

**UMATILLA CITY COUNCIL MEETING  
A G E N D A  
COUNCIL CHAMBERS  
JUNE 19, 2018  
7:00 P.M.**

\*\*\*\*\*

**1. MEETING CALLED TO ORDER**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVAL OF AGENDA**

**5. PRESENTATION**

**6. APPROVAL OF MINUTES**

6.1 June 05, 2018 *pages 1 – 8*

**7. PUBLIC COMMENT:** The Council will hear discussion of unannounced matters pertaining to community business. Council may discuss, but can take no action formally on items not placed on the published agenda. Comments are limited to five (5) minutes per person with a total time for this section being 30 minutes. Attendees are asked to refrain from interrupting the Council session unless the Mayor or Council member(s) specifically request clarification from an audience member.\*

**8. CONSENT AGENDA**

8.1 Court Report – May *page 9*

**9. COMMITTEE REPORTS**

**10. UNFINISHED BUSINESS**

10.1 Sixth Street Waterline Project RFP Bid Award

10.2 Continued Public Hearing on Ordinance No. 829 - An Ordinance Repealing Title 2, Chapter Six of the Umatilla, Oregon City Code, Ordinance No. 807, Retaining Title 2, Chapter Six by Name Only, and Amending Title 4, Chapter One of the Umatilla, Oregon City Code *pages 9 -26*

10.3 Resolution No. 36 – 2018 – A Resolution to Authorize the Deputy City Manager to Make Application for a Safe Drinking Water Revolving Fund Program Loan from Business Oregon’s Infrastructure Finance Authority for Funds to Apply to the Sixth Street Waterline Improvement Project and Authorizing the Deputy City Manager to Sign the Application *page 27*

**11. NEW BUSINESS**

**12. PUBLIC COMMENT:** \*See #7

**13. MAYOR’S MESSAGE**

**14. STAFF REPORT**

**15. ADJOURN**

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**CITY OF UMATILLA  
COUNCIL MEETING  
June 05, 2018**

1. **CALLED TO ORDER:** Mayor Dufloth called the regular council meeting to order at 7:00pm.
2. **COUNCIL POSITION #4 INTERVIEW AND SELECTION**  
Ms. Janet Detwiler was not present for interview. Mayor Dufloth asked each candidate several questions. Council members then took turns asking each candidate questions. Councilors Ray, TenEyck, and Keith voted for Ashley Wheeler. Councilors Roxbury and Torres – Medrano voted for Jodi Hinsley. The final vote was Ashley Wheeler 3, Jodi Hinsley 2.
3. **OATH OF OFFICE**  
Recorder Sandoval administered the Oath of Office to Ashley Wheeler for the Council Position #4, with term expiring December 31, 2020. She then took her seat and the meeting proceeded.
4. **ROLL CALL**  
**PRESENT:** Councilors Keith, Roxbury, Ray, Wheeler, Torres – Medrano, and TenEyck.  
**STAFF PRESENT:** Recorder Sandoval, Manager Pelleberg, Deputy City Manager Ince, Rec Planner Tsui, Public Works Director Barron, Planner Seitz, Community Development Director Mabbott, Accounting Assistant Horn, Attorney SpicerKuhn, and Chief Huxel.
5. **PLEDGE OF ALLEGIANCE:** Pledge of allegiance was recited at 7:13pm.
6. **APPROVAL OF AGENDA:** It was moved by Councilor Ray to approve the agenda. The motion was seconded by Councilor TenEyck. Voted: 6-0. Motion carried unanimously.
7. **PRESENTATION:**  
7.1 Presentation by Jon Paul Bowles, Destination Management Plan - Mr. Bowles presented on the destination management plan that he is working on with the Umatilla Chamber of Commerce.  
  
7.2 Presentation by Marcus Bush, PSU MRED Program, Downtown Revitalization Project - Mr. Bush presented on the work that the MRED Program was completing in Umatilla.
8. **APPROVAL OF MINUTES:** It was moved by Councilor Ray to approve the minutes for May 01, 2018 and May 15, 2018. The motion was seconded by Councilor TenEyck. Voted: 6-0. Motion carried unanimously.
9. **PUBLIC COMMENT:**  
9.1 Clyde Nobles - He wants to encourage the council and planning commission to set up a work group to set up rules and guidelines for the ADU. The ADU did not address manufactured homes. Manufactured homes are better built nowadays are better than stick built homes. He believes that ADUs shouldn't have to be on a different septic tank. He believes these are all things that can be addressed in a working group.
10. **CONSENT AGENDA:**

It was moved by Councilor TenEyck to approve paid invoice CRIS, Inc. The motion was seconded by Councilor Keith. Voted: 5-1-0. Councilor Ray abstained. Motion carried unanimously

Councilor TenEyck moved to approved All Remaining Invoices and the Court Report. The motion was seconded by Councilor Torres-Medrano. Voted: 6-0. Motion carried unanimously.

## **11. COMMITTEE REPORTS:**

11.1 Councilor Keith moved to appoint Thomas Love to the Planning Commission. It was seconded by Councilor Ray. Voted: 6-0. Motion carried unanimously.

## **12. UNFINISHED BUSINESS: None.**

## **13. NEW BUSINESS:**

13.1 Transient Room Tax Grant Request – Umatilla Museum and Historical Foundation - Deputy City Manager Ince explained that the Transient Room Tax Committee met to review the application. The Umatilla Museum has requested \$3,600.00. They have raised enough money to cover all of their operating expenses and have not had to ask for a long time. This specific request is intended to cover office equipment replacement, replace some flooring, and do some painting. The committee and Deputy City Manager Ince recommend approval of the grant in the amount of \$3,600.00.

It was moved by Councilor TenEyck to approve the grant request in the amount of \$3,600.00. The motion was seconded by Councilor Torres – Medrano. Voted: 6-0. Motion carried unanimously.

13.2 Resolution No. 23 - 2018 A Resolution Authorizing City Manager Russell W. Pelleberg to Sign an Intergovernmental Agreement between the City of Umatilla and the Intermountain Education Service District for Information Technology Support Services - Deputy City Manager Ince explained that we had submitted an RFP for IT Services. Staff reviewed the RFPs submitted and ranked them. IMESD was the most reasonable option. This resolution authorizes City Manager Pelleberg to sign the agreement. The initial agreement is for a one year term for a trial basis for both entities, which automatically renewed. Deputy City Manager Ince explained that we currently were not getting recommended replacement schedules. We weren't really getting designated time for them to be here. ESD will devote an average of 8 hours a week on site. At the moment we were getting split services from two different companies, which didn't make it very cohesive. ESD will be handling the library, city hall, the police department and the shops.

