a Permit if there is a conflict between them.

(5) "MUTCD" means Manual on Uniform Traffic Control Devices for Streets and Highways.

(6) "Oregon Temporary Traffic Control Handbook" means a guide for traffic control operations of three days or less based upon the MUTCD.

(7) "Pedestrian Activity" or "Activity" means any planned activity that brings together a community or group of people for an expressed purpose, including soliciting contributions, business, or interest from motorists using the highway provided the activity does not impede traffic or cause a traffic hazard.

(8) "Permit" means the application as a fully executed form signed, issued and controlled by the DM on behalf of the State of Oregon, Department of Transportation, and allowing Applicant to conduct a Pedestrian Activity and all provisions and exhibits attached to the Permit as deemed necessary by the DM. A Permit does not convey any land right or easement.

(9) "Right of Way" means the entire width of real property delineated by property lines along each side of the highway, including the paved surface, shoulders, ditches and other drainage facilities, and all other highway facilities or lands within the boundaries of the right of way lines used for the operation of the highway.

(10) "Special Provisions" means those specific provisions under the heading "Special Provisions" which when attached to are made part of, and are unique to, the Permit. Special Provisions are subordinate to General Provisions and superior to Standard Provisions, if they are in conflict.

(11) "Standard Provisions" means provisions with standard wording under the heading "Standard Provisions" which are attached to and made part of the Permit. Standard Provisions are subordinate to General Provisions and Special Provisions if they are in conflict.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0030

Requirements for Permit Application and Issuance

(1) The DM may grant permission for a Pedestrian Activity on a state highway by way of a Permit issued under the authority of Division 58 rules. A Permit is not necessary for pedestrians meeting the requirements for proper positioning and proper proceeding along a highway under ORS 814.070(1).

(2) Application for a Permit must be made at least 30 days but not more than 180 days prior to the planned activity date. Only one Permit will be issued for any particular location and date. If more than one application is received for a particular location and date, the successful Applicant will be selected based on the date of the first complete application received. Permits may be issued for up to three (3) consecutive calendar days.

(3) To obtain a Permit the Applicant shall:

(a) Apply in writing to the DM that has authority over the location where the Pedestrian Activity is proposed to be held. The application shall be made on an Application and Permit for Pedestrian Activities on a State Highway, Form 734-2708;

(b) Obtain and submit with the application written confirmation from the city, when the state highway is within the city limits, that the Pedestrian Activity does not violate city ordinances; and

(c) Provide a description of the Pedestrian Activity stating all information pertinent to an understanding of the activity and as may be requested by the DM, including a drawing showing the roadways on which the activity will be held.

(4) The Pedestrian Activity shall only be conducted during day light hours, when no adverse road conditions such as snow or ice exist, when there is no roadway construction, and the location is where traffic would otherwise stop as a result of an established official traffic control device such as a traffic signal or stop sign.

(5) The DM may use information provided by the Applicant as well as other information, such as traffic data and accident history, available to the DM when determining whether the Applicant has met the following requirements, and will only issue a Permit when it has been determined that:

(a) The location selected by the Applicant to conduct the activity will be reasonable and will avoid adverse impacts to traffic safety and the operation and maintenance of the highway; and

(b) The location selected by the Applicant will provide for a safe and unimpaired use of the highway, taking into consideration sight distance and roadway geometry.

(6) The DM may deny issuing a Permit:

(a) When the Applicant has failed to comply with Permit provisions on previous Permits;

(b) If the Applicant has conducted activities on state highway Right of Way without a Permit;

(c) When it is in the best interest of the public for protection of the highway and the traveling public;

(d) When the Applicant is not in compliance with ORS 814.070 or division 58 rules; or

(e) When the application is deemed by the DM to be incomplete.

(7) Permit provisions may be written by the Department and included with the Permit. Permit provisions may include General, Standard, and Special Provisions. Once received, should there be any questions about these provisions, Applicant shall, prior to beginning activity, contact the DM in writing and attempt to reach resolution of its questions. After 30-days of issuance of the Permit or upon commencement of the activity, whichever occurs first, the Permit provisions are deemed accepted by Applicant.

(8) An application is not a Permit until a copy of it, approved and signed by the DM, is furnished to the Applicant. No activities are to occur on highway Right of Way until the Applicant has obtained a valid Permit. The approved Permit must be physically present at the activity site when the activity is being performed. The Permit shall be available to the DM or law enforcement personnel upon request.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0040

Effective Period and Cancellation of Permit

(1) The Permit will be in effect for the period of time provided in the Permit. Permits are not transferable and may be cancelled by mutual consent of the parties. The Department may revoke a Permit for non-compliance with the terms of the Permit.

(2) The Permit will be voided and all privileges there under forfeited if the Applicant fails to commence the activity covered by the Permit within the period specified in the Permit, unless a written extension of time is obtained from the DM.

(3) The DM may cancel a Permit for cause, including, but not limited to, weather conditions, safety considerations, in emergencies (i.e., fire, accidents), failure of the Applicant to comply with the terms of the Permit, or operation of law. Cancellation may be issued in writing, or be verbal followed by written confirmation of the verbal cancellation.

