

**UMATILLA CITY COUNCIL MEETING
AGENDA
COUNCIL CHAMBERS 700 6TH STREET, UMATILLA, OR 97882
OCTOBER 19, 2021
6:00 PM**

1. **MEETING CALLED TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **APPROVAL OF AGENDA**

5. **CITY MANAGER REPORT & ANNOUNCEMENTS**

5.a [Police Quarterly Report](#) *Suggested Action: Suggested Action: Discussion. Click [HERE](#) to view online version.*

6. **NEW BUSINESS**

6.a [Resolution 14-2022 - A resolution authorizing city staff to apply for the Land and Water Conservation Fund grant for the development of Nugent Park and delegating authority to the City Manager to sign the application.](#) *Suggested Action: The City is seeking to replace existing playground and shelter equipment with new accessible equipment, a large group shelter, sidewalk, restriping and resurfacing of parking area accessible for people of all abilities at Nugent Park. The City budgeted matching funds for this grant application should the grant be awarded.*

Staff recommends a motion to approve Resolution 14-2022.

7. **DISCUSSION ITEMS**

7.a [ARPA Funds & Reallocation of General Fund Dollars Discussion](#) *Suggested Action: The City has received about \$800,000 in ARPA funds and anticipates receiving an additional approximate \$800,000 funds by the end of the fiscal year. Staff is recommending that ARPA funds be dedicated toward City projects that comply best with the conditions of these funds and to then reallocate some or all of the General Fund dollars that are currently allocated towards these projects, to go toward funding other City projects. Staff is seeking further direction from Council on how they wish to appropriate each of these funds.*

7.b [Transfer of ownership of Sanitary Disposal](#) *Suggested Action: Discussion Only.*

The City has received notice from Sanitary Disposal of their intent to sell to Waste Connections. Per the Franchise Agreement between the City and Sanitary Disposal, at time of transfer of ownership, the City Council shall be provided an opportunity to either approve or deny the request to transfer the franchise to the new owner. Council will be provided this opportunity to ask any questions and with information about this expected transfer.

8. **ADJOURN TO EXECUTIVE SESSION**

8.a Potential Litigation - ORS 192.660(2)(h) Authorizes council to consult with its counsel regarding current litigation or litigation likely to be filed. Media members must be excluded if the member is a party to the litigation. *Suggested Action: None.*

9. **RECONVENE**

10. **ADJOURN**

This institution is an equal opportunity provider. Discrimination is prohibited by Federal law. Special accommodations to attend or participate in a city meeting or other function can be provided by contacting City Hall at (541) 922-3226 or use the TTY Relay Service at 1-800-735-2900 for appropriate assistance.

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Police Quarterly Report	Meeting Date: 2021-10-19
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Department: Police	Director: Darla Huxel	Contact Person: Darla Huxel	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

[Police Dept 1st Quarter FY21-22.pdf](#)

Summary Statement: Suggested Action: Discussion. Click HERE to view online version.

Consistent with Council Goals: Goal 4: Increase Public Involvement, Create a Culture of Transparency with the Public, and Enhance Cultural Diversity.

POLICE DEPARTMENT

QUARTERLY REPORT

First Quarter, Fiscal Year 2021-2022
Quarter Ended September 30, 2021

Greetings,

The following information represents activity and information during the first quarter of Fiscal Year (FY) 2021-22 which includes July, August and September, 2021. On a regular basis, I am reminded of the great people that work for the Police Department. To highlight that, I want to share with you a couple of stories that occurred during this last quarter:

- Our part-time Office Specialist Jan Zita has a long standing family tradition of attending the Pendleton Round Up every year. Four years ago, as she was leaving the box seat area, she happened to see a smaller box protruding from a garbage bag that seemed out of place. When she looked into the box, she found a very expensive necklace and other jewelry. There was no one around the area at that time so she put it in her purse. She began asking different people who were associated with the Round Up who might know the identity of the rightful owner. For the next four years, every year Jan would put the box in her purse and take it with her to the Round Up in hopes of reuniting the jewelry to the owner. This year, with the help of a Round Up Director, she was finally able to make that happen! She was introduced to him and presented him with the necklace and jewelry. He was amazed and grateful that Jan was persistent in doing the right thing in getting the necklace back to him.
- Our part-time Police Officer Brent Holden is a Reservist with the Navy and was deployed to the Middle East earlier this year. During the time the U.S. was withdrawing from Afghanistan, Brent was stationed at the military base in Baharain, a vital and dangerous location. His service to the people of the U.S. during this time was especially felt in our department as we prayed for his safety and strength. While he has been gone on this deployment, he missed out on the birth of his daughter and we want nothing more for him to be able to return home to his family and community.

We are so very proud of Jan and Brent for living true to our mission statement - Doing the right thing, for the right reason, at the right time! I hope this reminds you that we have great people working here at the City of Umatilla and that behind every badge and within every person who works in law enforcement is someone who makes individual sacrifices that continue to make our community safer and a better place to live.

As our community continues to grow so will our activity numbers. Many of the housing projects that are being completed continue to have waiting lists for occupancy. With more people, more "stuff" is going to happen. Another thing that will affect our numbers in the future is the implementation of a newer, updated criminal reporting requirement that is being imposed by NIBERS - National Incident-Based Reporting System that is managed by the FBI. That change will have a direct impact on my next quarterly report.

While reading through this quarterly report, if you have any questions or want additional information, please contact me at the police department by phone (541-922-3789) or by email (Huxel@umatilla-city.org). Thank you and be safe!

Darla Huxel
Chief of Police

Umatilla Police Department Activity Summary

Patrol

During the first quarter of FY21/22, calls for service/self-initiated activity increased to 2617 calls from 2274 during the first quarter of FY20/21.

The average response time during this quarter increased compared to last years first quarter time. The average time per incident showed a slight increase from last years first quarter time.

	<u>FY21/22</u>	<u>FY20/21</u>
Total Dispatched Incidents	2546	2764
Average Response Time	7:15	7:01
Average Time per incident	46:47	43:50

Staff Meetings

During the first quarter of FY21/22, regular staff meetings and Supervisor meetings were conducted on July 12, August 2 and September 13. Some time spent during these meetings is used to share information and specific incidents that have occurred during the month.

Training

The total training hours during this quarter for all UPD department personnel was approximately 283 hours; 3 hours of instruction from our department members and 280 hours of received training. This does not include training done during our monthly staff meetings. Topics during staff meetings include areas such as high risk/low frequency issues, mandated annual employment topics and case reviews or debriefing of officer involved incidents.

