

AGENDA**REGULAR CITY COUNCIL MEETING****APRIL 10, 2023****5:30 p.m.****CITY HALL COUNCIL CHAMBER****313 COURT STREET****And****VIA ZOOM****<https://us06web.zoom.us/j/88147760127?pwd=bzF6UVBBS0EvaDIxTEVyRngrbExmQT09>**

Meeting ID: 881 4776 0127

Passcode: 007612

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS

A. Wasco County District Attorney – Matthew Ellis

6. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Up to five minutes per person will be allowed. Citizens are encouraged to ask questions with the understanding that the City can either answer the question tonight or refer that question to the appropriate staff member who will get back to you within a reasonable amount of time. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

7. CITY MANAGER REPORT
8. CITY COUNCIL REPORTS
9. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be “pulled” from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda

CITY OF THE DALLES**"By working together, we will provide services that enhance the vitality of The Dalles."**

will be placed on the Agenda at the end of the "Action Items" section.

- A. Approval of the March 27, 2023 Regular City Council Meeting Minutes
- B. Surplus computer office docks and vehicle docks from The Dalles Police Department

10. CONTRACT REVIEW BOARD ACTIONS

- A. Contract No. 2023-007 Wicks Filter Building Reroof Phase 2

11. ACTION ITEMS

- A. Non Union Wage Table for Fiscal Year 2023-24
- B. City of The Dalles Public Records Request Policy

12. ADJOURNMENT

This meeting conducted VIA Zoom

Prepared by/
Izetta Grossman, CMC
City Clerk



Matthew Ellis, District Attorney
Sally Carpenter, Senior Deputy District Attorney
Caleb Berthelsen, Deputy District Attorney
Danielle DeCant, Deputy District Attorney
Kara Davis, Special Deputy District Attorney
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Wasco County District Attorney Midterm Report

Status

I took office in January 2021, and have been in office for two years.

The District Attorney's Office is now at full staff. Our experienced staff of 11 dedicated individuals has made my first two years in office a success.

2021 was a staffing struggle. We had a 90% staffing turnover from 2020-21, with the change in administration. With former staff departing, we were able to restructure the office and add an attorney position. Currently, the office consists of eleven full time staff: four attorneys, including the elected DA, two victim advocates, an office manager/chief legal secretary, two chief legal secretaries, a discovery clerk, and an office assistant.

Staff

Current Attorneys

Locally born and raised, Kara Davis, agreed to leave the defense bar and join us as Chief Deputy District Attorney in January 2021. She took on the a leadership role within the office, along with a difficult case load, including sex crimes, child abuse/neglect, domestic violence, and other high level person crimes. Ms. Davis was my Chief Deputy until she took office as the elected Gilliam Co District Attorney in January 2023. She still maintains a role as a Special Deputy DA with Wasco County.

Sally Carpenter is the only staff member to remain from the previous administration. Ms. Carpenter's commitment to the community and this office was essential to the transition and she continues to work tirelessly on a large caseload involving traffic and property crimes.

Caleb Berthelsen was hired as a deputy district attorney after working as a defense attorney in The Dalles for three years. Mr. Berthelsen lives in The Dalles and is dedicated to serving the community in which he lives. He is currently assigned to

handle cases involving driving under the influence of intoxicants (DUIs), traffic crimes, and person crimes.

Danielle DeCant came from Metro Public Defenders in Hillsboro to replace Ms. Davis, having prior prosecutorial experience in the Clackamas County District Attorney's Office. She has taken over the difficult caseload, previously handled by Ms. Davis.

After the departure of Ms. Davis, the Wasco County District Attorney Office no longer has a Chief Deputy.

Legal Secretaries

Julie Dalton became our chief legal secretary in Spring 2021, and agreed to take on the responsibilities as the office manager in June 2021. Ms. Dalton brought many years of relevant experience, previously working in the Klickitat Co Prosecutor's Office and as a former restaurant owner/operator. She has helped Grand Jury run smoothly, and kept the grand jurors fed with baked goods, sealing her reputation as a cupcake artist; we are the envy of all other county departments.

Martha Verduzco-Ortega has been our chief legal secretary in Spring 2021. She came with years of experience acting as a legal secretary for the local and regional defense bar. Ms. Verduzco is also fluent in Spanish and acts in outreach to the Latinx community.

Deb Wickwire came on as the third chief legal secretary later in 2021, as a proud born and raised local Dallesian. Like Ms. Verduzco, Ms. Wickwire brought years of experience as a legal secretary in the criminal defense arena, and as owner of a local furniture store.

Erika Berk started in May 2022 as our discovery clerk/office assistant. Ms. Berk came in with an elite skill set, previously working as an office manager for an insurance agency.

