



# McCleary City Council

## AGENDA

**March 12, 2014**

### **7:00 City Council Meeting**

Flag Salute

Roll Call

Public Hearings:

Public Comment: Presentation From Port of Grays Harbor by Gary Nelson & Alissa Shay

Minutes: (Tab A)

Mayor's Report/Comments:

Staff Reports: Dan Glenn, City Attorney (Tab B)  
Todd Baun, Director of Public Works (Tab C)  
Staff Reports (Tab D)

Old Business: BPA REP Settlement (Tab E)

New Business: Shoreline Master Plan Update (Tab F)

Ordinances: Operating Hours (Tab G)

Resolutions: MRSC (Tab H)

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

The City of McCleary is an equal opportunity provider and employer.  
La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador.

**CITY OF MCCLEARY**  
**Regular City Council Meeting**  
**Wednesday, February 26, 2014**

ROLL CALL AND FLAG SALUTE Councilmember's Schiller, Reed, Ator, Catterlin and Peterson.

ABSENT None.

STAFF PRESENT Present at the meeting were Todd Baun, Wendy Collins, George Crumb, Dan Glenn, and Christiane Mercer.

PUBLIC COMMENT Pauline Martin, McCleary Chamber of Commerce President, and owner of McCleary Subway, spoke regarding the Chamber and the City collaborating their efforts in bringing business to town. She informed the Council at the last Chamber meeting there was a lot of discussion about economic development of McCleary, marketing and public relations of our town and how do they collaborate with the City to work together. Also, she will be attending meetings to inform the Council and the community of upcoming Chamber events. The next big event is "Celebrate McCleary", an event for all residents to come see what businesses and organizations have to offer and to enjoy a bowl of soup and dessert. It is a social gathering to meet neighbors and celebrate what McCleary has to offer.

Gene Mansmith owns rentals in McCleary. His tenants complain about the high cost of utilities and he's had four of his five tenants move out of town because of the cost of utilities. Discussion took place regarding the City discontinuing utility deposits and the landlord holding full responsibility when a tenant leaves an outstanding bill. Mr. Mansmith has been stuck with several thousand dollars from tenants moving out and not paying their outstanding utility bills. He is also concerned about the elderly residents that are on fixed incomes and can't afford the increases in utilities. He made another point that landlord's cannot have the authority to shut off a tenant's utility services so they have to wait until they can evict them and pay attorney fees.

Councilman Catterlin spoke with a property manager from Montesano and she handles a lot of rentals in the Harbor and she told him McCleary is the only City that handles their landlord utility responsibility the way we do. He believes we should take a look at it and see if there are better options. Mayor Dent said he is willing to take a look at it but isn't willing to if the City will take a loss.

Councilmember Catterlin added that when the steel mill plant comes in, there will be a lot of rentals going up and we need to prepare for that. Councilmember Schiller responded by stating we need to stop counting on the steel plant and deal with the issues now. He also said he remembers trying to solve this issue about a year or two ago and this was the result of addressing it back then. The City was taking a loss and this was the way the Council chose to solve it. Councilmember Catterlin also stated Elma will eventually be increasing their sewer bills because they will need to put in a new treatment plant.

MAYOR'S COMMENTS Mayor Dent reported his health is improving and he is feeling much better.

MINUTES APPROVED **It was moved by Councilmember Reed, seconded by Councilmember Peterson to approve the minutes from the January 22, 2014 meeting. Motion Carried 4-0.**

DIRECTOR OF PUBLIC WORKS REPORT Todd Baun informed the Council of a planned power outage for Saturday, April 12 starting at 11:30 PM and should be completed by 8:00 AM, Sunday, April 13, 2014.

CITY ATTORNEY REPORT Dan Glenn reported the BPA Rep Settlement is a complicated issue. He is still waiting for a call back from the GH PUD attorney to discuss the matter. Mayor Dent stated the last paragraph of Mr. Glenn's memo sums it all up.

He also reported that mobile food units currently have no regulations and he checked into other areas and discovered they do not regulate at all and approve them wherever restaurants are allowed. He suggested requiring them to have an approved connection to the City utilities. Councilmember Schiller asked what would be considered mobile? Will the City consider a little Girl Scout selling cookies as being "mobile"? Also, what about Schwan's and the summer ice cream vendor's; are they too considered mobile. Councilmember Schiller believes this opens up a can of worms and we need to consider these other instances because it's not just about a food truck rolling into town.

|  |  |
|--|--|
| LARGER WATER METER PURCHASE                | Ten of our eleven large water meters need to be replaced. \$14,000 was budgeted for this purchase. The whole City system is made up of Sensus water meters and Todd Baun would like to continue using the same brand for the requested replacement water meters. Ferguson is the only supplier of Sensus water meters in the state and Todd has provided a quote from them. <b>It was moved by Councilmember Ator, seconded by Councilmember Reed to authorize the purchase of new large water meters for the amount of \$13,940.62, including tax. Motion Carried 5-0.</b>  |
| MRSC ROSTER                                | MRSC Rosters is a shared statewide small public works and consultant roster service that can be utilized by the City and would be an alternative to maintaining our own rosters. The cost is \$120.00 per year and would free up staff time and office space currently used to maintain our own rosters. <b>It was moved by Councilmember Catterlin, seconded by Councilmember Peterson to authorize the City to join MRSC Rosters at the cost of \$120.00 per year. Motion Carried 5-0.</b>   |
| SURPLUS LIST CORRECTION                    | At a previous meeting, a surplus list was provided and approved by Council and attached to Resolution 667. After the adoption, there were incorrections discovered on the surplus list so an updated corrected version is provided to replace the one attached to the resolution. <b>It was moved by Councilmember Catterlin, seconded by Councilmember Reed to authorize the new replacement surplus list to be attached to adopted Resolution No. 667. Motion Carried 5-0.</b>   |
| WWTP CONCRETE PAD                          | Three bids from local contractors have been provided for the Council to approve to replace an area of concrete pad at the Waster Water Treatment Plant. The City placed \$10,000 in the sewer budget for replacement. <b>It was moved by Councilmember Catterlin, seconded by Councilmember Ator to authorize Birindelli, Inc., with the proposal of \$7,500.00 before sales tax, to pour and finish the concrete pad at the WWTP. Motion Carried 5-0.</b>   |
| LIGHT & POWER OUTAGE                       | As stated earlier, there is a planned power outage on April 12th at 11:30 PM for approximately 8 hours, ending April 13th at 8:00 AM, to repair a failing bushing gasket on the transformer at the substation at 7th Street and Ash Street. The transformer is leaking Nitrogen gas, which is used to keep the transformer positively pressurized and keeps the weather and other contaminants from entering the transformer. The City is hiring a contractor for the repairs at the substation and the City Light & Power crew will be replacing three highline poles on Simpson Avenue. The repair should save the City approximately \$7,000 for Nitrogen gas loss.   |
| LIGHT & POWER POLE AND TRANSFORMER BID     | Each year, the City alternately purchases either poles or transformers so the financial impact is not too hard on the City's budget. Last year, neither poles or transformers were purchased, which impacted our inventory. Because it is a timely process, Todd Baun recommends the Council authorize staff to move forward on the bid process for both poles and transformers so the material is on site by the time we have good weather to move full speed in the cut over work. This purchase was budgeted for 2014. <b>It was moved by Councilmember Catterlin, seconded by Councilmember Peterson to authorize staff to purchase the entire bid package for the Light and Power pole and transformer purchase as presented. Motion Carried 5-0.</b> |
| FEDERAL E-VERIFY PROGRAM RESOLUTION REVIEW | Tabled.  |
| BPA REP SETTLEMENT                         | Tabled.  |
| COMPUTER REPAIRS & UPDGRADES               | Todd Baun prepared a list of computer repairs and upgrades that are needed this year for the Council to review. Adnets is scheduled to perform numerous repairs and upgrades to our computer system and are needed due to security and dependability reasons. These are all budgeted items for 2014 and have a total cost of \$37,850.00, however, \$10,000 of the bid can wait, if necessary, for the purchase of a floating GIS server license and a new computer to support it.   |
| ENERGY CONSERVATION PROGRAM FUNDING        | The budget for 2014-2015 for the Energy Conservation Program is \$98,039.00. Todd has offered a few options for the Council to review for how to spend the money fairly. After discussion, the Council agreed to option 3. <b>It was moved by Councilmember Ator, seconded by Councilmember Peterson to authorize Option 3 allocating \$25,000 for Simpson Door Company, \$30,000 for the Energy Smart Grocer's, \$12,000 for Commercial Customers and \$31,000 for Residential Customers. Motion Carried 5-0.</b>   |

