

June 23, 2008

**City of Milton-Freewater  
City Council Minutes**

The Council of the City of Milton-Freewater met in regular session Monday, June 23, 2008 at 7:00 p.m. in the Albee Room of the Library.

The following members were present: Mayor Lewis Key, Councilors Orrin Lyon, Ed Chesnut, Keith Woods, Debbie Kelley, Steve Irving and Brad Humbert.

Staff members present were: City Manager Linda Hall, City Recorder Leanne Steadman, Public Works Superintendent Dave Bradshaw, Finance Director Dave Richmond, Electric Superintendent Mike Charlo, City Planner Gina Hartzheim and Police Chief Doug Boedigheimer.

Budget Committee members Marge Roff and Wes Koklich were also present.

Citizens present were: Christine Boedigheimer, Adam Sherman, Donna Sherman, Merle Sherman, Laura Nielson and Dennis Nielson.

Press member Melanie Hall of the Valley Herald was present.

**CONSENT CALENDAR ITEMS:**

The consent calendar items consisted of minutes from the June 9, 2008 regular council meeting, executive session minutes from June 9, 2008 and accounts payable from June 4, 2008 – June 17, 2008.

Councilor Kelley motioned to approve the consent calendar items. Councilor Chesnut seconded the motion which passed unanimously.

**BUSINESS ITEMS:**

**REQUEST BY DENNIS & LAURA NIELSON OF TRAILS WEST RV PARK FOR ELECTRIC SUB-METERING**

Electric Superintendent Mike Charlo said he had received a request from Dennis and Laura Nielson, owners of the Trails West RV Park on Milton Hill, requesting the City to allow them to sub-meter and resell electricity purchased from the City, to their customers at the Trails West RV Park. The original request was made in 2005 and had been ongoing since then. Mr. Charlo explained he denied Mr. and Mrs. Nielson's request and his decision was based on extensive experience with the electric utility, communication with Bonneville Power Administration, Oregon Public Utilities Commission and referring to the City Code, Utility Regulations and Electric Rate Schedules which prohibits sub-metering of electric service. Mr. Charlo stated private utilities such as PGE and Pacific Power do allow sub-metering but the public utilities staff had polled do not allow sub-metering. Mr. Charlo said if sub-metering were to be allowed it would jeopardize Council's authority to regulate and control the electric rates charged to their customers within Milton-Freewater's service territory. Mr. Charlo also explained that the City of Milton-Freewater had been and remains very committed to energy conservation.

Laura Nielson – 702 Bryant Ave., Walla Walla, WA owner of Trails West RV Park – Mrs. Nielson stated the Constitution prohibits charging a tenant different rates at an RV Park, she

stated everyone gets charged the same rate. She gave an example of a larger RV with a washer/dryer, microwave, air conditioner and other amenities which could use more power than a much smaller RV that does not have all the amenities but the smaller RV owner pays the same as the large RV owner. She stated that by charging everyone the same price it was discriminating against the tenants that did not use as much power. Mrs. Nielson said by allowing them to sub-meter the electricity they would know exactly what each tenants used and they would charge the tenants accordingly to avoid this discrimination. She stated she had received letters from Mr. Charlo, Kristian Hedine – Attorney and legal counsel for the City of Milton-Freewater, Mike Normandeau, Bonneville Power Administration Account Executive and she talked to Debra Garcia of the Oregon Public Utility Commission and they all stated that sub-metering was not allowed. Mrs. Nielson said she received a letter from Stephen Wright, Administrator and CEO of BPA by way of Mike Normandeau saying sub-metering was allowed through the City of Milton-Freewater’s Power Sales Contract. She also stated they have eleven (11) more spaces ready for meters at their RV Park.

Councilor Humbert asked if the RV Park had 30 & 50 size amps.

Mr. Nielson responded by saying there were 20, 30 & 50 size amps installed at the RV Park.

Councilor Kelley asked if the Nielson’s charged different rates for the different sized amps.

Mrs. Nielson replied by saying, “no we don’t”.

Councilor Kelley stated that the Nielsons had purchased the RV Park knowing the park was not sub-metered. She asked how the Nielsons re-coup their cost of the pedestals that were already installed. She also asked Mrs. Nielson if they sub-metered the water usage.

