

AGENDA

REGULAR CITY COUNCIL MEETING

October 27, 2014

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. 2013-14 Audit Presentation
6. RECESS TO URBAN RENEWAL AGENCY MEETING
7. RECONVENE CITY COUNCIL MEETING
8. 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.

9. CITY MANAGER REPORT
10. CITY ATTORNEY REPORT
11. CITY COUNCIL REPORTS

CITY OF THE DALLES

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

12. 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 October 13, 2014 Regular City Council Meeting Minutes
- B. Resolution No. 14-032 Adopting a Corrected Fee Schedule, Effective October 27, 2014

13. PUBLIC HEARINGS

- A. Public Hearing to Receive Remonstrances Concerning the West Seventh Street Improvements Local Improvement District [**Agenda Staff Report #14-074**]

14. ACTION ITEMS

- A. Resolution No. 14-033 Granting an Appeal by Taner Elliott of Minor Partition Conditions of Approval [**Agenda Staff Report #14-075**]
- B. Approval to Submit Local Oregon Assets Program Application for Full Faith and Credit Bond for Flex Space and Hangars at the Airport [**Agenda Staff Report #14-077**]
- C. General Ordinance No. 14-1337 Establishing a Tax on the Sale of Marijuana and Marijuana Infused Products in the City of The Dalles [**Agenda Staff Report #14-076**]

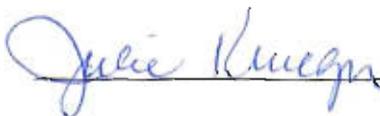
15. DISCUSSION ITEMS

- A. Discussion Regarding Amendment to the City's Water Rate Schedule [**Agenda Staff Report #14-071**]

16. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk





AGENDA STAFF REPORT CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
October 27, 2014	Presentations 5, A	

TO: Honorable Mayor and City Council
FROM: Kate Mast, Finance Director
THRU: Nolan K. Young, City Manager *NKY*
DATE: October 10, 2014

ISSUE: Presentation of FY 13/14 Audit by Merina & Company.

BACKGROUND: This is the fourth year that Merina & Company has audited our books. Our Audit Manager is Tonya Moffitt, and she will be presenting the audit to you at the Council Meeting.

The Auditor's letter to the Council (AU-C 260) is attached to this report. The bottom line is that we have two findings that are violations of the *Minimum Standards for Audits of Oregon Municipal Corporations*.

- 1) I sent the required LB-1 notice, which is notice of the Public Hearing before the Council and a summary of the budget as approved by the Budget Committee, to the newspaper to be published. As is now our practice, a copy of the email containing this notice was sent to another staff person who verified that the correct notice had been sent. The day after it was to be published, we verified that it was in the paper, but did not read the entire notice at that time. Later we discovered that only a portion of the notice had been published due to an error on the part of the newspaper, but it was found too late to correct it. Since only a portion of the required notice was published, it is a violation of Oregon Budget Law. In the future we will not only look to see if our notices are published, we will read the entire notice to make sure it is all there.
- 2) The State Office Building Fund received the July 2014 rent in June of 2014, which is unusual, and so that payment had to be posted as "unearned revenue", which is shown as a liability on the balance sheet, even though it adds to cash on the asset side. However, we also had some payables on the liability side, which resulted in the fund showing a deficit

fund balance of \$2,166. A fund deficit is also a violation of Oregon Budget Law. This was a new situation for me and I didn't think it would cause a problem as it was so minor. I now know better.

In addition, we have received four comments on minor issues that do not qualify as findings in the Management letter.

- 1) In three instances, vehicles were not entered into the fixed assets in the correct year they were acquired, which resulted in errors in the depreciation of those assets. This occurred in two cases when vehicles were exchanged between departments and finance was not notified of this change until after we had closed the books for the fiscal year. We will correct the depreciation amounts during the current fiscal year, and remind other departments to inform us when they swap cars.
- 2) It is the City's policy to pay part-time employees by the hour, based on the annual wage of the appropriate position range on the current wage table. One Personnel Action Form was found to not specifically state that the ¾ time Dog Control Officer would be paid on an hourly basis, so the Personnel Action Form and the way that the employee was being paid did not match. We have corrected this employee's Personnel Action Form to reflect that she is being paid by the hour, and have instituted language to be used on all part-time personnel actions form in the future to indicate they are paid hourly.
- 3) One invoice from the Airport was found that to have been paid, but had not been coded and marked as authorized by the appropriate managers. Our practice is to make sure that all invoices are properly coded and authorized before payment. This one slipped through somehow.
- 4) At the end of each year the A/P clerk routinely makes adjustments to bring the Purchasing module and the General Ledger module of our software into agreement at the fiscal year end. The A/P clerk has traditionally done this entry as a matter of routine. Merina & Company recommends that in the future this entry be treated like other adjustments and be pre-authorized by the Finance Manager prior to taking the action. We will, in the future, write and authorize these annual adjustments in the same manner as any other journal entry.

As stated above, the four items above are simply comments and recommendations regarding minor things that the auditors noted. Finance will make every effort to improve our processes in the future to avoid these situations.

Finally, Ms. Moffitt will present the City's Single Audit, which is required whenever an entity receives over \$500,000 in federal funds during a fiscal year. There were no findings on the Single Audit.

BUDGET IMPLICATIONS: None.

ALTERNATIVES:

- A. Staff Recommendation: *Move to accept the FY13/14 City Audit and Single Audit as presented.*

October 8, 2014

To the Honorable Mayor and City Council
City of The Dalles, Oregon

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of The Dalles, Oregon for the year ended June 30, 2014. Professional standards require that we provide you with information about our responsibilities under general accepted auditing standards, *Government Auditing Standards* and OMB Circular A-133, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated May 15, 2014. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by City of The Dalles, Oregon are described in Note I to the financial statements. As described in Note IV.E to the financial statements, the City of The Dalles implemented one new accounting pronouncement issued by the Governmental Accounting Standards Board (GASB). This pronouncement includes:

GASB Statement No. 65 Items Previously Reported as Assets and Liabilities

We noted no transactions entered into by City of The Dalles, Oregon during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

There was one prior period adjustment that was included in the financial statements:

Bond Issuance Cost -- Based on implementation of GASB Statement No. 65, the City restated the beginning net position for the Governmental Funds, Water Fund, Sewer Fund, and Airport Fund, which states that bond issuance costs are current period costs. The beginning net position was reduced by \$165,050, \$163,179, \$50,629 and \$198, respectively, the amount of the unamortized bond issuance costs reported on June 30, 2013.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because

of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the City's financial statements were:

Management's estimate of the accumulated depreciation is based on historical cost or estimated historical cost if purchased or constructed and donated capital assets are recorded at estimated fair market value at the date of donation.

Management's estimate of the compensated absences payable is based on current wages.

Management's estimate of the allowance for doubtful accounts is based on a percentage of total receivables.

Management's estimate of the Other Post Employment Benefits (OPEB) is based on an actuarial valuation.

We evaluated the key factors and assumptions used to develop these estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements were:

The disclosure of Capital Assets in Note III.D to the financial statements summarizes the changes in capital assets for the year ended June 30, 2014.

The disclosure of Long-Term Obligations in Note III.E to the financial statements summarizes the changes in long-term obligations for the year ended June 30, 2014.

The disclosure of Commitments, Contingencies, and Subsequent Events in Note IV.D to the financial statements summarizes the City's commitments, contingencies, and subsequent events.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated October 8, 2014.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to City of The Dalles, Oregon's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We noted certain matters that we reported to management of the City of The Dalles, Oregon in a separate letter dated October 8, 2014.

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to management's discussion and analysis and to the schedule of funding progress, which is required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit management's discussion and analysis or the schedule of funding progress and do not express an opinion or provide any assurance on this information.

We were engaged to report on the other supplemental information, which accompany the financial statements but is not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the

information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

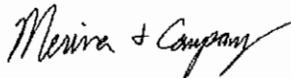
We were not engaged to report on the introductory section or statistical section, which accompany the financial statements but are not RSI. We did not audit or perform other procedures on this other information and we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the use of the Mayor and City Council and management of City of The Dalles, Oregon and is not intended to be, and should not be, used by anyone other than these specified parties.

If you should have any questions or comments, we would be pleased to discuss this report with you at your convenience.

Very truly yours,

A handwritten signature in cursive script that reads "Merina & Company".

Merina & Company, LLP
Certified Public Accountants and Consultants



CITY of THE DALLES

313 COURT STREET
THE DALLES, OR 97058

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

AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
October 27, 2014	Consent Agenda 10, A - B	N/A

TO: Honorable Mayor and City Council

FROM: Julie Krueger, MMC, City Clerk

THRU: Nolan K. Young, City Manager

DATE: October 15, 2014

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

A. **ITEM:** Approval of October 13, 2014 City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the October 13, 2014 City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the October 13, 2014 City Council meeting.

B. **ITEM:** Resolution No. 14-032 Correcting the City Fee Schedule to Include Previously Approved Metered Water Rates.

BUDGET IMPLICATIONS: The corrected fee schedule will reflect previously approved adjustments to water rate fees which became effective as of September 1, 2014.

SYNOPSIS: On October 24, 2011, the City Council adopted Resolution No. 11-026 which established metered water rates and sanitary sewer fees and systems development charges for the City. The resolution provided for future adjustments to water rate fees, including an increase in fees which would become effective September 1, 2014. On September 8, 2014, the Council adopted Resolution No. 14-024 amending the fee schedule to include a fee for use of the City's commercial dock. Due to a clerical oversight, the fee schedule attached as Exhibit "A" to Resolution No. 14-024 did not include the increase to the metered water rates effective September 1, 2014, which had been approved as part of Resolution No. 11-026.