(4) A revoked Permit within the previous three (3) years or repeated failure to comply with the terms of the Permit may result in the Applicant's forfeiture of privilege to apply for and to receive a Permit for Pedestrian Activity.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0050

Liability and Control

(1) An Applicant shall be responsible and liable for all damage or injury to any person or property resulting from the Pedestrian Activity for which the Permit is issued. The Applicant shall indemnify and hold harmless the State of Oregon, the Oregon Transportation Commission, the Department, its officers, agents and employees against any and all damages, claims, demands, actions, causes of action, costs and expenses of any nature which they or any of them may sustain by reasons of the acts, conduct, or operation of Applicant, its agents, employees, or other individuals conducting Pedestrian Activities under the Permit.

(2) During any permitted activity, the activity area shall be protected in accordance with the MUTCD, and any safety and operations standards as amended or supplemented by the Oregon Transportation Commission in force at the time the Permit is issued. Traffic control devices in place continuously for three days or less at the same location must comply with the "Oregon Temporary Traffic Control Handbook" in force at the time the Permit is issued.

(3) While performing activities under the Permit, the Applicant shall wear, on the outside of all other garments, a safety vest meeting ANSI/ISEA High Visibility Safety Apparel Guidelines, or equivalent revisions, and labeled as ANSI 107-1999 or later for standard performance for class two risk exposure.

(4) The Applicant shall be bound by all applicable laws and rules of any government entity.

(5) The Applicant shall be responsible and liable for:

(a) Investigating presence or absence of any legally protected or regulated environmental, historical, or archeological resource(s) in the activity area;

(b) Determining and complying with any and all restrictions or requirements related to the proposed activities, including but not limited to those relating to hazardous material(s), water quality constraints, wetlands, archeological or historic resource(s), state and federal threatened or endangered species, etc.;

(c) Complying with all federal, state, and local laws, and obtaining all required and necessary permits and approvals. If the Applicant impacts a legally protected/regulated resource, the Applicant shall be responsible for all costs associated with such impact, including, but not limited to all costs of mitigation and rehabilitation, and shall indemnify, defend, and hold harmless the State of Oregon, the Oregon Transportation Commission, the Department and its officers, agents, and employees against all damages, claims, demands, or actions of any nature arising out of the activities of the Applicant, its officers, contractors, subcontractors, agents, employees, or other individuals conducting Pedestrian Activities under the Permit.

(6) The Department or its employees shall not be responsible or liable for injury, damage, or loss sustained by the Applicant, its participants or the activity covered by the Permit as a result of Department maintenance and construction operations or resulting from motorist or road user operations, or Department contractor or other permitted operations, except injury or damage caused by the negligence of the Department or its employees.

(7) If highway facilities are damaged by the Applicant, the Applicant shall replace or restore the highway facilities to a condition satisfactory to the DM, whether discovered at the time of the activity or at a later date. The DM may require the Applicant to replace or restore the highway facilities to a condition satisfactory to the DM, or the DM may replace or restore the highway facilities by contractor or state forces and assess the costs incurred to the Applicant.

(8) No Permit will allow, or be interpreted as allowing vehicles to be parked, stopped or left standing, upon the state highway Right of Way in a manner that creates a hazard to motor vehicle traffic or interferes with the regular maintenance or operation of the roadway. Applicant shall move any of its vehicles if directed to do so by the Department or law enforcement personnel.

(9) Unless specifically authorized by a Permit, Applicant shall not place items including flags, banners, or pennants, other than official traffic control devices allowed in division 58 rules, on or over the highway. Unauthorized items shall be removed at the direction of the Department or law enforcement personnel.

(10) Any review, supervision or control exercised by Department personnel shall in no way relieve the Applicant of any duty or responsibility to the general public nor shall such review, supervision or control relieve the Applicant from any liability for loss, damage or injury to persons or property as provided in the Permit or OAR chapter 734, division 58.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0060

Insurance

The Applicant shall obtain and carry liability and property damage insurance policy or policies providing coverage against claims, demands, suits or actions for property damage, personal injury, or death resulting from any activities of Applicant, its officers, employees, agents or contractors in connection with the activity being conducted as authorized by the Permit. In addition, Applicant shall include as additional insured the State of Oregon, the Commission, the Department, and members thereof, its officers, agents and employees. The Applicant shall provide proof of coverage of a combined single limit of $1,000,000. The insurance policy or policies shall be with an insurance company duly authorized and licensed to do business in the State of Oregon. There shall be no cancellation, material change, potential exhaustion of aggregate limits, or non-renewal of insurance coverage without thirty (30) days written notice from the Applicant or its insurer to the Department. When the Applicant is a public body, self-insurance may be provided in lieu of liability and property damage insurance policy or policies. A copy of the certificate of insurance or self-insurance shall be submitted to and approved by the Department of Transportation, Office of Maintenance and Operations, 800 Airport Road, Salem, OR 97301 before any activity is commenced under the Permit.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0070

Activity Details

(1) The Applicant shall advise the DM's office at least 48 hours in advance of commencing activity for which the Permit has been issued and within 48 hours of completion of the activity.