First quarter FY21/22 training included:

- LEADS Certification = 3 hours training and 3 hours instruction
- Harassment in the workplace = 9 hours
- Biased based policing = 9 hours
- Investigations = 16 hours
- Water safety/throw bags = 13 hours
- Reid Interview Techniques = 96 hours
- Tall Cop Drug/Alcohol Awareness = 18 hours
- Internal Affairs Investigations = 16 hours (Leadership)
- OWLA and OACP conferences = 24 hours
- Gang Awareness = 36 hours
- Emergency Operations Tabletop = 40 hours

Reserve Officers

Our Police Reserve Officers were able to put a minimal amount of time in assisting the full time officers. Although down to just two Reserve Officers (one of which has been working on the east coast for an extended period), Reserves still contributed 24 hours this quarter. We began recruiting for Reserve Officers to fill vacant positions and started the testing and background checks in July. The testing and checks for Reserve Officers are the same used for hiring any full time officer. At the end of this quarter, one background is complete and the other is still being processed.

School Resource Officer Activities

- July Events – SRO Wilson was assigned patrol duties during the summer months while school was out. He attended two school related trainings which included the National Association of School Resource Officers Conference and the Innovative Schools Summit/Conference.

- August Events – SRO Wilson was assigned patrol duties and attended one school Administrative Team Meeting (ATM)
- September Events – Participated in one ATM meeting and focused on traffic enforcement around the schools. This generated 40 verbal warnings for crosswalk violations, 3 illegal parking violation warnings, 1 distracted driver warning (cell phone) and 2 warnings for moving violations. Officer Wilson also responded to 3 incidents that were criminal in nature that were handled by school administration and 1 incident in which 2 students were cited for fighting in school.

SRO Officer Wilson is happy to be able to get back into the schools and has been working with school staff to prepare for future presentations and be actively involved in various events and activities that will be held in the school.

Community/School Activities

- July Events – Participated in a Saturday Market event.
- August Events – Participated in the National Night Out event (Detailed below).
- September Events – Participated/hosted an Emergency Operations Tabletop event (Detailed below).

Juvenile Activity

During the first quarter of FY21/22, calls involving juveniles decreased from first quarter FY20/21 from 19 to 10. Cases/incidents involving juveniles include all juvenile complaints/contacts, runaways and minor in possession of alcohol or tobacco. Some of these cases/incidents are referred to our Community Accountability Board which generally will see cases/incidents for first time offenders of violations or misdemeanor classed crimes. There were three referrals to the CAB and no referrals to the Community Truancy Board during the first quarter of FY21/22.

Sex Crimes/Registrations

- There were a total of six sex crimes/registrations reported this quarter showing an increase from the four in first quarter FY 20/21. In July we began doing in person sex offender registrations as time and open office hours allowed.

Traffic Infractions

- During the first quarter of FY21/22, we conducted 883 self-initiated traffic stops/traffic complaints. As a result, 301 traffic citations were issued which resulted in a traffic infraction citation being issued approximately 34% of the time. This figure includes both criminal and non-criminal traffic infractions.
- There were no special enforcement operations during this quarter, however, we conducted 72 directed patrols mostly in the Lind Rd./Union Street area as a result of multiple driving complaints in that area.

Traffic Citations – During the first quarter of FY21/22, there were 301 traffic citations issued and 582 warnings given compared to 295 citations issued and 577 warnings given in the first quarter of FY20/21. Offenses that are tracked include:

- Speed
- Traffic Control Devices
- Insurance/Registration
- No Operators License
- Driving While Suspended
- Equipment violations

Traffic Crashes – First quarter of FY21/22 indicates a decrease from first quarter of FY20/21 from 34 to 33. A large number of these crashes continue to occur at, or around, the Highway 730/Interstate 82 intersections. The city has brought this to the attention of the ODOT Regional Manager who has ensured that the lights at those intersections are running properly. We will continue to keep ODOT updated of the re-occurring problem in this area. Please use extra caution especially when merging into one lane going westbound. Also, during peak traffic times, backups occur in the lanes coming down the hill from Highway 395. Many times, people will allow space for people to turn onto the freeway headed toward the Tri-Cities. If you are turning, remember that there

are TWO lanes that you must cross. If you are in the slow lane coming down the hill be aware that people may be turning onto the freeway between this gap. Extra caution is a must in this area.

Person Crimes/Incidents - First Quarter Comparisons.

FY 21/22	FY 20/21
68	58

Property Crimes/Incidents - First Quarter Comparisons.

FY 21/22	FY 20/21
129	109

Arrests - First Quarter comparisons.

FY 21/22	FY 20/21
97	73

Other Notable Items of Interest

Office Administrator workload – In addition to the daily dispatching duties, our office personnel completed 66 records requests. This quarter we provided fingerprint services to the public and completed 6 requests.

Mental health – Officers continue to have contact with persons who are having mental health issues or are in crisis. Our FY 21/22 number for calls dealing with mental/suicidal subjects have increased from FY 20/21 quarter from 9 to 18. With Umatilla County's change of their mental health provider from Lifeways to Community Counseling Solutions, we hope to see a more positive response to our request for assistance in dealing with those who are in a mental health crisis. Currently, the county is phasing in the new provider with full implementation expected before the end of the year.

Grant award status – Pending grant with Wal-Mart for our annual Shop with a Cop event in December.

Summary of Offenses

A review of the offenses from this first quarter compared to last first quarter shows an overall increase in activity except in burglary, menancing, trespassing and UUMV/UEMV cases.

Property crimes saw an overall increase of 20 reports this quarter compared to FY 20/21 first quarter from 109 to 129. The largest increases were in theft calls and fraud/forgery calls.

Person crimes saw an overall increase of 10 reports this quarter compared to FY 20/21 first quarter from 58 to 68. The main increase was in domestic violence/violation of restraining order reports.

Snapshot All Offenses Q1 FY21/22		Snapshot All Offenses Q1 FY 20/21	
Offense	Amount	Offense	Amount
Abuse	7	Abuse	6
Assaults	5	Assaults	2
Burglary	5	Burglary	8
Ciminal Mischief	16	Ciminal Mischief	11
Domestic Disturbance/VRO	35	Domestic Disturbance/VRO	30
Drug Activity	7	Drug Activity	4
DUII	5	DUII	4
Fraud/Forgery	11	Fraud/Forgery	3
Harassment/Stalking	21	Harassment/Stalking	19
Kidnapping	0	Kidnapping	0
Menancing	0	Menancing	1
Robbery	0	Robbery	0
Thefts	39	Thefts	27
Trespassing	35	Trespassing	39
UUMV/UEMV	11	UUMV/UEMV	13
Warrants	41	Warrants	35
Total	238	Total	202
Assists	110	Assists	95
Person Crimes		Property Crimes	

Code Enforcement - Property



In this last quarter, we responded to 74 property calls with the majority involving weeds and/or overgrown vegetation or unsightly debris.