RECOMMENDATION: Adopt Resolution No. 14-032 as part of the Consent Agenda.

MINUTES

REGULAR COUNCIL MEETING
OF
OCTOBER 13, 2014
5:30 P.M.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Steve Lawrence

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Dan Spatz, Tim McGlothlin, Linda Miller

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Police Chief Jay Waterbury, Administrative Fellow Daniel Hunter, Planning Director Dick Gassman, Economic Development Specialist Dan Durow

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

Mayor Lawrence asked the Council to move Consent Agenda item B to the Action Items section of the agenda for additional discussion. It was moved by Wood and seconded by Spatz to approve the agenda as amended. The motion carried unanimously.

MINUTES (Continued)
Regular Council Meeting
October 13, 2014
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AUDIENCE PARTICIPATION

Bridget Bailey, 711 Creek View Lane, The Dalles, addressed the Council regarding her campaign for a seat on the County Commission. She said she had several ideas on how the County and City could begin to work together, hoped the County would consider a baseball complex, and wanted to conduct a public forum to collect ideas regarding improving neighborhoods. Bailey said she appreciated the City Council always stating their opinions and having open discussion prior to voting on issues.

CITY MANAGER REPORT

City Manager Young asked the Council to authorize him to sign the EDA grant application for the Airport flex building.

It was moved by McGlothlin and seconded by Wood to authorize the City Manager to sign the EDA grant application. The motion carried unanimously.

Young said the Urban Renewal Agency would hear a report from Rapoza regarding the Granada Block Redevelopment Project at their October 27 meeting. He said the Urban Renewal Advisory Committee members had been invited to attend the meeting to hear the report.

Young said the Planning Commission had scheduled a bus tour of streets, to gather additional information prior to make a recommendation regarding the residential infill development standards. He said the recommendation should come before the Council in November.

In response to a question, Planning Director Gassman said many streets would be looked at, including Chenowith Loop, West 10th Street, Snipes, Scenic Drive, Trevitt Street, Dry Hollow Road, East 19th Street, Fremont and Old Dufur Road. City Manager Yong said they would be looking at network streets and the review would include bike and walkways.

Mayor Lawrence asked if the Transportation Plan would be affected by the study. Gassman said it was expected that the study would be considered as part of the Transportation Plan update.

City Manager Young reported that ODOT would be preparing the Scope of Work for the Transportation Plan update and would then choose a consultant with input from the City. Mayor Lawrence asked when the City would be allowed to give input. Young said he was unsure but would report back to the Council.

Young said the new Librarian, Jeff Wavrenek, would arrive in The Dalles for work on December 1, but would be doing some work remotely in November, prior to his arrival.

MINUTES (Continued)
Regular Council Meeting
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CITY ATTORNEY REPORT

City Attorney Parker reported on the foreclosure property sale, noting one of the properties had a County judgment placed on it for back taxes and only the City bid on the other property.

CITY COUNCIL REPORTS

Councilor Wood said there was no Historic Landmarks Commission meeting in October, but she would be attending the QLife meeting and Council of Governments meetings. Wood said she had provided a tour of the downtown murals to 20 middle school students.

Councilor McGlothlin said the Traffic Safety Commission would meet on October 15 and Airport Board meeting was scheduled for October 17. He said a new operator would be taking over the restaurant at the Airport and should be open very soon. McGlothlin said the community signs on each end of the downtown were being cleaned up and refurbished.

Councilor Dick said he attended the September QLife meeting and the Agency had received a clean audit, approved an agreement with the Port to take ownership of conduit in the Port's business park; and approved an agreement regarding the Agency's Special District insurance program.

Mayor Lawrence asked if QLife had started discussions regarding how they will distribute the profits. Councilor Dick said that would be discussed at a future meeting.

Councilor Spatz said the Sister City delegation would be arriving in The Dalles on October 25. He invited the City Council to attend their farewell party on October 28, at the UCC Church.

Spatz said he had not been able to attend the last meeting of MCEDD, but that the legislative forum had been scheduled for November 7.

Additional City Manager Comment

City Manager Young said he had been notified that SAIF was providing premium refunds from the 2013 year, and the City was expected to receive \$68,651.

CITY COUNCIL COMMENTS, Continued

Councilor McGlothlin noted there had been a lot of ribbon cuttings for new businesses in the downtown, which was very encouraging.

MINUTES (Continued)
Regular Council Meeting
October 13, 2014
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Mayor Lawrence reported he had attended an event at the Discovery Center and one for the Main Street Program. He said the Main Street event had shown him the enthusiasm of young business people in the downtown and he was encouraged by that. He said \$10,000 was raised for the Main Street Program at that event.

Lawrence said he would be attending the HAVEN vigil on Tuesday and the Community Outreach Team meeting on Friday.

CONSENT AGENDA

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

Items approved by Consent Agenda were: 1) approval of September 22, 2014 regular City Council meeting minutes; 2) Resolution No. 14-029 assessing the properties at 600 East 12th Street, 800 East 10th Street, and 1290 West 8th Street for the cost of abatement of hazardous vegetation; and 3) Resolution No. 14-030 assessing the properties at 2220 West 8th Street, 508 East Second Street, and 514 Liberty Street for the cost of abatement of junk and hazardous vegetation.

ACTION ITEMS

Request by Taner Elliott for Refund of Land Use Appeal Fees

Mayor Lawrence noted that the applicant had requested the refund of both fees, but the staff recommendation was to refund only one of the fees.

Mr. Elliott said he wondered why the recommendation was to only return one fee, based on the past practice of one other request. He said he had been successful at both levels of the process and should recover his costs.

Councilor Dick said he believed it was appropriate to refund both fees. He said that he had not agreed with the process and was very frustrated that the City didn't have a solid process in place, saying the City had not been consistent with land use decisions.

It was moved by Dick and seconded by McGlothlin to grant a refund of both appeal fees to Mr. Elliott. The motion carried unanimously.

Consideration of Amendment to the City's Annexation Policy

Administrative Fellow Hunter reviewed the staff report.

Mayor Lawrence said Option 2, outlined in the staff report as a recommended amendment, did not define the term "urbanization". He asked if the Planning Commission would prepare a definition for that term.

There was a discussion regarding the conflicting terms of "shall" and "may" regarding the Consent to Annexation requirement. Mayor Lawrence asked if the term "may" was appropriate to use if Option 2 was selected, in the case of Mr. Hager's annexation requirement, because annexation would be conditioned on the urbanization term.

City Manager Young said the Council had voted to require Mr. Hager to sign a Consent to Annexation form. He said the current policy states properties would be annexed right away, but the language proposed in Option 2 would only require annexation at the time the area was urbanized.

There was a discussion regarding the requirements for Mr. Hager's property. It was noted he had a sale pending on his property. City Manager Young said he did have to sign the Consent to Annexation form, but the new owner may wish to vacate the partition. Young said he didn't know the specific details of the sale.

Mr. Hager said he planned to complete his sale transaction on October 15 with the buyers. He said he was confused as to why he had to sign the Consent agreement if it was discretionary.

Mayor Lawrence said the City Council did make the signing of the Consent to Annex a requirement, but asked that Mr. Hager meet with staff to determine if the annexation needed to occur immediately.

City Manager Young said staff's understanding was that Mr. Hager was required to sign the Consent to Annex and was directed to bring proposed language for Council consideration, regarding the current Annexation Policy. Young said this action item was on the agenda to discuss proposed language changes to that policy.

Following discussion, it was moved by Dick and seconded by McGlothlin to require the Consent to Annexation be signed by Mr. Hager but to put the actual annexation on hold until the annexation policies could be further developed and define. The motion carried unanimously.

It was moved by Dick and seconded by Spatz to direct staff to process LUDO amendments and a new resolution amending the Council's current annexation policy to continue with annexation of commercial and industrial property as they develop, and to prepare for future annexation of residential properties through signed consent at the time development happens and delay annexation to the time the City determines the area is urbanized; and further direct staff to define the term urbanization as it applies to future annexations. The motion carried; Miller voting no.

Resolution No. 14-031 Initiating a Street Vacation Procedure for a Portion of the Alley Between East First and East Second Streets and Court and Washington Streets for the Granada Block Project

The staff report was reviewed by Economic Development Specialist Dan Durow.

Mayor Lawrence asked if the vacation would remain if Rapoza changed their mind and decided not to pursue development. Durow said the vacation could be re-dedicated if desired.

It was moved by McGlothlin and seconded by Wood to adopt Resolution No. 14-031 initiating a street vacation procedure for a portion of the alley between East First and East Second Streets and Court and Washington Streets for the Granada Block Project. The motion carried unanimously.

Resolution No. 14-028 Approving the Enterprise Zone Extended Tax Abatement Agreement Between the Sponsors of The Dalles/Wasco County Enterprise Zone III and Integrated 3D LLC

Economic Development Specialist Durow reviewed the staff report.

Mayor Lawrence asked who monitored the agreements to ensure they met the conditions regarding employment. Durow said he reviewed the reports and they were also sent to the County Assessor.

Matthew Garrett of 3D Integrated, said the proposal for use of the equipment would be very helpful to students in identifying careers in the technology industry.

It was moved by Wood and seconded by McGlothlin to adopt Resolution No. 14-028 approving the Enterprise Zone Extended Abatement Agreement between the sponsors of The Dalles/Wasco County Enterprise Zone III and Integrated 3D LLC. The motion carried unanimously.

MINUTES (Continued)
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DISCUSSION ITEMS

Discussion Regarding Implementation of a Local Tax for Use of Recreational Marijuana

The staff report was reviewed by City Attorney Parker. He noted that the ballot measure had a 30 day effective date, so if the City Council chose to adopt an ordinance at the October 27 meeting, it would become effective prior to the ballot measure being effective, if it passed. Parker said he proposed the Council adopt a rate for a tax at a later time.