Linda Popchock started in August 2021 as an office assistant. Ms. Popchock represents the front of our office, coming to us after serving the community as a Special Education Paraprofessional for a decade.

Victim Advocacy

With the cooperation of other county departments, the Wasco County Victim Advocacy Office was moved to an office separate from the District Attorney's Office. The reasoning was so that victims could feel comfortable meeting with their advocate without walking into the District Attorney's Office. Our victim's advocates are now located on the main floor of the courthouse, with a satellite office at the Wasco County Juvenile Department.

Advocates

James Barber started with us as an assistant victim advocate in late 2020. He became the Victim Advocate Coordinator in January 2021. As an Air Force veteran, Mr. Barber has been instrumental in reinventing the Wasco County Victim Advocate Office. He has ensured that grants are secured to assist in financing his office, and has ensured that victims are aware of their Constitutional Rights in court proceedings.

Brenda Alaniz-Enriquez became the victim advocate assistant in 2022. In addition to assisting Mr. Barber with the duties of assisting victim's through the complicated criminal legal process, she also works with the Wasco County Juvenile Department as the victim advocate, assisting with juvenile adjudications. Ms. Alaniz-Enriquez is fluent in Spanish.

Case Trends

2021 saw a similar number of criminal cases issued, or filed in court, as in the previous two years. There was a sharp increase in cases issued in 2022 from the previous years. The majority of our referred cases are 1) reports received when an arrest occurred, 2) a person was cited to appear in court out-of-custody, 3) a crime was investigated but an officer did not issue a citation, 4) or officers respond to a death (most frequently of natural causes). Most referrals in the latter two situations result in no criminal charges.

Case Counts

Cases Referred for review

1590 cases in 2022

1443 cases in 2021

1521 cases in 2020

1536 cases in 2019

1325 cases in 2018

Cases Filed with the Court

1048 cases in 2022

953 cases in 2021

980 cases in 2020

954 cases in 2019

898 cases in 2018

Case referrals were statistically consistent, with a significant increase this past year. Across all five years, charging rates were statistically consistent. The charging of cases, however, has drastically changed. Possession of Controlled Substances in small quantities was no longer a crime starting in January 2021, though large and commercial amounts still constitute crimes, and are being charged appropriately. The table below shows examples of many of the crime categories being issued over the past five years. Charging drug crimes has decreased substantially, while charging on other crimes increased in 2021 and 2022. Referral rates and charging stayed consistent indicating that decriminalization of drugs reoriented law enforcement and prosecuting resources to other areas. The other noteworthy law change was Senate Bill 1008, which went into effect in 2020. SB1008 took juveniles, aged 15, 16, and 17, out of automatic waiver into the adult system when the alleged crime was subject to Ballot Measure 11 treatment. Between 2018 and 2019, four juveniles were waived into the adult system under the old Ballot Measure 11 rule.

It is clear that criminally issued property crimes have increased over the course of the last three years. Thefts, criminal mischief, burglaries, and unauthorized use of vehicle cases, have been filed at a significantly higher frequency in the past 2-3 years.

Mental Health crimes have been on the rise, as well. Trespass and Disorderly Conduct are the misdemeanor crimes most associated with individuals suffering from mental health afflictions. Both of those crimes have jumped significantly in the past three years.

	2018 Issued	2019 Issued	2020 Issued	2021 Issued	2022 Issued
Thefts	78	100	136	147	185
Criminal Mischief	50	55	92	95	90
Burglary	22	25	31	55	41
Robbery	8	0	6	10	18
Unauthorized Use of Vehicle	19	17	23	45	34
DUII	141	147	173	183	179
Measure 11	27	17	27	34	40
Domestic Violence cases	55	42	45	63	64
Contempt	39	44	38	33	65
Assaults	90	85	95	114	111
Sex Cases	14	13	5	15	14
Drug Crimes	196	158	117	57	32
Weapon Cases	29	22	20	38	26

Mental Health Crimes	2018 Issued	2019 Issued	2020 Issued	2021 Issued	2022 Issued
Trespass	42	84	167	150	161
Disorderly Conduct	21	52	68	80	47

Department of Correction Intake

In addition to the above chart, Wasco County had 24 and 22 Department of Correction (DOC) intakes for defendants sentenced to prison terms in 2021 and 2022, respectively. These numbers are consistent with similarly situated counties, such as Hood River, Union, Curry, and Tillamook Counties. Wasco County DOC sentences peaked in 2018, sending 46 defendants to DOC intake. Wasco Co has followed a statewide trend of decreasing prison population with prison intakes dropping by more than 25% from 2018 to 2022.¹

Through the first ten weeks of 2023, the District Attorney’s Office has received 271 referrals and issued 191 new cases, putting the county on pace to receive 1410 referrals and issue 993 cases in 2023. This pace indicates a downturn in referrals for the coming year. However, thus far, cases are being charged out at a higher rate than past years.

