
CITY OF MILTON-FREEWATER GOVERNING BODY

Damien Reino At Large, Position 1
Steve Irving - Council President At Large, Position 2
Wes Koklich At Large, Position 3

Lewis S. Key Mayor
John Lyon Ward 1
Bradley J. Humbert Ward 2
Jose Garcia Ward 3

**CITY OF MILTON-FREEWATER
CITY COUNCIL MINUTES****November 8, 2021**

The Council of the City of Milton-Freewater met Monday, November 8, 2021 at 7:00 p.m. in the Albee Room of the Library, 8 SW 8th Avenue, Milton-Freewater, Oregon.

The following City Council members were present: Mayor Lewis Key, Councilors Damien Reino, Brad Humbert, John Lyon, Wes Koklich and Jose Garcia who arrived at 7:06 p.m.

Councilor Steve Irving was absent.

Staff members present were: City Manager Linda Hall, City Recorder Leanne Steadman, City Planner Laurel Sweeney, Public Works Superintendent Brian Steadman and Electric Superintendent Mike Watkins.

Citizens and guests present were: Jack Ruthven, Margo Piver, Cindy Timmons, Heather Nygaard and Ryan Westman.

Representing the news media was: Sherrie Widmer of the Valley Herald.

CONSENT CALENDAR ITEMS:

The consent calendar items consisted of:

- Council Minutes from October 11, 2021
- Accounts payables from October 6, 2021 through October 19, 2021
- Accounts payables from October 20, 2021 through November 2, 2021
- Adoption of Mayor and Council Communication Agreement
- Approval of Liquor License Request for RYZO Wines, located at 235 E. Broadway Avenue

Councilor Humbert motioned to adopt the consent calendar items. Councilor Lyon seconded the motion which passed unanimously. Councilor Garcia was absent for the vote.

BUSINESS ITEMS:**PUBLIC HEARING / FINDINGS OF FACT AND CONCLUSIONS OF LAW AND
ORDINANCE NO. 994 ANNEXATION OF PROPERTY LOCATED AT 7 SOUTH
COLUMBIA STREET INTO CITY LIMITS**

Mayor Key opened and summarized the rules for a public hearing held for the purpose of annexing the property at 7 South Columbia Street into the City, and withdrawal of the same parcel from the Umatilla County Radio and Data District and Umatilla County Sheriff's Law Enforcement District. He then explained that the testimony given in this hearing should be centered around the criteria for annexing the said property at 7 South Columbia Street. He also explained failure to raise an issue

with sufficient directness to afford the decision maker and the parties an opportunity to respond to the issue will prohibit an appeal to LUBA on that issue.

No member of the Council declared ex parte contact and no audience member challenged any Councilor's right to participate in the hearing.

City Recorder Leanne Steadman reported notice of the hearing had been published according to law and no written comments had been received in her office.

The Mayor then asked City Planner Laurel Sweeney to please present the staff report.

At which time Ms. Sweeney presented the staff report which is incorporated below.

CITY COUNCIL STAFF REPORT

APPLICANT: Deborah Purefoy/SimonCRE
6900 E. 2nd Street
Scottsdale, AZ 85251

ISSUE: Request for annexation of property.

SITE DESCRIPTION: The property is located at 7 South Columbia Street, just north of the new Dollar General store. The property has an old house and garage located on it, which will be demolished. A new O'Reilly Auto Parts store is proposed. The property size is approximately 10,454 sq. ft. It is zoned C-2, General Commercial. The site is surrounded by similarly zoned property. It is located within the Urban Growth Boundary.

BACKGROUND

A request for annexation request was submitted by the property owner Deborah Purefoy, in conjunction with SimonCRE. The site is a county island, surrounded by properties that are within the city limits. Land in the area was annexed in the late 1990's. This property was not annexed. The reason is known at this time.

APPLICABLE STATE LAW PROVISIONS

ORS 222.120(1), (3) and (4)(b)
ORS 222.125

COMPREHENSIVE PLAN PROVISIONS

Comprehensive Plan Goal 9
Comprehensive Plan Goal 11
Comprehensive Plan Goal 14/Annexation Policy

JOINT MANAGEMENT AGREEMENT PROVISIONS

IV. Referred Application/Situation

STATE LAW APPLICATIONS

ORS 222.120 – PROCEDURE WITHOUT ELECTION BY CITY ELECTORS; HEARING; ORDINANCE SUBJECT TO REFERENDUM.

