

MINUTES OF THE REEDSPORT CITY COUNCIL REGULAR SESSION APRIL 5, 2010  
7:00 P.M. CITY HALL COUNCIL CHAMBERS.

PRESENT:

Mayor, Keith Tymchuk

Councilors Bill Otis, Diane Essig, Bill Walker, Mike Macho,  
Ginger Anderson and Tonya Wahl

City Manager, Scott Somers

City Attorney, Steve Miller

OTHERS PRESENT:

Deanna Schafer, Diane Novak, John Smart, Floyd Dollar,  
Allen Teitzel, Robin Dollar, Sandra Rice, Luciana Shanklin, Judy Macho, Debbie  
McKinney, Lori Newman, Ruth Hash

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Keith Tymchuk called the meeting to order at 7:00pm.

2. PRESENTATIONS, PROCLAMATIONS, AWARDS, CITIZEN COMMENTS

A. Arbor Day Proclamation was read by Mayor Tymchuk.

B. Tree USA presentation was presented to Mayor Tymchuk by Dave Taylor of the  
Oregon Department of Forestry

C. National Child Abuse Prevention Month proclamation was read by Mayor  
Tymchuk.

D. Reserve Officer Jim Shanklin was publicly sworn in to active duty by Chief John  
Smart.

3. APPROVAL OF THE AGENDA

Councilor Ginger Anderson moved that the City Council approve the Agenda.

Councilor Tonya Wahl seconded the motion.

MOTION:

that the City Council approve the Agenda.

VOTE:

A vote was taken on the motion with the following results:

AYES 7 NAYES 0

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson, Wahl and Walker voted in favor of the motion.)

Mayor Tymchuk declared the motion passed unanimously.

4. PUBLIC HEARING

5. CONSENT AGENDA

*Routine items of business that require a vote but are not expected to require discussion by the Council are placed on the Consent Calendar and voted upon as one item. In the event that a Councilor or citizen requests that an item be discussed, it will be removed from the Consent Calendar and placed under General Business.*

- A. Approve minutes of the work session of March 1, 2010.
- B. Approve minutes of the regular session of March 1, 2010.
- C. Shall the City Council approve expenditure of grant funds for purchase of a senior and disabled van for the Dial a Ride program?

Since July of 2008 the City of Reedsport has managed the former Douglas County transportation program referred to as "Dial a Ride". The program is funded by Oregon Department of Transportation (ODOT) Special Transportation Funds (STF) formula funds. When the County entered into an agreement with the City of Reedsport to provide transportation to senior and disabled persons in the Reedsport area, a County owned van equipped to transport disabled persons was loaned to the City for this service.

Since 2008 some significant issues have come to the City's attention concerning the possible lifespan of the current transportation vehicle. The County was made aware of the problems and has provided additional funds to correct the issues as they arise.

In 2009 Douglas County also informed the City that the City's program could qualify for a replacement van within the next biennium budget. Working closely with Douglas County, we identified a qualified vehicle through the State of Oregon purchasing program and applied for discretionary funds in the amount of \$45,853. Approximately \$5,000 of this amount is for capital repairs to the current vehicle until the new one is received. The new vehicle will be owned by the City of Reedsport.

There is no fiscal impact. This item is funded by ODOT STF discretionary funds. These amounts have been included in the 2009/2010 budget document.

\*Approve the purchase of a new van for the purpose of transporting senior and disabled persons.

D. Shall the City Council approve grant application for improvements to the Library Building?

At the April 6, 2009 regular Council Meeting, the Council adopted Resolution 2009-005 which established procedures for the submission of capital improvements grants for the Reedsport Branch Library.

The Resolution states that all grants over \$10,000 needs Council approval prior to submission. Attached are two grants which have been reviewed by staff and now await Council approval.

- A grant request of \$50,000 is directed to the Ford Family Foundation Fund for use in the replacement of the solarium, windows and exterior siding and interior repairs.

The City is fortunate to have such a great number of community volunteers willing to donate many hours required in the process of project coordination, fund raising, and grant writing on behalf of the Reedsport Library and City of Reedsport.

It is staff's recommendation that the Council authorize the Mayor to sign the grant applications and grant acceptance when the grants are awarded.

\*Authorize the Mayor to sign the grant application to the Ford Family Foundation Fund in the amount of \$50,000.00 to repair the Reedsport Branch Library building and to accept the grant when it is awarded.

E. Motion to approve the Consent Calendar.

Councilor Mike Macho moved that the City Council approve the Consent Calendar.

Councilor Bill Walker seconded the motion.

MOTION:

that the City Council approve the Consent Calendar.

VOTE:

A vote was taken on the motion with the following results:

AYES 7 NAYES 0

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson, Wahl and Walker voted in favor of the motion.)

Mayor Tymchuk declared the motion passed unanimously.