It was moved by Councilor Ray to approve Resolution No. 23 – 2018 - A Resolution Authorizing City Manager Russell W. Pelleberg to Sign an Intergovernmental Agreement between the City of Umatilla and the Intermountain Education Service District for Information Technology Support Services. It was seconded by Councilor TenEyck. Voted: 6-0. Motion carried unanimously.

13.3 Resolution No. 24 - 2018 – A Resolution Authorizing the Mayor to sign MOU No. 32779 between the City and the Department of Transportation for Landscape Improvements. - City Manager Pelleberg explained that this MOU is to do some landscape improvements and changes to what is known as Kiwanis Falls.

It was moved by Councilor Torres - Medrano to approve Resolution No. 24 - 2018 – A Resolution Authorizing the Mayor to sign MOU No. 32779 between the City and the Department of

Transportation for Landscape Improvements. It was seconded by Councilor Ray. Voted: 6-0. Motion carried unanimously.

13.4 Public Hearing on Resolution No. 25 – 2018 – A Resolution Adopting Supplemental Budget for Fiscal Year 2017 – 2018. Mayor Dufloth opened the public hearing for Resolution No. 25 – 2018. He proceeded to announce the procedure to follow, report from staff, other members of the audience who wish to speak on the issue, other public agency reports, and close the hearing. He asked individuals who wished to testify to come to the podium state their name, address, and sign in for the record.

Deputy City Manager Ince explained that this hearing is a formality. Oregon budget law dictates that any time we change a budget by more than 10% we have to go to public hearing. There is only one item in our budget that triggers that. In our sewer reserve fund the Council approved the execution of a four-hundred and three-thousand-dollar loan from IFA for final design of our reuse project. As a result of the loan when we spend money in engineering we have to request reimbursement from IFA to cover those proceeds. When the budget was created the amount we were going to spend in this fiscal year was unknown. The amount you see of two-hundred and thirty-five thousand is what we will be receiving in reimbursements related to that project and the beneficial reuse feasibility analysis grant.

There was no public testimony. There were no other public agency reports. Mayor Dufloth closed the hearing.

13.5 – 13.10 Deputy City Manager Ince explained that there are two resolutions related to the supplemental budget. The first one adopts the supplemental budget as a whole, which was Resolution No. 25 – 2018. Resolution No. 26 – 2018 is a resolution appropriating those funds. The next resolution No. 27 -2018 is something that you will see every fiscal year. Historically, we budget pretty conservatively, especially for personnel expenditures. Resolution No. 27 -2018 allocates money from operating contingency to cover additional personnel costs and other unexpected expenditures so that we don't exceed our budget amounts. Resolution No. 28 -2018 adopts the fiscal budget for 2018- 2019 year. The total for that budget is nineteen million five-hundred thirty thousand four hundred thirteen dollars. It's a pretty big increase from last year due to the tax abatement proceeds and reuse project sewer loan. Resolution No. 29 – 2018 appropriates 2018-19 fiscal budget. Resolution No. 30 – 2018 levies our taxes. We pay our water bond off in December 2018 so we are going to be debt free as far as additional property tax goes. We do not need to levy any additional amounts. Property taxes will be going down.

It was moved by Councilor TenEyck to approve item 13.5 Resolution No. 25 – 2018 – A Resolution Adopting Supplemental Budget for Fiscal Year 2017 – 2018; item 13.6 Resolution No. 26- 2018 – A Resolution Making Appropriations for the 2017-2018 Supplemental Budget; item 13.7 Resolution No. 27 - 2018 – A Resolution Transferring Funds and Appropriations within the General, Water, Sewer, Street, Library and Building Funds for Fiscal Year 2017 – 2018; item 13.8 Resolution No. 28 - 2018 – A Resolution Adopting the 2018 – 2019 Budget; item 13.9 Resolution No. 29 - 2018 – A Resolution Appropriating Amounts for Fiscal Year 2018 – 2019 and item 13.10 Resolution No. 30 - 2018 – A Resolution Levying Ad Valorem Taxes and Categorizing Taxes for the 2018 – 2019 Fiscal

Year. The motion was seconded by Councilor Torres Medrano. Voted: 6-0. Motion carried unanimously.

13.11 Public Hearing on Resolution No. 31 – 2018 – A Resolution Declaring the City’s Election to Receive State Revenues. Mayor Dufloth opened the public hearing for Resolution No. 31 – 2018. He proceeded to announce the procedure to follow, report from staff, other members of the audience who wish to speak on the issue, other public agency reports, and close the hearing. He asked individuals who wished to testify to come to the podium state their name, address, and sign in for the record.

Deputy City Manager Ince explained that the City receives money on a per capita basis to the General Fund from liquor revenue, cigarette revenue, and state revenue sharing dollars and also a state highway tax that flows into our Street Fund. With the passing of the new transportation package we are going to see a big increase that goes into our street fund, which is nice since we have a big Sixth Street Project and the strong need for some overlays. This is the public’s chance to comment if they have any concerns over the use of those funds.

There was no public testimony. There were no other public agency reports. Mayor Dufloth closed the hearing.

13.12 Resolution No. 31 – 2018 – A Resolution Declaring the City’s Election to Receive State Revenues It was moved by Councilor Ray to approve Resolution No. 31 - 2018 – A Resolution Declaring the City’s Election to Receive State It was seconded by Councilor Roxbury. Voted: 6-0. Motion carried unanimously.

13.13 Resolution No. 32 – 2018 – A Resolution Authorizing the Purchase of the Old Post Office Building Properties from Clyde and Betty Nobles - Deputy City Manager Ince explained that this resolution authorizes the purchase of the old post office building from Clyde and Betty Nobles. It was brought up by our legal counsel that we need to add tax lot 4100 as well. The total purchase price will be two-hundred fifty thousand with annual payments of fifty thousand and a four percent interest rate.

It was moved by Councilor Ray to approve Resolution No. 32 – 2018 – A Resolution Authorizing the Purchase of the Old Post Office Building Properties from Clyde and Betty Nobles and add tax lot 4200. It was seconded by Councilor Wheeler. Voted: 6-0. Motion carried unanimously.

13.14 Resolution No. 33 – 2018 – A Resolution Authorizing the Mayor to Sign a MOU between the City and the Umatilla Chapter of Project LIT Community to Build and Place Little Libraries - Community Development Director Mabbott explained that we are partnering up with the Umatilla School District to provide little libraries in two of the city parks, Kiwanis Park and Nugent Park.

Councilor Ray wanted to know who would be maintaining these. Community Development Director Mabbott explained that the school will be responsible for their maintenance.