(2) The Applicant shall minimize the amount of debris, refuse and waste of all kinds on the highway Right of Way produced by activities of the Applicant. The Applicant shall remove any such debris, refuse or waste of any kind immediately upon completion of the activity, and restore the highway Right of Way to its pre-activity condition or better as determined by the DM.

(3) The Applicant shall minimize the amount of dirt or debris spread or tracked onto the highway from the activity area. The highway shall be cleaned of all dirt and debris at the end of each work day, or more frequently if so determined by the DM.

(4) The Applicant shall protect all existing highway features, including but not limited to the highway surface and structure, sidewalks and bicycle paths, bridges, signs, signals, pavement markers, guardrails and barriers, impact attenuators, drainage features, landscaping, and fences, from damage as a result of activity. The Applicant shall restore any damaged feature to the satisfaction of the DM whether discovered at the time of damage or at a later date. When planting is necessary to restore damaged landscape, the planting is subject to a plant establishment period of one year from the date of planting to ensure satisfactory growth of the planted materials. Unrepaired damage or unrestored features may be repaired or restored by the DM at the expense of the Applicant.

(5) Participation by or presence of individuals under 16 years of age at the activity site, other than in the regular pedestrian area of the roadway, is not allowed.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

734-058-0080

Coordination with Other Agencies

Nothing in the Permit is intended to grant rights or imply approval of activity in areas not falling within the authority and jurisdiction of the Department. It is the responsibility of the Applicant to determine the need for and to obtain such licenses, permits or other form of approval which may be required by other state agencies, federal agencies, cities or counties of Oregon, railroads, special Districts, or Indian Lands within the State.

Stat. Auth.: ORS 184.616, 184.619 & 814.070
Stats. Implemented: ORS 814.070
Hist.: HWD 8-2008, f. & cert. ef. 8-26-08

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State. Terms and Conditions of Use

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

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
June 22, 2015	Contract Review Board 12, A	15-047

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

THRU: Nolan K. Young, City Manager NY

DATE: June 9, 2015

ISSUE: Authorization to purchase asphalt for street maintenance projects.

CITY COUNCIL GOALS: NA

BACKGROUND: The Public Works Department solicits quotes from the two local asphalt suppliers twice annually, the first time in the spring for pricing through June 30 and the second time for pricing from July 1 through the fall. Hot mix asphalt is then purchased from the lowest cost supplier that is available when projects are undertaken. There are several reasons that a plant may be unavailable when a project is undertaken – it could be committed to supplying another customer, it could be making a different asphalt mix than is needed for our project, it could be off-line for maintenance or repairs, it may only initiate operations for quantities greater than those used in a project, or it may not be open yet for the season or has closed for the winter.

The quotes received from the two local suppliers covering the rest of this construction season were as follows.

Mix type	Granite Construction	Munsen Paving
Oregon ¾" Dense Graded	$58.50/ton	$59.50/ton
Oregon ½" Dense Graded, oil 6.0%	$59.50/ton	$61.00/ton
Oregon ½" Dense Graded, oil 5.5%	$58.50/ton	$59.50/ton
Oregon ⅜" Dense Graded	$60.75/ton	$60.50/ton

The 2015-16 budget has $337,150 available in the Street Fund for purchases of asphalt. In addition, the Water and Wastewater Funds have $10,240 and $19,200 respectively for purchase of asphalt for patching of utility trench cuts. The total amount of funds available for purchase for asphalt for the upcoming budget year is $366,590.

BUDGET IMPLICATIONS: If approved, maximum amounts of $337,150 will be spent from Fund 5, the Street Fund, budget lines 005-0500-431.60-87 and 005-0500-431.75-10, $10,240 from Fund 51, the Water Fund, budget line code 051-5100-510.60-87, and $19,200 from Fund 55, the Wastewater Fund, budget line code 055-5500-550.60-87, to purchase hot-mix asphalt for street maintenance and trench patching projects between July 1 and November 30, 2015. There are adequate funds budgeted for these purposes.

RECOMMENDATIONS:

1. Staff Recommendation: ***Move to authorize the purchase of hot-mix asphalt as needed for street maintenance from the lowest-cost supplier available at the time of the projects in an amount not to exceed $366,590.***

2. Deny authorization to purchase the hot-mix asphalt and provide additional direction to staff.

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 #
June 22, 2015	Action Items 13, A	15-051

TO: Honorable Mayor and City Council

FROM: Kate Mast, Finance Director

THRU: Nolan K. Young, City Manager

DATE: June 9, 2015

ISSUE: Resolution No. 15-027 Authorizing Transfers of Funds Between Categories of Various Funds, making Appropriations and Authorizing Expenditures for the Fiscal Year Ending June 30, 2015.

BACKGROUND: Staff has identified two budget amendments that should be made to avoid over-expenditures of the FY14/15 budget allocations.