Mrs. Nielson replied they would not pass on the cost to tenants of the pedestals already installed and no, they do not sub-meter the water.

Councilor Kelley stated the City has a RV dump located at Orchard Park which is at the base of Milton Hill that the Trails West RV Park tenants use at no cost to the tenant or the Nielsons as owners of the RV Park.

Councilor Humbert referred to a paragraph from the Power Sales Agreement executed by the Bonneville Power Administration and the City of Milton-Freewater Attachment 1B; Bonneville Project Act of 1937:30. “Contracts for the sale of electric energy to any private person other than a privately owned public utility engaged in selling electric energy to the general public, shall contain a provision forbidding such private purchaser to resell any of such electric energy so purchased to any private utility or agency engaged in the sale of electric energy to the general public”.

Councilor Woods recommended the Nielsons average the bills among the tenants.

Councilor Lyon suggests the Nielsons charge different rates for the 20, 30 and 50 amp size RV sites.

Mrs. Nielson said Mike Normandeau of BPA said sub-metering was not allowed but Stephen Wright who was an administrator with BPA said sub-metering was allowed.

Mayor Key said he did not like the fact that Mrs. Nielson wrote to BPA trying to re-negotiate the City's Power Sales Contract.

Mrs. Nielson replied by saying, "Well I did".

Councilor Kelley motioned to deny the request to allow sub-metering of electricity purchased from Milton-Freewater City Light & Power. Councilor Chesnut seconded the motion which passed unanimously.

Mr. Nielson stated he wished to make a statement.

Council agreed.

City Manager Hall asked Mr. Nielson if he had been tape recording the meeting.

Mr. Nielson said yes he was.

Ms. Hall said it was proper protocol to inform those in attendance that they were being recorded at the onset of a meeting.

Mr. Nielson stated he was not able to charge different rates for 20, 30 and 50 amp services. He said if the City's books were looked at he was sure there was grant money being received for "Green Power". He also referred to conserving energy and how sub-metering would allow for that. Mr. Nielson also said they were not going to quit and this matter was very serious.

The council's motion stood, and they moved to their next item of business.

**RESOLUTION NO. 2089 APPROVAL OF UMATILLA COUNTY DEADLY FORCE PLAN, SET FORTH BY OREGON SENATE BILL 111**

Police Chief Doug Boedigheimer explained that Oregon Legislature had mandated, via Senate Bill 111, that all counties in Oregon create and adopt protocols to guide police agencies and district attorneys through a state approved process in the event of police using deadly force in the line of duty. Chief Boedigheimer said the City's policy was very similar to the plan being presented, as he found out from the incident with an officer December 2007. Chief Boedigheimer recommended adopting the Umatilla Counties Deadly Physical Force Plan.

Councilor Humbert motioned to adopt Resolution No. 2089, Resolution approving the Umatilla County Deadly Physical Force Plan, bringing the City of Milton-Freewater into compliance with the legislative mandates set forth by Oregon Senate Bill 111. Councilor Kelley seconded the motion which passed unanimously.

**MOTION TO INITIATE ANNEXATION PROCEEDINGS FOR A PORTION OF S.E. 2<sup>ND</sup> AVE.**

City Planner Gina Hartzheim reported that S.E. 2<sup>nd</sup> Avenue currently was not located within the City, even though there were properties bordering the street that were within the City limits. She said it had historically been a "no man's land" street with neither the County nor the City taking jurisdiction of the unimproved road, although the City had done some grading and have put down gravel in the past. Ms. Hartzheim said that a portion of S.E. 2<sup>nd</sup> had recently been paved and staff felt that it was a good time to annex that portion into the City, legalize the portion of the street within City limits and accept jurisdiction. She explained that

a survey must be completed prior to legalizing the portion of S.E. 2<sup>nd</sup> Ave and that a public hearing would also need to be held on the annexation and legalization. She said that letters had gone out to property owners presently outside the City limits prior to the paving project to see if there was any interest from the property owners to be annexed into the City along with the street. Currently there were no interested property owners therefore the recommendation would be to annex the right-of-way.

Councilor Humbert said he was disappointed that tax lot #1800 and #1700 were not annexing since they would receive the full benefit of the paved street.

City Manager Hall said there could be additional follow up with those property owners.

Councilor Woods asked who currently owned the street.