It was the consensus of the City Council to direct staff to prepare an ordinance for adoption at the October 27 meeting.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:10 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED: _____

Stephen E. Lawrence, Mayor

ATTEST: _____

Julie Krueger, MMC, City Clerk

RESOLUTION NO. 14-032

**A RESOLUTION OF THE CITY COUNCIL CORRECTING
THE CITY FEE SCHEDULE TO INCLUDE PREVIOUSLY
APPROVED METERED WATER RATES**

WHEREAS, on November 26, 2001, the City adopted Resolution No. 01-030 establish a City wide fee schedule; and

WHEREAS, on October 24, 2011, the City Council adopted Resolution No. 11-026 which established metered water rates and sanitary sewer fees and system development charges for the City; and

WHEREAS, Section 3 of Resolution No. 11-026 provided for future adjustments to water rate fees, including an increase in the fees which would become effective September 1, 2014; and

WHEREAS, on September 8, 2014, the City Council adopted Resolution No. 14-024 amending the City fee schedule to establish a fee for the use of the City's commercial dock; and

WHEREAS, through a clerical error, the fee schedule attached as Exhibit "A" to Resolution No. 14-024 did not include the increase to the water rate fees effective September 1, 2014, which had been previously approved as a result of the adoption of Resolution No. 11-026; and

WHEREAS, the City Council desires to correct the clerical error for Resolution No. 14-024, and adopt a Resolution revising the City's fee schedule to include the increase to the City's water rates which became effective as of September 1, 2014;

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

Section 1. Fee Schedule Amended. The City Council hereby approves and adopts the

amended Fee Schedule attached hereto as Exhibit "A", which includes a the previously approved increase in water rates which became effective September 1, 2014.

Section 2. Effective Date. This resolution shall be considered effective as of October 27, 2014.

PASSED AND ADOPTED THIS 27TH DAY OF OCTOBER, 2014

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

AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER, 2014

Stephen E. Lawrence, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk

CITY OF THE DALLES - CITY FEE SCHEDULE

Effective October 27, 2014

<u>POLICE DEPARTMENT</u>	
Report Search & copy	\$ 5.00
Request for Fingerprints	\$ 10.00
Police Officer Written Exam	\$ 15.00
Administrative Fee for Towing Vehicles - Traffic Offenses	\$ 100.00
Burglary Alarm Permit (annual fee)	\$ 8.00
Robbery Alarm Permit (annual fee)	\$ 8.00
<u>LIBRARY</u>	
Overdue materials fee - juvenile, per day	\$ 0.05
Overdue materials fee - juvenile, maximum	\$ 0.50
Overdue materials fee - adult, per day	\$ 0.10
Overdue materials fee - adult, maximum	\$ 1.00
Interlibrary Loan	\$ 1.00
Non-resident borrowing privilege (annual fee)* *Residents of Fort Vancouver Library District	\$ 25.00
Non-resident borrowing privilege (annual fee)** **Non-residents of Special Library District (the Wasco County Library Service District) or the Sage Library System	\$ 75.00
<u>FINANCE DEPARTMENT</u>	
Transaction fee (when account is set up)	\$ 20.00
Delinquency Processing Fee (door hanger)	\$ 20.00
After hours call out fee (for overtime)	\$ 20.00
Non-sufficient funds check fee	\$ 25.00
Animal License Fee	\$ 25.00
Peddler's License Fees:	
Investigation Fee	\$ 10.00

<u>FINANCE DEPARTMENT</u> , Continued	
Monthly license	\$ 25.00
Yearly license	\$ 50.00
Commercial Resale License (annual fee)	\$ 25.00
Investigation Fee	\$ 10.00
<u>UTILITIES</u>	
Industrial Pretreatment Fees:	
Initial permit application fee	\$ 1,000.00
Renewal of permit	\$ 500.00
Annual permit fee:	
SIU (Significant Industrial User)	\$ 500.00
Non-SIU	\$ 335.00
Annual monitoring fee	Actual Lab & Shipping Costs
Monthly fees for Industrial User (IU) under Pretreatment Program:	
Volume charge: one sewer unit per 10,000 gallons of discharge.	
Strength surcharges:	
BOD greater than 200 mg/L, per pound BOD	\$ 0.50
TSS greater than 200 mg/L, per pound TSS	\$ 0.25
Discharge fees for batch discharges by permit under Pretreatment Program:	
One time discharger (per gallon/minimum \$250.00)	\$ 0.05
Batch basis discharger (per gallon)	\$ 0.05
Residential Water Rates (Monthly Fixed Charge):	
Meter size 0.75" (volume \$1.76 per 1,000 gallons over 10,000 gallons per month)	\$ 57.94
Meter size 1" (volume \$1.76 per 1,000 gallons over 10,000 gallons per month)	\$ 57.94
Meter size 1.5" (volume \$1.76 per 1,000 gallons over 10,000 gallons per month)	\$ 69.52
Meter size 2" (volume \$1.76 per 1,000 gallons over 10,000 gallons per month)	\$ 88.09
Meter size 3" (volume \$1.76 per 1,000 gallons over 10,000 gallons per month)	\$ 127.48

<u>UTILITIES, Continued</u>	
Commercial Water Rates (Monthly Fixed Charge):	
Meter size 0.75" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 46.68
Meter size 1" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 52.69
Meter size 1.5" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 64.49
Meter size 2" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 82.71
Meter size 2.5" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 106.70
Meter size 3" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 124.66
Meter size 4" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 190.60
Meter size 6" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 340.54
Meter size 8" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 543.37
Meter size 10" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 799.51
Meter size 12" (volume \$3.78 per 1,000 gallons over 5,000 gallons per month)	\$ 1,107.03
Outside city limits WATER RATES ONLY (residential and commercial) are charged 1.5 times the applicable rates, in lieu of debt service property taxes collected inside the City for bonded water system improvements	
Sewer Fees:	
Inside city limits (per unit, per month)	\$ 44.78
Outside city limits (per unit, per month)	\$ 76.13
Systems Development Fees (water):	
Application (per unit)	\$ 2,317.00
<u>Water Unit Calculations</u>	
.75" service or meter = 1 unit	
1" service or meter = 2 units	
1.5" service or meter = 4 units	
2" service or meter = 7 units	
3" service or meter = 14 units	
4" service or meter = 25 units	
6" service or meter = 50 units	

<u>UTILITIES</u>, Continued	
8" service or meter = 80 units	
10" service or meter = 122 units	
12" service or meter = 172 units	
Systems Development Fees (sewer):	
Application fee (per unit)	\$ 1,789.00
<u>Sanitary Sewer Unit Calculations</u>	
Residential Dwelling = 1 unit	
Multiple Family Dwelling = 1 unit per residential dwelling	
Motor Courts, Motels, Hotels = 1 unit per 2 rental rooms	
Recreational Camping Parks = 1 unit per 2 spaces	
Schools:	
High & Middle Schools = 1 unit per 15 students	
Elementary Schools = 1 unit per 20 students	
Restaurants, Cafes, Coffee Shops = 1 unit per 10 seats	
Banquet rooms, Taverns, Lounges = 1 unit per 10 seat capacity	
Hospitals:	
With Laundry Facilities = 1 unit per bed	
Without Laundry Facilities = 1 unit per 2 beds	
Rest Homes = 1 unit per 2 beds	
Commercial = 1 unit per 9 or less employees	
Laundromats = 1 unit per 2 machines	
Theaters = 1 unit per 100 seat capacity	
Churches = 1 unit per 100 seat capacity	
Auto Service Stations = 1 unit per 9 employees	
Commercial car washes = 1 unit per 10,000 gallons per month	
Medical, Veterinary = 1 unit per 10,000 gallons per month or 1 unit per 2 exam rooms	
Prison, Jails = 0.5 unit per bed	

<u>UTILITIES</u>, Continued	
Industrial, Domestic Strength = 1 unit per 10,000 gallons per month	
System Development Fees: (storm water) (Rate multiplied by the number of Equivalent Residential Units)	\$ 342.00
Storm Water Fee: (Monthly rate per Equivalent Residential Unit)	\$ 2.00
<u>Storm Water Equivalent Residential Unit Calculations</u>	
Single family residential unit = 1 ERU	
Property other than a single family residential unit = 1 ERU per 3,000 feet of impervious surface	
Mobile Home Park = 1 ERU per space	
Multiple family building or facility = 1 ERU per multiple family unit on property	
Contractor Water - From Hydrant Meter:	
Hydrant meter placement/removal	\$ 60.00
Hydrant meter with backflow device - Placement/testing/removal	\$ 85.00
Hydrant meter with backflow device - Move and retest	\$ 85.00
Hydrant meter fee: (Not prorated; provide 24 hours' notice for removal)	
3" meter on 2½" hydrant port: Up to two days	\$ 35.00
Weekly rate	\$ 75.00
¾" meter on 2½" hydrant port: Up to two days	\$ 25.00
Weekly rate	\$ 55.00
Water Usage - At commercial volume rate per 1000 gallons (No gallonage included)	\$ 3.78
Loss or damage	Full Repair or Rplcmt cost
Contractor Water - From Public Works Department fill station:	
Fill Station Access Fee - At 2" commercial meter rate per calendar month	\$ 82.71
Water Usage - At commercial volume rate per 1000 gallons (No gallonage included)	\$ 3.78
Loss or damage	Full Repair or Rplcmt cost