|   |  |
|---|--|
| FLOAT SHED                              | The float shed is now beyond repair and must be torn down and all Councilmember's agreed.  |
| MOBILE FOOD UNITS                       | Tabled.  |
| APPROVAL OF VOUCHERS                    | Accounts Payable vouchers/checks approved were 37632 - 37683 including EFT's in the amount of \$190,294.56.<br><br><b>It was moved by Councilmember Ator, seconded by Councilmember Reed to approve the vouchers. Motion Carried 5-0.</b>  |
| PUBLIC COMMENT                          | Chris Vessey first thanked the community for voting for the school levy and asked if the City is still looking into running a levy for the police department and Mayor Dent responded by stating he is not willing to give up on the McCleary Police Department. He said the response time will be much greater with the County, if we contracted with them. He said the County focuses more on the Cities in west area of the County and we would not have the same attention for our City.   |
| EXECUTIVE SESSION                       | An executive session was called for ten minutes in accordance with RCW 42.30.110 (g) to discuss qualifications of an applicant for public employment. The executive session started at 7:45 PM and ended at 7:47 PM.   |
| DIRECTOR OF PUBLIC WORKS<br>APPOINTMENT | Mayor Dent asked the Council to confirm his appointment for Todd Baun as the new Director of Public Works. Councilmember Schiller stated his comments are not against Todd. He said he understands the union rejected the previous memorandum of understanding striking the overtime clause, however, he thinks the City should have went outside and advertised for applications. He added that Nick Bird came in and they didn't have a say. This time he wanted to see open competitors. <b>It was moved by Councilmember Ator, seconded by Councilmember Reed to confirm the appointment of Todd Baun as Director of Public Works. Roll Call taken with three votes in the affirmative and Councilmember's Schiller and Catterlin voting in the negative. Motion Carried. Appointment Confirmed.</b> |
| MEETING ADJOURNED                       | <b>It was moved by Councilmember Schiller, seconded by Councilmember Reed to recess the meeting at 7:50 PM. The next meeting will be March 12, 2014 at 7:00 PM. Motion Carried 5-0.</b>  |

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL, City of McCleary  
FROM: DANIEL O. GLENN, City Attorney  
DATE: March 7, 2014  
RE: LEGAL ACTIVITIES as of MARCH 12, 2014.

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. **CONSULTANT CONTRACTS:**

A. Shorelines Management: As you are aware, the State has concluded at a minimum that McCleary has the code provisions relating to lands within the areas it characterizes as "critical areas" requires an update. Apparently the Agency may have been in contact with Mr. Bird in 2013 on this area which now apparently will need to include some more specific regulation of "wetlands", a sub-category. They have approved a grant to the City to aid in funding the work. Based upon discussions among Mr. Hinton, Mr. Baun, Mr. Mercer and myself, a publication requesting proposals to provide the consulting services was carried out. I am uncertain how many responses were received. However, it is my understanding that after review, Mr. Baun is recommending that the City retain the same firm which Elma is considering. I am certain that a summary of the submittals received and the bases for the recommendations will be provided to you by Todd.

As a result of that tentative recommendation, on March 6<sup>th</sup> Mr. Baun provided me with a copy of the consultant's draft contract. After an initial review, I have indicated to

Todd that I could not recommend that the City enter into the contract. There are several areas with which I will be dealing in an proposed amendment. They include simple matters such as inconsistent numbering but also more complex matters such as a more clear and definable budget, impacts of termination, and potential liability aspects.

It is my hope that I will have a draft addendum ready early next week. However, give the time constraints it is relatively clear that it is unlikely that I will have it ready prior to the distribution of this report on Thursday. Thus, it may be one of those situations where you either hold the matter over for two weeks or authorize the Mayor to sign the agreement so long as he is satisfied with my recommendations and the consultant concurs.

B. Engineering: Pursuant to the most recent requests for qualifications, the City executed a two year agreement with Mr. Hinton's firm. Todd has indicated that the period is coming to a close and inquired if the City has to go through the selection process or may it simply extend the existing agreement. As a result of the provisions of RCW 39.80, that question is to as easy to answer as I would. Like, the statute says one thing but municipal practices take a more liberal approach. At this stage, I would suggest putting the matter over to the 26<sup>th</sup> meeting.

2. **"OFFICE HOURS"**: Over the years, the City's offices, primarily the Office of the Clerk-treasurer, has been open to received citizen I varying periods. It is my memory that the periods have ranged from 8:00 am to 5:00 pm, 8:30 am to 5:00 pm, and more recently, 8:00 am to 4:30 pm with the time between 4:00 and 4:30 being utilized to carry out steps to avoid certain issues identified in SAO audit.