6. GENERAL BUSINESS

- A. Shall the City Council seek delay costs/liquidated damages from R & G Excavating Inc. and/or approve an amendment to the contract between the City and Kennedy Jenks Consultants for unanticipated costs, authorizing the City Manager to sign the amendment?

Contract engineer Jack Detweiler presented the following information:

The City awarded a contract to R & G Excavating Inc. for the Arthur Bowman Sewer Project and awarded a Notice to Proceed on August 21, 2009. Including unanticipated change orders, the contract time was for 159 days (39 in change orders), which would have resulted in a completion date of January 27, 2010. However, R & G delayed the start time on the project due to no fault of the City or Kennedy/Jenks. With substantial completion of the project occurring on March 18, 2010 instead of January 27, 2010, R & G exceeded the contract time by 50 days. According to the contract, liquidated damages may be assessed at \$500 per day, meaning the City could seek \$25,000 in damages from R & G Excavating.

As a result of the delay, the contract the City has with Kennedy Jenks has been impacted. The costs incurred by Kennedy/Jenks have exceeded the contract by \$17,640 and will likely reach \$22,440 as a result of the delay by R & G Excavating. Kennedy/Jenks is therefore requesting that the City consider amending its contract with Kennedy/Jenks to cover the additional costs and is recommending that the City move forward with recovering the additional delay costs created by R & G Excavating.

Kennedy/Jenks has presented Amendment Number 6 to the contract for wastewater collection and treatment plant improvements for an amount not to exceed \$22,440.

If the City Council chooses to not pursue liquidated damages from R & G, and yet authorizes an amendment to the Kennedy Jenks contract in an amount not to exceed \$22,440, the Wastewater Capital Fund will be decreased by \$22,440. However, if the City pursues liquidated damages to the full amount authorized by the contract (\$25,000) and authorizes an amendment to the contract with Kennedy/Jenks, the Wastewater Capital fund may be increased by \$2,560.

Councilor Bill Walker asked what expenses Kennedy Jenks incurred during the delay.

Councilor Tonya Wahl asked what K/J was doing during the 50 days prior to the project beginning.

Detweiler said the bulk of the engineering work occurred during the 39 days that the contract was extended due to change orders. He also said that there was additional time spent during the 50 days prior to the contract dealing with scheduling issues and working on submittals and scope of contract changes.

Councilor Ginger Anderson asked if the contractor is just going to hand over the money.

Detweiler said that there would likely be resistance but he is confident that the amount can be negotiated.

Floyd Dollar, Public Works Superintendent said that an exchange of work could be negotiated instead of receiving cash payment.

Councilor Walker asked what the warranty on the work is and who is responsible for the finished product.

Detweiler said that the responsibility lies directly with the City of Reedsport. There is a one year warranty in case problems occur but after that the City owns the infrastructure.

Councilor Mike Macho said that the City should seek damages and pay Kennedy Jenks.

Councilor Ginger Anderson said that she did not feel that Kennedy Jenks was to be blamed for the delay and that they should be paid.

Mayor Keith Tymchuk said that he will seek two separate motions, one to decide whether to seek delay costs and one to amend the contract between Kennedy Jenks and the City of Reedsport.

Councilor Ginger Anderson moved that the City Council seek delay costs/liquidated damages from R & G Excavating Inc.

Councilor Mike Macho seconded the motion.

MOTION:

that the City Council seek delay costs/liquidated damages from R & G Excavating Inc.

VOTE:

A vote was taken on the motion with the following results:

AYES 6 NAYES 1

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson and Wahl voted in favor of the motion.)(Councilor Bill Walker voted against the motion.)

Mayor Tymchuk declared the motion passed.

Councilor Bill Otis moved that the City Council approve an amendment to the contract between the City and Kennedy Jenks Consultants for unanticipated costs not to exceed the liquidated damages, in cash or in kind, received from R & G excavating Inc., authorizing the City Manager to sign the amendment.

Councilor Tonya Wahl seconded the motion.

MOTION:

that the City Council approve an amendment to the contract between the City and Kennedy Jenks Consultants for unanticipated costs not to exceed the liquidated damages, in cash or in kind, received from R & G excavating Inc., authorizing the City Manager to sign the amendment.

VOTE:

A vote was taken on the motion with the following results:

AYES 4 NAYES 3

(Councilors Macho, Otis, Walker and Wahl voted in favor of the motion.)(Mayor Keith Tymchuk, Councilors Ginger Anderson and Diane Essig voted against the motion.)

Mayor Tymchuk declared the motion passed.

B. Shall the City Council appoint members to the City's boards and committees?

Ms. Tammy Van Syoc, 2794 Ridgeway Dr., Reedsport, Or 97467 and Ms. Marie Wheeler, 2955 Ridgeway Dr., Reedsport, Or 97467, were appointed to The Budget Committee vacancies with terms expiring on December 31, 2012.

