



McCleary City Council

PROPOSED AGENDA

March 23, 2011

7:00 Council Meeting

Flag Salute
Roll Call
Minutes (Tab A)
Public Comment
Mayor's Report

Staff Reports: Dan Glenn, City Attorney (Tab B)
 Nick Bird, Director of Public Works (Tab C)

Old Business: Clarification on Res. 625 (Tab D)

New Business: Residential Exchange Program (Tab E)
 Amendment No. 18 (Tab F)

Ordinances:

Resolutions:

Vouchers
Mayor/Council Comments
Public Comment
Executive Session
Adjournment

Americans with Disabilities Act (ADA)
Accommodation is Provided Upon Request

Please Turn Off Cell Phones – Thank You

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, March 09, 2011

REGULAR MEETING	Called to order by Mayor Dent.
FLAG SALUTE	The meeting was called to order at 7:00 PM with the Flag Salute.
ROLL CALL	Councilmember's Boling, Geer, Lant, Schiller, and Ator. All present.
ABSENT	None.
STAFF PRESENT	Present at the meeting were Dan Glenn, Wendy Collins, Nick Bird, Todd Baun, George Crumb, Mick Schlenker, Jennie Reed, Paul Nott, John Graham and Jon Hinton.
MINUTES APPROVED	It was moved by Councilmember Boling, seconded by Councilmember Geer to approve the minutes as written. Motion Carried.
PUBLIC COMMENT	None.
MAYOR'S REPORT	<p>Mayor Dent reported there has been no word yet from the Department of Corrections but the City believes we still have a good chance at being one of the top three selected sites.</p> <p>The State Auditor is still working on finishing the 2009 audit and we are waiting to hear back from them when they plan to finalize it and schedule the exit conference.</p>
CITY ATTORNEY REPORT	Dan Glenn reported the new Bill that was introduced in the Legislature, which mandated all municipal court judges be chosen by election, did not pass the Senate. He believes it will be brought up again next year.
FLOAT SHED	<p>At the last meeting, the Council asked if the float shed building were to be demolished, would the property be buildable. Nick Bird stated we would not have a problem rebuilding. Fencing has been installed to keep the public from entering the premises. Councilman Schiller asked why last fall Nick Bird recommended it would be more of an asset to maintain the building and reroof it but now he is suggesting demolition. Mayor Dent responded by saying it is an issue of money and it would cost more to replace the roof than to demolish the building.</p> <p>Councilman Schiller disagreed and stated it will cost about the same. He also stated in September 2010 the Council asked Nick to solicit a bid for a reroof and it was never done. Councilmember Schiller said the Council is very confused by the contradictory information they have been told and he is frustrated because they have not received any comparative cost figures. Attorney Glenn suggested Nick clarify what options there are, including specific costs, and bring it back to the council.</p>
BPA LONG-TERM FIRM AGREEMENT	It was moved by Councilmember Lant, seconded by Councilmember Ator to authorize the Mayor to sign the long term firm agreement with BPA. Motion Carried.
TSS VIOLATION-WWTP	At the wastewater treatment plant we have a National Pollutant Discharge Elimination System Permit that regulates our maximum influent and effluent flows and loadings. We are above the permitted 85% and we needed to address the issue immediately, as the fines for being over the limit can be as much as \$10,000 per day. Staff believes the problem is caused by an influent sampling hose that had a large mass attached, which very well could have caused the random spike in loading. The hose was replaced and will be checked regularly to ensure it remains free of debris. Mr. Bird will keep the Council informed if any further issues develop.
BUILDING DEPARTMENT SCHEDULE CHANGE	The Building Official has finalized his hours for his reduced schedule. He will be available 8am-Noon on Mondays and 8am to 4:30pm on Wednesdays and Thursdays. Building permit applications will be accepted during regular business hours.
RESOLUTION NO. 625 CLARIFICATION	More clarification has been requested in regards to the fees for the City's facilities. Resolution 625 did not address funerals and non profit usages and also did not separate large and small gathering pricing. Council will review the previous Resolution 473, along with Resolution 625, and discuss it at the next meeting.