Given that pattern and the potential interpretations of RCW 35A.21.070, I am preparing a draft ordinance. One of the issues is does one need to define the hours for all city departments, such a Police, Court, etc? Then, there is the issue of what did the Legislature mean to include in the phrase "...kept open for the transaction of business...?" Is that requirement met only if an office open for citizens to come into the office or does it mean that staff is doing city business? In any event, I anticipate having a simply version ready for your review and consideration while I continue to

research the extent to which the requirement can be met by authorizing the posting of the information on entrances and a municipal website.

3. **CRITICAL AREA & WETLAND ORDINANCES:** As part of the response to the request from the State, I have prepared for Todd's review an updated version of the City's critical area ordinance reference above. It is long enough and exciting enough to serve as an alternative to a sedative. However, its subject matter is both complex and important. After Todd has completed the review, we will be sending it to the State staff member in charge of our area for his/her review and comment. Before any other action can or will be taken, a formal opportunity for public comment will be provided.

Concurrently, I am seeking clarification if the State now perceives that the City must have in place a "wetland" ordinance. From what I have been able to determine from the contacts without neighbors to the west, the State does wish that cities have a combined ordinance/code chapter dealing with both areas. In any event, we will keep you informed.

4. **E-VERIFY DRAFT RESOLUTION:** Pursuant to discussions at prior meetings, I have provided drafts of two resolutions which would formally implement a policy relating to parties entering into contracts with the City will be required to comply with the requirements of the federal verification program. As you are aware, the verification system is provided online by the federal government without cost to the inquirer. Of course, there is the expense for the contractor arising from the time required to check the employee's status. Thus, as with any requirement, it seem logical that imposing such a requirement indirectly increases the cost to the City.

As you will note, there are differences between the two resolutions with "A" being the far more inclusive. It provides for only two exceptions. One is as to contracts between or among governmental agencies. Second, it would not apply if the request was for the provision of supplies only. The "B" version would apply in a more limited manner. However, note that in both that I have included what is

classically called a "defeasance" provision which would bar a contractor who/which fails to comply with the provisions from contracting work with the City for two years. Some versions I have seen are all inclusive, others limit its applicability to public works contracts.

I am providing the drafts for you to review. I am not suggesting or recommending action at this point. From my standpoint, adoption of such a resolution is much more a policy/philosophical issue than a practical or legal issue. Let me know of any questions or changes desired.

5. **MRSC SMALL WORKS/CONSULTANT ROSTER RESOLUTION:**

Last session you authorized the execution of the agreement with MRSC to allow participation in their state-wide small works/consultant roster system. As follow up, they provided a draft resolution to implement that process. As usual, I have taken that draft and modified so that, in my humble opinion, it more accurately fits our particular process. I have provided it to the folks at MRSC and they have expressed no concerns as to the approach. Thus, I would recommend that the resolution be adopted.

6. **STORMWATER RETENTION POND MAINTENANCE:** In the report for the last meeting, I included a bit of historical background as well as the issues which are currently present. For easy reference, I am attaching that section at the end of this report. I would recommend that this matter be reviewed by the Council, whether through a committee working with Mr. Baun and Mr. Mercer or by such approach as you deem appropriate. It will be an issued which is likely only to get worse if a protocol is not established.

7. **MOBILE FOOD SERVERS/RESTAURANTS:** Mr. Baun, Ms. Collins and I continue to review how other entities handle this type of operation. At this stage, I have found no entities which ban them. Some entities regulate their location specifically rather than generally while others seem to treat them simply as restaurants.

My perception is that we are not quite ready to make a recommendation to you.

8. **UTILITY BILLING ISSUES:** At the last meeting a



landlord expressed concerns about the matter of liability for utility services delivered to a property owned by them which was occupied by a tenant who did not pay the bill. Ms. Collins and I are in process of reviewing the current resolution in terms of the expressed concerns. There are a number of issues which this type of situation raises, including the argument that a release from liability for an unpaid bill for services rendered to a property under one's control would constitute a gift of public funds.

I would anticipate that we should have a recommendation for your review by the first meeting in April.

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

DG/le

**STORMWATER POND MAINTENANCE:** This is an issue which has been "floating" around for some years. When certain of the plats were approved, it was mandated that the homeowners' association (the HOA) was to maintain the pond up to the point the water flowed into the City's stormwater collection system. For instance, the approval of Summit Place II (the Hansen Development) specifically required the establishment of a HOA and the maintenance of the stormwater pond facilities by the homeowners. Well, my check of the State's corporate records confirmed that Mr. Hansen created the HOA but the bank which took on ownership of the lands and the homeowners have allowed it to lapse. There was also a HOA for Summit Place I which too has been allowed to lapse.

There are several alternative approaches to dealing with a problem which must be handled. They include the following:

1. As to any plat's stormwater pond which is not owned by the City, give written notice to the lot owners within the development of the duty to maintain and a time frame within which to take the necessary steps, including reactivating their HOAs which would likely have assessment provisions within the covenants, conditions, and requirements (CC&Rs) filed with finalization of the Plat.

2. Modify the provisions of the stormwater utility ordinance and rate resolution to deal with the matter by creating a rate class and figure for lands within plats served by stormwater ponds.

3. Do nothing and hope that the funds collected from all property owners through the imposition of the current rates will adequately fund the necessary maintenance and repairs of these ponds constructed for the use and benefit of specific parcels or plats.

The third alternative may well be viewed as a bit unfair to the other citizens since they will be required to absorb the costs which were to be borne by the lot owners. The first alternative will likely be difficult since it will require encouraging and convincing the lot owners to take on the task of reactivating the HOAs, determining the necessary funding, and imposing and collecting the necessary assessments. The second alternative obviously most directly involves the City but is also the one most likely to consistently achieve the goal. It will also make certain that, in the language of a quote I noted to Wendy and Todd late last week, the goal of internalizing the external costs resulting from the developments.

We would appreciate your guidance as to the approach you would like to take.

## STAFF REPORT

To: Mayor Dent  
From: Todd Baun, Director of Public Works  
Date: March 6, 2014  
Re: Current Non-Agenda Activity

---

### **3rd Street Improvements Phase I**

Request for Proposals/Qualifications for the Design of this project is due on March 14<sup>th</sup> at 4:00 PM. We should have a recommendation to Council at the April 9<sup>th</sup> meeting.

I appreciate the help that Larry and Ben will be providing in choosing a firm to design this project.

### **Float Shed**

I have move forward with this item. I have contacted several companies to have them provide me bids to demolish this structure. I will have something to bring to the council in April.