As mentioned in my last quarterly report, the City has numerous opportunities to assist in cleanup efforts during the year and strongly encourages people to take advantage of those events.

There will be another City wide cleanup on November 13th from 10:00 a.m. until 1:00 p.m.

People are encouraged to bring their items to dumpsters that will be located at the Public Works area for **free!**

Can't find a way to haul your items to the dumpsters - if you can get the items to the curbside, then call City Hall (541-922-3226) and arrange for the Public Works crew to pick them up for you **the week prior to the event** and yes, it also is free of charge!

Please, please, please take advantage of this opportunity to clean up our community.

Code Enforcement - Animals



In this last quarter, we responded to 105 animal related calls, the majority of which involved dogs running at large or excessive barking.

When your dogs are licensed, many times the Code Officer can safely return your dog should it escape from your property. Please be mindfull of your neighbors and take steps to quiet your dog from excessive barking.

Our Code Officer responds to a variety of different animal calls like the one in the picture above - yes, she and Officer Butler are rescuing a chicken and her eggs from a nesting spot in a neighborhood.

Chickens are not allowed in the city, so she was able to safely remove and place this chicken at a local farm to roam free. (No chicken or eggs were harmed during this incident!)

Code Enforcement - Vehicles



In this last quarter, we responded to 72 vehicle calls with the majority involving parking complaints. We will continue to address illegal and extended parking on the streets especially as winter quickly approaches.

Just a reminder, campers, trailers (any kind) and RV's are not allowed to be parked on the street. There is a grace period that allows for people who may be visiting you to be parked over a weekend (3 days) but that is the only exception.

Now that school is back to in person learning, a reminder to please slow down especially in our school zones and residential areas. As the days get shorter, daylight hours also get shorter so be aware of pedestrians and please use the crosswalks.

Use of Force Review Committee

The Use of Force Review Committee meets on a quarterly basis. The role of the committee is to review the use of force incidents that the police department is involved with on a quarterly basis. This not only provides transparency but will also allow an outside view of the police department policies and practices and how they are applied. The committee is comprised of the Mayor, two City Council members (Police Committee), the City Manager, the police Lieutenant and two citizen volunteers.

In this last quarter, UPD had a total of seven use of force incidents for the months of July (4), August (2) and September (1). Four of the incidents involved officers who pointed a firearm and three incidents required using a control hold to effect an arrest: one suspect was intoxicated, one suspect was attempting to flee on foot and one suspect was threatening self-harm by holding a knife to their throat. By policy, each officer involved with a Use of Force incident is required to complete a Use of Force form that is reviewed by the Lieutenant for proper application by policy. There was one incident in which the Lieutenant was involved and that incident was reviewed by the Chief. All incidents are briefed with the involved officer(s) and the Chief. The Committee will meet October 21st to review these mentioned incidents.

During this quarter, there was not any Use of Force specific training. As mentioned previously, these type of incidents are discussed during the monthly staff meetings. This provides an opportunity to review tactics, applicable case law and best practices.

Community Engagement



Community Engagement

Our department is making a concerted effort to be a part of, participate in or attend as many community sponsored events as possible. This allows for the general public to have interaction with our staff, ask questions in a non-threatening type of environment and to generally get to know us; putting a name to the face.

In July, we participated in the Saturday Market by having a booth set up to distribute various information on topics such as fraud, home security, personal safety, etc.

In August, all of our department was involved with the National Night Out event and in September we stepped up patrols around the schools when the in-person teaching resumed. We will be participating in as many public events that we can as personnel and activity permits.

National Night Out



National Night Out

"National Night Out is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie to make our neighborhoods safer, more caring places to live.

National Night Out enhances the relationship between neighbors and law enforcement while bringing back a true sense of community.

Furthermore, it provides a great opportunity to bring police and neighbors together under positive circumstances.

Millions of neighbors take part in National Night Out across thousands of communities from all fifty states, U.S. territories and military bases worldwide on the first Tuesday in August." as described on the NNO website. More information can be found at: natw.org.

Our event was held at Victory Square Park where we provided free food and drink and held various other community and youth events.

Emergency Operations Tabletop



Emergency Operation Tabletop

One of the City Council goals involves emergency management. In part the goal states: Work to establish Umatilla as a community that emphasizes emergency preparedness. Make any effort possible to ensure that all City functions can operate during times of crisis or if power or other core utilities were to temporarily be unavailable.

On September 21 - 22, the Mayor, Council, City Department Heads, various City employees and a number of neighboring agencies and partners participated in a tabletop exercise that tested our ability to respond to a emergency event here in town. We were able to enlist the assistance of Dr. Mary Schoenfeldt who comes with an extensive resume involving several national organizations.

Dr. Schoenfeldt has worked in communities all around the US and beyond. She has provided services to Eastern Oregon in the past and is well known locally for her expertise and ability to make a difference.

Oregon Accreditation Alliance



Oregon Accreditation Alliance

In the 2021 Legislative session, HB 2162 was passed which requires one or more accrediting bodies for law enforcement agencies to be designated by DPSST. The Oregon Accreditation Alliance (OAA) has been designated as Oregon's accreditation body. The bill also sets deadlines for specific agencies to acquire accreditation in the future. We are fortunate to have already achieved this accomplishment through the OAA.

Listed below are some of the benefits of accreditation:

For the Community

- Increases the law enforcement agency's ability to prevent and control crime through more efficient and effective delivery of services.
- Enhances community understanding of the law enforcement agency, its role in the community, and its goals and objectives.
- Creates a forum in which police and citizens work together to prevent and control crime through greater understanding of the challenges and impacts on law enforcement and the desires of the community.
- Enhances public confidence in the law enforcement agency.

For the Chief Executive Officer

- Increases cooperation and coordination with other law enforcement and criminal justice agencies.

Umatilla PD Accreditation Update



Umatilla PD Accreditation Update

In January 2016, the Umatilla Police Department received accreditation from the Oregon Accreditation Alliance for the year 2015. This began the three year cycle that would be required to maintain accreditation status. In April 2019, we received re-accreditation for the years 2016, 2017 and 2018. Right now, we are in the three year cycle of 2019, 2020 and 2021. We will be conducting a pre-review for re-accreditation sometime in November or December with the final review to be held in January 2022.

From the first accreditation period to now, the process has changed a lot. As with most programs, this process has moved from paper files to a digital format. We are fortunate to have a part time office person, Krysta Marlow, who was "voluntold" to take on the challenge. Some of you may recall, Cindy Eddy was our original accreditation manager who was stellar in helping to establish our program. She left a solid framework for Krysta to convert the paper files to the required digital format. Krysta is committed to the project and we are confident that we will not have any problems with our final re-accreditation review in January.