Death Investigations

	2018	2019	2020	2021	2022
Death Investigations	49	49	43	59	72

Death investigations increased somewhat over the past two years, though the jump is not so statistically significant that increase in population and COVID cannot be ruled out as the biggest contributing factors. Only a single death investigation resulted in criminal charges in 2022.

Specialty Courts

Two specialty courts have been created in the last two years, both with the support and cooperation of Carrie Rasmussen, and the Hood River District Attorney’s Office. Neither of these courts would be successful without assistance from other community partners, such as Wasco Count Parole and Probation, Center for Living, and our housing partners.

¹ [Criminal Justice Commission : Prison Use for All Crime Types : Statistical Analysis Center : State of Oregon](#)

Treatment Court

When I took office in January 2021, the Wasco County Drug Court was effectively disbanded, with no participants. To rehabilitate the program, the Wasco County DA's Office chose to work with the Hood River DA's Office and Courts to create a new specialty court. The Treatment Court is a marriage between the Hood River DUII Court and the Wasco County Drug Court. This specialty court is focused on individuals involved in criminal behavior due to addiction. Treatment Court holds individuals accountable through intensive counseling and substance abuse treatment. At the time of this writing, the Treatment Court is at its maximum capacity for participants. We are fortunate to have a restored and thriving Treatment Court Program, as these specialty courts can be fragile if the program is fully staffed and supported.²

Mental Health Court

Like the Treatment Court, the Mental Health Court is a joint effort between Wasco and Hood River Counties. The Mental Health Court focuses on individuals where criminal behavior stems from untreated or undertreated mental health issues. Mental Health has become a national crisis, and this specialty court has become a tool to treat it locally. The specialty court seeks to ensure those suffering from mental health diagnoses to comply with counseling, medications, and pay any restitution to victims. Importantly, this specialty court also assists with housing and insurance by guiding them to those resources. The success of a local Mental Health Court is essential to our community. As noted in a recent news article, the Oregon State Hospital is overburdened and expensive to taxpayers.³

Family Dependency Court

The Family Dependency Court (FDC) is now on hiatus with the retirement of Judge Janet Stauffer at the end of 2022. FDC was a specialty court focusing on individuals where criminal behavior is a product primarily of addiction, but also lack of resources. Individuals participating in the program generally have DHS involvement with their children, along with criminal allegations. The court is specifically directed with intensive substance abuse treatment, counseling and accountability directed towards individuals with families. FDC should be making a comeback in the near future, just in a different form. The new FDC will focus on those involved with DHS, but will function outside the criminal system.

² [Deschutes County to end drug treatment court amid staffing woes | Local&State | bendbulletin.com](#)

³ [The Aftermath of a Stabbing Spree Highlights Problems at Oregon State Hospital \(wweek.com\)](#)

Law Enforcement

We have strived to have an open door policy with law enforcement, encouraging questions and talking through cases with attorneys. Monthly Q&As are scheduled at The Dalles City Police Station Conference Room, where our attorneys review case law and answer any questions or concerns from the attending officers. All law enforcement agencies are invited to attend these meetings. When requested/invited, we will also attend meetings with the Sheriffs or Oregon State Police.

In addition to meeting with law enforcement, an attorney is always on call to answer any questions or review warrants during non-business hours.

Policies

Office policies were updated and posted on the website.⁴

In addition to general office policies, we have adopted policies concerning Senate Bill 819, which allows individuals to be resentenced on a joint motion from the District Attorney and defense.⁵ A committee of citizens has been formed to give me recommendations on applications for resentencing. Eleven individuals have been resentenced utilizing Senate Bill 819 in the past year, all with the approval and recommendation of the committee. Four of those individuals were juveniles, having previously been sentenced as adults, were resentenced to the Oregon Youth Authority as juveniles.

We also launched a new monetary sanction policy early in 2023, which focuses on ensuring victims are compensated first, and court fines are minimized to only those that are statutorily required.

Future Planning

Staffing

Victim Advocate Coordinator James Barber is working with our grant money to create and fund a new position in the Victim Advocacy Department. The position will focus on restitution, which is a key aspect to ensuring victims of crime can be made as whole as possible. Restitution can be an arduous task for our victim advocacy department, as there are difficult timeline constraints by statute, and document collection that goes into restitution requests. The position is needed to assist our victim advocates and attorneys in ensuring restitution documents are getting from victims to our office and the paperwork is getting to the court in a timely manner.