### **City Newsletter**

As I mentioned in my last council report, I would like to release a City Newsletter. I have a rough draft of a newsletter that I will provide to the council. Please give me your opinions on this subject.

### **Private Storm Ponds**

I would like to get some guidance on the issue of private storm ponds. This issue recently has come to the top of my list over the President's Day Holiday. It involved the storm pond at Evergreen Heights.

The issue with this pond is the ownership of the pond. It is owned by 1/11<sup>th</sup> of residents in Evergreen Heights. This pond is in poor condition due to lack of maintenance since this development was accepted in the 90's.

### **Critical Area Ordinance (CAO)**

Dan has provided a draft for review. Colin and I are reviewing the ordinance and checking to see if it meets the state's checklist requirements. After our review, I will send it to the Department of Commerce to make sure it satisfies their requirements.

**Power Outage**

Just a reminder, we will have a city wide power outage on April 12<sup>th</sup>, starting at 11:30 pm and lasting to April 13<sup>th</sup>, 8:00am. This is to fix a gasket on our transformer and also allows the crew to replace some highline poles along Simpson Ave.

**City Wide Clean Up**

Our annual city wide clean up will be on April 12<sup>th</sup>, from 8:00 am to 2:00 pm. We will pick up items for the seniors and disabled throughout the week leading up to the clean up.

# STAFF REPORT

To: Mayor Dent  
From: Colin Mercer  
Date: March 4, 2014  
Re: February Building Department

## Activities

- Submit copies of permits issued to Grays Harbor County Assessor's Office.
- Site Plan Review for a new Espresso Stand on 4<sup>th</sup> Street corrections given to applicant.
- Lexar Homes has requested a final inspection, corrections given.
- High Definition Homes Lots 75 & 76 close to final inspection .
- 330 E. Beck Street garage is in the completion stage.
- The Beehive has poured the footings for Phase 2 of the Alzheimer unit.
- Dragit Development has started to make the repairs to the ADA ramps at the corner of Evergreen Place and Hemlock Street in Cedar Heights.
- Evergreen Christian Church is close to completing the landings and stairs that provide emergency escape routes from the church.

## Nuisance Issues in Progress

- 126 W Simpson owners have been reminded about nuisances and asked to provide schedule for repairs.
- Vehicle nuisance at 315 Mommsen owner has been reminded to get vehicle moved.
- 211 E Beck vehicle nuisance, owner is working with the City to remove hulk and or inoperable vehicles viewable from a public street.

## Nuisances Resolved

## Conservation Program

| Month    | Applications Received | Conservation Permits Issued | Rebates Paid This Month | Total Rebates Paid To Date |
|----------|-----------------------|-----------------------------|-------------------------|----------------------------|
| January  | 3                     | 3                           | \$2,572.00              | \$5,035.00                 |
| February | 5                     | 5                           | \$3,080.00              | \$8115.00                  |

**Building Department Activity**

| <b>ACTIVITY</b>                       | <b>MONTHLY TOTALS</b> | <b>YEAR TO DATE TOTALS</b> | <b>ACTIVITY EXPLANATION</b>  |
|---------------------------------------|-----------------------|----------------------------|--|
| Customer Service                      | 54                    | 94                         | Answer building department related questions in person or by phone, meeting with potential applicants.             |
| Building Permits Issued               | 6                     | 9                          | Remodels, new construction & additions, both residential and commercial.   |
| Plan Reviews Performed                | 1                     | 2                          | Reviewing plans for building code and municipal code compliance.   |
| Inspections Performed                 | 18                    | 31                         | Field inspections, writing of corrections or approving work.   |
| Finals or Certificates of Occupancies | 0                     | 0                          | Performing of the final inspection & issuing of certificate of occupancy allowing use of the structure.            |
| Complaints Received                   | 1                     | 2                          | Investigate and address citizen or staff reported issues, obtain resolution or acceptable compromise.              |
| Nuisance Letters Sent                 | 1                     | 1                          | Formal notice from the City informing citizens of violations and providing expectation of the City for compliance. |
| Lemay's Garbage Letters Sent          | 13                    | 16                         | Formal notice from City after notification from Lemay that service has been stopped.                               |
|                                       |                       |                            |  |
| Building Department Revenue           | \$707.48              | \$882.88                   | Funds generated by the Building Department from permits, inspections, reviews etc.                                 |

**Comments:**

## STAFF REPORT

To: Mayor Dent  
From: Paul Nott, Light & Power  
Date: March 6, 2014  
Re: February Report



|                                 | Monthly Statistics; | YTD Totals; |
|---------------------------------|---------------------|-------------|
| <b>New Services;</b>            | <b>0</b>            | <b>0</b>    |
| <b>System Outages;</b>          | <b>1</b>            | <b>4</b>    |
| <b>Pole Replacements;</b>       | <b>2</b>            | <b>2</b>    |
| <b>Maintenance Work Orders;</b> | <b>5</b>            | <b>10</b>   |
| <b>Billable Work Orders;</b>    | <b>0</b>            | <b>0</b>    |

The month of February consisted of one power outage, beginning of a project on Mommsen, some tree removal/maintenance brushing and preparation for the City outage in April.

We had an outage early on in the month in the area of north 6<sup>th</sup> street during a minor wind storm.

We have begun replacing poles on Mommsen. The surveys have been completed and signify City ROW for pole placement. Once we get east of Birch Street there will be some minor impacts to those residents as far as traffic due to the narrow roadway. We apologize in advance for any inconvenience and will try to keep impacts to a minimal.

The City outage is scheduled for Saturday night April 12<sup>th</sup> at approximately 11:45 PM and ending at approximately 08:00 AM Sunday the 13<sup>th</sup>. During this outage a contractor KVA Electric will be repairing a nitrogen leak in our 12 KV transformer in one of our substations. We will be replacing the remaining three highline poles on Simpson Ave. and GHPUD will be also working on numerous highline poles between McCleary and Elma. Barring any significant unforeseen issues we should "come hot" as scheduled. To prepare for our work we will be working on Simpson Ave. in the next couple of weeks, once again we apologize for any traffic inconveniences.

Brushing as always is still occurring throughout our distribution system. With spring right around the corner we would like to remind citizens that if they plant trees or shrubs under the power lines, eventually, we will be there to either trim them or remove them. Please plan landscaping accordingly.

As always if you have any questions feel free to contact us...