Why be accredited? The law enforcement accreditation system establishes a uniform set of "Best Practices" for police agencies that are consistent on an international scale, measurable, verified by an independent body as to compliance

- Provides independent confirmation that policies comply with professional standards.
- Provides greater administrative and operational effectiveness.
- Insures continuous, systemized self-assessment of policies, procedures, and operational practices.
- Decreases exposure to civil liability and costly settlements, which leads to potential reductions in premiums for liability insurance.
- Provides state and local acknowledgement of professional competence.

and creates an accountability to the community, elected policy makers, and the line officers who are performing the day to day work. Within the law enforcement standards of Best Practices are compliance requirements dealing with life, health, safety and high liability exposures.

We will be ahead of the game as accreditation becomes a requirement for many agencies. Right now, because of our size, it is not a state mandated requirement but I believe that we are headed toward legislation that will require ALL agencies be accredited in the future.

For Law Enforcement Personnel

- Enhances understanding of agency policies and procedures.
- Assures consistent recruitment, selection, and promotion processes and that employment practices are fair, equitable, and non-discriminatory.
- Increases morale within the agency.
- Increases pride and confidence in the agency and its operations.
- Ensures that agency policies and procedures are reduced to writing and available to all personnel.

UPD Employee Highlight

Officer Nick Lemmon has been with the department since 2019. He is currently assigned as a Patrol Officer.

Officer Lemmon came to us with some experience as a security guard and was working at Two Rivers Correctional Institute at the time we hired him at our department. He also has some experience in construction.

Officer Lemmon spent most of his younger years in Washington state, graduating High School in Kent and then graduated from Central Washington University with a degree in Philosophy.

While in high school, Officer Lemmon was the captain of the wrestling team and captain of the Cross Country/Track team. He competed at the state level in both of those sports.

Officer Lemmon enjoys outdoor activities such as hiking, hunting and also enjoys working on his truck.



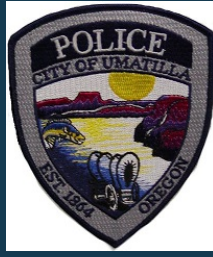
Umatilla Police Officer's Association Activities

The Umatilla Police Officer's Association is an organization comprised of members of the Police Department but is not part of the department. The UPOA is not funded by the police department but relies on independent fund raisers to support local events and organizations with a focus on our youth.

During this quarter their involvement included:

- Donation to the Randy Studebaker Fund raiser
- Donation of raffle items to Fishin' the Brave
- Donation to the Heritage Golf Tournament that supports the Umatilla Museum and Umatilla Alumni Association





POLICE DEPARTMENT QUARTERLY REPORT

www.umatilla-city.org

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution 14-2022 - A resolution authorizing city staff to apply for the Land and Water Conservation Fund grant for the development of Nugent Park and delegating authority to the City Manager to sign the application.	Meeting Date: 2021-10-19
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Department: Community Development	Director: Brandon Seitz	Contact Person: Esmeralda Perches	Phone Number:
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Cost of Proposal: \$300,000	Fund(s) Name and Number(s): Capital Reserve - 05
Amount Budgeted: \$300,000	

Reviewed by Finance Department: Yes	Previously Presented: 2020
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Attachments to Agenda Packet Item:

[Resolution 14-2022.docx](#)

Summary Statement: The City is seeking to replace existing playground and shelter equipment with new accessible equipment, a large group shelter, sidewalk, restriping and resurfacing of parking area accessible for people of all abilities at Nugent Park. The City budgeted matching funds for this grant application should the grant be awarded. Staff recommends a motion to approve Resolution 14-2022.
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Consistent with Council Goals: Goal 1: Promote a Vibrant and Growing Community by Investing in and Support of Quality of Life Improvements.

RESOLUTION NO. 14-2022

A RESOLUTION AUTHORIZING THE CITY OF UMATILLA TO APPLY FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT FOR DEVELOPMENT OF NUGENT PARK AND DELEGATING AUTHORITY TO THE CITY MANAGER TO SIGN THE APPLICATION

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Land and Water Conservation Fund Grant Program; and

WHEREAS, the City of Umatilla desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, City Council and staff have identified the need for development of Nugent Park as a high priority need in City of Umatilla; and

WHEREAS, the city seeks to replace existing playground and shelter equipment with new accessible equipment, a large group shelter, sidewalk, restriping and resurfacing of parking area accessible for people of all abilities at Nugent Park; and

WHEREAS, the City of Umatilla has available local matching funds to fulfill its share of obligation related to this grant application should the grant funds be awarded; and

WHEREAS, the City of Umatilla will provide adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA:

- Section 1: The Umatilla City Council demonstrates its support the submittal of a grant application to the Oregon Parks and Recreation Department for development of Nugent Park.
- Section 2: The Umatilla City Council authorizes the City Manager to sign for the application.
- Section 3: This Resolution shall be effective following its adoption by the City Council.

PASSED by the City Council and **SIGNED** by the Mayor this 19th day of October 2021.

ATTEST:

Recorder

Mary Dedrick, Mayor
Nanci Sandoval, City

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: ARPA Funds & Reallocation of General Fund Dollars Discussion	Meeting Date: 2021-10-19
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: \$1.6 million	Fund(s) Name and Number(s): General Fund - 01
Amount Budgeted: \$1.6 million	

Reviewed by Finance Department: Yes	Previously Presented: 03/16/21
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Attachments to Agenda Packet Item:

[Memo Regarding Use of ARPA Funds.docx](#)

Summary Statement: The City has received about \$800,000 in ARPA funds and anticipates receiving an additional approximate \$800,000 funds by the end of the fiscal year. Staff is recommending that ARPA funds be dedicated toward City projects that comply best with the conditions of these funds and to then reallocate some or all of the General Fund dollars that are currently allocated towards these projects, to go toward funding other City projects. Staff is seeking further direction from Council on how they wish to appropriate each of these funds.
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Consistent with Council Goals: Goal 2: Promote Economic Development and Job Growth.



City of Umatilla

700 6th St Umatilla, OR 97882
Ph: 541-922-3226 Fax: 541-922-5758
www.umatilla-city.org

MEMORANDUM

Date: October 15, 2021
To: Umatilla Mayor & City Council
From: David Stockdale, City Manager, City of Umatilla
Re: Use of American Rescue Plan Act and Re-Allocation of General Fund Dollars

The American Rescue Plan Act (ARPA) was signed into law by President Biden in March of this year. This plan appropriated funds to states and local governments to assist with the economic recovery and infrastructure enhancements in our communities. For Umatilla, the amount appropriated is just over \$1.6 million, paid in two installments of approximately \$800,000. These funds must be spent by the December 31, 2024.

There are four broad categories on how these funds can be spent: 1) as revenue replacement for government services, provided the reduction in revenue was caused by COVID-19, 2) assistance to small businesses and hard-hit industries to help toward an economic recovery, 3) premium pay for essential workers, and 4) investments in water, sewer, and broadband infrastructure.