⁴ [WCDA Policies 2023.pdf \(revize.com\)](https://cms5.revize.com/revize/wascocounty/docs/WCDA_Policies_2023.pdf)

⁵ [https://cms5.revize.com/revize/wascocounty/docs/WCDA 819 Policies 2023.pdf](https://cms5.revize.com/revize/wascocounty/docs/WCDA_819_Policies_2023.pdf)

In House Investigator

We are pursuing the possibility of having an investigator inside the District Attorney's office. An in house investigator would be responsible for doing any follow up needed on cases that have been referred from law enforcement or that have already been charged out, writing reports, reviewing jail house phone calls, assisting with finding witnesses reluctant to come to court, assisting with serving subpoenas, and testifying when needed. The position would be part time, but could be full time if split with another agency. The position could potentially be part time with the Wasco County Sheriff's office or joint with the Hood River District Attorney's Office.

New Policies

New policies concerning veterans involved in the criminal justice system and immigration reform have been drafted, and are being vetted and finalized for implementation later this year.

Restorative Justice

Six Rivers Mediation received a grant to create a restorative justice program. Restorative justice is a method of dealing with crime that focuses on repairing the harm done to victims, offenders, and the community. It involves a process of negotiation, mediation, empowerment, and reparation that brings together the parties affected by the crime. The Wasco County District Attorney Office is working with them in creating policies and determining case types to refer for restorative justice. The program should launch later in 2023.



Matthew Ellis
Wasco County District Attorney



AGENDA STAFF REPORT

AGENDA LOCATION: Item #9 A-B

MEETING DATE: April 10, 2023

TO: Honorable Mayor and City Council

FROM: Izetta Grossman, CMC, City Clerk

ISSUE: Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

- A. **ITEM:** Approval of the March 27, 2023 Regular City Council meeting minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the March 13, 2023 Regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the March 13, 2023 Regular City Council meeting minutes.

- B. **ITEM:** Declare surplus 7 computer office docks and 13 vehicle computer docks from the Police Department.

BUDGET IMPLICATIONS: None.

SYNOPSIS: These computer docks are end of life for The Dalles Police Department as we upgraded to newer computers this year. We have located other agencies that could utilize the equipment.

RECOMMENDATION: Declare 17 computer docks as surplus and approve donation to another police agency.

MINUTES

CITY COUNCIL MEETING
COUNCIL CHAMBER, CITY HALL
MARCH 27, 2023
5:30 p.m.

VIA ZOOM/ IN PERSON

PRESIDING: Mayor Richard Mays

COUNCIL PRESENT: Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

COUNCIL ABSENT: Darcy Long

STAFF PRESENT: City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Izetta Grossman, Police Captain Jamie Carrico

CALL TO ORDER

The meeting was called to order by Mayor Mays at 5:30 p.m.

ROLL CALL OF COUNCIL

Roll Call was conducted by City Clerk Grossman. Councilors McGlothlin, Randall, Runyon, Richardson present; Long absent

PLEDGE OF ALLEGIANCE

Mayor Mays asked Councilor Richardson to lead the Pledge of Allegiance.

Councilor Richardson invited the audience to join in the Pledge of Allegiance.

APPROVAL OF AGENDA

It was moved by Richardson and seconded by Randall to approve the agenda as submitted. The motion carried 4 to 0; Richardson, Randall, McGlothlin, Runyon voting in favor; Long absent;

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none opposed.

PRESENTATIONS PROCLAMATIONS

Parkinson's Awareness Month Proclamation – Kevin Mansfield

Mayor Mays read the proclamation. Mr. Mansfield thanked Council for their support and gave some data on Parkinson's.

AUDIENCE PARTICIPATION

Corliss Marsh, 1401 East 21st, representing The Dalles/Wasco County Library District Board said the Board wanted to renegotiate the IGA with the City and Wasco County, and asked how to accomplish that. (see attached written statement).

City Manager Matthew Klebes said he had met with the Library Director and Ms. Marsh a couple of weeks ago and had agreed the agreement needed to be amended, or a fresh agreement created. He said the agreement would have to be ratified by the City Council, who would direct the City Manager to sign on behalf of the City, and Wasco County Board of Commissioners.

He said he would reach out to start the process.

CITY MANAGER REPORT

City Manager Matthew Klebes reported:

Visit to the Wicks Water Treatment Plant to deliver service anniversary pins to the staff.