In case of a power outage, please contact:

Light and Power Department 360-495-4533  
City Hall 360-495-3667  
Dispatch Non-Emergency 360-533-8765

**Staff Report**

**To: Mayor Dent**  
**From: George M. Crumb, Chief of Police**  
**Date: March 7, 2014**  
**RE: For March 12, 2014 Council Meeting**

---

**SUMMARY OF POLICE INCIDENTS / ACTIVITIES:**

The below listed information are calls or contacts received by McCleary Police Officers either generated by Grays Harbor County dispatch 911 service, citizen reports, call in reports, contacts, or other officer generated incidents:

- 0289 Incident histories reported as of time of this report since new year. (109 since last report)
- Speeding
- DWLS
- Speeding in School Zone
- Burglary
- Fire Response's
- Disorderly Conduct/Obstructing
- Traffic Stop's
- Harassment
- Weapons Offense
- Agency Assist's
- Drug Incidents
- Animal Complaints
- Curfew Violations
- Welfare Checks
- Trespass (Criminal)
- Suspicious Person/Vehicle/Circumstance
- Police Information or Referrals
- Alcohol Offense
- Suicide Attempt
- Insurance violation
- Traffic Offense/Reckless/Hazard
- Found-/Lost Property Reports
- Motorist Assist/Citizen Assist
- Theft Reports
- Death, report
- Juvenile Problems/Run-a-way/-missing
- Malicious Mischief
- Warrant Arrests/Search Warrant/Confirm
- 911 Open Line or Hang Up
- Domestic Violence
- Citizen dispute-/Civil-/Vio Pro Order-
- D.U.I.
- Audible Alarm
- Subject Stop
- Traffic Accident
- Noise Complaints
- Fraud
- Sex Offense
- Parking Complaint
- Vehicle Prowl
- No Valid Operator's License (NVOL)

**Discussion:** Open:

Council Members Present: ALL.... Mr. Catterlin-Position 1, Mr. Reed-Position 2,  
Mr. Peterson-Position 3, Mr. Schiller-Position 4,  
Mr. Ator-Position 5.

Mayor Dent: Present / Not Present \_\_\_\_\_

Officer Reporting: Chief Crumb \_\_\_\_\_



## STAFF REPORT

To: Mayor Dent  
From: Kevin Trewhella, Water & Wastewater manager  
Date: March 6, 2014

---

In the first 6 days of this month we have had approximately 6” inches of rain. With the Inflow and Infiltration problems we have in our aging sewer system the WWTP is receiving flows 6 times greater than we receive in the dry season.

A look into one of our lift stations alone, we found one leak causing roughly 10,000 gallons a day to go into our sewer system.

None of the solutions for these cracks and breaks are simple. What I am asking is that, as we identify these problems, the Public Works be granted the funds to address these problems. Ignored, these problems will get continue to get worse until we have catastrophic failure with even costs to the city.

With these high flows coming into the WWTP both Jon Ehresman and I are doing everything we can at the WWTP to produce the fine quality effluent that we need to produce to meet all environmental standards.

## **STAFF REPORT**

To: Mayor Dent  
From: Colin Mercer Webmaster  
Date: March 4, 2014  
Re: February Website

### **Re-Occurring Website Activities**

- Council Agenda/Packet posted online.
- Council Minutes posted online.

### **New Website Activity**

- Add information about utility account rules to the Utilities Page.
- Move all 2013 Minutes to the previous year minutes page.
- Added updated information to the Water Department page regarding the Well #2 & #3 project.
- Added new photos of the Well #2 & #3 project key elements.
- Posted a new Website satisfaction survey on the home page.
- Create and Post new Park Facility Rental form.
- Post the April 12th Power Outage notifications in several locations of the website.
- Create and Post new Email Notification option so that people that sign up with their email address can be sent an email regarding the City Activity they are interested in.
- Post Seasonal Laborer Position on the Website.

### **Additional Tasks**

- Food Truck Ordinance research.
- Prepare Outage Flyers and set up of Mass Mailing with the US Postal Service.
- Research for the WCIA 2014 Land Use Audit.
- Compile computer equipment data for surplus of City items.

### **Website Comments:**

Since implementing the Email notification sign up form on the City website, we have had five people sign up to be notified via email if the City has pertinent information to get out to the public.

Most of the requests were for all four of the options we have offered:

- Council Agenda
- Hydrant Flushing
- Power Outages
- Special Events

The idea behind offering this service was from a staff member who saw it on other Municipalities websites and thought we should offer a similar service to our residents and other interested parties as a way to keep the public informed.

**Website Traffic February 1, 2014 through February 28, 2014 (Top visited pages shown only)**

| Section  | Page Views | Percent of Total |
|--|------------|------------------|
| <a href="#">Default Home Page</a>                | 2765       | 30.95%           |
| <a href="#">Agendas and Minutes</a>              | 517        | 5.79%            |
| <a href="#">Events Calendar</a>                  | 482        | 5.4%             |
| <a href="#">City Departments</a>                 | 347        | 3.88%            |
| <a href="#">City Jobs</a>                        | 343        | 3.84%            |
| <a href="#">Conservation Program</a>             | 316        | 3.54%            |
| <a href="#">Utilities</a>                        | 312        | 3.49%            |
| <a href="#">Search Results</a>                   | 214        | 2.4%             |
| <a href="#">Mayor and Council</a>                | 175        | 1.96%            |
| <a href="#">Water / Wastewater</a>               | 174        | 1.95%            |
| <a href="#">Municipal Court</a>                  | 171        | 1.91%            |
| <a href="#">City Forms &amp; Documents</a>       | 159        | 1.78%            |
| <a href="#">Light &amp; Power</a>                | 147        | 1.65%            |
| <a href="#">Public Facilities</a>                | 146        | 1.63%            |
| <a href="#">Administration</a>                   | 137        | 1.53%            |
| <a href="#">Police</a>                           | 130        | 1.46%            |
| <a href="#">Bear Festival</a>                    | 122        | 1.37%            |
| <a href="#">Planning Department</a>              | 115        | 1.29%            |
| <a href="#">Municipal Code</a>                   | 113        | 1.26%            |
| <a href="#">Fire</a>                             | 110        | 1.23%            |
| <a href="#">City Photos</a>                      | 103        | 1.15%            |
| <a href="#">Home Page</a>                        | 94         | 1.05%            |
| <a href="#">2008-14 Budget</a>                   | 89         | 1%               |
| <a href="#">Helpful Links</a>                    | 87         | 0.97%            |
| <a href="#">FAQ's Page</a>                       | 86         | 0.96%            |
| <a href="#">Chamber of Commerce</a>              | 83         | 0.93%            |
| <a href="#">Development Services / Building</a>  | 82         | 0.92%            |
| <a href="#">Tell Us What You Think!</a>          | 82         | 0.92%            |
| <a href="#">Previous Years Council Minutes</a>   | 62         | 0.69%            |
| <a href="#">Data Page</a>                        | 57         | 0.64%            |
| <a href="#">Code, Ordinances &amp; Standards</a> | 48         | 0.54%            |
| <a href="#">Flood Photos 2009</a>                | 40         | 0.45%            |
| <a href="#">Email Notification Sign Up</a>       | 38         | 0.43%            |
| <a href="#">Interlocal Agreements</a>            | 38         | 0.43%            |
| <a href="#">Previous Years Council Agendas</a>   | 36         | 0.4%             |
| <a href="#">Bear Festival Photos</a>             | 36         | 0.4%             |
| <a href="#">Christmas Photos 2007</a>            | 29         | 0.32%            |

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun, Interim Director of Public Works  
Date: February 20<sup>th</sup>, 2014  
Re: BPA REP Settlement

---

First, I would like to thank Paul Nott and Dan for helping me get through this item. Dan has been reviewing this also will give his recommendation.