Ms. Hartzheim replied that no one claimed ownership of the street so that's why it's referred to as "no man's land".

Councilor Humbert motioned to direct staff to initiate annexation and legalization proceedings for a 60' wide portion of S.E. 2<sup>nd</sup> Avenue beginning at the intersection of Hwy. 11 and running east for approximately 499 feet and to cause that portion to be surveyed. Councilor Kelley seconded the motion which passed unanimously.

**RESOLUTION NO. 2090 TRANSFER FUNDS DUE TO UNFORESEEN EXPENDITURES**

Finance Director Dave Richmond explained that during the current budget year there were events that occurred that were not foreseen at the time of preparing and adopting the budget. He reviewed the various departments that needed to have adjustments made in order to stay in compliance with the local budget law.

Councilor Kelley motioned to adopt Resolution No. 2090, Resolution to transfer funds due to unforeseen expenditures and revenues. Councilor Humbert seconded the motion which passed unanimously.

**PUBLIC HEARING AND RESOLUTION NO. 2091 STATE REVENUE SHARING**

Mayor Key opened and summarized the rules for a public hearing held for the purpose of gaining citizen input towards the receipt and use of state revenue sharing funds in the amount of \$45,500. The City Recorder reported the hearing had been published according to law and there were no written comments on file. Mayor Key then opened the floor to citizen comments.

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

Finance Director Dave Richmond said the State Revenue Sharing Fund is based upon population and must be spent on public purposes. He stated the City had anticipated receiving \$45,500 which would be received quarterly.

Councilor Humbert motioned to adopt Resolution No. 2091, Resolution Electing to Receive State Revenue Sharing Funds in the amount of \$45,500. Councilor Chesnut seconded the motion which passed unanimously.

**PUBLIC HEARING AND RESOLUTION NO. 2092 ADOPT FY2009 BUDGET**

Mayor Key opened and summarized the rules for a public hearing held for the purpose of gaining citizen input towards the proposed city budget for fiscal year 2009. The City Recorder reported the hearing had been published according to law and there were no written comments on file. Mayor Key then opened the floor to citizen comments.

City Manager Linda Hall thanked the budget committee for their hard work and dedication.

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

Finance Director Dave Richmond also thanked the budget committee. He said the budget committee had made a recommendation to levy taxes at a rate of \$3.7499 per \$1,000 of assessed value, \$60,000 Local Option Tax for senior transportation and \$102,249 for Bonded Debt.

Councilor Humbert said he wanted to thank the staff and department heads for being very frugal and comprising a good budget.

Councilor Kelley said she also agreed with Councilor Humbert and she said that the City of Milton-Freewater was very fortunate to have all that it does like a library, aquatic center and she commented on the good streets as well.

Councilor Kelley motion to adopt Resolution No. 2092, Resolution Adopting The Budget for the 2008-2009 fiscal year in the sum of \$23,158,982, levy taxes at the rate of \$3.7499 per \$1,000 of assessed value for operations, \$60,000 Local Option Tax for senior transportation and in the sum of \$102,249 for Bonded Debt, and make appropriations as listed. Councilor Chesnut seconded the motion which passed unanimously.

**RESOLUTION NO. 2093 AMEND WATER RATES**

Public Works Superintendent Dave Bradshaw stated there were two new fees established to the water rate schedule. The first one was for taking special water samples from facilities and the second one was to inspect newly installed underground irrigation systems to ensure backflow devices were properly installed. There was a 10% overall rate increase proposed which was equivalent to a \$1.57 per month increase to the base rate. The increase was primarily due to increased fuel and material prices going up as well as additional water testing requirements. The increase would be effective July 1, 2008.

Manager Hall said she had been in touch with other cities in regard to sewer and water rate increases. She stated most cities having rate increases in the double digits.

Councilor Humbert motioned to adopt Resolution No. 2093, Resolution Amending Water Rates. Councilor Woods seconded the motion which passed unanimously.

Merle Sherman – 716 Pierce, asked how the city would know that someone was installing a backflow device in their underground irrigation system.

Manager Hall replied and stated they should be getting a permit and it would be at that time that the City would verify if the customer had a backflow prevention device.

