

**MINUTES OF THE CITY OF HEPPNER CITY COUNCIL MEETING
HEPPNER CITY HALL, 111 N. MAIN STREET, HEPPNER, OREGON
7:00 PM, 11 July 2011**

NOTE: Where stated "Motion Carried" is considered unanimous, unless otherwise stated.

ATTENDEES:

**Mayor, Les Paustian
City Manager, David De Mayo
Cindi Doherty
Cody High
Joann Burleson
Judy Buschke
John Bowles
Keith Lewis
Rusty Estes
Phillip Spicerkuhn, City Attorney
Brian Harmon, Public Works Director
David Sykes, Heppner Gazette**

Absent: Full Council Present

Members of the Public: Sally Mc Bride, Steve Rhea (arrived at 7:30 PM), Jerry Healy, Meredith Walters, Roy Clark, Shirley Clark.

1. GENERAL BUSINESS.

A. Call to Order. The July 11, 2011 meeting of the City of Heppner City Council was called to order by Mayor Paustian at 7:00 PM.

B. Pledge of Allegiance Mayor Paustian led Attendees in the Pledge of Allegiance.

C. Announcements – Agenda Addition: Request from Duane & Catana Nagel, 775 NW Shobe Street, to keep one small pony on their property.

D. Correspondence: Invitation to potluck on July 18, 2011, 6:00 PM at Boardman marina park.

E. Public Comment- None.

F. Requests. None.

2. COMMUNICATIONS FROM THE PUBLIC. None.

3. CONSENT AGENDA.

A. Minutes of City Council Meeting, June 13, 2011, Special City Council Meeting, June 20, 2011.

B. Monthly Financial Statement

Action: Motion by Mr. High to approve the Consent Agenda. Seconded by Mrs. Burleson. Motion Carried.

4. REPORTS.

A. Fire Chief.

Chief Estes reported the following for the month of June 2011:

The new fire engine has been delivered and will be available at 7:30 PM for inspection by the Council. The tender is being built and scheduled to be delivered by November 21.

1 Mutual aid- large fire in lone

1 Vehicle fire

1 MVA

Flood assistance during the recent flooding event.

B. Morrow County Sheriff's Department.

Mr. Bowles announced that 371.75 hours; deputies were rotating during this time. There also were some large trials that involved Heppner residents which took extra time.

The deputies in Heppner have been busy. Mr. Bowles briefed a re-cap of the report. Briefly, there were 8 traffic stops which included five warnings and two citations. Code enforcements were being followed up on. Mr. De Mayo commented that Code Enforcement actions were making excellent progress. There have been several thefts; several by juveniles. An adult male was arrested for several outstanding warrants, harassment, and disorderly conduct. Several juveniles were contacted regarding curfew, and getting along with each other.

Mayor Paustian commented that the deputies are doing an excellent job.

C. Heppner Housing Authority.

Mrs. Buschke reported that there are two vacancies and one eviction notice has been posted and probably will go to trial.

D. Public Works

Mr. Harmon reported that the North Main and Elder Street bridge repairs are completed. According to Mr. Harmon, a few years ago, DEQ and the City agreed to repairs on the over-creek sewer crossings. This is expensive. The North Main and Elder Street bridges have been completed since they sustained flood damage. The pipes have been replaced. One manhole was added on North Main.

The Consumer Confidence Report (CCR) has been mailed to citizens.

Robert Whalen passed the Distribution 1 test and is now a certified operator.

With reference to the maple trees by the Forest Service building, there is damage to the trees. Larry Lutcher, Morrow County Extension Svc., has been contacted for his recommendation. The damage is due to aphid damage. This will probably require two applications of chemicals. There are also two dead trees in Heritage Plaza.

Well 3 is the lag-2 well. There has not been a need to turn the well on. It may be necessary in the future, depending on weather and the need for more water usage.

E. City Manager's Report.

Mr. De Mayo stated that several issues in his report have been covered earlier.

With reference to Well 3, Mr. De Mayo stated that a modified Personal Services Contract will be covered under New Business.

The new fire engine has been delivered.

The Nuisance Abatement process will be discussed under New Business.

Public Works has installed an automatic water system in the park between the dentist office and the Post Office and this is working well.

5. PUBLIC HEARINGS.

Public Hearing opened at 7:15 PM.

Discussion: This is a special request to utilize the City's right-of-way in the vicinity of the August Street/Kirk Street intersection for the purpose of temporary storage, Dan and Sally Jo Mc Bride, Tax Lot #5500, Map 2S 26 35 BC, 146 Kirk Street.

The right-of-way has been an issue because the Mc Bride's have been storing material on the right-of-way.

Mr. De Mayo read the ordinance which governs this. The City would have to grant permission for use of the right-of-way. Mr. Paustian commented that the City has paid for the surveying of the property and it has been staked out.

The Mc Bride's have been granted a temporary permit by the Planning Commission and City Council to park an RV for use as a temporary on the property for a period of one year. Since that permit was granted, the Council requested that the City have the property surveyed. The result of the survey showed that the Mc Brides have one additional RV, a small shed, and construction material on the right-of-way. According to Mrs. Mc Bride, the small RV will be moved. Mr. Paustian feels that the issue is that the Mc Brides are using City property for their purposes. Mrs. Mc Bride stated that she had talked to people in Pendleton, and was told that she could get a variance to use the property for a limited amount of time.