BPA has given the City an opportunity to sign Revision No. 1 to Exhibit H of McCleary's FY 2012-2028 Power Sales Contract. I would like to thank our very helpful BPA account representative, Kirsten Watts.

Paul gives the best explanation that I can understand on the subject:

BPA has to give 14 % of Customer Owned Utility (COU) Renewable Energy Credits (REC) to the Investor Owned Utility's (IOU).

In the settlement agreement BPA has the right to recoup the 14% through the adjusted rate based on the value at the time of adjustment.

The COU's that signed the agreement basically are saying "ok, we will just take the sure thing of the remaining 86% and not risk the rate adjustment for the remaining 14%" (give them up).

There are currently approximately 9 COU's that have not signed the agreement (McCleary being one of them). The general philosophy of the remaining 9 is that "we don't feel that it is right for the IOU's to get this 14%".

So the question is this,

Do we take the solid 86% and give up the 14%.

Or

Are we capable and have the staffing to spend the time later to possibly battle over the rate increase for the 14% re coup from BPA.

**Staff Recommendation:**

Staff has discussed and will recommend the advice/opinion of the city attorney.

**Action Requested:**

Please consider authorizing the City to sign Revision No. 1 to Exhibit H of McCleary's FY 2012-2028 Power Sales Contract.

**Revision No. 1, Exhibit H**  
**RENEWABLE ENERGY CERTIFICATES AND CARBON ATTRIBUTES**  
**Effective July 26, 2011**

This revision replaces Exhibit H pursuant to the REP Settlement Agreement, Contract No. 11PB-12322, and is effective as of the "Effective Date" of such REP Settlement Agreement.

**1. DEFINITIONS**

- 1.1 "Available Carbon Credits" means (i) eighty-six percent (86%) of the Carbon Credits that BPA determines are attributable to resources whose output is used to establish Tier 1 System Capability, as Tier 1 System Capability is defined in the TRM, excluding the Initial Tier 1 Renewable Projects; and (ii) one-hundred percent (100%) of the Carbon Credits attributable to electrical generation from Initial Tier 1 Renewable Projects, excluding Carbon Credits associated with EPP RECs.
- 1.2 "Available Tier 1 RECs" means the sum of: (i) eighty-six percent (86%) of the Future Tier 1 RECs; and (ii) one-hundred percent (100%) of the Current Tier 1 RECs.
- 1.3 "Carbon Credits" means Environmental Attributes consisting of greenhouse gas emission credits, certificates, or similar instruments.
- 1.4 "Current Tier 1 RECs" means Tier 1 RECs that BPA determines are attributable to electrical generation from Initial Tier 1 Renewable Projects, excluding EPP RECs.
- 1.5 "Environmental Attributes" means the current or future credits, benefits, emission reductions, offsets and allowances attributable to the generation of energy from a resource. Environmental Attributes do not include the tax credits associated with such resource. One megawatt-hour of energy generation from a resource is associated with one megawatt-hour of Environmental Attributes.
- 1.6 "Environmentally Preferred Power RECS" or "EPP RECs" means the portion of the Current Tier 1 RECs that is equal to an amount of up to 130 percent of the annual average of equivalent environmentally preferred power (EPP) contracted for as of October 1, 2009, for FYs 2010 and 2011 under Subscription power sales contracts containing rights to Environmental Attributes through FY 2016, as determined by BPA to be necessary to administer such rights.
- 1.7 "Future Tier 1 RECs" means Tier 1 RECs that BPA determines are attributable to resources whose output is used to establish Tier 1 System Capability, as Tier 1 System Capability is defined in the TRM, excluding the Initial Tier 1 Renewable Projects.
- 1.8 "Initial Tier 1 Renewable Projects" means the following projects existing as of the Effective Date of McCleary's CHWM Contract:

| Project        | Capacity (MW) |
|----------------|---------------|
| Foote Creek I  | 15.32         |
| Foote Creek II | 1.8           |
| Stateline      | 89.76         |
| Condon         | 49.8          |
| Klondike I     | 24            |
| Klondike III   | 50            |
| Ashland Solar  | 0.015         |

1.9 “Renewable Energy Certificates” or “RECs” means the certificates, documentation, or other evidence that demonstrates, in the tracking system selected under section 5 of this exhibit, the ownership of Environmental Attributes.

1.10 “Tier 1 RECs” means the sum of the Current Tier 1 RECs and Future Tier 1 RECs.

1.11 “Tier 2 RECs” means the RECs attributable to generation of the resources whose costs are allocated to a given Tier 2 Cost Pool in accordance with the TRM.

**2. BPA’S TIER 1 REC INVENTORY**

BPA shall maintain a list on a publicly accessible BPA website and shall periodically update it. This list will include any then-current resources that BPA has determined have Tier 1 RECs attributable to them. BPA shall also include on this list its inventory of then-current resources that BPA has determined have Available Tier 1 RECs (and Available Carbon Credits). BPA shall calculate its Available Tier 1 RECs and Available Carbon Credits annually and after-the-fact based on energy generated by listed applicable resources during the previous calendar year.

**3. MCCLEARY’S SHARE OF TIER 1 RECS**

Beginning April 15, 2012, and by April 15 every year thereafter over the term of this Agreement, BPA shall transfer to McCleary, or manage in accordance with section 5 of this exhibit, at no additional charge or premium beyond McCleary’s payment of the otherwise applicable Tier 1 Rate, a pro rata share of Available Tier 1 RECs based on McCleary’s RHWm divided by the total RHWms of all holders of CHWM Contracts.

The amount of Available Tier 1 RECs available to BPA to transfer or manage shall be subject to available Available Tier 1 REC inventory.