Through our annual budget process, we have appropriated the expenditure of these funds, but have not allocated them to any specific projects or programs. When considering the vast number of projects and priorities/goals of the City and the allowances and restrictions of these funds and others, I make the following suggestions for consideration:

1. Dedicate the use of ARPA funds toward our two qualified projects: the Umatilla Business Center and the Community Development Block Grant (CDBG) funded water and sewer design projects for Brownell/Power City. The Business Center will strongly enhance small business growth in the City.
 - a. These projects clearly meet the intended use of these funds and would free up currently allocated General Funds that could be used toward other community enhancement projects and programs (see suggestion 2).
 - b. Utilizing these funds toward these projects would also help meet other grant match requirements and either reduce or eliminate the need to use other discretionary or restricted funds (like water or sewer).
2. Re-allocate some of the discretionary General Funds that were set for the Umatilla Business Center (we have \$2.355 million saved) toward some of our other partially funded community quality of life recreation improvements.
 - a. Event Stage, Screens, Lights, and Sound Board. We have set aside \$260,000 for a very large mobile concert event stage, but not with the remaining corresponding equipment like large screens, lights, and sound equipment. We have a goal to produce an all-new multi-day outdoor music festival and owning this equipment

would save us costs in the long run and work toward ensuring that we are self-sufficient toward our ability to produce these large events. Rather than waiting and saving over the next year or two, I recommend that we purchase these all now. This would likely increase this total an additional approximate \$200,000 or \$460,000 total.

- b. On-Water Outdoor Water Park. We have set aside \$25,000 for an outdoor floating water park to be available at the swimming bay at the Marina & RV Park with plans to make the purchase in July of next year with increased budget. I recommend that we fund this entire project now so that it can be purchased right away and made available for use beginning Memorial Day weekend (end-of-May) of this year and used each summer thereafter. This would be an increase of approximately \$150,000 or a total budget of \$175,000.
 - c. Outdoor Synthetic Ice Rink. Outdoor winter activities and recreation programs, including ice skating, were identified in the Parks Master Plan as a desired community amenity. The City could purchase the rink, skates, maintenance equipment, etc. for approximately \$200,000 and provide this new service beginning the first weekend of December through President's Day in February every year. Staff suggests operating it only on the weekends: Friday 4:00pm – 8:00pm, and Saturday/Sunday 12:00pm – 3:00pm and 4:00pm – 8:00pm (closed for an hour for employee lunch and ice maintenance). Eventually, recreation leagues, camps, clubs would also have access to this facility each year.
 - d. Golf Course Event Power Improvements. With continued gathering restrictions in 2021, the net \$175,000 expense that was budgeted for a new outdoor festival (\$375k expense - \$200k revenue) could be re-allocated towards the event power improvement project that we have already reserved \$260,000. The total estimated cost for this improvement is \$560,000 or a net increase of \$125,000.
3. Use remaining reallocated funds to leverage other grant funding for other City priorities and projects.

The total reallocation would result in an increase of \$675,000 toward these projects now, rather than spanning them over two or more fiscal years. That would then still leave just under \$1 million in yet-to-be-allocated funds that we could carry forward into the next fiscal year through the annual budgeting process to meet goals of next fiscal year.

These facility improvements will provide unique-to-Umatilla recreational opportunities, promote tourism, and support other local businesses. They would also provide close-to-home recreation and family friendly activities and events and do so now, rather than later.

Operationally, this would allow the City to hopefully utilize our teenagers and other individuals or groups seeking part-time seasonal employment. The ice rink would provide for Friday night and weekend part-time work, followed by recreational program part-time work in the spring, followed by water park part-time work in the summer. Staff strongly believes that this would be a major overall benefit to the community, particularly to our young persons looking for part-time work without having to travel outside of their own city. The ice rink and water park also will lead to additional event and promotional opportunities and fundraisers or sponsorship/advertising opportunities. Some, but certainly not all, of these additional personnel costs will be covered by rentals, sponsorships, admissions, and concessions.

I look forward to our discussion on this topic during our Workshop on Tuesday 10/19/21.

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Transfer of ownership of Sanitary Disposal	Meeting Date: 2021-10-19
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): Refuse - 08
Amount Budgeted: n/a	

Reviewed by Finance Department: No	Previously Presented: n/a
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Attachments to Agenda Packet Item:

[Sanitary Disposal Franchise Agreement.pdf](#)

Summary Statement:

Discussion Only.

The City has received notice from Sanitary Disposal of their intent to sell to Waste Connections. Per the Franchise Agreement between the City and Sanitary Disposal, at time of transfer of ownership, the City Council shall be provided an opportunity to either approve or deny the request to transfer the franchise to the new owner. Council will be provided this opportunity to ask any questions and with information about this expected transfer.

Consistent with Council Goals:

Goal 3: Enhance and Cultivate Relationships and Partnerships.

Eddie Wilson
add revision 3
Jan.

ORDINANCE NO. 650

AN ORDINANCE REGULATING SOLID WASTE DISPOSAL, COLLECTION AND RECYCLING; ENABLING THE GRANTING OF AN EXCLUSIVE SOLID WASTE COLLECTION FRANCHISE TO SANITARY DISPOSAL, INC., ITS SUCCESSOR AND ASSIGNS; PROVIDING FOR INSPECTION; PROVIDING PENALTIES; REPEALING ORDINANCE NO 443; AND DECLARING AN EMERGENCY

THE CITY OF UMATILLA ORDAINS AS FOLLOWS:

SECTION 1. Short Title. This ordinance shall be known as the "Solid Waste Management Ordinance" and may also be so cited and pleaded and shall be cited herein as "this ordinance."

SECTION 2. Chapter 2 of Title 4, entitled Solid Waste Disposal, is amended to read:

4-2-1 **PURPOSE, POLICY AND SCOPE:** It is declared to be the public policy of the City of Umatilla to regulate solid waste management to:

- A. Ensure safe, economical and comprehensive solid waste service;
- B. Ensure rates that are just and reasonable and adequate to provide necessary public service;
- C. Prohibit rate preferences and any other practice that might be discriminatory; and
- D. Provide for technologically and economically feasible recycling and resource recovery by and through the franchisee.

4-2-2: **DEFINITIONS:** When used in this Chapter, unless the context requires otherwise:

CITY: Where the city limits are extended, the City shall include such extended geographic boundaries.

COMPENSATION INCLUDES:

- (1) Any type of consideration paid for service including, but not limited to, rent, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants or similarly situated persons;
- (2) The exchange of service between persons; and
- (3) The flow of consideration from a person owning, possessing or generating solid waste to another person who provides services or from a person providing services to another person owning, possessing or generating solid waste.