<u>PUBLIC WORKS</u>	
Application Fee for Reimbursement District (actual fee calculated at 5% of project value with no minimum fee)	\$ 10,000.00 Maximum
Banner Permit	\$ 25.00
Document Fees:	
Aerial copies (11"x17", per page)	\$ 25.00
Blue line/large format copies (per square foot)	\$ 0.50
Development standards, hardcopy	\$ 25.00
Development standards, electronic copy	\$ 15.00
Large maps/drawings (per square foot)	\$ 0.50
Wicks Treatment Plant Lab Fees:	
Turbidity	\$ 16.00
pH (certified)	\$ 20.00
Alkalinity	\$ 20.00
Aluminum	\$ 24.00
Calcium	\$ 16.00
Copper	\$ 16.00
Fluoride	\$ 32.00
Hardness	\$ 24.00
Iron	\$ 16.00
Lead	\$ 16.00
Manganese	\$ 24.00
Phosphate - Ortho	\$ 24.00
Phosphate - Total	\$ 36.00
Silica	\$ 32.00
Sulfate	\$ 32.00
<u>Certified Bio-Lab Tests</u>	
Total Coliform/ <i>E. coli</i> by CF Method	\$ 30.00
Total Coliform/ <i>E. coli</i> by CF-Quanti-Tray Method	\$ 50.00

<u>PUBLIC WORKS</u>, Continued	
Nitrate	\$ 30.00
Adjustment - Administrative	\$ 60.00
Adjustment - Quasi	\$ 235.00
<u>PLANNING DEPARTMENT</u>	
Annexation	\$ 65.00
Appeal	\$ 380.00
Ballot Measure 37 Claim Application Fee	\$ 300.00
Building Permit - Major	\$ 105.00
Building Permit - Minor	\$ 30.00
Comprehensive Plan Amendment	\$ 450.00
Comprehensive Plan/Zone Change	\$ 775.00
Conditional Use	\$ 420.00
Historical Review	\$ 25.00
Home Occupation	\$ 65.00
Major Partition	\$ 380.00
Minor Partition	\$ 250.00
Mobile Home Park	\$ 450.00
Non-conforming Use - Administrative	\$ 60.00
Non-conforming Use - Quasi	\$ 235.00
Physical Constraints	\$ 25.00
Planned Unit Development	\$ 480.00
System Development Charges: (transportation) Calculated using Discounted Transportation SDC per Unit of Development, as shown in Table 10 attached as Exhibit "A"	
Property Line Adjustment	\$ 65.00
Sidewalk/Approach Permit	\$ 15.00
Sign - Sidewalk Signboard Permit (one-time fee)	\$ 15.00
Sidewalk Signboard Impound Redemption fee (1 st violation)	\$ 10.00

<u>PLANNING DEPARTMENT</u>, Continued	
Sidewalk Signboard Impound Redemption fee (2 nd violation)	\$ 50.00
Sidewalk Signboard Impound Redemption fee (3 rd & subsequent violations)	\$ 100.00
Sign - Flush Mount	\$ 30.00
Sign - Freestanding under 8'	\$ 65.00
Sign - Freestanding over 8'	\$ 90.00
Sign - over 250 square feet	\$ 155.00
Sign – Tourist Oriented – Annual Renewal	\$ 25.00
Site Plan Review	\$ 335.00
Subdivision	\$ 480.00
Utility Verification	\$ 10.00
Vacation (Street)	\$ 380.00
Variance	\$ 380.00
Zone Change	\$ 450.00
Document Fees:	
Comprehensive Plan	\$ 10.00
Comprehensive Plan Map	\$ 5.00
Geologic Hazard Study	\$ 20.00
Zoning Ordinance (LUDO)	\$ 10.00
Zoning Map	\$ 5.00
<u>ADMINISTRATIVE FEES</u>	
Parking Permit Fees: (City lots)	
Monthly	\$ 15.00
Annually	\$ 150.00
Reserved space/annual - first year	\$ 325.00
Reserved space/annual - subsequent years	\$ 300.00
Photocopy Fees:	
Per page (less than 50 pages)	\$ 0.25

<u>ADMINISTRATIVE FEES</u>, Continued	
Document (between 50 and 100 pages)	\$ 15.00
Document (over 100 pages)	\$ 25.00
Ordinances, maps, odd size documents, filling public records requests that do not fit in another category, including research time, supervision, etc.	\$ 25.00 per hour
Liquor Licenses: (OLCC)	
New Outlet	\$ 100.00
Change in Ownership/Privilege	\$ 75.00
Annual Renewals	\$ 35.00
Tape recording of a proceeding or meeting	\$ 10.00
Lewis & Clark Festival Park:	
User Fee	\$ 50.00
Security Deposit (refundable)	\$ 100.00
Commercial Dock	
User Fee	\$ 150.00



CITY of THE DALLES

313 COURT STREET
THE DALLES, OR 97058

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

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
October 27, 2014	Public Hearing 13, A	14-074

TO: Honorable Mayor and City Council

FROM: Dale McCabe, City Engineer

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

DATE: October 13, 2014

ISSUE: Public Hearing to Receive Remonstrances for the West Seventh Street Extension Local Improvement District.

CITY COUNCIL GOALS: NA

BACKGROUND: On July 28, 2014 City Council adopted Resolution No. 14-021 directing the City Engineer to prepare a preliminary study and report for the potential formation of the West Seventh Street Extension Local Improvement District [LID]. On September 8, 2014, Council approved the City Engineer's Preliminary Study and Report for the proposed LID and adopted Resolution No. 14-026 declaring its intention to establish a local improvement district.

The City Clerk has mailed certified letters and the Notice of Intent to form a local improvement district was advertised in the local newspaper, as directed by Resolution No. 14-026. The deadline for filing written remonstrances was October 6, 2014. No written remonstrances were submitted.

BUDGET IMPLICATIONS: If the project is approved, the cost per frontage foot is estimated to be \$218.96. The assessment for property 2N 13E 29DC tax lot 200 is to be paid for by the City in exchange for the 5' wide right of way dedication from the property that is required to construct this project. The proposed assessment for this property and cost to the City is estimated at \$29,285.93.

RECOMMENDATIONS:

Staff Recommendation: That the City Council conduct a public hearing for the purpose of hearing remonstrances against the proposed assessments. If the Council finds the project has not been defeated by remonstrances and the City Engineer's report is reasonable and just, the City Council may ***move to direct staff to prepare a resolution accepting the Engineer's report and announce the formation of the local improvement district for West Seventh extension***

1. The City Council may ask the City Engineer to modify the Report by changing the methodology of spreading the assessments.
2. The City Council may choose to discontinue the local improvement district at this time. This alternative would be detrimental to the completion of the new Transit Center project.



CITY OF THE DALLES

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AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
October 27, 2014	Action Items 14, A	14-075

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

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

DATE: October 14, 2014

ISSUE: Resolution No. 14-033, granting Appeal #30-14 for Minor Partition #312-14 submitted by Elk Horn Development LLC, for the purpose of deleting a condition of approval.

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: #14-067.

BACKGROUND: On September 8, the City Council conducted the initial evidentiary public hearing for the appeal filed by Elk Horn Development LLC, concerning the condition of approval related to the requirement for a delayed development agreement, associated with Minor Partition #312-14. The initial hearing was continued to September 22, 2014. Following the close of the public hearing on September 22, 2014, the City Council voted three to one, with one abstention, to grant the appeal for the purpose of deleting the condition of approval requiring the execution of a delayed development agreement included in the Planning Commission's resolution, #PC 541-14.

Enclosed with this staff report is a copy of Resolution No. 14-033 setting forth the Council's decision, including Exhibit "A" which sets forth the findings of fact and conclusions of law in support of the Council's decision.

BUDGET IMPLICATIONS: None.

ALTERNATIVES:

- A. Staff Recommendation. *Move to adopt Resolution No. 14-033.*

RESOLUTION NO. 14-033

**A RESOLUTION OF THE CITY COUNCIL GRANTING
APPEAL #30-14 FOR MINOR PARTITION #312-14
SUBMITTED BY ELK HORN DEVELOPMENT LLC, FOR THE
PURPOSE OF DELETING A CONDITION OF APPROVAL**

WHEREAS, Elk Horn Development, LLC (“Elk Horn Development”) submitted an application to partition one lot located at 1611 Thompson Street, which measures approximately 37,300 square feet, into three smaller lots, which application was assigned the file number Minor Partition #312-14 by the Planning Department; and

WHEREAS, the Planning Department issued a Notice of Administrative Decision for MIP #312-14 on March 24, 2014, approving the requested partition with certain conditions of approval; and

WHEREAS, Elk Horn Development filed a notice of appeal of the Notice of Administrative Decision on April 7, 2014, which was assigned Appeal #27-14 by the Planning Department; and

WHEREAS, on June 19, 2014, the Planning Commission conducted a public hearing for Appeal #27-14, and following the public hearing, the Planning Commission voted to grant the appeal for the purpose of modifying certain conditions of approval included in the Notice of Administrative Decision dated March 17, 2014, based upon findings of fact, which decision was set forth in Resolution PC 541-14, which Resolution was adopted on July 17, 2014; and

WHEREAS, on August 1, 2014, Elk Horn Development filed a Notice of Appeal of the Planning Commission’s decision, which was assigned Appeal #30-14 by the Planning Department; and

WHEREAS, on September 8, 2014, the City Council conducted the initial evidentiary public hearing for Appeal #30-14, which hearing was continued to September 22, 2014, and following the close of the public hearing on September 22, 2014, the City Council voted three (3) to one (1) with one (1) abstention to grant the appeal for the purpose of deleting the condition of approval requiring the execution of a delayed improvement agreement included in Resolution PC 541-14, based upon findings of fact and conclusions of law; and

WHEREAS, the City Council has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit “A”, and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

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

Section 1. The City Council hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The appeal designated Appeal #30-14 filed by Elk Horn Development is granted, with modification to the conditions of approval as set forth in Exhibit "A".

Section 2. This resolution shall be considered effective as of October 27, 2014.