As of May 31, 2015, we have exceeded the expected revenue received for Parks and Recreation Transient Room Taxes. When we receive these taxes, we must pay them out to Parks and Recreation. When we pay out the TRT revenue that we received in May (for the month of April) we will over-expend that budget by nearly $10,000. We still have the TRT revenues for May and June that will come in June and July, but anticipate that figure could reach nearly $70,000. A budget amendment is needed in the Special Payments category of the General Fund to add $70,000 to that budget from the Contingency line item in order to avoid over-expending that category in the General Fund.

The painting of the Union Street Tunnel ($15,000) and the replacement of the bark at the Festival Park ($5,000) were budgeted in the Capital Outlay category of the Capital Projects Fund. However, these items are related to maintenance of existing capital assets, and do not create new

capital assets, so it is not appropriate to post those expenses to Capital Outlay. In order to correct this budgeting error, an amendment is needed to move the $20,000 budget to the Materials & Services category of that Fund.

BUDGET IMPLICATIONS: Budget amendments reduce one category and increase another category in the same fund by an equal amount, so there is no impact on any fund's total budget.

ALTERNATIVES:

A. Staff Recommendation: ***Move to adopt Resolution No. 15-027 Authorizing Transfers of Funds Between Categories of Various Funds, Making Appropriations and Authorizing Expenditures for the Fiscal Year ending June 30, 2015.***

RESOLUTION NO. 15-027

A RESOLUTION AUTHORIZING TRANSFERS OF FUNDS BETWEEN CATEGORIES OF VARIOUS FUNDS, MAKING APPROPRIATIONS AND AUTHORIZING EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2015

WHEREAS, during the budget year certain funds may experience expenditures above approved category limits; and

WHEREAS, Oregon Budget Law recognizes these events and allows for transferring of funds between approved category limits within and between funds; and

WHEREAS, the total Transient Room Taxes anticipated to be received and paid out to the North Wasco Parks and Recreation District are anticipated to exceed the amount budgeted to make those payments, an amendment is needed to increase that budget to avoid over-expending the Special Payments category of the General Fund; and

WHEREAS, the certain expenditures within the Capital Projects Fund were budgeted incorrectly as Capital Outlay, rather than Materials & Services, and those budgets should be moved in order to correctly post the expenses; and

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

Section 1. Authorizing Budget Transfers. The City Council hereby authorizes the following transfers of funds between budgeted categories and funds:

FUND OR DEPT.	BUDGETED	RESOURCES NEEDED	REALLOCATED
GENERAL FUND (001)			
from Contingency	$487,338	$ 417,338	- $ 70,000
to Special Payments Category	$ 421,530	$ 491,530	+$ 70,000
CAPITAL PROJECTS FUND (037)			
from Capital Outlay Category	$ 658,269	$ 638,269	-$ 20,000
to Materials & Services Category	$ 5,000	$ 25,000	+$ 20,000

Section 2. Effective Date. This Resolution shall become effective upon adoption by the City Council and shall remain in effect until receipt and acceptance of the Fiscal Year 2014/15 audit report.

PASSED AND ADOPTED THIS 22nd DAY OF JUNE, 2015.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 22nd DAY OF JUNE, 2015.

SIGNED:

_____

Stephen E. Lawrence, Mayor

ATTEST:

_____

Julie Krueger, MMC, City Clerk

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

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
June 22, 2015	Discussion Item 14, A	15-046

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

THRU: Nolan K. Young, City Manager

DATE: June 8, 2015

ISSUE: Extension of Sanitary Sewer Main in East 12th Street and potential future establishment of an associated Reimbursement District.

RELATED CITY COUNCIL GOALS: Not Applicable.

BACKGROUND: The City has received a request from the property owner at 2809 East 12th Street to connect to the City sanitary sewer system. The property in question is outside the City Limits and inside the Urban Growth Area. The existing sanitary sewer main in East 12th Street ends about 130 feet away from the near side of this lot. Property owners previously paid $2500 per connection to extend the existing main from Morton Street east to its current terminus at the City Limits because the extension of water and sewer mains to developing properties was, and still is, the responsibility of the property owners. The property at 2809 East 12th is at an elevation lower than the street and the property owner understands that he would have to install, own and maintain a private pumping system to discharge to the main.

The City's normal requirement for developers is to extend services to the far end of a property so that they are ready for the next property to extend from there on. The proposed project could extend the existing 8-inch sewer main 335 feet to the east, extending beyond the property to be served by this request, and allowing for the next property to the east to connect in the future if desired. This is as far as the topography of the area will allow the main to be extended while still maintaining minimum bury depth and gravity flow. The attached map shows the City Limits

(shaded area), the proposed sewer main to be extended (red line), and property requesting the service (highlighted). If extended as proposed, the sanitary sewer main could also serve other properties along East 12th Street if they desired to connect to the City system in the future.

The City's sewer ordinance, Ordinance No. 97-1213, requires Council authorization to provide sanitary sewer service to properties outside the City Limits (Article V, Section 10). The Ordinance also provides that Council may require the property owner to sign a consent to annexation as a condition of receiving City sewer service. This property is not currently contiguous with the existing City Limits.