The consensus of the City Council was that Marie Wheeler and Tammy Van Syoc be appointed to the Budget Committee with Councilor Tonya Wahl casting her vote to appoint Aeron Blackman and Tammy Van Syoc.

Councilor Mike Macho moved that the City Council appoint Ms. Tammy Van Syoc, 2794 Ridgeway Dr., Reedsport, Or 97467 and Ms. Marie Wheeler, 2955 Ridgeway Dr., Reedsport, Or 97467, to the Budget Committee vacancies with terms expiring on December 31, 2012.

Councilor Bill Walker seconded the motion.

MOTION:

that the City Council appoint Ms. Tammy Van Syoc, 2794 Ridgeway Dr., Reedsport, Or 97467 and Ms. Marie Wheeler, 2955 Ridgeway Dr., Reedsport, Or 97467, to the Budget Committee vacancies with terms expiring on December 31, 2012.

VOTE:

A vote was taken on the motion with the following results:

AYES 6 NAYES 1

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson, Wahl and Walker voted in favor of the motion.)

Mayor Tymchuk declared the motion passed unanimously.

C. Shall the City Council adopt a Resolution amending the City Charter of 2006?

At the March 1, 2010 City Council work session, the City Council was asked to review and discuss amending Sections 34 and 35 of Chapter 8 of the City Charter. The City Council agreed that the City Charter should be amended so as to allow Resolutions to take effect immediately, without the declaration of an emergency.

The City Council directed staff to bring a proposed Resolution, amending Sections 34 and 35 of Chapter 8 of the City Charter, to the City Council for consideration. If approved, the question of whether the City of Reedsport Charter of 2006 should be amended will be placed on the ballot at an election to be held in Reedsport on the 2<sup>nd</sup> day of November, 2010.

City Attorney Steve Miller asked that the title be amended to rename the document to the City Charter of 2010 and to require that an effective date be added to the Resolutions. City Manager Somers said that the 2006 Charter was being amended, rather than requesting a new Charter be adopted. He therefore suggested leaving the title as it is currently written.

Mayor Keith Tymchuk agreed and said that he would like the name to remain the same and noted that it was amended. He added that the title of Charter of 2010 implies that the Charter has been completely reviewed in 2010 and that is not the case.

City Manager Scott Somers said that the effective date should be consistent with the Oregon Revised Statutes that governs it which states the Resolution shall be effective immediately unless otherwise stated in the Resolution and therefore suggested not adding language to the Charter requiring an effective date

Council concurred.

Councilor Bill Walker moved that the City Council adopt a Resolution amending the City Charter of 2006 and naming it City of Reedsport Charter of 2006, amended.

Councilor Bill Otis seconded the motion.

MOTION:

that the City Council adopt a Resolution amending the City Charter of 2006 and naming it City of Reedsport Charter of 2006, amended.

VOTE:

A vote was taken on the motion with the following results:

AYES     7                NAYES     0    

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson, Wahl and Walker voted in favor of the motion.)

Mayor Tymchuk declared the motion passed unanimously.

D. Shall the Council adopt an Ordinance amending Section 6.08.020 Nuisances affecting public health?

City Manager Scott Somers said, at the March 1, 2010 City Council work session, the City Council was asked to review and discuss creating an ordinance regulating burning within the City limits after the City had received a complaint of intrusive smoke from a neighbor's recreational fire. Council directed staff to add a provision to the Nuisances chapter of the Municipal Code addressing intrusive smoke.

Staff has drafted an ordinance amending the nuisance chapter of the Code to include not only intrusive smoke, but also offensive fumes or odors in order to capture a broader array of nuisances affecting public health that the City has received complaints on in the past.

Councilor Mike Macho moved that the City Council adopt an Ordinance amending Section 6.08.020 Nuisances affecting public health.

Councilor Ginger Anderson seconded the motion.

MOTION:

that the City Council adopt an Ordinance amending Section 6.08.020 Nuisances affecting public health.

VOTE:

A vote was taken on the motion with the following results:

AYES 6 NAYES 1

(Mayor Tymchuk, Councilors Essig, Macho, Otis, Anderson, and Walker voted in favor of the motion.)(Councilor Tonya Wahl voted against the motion.)

Mayor Tymchuk declared the motion passed.

7. MISCELLANEOUS ITEMS

*(Mayor, Councilors, Student Councilors, City Manager, City Attorney)*

Mayor Keith Tymchuk mentioned that both he and City Manager Scott Somers had recently traveled to Portland to attend a meeting design to promote Ocean Power Technology and the City of Reedsport appropriation request.

Councilor Diane Essig mentioned a recent fundraiser for the Library of which she was a team member for a pub-crawl event.

City Manager Scott Somers mentioned a community workshop coming up on April 27th, to create a new plan for the City owned Rainbow Plaza property and encouraged all Councilors to attend.

ADJOURN

\_\_\_\_\_  
Mayor Keith Tymchuk

ATTEST:

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Deanna Schafer, City Recorder