ABERDEEN INTERLOCAL
AGREEMENT

It was moved by Councilmember Ator, seconded by Councilmember Lant to authorize the Mayor to sign the interlocal agreement with the City of Aberdeen to perform certain projects relating to public works for which we do not have the equipment to perform. Motion Carried.

GA SURPLUS AGREEMENT

Washington State General Administration sent a letter offering their services to surplus equipment. In the event the City does have surplus equipment, staff would like to utilize their offer. It was moved by Councilmember Lant, seconded by Councilmember Schiller to authorize the Mayor to sign the surplus agreement with General Administration. Motion Carried.

SUBSTATION MAINTENANCE
AND AWARD

As previously reported, the substations have not been regularly maintained. The City distributed a small works package to all six electrical contractors on our small works roster. KVA Electric was the only proposal submitted. The maintenance work is critical and we need to move forward as quickly as possible. Paul Nott gave a brief summary regarding the substation and stated that for many years the crew has requested maintenance to be budgeted but it never was. Fortunately, Mayor Dent approved the inspection and that is how we discovered the serious condition the substation is currently in.

As required, residents need to be notified as soon as possible of the outage. Paul Nott believes a 24-hour power outage should allow enough time to complete the necessary work. They will start on one-half of the City now and will complete the other half in a few weeks. It was moved by Councilmember Geer, seconded by Councilmember Lant to award the substation inspection and repair project to KVA Electric in the amount of \$82,689.69 and authorize the Mayor to execute the contract documents. Motion Carried.

PROGRESS ESTIMATE #4 -
RESERVOIR PROJECT
CLOSEOUT

It was moved by Councilmember Boling, seconded by Councilmember Ator to authorize the Mayor to execute Change Order 1, and to authorize the payment of Progress Estimate #4 with the amount to be paid to the Contractor for \$4,394.49 and the amount to be deposited in the retainage account is \$212.50 and to accept the project as complete. Motion Carried.

REPAYMENT PLAN -
CUSTOMER DEBTS

More inaccurate utility billing accounts have been discovered. The City became aware of a customer that connected to City sewer in 2005 and never paid the connection fee and also has never been billed for monthly sewer fees. Staff is requesting Attorney Glenn to prepare a contract with a repayment plan, including interest, to assist residents to pay the outstanding debt owed to the City.

PUBLIC COMMENT

Councilmember Lant wanted to clarify the Council's request in regards to the float shed by stating they would like to have Nick Bird prepare pricing for the building to be reroofed and also for demolition and removal. This way they have all options, including pricing, to review at the next meeting.

Everett Chalstedt commented on the float shed and stated he found it to be a very valuable building and suggested speaking to the Bear Festival Committee to see if they could assist in the possibility of salvaging the building.

Joy Iverson asked about the charges for the community center. Wendy Collins explained that the original resolution was not considered while preparing the cost changes for the rental of the City facilities. We need to have more user-friendly and simplified fee schedule than what was previously presented to the Council. Staff will briefly implement Resolution 625 until the Council decides on updated fees at the next meeting.

Angie Thompson asked if there will be a shelter available during the power outage since it is winter time. Paul Nott responded by stating the City tries to give advance notice to help people prepare; however, he will contact the Methodist Church because they work closely with the Red Cross and can open up their doors if there are people that need assistance.

Craig Ackley asked if the electrical cut-over will begin in the near future. Paul Nott stated they have to see how the budget looks after the work is completed on the substation. They will do the work as time and budget permits.

Four women representing Lindsey Baum asked how to go about getting a billboard sign placed in the City limits in a continued effort of publicizing her disappearance.

APPROVAL OF VOUCHERS

It was moved by Councilmember Lant, seconded by Councilmember Boling to approve the vouchers. Motion carried.

EXECUTIVE SESSION None

ADJOURNMENT **It was moved by Councilmember Aton seconded by Councilmember Geer to adjourn the**

Mayor Gary Dent: _____

Clerk-Treasurer Wendy Collins: _____

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: March 17, 2011
RE: LEGAL ACTIVITIES as of MARCH 23, 2011

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. ABERDEEN/McCLEARY INTERLOCAL: Pursuant to your authorization, the draft agreement was forwarded to Mr. Nelson, Aberdeen's City Attorney. We have received a communication that he will be recommending its acceptance by the City Council at their next session which is this week. If that occurs, then the particular project in question will go forward upon such timing as the relevant staff determine most effective.