Meeting with local store owners about the shopping cart issue

Councilor Long representing the City in Washington D.C with Community Outreach Team

Homelessness Townhall meeting April 3 at 5:00 p.m. Zoom is available; room is full

Executive Secretary to City Manager's last day was March 27, 2023 – job opening notice was out

CITY COUNCIL REPORTS

Councilor Runyon reported:

- 6th Annual National Recognition of Vietnam Veterans on March 29th, 5:30 p.m. at Kelly View Point. Sponsored by the Patriot Guard and Mid-Columbia Veteran's Committee

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Mayor Mays reported:

- Performance Evaluation for City Manager, City Attorney, and Municipal Court Judge provided to Council
- Mural Tour with 7th Graders from the Middle School
- Elected Oregon Mayor's Association President
- League of Oregon Cities
- Mary Hanlon on her development
- Sheriff Magill on the Homelessness Town Hall
- KODL
- Wasco County regarding indoor/outdoor athletic facility
- Mid-Columbia Community Action Council ground breaking on Navigation Center

CONSENT AGENDA

It was moved by Randall and seconded by McGlothlin to approve the Consent Agenda as presented. The motion carried 4 to 0, Randall, McGlothlin, Runyon, Richardson voting in favor; Long absent; none opposed.

Items approved on the consent agenda were: The minutes of the March 13, 2023 Regular City Council Meeting; Resolution No. 23-010 Concurring with the Mayor's Appointments to Various Committees; Resolution No. 23-011 Repealing Resolution No. 95-073 Return to Work Policy; Surplus and dispose of outdated telephone equipment from the Police Department.

ACTION ITEMS – NOTE removed from the agenda

Land Leases Private Hangar at Columbia Gorge Regional Airport

EXECUTIVE SESSION

In accordance with ORS 192.660(2)(e) to conduct deliberations with persons you have designated to negotiate real property transactions; AND
ORS 192.660(2)(d) to consult with persons designated to carry on labor negotiations;

Mayor Mays recessed Open Session at 5:53 p.m.

Mayor Mays reconvene Open Session at 6:58 p.m.

Decision – None

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ADJOURNMENT

Being no further business, the meeting adjourned at 7:01 p.m.

Submitted by/
Izetta Grossman, CMC
City Clerk

SIGNED:

Richard A. Mays, Mayor

ATTEST:

Izetta Grossman, CMC City Clerk

March 27, 2023

Mayor and City Councilors,

I come before you tonight as the chair of the Library District Board. I come with some information about the Library District and would like some questions answered.

We have an intergovernmental agreement between the Wasco County Library District and the City of The Dalles dated Feb 23, 2010 and amended in July 2010. The agreement is automatically renewed every two years on July 1 unless terminated by either one of the parties by providing with written notice of termination to the other party by no later than April 1 of each year.

Let me emphasize that we do not wish to terminate this agreement---we just want some of the provisions re-negotiated, revised, and implemented and I know that the city would like to do the same.

In the IGA, under provision 5.1.1., the Library Board is responsible for the management of the IGA and recommend to the District governing body any amendments to the IGA.

So, the question is: who is the District governing body??? The agreement is signed by the city and the county. Where do we start? How do we renegotiate some of the provisions? Who is responsible for drawing up an amended intergovernmental agreement?

For transparency, we have also broached this subject with the county commissioners individually. If need be, I can ask the same questions to the county just as I did with you tonight.

Hopefully this can be resolved as soon as possible.

Corliss Marsh



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review Board Item #10A

MEETING DATE: April 10, 2023

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

ISSUE: Contract No. 2023-007 Wicks Filter Building Reroof Phase 2 Construction

BACKGROUND: The Wicks Filter Building Reroofing project provides for the construction of a new pitched roof over the original flat roof on the main Filter Building at the Wicks Water Treatment Plant. The membrane on the flat roof is at the end of its service life. The installation of a pitched roof will also eliminate the need for Operators to shovel snow from the existing flat roof to avoid over-loading it.

Phase 1 of the Wicks Filter Building Reroofing project was completed in 2020. The contract for the Phase 2 construction was originally advertised for bid in 2022; the only bid received at that time was rejected because it significantly exceeded the funds budgeted for the project. The Supplemental Budget adopted by the City Council on February 13, 2023 re-allocated funding for the project.

The contract for the Phase 2 project was advertised for bid locally and through regional plan centers. Both pre-qualification and attendance of a pre-bid site visit were required of perspective bidders. Ultimately, two bids were received for the contract as follows:

Rev Construction LLC	\$132,800
Amer-X Inc	\$134,000

The low bid received from Rev Construction LLC has been determined to be a responsible bid. Rev Construction is the same contractor that completed the Phase 1 project. The current bid from Rev Construction is \$11,500 less than the bid received in 2022. Staff is recommending award of Contract No. 2023-007 to Rev Construction LLC.