Lastly, General Ordinance 06-1275 allows for the formation of reimbursement districts when developers (including the City) install water or sewer improvements with additional capacity that could be utilized by future users. A district, if approved by City Council, identifies the properties that could be potentially benefited by the improvement and allocates a cost to those properties that would be paid when they connect to the improvement. Once formed, a district will remain in effect for a period of 15 years. Improvements must be constructed to City standards to qualify. Staff is recommending that, if Council approves the extension of the sanitary sewer main, a reimbursement district be formed to recover the costs of the sewer main extension as future connections are made. Formation of the district would follow all the associated processes including completion of a Public Works Director's Report and a public hearing.

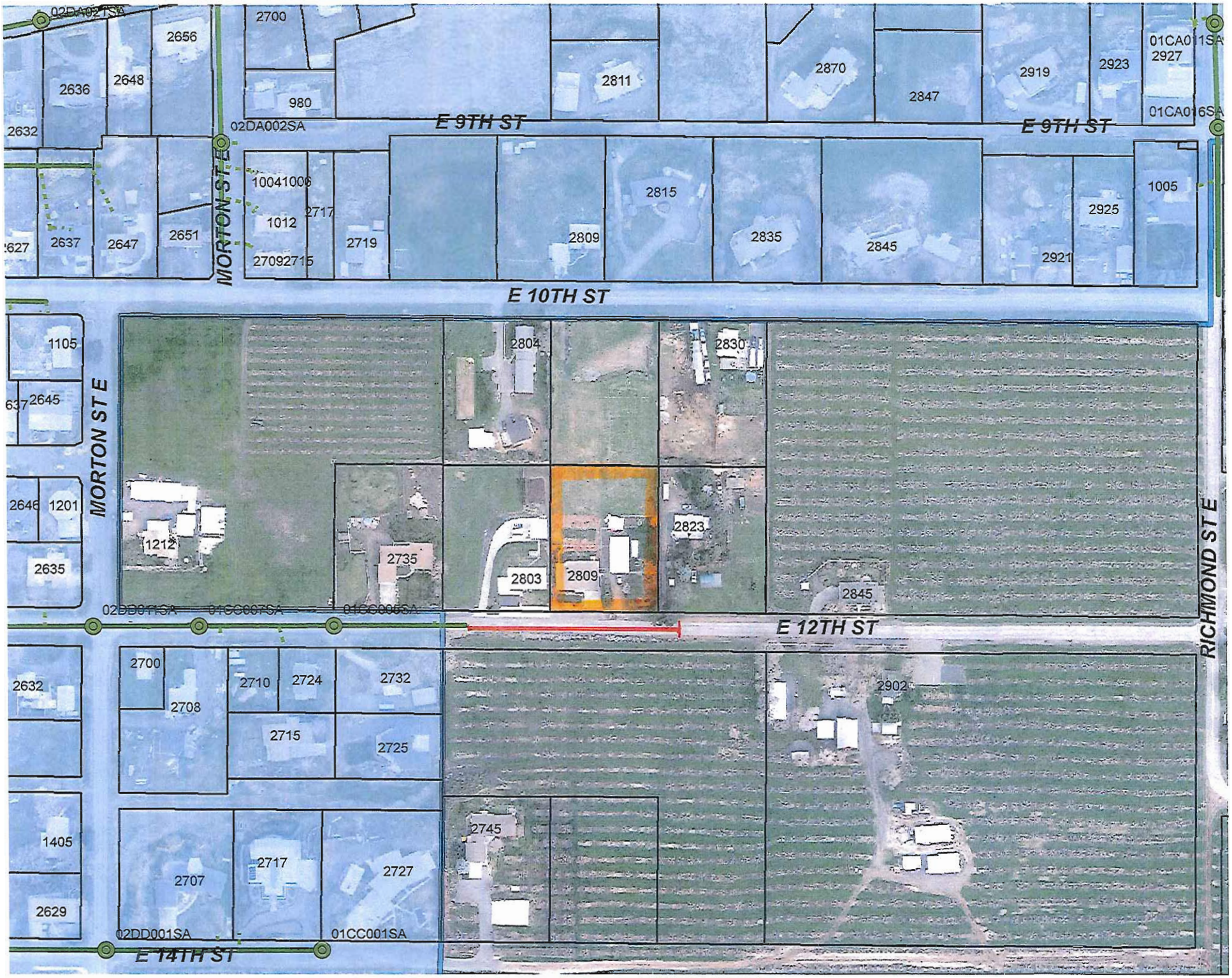
BUDGET ALLOCATION: The cost of the project would be paid from the Wastewater Fund (Fund 55), line 055-5500-550.76-30 *Sewer Lines*. The estimated cost of the project for the purchase of materials is $10,719 although engineering has yet to be done for the project, pending Council's authorization. Since the request for this project was received after the budgets were prepared, a budget transfer within Fund 55 would be required, moving funds from the Materials and Services category to Capital Outlay. The monies would come from Line 055-5500-550.31-10 *Contractual Services* since the contract with OMI came in $41,470 less than budgeted. This transfer would not increase the total expenditures approved within the 2015/16 Wastewater Fund Budget, only the category within which expenditures would occur.