As a side point, there have been discussions about developing a county-wide interlocal for public services among the cities of the County. Mr. Nelson has "morphed" the agreement which has been provided so as to fit a multi-city and general project approach and circulated to the attorneys for the cities in the County. If it can be put together, it will allow each city to benefit from the capabilities of the other cities in terms of staff and equipment availability.

2. ELECTED JUDICIARY MANDATE BILL: As I believe I mentioned orally at the last meeting, as of this time the bill is "dead" for this legislative session. However, the AWC staff member responsible for keeping track of the bill indicated she had little doubt the bill would be back next year. We can anticipate the proponents, including the Chief Justice of the State Supreme Court and Grays Harbor District Court Judge Brown, in his role as president of their association, may seek to utilize information gathered by the Office of the Administrator of the Courts. As I believe I have mentioned, that office just happened to submit to the 80 plus cities which have a court such

as ours an extensive public records request seeking historical information in relation to the respective courts at about the time this bill was moving forward.

Ms. Collins will have spent quite a bit of time gathering and providing this information. It is pleasant that the information she will provide will reflect a court which has operated independently and consistent with the statutory and constitutional intentions of it being a separate branch of government.

3. **SOFTWARE STATUS:** Pursuant to your authorization, the final notice of termination of contract was given to the original provisioner. It is my understanding the City received a call from a representative which indirectly acknowledged that it had been received. Ms. Collins, pursuant to the second element of the authorization I understand you granted, has commenced the distribution of a request for proposals for replacement software. The applicable legislation recognizes that such items as software, computers, and telecommunications do not really fit well under the normal public works bidding process. Thus, it was my advice to her that she follow the procedures set out in RCW 39.04. 270 which allows the sending out of written requests, one publication in a paper of general circulation, and then an evaluation of the proposals. That evaluation is not necessarily based upon the price, but primarily upon what is delivered in terms of relation to what is needed.

4. **COMMUNITY FACILITY UTILIZATION:** A new draft has been provided to Ms. Collins and Mr. Bird for their review. It seeks to integrate the elements of the two resolutions and make them fit a bit easier. It is anticipated you will have a draft for your review. Given the breadth of the rental elements, it may be one of those drafts which you will wish to receive and then take some additional time to review for the purpose of making such changes or additions as you feel appropriate prior to its final enactment.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le

STAFF REPORT

To: Mayor Dent
From: Nick Bird, Director of Public Works
Date: March 18, 2011
Re: Current Non-Agenda Activity

Department of Corrections – Reception Center

We still have not heard any news about the Reception Center. The most recent posting on the DOC website is from February 2. As new information becomes available, we will be sure to pass it along.

Conservation Program

Draft components of the Conservation Program are now shown on our website. It is my understanding that we have already had some visitors taking a look at what may be offered. We still have a little fine tuning to complete the Program before we officially begin accepting applications. We anticipate implementation of the Program within the next few weeks.

Substation Repair and Inspection

Work will be completed this weekend at the 12KV substation (7th and Ash) resulting in a scheduled outage for all customers north of Simpson Avenue as indicated in the bulk mailing. We hope that we get a “clean bill of health” during the inspection at the 12KV substation. In the event that additional repairs are necessary, a second outage impacting the customers north of Simpson Avenue will be necessary.

Work on the 4KV substation, which will affect customers south of Simpson Avenue, is tentatively scheduled for the third or fourth weekend in April. The date is solely dependent upon the availability of the replacement components. When we have a firm date set we will again provide notification similar to the notification provided for the northern outage.

Float Shed

We are in the process of developing costs as requested.

Stormwater Plan

We have received a time extension to complete the Plan by September 18, 2011. This extension relates to a variety of difficulties we have had in relation to creating the basemap prior to modeling the system. The Plan is in draft form and has been reviewed, but a second draft will likely be provided within the next month addressing the revisions suggested by Todd and me.