(1) Except when expressly required to do so by the city charter the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city and shall cause notice of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, a city legislative body may, by an ordinance containing a legal description of the territory in question:

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170 prior to the public hearing held under subsection (2) of this section;

FINDINGS: The city charter does not require the submission of annexation proposals to the voters of the city. A date was scheduled for public hearing on the annexation proposal, and notice of the hearing was published once each week for two successive weeks in the Valley Herald, and posted in four public places in the city for the same period of time, in conformance with this section. Therefore, this requirement is met.

ORS 222.125 – ANNEXATION BY CONSENT OF ALL OWNERS OF LAND AND MAJORITY OF ELECTORS; PROCLAMATION OF ANNEXATION.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

FINDINGS: Deborah Purefoy, the sole owner of the property, has consented in writing to the annexation.

COMPREHENSIVE PLAN GOAL APPLICABLE PROVISIONS

GOAL 9 – ECONOMY

9-1-1: The city of Milton-Freewater will continually strive to strengthen its business, financial, health, tourist and retail activities and to capitalize on its comparative advantages in the local and regional marketplace.

FINDINGS: Annexation of the subject parcel would strengthen potential retail activities in Milton-Freewater as well as provide additional employment opportunities.

GOAL 11 – PUBLIC FACILITIES

1. The City of Milton-Freewater will continue to provide and maintain urban services (water, sewer, storm drainage, services and transportation infrastructure) to residential, commercial and industrial lands within the City's Urban Growth Area prior to or concurrent with development and annexation.
2. The City will require urban development to be served by urban services.
3. The City will prioritize development of land serviced by utilities and require the extension of water, sewer and storm drainage facilities for all urban level development within the UGB.
4. The City shall be the provider of public facilities in the urbanizable area.
5. Public facilities shall be extended to urbanizable land only upon annexation or upon execution of agreements for annexation at a certain date.
6. Property in the urbanizable area shall be annexed to the City only when the property is contiguous to the City limits and only when public facilities as required by the Land Development Code are provided.
7. County Exclusive Farm Use designation shall continue to apply to lands in the urbanizable area which currently have that designation. Upon annexation, these lands shall change to the plan designation and land use zone specified by the City Comprehensive Plan and implementing codes.

FINDINGS: Sewer and water utilities are in close proximity to the subject property. User charges and system development charges have been set to help support and maintain the various systems, and will be required to be paid prior to connection to the City's sewer system. The subject property is contiguous to the City limits. There is no request for zone change of the subject property.

GOAL 14 – URBANIZATION

“ANNEXATION POLICY”

“Land within the City of Milton-Freewater urban growth boundary (UGB) will be eligible over time for annexation into the corporate limits of Milton-Freewater. Land outside the UGB will not be eligible for annex into the City limits...”

“Property requested for annexation to the city must be contiguous with (adjacent to) the existing corporate limits. Streets, sewer mains and water mains must be extended, at the developer’s cost, to service residences and businesses within the annexing property at the time of annexation (unless proper agreements and bonds are approved by the City for later improvements).

“The City will annex property only if the capacities of the City sewer and water systems are adequate to handle and added demand. The City will not annex any property whose owner does not wish to be annexed unless annexation is necessary as part of the development of the general location or neighborhood.

“The City will not refuse to annex property contiguous with the City limits if the City sewer and water system are capable of handling the additional demand and if the annexing property agrees to construct required public improvements to City standards.

FINDINGS: The subject property is located within the urban growth boundary, contiguous to the City limits. The capacity of the City’s sewer systems, designed to accommodate growth in the Urban Growth Area, are sufficient and capable of handling the added demand of a commercial business.

“URBAN GROWTH BOUNDARY

Future development for Milton-Freewater will be located within the City limits and to the east, west, and south of the present City limits and within a growth limit line called the Urban Growth Boundary (UGB). Urban development within this line will occur in an orderly planned fashion. Property will be required to annex to the City and extend sewer and water mains for sewer and water needs.

“Orchard land to the north of the city will be protected from further urban encroachment. Some agricultural land will be utilized for urban development as the City grows. This is inevitable since the city is surrounded by land presently in crop production. However, urban development will be centrally located within the urban growth boundary of the City of Milton-Freewater due to adoption and implementation of statewide planning goals for urbanization and agricultural lands in the county comprehensive plan. Thus urban and suburban sprawl will be replaced by an urban hub surrounded by agricultural and rural residential land uses.