PASSED AND ADOPTED THIS 27TH DAY OF OCTOBER, 2014

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER, 2014

Stephen E. Lawrence, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk

EXHIBIT "A"

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR APPEAL #30-14

BACKGROUND INFORMATION

On February 21, 2014, Elkhorn Development LLC (hereinafter referred to as "Applicant") submitted an application to partition one lot which measures approximately 37,300 square feet, into three smaller lots. The subject property was previously approved for a subdivision under file number SUB 65-12. The Applicant decided not to proceed with filing a final plat for the subdivision. At the time of the subdivision application, the Applicant demolished an existing home upon the large lot, and built a new home upon the large lot. One of the conditions of approval for SUB 65-12 required the full half street improvement of Thompson Street, and East 15th and East 16th Streets. The City and the Applicant entered into a Delayed Development Agreement which was recorded with the Wasco County Clerk, which provided that the City would allow the Applicant to proceed with construction of the new home, with the understanding that the Applicant would not be allowed to proceed with development of any of the other proposed four lots until all of the required public improvements had been installed, and the final plat for the subdivision had been recorded.

On March 24, 2014, the Planning Department issued a Notice of Administrative Decision for MIP #312-14 approving the requested minor partition with certain conditions of approval. The Applicant filed a notice of appeal of the Notice of Administrative Decision on April 7, 2014. On July 17, 2014, the Planning Commission adopted Resolution No. P.C. 541-14, granting the appeal for the purpose of modifying certain conditions of approval. Condition of Approval #7 required the Applicant to negotiate with City staff for a delayed development agreement ("DDA") for full half street improvements (sidewalk, curb, stormwater, water, sanitary sewer, and paving) for Thompson Street for the frontage of the lot which has the new residential structure constructed by the Applicant. The Applicant filed a Notice of Appeal of the Planning Commission's decision on August 1, 2014.

On September 8, 2014, the City Council conducted the initial evidentiary hearing for the appeal of the Planning Commission's decision. The public hearing was continued to September 22, 2014, to allow staff to provide the Council with additional information. The information concerning payments made by Habitat for Humanity for development on property adjacent to East 16th Street in lieu of installing certain public improvements; information concerning other properties in the area which had either installed public improvements, paid a fee in lieu of installing the improvements, or signed a delayed improvement agreement; and information comparing waivers of remonstrance agreements and delayed improvement agreements.

The property located at 1611 Thompson Street and is further described as Township 1 North, Range 13 East, Assessor's Map No. 11 AB Tax Lot 900. The City's Comprehensive Plan designates the property as "R-L" Low Density Residential, and the property is located within the "R-L" Low Density Residential zoning district.

REVIEW OF APPLICABLE CRITERIA

LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

Chapter 3. Application Review Procedures

Section 3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.

FINDING #1: The hearing scheduled for September 8, 2014, which was continued to September 22, 2014, was conducted as a de novo evidentiary hearing. The City Council had the opportunity to review the entire application and make a new decision.

CONCLUSION: The criteria in Section 3.020.080(A) have been satisfied.

Section 3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:

1. *Any party of record to the particular action.*

FINDING #2: The appeal of the Planning Commission's decision of July 17, 2014 was filed on August 1, 2014, by the Applicant, who is a party of record.

CONCLUSION: The criteria in Section 3.020.080(B)(1) have been satisfied.

Section 3.020.080(C). Filing Appeals.

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

FINDING #3: The appeal with the information required under Section 3.020.080(C)(1) was filed on August 1, 2014, within the ten day period set forth in Section 3.020.080(2), along with the required filing fee.

CONCLUSION: The criteria in Section 3.020.080(C) have been satisfied.

Section 3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.

FINDING #4: The applicant was the only party of record and was notified of the hearing scheduled for September 8, 2014.

CONCLUSION: The criteria in Section 3.020.080(G) have been satisfied.

Section 3.020.080(H). Decision of Appeal.

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*
3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

FINDING #5: A copy of Resolution No. P.C. 541-14 dated July 17, 2014, and a copy of the appeal notice submitted on August 1, 2014 was included with the Agenda Staff Report, On September 22, 2014, following the close of the public hearing, the City Council voted 3 to 1, with one abstention, to grant the appeal for the purpose of deleting the condition requiring the signing of a delayed development agreement for the frontage associated with the lot with the new dwelling. With the adoption of Resolution No. 14-___ which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

CONCLUSION: The criteria in Section 3.020.080(H) have been satisfied.

Section 9.020.020 Land Use Standards

Subsection A. Applicability. All land divisions shall be in conformance with the requirements of the zone district where the division is proposed, and all other applicable provisions of this Ordinance. Modifications to these requirements may be accomplished through a Planned Development per the provisions of Section 9.050: Planned Developments.

FINDING #6: The partition application will divide a lot into three lots, each over 5,000 square feet. The minimum lot size in the “R-L” zone is 5,000 square feet.

CONCLUSION: The criteria in Section 9.020.020(A) have been satisfied.

Subsection B. Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside of the City limits, the City may require annexation or the signing of a consent to annexation and a waiver of the one year limitation on consent to annexation.

FINDING #7: The subject property is within the City limits.

CONCLUSION: The criteria in Section 9.020.020(B) have been satisfied.

Subsection C. Blocks. There are a series of provisions in the LUDO indicating the size of blocks.

FINDING #8: The subject property is located on Thompson Street extending between East 15th and East 16th streets. No additional public roads are needed adjacent to the subject property.

CONCLUSION: The criteria in Section 9.020.020(C) have been satisfied.

Subsection D. General Lot Requirements. Size and Shape. Lot size, width, shape, and orientation shall be appropriate for location of the subdivision and for the type of use contemplated. No lot shall be dimensioned to contain part of an existing or proposed street. Lot sizes shall not be less than required by this Ordinance for the applicable zone district. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use proposed

FINDING #9: The two proposed new lots are regular in shape, relatively the same size, are similar to other lots in the area, and are of appropriate size. The larger lot remaining is suitable for further division.

CONCLUSION: The criteria in Section 9.020.020(D)(1) have been satisfied.

1. *Access. Each lot shall abut on a public street, alley or approved private access drive for a width of at least the minimum lot width specified by the development standards for the zone district where the lot is located, with the following exception:*
 - a) *Lot access requirements for residential rear lot development created through a land partition process may be exempted from the access requirement above when all the provisions of Section 9.020.030: Residential Rear Lot Development below have been met.*

FINDING #10: All of the lots abut upon a public street.

CONCLUSION: The criteria in Section 9.020.020(D)(2) have been satisfied.

2. *Access Points. Arterial and collector streets access points shall either be established in the final plat or included in covenants recorded as part of the final plat.*

FINDING #11: East 15th and East 16th Streets are classified as local streets. Thompson Street is classified in the City's Street System Inventory as an arterial street. Only the middle lot will be allowed to have access off Thompson Street. That access point has previously been established. No new access point is being created and none will be allowed.

CONCLUSION: The criteria in Section 9.020.020(D)(3) have been conditionally satisfied.

3. *Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from collector or arterial streets or to overcome specific disadvantages of topography and orientation. No rights of access shall be permitted across the rear lot line of a through lot.*

FINDING #12: The partition does not create a through lot.

CONCLUSION: The criteria in Section 9.020.020(D)(4) have been satisfied.

4. *Lot Side Lines. Sidelines of lots, as far as practicable, shall be at right angles to the street the lot faces.*

FINDING #13: The sidelines of the proposed lots intersect at a right angle.

CONCLUSION: The criteria in Section 9.020.020(D)(5) have been satisfied.

5. *Lot Grading. Lot Grading shall conform to the provisions of Section 8.050: Erosion, Slope Failure, and Cuts and Fill.*

FINDING #14: No development is proposed with the partition. This lot is in the East City Inactive Landslide Deposit Area. This zone has no special requirements.

CONCLUSION: The criteria in Section 9.020.020(D)(6) have been satisfied.

6. *Building Lines. Building setback lines may be established in a final plat or included in covenants recorded as a part of a plat.*

FINDING #15: Setback lines are not reflected on the submitted partition application. These lines will be required on the final plat or included in covenants recorded as part of the plat.

CONCLUSION: The criteria in Section 9.020.020(D)(7) have been conditionally satisfied.

7. *Redevelopment Plans. A redevelopment plan shall be required when dividing residential land into large lots that have the potential for further subdivision or partition at some future date. The redevelopment plan shall show street extensions, utility extensions, and lot patterns to:*
 - a) *Indicate how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district.*

- b) *Demonstrate that the proposal will not inhibit development of adjacent lands.*

FINDING #16: The Applicant has discussed with staff future plans and the proposed partition allows for two additional lots, similar to the proposed lots in Subdivision #65-12.

CONCLUSION: The criteria in Section 9.020.020(D)(8) have been conditionally satisfied.

Section 9.030.040 Partition Application Review, Subsection B Review Criteria:

1. *The tentative plat meets the Wasco County recording requirements.*

FINDING #17: The requirements can be met with the required survey. This will be confirmed by receipt of two copies of the recorded plat from Wasco County.

CONCLUSION: The criteria in Section 9.030.040(B)(1) have been conditionally satisfied.

2. *The proposal is consistent with the purposes of this Chapter, relevant development standards of this Ordinance, policies and density requirements of the Comprehensive Plan, Public Works Standards and policies, and any other applicable policies and standards adopted by the City Council.*

FINDING #18: In testimony before the City Council, the Applicant asserted that the new home which was built upon the property had been a replacement of the existing structure, and there had not been a sufficient change of use on the property to justify the requirement that the Applicant enter into a delayed development agreement. The Applicant also testified that the public improvements were not installed at the time the new house was constructed, in part due to representations from the staff at the City Planning Department that the improvements would not be required until an additional residential structure was placed upon the property, and in part because the City had not completed the engineering to allow for the placement of the public improvements.