Reservoir Repainting

Close out paperwork has been submitted and is in process.

County Wide Interlocal

A few administrative items still need to be completed before this document is distributed.

Learning to Grow Daycare

Traffic engineers are verifying sight distance availability at the LTG site. Once they provide their recommendation to the applicant, the applicant will submit their engineer's recommendations for correcting the sight distance deficiency. As the access is the only condition limiting the use of the site, the applicant is diligently working to address the existing concerns.

Sam's Canal

We will be meeting with the Army Corps of Engineers and Washington State Department of Fish and Wildlife on 3/22 to review our request for removal of deposited sediment at the culvert outfall adjacent to the Wastewater Treatment Plant. This deposited sediment has given the vegetation a foundation in which to grow, ultimately generating the potential to limit the flow in the channel. Our goal is to remove the sediment and vegetation that has accumulated over the years and restore the channel to the original post construction condition.

Bear Festival

We met with the Bear Festival Chair, Vice Chair, and additional volunteers regarding the 2011 Bear Festival. As a result of this meeting, we are considering some new options for traffic management on Saturday (parade day).

Should you have any questions about any items that have not been addressed, please feel free to ask away!

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: March 18, 2011
Re: Clarification of Res. 625

Mr. Glenn has provided some modifications to Resolution 625 as was discussed last meeting. Both Wendy and I have had the opportunity to review the revisions. We have gone back and forth a bit, but hopefully we have worked out a solution that will be equally beneficial for all.

Action Requested:

Please consider adopting the resolution provided by Mr. Glenn to correct the noted deficiencies identified in Resolution 625.

RESOLUTION NO. _____

A RESOLUTION RELATING TO THE UTILIZATION OF CERTAIN MUNICIPAL FACILITIES, ESTABLISHING FEES; AND REPEALING RESOLUTION NUMBER 625 AND ANY OTHER RESOLUTION IN CONFLICT THEREWITH.

R E C I T A L S:

1. The City has previously adopted Resolutions in relation to those facilities it makes available to the public for rent. Since the adoption of Resolution 625, the most recent of these resolutions, the Mayor and Council have received additional information from the Clerk-treasurer and Public Works Director in terms of additional recommendations. In light of those factors, the Mayor and Council deem it appropriate to update these provisions.

2. It is the intention of the Council, the Mayor concurring, to provide certain terms and conditions that relate to the utilization of covered City facilities by non-profit entities associated with the operations of the parks and recreation activities of the City, modify rates, and clarify fees.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY, THE MAYOR SIGNING IN AUTHENTICATION THEREOF:

RESOLUTION -D- 1
03/21/11
dc/le

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

SECTION I: The facilities covered by the terms of this Resolution shall be the public areas of the Community Center and the City's Parks made available for rental by the City, as they may from time-to-time exist pursuant to Council authorization.

SECTION II: Any person or entity requesting the right to utilize the public property normally offered for rental shall make an application to the Clerk-Treasurer upon such form as may from time-to-time be established by the Clerk-Treasurer. The rental shall be at such rates and upon such terms as the City Council, the Mayor concurring, shall from time-to-time establish by action.

SECTION III: The utilization of the facility may be conditioned upon such terms as may be deemed reasonably necessary by the Clerk-Treasurer. These terms shall include, but not be limited to, the following:

A. No intoxicating beverages shall be served or provided to nor shall any consumption be allowed by any minor.

B. All necessary banquet and gambling permits required by law must be obtained prior to the function and only such activities as may be lawfully authorized on public properties shall be allowed.

C. Care shall be taken to insure that no individual is allowed to consume an excess of intoxicating beverages. For purposes of this term, excess shall mean so as to affect in any

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DC/1e

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significant manner whatsoever the individual's physical or mental capabilities.

D. Deposits shall be paid at the time of application and shall be refunded only upon proof satisfactory to the Clerk-Treasurer that no damages have occurred and that all cleaning has been completed.

E. Any application must be in writing and executed by an authorized individual. That individual shall acknowledge responsibility for the application and for fulfilling the terms of the rental agreement.