“Land within the Urban Growth Boundary shall be available for urban use. The change of the land use from rural to urban shall be possible when the following services are available: Sewer, water, paved public street and adequate fire and police protection to meet minimum City and State standards. The first areas allowed for urbanization shall be

those which first receive development of a major subdivision, PUD or commercial business (excluding farming) in which public water and sewer service can be reasonably extended for further development.

“1. Conversion of urbanizable land to urban use shall be based on:

- a. The ability to provide orderly, economic provision for public facilities and services;
- b. LCDC statewide goals;
- c. Availability of sufficient land for various land uses;
- d. Encouragement of development within urban areas before conversion of urbanizable area.”

FINDINGS: The subject property is an island within City limits. It is within the Urban Growth Boundary and therefore is urbanizable. All of the above services are available to serve the subject property in an orderly, economic fashion.

“7. Land in the Urban Growth Boundary shall be allowed for urbanization and growth in any two of three separate identifiable major segments of rural land in the Urban Growth .

“The first areas allowed for urbanization shall be those which first receive development of a major subdivision, planned unit development of commercial business (excluding farming) and in which public water and sewer services can be reasonably extended for further development.

FINDINGS: Two of the three separate identifiable segments of land have been the subject of prior developments, so the third segment will not be allowed for development until at least 50% of the available land has been developed in those first two segments. The subject property is not located in the third segment (all land east of the Walla Walla River), and is a logical candidate for annexation.

“8. Protect the unique orchard region north of the City from urban expansion.”

FINDINGS: The proposed annexation will not have any effect on the orchard region to the north.

JOINT MANAGEMENT AGREEMENT APPLICATIONS

IV. REFERRED APPLICATION/SITUATION

“U. The city shall refer all annexation proposals submitted to the UGA to the County for review and comment at least ten (10) days prior to the first public hearing on the annexation. The city will allow additional County review and comment [if] changes [are] to be made in the annexation proposal following initial or subsequent hearings.

FINDINGS: Notice was provided to the County on October 26, 2021, more than ten days prior to the date scheduled for hearing on the annexation request.

GENERAL COMMENT

The request for annexation appears to have satisfied state law as well as the City's Comprehensive Plan goals. The annexation would allow for a property that is currently receiving City water to actually be located within the City, and to have City sewer and other services serve the property. This would be of benefit to the applicant as well as the City.

STAFF RECOMMENDATION

Staff recommends annexing the subject property to the City.

Councilor Koklich asked about the property access to and from Columbia Street and utility hook-ups.

Ms. Sweeney stated Oregon Department of Transportation (ODOT) controls the highway access which runs on Columbia Street and the utility hooks ups will be from the back of the property.

Mayor Key invited the applicant to speak.

The applicant was not present.

Mayor Key opened the floor for those in favor to speak, and then for those in opposition to speak which there were none.

There being no other comments, the Mayor declared the hearing to be closed.

Councilor Lyon motioned to adopt the Findings of Fact and Conclusion of Law supporting the decision to annex 7 South Columbia Street. Councilor Koklich seconded the motion and a roll call vote was taken: Councilor Reino, yea, Councilor Garcia, yea, Councilor Humbert, yea, Councilor Lyon, yea and Councilor Koklich, yea, the motion passed unanimously.

Councilor Humbert motioned that Ordinance No. 994 be introduced by title only and full reading waived. Councilor Lyon seconded the motion and a roll call vote was taken: Councilor Reino, yea, Councilor Garcia, yea, Councilor Humbert, yea, Councilor Lyon, yea and Councilor Koklich, yea, the motion passed unanimously. The City Manager then read the ordinance by title. The council then introduced the first reading of Ordinance #994, An Ordinance Annexing Certain Territory Located at 7 South Columbia Street.

Councilor Humbert asked if the project would be held up if the second reading and adoption was held at the next council meeting.

Ms. Sweeney stated the property owner and buyer were anxious to get started on the project.

There was a consensus to proceed with the second reading and adoption since there was no oral or written objection to the annexation.

Councilor Humbert motioned that the second reading of Ordinance #994 be by title only and full reading waived. Councilor Lyon seconded the motion and a roll call vote was taken: Councilor Reino, yea, Councilor Garcia, yea, Councilor Humbert, yea, Councilor Lyon, yea and Councilor Koklich, yea, the motion passed unanimously. The City Manager then read the ordinance by title.

Councilor Reino motioned to adopt Ordinance #994, Ordinance Annexing Certain Territory Located at 7 South Columbia Street. Councilor Koklich seconded the motion and a roll call vote was taken: Councilor Reino, yea, Councilor Garcia, yea, Councilor Humbert, yea, Councilor Lyon, yea and Councilor Koklich, yea, the motion passed unanimously.