Section 9.030.050(C)(2) of the City's Land Use and Development Ordinance includes the following provision concerning public improvements which can be required for minor partitions:

"For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for installing required public street improvements shall occur in accordance with the provisions of Section 10.030(A)"

Section 10.030(A) of the LUDO provides as follows:

"General. Except sidewalks which are described below in Subsection (B), all improvements required by the standards in this Section shall be installed per the provisions of Section 9.040.060(H): Installation of Required Improvements. The construction, installation,

placement, or addition of a dwelling unit on a lot, including one that replaces another dwelling or structure, shall initiate the requirement of full public improvements, including street, curb, sidewalk, and storm sewer, except when the existing dwelling is destroyed by an act of God and the replacement dwelling has no more than 110% of the total square footage of the original”.

The City Council disagrees with the Planning Commission’s conclusion that the provisions of Sections 9.030.050(C)(2) and 10.030(A), which provide that the construction of a dwelling unit which replaces another dwelling unit shall initiate the requirement of full public improvements, should be interpreted to require the Applicant to enter into a delayed improvement agreement. The City Council finds and concludes that the representations of City staff effectively modified the provisions of the City’s Land Use and Development Ordinance to provide that a delayed improvement agreement would not be required until a second residential structure had been placed upon the property.

CONCLUSION: The criteria in Section 9.030.040(B)(2) have been satisfied.

3. *Approval does not impede future development of property under the same ownership or on adjacent land planned for urban densities, including provision of City services and access from a public street.*

FINDING #18: The proposed partition does not impede future development of any property under the same ownership, or any property on adjacent land planned for urban densities.

CONCLUSION: The criteria in Section 9.030.040(B)(3) have been satisfied.

Based upon the findings and fact and conclusions of law set forth above, the Planning Commission hereby imposes the following conditions of approval:

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other applicable provisions of the LUDO.
2. Two copies of the surveyed and recorded plat must be received in the Planning Department office within one year of the date of the notice of decision for this partition to be effective.
3. Legal access to Thompson Street is limited to the middle lot on Thompson Street. All other lots will take access from either 15th Street or 16th Street.
4. No new access point will be allowed on Thompson Street.
5. Building setback lines will be shown on the final plat.
6. Dedication of a 10 foot Public Utility Easement along each right-of-way will be required.
7. Dedication of 25 feet of right-of-way along the frontage of East 15th Street, to increase the total right-of-way to 50 feet, will be required.



AGENDA STAFF REPORT CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
October 27, 2014	Action Item 14, B	14-077

TO: Mayor and City Council

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

DATE: October 15, 2014

ISSUE: Approval to Submit an Application for Local Oregon Asset Program Full Faith and Credit Bond for Flex Space and Hangars at the Columbia Gorge Regional Airport

BACKGROUND: At the October 13 City Council meeting the Council, based on the recommendation from the Columbia Gorge Regional Airport Board, approved acceptance of a \$625,000 grant from the EDA to build a flex space building and hangar in the new industrial park at the Columbia Gorge Regional Airport. A portion of this building will be used to house the existing Life Flight business operation at the Airport and one additional tenant, not yet identified.

The match for this grant includes a loan that the City of The Dalles was to acquire. The City and Klickitat County would agree to use a portion of the rent from the flex building and other leases at the airport to repay the loan. At the same time the Board is looking at opportunities to gain additional hangar space at the Airport and will be considering making a recommendation to the City and County at their board meeting on October 17.

To obtain the necessary loan funds for these two projects the City staff is recommending that we obtain a Full Faith and Credit Obligation Bond through the League of Oregon Cities Local Oregon Asset Program. This is a pooled bonding program that allows cities to obtain small bond issues at a reasonable cost, because it is pooled with other cities. The loan application is due the first week of November. In order to meet this deadline we are asking the City Council at the October 27 meeting to authorize the submittal of this loan application. There will be other meetings and at least one public hearing that will be

required through this process.

We will not know all the details of the loan we will be requesting until after the Airport Board meets on October 17. After that meeting we will send additional information to the City Council so you can take action at the October 27 meeting. We will include in that information Budget Implication, the recommendation from the Airport Board and Council Alternatives.



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 #
October 27, 2014	Action Items 14, C	14-076

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

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

DATE: October 15, 2014

ISSUE: General Ordinance No. 14-1337, establishing a tax on the sale of marijuana and marijuana-infused products in the City of The Dalles.

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: #14-073.

BACKGROUND: On October 13, 2014, the Council scheduled a discussion of a proposed ordinance which would grant the authority to the City to impose a tax on the sale of marijuana and marijuana-infused products. This discussion was prompted by the presence of Ballot Measure #91 on the November 4, 2014 election. The measure would allow the possession, manufacture, and sale of marijuana by and to adults, subject to state licensing, regulation, and taxation. Section 42 of Measure 91 includes a provision that the state has the exclusive right to tax marijuana. Section 84 of Measure 91 provides that the measure would be effective 30 days from the date of the election (which is November 4, 2014) if a majority of voters approve the measure.

Under current Oregon law, there is no provision which explicitly states that a local government cannot impose a tax upon the sale of marijuana. As of the date of this staff report, nine cities have adopted an ordinance which establishes a local tax upon the sale of marijuana, including medical marijuana, and recreational marijuana if Measure 91 is passed by the voters. Although there is a difference of opinion, it is the opinion of many city attorneys, particularly those who

represent cities which have adopted an ordinance imposing a tax upon the sale of marijuana, that the “home rule” provisions in the city charters authorize the adoption of such an ordinance. The general consensus among these city attorneys is that such a local ordinance must have been adopted prior to December 4, 2014 to avoid the argument that the ordinance has been preempted by the language in Section 42 of Measure 91.

It was the consensus of the Council during the discussion of the proposed ordinance establishing a tax upon the sale of marijuana and marijuana-infused products, that despite the potential for legal challenges to the authority of local governments to establish such a tax, it was in the City’s interest to create a “placeholder” that would preserve the City’s ability to impose such a tax. In the event that Measure 91 is passed by the voters, and there is a legal challenge filed concerning the ability of cities to impose a tax upon marijuana, the City can certainly wait until such a legal challenge has been resolved, before it actually proceeded to collect such a tax.

General Ordinance No. 14-1337 incorporates many of the provisions used by the cities of Ashland, Tigard, and Happy Valley in their ordinances which adopted a tax upon marijuana and marijuana-infused products. As noted in the previous agenda staff report, the cities which have adopted ordinances taxing marijuana and marijuana-infused products have taken a variety of approaches when establishing the rate of taxation. General Ordinance No. 14-1337 follows the approach taken by the City of Ashland, which is to establish those rates by the adoption of a resolution. This approach gives the City flexibility in deciding whether to impose a tax only on the sale of recreational marijuana, or to impose a tax upon the sale of both medical marijuana and recreational marijuana.

As noted in the previous agenda staff report, a local ordinance which proposes to establish a tax cannot include an emergency clause. If General Ordinance No. 14-1337 is adopted on October 27, 2014, it will become effective on November 26, 2014. This effective date would be prior to the potential effective date of Measure 91 which is December 4, 2014 if it is approved by the voters.

Notice of adoption of General Ordinance No. 14-1377 has been posted in accordance with the provisions of the City Charter. The Council can choose to adopt the ordinance by title only.

BUDGET IMPLICATIONS: Included with the previous agenda staff report was a copy of an August 12, 2014 memorandum including an analysis of the potential revenue implications for the City if a tax was imposed upon the sale of marijuana and marijuana-infused products. The analysis showed that a 5% tax on medical marijuana could generate tax receipts of \$23,400, and a 10% tax on recreational marijuana could generate tax receipts of \$204,048. The memorandum emphasized that the projected financial analysis was very speculative.

ALTERNATIVES:

- A. **Staff Recommendation: *Move to adopt General Ordinance No. 14-1377 by title only.***
- B. If the Council desires to amend any particular provision of the proposed ordinance, they would need to propose the specific language to amend. The amended language would need to be read in public, and the Council would then need to adopt a motion to approve General Ordinance No. 14-1377 by title only, as amended.

- C. The Council could decide not to adopt the proposed ordinance. Such a determination would likely mean that if Measure 91 is passed by the voters, the City would be prohibited from adopting a local ordinance to tax the sale of recreational marijuana. The City could still consider the establishment of a tax upon the sale of medical marijuana, and that would likely require the creation of new ordinance proposing such a tax.

GENERAL ORDINANCE NO. 14-1337

AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF THE DALLES

WHEREAS, the City of The Dalles is an Oregon home-rule municipal corporation with a City Charter that grants it all the powers and authority that the constitution, statutes, and common law of the United States and the State of Oregon expressly or impliedly grant or allow as though each such powers were specifically enumerated; and

WHEREAS, that authority and power includes the authority to impose a tax on the sale of marijuana and marijuana-infused products sold within the City; and

WHEREAS, the City desires to tax the sale or transfer of marijuana and marijuana-infused products within the City;

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

Section 1. Purpose. For the purposes of this ordinance, every person who sells marijuana, medical marijuana, or marijuana-infused products in the City of The Dalles is exercising a taxable privilege. The purpose of this ordinance is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

Section 2. Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (A) "Finance Director" means the Finance Director for the City of The Dalles or his/her designee.
- (B) "Gross sales" means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this ordinance.
- (C) "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

- (D) “Oregon Medical Marijuana Program” means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- (E) “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- (F) “Purchase or Sale” means the retail acquisition or furnishing for consideration by any person of marijuana or marijuana-infused products within the City and does not include the acquisition or furnishing of marijuana or marijuana-infused products by a grower or processor to a seller.
- (G) “Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.
- (H) “Retail sale” means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.
- (I) “Seller” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- (J) “Tax” means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this ordinance.
- (K) “Taxpayer” means any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this ordinance.