BUDGET ALLOCATION: Fund 53, the Water Reserve Fund as supplemented in February 2023, allocates \$200,000 for the project. The bid from Rev Construction LLC is below the budgeted amount so there are adequate funds available for this contract.

COUNCIL ALTERNATIVES:

1. **Staff Recommendation:** *Move to authorize the City Manager to enter into contract with Rev Construction LLC in an amount not to exceed \$132,800 for Contract No. 2023-007, the Wicks Filter Building Reroof Phase 2 contract.*
2. Deny authorization to award contract No. 2023-007 to Rev Construction LLC and provide direction to staff.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item # 11A

MEETING DATE: April 10, 2023

TO: Honorable Mayor and City Council

FROM: Daniel Hunter, Human Resources Director

ISSUE: Proposed Non-Union Wages

BACKGROUND: In order to address increasing challenges with recruitment and retention a cross functional team of Department Heads and the new City Manager was formed centered on the development of new wage proposals that would help ensure the City was competitive in recruiting and retaining employees. The output from these discussions resulted in a significant change in how the City approached wage proposals this year.

In the second half of 2022, the City completed negotiations with the Police Union resulting in a 7% wage increase in the first year of the contract and a 6% and 5% increase in the second and third year of the contract respectively.

In early 2023, the City began negotiations with the SEIU Union. Leading up to the negotiations, we reviewed comparable wages by position from the same Cities used in the Police Union wage comparables. Unlike the Police Union, the wage differences for most comparable SEIU Union positions in most cases were well above wages for The Dalles.

In years past, typical COLA requests were made and applied at the agreed upon flat percentage rate to the entire SEIU and non-union wage table. As a result of the discussions mentioned above, wage proposals incorporate adjustments position by position to not only bring them in line with comparable positions but higher in order to position the City to be competitive in recruitment and retention.

On the Non-Union Wage Tables two of those positions, Safety Officer and Animal Control Officer, had no City comparable wage. Comparable wage data for these two positions was retrieved from the Oregon Employment Department. Lastly, the wage lines (rows) were retitled from AA+ thru Z, with each row continuing to be 3% higher than the one below. The rows were retitled to the following:

Department Head: DH1 through DH9
Manager: MG1 through MG9
Operations: OP1 through OP9
Specialist: SP1 through SP7

Part-time positions of Watershed Patrol and Library Page continue just below the main table, followed by Council appointed employees.

Only the Non-Union Wage Tables are under consideration at this time. We believe these changes will help the City retain its employees and recruit new employees as the need arises. For your information, a review of Western Regional CPI showed December 2022 Western CPI-U at 6.2%. This was the lowest CPI for all of last year. The most recent index for February was 6.0%.

BUDGET IMPLICATIONS: The FY23-24 Budget was prepared in anticipation of these changes being approved. If Council approves these changes and adopts the City Budget without changes to the personnel costs, no further change will be needed.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to approve the fiscal year 2023-2024 Non-Union Wage Table as presented effective July 1, 2023.*
2. Decline and provide alternative direction to staff.