APPROVAL OF CHANGE ORDERS FOR HOUSE BILL 2017 (HB2017) STREET IMPROVEMENT PROJECTS WITH HUMBERT ASPHALT

Public Works Superintendent Brian Steadman stated on March 8, 2021 unit prices were awarded to Humbert Asphalt, Inc. as per their bid to complete paving and sidewalk improvements as part of the HB2017 street improvement project. He stated as with any large project there are items subject to change orders that were unknown at the time of planning and engineering. Mr. Steadman presented three change orders that included work on SW 8th Avenue and SE 12th Avenue. These change orders totaled \$33,766.31 which is less than 3% of the total project.

Councilor Humbert disclosed that he did some consulting work on the projects and did have some financial gain through his association with Humbert Asphalt, Inc.

Councilor Lyon motioned to authorize signature to Change Orders No. 1, No. 2 and No. 3 for HB2017 Street Improvement Projects – 2021 with Humbert Asphalt, Inc. in the total amount of \$33,766.31. Councilor Koklich seconded the motion which passed with Councilor Humbert abstaining from the vote.

APPROVAL TO PURCHASE 2020 FREIGHTLINER 108SD DUMP TRUCK

Public Works Superintendent Brian Steadman stated council approved the purchase of a new 2023 Kenworth T400 Series Conventional Dump Truck with snow plow fittings in the amount of \$184,147 on June 14, 2021. Since then, an additional surcharge for \$1,000 was approved by Council and then staff was notified of another increase to the truck purchase from Kenworth bringing the total purchase price up to \$191,882. He stated after discussing the increases to the price of the truck and the expected delivery date of sometime in 2023, he and Manager Hall both agreed to seek out other options and chose to cancel the truck purchase agreement. Mr. Steadman gave credit to Lead Mechanic Bryon Carson who found a 2020 Freightliner 108SD truck that was built for EXPO type shows and to demonstrate to potential customers. The truck has never been used for any real work but all the mounting hardware, hydraulics and touch screen controls for a snow plow and sander are already installed on the truck. Mr. Steadman and Mr. Carson looked the truck over closely and took it on a test drive with both agreeing it appeared to have no problems. The truck has been driven 12,512 miles and has 294 hours on it. Mr. Steadman stated the low miles and hours were in his opinion a good test to see if the truck had any defects that some vehicles have straight from the factory. The price of the truck was \$147,228.20 which is approximately \$44,000 less than the new truck. A snow plow would be required to be purchased separately which staff has already located one that's made for this truck.

A brief discussion ensued.

Councilor Lyon motioned to award Vehicle 194, One 2020 Freightliner 108SD truck to Gordon Truck Centers, Inc. for a total purchase price of \$147,228.20. Councilor Humbert seconded the motion which passed unanimously.

APPROVAL TO PURCHASE 3-PHASE ACLARA ELECTRIC METERS FROM GENERAL PACIFIC, INC.

Electric Superintendent Mike Watkins stated the electric department uses 3-phase meters on industrial, commercial and a few heavily-loaded residential accounts. Elster meters have been used for approximately 11 years, and staff was recently notified that the Elster brand is now obsolete and can no longer be ordered. The Aclara brand is a suitable replacement, and can be installed and implemented without any modifications to the electric system. As with other materials, the cost of products and lead times are increasing. Staff was told the lead time on these meters could be up to 52 weeks. Staff's recommendation was to purchase 48, 3-phase Aclara electric meters from General Pacific, Inc.

Manager Hall stated that Mr. Watkins and Mr. Steadman have seen material quotes only good for 24 hours due to costs rising daily.

Councilor Lyon asked if the 48 meters would be used to replace old meters or were they for new services.

Mr. Watkins stated it would be for both.

Councilor Lyon motioned to authorize the purchase of 48, 3-phase Aclara electric meters from General Pacific, Inc. for the amount of \$33,967.72. Councilor Humbert seconded the motion which passed unanimously.