It was moved by Councilor Torres – Medrano to approve Resolution No. 33 – 2018 – A Resolution Authorizing the Mayor to Sign a MOU between the City and the Umatilla Chapter of Project LIT

Community to Build and Place Little Libraries. It was seconded by Councilor Ray. Voted: 6-0. Motion carried unanimously.

13.15 Resolution No. 34 – 2018 – A Resolution Authoring the Mayor to Sign a MOU between the City and the Umatilla School District for Partnership of the S.W.E.L.L. Program. Deputy City Manager Ince explained that this resolution authorizes the Mayor to sign an MOU between the City and the Umatilla School District. The school district has implemented the S.W.E.L.L. Program. It's a summer work base experience. They have received full funding for this. This comes to the City at no cost. They have a pool of students who are looking for paid summer internships. We will be receiving one of the students. Her name is Celeste. We are going to take her through the whole process and all the formal steps to get her some experience. In turn, we will get help archiving our old paper records.

It was moved by Councilor Torres – Medrano to approve Resolution No. 34 – 2018 – A Resolution Authoring the Mayor to Sign a MOU between the City and the Umatilla School District for Partnership of the S.W.E.L.L. Program. It was seconded by Councilor Keith. Voted: 6-0. Motion carried unanimously.

13.16 Public Hearing on Resolution No. 35 – 2018 - A Resolution Adopting a Building Division Permit Fee Schedule. Mayor Dufloth opened the public hearing for Resolution No. 31 – 2018. He proceeded to announce the procedure to follow, report from staff, other members of the audience who wish to speak on the issue, other public agency reports, and close the hearing. He asked individuals who wished to testify to come to the podium state their name, address, and sign in for the record.

Deputy City Manager Ince explained that this is something that was part of our process to get our e-permitting taken care of. Building Codes Division evaluated our building fees. They felt like our fees were generally in line, but we were missing a lot of fee items specifically needed to get the whole system going. We added a lot of new things that we have never had before to cover our bases.

Councilor TenEyck asked if we were discouraging remodels with these fees because it seemed a bit nit-picky.

Manager Pelleberg explained that this is stuff we just didn't have before that is required. We are filling those gaps.

Clyde Nobles – Spoke against the fee schedule. Some of the fees were more than doubled. We are trying to build this town and get contractors to develop it. He is totally opposed to these. They need to be reviewed.

Kimberly Nobles – Spoke against the fee schedule. She is a property manager. She wants to take care of some of the things on the fee schedule herself. She can't hire a licensed contractor. That would increase the rent. We currently had a problem in Umatilla, there were not enough low-income rentals. Umatilla is not that big. There is no need for Umatilla to be doing electrical filing. She is against it.

There were no other public agency reports. Mayor Dufloth closed the hearing.

13.17 Resolution No. 35 – 2018 – A Resolution Adopting a Building Division Permit Fee Schedule  
Councilor Roxbury asked what happens if they didn't pass the resolution. Deputy City Manager wanted to know what specific issues they had with the fee resolution so that they could take it back to building codes to proceed without derailing implementation.

Councilor Roxbury stated that there were a lot of things on there they hadn't seen before and he can't read it with the headache he had right now.

Councilor Keith stated they should workshop this topic.

Deputy City Manager Ince explained that there would not be workshop before the live date. We are lowering some and standardizing fees. This isn't a big ploy to increase fees.

City Manager Pelleberg explained that this was being asked by the Building Code Division.

Mayor Dufloth explained that for years these revenues were going to other communities. It is time to ensure that these monies come to us.

It was moved by Councilor TenEyck approve to Resolution No. 35 – 2018 – A Resolution Adopting a Building Division Permit Fee Schedule. It was seconded by Councilor Torres - Medrano. Voted: 5-1-0. Councilor Roxbury abstained. Motion carried.

13.18 Sixth Street Waterline Project RFP Bid Award – It was moved by Councilor Ray to table the Sixth Street Waterline Project RFP Bid Award for the June 19, 2018 meeting. The motion was seconded by Councilor Keith. Voted: 6-0. Motion carried unanimously.

13.19 Liquor License Application – HWY 730 Tavern - Planner Seitz explained that a conditional use permit was granted for a billiard hall for HWY 730 Tavern. With the change of use on the property this liquor license was allowed in the zone. Councilor Ray moved to approve the liquor license application for HWY 730 Tavern with the approved land use stated in the conditional use permit granted by the Planning Commission. The motion was seconded by Councilor TenEyck. Voted: 6-0. Motion carried unanimously.

13.20 Public Hearing on Ordinance No. 829 - An Ordinance Repealing Title 2, Chapter Six of the Umatilla, Oregon City Code, Ordinance No. 807, Retaining Title 2, Chapter Six By Name Only, and Amending Title 4, Chapter One of the Umatilla, Oregon City Code – Mayor Dufloth opened the public hearing for Ordinance No. 829. He proceeded to announce the procedure to follow, report from staff, other members of the audience who wish to speak on the issue, other public agency reports, and close the hearing. He asked individuals who wished to testify to come to the podium state their name, address, and sign in for the record.

Community Development Director Mabbott explained that this is a multiple month effort to clean up code enforcement. By repealing the code enforcement board, all citations will go before the municipal judge and it will take that volunteer group out of the position of trying to make formal



legal decisions The option would be to refer them to the City Manager or a legal person like the judge or the city council could hear appeals on abatements.

There was no public testimony. There were no other public agency reports. Mayor Dufloth closed the hearing.

Councilor Ray moved to continue the public hearing on Ordinance No. 829 for June 19, 2018 at 7PM. Councilor Roxbury seconded the motion. Voted: 6-0. Motion carried unanimously.

**14. CORRESPONDENCE:**

There were 2 letters of support for the West Umatilla County Trails System Plan grant applications. No formal action was taken.

**15. PUBLIC COMMENT:**

Kelly Nobles - Asked the Council to invite developers to the workshop on June 19, 2018 so that Planner Seitz could incorporate their opinions into our rules and regulations related to the ADUs.

Judy Simmons - Plead that there needed to be a monthly newsletter. There is a lot more interest in what was going on in the City. All the information about the code enforcement board was stuff that needed to go out. Nothing was getting done. People forget.

**16. MAYOR'S MESSAGE:**

It was nice to see people willing to step up and be part of the city council. He thinks it's great that we have a lot of interest. He asked our community to be forward thinking. Just because we don't understand it or don't like it doesn't mean we shouldn't be looking at it.

**17. STAFF REPORT:**

Manager Pelleberg welcomed Councilor Wheeler and Planning Commissioner Love to the city. He appreciated everybody in the audience.