Section 3. Tax Imposed. A tax is hereby levied and shall be paid by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter. The amount of the tax levied shall be established by

the City Council by resolution. The Finance Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

Section 4. Deductions. The following deductions shall be allowed against sales received by the seller providing marijuana or marijuana-infused products:

- (A) Refunds of sales actually returned to any purchaser;
- (B) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

Section 5. Seller Responsible for Payment of Tax.

- (A) All amounts of the tax imposed by this ordinance which are collected by a seller are due and payable to the Finance Director on a monthly basis on or before the fifteenth day of the following month, and are delinquent after that date. On or before the fifteenth day of the month following each month of collection by a seller, the seller shall file a return for the proceeding month's tax collections with the Finance Director. The return shall be filed in such a form as the Finance Director may prescribe, specifying the total sales subject to this ordinance and the amount of tax collected under this ordinance. The seller may request or the Finance Director may establish shorter reporting periods for any seller if the seller or Finance Director deems it necessary in order to ensure collection of the tax, and the Finance Director may require further information in the return relevant to the payment of the tax. A return shall not be considered filed until it is actually received by the Finance Director.
- (B) At the time the return is filed, the full amount of the tax collected shall be remitted to the Finance Director. Payments received by the Finance Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- (C) Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Finance Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Finance Director may order such a

change. When a shorter return period is required under the provisions of subsection (A), penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this ordinance shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.

- (D) Every seller must keep and preserve, in an accounting format established by the Finance Director, records of all sales made by the dispensary and such other books or accounts as may be required by the Finance Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

Section 6. Penalties and Interest.

- (A) Original delinquency. Any seller who has not been granted an extension of time for delivery of return and payment of tax due, and who fails to remit any tax imposed by this ordinance prior to delinquency, shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.
- (B) Continued delinquency. Any seller who has not been granted an extension of time for delivery of return and payment of tax due, and who has failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due, plus the amount of the tax and ten percent (10%) penalty first imposed.
- (C) Fraud. If the Finance Director determines that the nonpayment of any remittance due under this ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (A) and (B).
- (D) Interest. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (E) Penalties merged with tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(F) Distribution. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of The Dalles General Fund to offset the costs of auditing and enforcement of this tax.

Section 7. Failure to Report and Remit Tax – Determination by Finance Director. If any seller shall fail to make, within the time provided in this ordinance, any report of the tax required by this ordinance, the Finance Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Finance Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this ordinance and payable by any seller, the Finance Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this ordinance. In case such a determination is made, the Finance Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in Section 8. If no appeal is filed, the Finance Director's determination is final and the amount is thereby immediately due and payable.

Section 8. Appeal. Any seller aggrieved by any decision of the Finance Director with respect to the amount of such tax, interest, and penalties, if any, may appeal to the City Council. The appeal shall be filed with the City Clerk within thirty (30) days of the serving or mailing of the determination of the tax due. The City Council shall hear and consider any records and evidence presented which bear upon the Finance Director's determination of the amount due, and make findings affirming, reversing, or modifying the determination. The findings of the City Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of the notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

Section 9. Refunds.

(A) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this ordinance, it may be refunded as provided in subparagraph (B) of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Finance Director within one (1) year of the date of payment. The claim shall be on forms furnished by the City.

(B) The Finance Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Finance Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by the claimant on the claim form. In the event a claim is determined by the Finance Director to be a valid claim, in a manner described

by the Finance Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify the Finance Director of the claimant's choice within the fifteen (15) day period no later than fifteen (15) days following the date the Finance Director mailed the determination. In the event claimant has not notified the Finance Director of the claimant's choice within the fifteen (15) day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

- (C) Any credit for erroneous overpayment of tax made by a seller taken on a subsequent return or any claim for refund or tax erroneously overpaid filed by a seller must be so taken or filed within three (3) years after the date on which the overpayment was made to the City.
- (D) No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Finance Director acknowledged the validity of the claim.

Section 10. Actions to Collect. Any tax required to be paid under the provisions of this ordinance shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this ordinance shall be liable to an action brought in the name of the City of The Dalles for the recovery of such amount. In lieu of filing an action for the recovery when taxes are due more than thirty (30) days delinquent, the City can submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

Section 11. Violation.

- (A) Violation of this ordinance shall constitute a Class A infraction. It is a violation of this ordinance for any seller or other person to do the following:
 - (1) Fail or refuse to comply as required herein;
 - (2) Fail or refuse to furnish any return required to be made;
 - (3) Fail or refuse to permit inspection of records;
 - (4) Fail or refuse to furnish a supplemental return or other data required by the City, or;
 - (5) Fail, refuse or neglect to remit the tax to the City by the due date.

(B) Filing a false or fraudulent return shall be considered to be a Class B Misdemeanor.

(C) The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

Section 12. Confidentiality. Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this ordinance. Nothing in this ordinance shall prohibit the following:

(A) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana or marijuana-infused products are sold or provided; or

(B) The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or

(C) Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this ordinance; or

(D) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

(E) The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

Section 13. Audit of Books, Records or Persons.

(A) The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of the seller's state and federal income tax returns, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Finance Director or an authorized agent of the Finance Director.

- (B) If the examinations or investigations disclose that any reports of sellers filed with the Finance Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Finance Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
- (C) The seller shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the seller paid ninety five percent (95%) or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of one percent (1%) per month, or the portion thereof, from the date the original payment was due.
- (D) If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the City Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts, and records for examination.
- (E) Every seller shall keep a record in such form as may be prescribed by the City of all sales of marijuana and marijuana-infused products. The records shall at all times during the business hours of the day be subject to inspection by the City or authorized officers or agents of the Finance Director.

Section 14. Forms and Regulations. The Finance Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of said marijuana tax and in particular and without limiting the general language of this ordinance, to provide for the following:

- (A) A form of report on sales and purchases to be supplied to all vendors;
- (B) The records which sellers providing marijuana and marijuana-infused products are to be keep concerning the tax imposed by this ordinance.

Section 15. Severability. The sections, subsections, paragraphs, and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 16. Savings. Notwithstanding any amendment or repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this ordinance affects

the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

Section 17. Effective Date. This ordinance shall be effective thirty (30) days after its passage and adoption by the City Council.

PASSED AND ADOPTED THIS 27th DAY OF OCTOBER, 2014

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

**AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER,
2014**

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 #
October 27, 2014	Discussion Item 15, A	14-071

TO: Honorable Mayor and City Council
FROM: Dave Anderson, Public Works Director
THRU: Nolan K. Young, City Manager *NKY*
DATE: September 30, 2014

ISSUE: Water Utility Rates.

CITY COUNCIL GOALS: Not applicable – removed from City Council Goals as having been completed in 2011.

PREVIOUS AGENDA REPORT NUMBERS: #11-080, #11-084, #11-088, #11-095, #12-051, #12-064

BACKGROUND: Staff has reviewed current water utility revenues with the close-out of the 2013-14 fiscal year and as we approach the end of the 2014 summer irrigation season. The results of that review show that revenues are exceeding predictions. Accordingly, in this report, staff is providing a brief background on the City's current water rates and presenting some options to the Council for consideration.

In 2011 and 2012, City Council adopted and indicated its continued support for a capital improvement project list and implementation schedule known as Option 2B. This plan delayed implementation of water utility capital improvement projects from the schedule previously identified in the 2006 Water Master Plan to allow time to build funds for the projects. After considering five different project and rate schedules and holding public hearings in 2011, Council selected Option 2B as being the most affordable option available. Option 2B provided for 10% water rate increases to occur in 2011, 2012, 2013 and 2014, 8% increases to occur in 2015, 2016 and 2017, and 10% increases in 2018, 2019 and 2020. It also provided for the issuance of a \$2.4 million bond in 2014/15, a \$9.8 million bond in 2016/17, and an \$11.5 million bond in 2019/20 to fund capital projects. Each bond was planned to have a 25-year term. The scheduled rate increases

would fund repayment of the bonds. As scheduled, a 10% rate increase was implemented September 1, 2014.

The needs for the identified capital improvement projects still exist. For review, Table 1 presents a list and schedule of those projects yet to be completed.

Table 1

Future Capital Improvement	Cost	Year
DEQ temperature mitigation	\$1,311,272	2014/15
Sorosis Reservoir rehabilitation	\$733,598	2014/15
Columbia View Reservoir Painting	\$327,818	2014/15
Dog River Pipeline Replacement	\$7,853,064	2016/17
Port Pipeline Extension	\$1,101,310	2016/17
3 rd Street Streetscape	\$697,040	2016/17
Lone Pine Well Enhancement	\$1,266,770	2019/20
Finished Water Pipeline Replacement	\$10,050,000	2019/20
Total	\$23,340,872	

Revenue Update

A review of water utility revenues after the close of the 2013/14 budget shows that revenues have increased more than projected in Option 2B. Table 2 provides a summary of rate revenue collections in recent years compared to the levels identified in the adopted Option 2B capital project and rate plan.

Table 2

Fiscal Year	Option 2B Proj'd Rate Revenues	Scheduled Rate Increase (%)	Actual Revenues	Actual vs 2B Projections
2009/10			\$ 3,301,626	
2010/11	\$ 3,642,639	10.00%	\$ 3,593,012	\$ (49,627)
2011/12	\$ 3,991,410	10.00%	\$ 3,923,783	\$ (67,627)
2012/13	\$ 4,303,362	10.00%	\$ 4,300,794	\$ (2,568)
2013/14	\$ 4,615,314	10.00%	\$ 4,899,472	\$ 284,158

The table shows that prior to 2013/14, the revenues collected were very close (within 2%), and slightly below, those predicted in Option 2B.