**4. TIER 2 RECS**

If McCleary chooses to purchase Firm Requirements Power at a Tier 2 Rate, and there are RECs which BPA has determined are attributable to the resources whose costs are allocated to the Tier 2 Cost Pool for such rate, then beginning April 15 of the year immediately following the first Fiscal Year in which McCleary’s Tier 2 purchase obligation commences, and by April 15 every year thereafter for the duration of McCleary’s Tier 2 purchase obligation, BPA shall, based on McCleary’s

election pursuant to section 5 of this exhibit, transfer to or manage for McCleary a pro rata share of applicable Tier 2 RECs generated during the previous calendar year. BPA shall, for transferred RECs, provide McCleary with a letter assigning title of such Tier 2 RECs to McCleary. The pro rata share of Tier 2 RECs BPA transfers to McCleary shall be the ratio of McCleary's amount of power purchased at the applicable Tier 2 Rate to the total amount of purchases under that Tier 2 Rate.

**5. TRANSFER, TRACKING, AND MANAGEMENT OF RECS**

Subject to BPA's determination that the commercial renewable energy tracking system WREGIS is adequate as a tracking system, BPA shall transfer McCleary's share of Available Tier 1 RECs, and Tier 2 RECs if applicable, to McCleary via WREGIS or its successor. If, during the term of this Agreement, BPA determines in consultation with customers that WREGIS is not adequate as a tracking system, then BPA may change commercial tracking systems with one year advance notice to McCleary. In such case, the Parties shall establish a comparable process for BPA to provide McCleary its Available Tier 1 and Tier 2 RECs.

Starting on July 15, 2011, and by July 15 prior to each Rate Period through the term of this Agreement, McCleary shall notify BPA which one of the following three options it chooses for the transfer and management of McCleary's share of Available Tier 1 RECs, and Tier 2 RECs if applicable, for each upcoming Rate Period:

- (1) BPA shall transfer McCleary's Available Tier 1 and Tier 2 RECs into McCleary's own WREGIS account, which shall be established by McCleary; or
- (2) BPA shall transfer McCleary's Available Tier 1 and Tier 2 RECs into a BPA-managed WREGIS subaccount. Such subaccount shall be established by BPA on McCleary's behalf and the terms and conditions of which shall be determined by the Parties in a separate agreement; or
- (3) McCleary shall give BPA the authority to market McCleary's Available Tier 1 and Tier 2 RECs on McCleary's behalf. BPA shall annually credit McCleary for McCleary's pro rata share of all revenues generated by sales of Available Tier 1 and Tier 2 RECs from the same rate pool on its April bill, issued in May.

If McCleary fails to notify BPA of its election by July 15 before the start of each Rate Period, then McCleary shall be deemed to have elected the option in section 5(3) of this exhibit.

Any Available Tier 1 and Tier 2 RECs BPA transfers to McCleary on April 15 of each year shall be limited to those generated January 1 through December 31 of the prior year, except that any Available Tier 1 and Tier 2 RECs BPA transfers to McCleary by April 15, 2012, shall be limited to those generated October 1, 2011, through December 31, 2011.

**6. FEES**

BPA shall pay any reasonable fees associated with: (1) the provision of McCleary's Available Tier 1 and Tier 2 RECs and (2) the establishment of any subaccounts in McCleary's name pursuant to sections 5(1) and 5(2) of this exhibit. McCleary shall pay all other fees associated with any WREGIS or successor commercial tracking system, including WREGIS retirement, reserve, and export fees.

**7. CARBON CREDITS**

In the absence of regulations or legislation concerning carbon credits and directly affecting BPA, BPA intends to convey the value of any future Available Carbon Credits to McCleary on a pro rata basis in the same manner as described for Available Tier 1 RECs and Tier 2 RECs in sections 3 and 4 of this exhibit. This value may be conveyed as: (1) the Available Carbon Credits themselves; (2) a revenue credit after BPA markets such Available Carbon Credits; or (3) the ability to claim that power purchases at the applicable PF rate are derived from certain federal resources.

**8. BPA'S RIGHT TO TERMINATE MCCLEARY'S RECS AND/OR CARBON CREDITS**

To the extent necessary to comply with any federal regulation or legislation which addresses Carbon Credits or any other form of Environmental Attribute(s) and includes compliance costs applicable to BPA, BPA may, upon reasonable notice to McCleary, terminate McCleary's contract rights to Available Tier 1 RECs under section 3 of this exhibit and/or McCleary's pro rata share of Available Carbon Credits under section 7 of this exhibit.

**9. SIGNATURES**

The Parties have caused this revision to be executed as of the date both Parties have signed this revision.

CITY OF MCCLEARY

UNITED STATES OF AMERICA  
Department of Energy  
Bonneville Power Administration

By \_\_\_\_\_

By \_\_\_\_\_

Name D. Gary Dent

Name R. Kirsten Watts

Title Mayor

Title Account Executive

Date \_\_\_\_\_

Date \_\_\_\_\_

(PSW:S:\PM\CUST\RKW\MCPSC\_2009\_PF\_Regional Dialogue\Exhibit H\Revision 1\Mc\_13069\_20140130\_Ex H\_Rev#1\_Final.doc) 01/30/2014



**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun, Interim Director of Public Works  
Date: March 6, 2014  
Re: Shoreline Master Plan (SMP) Update

---

We advertised a Request for Proposals/Qualifications to complete our Shoreline Master Plan. We received 2 proposals to complete our plan. This plan is required by Department of Ecology (DOE) and they are providing us a \$50,000 grant to complete this plan.

The 2 proposals we received are from The Watershed Company and AHBL. The Watershed Company is contracted to complete Elma's SMP and Grays Harbor County's SMP. AHBL is contracted to complete the Aberdeen/Hoquiam/Cosmopolis SMP and Montesano's SMP. Both companies are highly qualified to complete our SMP. I have copies of both proposals if the council chooses to review them.

**Staff Recommendation:**

Jon Hinton and I have reviewed both proposals and have a recommendation for the council. Based on qualifications, number of approved SMPs approved by DOE, and the fact they will be doing the SMP update for Grays Harbor County in the surrounding area. Jon and I both believe The Watershed Company would be our best choice.

**Action Requested:**

If the City Attorney approves the following items, please consider authorizing the City to sign the Agreement for Professional Services and City of McCleary Shoreline Master Program Scope of Work.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RELATING TO GOVERNMENTAL  
OPERATION, ADDING A NEW SECTION TO CHAPTER  
1.04 MMC.**

**R E C I T A L S:**

1. RCW 35A.21.070 requires that a City organized under the Optional Municipal Code adopt by ordinance the hours and days for which City offices are open for transaction of City business.