Deputy City Manager Ince stated that at our last workshop she was asked to do more research with for the cost of quarterly workshops with Jennifer to do more goal setting. Jennifer sent a proposal back that each workshop would be between seven hundred fifty and a thousand dollars per session. That is really consistent with what she provided last time, so she did not make a modification on that end. She thinks this would be a great opportunity.

Mayor Dufloth asked to schedule the next one for September.

The marina online reservation system is live now. There are some growing pains, but we are making some enhancements. We will be adding some pictures of each of the sites now that the weather is nicer and they look better.

**18. COUNCIL INFORMATION & DISCUSSION:** None.

19. **ADJOURN:** The next regular meeting will be held on June 19, 2018 at 7:00pm. It was moved by Councilor Ray to adjourn the meeting. The motion was seconded by Councilor Torres – Medrano. Voted: 6-0. Motion carried unanimously. Meeting adjourned at 9:13 pm.

\_\_\_\_\_  
Daren Dufloth, Mayor

ATTEST:

\_\_\_\_\_  
Nanci Sandoval, City Recorder



# Umatilla Municipal Court

700 6<sup>th</sup> Street, PO Box 130, Umatilla, OR 97882  
(541) 922-4570 Ext.2 Fax (541) 922-5758

June 6, 2018

TO: MAYOR DAREN DUFLOTH  
FROM: THERESA M KROGH , MUNICIPAL JUDGE  
SUBJECT: MAY 2018 MONTH END REPORT

<u>TOTAL</u>	<u>POLICE TRAINING COUNTY</u>		<u>STATE</u>	<u>REFUNDS</u>
<u>RECEIPTS</u>	<u>FINES</u>	<u>FUND</u>	<u>ASSESS..</u>	<u>ASSESS.</u>
<b>\$63,256.51</b>	<b>\$ 27,790.18</b>	<b>\$ 3.57</b>	<b>\$ 4,029.28</b>	<b>\$ 29,760.48</b>
				<b>\$ 1673.00</b>

REFUNDS INCLUDES, OVERPAYMENTS, RESTITUTION, REFUNDS TO DEFENDANTS AND BAIL TRANSFERRED TO OTHER COURTS.

FINE TURNOVER FOR MAY 2018 IS \$27,790.18.

FOUR WEDDINGS WERE PERFORMED IN MAY 2018. THREE IN THE COURT ROOM AND ONE OUT OF THE COURT ROOM.

Theresa M Krogh  
Municipal Judge for  
The City of Umatilla

:tmk

CC: COUNCIL




# City of Umatilla

700 6<sup>th</sup> Street, PO Box 130, Umatilla, OR 97882  
City Hall (541) 922-3226 Fax (541) 922-5758

June 13, 2018

## MEMORANDUM

TO: Mayor Dufloth and City Council

FROM: Tamra Mabbott, Community Development Director 

CC: Russ Pelleberg, City Manager  
Phillip Spicerkuhn, City Attorney

RE: July 19<sup>th</sup> Council Work Session Topic – CODE ENFORCEMENT

Adoption of the attached Ordinance was postponed during the June 5<sup>th</sup> meeting in order to allow Council more time to review and to discuss during a work session. City Staff and City Attorney Phillip Spicerkuhn will be at the work session to give a brief presentation, answer questions and to work council members to identify modifications to the draft Ordinance.

Since the June 5<sup>th</sup> meeting two recommendations have been shared.

1. Add a clause to sanction repeat offenders.
2. Remove reference to fire chief from paragraph F on page 5 (fire chief is not a city employee).

Once we have Ordinance language that Council believes will put the city on a good path forward, we can then schedule a hearing for adoption.

If you have time, please review the attached materials. The pages are organized in reverse chronological order. The two pages from the Umatilla Vision document are really worth reading and provide a good background and context for the discussion.

I look forward to our meeting.



# City of Umatilla

700 6<sup>th</sup> Street, PO Box 130, Umatilla, OR 97882  
City Hall (541) 922-3226 Fax (541) 922-5758

May 25, 2018

## MEMORANDUM

TO: Mayor Duflath and City Council

FROM: Tamra Mabbott, Community Development Director

A handwritten signature in blue ink that reads "Tamra Mabbott". The signature is written in a cursive style and is positioned to the right of the "FROM:" line.

CC: Russ Pelleberg, City Manager

Phillip Spicerkuhn, City Attorney

RE: Code Enforcement Ordinance Amendment

On your agenda for June 5<sup>th</sup> is an Ordinance to amend the City Code. The Ordinance was drafted by City Attorney Phillip Spicerkuhn. In summary, the Ordinance repeals the Code Enforcement Board and replaces it with a new section on Nuisance Abatement, including a new procedure for abatement. Most significantly, the amendment will require that hearings for abatement be in front of the City Manager, his/her designee or a Hearings Officer.

In anticipation of these changes, staff has hosted two meetings with the "Code Enforcement Advisory Group" comprised of members of the Code Enforcement Board and interested citizens. The Group has been receptive to the changes in the program and fortunately would like to remain involved in an advisory capacity. City Council may want to establish a new group, a Code Enforcement Advisory Committee, or simply allow the ad hoc group to function with staff. Their input is very valuable and they are each committed to helping to make the city more beautiful.

Attached to this memo is a February 22, 2018 letter from attorney Phillip Spicerkuhn that includes background about the changes and interpretation about the Code Enforcement Program and process.

On May 15<sup>th</sup> of this month, Tisa Coffey, Code Enforcement Officer, became a member of the Community Development Department. Tisa and I will be going on weekly drives and she will be working closely with City Planner Brandon Seitz to follow up on Zoning and Land Use violations. We are all very excited to have her on the Community Development Team at City Hall.

To understand how Code Enforcement will evolve as part of Community Development, two pages from the Umatilla Together Framework Plan are attached.