RESOLUTION NO. 2475, AMENDING USER FEE SCHEDULE BY CHANGING A RE-CONNECT FEE TO A DISCONNECT FEE FOR UTILITY ACCOUNTS

Manager Hall stated in reviewing practices, policies and fees, the new Finance Director Dustin Dougherty realized an inadequacy and brought it to her for consideration. Mr. Dougherty pointed out, that the city is out the cost of disconnecting a utility service, with a reconnect fee of \$25 only being charged if that customer comes in to reconnect their service after being disconnected for non-payment. Mr. Dougherty's suggestion was to assess the \$25 fee as a disconnect fee rather than a reconnect fee and the fee is charged when the service is disconnected not only when the service is re-connected. Manager Hall stated staff was not proposing to change the fee amount of \$25 but only how it is assessed by changing it from a re-connect fee to a disconnect fee. The fee of \$25 for a reconnect would be removed from the "Electric User Fee" page and added to the "Administrative User Fee" page as a \$25 disconnect fee for utility accounts.

Councilor Lyon motioned to adopt Resolution No. 2475, Resolution Amending the User Fee Schedule by Changing a Re-Connect Fee to a Disconnect Fee for Utility Accounts. Councilor Reino seconded the motion which passed unanimously.

APPROVAL OF ADDITIONAL SERVICE REQUEST #1 WITH FFA ARCHITECTURE AND INTERIORS, INC. FOR DEVELOPMENT OF COMMUNICATION SYSTEM DESIGN AND ENGINEERING SERVICES FOR NEW POLICE AND DISPATCH FACILITY

Manager Hall stated the new police station and dispatch center was still in the design and engineering phase. One of the crucial parts of the new building will be the emergency dispatch

communications and radio communications for officers out on patrol. This component requires an expert not only in the field of radios, consoles, frequencies and permitting but specific to the advanced needs of emergency dispatching and police communications. The vendor, CSI Telecommunications Inc. of Navato California is well known to FFA Architectures whom we are contracting with for the engineering and design of the new police department building. CSI Telecommunications made a site visit and met with city staff to discuss and view the current system, antennas, capabilities, physical terrain, and viewed the location of the new building. They have submitted a proposal to supply a base design as well as review and evaluate bid plans and documents for adherence to national standards and requirements. They will also provide technical support for the construction phase as well as be a resource for the project management phase. Manager Hall stated it was important to note this is a base design for the communication system of the new building only. Staff opted to start with a base design and build on added components as needed. She gave an example of an added component being the improvement of the antenna system on City Hall and the repeater on the Public Works shop for overall system improvements to the communication system. This is an additional service outside the scope of the design of the actual building and therefore a separate service request will be required. The proposal for design engineering and bid specification development of the base communication system is \$58,400. This would be paid for along with the other project costs from the proceeds of the General Obligation Bond sales.

Councilor Reino asked if they would provide their own IT staff.

Manager Hall stated they would be providing IT staff but they would be working with the City's IT personnel as well.

A brief discussion ensued regarding warranty of work.

Councilor Lyon motioned to approve Additional Service Request #1 with FFA Architecture and Interiors, Inc. for Development of Communication System Design and Engineering Services for New Police and Dispatch Facility. Councilor Garcia seconded the motion which passed unanimously.

OPPORTUNITY FOR CITIZENS TO APPROACH THE COUNCIL WITH ITEMS NOT ON THE AGENDA

Heather Nygaard – 524 N. Elizabeth #3, asked if the playground equipment at Freewater Park was taken down by the Kiwanis Club could the City install the playground equipment received from Grove School.

Manager Hall stated that she and Public Works Superintendent Brian Steadman had both already been asked about this project and she responded in writing to two other people who represented themselves as representing the Kiwanis Club. She said this project has been put on hold due to staff shortages and going into winter which was relayed in writing as stated earlier to both that inquired about this project. Staff's plan was to arrange for this project to be done next spring. She said she could talk to Mr. Steadman and see if there was a way to come up with a different plan if Council chose to.

A discussion ensued.

Councilor Humbert stated this was a staff issue that needs to be coordinated with staff members and not the council and that staff's plan of next spring was good with him.

Cindy Timmons – 54171 Miller Rd., she introduced herself and stated she was running for Umatilla County Commissioner Position 1.

MANAGERS REPORT

Manager Hall stated she had a Zoom meeting scheduled with FFA Architecture Design team and the project was running right on track in regards to the budget until the lead Project Manager John Pete called with some news that they are seeing incredible swings in material prices specifically electric. She stated she and staff is working on getting the breakdown and exact costs and reminded FFA design team that the City has its own electric utility which can do some of the work for the project that would have a cost savings. She said the rough estimate was \$1,000,000 over budget but this number is before staff has researched the specific breakdowns of items.

There being no further business the meeting was adjourned at 8:05 p.m.

Lewis S. Key, Mayor