Exempt / Non-Union & Management Salary Table

7% Compensation Adjustment

Line Code	Job Classification	BASE		STEP 1		STEP 2		STEP 3		STEP 4		STEP 5		STEP 6		STEP 7	
		Month	Annual	Month	Annual	Month	Annual	Month	Annual	Month	Annual	Month	Annual	Month	Annual	Month	Annual
DH1 DH1	Public Works Director Police Chief	9,690.25	116,282.96	9,980.95	119,771.45	10,280.38	123,364.59	10,588.79	127,065.53	10,906.46	130,877.50	11,233.65	134,803.82	11,570.66	138,847.94	11,917.78	143,013.38
DH2	Finance Director	9,400.87	112,810.45	9,682.90	116,194.76	9,973.38	119,680.60	10,272.59	123,271.02	10,580.76	126,969.15	10,898.19	130,778.23	11,225.13	134,701.57	11,561.89	138,742.62
DH3		9,157.72	109,892.62	9,432.45	113,189.40	9,715.42	116,585.08	10,006.89	120,082.63	10,307.09	123,685.11	10,616.31	127,395.67	10,934.79	131,217.54	11,262.84	135,154.06
DH4	Community Development Director	8,890.99	106,691.86	9,157.72	109,892.62	9,432.45	113,189.40	9,715.42	116,585.08	10,006.89	120,082.63	10,307.09	123,685.11	10,616.31	127,395.67	10,934.79	131,217.54
DH5	Human Resources Director	8,632.03	103,584.33	8,890.99	106,691.86	9,157.72	109,892.62	9,432.45	113,189.40	9,715.42	116,585.08	10,006.89	120,082.63	10,307.09	123,685.11	10,616.31	127,395.67
DH6		8,479.37	101,752.42	8,733.75	104,804.99	8,995.76	107,949.14	9,265.63	111,187.61	9,543.60	114,523.24	9,829.91	117,958.94	10,124.81	121,497.71	10,428.55	125,142.64
DH7		8,232.40	98,788.76	8,479.37	101,752.42	8,733.75	104,804.99	8,995.76	107,949.14	9,265.63	111,187.61	9,543.60	114,523.24	9,829.91	117,958.94	10,124.81	121,497.71
DH8 DH8	Library Director City Clerk/IT Supervisor	7,992.62	95,911.41	8,232.40	98,788.76	8,479.37	101,752.42	8,733.75	104,804.99	8,995.76	107,949.14	9,265.63	111,187.61	9,543.60	114,523.24	9,829.91	117,958.94
DH9 DH9	Deputy Public Works Director Police Captain	7,759.82	93,117.85	7,992.62	95,911.39	8,232.39	98,788.73	8,479.37	101,752.39	8,733.75	104,804.96	8,995.76	107,949.11	9,265.63	111,187.59	9,543.60	114,523.21
MG1 MG1	City Engineer Water Quality Manager	7,533.81	90,405.71	7,759.82	93,117.88	7,992.62	95,911.41	8,232.40	98,788.76	8,479.37	101,752.42	8,733.75	104,804.99	8,995.76	107,949.14	9,265.63	111,187.62
MG2 MG2 MG2 MG2 MG2	Info Technology Manager Water Distribution Manager Wastewater Collection Manager Transportation Manager Regulatory/Admin Manager Project Engineer	7,314.38	87,772.51	7,533.81	90,405.69	7,759.82	93,117.86	7,992.62	95,911.40	8,232.39	98,788.74	8,479.37	101,752.40	8,733.75	104,804.97	8,995.76	107,949.12
MG3	Police Sergeant	7,102.93	85,235.15	7,316.02	87,792.21	7,535.50	90,425.98	7,761.56	93,138.75	7,994.41	95,932.92	8,234.24	98,810.90	8,481.27	101,775.23	8,735.71	104,828.49
MG4		6,894.50	82,734.03	7,101.34	85,216.05	7,314.38	87,772.53	7,533.81	90,405.71	7,759.82	93,117.88	7,992.62	95,911.42	8,232.40	98,788.76	8,479.37	101,752.42
MG5	Economic Development Officer	6,693.69	80,324.30	6,894.50	82,734.03	7,101.34	85,216.05	7,314.38	87,772.53	7,533.81	90,405.71	7,759.82	93,117.88	7,992.62	95,911.41	8,232.40	98,788.76
MG6	Senior Planner	6,498.73	77,984.74	6,693.69	80,324.29	6,894.50	82,734.01	7,101.34	85,216.03	7,314.38	87,772.52	7,533.81	90,405.69	7,759.82	93,117.86	7,992.62	95,911.40
MG7		6,309.45	75,713.36	6,498.73	77,984.76	6,693.69	80,324.30	6,894.50	82,734.03	7,101.34	85,216.06	7,314.38	87,772.54	7,533.81	90,405.71	7,759.82	93,117.88
MG8	Facilities Supervisor	6,125.67	73,508.10	6,309.45	75,713.34	6,498.73	77,984.74	6,693.69	80,324.29	6,894.50	82,734.01	7,101.34	85,216.03	7,314.38	87,772.52	7,533.81	90,405.69
MG9	Safety Officer	5,947.26	71,367.10	6,125.68	73,508.11	6,309.45	75,713.35	6,498.73	77,984.75	6,693.69	80,324.30	6,894.50	82,734.03	7,101.34	85,216.05	7,314.38	87,772.53
OP1		5,774.04	69,288.47	5,947.26	71,367.12	6,125.68	73,508.13	6,309.45	75,713.38	6,498.73	77,984.78	6,693.69	80,324.32	6,894.50	82,734.05	7,101.34	85,216.07
OP2	Engineer-In-Training	5,605.86	67,270.33	5,774.04	69,288.44	5,947.26	71,367.10	6,125.68	73,508.11	6,309.45	75,713.35	6,498.73	77,984.75	6,693.69	80,324.30	6,894.50	82,734.03
OP3 OP3 OP3 OP3 OP3	Accountant Associate Planner Dvlpmnt Inspctr/Project Mgr Finance Specialist Paralegal IT Specialist	5,442.58	65,311.02	5,605.86	67,270.35	5,774.04	69,288.46	5,947.26	71,367.11	6,125.68	73,508.12	6,309.45	75,713.37	6,498.73	77,984.77	6,693.69	80,324.31
OP4	Community Development Analyst	5,284.14	63,409.72	5,442.67	65,312.01	5,605.95	67,271.37	5,774.13	69,289.51	5,947.35	71,368.20	6,125.77	73,509.24	6,309.54	75,714.52	6,498.83	77,985.95
OP5		5,130.16	61,561.86	5,284.06	63,408.72	5,442.58	65,310.98	5,605.86	67,270.31	5,774.04	69,288.42	5,947.26	71,367.07	6,125.67	73,508.09	6,309.44	75,713.33