**ORDINANCE NO 829**

**AN ORDINANCE REPEALING TITLE 2, CHAPTER SIX OF THE UMATILLA, OREGON CITY CODE, ORDINANCE NO. 807, RETAINING TITLE 2, CHAPTER SIX BY NAME ONLY, AS A PLACE HOLDER, AND AMENDING TITLE 4, CHAPTER ONE OF THE UMATILLA, OREGON CITY CODE.**

**WHEREAS**, the City regulates nuisances within the City; and,

**WHEREAS**, the City has determined that the current nuisance enforcement and abatement provisions of the city code requiring use of a Code Enforcement Board to be unduly burdensome and constraining on nuisance enforcement; and,

**WHEREAS**, the City has determined that it no longer needs the Code Enforcement Board for enforcement of code violations; and,

**WHEREAS**, the City seeks to implement a different mechanism for enforcing nuisance violation within the City;

**THE CITY OF UMATILLA, OREGON ORDAINS AS FOLLOWS:**

1. Title 2, Chapter 6 “Code Enforcement Board” of the Umatilla, Oregon City Code is hereby repealed in its entirety.

2. The following language in Title 4, Chapter 1, “Nuisances,” Section 4-1-2: Definitions, of the Umatilla, Oregon City Code is repealed:

“CODE ENFORCEMENT BOARD: The board shall consist of five (5) members appointed by the city council. No more than one member of the Board may be employed in the business of buying or selling real estate, nor may more than one member be a landlord. The city manager shall certify that residency and occupational requirements of the board are maintained. The enforcement board may hear and determine matters concerning unfit dwellings, buildings, structures and premises located within the city limits of Umatilla.”

3. Title 4, Chapter 1, Section 4-1-6 of the Umatilla, Oregon City Code is hereby repealed in its entirety and replaced with the following provisions:

**4-1-6: ABATEMENT OF NUISANCES:**

**4-1-6-1: DETERMINATION OF NUISANCE:** Whenever a nuisance is found to exist within the city or within its extraterritorial jurisdiction, the city manager may follow procedures prescribed in this chapter to obtain compliance with the city code. The manager, or his designate, may enter any property or building at any reasonable time for the purpose of inspection or enforcing this chapter. As used in this section, an emergency exists when the manager has reasonable cause to believe that the nuisance constitutes an immediate and active danger to the public health, safety and/or welfare. Nothing in this chapter precludes the city from treating any section of this code as a violation pursuant to the terms of Title 1, Chapter 4 of this Code.

#### 4-1-6-2: ABATEMENT PROCEDURE:

##### A. Abatement Notice.

1. Upon determination by the City Manager, or his designate, that a nuisance exists as defined in this code, a notice shall be posted on the premises liable for the nuisance directing removal or abatement.
2. At the time of posting, the city shall mail notice to the owner or agent in charge of the property at the last known address of the owner or agent by regular and by certified mail with return receipt.
3. The notice to abate shall contain:
  - a. A description of the real property, by street address or otherwise, on which or adjacent to which the nuisance exists;
  - b. A direction to remove the nuisance within ten days from the date of the notice;
  - c. A description of the nuisance;
  - d. A statement that unless the nuisance is removed or abated within ten days, or a protest is filed pursuant to subsection C of this section, the city will abate the nuisance and the cost thereof shall be a lien against the property;
  - e. A statement that the owner or agent in charge of the property may protest the action by actual delivery of notice to the City Manager, or his designate as provided in the notice, within ten days from the date of the notice.
4. The person posting and mailing the notice as provided herein shall, upon completion of the posting and mailing, execute and file in the office of the Finance Director/Recorder a certificate stating the date and place of mailing and posting.
5. An error in the name or address of the owner or agent in charge of the property or the use of a name other than that of the owner or agent shall not make the notice void and in such case the posted notice shall be deemed sufficient.

##### B. Abatement by the Owner.

1. Within the time allowed by the notice as provided in subsection A.3 of this section, the owner or agent in charge of the property shall remove and abate the nuisance or show that no nuisance exists.

2. Upon the city's determination that a nuisance does in fact exist, the owner or agent in charge shall within a reasonable time, but not more than ten days, remove or abate the nuisance.

C. Protest of Notice.

1. The owner or agent in charge of the property may, within ten days of the posting of the notice, file with the city manager or his designate a written statement protesting the notice of abatement. Such statement shall specify the bases for protesting.
2. If the owner or agent in charge of the property protests the abatement as provided in this subsection, and if the notice of protest is filed with the city manager or his designate, a hearing shall be held before the city manager, his designate, or a hearings officer, who shall decide if a nuisance exists by substantial evidence on the record. If the city manager, his designate, or a hearings officer decides that a nuisance exists, the owner or person in charge of the property shall cause the nuisance to be abated as directed by the city manager, his designate, or the hearings officer. If the nuisance is not so abated, the owner or person in charge of the property is in violation of this code and the city may abate the property as provided in this code and the cost thereof shall become a lien on the property.
3. A hearing held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases as provided by ORS 183.450
4. In the event the owner or person in charge of the property disagrees with the decision of the city manager, his designate, or the hearings officer, he shall have the right to appeal the decision by filing with the city manager or his designate a notice of appeal within seven days from the date of the decision. Such notice shall be in writing and shall set forth the reasons for the appeal. The appeal shall be heard by the city council, as part of the council's regular agenda, at the next succeeding meeting of the council or at such time thereafter as the city manager shall determine, but no later than sixty days after filing. After notice to the parties, at the time set for consideration of the abatement, the owner or person in charge of the property may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists. Such determine shall be entered upon the official minutes of the council. Determination shall be required only in those case where an appeal has been filed as allowed by this section. If the city council determines that a nuisance does in fact exist, the owner or person in charge of the property shall, within ten days of the council determination, abate such nuisance. If the nuisance is not so abated, the owner or person in charge of the property is in violation of this code and the city may abate the property as provided in this code and the cost thereof shall become a lien on the property.

D. Abatement by the City.



1. If within the time fixed, as provided in this chapter, the nuisance has not been abated by the owner or agent in charge of the property, the city shall cause the nuisance to be abated.
2. The city shall maintain an accurate record of the expense incurred by the city in abating the nuisance and shall include therein an overhead charge of ten percent for the total cost for administration.
3. The total cost, including the administrative overhead, shall thereupon be assessed to the property as hereinafter provided.

E. Assessment of Cost.

1. A notice of the assessment shall be forwarded by certified mail with return receipt to the owner or agent in charge of the property by the Finance Director/Recorder. The notice shall contain:
  - a. The total cost, including administrative overhead, of the abatement.
  - b. A statement that the cost as indicated will become a lien against the property unless paid within 60 days.
  - c. A statement that if the owner or agent in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the Finance Director/Recorder within 30 days from the date of the notice.
  - d. Notice that the fee for recording in the County Deed Records will be added.
2. Objections to the proposed assessment shall be heard and determined by the City manager or his designate
3. An assessment for the cost of the abatement as determined by the City Manager or his designate and adopted as a matter of record by resolution of the Council shall thereupon be entered in the docket of city liens, and upon the entry being made, it shall constitute a lien against the property from which the nuisance was removed or abated. Also, it shall be recorded in the County Deed Records.
4. The lien shall be collected in the same manner as liens are collected in Oregon Revised Statutes 223.505 et. seq. and shall bear interest at the rate allowed for interest on judgments. The interest shall commence to run 30 days after the entry in the lien docket.
5. An error in the name of the owner or agent in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

F. The procedure provided by this section is not exclusive but in addition to procedures provided by other ordinances, and furthermore, the fire chief, the chief of police, or any other official designated by the city manager may proceed summarily to abate a sanitary or other nuisance which exists and from which there is imminent danger to human life or property.