Property owners would be required to pay Sewer SDCs to connect to the system. In addition, if a reimbursement district is formed, property owners would be required to pay the associated reimbursement fees at the time of connection. Properties located outside the City Limits that receive City sewer services pay monthly sewer rates that are currently 1.7 times higher than in-City rates.

ALTERNATIVES:

A. Staff Recommendation: None – Discussion Item. Staff is seeking direction from Council on the following points:
   a. Does Council authorize the provision of sanitary sewer service outside the City Limits to the property located at 2809 East 12th Street?
   b. Does the Council want to extend the main only far enough to serve the property requesting the extension, about 170 feet, or the full 335 feet to accommodate serving as many properties as possible in the future?
   c. If sanitary service is to be provided to this property, does Council want to require a consent to annexation for the property?

d. If sanitary service is to be provided to this property, does Council support the formation of a reimbursement district associated with the sewer main extension?


E 9TH ST
E 9TH ST
E 10TH ST
E 12TH ST
E 14TH ST
MORTON ST E
MORTON ST E
RICHMOND ST E
02DA002SA
01CA011SA
01CA016SA
02DD001SA
01CC001SA
2700
2656
2636
2648
2632
980
2811
2870
2847
2919
2923
2927
10041006
1012
2717
27092715
2719
2809
2815
2835
2845
2921
2925
1005
2637
2647
2651
1105
2645
2646
1201
2635
2804
2830
1212
2735
2803
2809
2823
2845
2902
2632
2700
2708
2710
2724
2732
2715
2725
1405
2707
2717
2727
2629
2745

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 #
June 22, 2015	Discussion Item 14, B	15-048

TO: Mayor and City Council

FROM: Nolan K. Young, City Manager NY

DATE: June 8, 2015

ISSUE: Discussion Regarding Agreement with Wasco County Regarding Responsibility of County Roads within the City Limits

RELATED COUNCIL GOAL: A. Infrastructure #1: During the fiscal year 2015-16 budget process implement a 3-year moratorium on Street construction projects and focus resources on prevention maintenance projects (i.e.: patching, crack sealing, chip sealing).

BACKGROUND: The current City policy on the transfer of County roads within the City of The Dalles urban growth boundary has been that the City would accept County roads within City limits once the County brought the road up to City standards which included: good paved surface, storm water system, curbs and gutters and sidewalks. After the last joint meeting of the City Council and County Commission we proposed a new modified standards to the County. This standard is being brought to the City Council and County Commission for adoption through an agreement between the City and the County (attached).

The proposal currently is as follows:
"The City shall accept jurisdiction over County roads within the city limits of The Dalles at the time the roads are brought up to the city's modified standards. For the purpose of this agreement only, modified standards will be for minor residential (local), arterial and collector streets where the surface condition is in or has been brought up to a pavement condition rating of good or better, have functioning storm sewer drainage system (pipe, open ditch, or open shoulder infiltration), but may lack curbs and sidewalks."

The City Public Works Department and the County Roads have identified 16 segments of streets totaling 5.4 miles which currently meet those standards and will be immediately accepted by the City at the time the agreement is approved by the City Council and County Commission. We have also identified an additional 28 sections of road totaling 8.1 miles that need some type of improvement. The agreement will propose the needed maintenance for each road section.

The challenge has been who will pay for the initial maintenance needed on the 8.1 miles in Table 2 of the attached agreement. We have agreed on a plan in the agreement where the County will uses their labor and equipment for the County chip seal work and the City will purchase the needed materials and provide some of the needed labor. To help the City afford this cost and still complete its budgeted maintenance on City streets, the County will at no cost provide labor and equipment to do the 3.3 miles of City streets that the City had budgeted for contract chip seal this year (see Table 3 in the agreement).

By having the County provide labor we will be able to stretch the $261,000 we budgeted for this purpose to also address the county roads within city limits. This may need to be completed over a two year period.

BUDGET IMPLICATIONS: Under the proposed agreement the current budget has sufficient funds to both assist with the paving of the identified county roads within city limits, and the city streets that have previously be targeted in the fiscal year 2015-16 budget. In future years when surfaces deteriorate on the 13.5 miles of roads the City is accepting for future maintenance, there will be additional costs to the City. Adding the additional 15 miles of roads to the existing 67 miles of paved streets gives us a total of 80.5 miles of paved city streets. This is a 20% increase in total miles of streets.

COUNCIL ALTERNATIVES:

1. Authorize the Mayor to sign the agreement with Wasco County regarding responsibility of county roads within city limits, contingent upon adoption by the Wasco County Commission.
2. Propose amendments to the agreement with Wasco County regarding responsibility of county roads within city limits for consideration by Wasco County.
3. Postpone action on this item to allow for additional research and discussion, including a possible joint meeting with the County Commission.
4. Decline to further consider an agreement with Wasco County regarding responsibility of county roads within city limits.