COUNCIL: The City Council of the City of Umatilla.

FRANCHISEE: Sanitary Disposal, Inc. to whom a franchise is granted by the City Council pursuant to this ordinance. Such franchise shall grant exclusive rights to provide service and solid waste management service for compensation.

GROSS RECEIPTS: All revenue received from providing solid waste management service under this franchise.

RECYCLABLE MATERIALS: Any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

RESOURCE RECOVERY: The process of obtaining useful material or energy resources from solid waste, including energy recovery, material recovery, recycling and reuse of solid waste.

SERVICE: The collection, transportation, storage, transfer, disposal of or the resource recovery from solid waste.

SOLID WASTE: All putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, grass clippings, compost, tires, equipment and furniture; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home or industrial appliances; manure, vegetable or animal solid and semi-solid wastes, dead animals, infectious waste as defined in ORS 459-387, and other wastes; but the term does not include:

- (1) Hazardous waste as defined in ORS 446.005.
- (2) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.
- (3) Beverage containers, subject to reuse or refund provisions, contained in ORS 459A.700 to 459A.740.

SOLID WASTE MANAGEMENT: The prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

WASTE: Material that is no longer usable or wanted by the source of the material, which material is to be utilized or disposed of by another person. For the purpose of this paragraph, "utilized" means the productive use of wastes through recycling, reuse, salvage, resource recovery, energy recovery or landfilling for reclamation, habilitation or rehabilitation of land.

4-2-3: ACTIVITIES AND PRACTICES REGULATED.

- A. Except as otherwise provided in this ordinance, it shall be unlawful for any person other than the franchise holder under the provisions of Section 4-2-4 below to provide solid waste management service in the City of Umatilla for compensation.

B. Nothing in this franchise shall:

- (1) Prohibit a federal or state agency that collects, stores, transports or disposes of waste, solid waste or recyclable materials, or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for the federal or state agency.
- (2) Prohibit any person in the City from hauling his own waste, solid waste or recyclable materials in a lawful manner; provided, however, that no person will be permitted to haul such waste, solid waste or recyclable material for any other person or firm;
- (3) Prohibit a generator of source separated recyclable material from selling or exchanging such material to any person for fair market value for recycling or reuse;
- (4) Prohibit any person from transporting, disposing of or resource recovering, sewage sludge, septic pumpings or cesspool pumpings;
- (5) Prohibit any person licensed as a motor vehicle wrecker under ORS 481.435 et seq. from collecting, transporting, disposing of or utilizing motor vehicles or motor vehicle parts;
- (6) Prohibit any person transporting solid waste through the City that is not collected within the City;
- (7) Prohibit a contractor registered under ORS Chapter 701 from hauling waste created in connection with the demolition, construction or remodeling of a building or structure or in connection with land clearing and development. Such waste shall be hauled in equipment owned by the contractor and operated by the contractor's employees;
- (8) Prohibit the collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity and not engaged in the regular business of collection of putrescible solid waste;
- (9) Prohibit a non-profit charitable, benevolent or civic organization from collecting recyclable materials provided that such collection is not a regular or periodic business of such organization. The organizations shall comply with all applicable provisions of this chapter;
- (10) Prohibit a person from transporting or disposing of waste that is produced as an incidental part of the regular carrying on of the business of janitorial service, gardening or landscaping service, or rendering (These sources do not include the collection, transportation or disposal of accumulated or stored wastes generated or produced by other persons.); and
- (11) Require franchisee to store, collect, transport, dispose of or resource recover any hazardous waste as defined by or pursuant to ORS Chapter 466; provided, however, that franchisee may engage in a separate business of handling such wastes separate and apart from this franchise and chapter.

4-2-4: **EXCLUSIVE FRANCHISE AND TERM OF FRANCHISE:** There is hereby granted to Sanitary Disposal, Inc., an Oregon corporation, the exclusive right, franchise and privilege of using the streets of the City to provide solid waste management service for commercial, industrial and residential establishments within the City of Umatilla. The rights, privileges and franchise herein granted shall begin on April 1, 197, and shall be considered as a continuing five-year franchise. That is, beginning January 1 of each year, the franchise will be considered renewed for an additional five-year term, unless at least thirty (30) days prior to January 1 of any year either party shall notify the other party in writing of intent to terminate further renewals of the franchise. Upon the giving of such notice of termination, the franchisee shall have a franchise which will terminate five (5) years from the date of the notice of termination of renewals. The Council may later extend the term or reinstate continuing renewals upon mutual agreement with the franchisee. Nothing in this section restricts the Council from suspending, modifying or revoking the franchise for cause pursuant to Section 4-2-11 of this ordinance. Such franchise may be transferred only upon approval of the City Council. The sale of shares, merger, consolidation, reorganization or restructuring in which the current shareholders are no longer the principal owners and managers shall be treated as a transfer of interest requiring approval.

4-2-5: **PRACTICES PROHIBITED WITHOUT A FRANCHISE:** Unless exempted by Section 4-2-3 or granted a franchise, no person shall:

- A. Solicit for service customers,
- B. Advertise the providing of service, or
- C. Transport solid waste other than his own.

4-2-6: **RESPONSIBILITY OF FRANCHISEE:**

- A. The franchisee shall provide collection service to any resident of the City of Umatilla as long as the resident pays for said service.
- B. The franchisee shall make available solid waste management service as defined in Section 4-2-2 of this ordinance to customers in the City not less than once per week.
- C. The franchisee shall use proper and suitable equipment for the hauling, removal and transportation of solid waste. All equipment for transporting solid waste on public roadways within the City of Umatilla shall be covered, and all equipment for handling said waste material shall be equipped with a metal body, water tight and drip proof to the greatest extent practicable. All equipment shall be kept clean at all times, and sufficient equipment shall be kept on hand to properly and adequately remove all solid waste, subject to the terms of this ordinance.
- D. Lids shall be replaced on all receptacles by the collector after emptying the receptacle.
- E. The franchisee shall use a disposal facility site that is approved by the Department of Environmental Quality (DEQ) and the City.
- F. The franchisee shall, without charge to the City, pick up, carry away and dispose of any and all waste materials placed by the City of Umatilla in suitable containers which hold solid waste generated by the City of Umatilla. It is understood, however, that the

franchisee may impose reasonable charges to the City for extraordinary disposal activities such as the removal of demolition materials.