4. Title 4, Chapter 1 shall be amended to include the following language:

4-1-8: VIOLATION; PENALTY: Unless otherwise established by statute or ordinance, violation of a provision of this chapter is a class B civil violation as provided under Title 1, Chapter 4 of the Umatilla, Oregon City Code.

- A. Each day’s violation of a provision of this chapter constitutes a separate offense. Only one notice will be given per violation. Any reoccurrence of the same violation will be subject to penalties without addition notice.
- B. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.
- C. The abatement of a nuisance is not a penalty for violation this chapter, but is an additional remedy. Private abatement within the time allowed will relieve the person responsible from the imposition of any fine under subsection A of this section.

**PASSED** and **ADOPTED** by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Voting yes, Council Members: \_\_\_\_\_

Voting no, Council Members: \_\_\_\_\_

Absent Council Members: \_\_\_\_\_

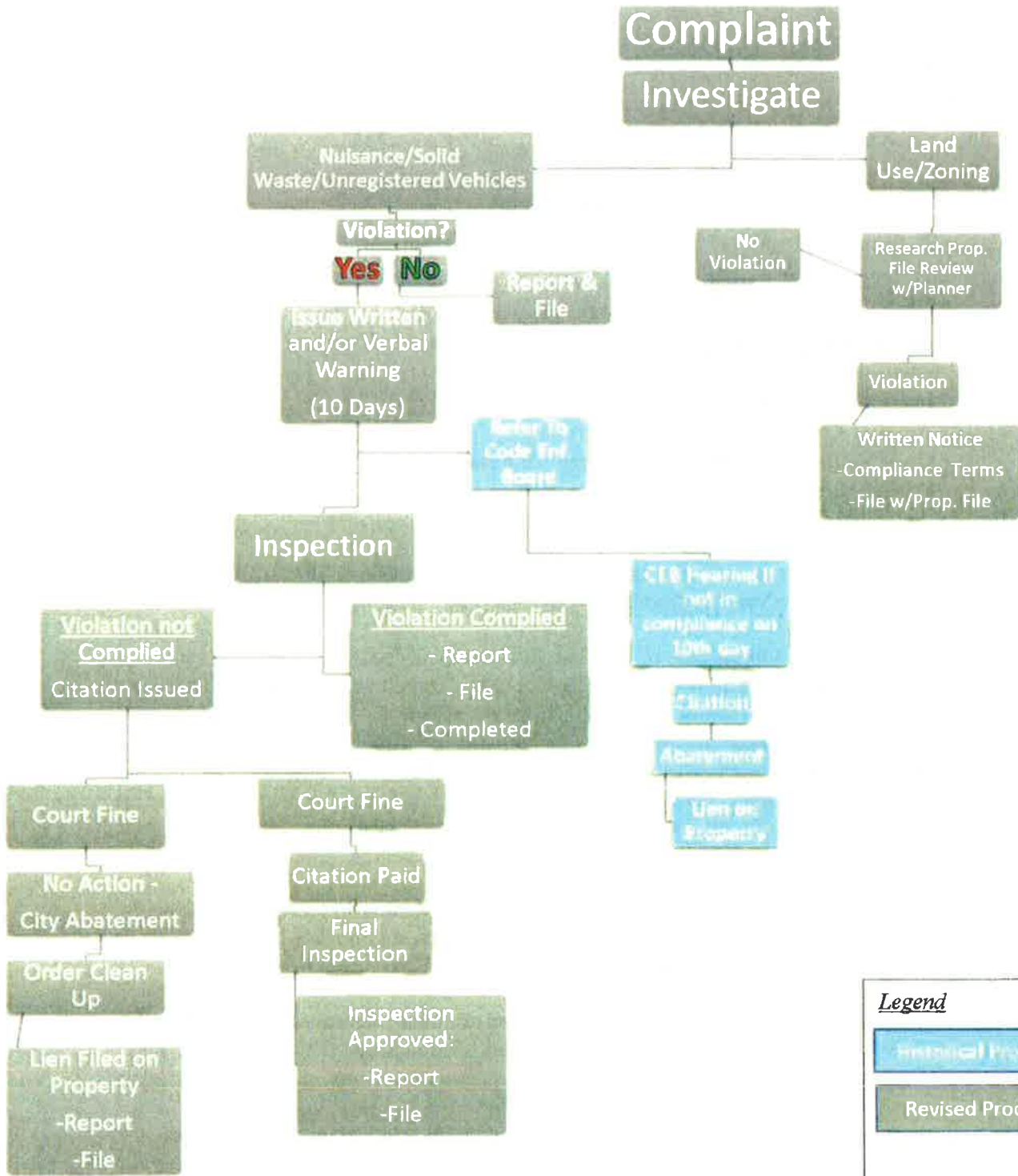
Abstaining Council Members \_\_\_\_\_

And **SIGNED** in authentication by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Daren Dufloth, Mayor

ATTEST:

\_\_\_\_\_  
Nanci Sandoval, City Recorder



**KUHN LAW OFFICES  
410 E. HURLBURT AVE.  
HERMISTON, OR 97838  
1-541-567-8301  
Fax 1-541-567-8302**

**MEMORANDUM**

**DATE:** April 17, 2018  
**TO:** RUSSELL PELLEBERG, TAMRA MABBOTT  
**FROM:** PHILLIP SPICERKUHN  
**RE:** Code Enforcement Board/Nuisance Abatement  
OUR FILE: 11429-02

I was asked to review the Code Enforcement Board and Nuisance Abatement sections of the Umatilla City Code and provide recommendations regarding updating the provisions.

The City wants to change the role of the Code Enforcement Board so it becomes more of an advisory committee. With that in mind, the City has two change options. First, the City can revoke Title 2, Chapter Six, eliminating the Code Enforcement Board. A new board could then be established under a resolution of the City. Chapter III, Section 8, of the City Charter, authorizes the Mayor to appoint members of committees established by resolution. The City has the authority to create temporary committee under Section 1-6-3 of the City Code. This committee could then serve in an advisory capacity for as long as the Council feels that a code advisory/enforcement board is needed.

Second, if the City wants to leave the Code Enforcement Section in the Code, sections 2-6-1(A), (B), (C), and (D) of the code could be revoked. This leaves section 2-6-1(E) in place with the board acting in only an advisory capacity.