F. The rental amount shall be paid no less than one business day prior to the intended utilization.

G. Any party or entity renting a facility shall be responsible for the cleaning and repair of the facility by restoring it to the condition existing prior to the commencement of utilization. In the event of a failure to do so, whether as to cleaning or repair, the City shall notify the utilizer of the failure and the costs related to correction of that failure. In the event of a failure to fulfill these responsibilities within such time period as may be established by the Director of Public Works, the responsible individual or entity shall be billed for the costs and shall pay the same.

H. The provision of such insurance coverages as may be deemed necessary and appropriate in light of the type of activity involved.

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dg/le

CITY OF McCLEARY
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McCLEARY, WASHINGTON 98557

SECTION IV: The Clerk-Treasurer shall be and is hereby authorized to promulgate such rules and regulations as may be deemed from time-to-time reasonably necessary for operation of the facility. Prior to their effectiveness, they shall be submitted to the City Council and Mayor for review. To the extent not disapproved, such rule or regulation shall go into effect upon the thirtieth day following the first Council Meeting at which they are presented to the Mayor and Council in a written form: PROVIDED that the Council specifically reserves to itself the right to suspend such proposed rule or regulation, or reject, modify, or supplement such proposed regulations.

SECTION V: As to the security and/or supervision for an event, the Chief of Police or the Chief's designee shall have the sole discretion to determine the level of staffing and the level of qualifications to be required in relation to any particular activity.

SECTION VI: CITY RELATED ASSOCIATIONS:

Utilization of a City facility by associations directly related to or arising from the operation of programs of the City whose utilization is approved by the Mayor shall be allowed to utilize the facilities without cost so long as the utilization relates directly to their program. The utilizing entity :

1. Shall post a damage deposit of _____ dollars (\$ _____.00) which shall be retained until the association gives notice of its intention to cease utilization, and

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DG/le

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100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

2. Shall be responsible for cleaning the facility after use and for the repair or replacement of damage done arising out of or related to its use of the facility. In the event of a failure to fulfill these responsibilities, the entity shall be billed for the costs and shall pay the same.

SECTION VII: Until further action of the Council, the Park kitchen facilities may be utilized by applicants utilizing the City facility for the purpose of maintaining perishable foods at the appropriate temperatures, whether requiring heating or cooling. **Such utilization shall be at the sole risk of the applicant.** In the event that any such perishable foods require such heating or cooling, the applicant shall provide such equipment as may be necessary to accomplish these actions and to comply with such standards as may from time-to-time be established by the appropriate agency having control over such health matters.

SECTION VIII: The rates and deposits for general utilization of the cited facilities are established as follows. Unless otherwise defined, a "usage" or "event" shall be a time period occurring upon one calendar day. Thus the amount to be paid use of facilities, if the event is more than one calendar day, shall be determined by multiplying the number of days by the monetary amount for one day.

8.1. RATES

A. Park Kitchen and Pavilion:

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DG/le

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

1. For each usage:
Forty-five dollars (\$45.00)
- B. Community Center:
 1. Gatherings including birthday parties, marriage and infant showers, and family dinners:
 - a. 25 or more attendees anticipated:
\$125.00 with a \$200.00 deposit
 - b. Less than 25 attendees anticipated:
\$60.00 with a \$200.00 deposit
 2. Teenage Dances:
\$60.00 with a \$200.00 deposit
 3. Funerals & Celebrations of Life of Deceased:
\$20.00 with a \$50.00 deposit
 4. Garage & Estate Sales, "Flea" Markets, Swap Meets & other events of similar nature:
\$125.00 with a \$200.00 deposit
 5. Regularly scheduled events held on a weekly, monthly, or annual basis:
\$35.00 per use with a \$200.00 deposit
 6. Non-profit, non-sectarian formally organized groups as defined within the provisions of the Municipal Code:
No charge with a deposit of \$50.00 unless waived by the Mayor. (Applies to no more than four (4) meetings per 30 day period.)

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DG/le

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

7. Utilization of the facility for governmental purposes by another governmental agency shall be allowed at the hourly rate of _____ dollars (\$ __.00). The utilizing entity shall be responsible for cleaning the facility after use and for the repair or replacement of damage done arising out of or related to its use of the facility. In the event of a failure to fulfill these responsibilities, the entity shall be billed for the costs and shall pay the same.