Agreement between the City of The Dalles and Wasco County, Oregon for the transfer of roads within the City of The Dalles Urban Growth Boundary

WHEREAS, the State of Oregon has declared it to be a matter of statewide concern to promote intergovernmental cooperation for the purpose of furthering economy and efficiency in local government; and

WHEREAS, the legislature has given authority for intergovernmental agreements by units of local government pursuant to the provisions of ORS 190.010 et. seq.; and

WHEREAS, the City and County desire to establish a process whereby County roads located within the City limits of The City of The Dalles can be transferred to the City road system as allowed under ORS 373.270; and

NOW THEREFORE, THE PARTIES DO MUTUALLY AGREE AS FOLLOWS:

Section 1: Definitions:

County Road: Has the same meaning as the definition for County road in ORS 368.001(1);

Section 2: Transfer of Roads within The Dalles City Limits:

a. The City shall accept jurisdiction over County roads within the city limits of The Dalles, at the time the roads are brought up to City modified standards. Road sections are identified in Table 1 and 2 for purposes of this agreement only, modified standards will be for minor residential (local), arterial and collector streets where the surface condition is in, or has been brought up to, a pavement condition rating of "Good" or better, have functioning storm sewer drainage systems (piped, open ditch or open-shoulder infiltration), but may lack curbs and sidewalks.

b. Upon signing of this agreement, the City acknowledges the following County roads in Table 1 meet the City's modified standards for road improvements, and have a pavement condition rating of "Good" or better:

TABLE 1

Street Name/Segment	Count Road	Classification	Pavement Condition	Length (miles)
Fremont Street Old Dufur Road to Hwy 197	152	Arterial	Good	0.37
Hostetler Street 6th Street to 10th Street	528	Collector	Good	0.58
Dry Hollow Road Remaining area in City Limits	106	Arterial	Good	0.10
East 2nd Street Big Jim's to City Limits	182	Arterial	Good	1.17
West 10th Street Walnut Street to City Limits	503	Arterial	Good	1.69
East 10th Street Richmond Street to City Limits	109	Local	Good	0.11
Cherry Heights Road West 13th Street to City Limits	504	Arterial	Good	0.17
Myrtle Street West 7th Street to West 8th Street	520	Local	Good	0.08

West 8th Street Walnut Street to Snipes Street	521	Local	Good	0.64
Mill Creek Road Sunset Valley Road to "Local Access"	3	Arterial	Good	0.19
Snipes Street 9th Place to 10th Street	508	Collector	Good	0.19
West 2nd Street Hostetler Street to Cul-de-sac	591	Collector	Good	0.30
Columbia View Drive (Freemont) Summit Ridge to 3720 Columbia View	152	Collector	Good	0.32
East 16th Street E of Golden Way toward E 15th	108	Local	Good	0.31
Richmond Street Old Dufur Road to East 12th Street	189	Local	Good	0.24

Section 3: Acceptable Street Condition:

a. County roads within the City Limits that meet the modified street standards in this agreement shall be accepted by the City once the road surface is brought up to a pavement condition rating of "Good" or better, and a functioning storm sewer drainage system as defined in Section 2(a) exists for the road. Collector and arterial roads with a pavement condition rating of less than "Good" shall receive an armor seal (double chip seal), thin-mix asphalt overlay, or crack seal to improve the surface condition before acceptance by the City. Minor residential (local) streets with a pavement condition rating of less than "Good" shall receive a single-layer chip seal, thin-mix asphalt overlay or crack seal to improve the surface condition before acceptance by the City.

b. Table 2 below identifies various County road segments within the City limits that warrant surface maintenance prior to acceptance by the City and the treatment needed, for which the City and County have agreed to a cost sharing arrangement for the labor, equipment and materials as identified in subsection (c) below to provide the needed treatments as follows:

TABLE 2

Street Name/Segment	County Road	Classification	Pavement Condition	Treatment Needed	Length (miles)
Chenowith Loop Road West 7th Street to West 10th Street	512	Collector	Good/fair	Crack seal	0.44
Pomona Street West 7th Street to West 10th	526	Local	Fair/poor	Chip seal	0.32
West 14th Street Kingsley Street to Elberta Street	590	Local	Fair	Chip seal	0.18
River Road Bargeway Road to ODOT ROW	514	Collector	Fair	Armor seal	1.65
Kingsley Street West 13th Street to West 16th Street	540	Local	Good -	Crack seal	0.12
Snipes Street West 6th to West 9th Place	508	Collector	Good/fair	Armor seal	0.39
West 7th Street Hostetler Street to Snipes Street	536	Collector	Fair	Armor seal	0.42
West 8th Street Hostetler St to Chenowith Loop	521	Local	Good -	Crack seal	0.21
Cascade Street - All	539	Local	Good -	Crack seal	0.12