According to Mr. Bowles who lives in the area, the road is used quite a bit. Mrs. Mc Bride stated that their property line goes across the creek. Mr. Clark stated that the road has been there for years, and he wonders why it is an issue now. Mr. Paustian stated that allowing storage on the right of way would set a precedent around town. Mrs. Mc Bride stated that since the recent survey was done, the property lines have changed. Mr. Paustian asked if the Mc Brides had had the actual property surveyed before they moved the large RV onto the property as a temporary living space until they could construct a permanent residence. According to Mrs. Mc Bride, the original map did not show the current property lines. Mr. Clark stated that if he were to put up a fence on his property line, no one would be able to use the road.

Mr. Estes stated that if they did encroach on the right-of-way too far, there would be a problem for access by emergency vehicles.

Building a permanent residence by the Mc Bride's is dependent upon the Umatilla Army Depot closing date since Mr. Mc Bride will retire at that time. Mrs. Mc Bride stated that Mr. De Mayo had previously advised that an 840 square foot home could be allowed on the Mc Bride's property. Mr. De Mayo stated that he was unsure at the moment and will have to do further research. The required setbacks are from the property line. According to Mrs. Mc Bride, they are not planning on building anything on the right-of-way. Mr. De Mayo has inspected the property several times.

Mr. Paustian asked if the small trailer and small shed can be moved out of the right-of-way. The large shed is not a problem. Mrs. Mc Bride agreed that these

items can be moved. There would not be room for parking vehicles on the right-of-way. Mrs. Mc Bride stated that the small trailer could be moved to the RV Park if necessary. Mr. Paustian agreed that if the small shed could be moved off the right-of-way three feet and the small RV moved off the property, then the Council would agree that the Mc Bride's could remain on the property. Mrs. Mc Bride agreed with the Council's decision, but wondered if this will be a problem again in January when their original permit expires. The closure of the depot is still an issue since the closure date has been delayed. According to Mr. Paustian, they would have to re-apply for a permit in January.

Mr. De Mayo thinks there should be a time line for the material to be moved. Mrs. Mc Bride agreed that 30 days would be adequate to allow the material to be moved.

Public Hearing closed at 7:35 PM.

6. COUNCIL ACTION.

A. OLD BUSINESS.

- 1) HUD Property, 160 S. Court Street.

Discussion. Mr. Sykes, Sykes Realty, has shown the property five times and received one offer. None of the other parties have shown an interest in the property. Mr. Paustian feels that this issue should be tabled for an additional month. Mr. Spicerkuhn stated that a resolution should be done declaring this surplus property until next meeting. Action tabled for an additional month. Mr. Sykes recommends that the potential buyers withdraw their offer and re-submit at a later date. The earnest money will be returned. Council members agreed with this decision.

B. NEW BUSINESS.

- 1) Mc Bride use of Right-of-Way, vicinity of August-Kirk Street intersection.

Action: Motion by Mr. High to grant Mc Bride's thirty days to move the small shed 3 feet off of the right-of-way, relocate the small RV, and remove any construction materials. Seconded by Mrs. Doherty. Motion Carried.

- 2) Modified Personal Services Contract Billing Process, Well Drilling – Well #3.

Discussion: The casing for the well needs to be replaced with a longer casing which is required by the Oregon Water Resources Department as a result of the recent contaminated water incident. Mr. De Mayo stated that this has been

discussed with the City Attorney. The intent is to modify the bidding process to allow two bids. This could also be considered an emergency due to the fact that it affects the water system. There is a 182 day time line which can be extended if necessary.

According to Mr. Harmon, locating a well driller to do the work during peak season is a problem. Mr. Harmon and Mr. De Mayo have discussed this with Sam Bellamy, Lexington Pump, and then he would contact other individuals for bids. Mr. Lewis does not agree that Sam Bellamy should get bids for the City. According to Mr. De Mayo, It is not a problem for him to contact the three individuals to obtain bids.

Council consensus was to allow Mr. De Mayo to make the phone calls for bids to do the well casing, and then move forward with a decision.

3. Nuisance Abatement Notification Heppner City Code.

Discussion: Mr. De Mayo explained that the way the process is supposed to work according to the City Code is that, a formal notice needs to be posted on the property, a notice needs to be mailed by both certified and regular mail, and the individual is given 30 days to respond, and then a formal hearing is held with the council. Mr. Spicerkuhn defined the "abatement process." Abatement is a special procedure where the City sets itself up so that if a nuisance is not corrected by the property owner, the City can go in and have the work done. Constitutionally, an abatement is a seizure of property, and formal notice is required for an abatement to occur. The City or its officer could notify a property owner that action would be taken within a specific period of time without notice. The abatement process is an important process because it does define how the City can correct a problem.

Mr. Bowles asked if this is just for the City actions. Mr. Bowles wonders why the informal action cannot continue in its present manner. According to Mr. De Mayo, some of the deputies are having a problem with the process since it is not a formal process as stated in the ordinance. However, according to Mr. De Mayo, the current informal process has been working well. Mr. Paustian commented that the process actions should be documented. Mr. Bowles will discuss this with the deputies and explain the current process. The consensus of the Council was to begin with an informal process and then start a formal process to abate a nuisance if no progress was made to correct the nuisance.

4. Request by Duane and Catana Nagel to keep a mini pony on their property at 775 NW Shobe Street.

Action: Motion by Mr. High to approve the Nagel's request. Seconded by Mrs. Doherty. Motion Carried.

8. REPORT FROM CITY ATTORNEY. None.

9. REPORT FROM MAYOR, CITY COUNCILORS. None.

10. ADJOURNMENT. Meeting adjourned at 8:00 PM.

NOTE: Immediately following adjournment, Council members were given a tour of the new fire engine.