C. Beerbower Park

Per event: \$ 100.00

8.2. DEPOSITS:

A. Unless a specific deposit is established for a use, the following deposits shall be required as a condition of utilization of the facility.

- | | |
|----------------------------|-----------|
| 1. Park Kitchen & Pavilion | \$ 100.00 |
| 2. Community Center | \$ 200.00 |
| 3. Beerbower Park | \$ 100.00 |

B. The Clerk-treasurer shall have the authority to require a greater deposit if, in the opinion of that person, the requested utilization carries with it a greater risk of damage to the facility than would be normally anticipated or in the event the applicant has previously utilized a City facility and not satisfactorily restored the premises to its original condition or

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100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

has otherwise violated a term or condition related to the facility's utilization.

SECTION IX: Resolution 625 and any other resolution or portion thereof in conflict with the provisions of this resolution shall be and are hereby repealed.

PASSED THIS ____ DAY OF _____, 2011, by the City Council of the City of McCleary, and signed in authentication thereof this _____ day of _____, 2011.

CITY OF McCLEARY:

D. GARY DENT, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

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DG/le

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: March 19, 2011
Re: Residential Exchange Program

I apologize for the massive topic, but this is a very big deal that has ramifications throughout the Northwest. Below you will find an executive summary of what the Residential Exchange Program (REP) is, and what BPA is asking us to do.

Additionally, the following items are attached:

- Attachment A – Background and Summary of the REP Settlement Agreement (Murphy, Legal Council for COUs)
- Attachment B – Key Elements of the REP Settlement Agreement (Corwin, Executive Director, Public Power Council)
- Attachment C – The Residential Exchange Program Settlement Agreement
- Attachment D – REP Settlement Update (March 11, 2011; from BPA)

Background

The Northwest Power Act, enacted in 1980, requires BPA to subsidize the residential and small farm consumers of the higher cost utilities in the Pacific Northwest. Typically, the higher cost utilities are Investor Owned Utilities (IOUs) like Puget Sound Energy, Portland General, PacifiCorp, Idaho Power, Avista, etc. We are a Consumer Owned Utility (COU). The obvious mechanism for the subsidy is through COU rates (i.e. our consumers are paying to subsidize the higher cost utilities).

After some questionable decisions made by BPA beginning in 1996, several COUs took BPA to the United States Court of Appeals for the Ninth Circuit. In May of 2007, the Court found that BPA failed to implement the 7(b)(2) protection to the COUs offered under the Northwest Power Act and required BPA to “try again”. Additionally, the Court invalidated a settlement that was completed in 2000.

In 2008, BPA initiated and completed the “WP-07S” proceeding in an effort to “try again”. The COUs were unhappy with BPA’s implementation of Section 7(b)(2) and again sued BPA claiming that BPA had misinterpreted Section 7(b)(2). A total of 56 lawsuits are pending regarding this issue.

Both parties (COUs and IOUs) were able to reach an Agreement in Principle, which was the beginning of the REP Settlement Agreement.

On March 16, I attended a workshop put on by the Public Power Council. The presenters included the Legal Council representing the COUs, the Power Rates Manager for BPA, and the Vice President of BPA. Bonneville strongly conveyed that they would like to see all COUs to sign the REP Settlement Agreement.

Basic Options

1. Execute the Contract
 - a. If the Contract is fully executed (91% COUs, 100% IOUs, and BPA), then the contract is binding. Litigation may proceed with the non-signers.
 - b. If the Contract is not fully executed, litigation will proceed.

2. Do not execute the Contract
 - a. If the Contract is fully executed, the Contract states that the Contract is enforceable upon the non-signers. I understand that if this alternative occurs, the courts will be involved significantly.
 - b. Again, if the contract is not fully executed, litigation will proceed.

Pages 7 through 9 of the “Background and Summary of the REP Settlement Agreement”, included as Attachment A, provides a great summary of the agreement.