With regards to the nuisance abatement rules, which at this time require the use of the code enforcement board, Section 4-1-6 needs to be rewritten substantially. I would suggest that Section 4-1-6 be repealed in its entirety and replaced.

I have attached several different nuisance abatement codes from several jurisdictions which would all work well for the City of Umatilla.

Generally, all these codes have several things in common that need to be included in a new abatement code for Umatilla.

First, there is a notice procedure. This usually involves the City Manager, or his designate, in this case the Code Enforcement Officer, providing notice to the party that there is a nuisance. This notice is usually mailed to the owner of the property as well as posted to the premises. The notice must contain a description of the property (usually by street address), a description of the nuisance, a direction to remove or remedy the nuisance, a statement that the city will have the nuisance abated or removed if the nuisance isn't remedied at the landowner's expense, directions on how the abatement determination can be contested, and the time frame in which the party must act.

Second, the City must have some process through which the landowner can contest the City's abatement action. This is usually done through written notice to the City and the determination is made by the City Manager, City Council, or other entity within the City.

Third, the City must have authority and method through which it will abate the nuisance if the landowner does not take any action in the required time.

Finally, there must be a process through which the City assess the costs of abatement against the property. This process includes a notice of the cost being assessed to the landowner and a right to appeal the assessment cost to either the Manager or the City Council.

I would also suggest that a provision be added to Title 4, Chapter One, which states "Any violation of this Chapter is a civil infraction punishable as a Class B civil violation (\$250) pursuant to Title 1, Chapter 1 of this code. A separate violation shall be deemed to have occurred for each day that a violation continues under this chapter."

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**MEMORANDUM**

---

**DATE: February 22, 2018**  
**TO: RUSSELL PELLEBERG, TAMRA MABBOTT**  
**FROM: PHILLIP SPICERKUHN**  
**RE: CITATION FOR CODE VIOLATION**  
**OUR FILE: 11429**

**QUESTION: Can the City use a standard civil citation into Municipal Court for nuisance violation instead of the Code Enforcement Board?**

**ANSWER: Yes.**

The Umatilla City Code does not require exclusive use of the Code Enforcement Board for nuisance violations. Code Section 2-6-1 states that the “[Code Enforcement] board may hear and render decisions regarding civil violations of the code.” The use of the word “may” allows a choice in prosecuting code violations. Nuisance code violations may also be cited into Municipal Court.

Section 34(d) of the City Charter provides that the Umatilla Municipal Court and Judge have jurisdiction over every offense created by city ordinance and the power to enforce forfeitures and other penalties for offenses. The City has the option of using Municipal Court for nuisance violations. Section 1-4-1 of the Umatilla Code creates four categories of code violations. If any code section does not specifically categorize the type of violation, Section 1-4-1 provides the offense is punishable by a civil fine of \$250.00. Nuisance violations that do not provide for a specific fine fall into this category.

One re-occurring problem with the Municipal Judge levying a fine for a nuisance violation is fine collection. If the violator does not pay the fine, the City enforcement effort is often frustrated. If other collection efforts fail, with additional legal paperwork, the fine can be turned into a lien on the real property. If the City wants to investigate this possibility, please let my office know.

As the Code currently exists the Code Enforcement Board is the sole method by which to conduct nuisance abatement. The Code Enforcement Board must be used if the City wants to engage in a property "clean up". The Municipal Court can be used to handle citations and fines only. The Code procedure of declaring the property a nuisance for a property clean up purpose requires the notice and hearing before the Board delineated in the Code.

I do not recommend using the City Manager or other upper level City administrator to issue nuisance citations. If a citation is issued, due process requires that the offender have an opportunity to appear in court and contest the violation. The individual who issues the citation will also be the person who appears in Court as primary witness at any contested nuisance hearing. A designated code enforcement officer or a police officer is much better equipped to investigate, report, and testify in court than the City Manager or other administrative official. Also, the City Manager does have some supervisory authority over the Court, so there is an appearance of bias when top administrative officials become the primary municipal court witnesses.

The City Attorney has concerns with the Code Enforcement Board's authority to levy monetary penalties and make decisions on civil violations. The City Charter gives jurisdiction for code violation determination to the Municipal Court not to the Code Enforcement Board. The City's ability to shift this charter granting authority to another city agency is questionable.

The City Attorney recommends the City change the current Code to remove the Code Enforcement Board's ability to hear nuisance violation, except in the context of a property clean up situation. If the City has further questions, please let us know.

  
Kuhn Law Offices, City Attorneys

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**January 12, 2018**

**TO: City Council and City Manager**  
**FROM: Tamra Mabbott, Community Development Director**  
**CC: Darla Huxel, City Police Chief**  
**RE: Code Enforcement Discussion**

**January 16, 2018 Council Work Session**

The purpose of this work session discussion is for staff to better understand City Council goals, objectives and expectations of the Code Enforcement Program, and, also to provide Council with an update. Based on council input, staff will move forward to implement changes, budget accordingly then schedule for formal Council action as appropriate.

Status Report: Since September, Community Development and Police Department staff have met to discuss numerous code violations and issues/constraints and to go on site visits. CDD attended one Code Enforcement Board meeting. Staff recognize the need for more direct involvement and interaction between code staff and city planner, and also the need to make changes to the Code Enforcement Board. Certain Ordinances may also need to be adopted and/or revised.

Police and CDD staff are collaborating on a number of cases. For example, City Planner has researched permit and land use history on several land use violations to understand what was permitted (or not), or whether a property is out of compliance with permit conditions. Staff then coordinates and writes a formal letter that is sent to the land owner. We expect some of these notices to result in fairly quick compliance and resolution. However, some of these violations will require city attorney review and advice on just how the city could sanction, e.g. lien on property, towing vehicles, imposing and collecting a fine, eviction, etc. These violations take longer to resolve and bring property into compliance.

The collaborative relationship between Police and CDD has been very positive and everyone is working toward improvements. Full changeover and transfer to Community Development Department is expected to take effect July 1, 2018, consistent with the fiscal budget year.

**I. Code Violations**

**Below is a list of violation types. Staff is interested in council feedback on the type and priority.**

- a. Vehicles –Illegal and/or abandoned and/or unlicensed vehicles
- b. Illegal (non-compliant) or non-permitted land uses e.g. occupation of RV, operation of business without permits
- c. Building Permit Compliance (construction without permits)
- d. Solid waste, litter, garbage
- e. Abandoned Buildings
- f. Sign Code Compliance
- g. Animal code compliance – stray and barking dogs
- h. Weeds and noxious vegetation

- i. Dogs – barking, stray
- j. Other

## II. Steps Moving Forward

Below is a list of steps staff is or will be pursuing.