The increased revenues realized in 2013/14 are at least partly due to growth in industrial water usage. They may also be somewhat related to drier weather conditions in 2014, so a level of prudence is warranted as rate adjustments are considered given the variable nature of weather patterns.

With revenues exceeding predictions, there is an opportunity to reconsider the current water utility rate schedule. Due to increased revenues and maintaining operating costs below those that were projected, there is no longer a need for the bond that was planned for 2014/15. Instead, those projects will be funded with cash available in the Water Capital Reserve Fund. The elimination of this \$2.4 million bond will reduce annual expenditures from those projected in Option 2B by over \$166,000 per year and save a total of \$4,166,625 over 25 years.

Staff has prepared five options for Council's consideration. All of the options presented include a recommendation that future rate increases become effective on October 1 rather than September 1

to allow an opportunity to review revenues from the preceding fiscal year and make adjustments if warranted.

Option 1:

Roll back all of the September 2014 10% rate increase effective November 1, 2014, take nearly a year off from water rate adjustments, then resume the Option 2B scheduled rate increases on October 1, 2015 as follows:

October 1, 2015	8% rate increase
October 1, 2016	8% rate increase
October 1, 2017	8% rate increase
October 1, 2018	10% rate increase
October 1, 2019	10% rate increase
October 1, 2020	10% rate increase

Due to increased revenues, this option would reduce the amount of the 2016/17 bond from \$9.8 million to \$8.5 million, reduce the 2019/20 bond from \$11.5 million to \$8 million, and reduce the terms of both bonds from 25 years to 20 years. The projected total savings in debt payments compared to Option 2B would be \$11,324,650.

Option 2:

Roll back all of the September 2014 10% rate increase effective November 1, 2014, take nearly a year off from water rate adjustments, then implement 5% rate increases annually on October 1 from 2015 through 2020 as follows:

October 1, 2015	5% rate increase
October 1, 2016	5% rate increase
October 1, 2017	5% rate increase
October 1, 2018	5% rate increase
October 1, 2019	5% rate increase
October 1, 2020	5% rate increase

Due to increased revenues, this option would reduce the amount of the 2016/17 bond from \$9.8 million to \$9 million, reduce the 2019/20 bond from \$11.5 million to \$10.5 million, and reduce the terms of both bonds from 25 years to 20 years. The projected total savings in debt payments compared to Option 2B would be \$6,564,330.

Option 3: Staff Recommendation

Roll back half of the September 2014 10% rate increase to 5% effective November 1, 2014, then implement 5% rate increases annually on October 1 from 2015 through 2020 as follows:

October 1, 2015	5% rate increase
October 1, 2016	5% rate increase
October 1, 2017	5% rate increase
October 1, 2018	5% rate increase
October 1, 2019	5% rate increase
October 1, 2020	5% rate increase

This option would reduce the amount of the 2016/17 bond from \$9.8 million to \$8.5 million, reduce the 2019/20 bond from \$11.5 million to \$9.5 million, and reduce the terms of both bonds from 25 years to 20 years. The projected total savings in debt payments compared to Option 2B would be \$8,944,450.

Option 4:

Maintain the September 2014 10% rate increase, then implement 5% rate increases annually on October 1 from 2015 through 2020 as follows:

- October 1, 2015 5% rate increase
- October 1, 2016 5% rate increase
- October 1, 2017 5% rate increase
- October 1, 2018 5% rate increase
- October 1, 2019 5% rate increase
- October 1, 2020 5% rate increase

This option would reduce the amount of the 2016/17 bond from \$9.8 million to \$8 million, reduce the 2019/20 bond from \$11.5 million to \$8.5 million, and reduce the terms of both bonds from 25 years to 20 years. The projected total savings in debt payments compared to Option 2B would be \$11,324,650.

Option 5:

Maintain the September 2014 10% rate increase and remain on the adopted Option 2B rate schedule as follows:

- October 1, 2015 8% rate increase
- October 1, 2016 8% rate increase
- October 1, 2017 8% rate increase
- October 1, 2018 10% rate increase
- October 1, 2019 10% rate increase
- October 1, 2020 10% rate increase

This option would reduce the amount of the 2016/17 bond from \$9.8 million to \$7.5 million, reduce the 2019/20 bond from \$11.5 million to \$6 million, and reduce the terms of both bonds from 25 years to 20 years. The projected total savings in debt payments compared to Option 2B would be \$16,085,010.

Table 3 provides a summary of the five options, showing the amount of monthly residential water rate after any adopted adjustments this fall and in 2020/21 at the end of the associated rate schedule for each option. Also shown are the total bond costs for each option, and the savings in bond repayment costs each option provides compared to the current Option 2B. The “savings” listed are all in addition to the savings realized by eliminating the 2014/15 bond.

Table 3

	2014/15 Water Rate¹	2020/21 Water Rate¹	Total Bond Repayment Costs²	Bond Savings³ compared to 2B
Option 2B⁴	\$57.94	\$97.15	\$37,506,650	na
Option 1	\$52.67	\$88.31	\$26,182,000	\$11,324,650
Option 2	\$52.67	\$70.58	\$30,941,290	\$6,564,330
Option 3	\$55.30	\$74.11	\$21,421,640	\$8,944,450
Option 4	\$57.94	\$77.65	\$26,182,000	\$11,324,650
Option 5	\$57.94	\$97.15	\$21,421,640	\$16,085,010

¹Water rates shown are for ¾” Residential In-City meter.

²Repayment costs listed are for 2016/17 and 2019/20 bonds only.

³All options also include elimination of 2014/15 bond and associated \$4,166,625 savings in addition to values listed in table.

⁴Option 2B predicted data presented for comparison.

As is evident from the data in Table 3, schedules that provide the lowest monthly rates at a certain point in the future (2020/21) result in the highest debt costs to get the same projects completed.

Staff is seeking direction from Council related to water utility rates. It is a bit of a process to update rates in the City's utility billing system. If Council provides direction to staff at this meeting, an updated rate ordinance can be brought for adoption at the October 27th meeting and staff can begin preparing to implement rate adjustments effective November 1, if that is Council's desire.

To assist Council in its deliberations, attached to this report is information developed by Daniel Hunter, Administrative Fellow, summarizing utility and property tax rates from comparable cities. This information shows that when considering combined utility and tax rates, The Dalles appears to be competitive with other cities. A more comprehensive utility rate survey is currently being conducted by the League of Oregon Cities that is expected to be available in November.

BUDGET IMPLICATIONS: All of the alternative rate schedules outlined are anticipated to provide revenues adequate to complete capital improvements as set forth in the City's capital improvement plans and Water Master Plan. The option selected by Council will determine the balance between monthly rates and longer-term debt obligations. Staff believes that Option 3 provides such a balance by providing some short-term rate relief, some of the lowest future (2020/21) rates of the options identified, and significant debt repayment savings.

RECOMMENDATIONS:

1. **Staff Recommendation:** Direct staff to proceed with Option 3 and bring back a resolution for adoption by Council on October 27, 2014 to become effective November 1, 2014.
2. Provide alternative direction to staff regarding water utility rates.

City of The Dalles
2014 Utility Rate and Property Tax Comparison

2014 Utility Rate Comparison of changes since 2011 at 10,000 gallons residential water usage 3/4" meter								\$179,500 Home Selling Price [^]		Water Source	
City	2011 Water Rates	2014 Water Rates	% Change	2011 Sewer Rates	2014 Sewer Rates	% Change	Annual Utilities	2014 City Property Tax	Annual Compressed	Surface	Well
The Dalles	\$40.26	\$57.94	44%	\$41.85	\$44.78	7%	\$1,232.64	\$542.09	\$1,774.73 **	X	
Troutdale	\$25.50	\$29.70	16%	\$29.38	\$34.36	17%	\$768.72	\$908.27	\$1,676.99		X
Coos Bay	\$43.30	\$52.50	21%	\$84.99	\$96.30	13%	\$1,785.60	\$1,243.94	\$3,029.54	X	
Lebanon	\$66.80	\$86.67	30%	\$83.80	\$107.77	29%	\$2,333.28	\$1,199.06	\$3,532.34	X	
Dallas	\$33.22	\$34.85	5%	\$39.72	\$41.85	5%	\$920.40	\$913.65	\$1,834.05 *	X	
Happy Valley	\$38.57	\$42.78	11%	\$38.00	\$42.00	11%	\$1,017.36	\$367.97	\$1,385.33 *	X	
St. Helens	\$55.29	\$79.64	44%	\$61.63	\$93.43	52%	\$2,076.84	\$342.84	\$2,419.68 *		X
Newport	\$38.90	\$56.35	45%	\$62.00	\$85.50	38%	\$1,702.20	\$1,281.63	\$2,983.83 *	X	
Sandy	\$31.59	\$37.62	19%	\$37.62	\$37.62	0%	\$902.88	\$739.54	\$1,642.42	X	
Hermiston	\$22.42	\$24.25	8%	\$20.14	\$21.78	8%	\$552.36	\$1,163.16	\$1,715.52		X
Pendleton	\$26.43	\$33.52	27%	\$26.95	\$30.45	13%	\$767.64	\$1,290.60	\$2,058.24	X	X
Monmouth	\$34.08	\$39.64	16%	\$36.71	\$37.81	3%	\$929.40	\$726.97	\$1,656.37 *		X
Other City Average	\$37.83	\$47.05		\$47.36	\$57.17		\$1,250.61	\$925.24	\$2,175.85		

The Dalles Deviation from the Average -17.97 -383.15 -401.12

Low Income Elderly or Disabled Utility Customers by Discount	
10%	127
35%	84
Total	211

* Measure 5 and Measure 50 had no compression affect on tax levied
 ** Measure 5 and Measure 50 resulted in 3.84% compression of tax levied
 ^ The median selling price of a home in The Dalles for August 2014