Financial Impact

The Settlement Agreement identifies the amount to be paid through the REP to IOUs as a variable amount ranging from \$182 Million in 2012 to \$286 Million in 2028. Additionally the Settlement negates \$1.15 Billion in Lookback Credits and Refund Amounts that are owed to COUs. The information that we have received from BPA indicates that without a settlement, the 2012 REP value will be \$297 Million. Obviously the settlement is proposing a cost less than the proposed 2012 REP cost, however, in the event that the Courts rule in favor of COUs the REP value is projected to be \$0 over the next 6-8 years (note that multiple cases must be won to achieve this result).

The City of McCleary’s Total Overall Cost Allocation (TOCA) is 0.0635%. This value is used to roughly determine how much the City of McCleary is responsible for. The following values, based on the above financial data, are the 2012 calculated cost for the City of McCleary:

- Execute Settlement – \$116,000
- Do not Execute Settlement / Lose Litigation – \$179,000
- Win Litigation – \$0

The calculated 2011 REP cost is approximately \$163,000. Again, these values are included in the utility rates paid to BPA.

Ultimately this is a cost that will be passed onto our rate payer base. The City of McCleary has approximately 1,000 customers connected to the utility. The financial impact of executing the settlement is approximately \$10 a month, where if we do not execute the settlement the rate payer cost is approximately \$15 a month.

Additionally, there is a chance that if the signers reach “critical mass” (91% of the PF load) and we chose not to sign the Agreement, than we will be treated as if we had signed the Agreement (lose lookback credits / refund credits and pay the REP rates established

in the contract). If the Contract is executed, this will likely be challenged in the court system.

Action Requested:

No action required, however BPA requires any signatory parties provide the executed agreement to their office no later than April 15, 2011.

STAFF REPORT

To: Mayor Dent
From: Nick Bird, P.E., Director of Public Works
Date: March 18, 2011
Re: G&O Amendment #18

Attached you will find a copy of Amendment No. 18 to the General Services Contract between the City and G&O (executed April 2008). This is the third amendment that addresses general engineering. Amendment No. 6 and Amendment No. 14 both lasted approximately 1 year with similar occurrence and aggregate amounts (\$500 and \$5000 respectively).

The budget amount for Amendment No. 14 has approximately \$700 remaining, but we thought it appropriate to present this amendment before the remaining budget is exhausted.

Below is a list of the tasks completed under Amendment No. 14:

- Task 1 – \$490.85; Gravatt Easement
- Task 2 – \$450.00; Simpson Avenue Contract Evaluation
- Task 3 – \$438.22; Simpson Avenue Financial Evaluation
- Task 4 – \$500; Infill Frontage Improvement Figures
- Task 5 – \$500; Structural Evaluation of Float Shed
- Task 6 – \$500; Vicinity Map / Site Maps (DOC)
- Task 7 – \$500; Drainage Constraints / Critical Areas / Shooting Range Figures (DOC)
- Task 8 – \$500; Revision of Figures based on Comments (DOC)
- Task 9 – \$500; Slope and Transportation Exhibits (DOC)

Action Requested:

Please consider authorizing the Mayor to sign Amendment No. 18.

**AMENDMENT NO. 18
TO
CONTRACT FOR ENGINEERING SERVICES**

THIS AMENDMENT, made this day, by and between the City of McCleary, Grays Harbor County, Washington, hereinafter referred to as the Agency, and Gray & Osborne, Inc., hereinafter referred to as the Engineer, hereby modifies the contract for engineering services dated (by Agency) June 10, 2008, for additional services related to the General Engineering Services.

SCOPE OF SERVICES

The Agency has a variety of miscellaneous items that require engineering input or review during the course of any given month. The cost and time required to prepare a contract amendment for each of these items would be better spent directly addressing these issues. This Amendment provides a method for the City Administrator to authorize minor engineering support services on an as needed basis without incurring the cost of preparing a contract amendment.

When requested by the Agency, the Engineer shall provide miscellaneous engineering support services. Services that are specifically outlined in the nine tasks identified in Amendment No. 2 will be billed under a unique job number, according to the "not to exceed" costs outlined that Addendum. Services that are not identified in Amendment No. 2 and are estimated to cost more than \$600 will be authorized by separate contract amendment and invoiced under a unique job number. Minor engineering support services covered under this amendment would have an estimated cost of \$600 or less and may include, but are not limited to updating utility base maps and development activity maps, review of utility operational issues, assistance with meeting regulatory requirements, utility rate and SDC reviews, participation in meetings, review of variance requests or other minor support services requested by the Agency.