- G. The franchisee may subcontract with others to provide a portion of the service where the franchisee does not have the necessary equipment or service capability. Such a subcontract shall not relieve the franchisee of total responsibility for providing and maintaining service and from compliance with this ordinance. Franchisee shall provide written notice to the City of its intention to subcontract any portion of the service and receive City approval prior to entering into such agreement. The subcontractor shall comply with all provisions of this ordinance.
- H. The franchisee, in conjunction with the City, shall develop and implement an "opportunity to recycle" program that meets the mandated state recycling program requirements.
- I. The franchisee shall permit inspection by the City of the franchisee's facilities, equipment and personnel at reasonable times. The franchisee shall keep proper books and records covering his solid waste collection, removal, disposal and recycling operations, which books and records shall be open to inspection by the City at reasonable times.
- J. The franchisee shall comply with all laws relating to solid waste management service.
- K. The franchisee shall submit a certificate of public liability insurance with a thirty (30) day notice of cancellation clause, acceptable to the City, which will cover its business operation including each vehicle operated by said franchisee. The insurance coverage shall be in amounts not less than the minimum requirements of the Oregon Tort Claims Act as now enacted or hereafter amended. The insurance shall indemnify and save the City harmless against liability or damage which may arise or occur from an injury to persons or property as a result of said franchisee's operation of the solid waste business. The City shall be named as an additional insured.
- L. The franchise granted under this ordinance shall be conditioned upon the franchisee indemnifying and saving harmless the City of Umatilla against any liability or damage which may arise or occur to the City of Umatilla from any injury to persons or property as a result of the franchise holder's operations under this ordinance.
- M. The franchisee shall provide a performance bond in the amount of five thousand dollars (\$5,000), with a surety licensed to do business in the State of Oregon, conditioned upon the full and faithful performance of this agreement and franchise and this ordinance. In the event that the council finds that the franchisee has adequate experience and otherwise meets the requirements to guarantee service, it may waive, by resolution, all or part of the bond requirements.

4-2-7:

RATES: Any person who receives solid waste management service from franchisee shall be responsible for payment of such service. The rates to be charged to all persons by the franchisee shall be reasonable and uniform, taking into consideration the cost of performing the service rendering by the franchisee, the anticipated increase in the cost of providing this service, the necessity that the franchisee have a reasonable operating margin, and rates and fees charged in other and similar municipalities. The rates may be changed by resolution during the term of the franchise if approved by the City Council. Said rates shall be on file at the recorder's office for public inspection.

4-2-8: **BILLING, COLLECTION AND FRANCHISE FEE:** The City shall do the billing and collecting of solid waste service fees and shall retain fourteen per cent (14%) of the gross collections in payment of three percent (3%) franchise fee and eleven per cent (11%) for billing and collection service, and pay the balance to Sanitary Disposal, Inc. Such percentage shall be reviewed and may be changed by resolution of Council at any time when the franchisee submits a request for rate review. *

4-2-9: **CHARGES TO THE CITY:** The City can request the Franchisee provide dropboxes, haul and disposal of waste generated on City owned properties for a charge equal to the disposal costs the Transfer Station pays Finley Buttes Landfill for disposing of the waste. The franchisee shall provide the City a copy of the Finley Buttes Landfill rates whenever there is a rate adjustment.

4-2-10: **OWNERSHIP RECYCLABLE MATERIALS:** All recyclable materials located, placed or deposited in a container, drop box or receptacle intended to be collected by the franchisee shall belong to the franchisee. It shall be unlawful for any person other than the franchisee to remove recyclable material from such receptacles, and any person removing such materials in violation of this section shall be guilty of a misdemeanor and subject to the penalties defined in Section 4-2-16 of this ordinance.

4-2-11: **PUBLIC RESPONSIBILITY:** In addition to and not in lieu of compliance with ORS Chapter 459 and other applicable laws and regulations:

- A. Customers shall take appropriate actions to ensure that hazardous materials, chemicals, paint, corrosive materials, infectious waste or hot ashes are not put into a can, cart, container or drop box. When materials or customers abuse, fire or vandalism causes excessive wear or damage to a cart, container or drop box, the cost of repair or replacement may be charged to the customer.
- B. No unauthorized person shall place materials in or remove materials from a solid waste collection container without permission of the owner of the container. For the purpose of this section, the franchisee is the "owner" of containers supplied by franchisee. Persons to whom the franchisee supplies containers shall be authorized persons within the meaning of this section.
- C. No unauthorized person shall remove solid waste placed out for collection and resource recovery.
- D. Unless permitted by the franchisee, no person shall install or use any container over thirty-two (32) gallons in capacity for pickup by franchisee other than those supplied by franchisee. The purpose of this subsection is to insure safe equipment, sizes and weights, and facilitate franchisee utilizing the most efficient collection equipment and methods.
- E. The franchisee is not required to service an underground container unless the person responsible for it places the container above the ground prior to the time for collection.
- F. Each customer shall provide safe access to the solid waste container or waste without risk or hazard to franchisee's employees, the public or franchisee.
- G. No container designed for mechanical pickup shall exceed safe loading weights or

volumes as established by the franchisee to protect service workers, the customer, the public and the collection equipment.

- H. No container designed for manual pickup shall exceed thirty-two (32) gallons in size or sixty (60) pounds in weight when loaded and eighteen (18) pounds when empty. Such containers shall be made of metal or be solid, fireproof, rodent proof and not be subject to cracking or splitting, and have proper handholds and bails. Containers must be kept in good condition by customer.
- I. Customers using mechanically emptied containers furnished by franchisee shall provide a smooth, level, hard-surfaced area approved by the franchisee for the container.
- J. Unless special service or service equipment is provided by the franchisee for handling unconfined waste, materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris for manual pickup and collection shall be in securely tied bundles or in boxes, sacks or other receptacles, and solid waste so bundled, tied or contained shall not exceed sixty (60) pounds in weight.
- K. Where a customer requires an unusual volume of service or a special type of container requiring substantial investment in equipment, the franchisee may require a contract with the customer as necessary to finance and assure amortization of such equipment. The purpose of this provision is to assure that such equipment does not become a charge against other rate payers who are not benefitted. In no event shall such contract be in effect longer than this ordinance.
- L. Stationary compacting devices for solid wastes shall comply with federal and state safety standards and provide adequate protection to the user and franchisee.
- M. Any vehicle used by a person to transport solid waste shall be so loaded and operated as to prevent the wastes from dropping, sifting, leaking, blowing or otherwise escaping from the vehicle onto any public right-of-way or lands adjacent.
- N. No person shall block access to any container or drop box or roll off box supplied by franchisee.
- O. Every person who generates or produces solid waste shall have removed all putrescible solid waste at least every seven (7) days. More frequent removal may be required where a facility or service involves the public health. All solid waste shall be removed in sufficient frequency as to prevent health hazards or pollution.
- P. All putrescible materials shall be stored in manually emptied containers supplied by the generator or producer or in mechanically emptied containers or drop boxes supplied by the franchisee. When manually or mechanically emptied containers are used, they shall be covered except during loading and emptying. When drop boxes are used, all putrescible materials shall be placed in plastic bags and tied.
- Q. The producer or generator of solid waste shall clean containers and shall keep the area around such container free of accumulated solid waste or wastes. The franchisee shall provide maintenance as required to containers supplied by franchisee. For containers supplied by customer, plastic liners are recommended but not required.
- R. Approved disposal methods shall be as follows:

- (1) No person shall burn, dump, bury, collect, remove or in any other manner dispose of solid waste upon any street, alley, public place or private property within the City except as provided in this ordinance.
- (2) Wastepaper, boxes, rubbish and debris, brush, leaves, grass, wood and cuttings from trees, lawns, shrubs and gardens (but excepting paper, cardboard or wood containers in commercial quantities) may be burned on private property only if the method of burning is approved by the City and is done in accordance with Oregon Department of Environmental Quality rules and regulations.