Cascade Court - All	538	Local	Fair	Crack seal	0.03
Verdant Street West 10th Street to West 13th Street	524	Local	Fair/poor	Chip seal	0.14
Elberta Street West 13th Street to West 14th Street	584	Local	Fair	Chip seal	0.05
Walnut Street West 10th Street to Griffith Motors	518	Collector	Fair	Armor seal	0.18
Walnut Street West 13th to West 10th Street	518	Local	Fair	Chip seal	0.13
Old Dufur Road Richmond Street to Lambert Street	142	Arterial	Good -	Crack seal	0.21
Bret Clodfelter Way Hwy 197 to gate	155	Local	Fair	Chip Seal	0.68
Lambert Street Old Dufur Road to City Limits	184	Local	Fair	Chip seal, ditch refresh	0.04
Viewpoint Road Lower Eightmile Road to City Limits	187	Local	Fair	Chip seal	0.25
Morton Street East 15th Street to East 18th Street	188	Local	Fair	Chip seal	0.14
West 13th Street Cherry Heights Road to Verdant Street	501	Collector	Good/fair	Armor seal	1.11
Sandy Street West 10th Street to Walnut Street	581	Local	Fair	Chip seal	0.11
West 2nd Street Snipes Street to Hostetler Street	591	Collector	Fair	Armor seal	0.34
East 18th Street Between Thompson and Morton Streets	185	Local	Good -	Crack seal	0.33
Snipes West 2nd to Dead End	508	Local	Poor	City zip Cnty Surface	0.06
Emerson Street West 10th to City Limits	543	Local	Fair	Chip seal	0.06
East 16th East from East 15th	108	Local	Gravel	Grade/roll	0.10
Columbia View Drive (Fremont) Hwy 197 to East Knoll	152	Collector	Good	Armor seal*	0.23
Skyline Road Mt. Hood Street to City Limits	151	Arterial	Good-	Armor seal*	0.14

*Road was single-layer chip sealed in 2012/2014; needs second chip seal for Armor seal.

c. To complete the identified maintenance work on the current County street sections in Table 2, and City street sections in Table 3, the County agrees to provide the necessary labor and equipment, and the City will purchase the necessary materials and assist with labor.

TABLE 3

Street Name/Segment	Chip Seal Width (ft)	Classification	Length (miles)
West 14th Street Union to Mt Hood	24	Local	0.46
Old Dufur Road E 10th to Fremont	27	Arterial	0.75
Columbia View Drive East Knoll to Summit Ridge	24	Collector	0.32

Brentwood Drive Columbia View Drive to end	20	Local	0.33
Cherry Heights Road W 10th to City Limits	42/26	Arterial	0.19
Washington Street E 4th to E 7th	34	Arterial	0.10
Scenic Drive Garrison to CGCC entrance	22	Collector	1.16

d. The maintenance work identified in Tables 2 and 3 is to be completed in fiscal year 2015-16 unless a one year extension is mutually agreed to by both parties.

e. This Agreement constitutes a onetime agreement for the roads that are identified in Tables 1-3. This Agreement does not bind the parties to these terms for any future roads that are incorporated into the City Limits as a result of annexation.

Section 4. Transfer of Jurisdiction

County agrees to initiate the process for transfer of jurisdiction of the County roads listed in Tables 1 and 2 under the process outlined in ORS 373.270(2). Proceedings to initiate the transfer of jurisdiction for a County road shall not be initiated until the road meets the modified street standards as set forth in this agreement, the road surface has been brought to a paving condition of "good" or "better", and the road has a functioning storm sewer drainage system as defined in Section 2(A). Transfer of jurisdiction shall be effective as defined in ORS 373.270(7).

City of The Dalles

_____
Stephen E. Lawrence, Mayor

Attested: _____
For City Julie Krueger, City Clerk

Approved as to form:

_____
Gene E. Parker, City Attorney

Wasco County

_____
Steve Kramer, Commissioner

_____
Scott Hege, Commissioner

_____
Rod Runyon, Commissioner

Attested: _____
For County Kathy White

Approved as to form:

_____
Kristen Campbell, County Counsel

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 #
June 22, 2015	Discussion Item 14, C	15-052

TO: Mayor and City Council

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

DATE: June 11, 2015

ISSUE: Discussion of Business Incubator Center Project

BACKGROUND: Business Development Director Gary Rains has been working in partnership with the Main Street Program and Mid-Columbia Medical Center (MCMC) for the development of a business incubator center at the corner of First and Union Street (the former location of Urness Motors and Norco Medical Supply). We have signed a letter of intent with MCMC (the owner of this 8,500 square foot building) that includes a reduced monthly rent of $1000 per month for the first year, $2000 for the second year, and $3000 for years three through five. The lease will include a 120 day termination clause should the City discontinue the incubator center. We will be bringing a lease to the City Council at their July 13 meeting. This item is on the agenda to allow the City Council to discuss the project and review a draft business plan for the center.

We are still in the process of developing this business plan and will send it to the Council at a later date.

We have also been working with QLife and their possible involvement with the center. The QLife Board has approved participation in establishing the City's Business Incubator Center by providing assistance with cost of broadband connection and monthly charge for broadband not contingent on specific location and contingent on review of the business plan.