Costs for all minor engineering support services (\$600 or less per task) shall be tracked by a project number specifically issued for "Minor Engineering Support Services" and billed monthly with a description of the work provided for each engineering support task. The Engineer will provide an estimated cost for each minor engineering support service task to the City Administrator for approval at the time these services are requested. This work will be identified by fund (Water, Wastewater, Parks, Streets, and Stormwater) at the time of request and also in the monthly billing letter.

AGREEMENT

The Scope of Services above are hereby agreed to by the parties signed below. All terms and conditions of the April 2008 contract (dated June 10, 2008 by Agency) for engineering services shall be applicable to this amendment with the following exceptions:

- The current wage rates, overhead multiplier and mileage rate as shown on the attached Exhibit A shall be applicable to all invoices issued pursuant to this amendment.

Compensation for services provided under this Contract Amendment shall be authorized by the Public Works Director and/or Mayor on a case by case basis and shall not exceed \$600 per each authorized task. The aggregate amount of compensation for all minor engineering support services authorized by the City Administrator under this Contract Amendment shall not exceed \$5,000 without further authorization from the Agency.

IN WITNESS WHEREOF, the parties hereto have executed, or cause to be executed by their duly authorized officials, this AMENDMENT to the Contract for Engineering Services in duplicate on the respective dates indicated below.

GRAY & OSBORNE, INC.

CITY OF MCCLEARY

By: _____
(Signature)

By: _____
(Signature)

Name: Thomas M. Zerkel, P.E., President
GRAY & OSBORNE, INC.

Name: _____
(Print)

Date: _____

Date: _____

"Equal Opportunity/Affirmative Action Employer"

EXHIBIT "A"

GRAY & OSBORNE

COMPUTATION OF OVERHEAD MULTIPLIER

Federal, State, and Local Taxes.....	23.87%
Insurance and Medical.....	19.27%
Professional Development and Education.....	6.32%
Vacations and Holidays.....	13.95%
Administration (Typing, CADD, GIS, Computer)**.....	46.92%
Rent, Utilities, and Depreciation.....	14.74%
Office Expenses.....	11.40%
Recruiting.....	1.18%
Professional Services.....	1.23%
Incentive & Retirement.....	31.57%
Facilities Cost of Capital.....	0.55%
TOTAL:.....	171%

PROFESSIONAL ENGINEERING SERVICES CONTRACT
ENGINEER'S REPRESENTATIVE PAYROLL RATES
THROUGH JUNE 15, 2011*

<u>Employee Classification</u>		<u>Payroll Rates</u>		
Draftsman/Technician/Engineering Intern	\$15.00	to	\$33.00	
Design/Civil Engineers	18.00	to	36.00	
Electrical/Structural Engineers	24.00	to	50.00	
Environmental Tech./Specialist	27.00	to	38.00	
Project Engineers	25.00	to	48.00	
Principal Engineers/Project Managers	32.00	to	56.00	
Field Inspectors/Resident Engineers	22.00	to	45.00	
Field Survey Crew (2 Person)	43.00	to	75.00	
Field Survey Crew (3 Person)	70.00	to	98.00	
Professional Land Surveyor	33.00	to	42.00	
Secretary/Word Processor				N/A**

* Updated annually, together with the overhead.

All actual out-of-pocket expenses incurred directly on the project are added to the billing. The billing is based on direct out-of-pocket expenses; meals, lodging, laboratory testing and transportation. The transportation rate is \$0.50s per mile or the current maximum IRS rate without receipt IRS Section 162(a).

** Administration expenses include secretarial and clerical work; GIS, CADD, and computer equipment; owned survey equipment and tools (stakes, hubs, lath, etc. -- Note: mileage billed separately at rate noted); miscellaneous administration tasks; facsimiles; telephone; and printing costs, which are less than \$150.