S. All putrescible solid waste must be drained of excess liquids and wrapped.

T. Ashes will be taken only if placed in a plastic bag and tied.

4-2-12: **SUSPENSION, MODIFICATION OR REVOCATION OF FRANCHISE:**

- A. Failure to provide necessary service or otherwise comply with the provisions of this ordinance after written notice and a reasonable opportunity to comply shall be grounds for modification, suspension or revocation of the franchise.
- B. After written notice from the Council that such grounds exist, the franchise shall have twenty (20) days from the date of mailing of the notice in which to comply or request a public hearing before the Council.
- C. At the public hearing, the franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence to the Council.
- D. If the franchisee fails to comply within the time specified or if the council hearing is held, with the order of the Council entered upon the basis of findings at the public hearing, the Council may suspend, modify or revoke the franchise or make such action contingent upon continued noncompliance.

4-2-13: **INTERRUPTION OF FRANCHISEE'S SERVICE:** The franchisee agrees, as a condition of this franchise, that whenever the City Council finds that the failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the City Council may, after a minimum of twenty-four (24) hours actual notice to the franchisee and a public hearing if the franchisee requests it, provide or authorize another person to temporarily provide the service or to use and operate the land, facilities and equipment of the franchisee to provide emergency service. If a public hearing is requested by the franchisee, it may be held immediately by the City Council after compliance with the minimum notice requirements for such meetings established by the Oregon Public Meetings law. The City Council shall return any seized property and business upon abatement of the actual or threatened interruption of service and after payment to the City for any net cost incurred in the operation of the solid waste service.

4-2-14: **TERMINATION OF SERVICE BY FRANCHISEE:** The franchisee shall not terminate service to all or a portion of the customers unless:

- A. The street or road access is blocked, and there is no alternate route and provided that the franchisee shall restore service no later than twenty-four (24) hours after street or road access is opened;

- B. As determined by the franchisee, excessive weather conditions render providing service unduly hazardous to persons providing service or to the public or such termination is caused by accidents or casualties caused by an act of God, a public enemy or a vandal, or road access is blocked;
- C. A customer has not paid for provided service after a regular billing and after a written notice to said customer, which notice shall be sent not less than fifteen (15) days after the first regular billing;
- D. Ninety (90) days written notice is given to the City Council and to affected customers, and written approval is obtained from the City Council; or
- E. The customer does not comply with the service standards of Section 4-2-11 of this ordinance.

4-2-15: **BINDING ARBITRATION:** In the event that an irreconcilable difference arises between the City and franchisee on their respective duties and responsibilities under the franchise or ordinance, an arbitration board shall be chosen, consisting of three persons, one chosen by the City, one by the Franchisee and one chosen by the two appointed arbiters who must be approved by both the City and franchisee. The arbiters shall choose a time, date and place within thirty (30) days of appointment of the last arbiter, to hear both sides of the dispute and promptly render a decision that is binding on both the City and the franchisee. Where good cause is shown and recorded in the minutes, the time for decision may be extended as absolutely necessary. Procedure chosen may be that of the American Arbitration Association or that specified in ORS Chapter 36 for court supervised arbitration. Costs shall be split equally between the City and franchisee unless the arbitrators make an award of costs including, without limitation arbiter's time.

4-2-16: **PENALTIES:** Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be fined not to exceed two hundred fifty dollars (\$250). Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Franchise holders shall be subject to the penalties provided herein for the violation of the provision of this ordinance.

SECTION 3. Amendments. The City or the franchisee may propose amendments to this franchise. Proposed amendment shall be in writing and shall be delivered to the City and the Franchisee. The City Council shall hold a public hearing on the proposed amendments. Franchisee shall be given at least thirty (30) days written notice of such hearing. The City Council may, after public hearing, adopt the amendments. The franchise shall be amended upon acceptance of the amendments by franchisee.

SECTION 4. Acceptance. This ordinance shall become effective when accepted by franchisee and shall then be and become a valid and binding contract between the City and franchisee; provided, however, that this ordinance shall be void unless franchisee shall, within ninety (90) days after final passage of this ordinance, file with the City Recorder of the City a written acceptance of this ordinance and the franchise herein granted.

SECTION 5. Separability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Repeal and Savings Clause. Ordinance No. 357, 421, 443, and 450 are hereby

repealed. Ordinances No. 357, 421, 443, and 450 shall remain in force to authorize the collection of any unpaid accounts and the prosecution of any violations prior to the effective date of this ordinance.

SECTION 7. Emergency Clause. Inasmuch as it is necessary for the health, safety, comfort and convenience of the people of the City of Umatilla that this ordinance have immediate effect, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

PASSED and ADOPTED by the City Council the 4th day of March, 1997,

Voting yes, Council Members: Valerie Jorstad, Mary Dedrick

George Fenton, Floyd Mathews and Karla Stuck.

Voting no, Council Members: _____

Absent Council Members: Alan Burk

Abstaining Council Members: _____

And SIGNED in authentication by the Mayor this 4th day of March, 1997.



GEORGE HASH, MAYOR

ATTEST:



Linda Gettmann, City Recorder

ACCEPTED BY FRANCHISEE:

SANITARY DISPOSAL, INC.

By: 

Date: 3/18/97

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title:

Potential Litigation - ORS 192.660(2)(h) Authorizes council to consult with its counsel regarding current litigation or litigation likely to be filed. Media members must be excluded if the member is a party to the litigation.

Meeting Date:

2021-10-19

Department:

City Administration

Director:

David Stockdale

Contact Person:

David Stockdale

Phone Number:

Cost of Proposal:

n/a

Amount Budgeted:

n/a

Fund(s) Name and Number(s):

General Fund - 01

Reviewed by Finance Department:

Yes

Previously Presented:

03/16/2021, 06/01/2021

Attachments to Agenda Packet Item:

Summary Statement:

None.

Consistent with Council Goals:

Goal 5 : Perform at the Highest Levels of Operational Excellence