2. Currently, although such a schedule is in place, it has not specified by ordinance

3. The City wishes to clarify certain matters in relation to that requirement and to make provision for temporary modification of such hours by the Mayor as the result of staffing shortage.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: There shall be added to Chapter 1.04 of the Municipal Code a new section to read as follows:

A. The office of the city clerk-treasurer and the offices of other city departments shall be open for the transaction of city business between the hours of eight a.m. and four p.m. of every normal city business day: PROVIDED THAT, recognizing the separation of powers, this ordinance shall not govern the hours of the Court which shall be as set by the Judge. Normal city business days shall be those days, Monday through Friday, of each week, but shall not include holidays occurring during the normal business week of the city as may be established by state law or actions of city council.

B. For purposes of this section, transaction of city business shall mean staff availability for direct contact by members of the Public subject to the following provisions:

A. Such hours may be modified by the mayor on a temporary basis as a result of staffing shortage.

B. The mayor shall have the authority by executive order to authorize the closing of all or certain of the city offices, for up to one day for such cause as is deemed appropriate by the mayor.

C. Recognizing the nature of the staffing of the Police Department, at such time as no officer or police clerk is present in the Department's office, the office of the

Clerk-treasurer shall serve as the Department's office for purposes of public contact.

SECTION II: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION III: This Ordinance shall take effect upon the fifth day following date of publication.

SECTION IV: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local,

state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014, by the City Council of the City of McCleary, and signed in approval therewith this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF McCLEARY:

\_\_\_\_\_  
D. GARY DENT, Mayor

ATTEST:

\_\_\_\_\_  
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

---

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON     )  
                                  : ss.  
GRAYS HARBOR COUNTY    )

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number \_\_\_\_\_ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number \_\_\_\_\_, as it was published, is on file in the appropriate records of the City of McCleary.

---

WENDY COLLINS

SIGNED AND SWORN to before me this \_\_\_\_\_ day of

\_\_\_\_\_, 2014, by WENDY COLLINS.

---

NOTARY PUBLIC IN AND FOR THE STATE OF

WASHINGTON, Residing at:

My appointment expires:

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING AN ALTERNATIVE PROCESS FOR ESTABLISHING AND UTILIZATION OF A SMALL PUBLIC WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS, CREATION OF A CONSULTING SERVICES ROSTER FOR ARCHITECTURAL, ENGINEERING AND OTHER PROFESSIONAL SERVICES, & SUPERSEDING RESOLUTION 622 TO THE EXTENT SAID RESOLUTION IS INCONSISTENT WITH THE TERMS OF THIS RESOLUTION.**

**RECITAL**

1. RCW 39.04.155 and other laws regarding contracting for public works by municipalities, allow certain contracts to be awarded by a small works roster process.

2. In order to be able to implement small works roster processes, the City is required by law to adopt a resolution establishing specific procedures. It has done so through the adoption of Resolution 622.



3. As recognized in the prior action of the City, RCW 39.80.030 requires that an agency publish in advance that agency's requirement for professional services and that one of the ways to accomplish that notification is to announce generally to the public its projected requirements for any category or type of professional services and request qualification statements to be kept on file with the agency.

4. The Council, through the adoption of this resolution, wishes to supplement the procedures authorized pursuant to the provisions of Resolution 622.

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

SECTION I: **MRSC Rosters.** The City has contracted with the Municipal Research and Services Center of Washington (MRSC) to have their official rosters hosted in the online database for City use for small public works contracts and consulting services developed and maintained by MRSC and authorizes the Mayor to execute the contract.

Section II. **Small Public Works Roster**

The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155:

**A. Cost Levels.** The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000.00), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the City may use the Small Public Works Roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

**B. Publication.** At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC Roster(s) at any time that they complete the online application and meet minimum State requirements for roster listing.

**C. Telephone, Written, or Electronic Quotations.**

The City shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350 (2).

(1) A contract awarded from a small works roster will not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

(2) Quotations may be invited from all appropriate contractors on the appropriate small works roster under the following procedures,

a. So long as the estimated cost of the project is One Hundred Fifty Thousand Dollars (\$150,000.00) or less, quotations may be invited from at least five contractors on the appropriate small works roster who or which have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the

opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

b. If the estimated cost of the work is from one hundred fifty thousand dollars (\$150,000) to three hundred thousand dollars (\$300,000), the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The City has the sole option of determining whether this notice to the remaining contractors is made by:

(I) publishing notice in a legal newspaper in general circulation in the area where the work is to be done;

(ii) mailing a notice to these contractors; or

(iii) sending a notice to these contractors by facsimile or email.

c. If a work, construction, alteration, repair, or improvement project is estimated to cost less than thirty-five thousand dollars(\$35,000), the City may award such

a contract using the limited public works process provided under RCW 39.04.155 (3). For a limited public works project, the City will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the City may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material men, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

**D. Award Process & Guidelines.**

(1) The Council shall award the contract for the public works project to the lowest responsible bidder provided that, whenever the Council finds it to be in the best interest of the city, all bids may be rejected and the Council may call

for new bids. A responsible bidder shall be a registered and/or licensed contractor who or which meets the mandatory bidder responsibility criteria established by RCW 39.04.350 and who or which meets any supplementary bidder responsibly criteria established by the City under RCW 39.04.350.

(2) All of the telephone bids or written bids or quotations received shall be collected and presented at the same time to the Council for consideration, determination of the lowest responsible bidder, and award of the contract: PROVIDED THAT, for public works projects under \$\_\_\_\_\_, the Director of Public Works, with the prior approval of the Mayor, shall have the authority to award public works contracts without Council approval, provided that the Director shall notify the Council of such award at the next scheduled Council meeting by means of a written report.

**E. Administrative Protocols**

(1) Until the time for receipt of bids has passed, no City representative shall inform a contractor of the terms or amount of any other contractor's bid for the same project.

(2) A written record shall be made by the City representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award

is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(3) The City shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

**SECTION III: Consulting Services Roster**

**A. Definition:** For purposes of this section, consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.

**B. Publication:** At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative

of the City who can provide further details as to the City's projected needs for consulting services. Firms or persons providing consulting services may complete the online application at anytime and be listed if they meet the minimum State requirements.

**C. Professional Architectural and Engineering**

**Services:** The MRSC Rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the City and to use paper and/or other electronic rosters that may be kept on file by appropriate City departments.

**SECTION IV:** This resolution shall take effect upon the first business day following its passage and shall be deemed to repeal Resolution 622 to the extent inconsistent therewith.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014, by the City Council of the



City of McCleary, and signed in authentication thereof this  
\_\_\_\_\_ day of \_\_\_\_\_, 2014.

City OF McCLEARY:

\_\_\_\_\_  
D. GARY DENT, Mayor

ATTEST:

\_\_\_\_\_  
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
DANIEL O. GLENN, City Attorney