**RESOLUTION NO. 2094 AMEND SEWER RATES**

Public Works Superintendent Dave Bradshaw stated there was a 5% overall rate increase proposed in the sewer rate schedule which was equivalent to a \$1.18 per month increase to the base rate. The increase was primarily due to the increased fuel and materials as well as the loss in industrial revenues. The increase would become effective July 1, 2008.

Councilor Humbert said he wanted to recommend changing the rate for the sewer camera fee from \$20 to \$50. He said the cost for that service seemed too low and it would cost more than \$20 for someone to perform that service.

Councilor Humbert motioned to amend the sewer camera fee from \$20 to \$50 per hour plus the cost of labor which was listed in the Sewer Rate and Charges Resolution. Councilor Woods seconded the motion which passed unanimously.

Councilor Humbert motion to adopt Resolution No. 2094, Resolution Amending the Sewer Rates which included the change to the sewer camera fee to \$50 per hour plus the cost of labor. Councilor Irving seconded the motion which passed unanimously.

**AWARD OF CONTRACT TO CONSULTANT TO PERFORM THE ECONOMIC OPPORTUNITY ANALYSIS**

City Manager Linda Hall presented the background of the Economic Opportunity Analysis. She explained an award of the service contract was the next step in the process. Ms. Hall said the request for proposals were sent out and four consulting firms responded. The four firms were Columbia Planning and Design of Hood River, Oregon, PAC/WEST of Wilsonville, Oregon, Angelo Planning Group of Portland, Oregon and Johnson Gardner of Portland, Oregon. Ms. Hall said after careful consideration of the proposals her recommendation was to award the service contract to Johnson Gardner of Portland, Oregon.

Councilor Kelley motion to award the proposal for consultant services for the Economic Opportunity Analysis to Johnson Gardner LLC of Portland, Oregon. Councilor Humbert seconded the motion which passed unanimously.

**RESOLUTION NO. 2095 AMEND EMPLOYEE PAY PLAN, ESTABLISHING PAY SCALE FOR CODE ENFORCEMENT OFFICER**

City Manager Linda Hall stated the Code Enforcement Officer Position had been re-established last year with a single step pay scale. She said the position was included in the Supervisors and Technicians bargaining unit and that she recommended establishing a five step pay scale to be consistent with others in that unit. The scale would have five steps with a 5% increase between steps. The proposed scale would start at \$12.00 an hour and top out at \$14.58 an hour.

Councilor Irving asked if there were definite time frames for advancing up the scale.

Manager Hall said usually once an employee was taken off probation they were given a step increase. After that, the employee usually receives a step increase on an annual basis.

Councilor Chesnut asked if the 5% increments between the steps were consistent with other wage scales.

Manager Hall replied, yes.

Councilor Chesnut motioned to adopt Resolution No. 2095, Resolution Amending Employee Pay Plan by the addition of a five step pay scale for the position of Code Enforcement Officer. Councilor Kelley seconded the motion with passed unanimously.

**APPROVAL OF LIQUOR LICENSE APPLICATION FOR PETITS NOIRS**

City Recorder Leanne Steadman presented a liquor license application from Petits Noirs which is a chocolate boutique located at 622 S. Main. She said the request came from the owners, Lan Wong and James Boulanger who wanted to be able to pair their chocolates with local area wines for gift packaging and to be able to host wine tasting events at their place of business. They have requested an off-premises sales license. Staff recommends approval of the license.

Councilor Irving disclosed ex parte contact with Lan Wong. He explained he had contact with Lan Wong, owner of Petits Noirs while shopping at the business and there was a question regarding the process for a liquor license. Councilor Irving said he told Lan to contact the city for the process.

Councilor Humbert motioned to approve the liquor license application submitted by Lan Wong and James Boulanger for the business located at 622 S. Main St., Petits Noirs. Councilor Woods seconded the motion which passed unanimously.

**MANAGER'S REPORT:**

Manager Hall suggested to council that they be thinking of candidates for their "Spruce Up" improved property awards which will start after July 1<sup>st</sup>. She also commended council on the great job they did at the meeting that night.

Councilor Woods said there was a house on Broadway by the Post Office that had really cleaned up around their house. He said it looked very nice.

Councilor Chesnut suggested there be a notification listed on the council's agenda that the council meetings were recorded. Ms. Hall agreed.

There being no further business, council adjourned to an Urban Renewal Agency meeting at 8:28 p.m.

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Lewis S. Key, Mayor