Outreach and Education to community – City Newsletter describing code enforcement and encourage property owners to clean up. Other ideas?

Review and Update city codes (sign code, abandoned vehicle code, Chapter 4 Abatement procedures.)

Work with Code Enforcement Board – convert to advisory board with City Council support

Refer violations to Municipal Court; Change Code Enforcement Board role to Code Advisory Board with quarterly meetings.

Request City Council Liaison for Code Enforcement (to be liaison to code enforcement advisory Board?)

Set up new reporting format, internal and for monthly reporting to City Council– summary reports to council (report by property location and type of violation (map and tax lot), cross reference landowner

Update Job Description including change in supervisor and move to Administrative (non-union) Classification. Meet and review with Personnel Committee (with Nanci's help).

Set up work station at City Hall

Set up funding in Budget Process – staffing, abatement fund (currently \$5,000), legal assistance (part of new city contract)

Other ideas?

## III Current Applicable City Codes

### ***Police Regulations***

Title 5 Police Regulations, Chapter 3 Dog Control Ordinance

### ***Administration (includes Community Development)***

Title 4 Public Health and Safety Nuisances, junk, fences, trees and shrubs, noxious vegetation, discarded & abandoned vehicles, prohibited signs, blowing dust, Abatement Procedures

Title 8 Building Regulations, Building Codes, Signs and Billboards, Dangerous Buildings, Moving Buildings, Dust control.

Title 9 Comprehensive Planning

Title 10 Zoning

**ACTION**  
**LU4 — Strengthen Community Stewardship through Code Enforcement**

**WHY**

Programming for code enforcement should reflect the vision and goals of the community, supporting the city's general plans and zoning maps, outside of just the downtown corridor, to promote overall civic pride through voluntary and regulatory activities. While there is no magic silver bullet when it comes to increasing code compliance, best practices often dictate adopting innovative programs that engage in proactive and aggressive enforcement that involves all stakeholders in the community.

**HOW**

Good code enforcement must be based on good code, which in turn is a result of a good general plan. A good plan clearly and consistently outlines the long-term goals of community members and leaders. Consistency throughout the plan provides solid backing for code enforcement within the community. To help ensure plans are implementable, think about how the goals and vision will be reflected in the code and how they could be enforced as the goals are being written.

Incorporating multiple strategies into a comprehensive compliance plan is the best way to maintain the community's culture while ensuring code enforcement occurs. Strive to promote voluntary compliance on code violations, and focus on providing education and opportunities to property owners for lasting results. A clear process and structure for imposing fines and penalties is a necessary regulatory tool, but incentive and assistance programs tend to better match the culture of small towns.

The City of Umatilla should consider restructuring how the code enforcement program is currently being operated, potentially moving the code enforcer position under the Community Development Department. This could infuse fresh energy into the efforts to promote community pride and build capacity for enforcing

codes through citations and incentives. Relationships developed between code enforcers and community members are consistently recognized as the most important components of good enforcement. When enforcers know and can work with community members to come into compliance, enforcement helps solve, rather than create, problems for community members.

Evaluate current enforcement methods for gaps and opportunities to improve. Absentee landlords and property owners need to be held accountable, while increasing assistance for residents that need it. This could include setting up assistance program for solid waste removal or increasing awareness for clean-up events (e.g., Slam Dunk the Junk), sponsored by the city and other local institutions. Some communities provide one time financial support to help bring property into compliance. Be sure that these programs have a clear definition of who qualifies for the services.

The following are some helpful ways for framing code enforcement within the community:

- **Have a positive view.** Promote enforcement measures in a positive light by focusing on compliance (rather than noncompliance) and the benefits community members receive as they come into compliance and help their neighbors comply as well.
- **Involve the community.** Make enforcement a community effort through strategies that incorporate the entire community where possible. Promoting community clean-up days, assistance programs for the elderly, and even small revolving loan funds can be started to involve large portions of the community.
- **Take a measured approach.** Take small, incremental steps that slowly grow the community enforcement program to the right size will ensure the community can handle more difficult enforcement questions in the future.
- **Be Consistent.** Consistency makes for equitable code enforcement

## EXAMPLE

Celebrate Community Stewardship. City of Austin Code Enforcement Department emphasizes the importance of setting performance measurements based on compliance rather than the number of cases or amount of fines. The City of Austin found that a goal of '95% compliance within 90 days,' for example, was more effective than measuring the number of citations issued or the number of cases handled.

## RESOURCES

[http://archwaypartnership.uga.edu/wp-content/uploads/2010/03/code-enforcement\\_march2010.pdf](http://archwaypartnership.uga.edu/wp-content/uploads/2010/03/code-enforcement_march2010.pdf)

[http://ruralplanning.org/assets/code\\_enforcement-web.pdf](http://ruralplanning.org/assets/code_enforcement-web.pdf)

<https://www.westernplanner.org/zoning-articles/2017/3/13/code-compliance-difficulties-and-ideas-for-small-towns>

**RESOLUTION NO. 36-2018**

**A RESOLUTION TO AUTHORIZE THE DEPUTY CITY MANAGER TO COMPLETE AND SIGN AN APPLICATION FOR A SPECIAL PUBLIC WORKS LOAN FROM BUSINESS OREGON'S INFRASTRUCTURE FINANCE AUTHORITY FOR FUNDS TO APPLY TO THE SIXTH STREET WATERLINE IMPROVEMENT PROJECT**

**WHEREAS**, Business Oregon's Infrastructure Finance Authority is accepting applications for the Special Public Works Loan Program; and

**WHEREAS**, the City of Umatilla desires to obtain a loan to fund the Sixth Street Waterline Improvements Project; and

**WHEREAS**, the Umatilla City Council has identified downtown revitalization as a high priority need in the City of Umatilla; and

**WHEREAS**, the City wishes to complete these waterline improvements prior to the ODOT Sixth Street Enhancement Project; and

**WHEREAS**, the City authorizes the debt to be supported by transfers from the General Fund, specifically from enterprise zone/SIP proceeds; and

**WHEREAS**, completing improvements on Sixth Street will make it possible for revitalization in the downtown area and make the adjacent properties more desirable for future development.

**NOW, THEREFORE, BE IT RESOLVED:**

The Umatilla City Council hereby authorizes Deputy City Manager Ince to apply and sign the loan application from IFA's Special Public Works Fund.

**PASSED** by the Umatilla City Council and **APPROVED** by the Mayor this \_\_\_ day of June, 2018.

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Daren Dufloth, Mayor

ATTEST:

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Nanci Sandoval, City Recorder