OP6		4,980.74	59,768.82	5,130.16	61,561.89	5,284.06	63,408.74	5,442.58	65,311.01	5,605.86	67,270.34	5,774.04	69,288.45	5,947.26	71,367.10	6,125.68	73,508.11
OP7		4,835.66	58,027.98	4,980.73	59,768.82	5,130.16	61,561.88	5,284.06	63,408.74	5,442.58	65,311.00	5,605.86	67,270.33	5,774.04	69,288.44	5,947.26	71,367.10
OP8	Finance Specialist - Personnel	4,694.82	56,337.83	4,835.66	58,027.97	4,980.73	59,768.81	5,130.16	61,561.87	5,284.06	63,408.73	5,442.58	65,310.99	5,605.86	67,270.32	5,774.04	69,288.43
OP8	Executive Assistant Animal Control Officer																
OP9	Assistant Planner	4,558.08	54,696.92	4,694.82	56,337.83	4,835.66	58,027.96	4,980.73	59,768.80	5,130.16	61,561.86	5,284.06	63,408.72	5,442.58	65,310.98	5,605.86	67,270.31
OP9	Codes Enforcement																
SP1	Planning Technician Payroll Technician Account Technician Police Evidence Officer	4,425.32	53,103.84	4,558.08	54,696.95	4,694.82	56,337.86	4,835.67	58,028.00	4,980.74	59,768.84	5,130.16	61,561.90	5,284.06	63,408.76	5,442.59	65,311.02
SP2	Administrative Secretary	4,294.77	51,537.27	4,423.62	53,083.39	4,556.32	54,675.89	4,693.01	56,316.16	4,833.80	58,005.65	4,978.82	59,745.82	5,128.18	61,538.19	5,282.03	63,384.34
SP3		4,171.29	50,055.44	4,296.43	51,557.11	4,425.32	53,103.82	4,558.08	54,696.94	4,694.82	56,337.84	4,835.66	58,027.98	4,980.73	59,768.82	5,130.16	61,561.88
SP4		4,049.79	48,597.51	4,171.29	50,055.44	4,296.42	51,557.10	4,425.32	53,103.81	4,558.08	54,696.93	4,694.82	56,337.83	4,835.66	58,027.97	4,980.73	59,768.81
SP5		3,968.61	47,623.35	4,087.67	49,052.05	4,210.30	50,523.61	4,336.61	52,039.32	4,466.71	53,600.50	4,600.71	55,208.51	4,738.73	56,864.77	4,880.89	58,570.71
SP6		3,817.32	45,807.83	3,931.84	47,182.07	4,049.79	48,597.53	4,171.29	50,055.45	4,296.43	51,557.12	4,425.32	53,103.83	4,558.08	54,696.95	4,694.82	56,337.85
SP7		3,706.13	44,473.61	3,817.32	45,807.82	3,931.84	47,182.06	4,049.79	48,597.52	4,171.29	50,055.44	4,296.43	51,557.11	4,425.32	53,103.82	4,558.08	54,696.93

Hourly Employees	Base	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Watershed Patrol	47.2500							
Library Page	13.91	14.33	14.76	15.20	15.66	16.13	16.61	17.11

Minimum Wage increases through 2023, based on CPI thereafter
CPI for wage adjustment will be Western CPI-U through December. This data is available Jan. 15th each year

Contract Employees	Month	Annual	
City Manager	12,724.31	152,691.71	FLSA Exempt
City Attorney	11,458.33	137,500.00	
Municipal Judge	1,478.19	17,738.26	



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11B

MEETING DATE: April 10, 2023

TO: Honorable Mayor and City Council

FROM: Jonathan Kara, City Attorney

ISSUE: Adopting the City's Public Records Policy effective April 11, 2023

BACKGROUND: Nearly every (or perhaps even every) Oregon city has a policy implementing administrative rules and procedures connected with the Oregon Public Records Law. The Oregon Public Records Law authorizes the City to adopt reasonable rules necessary for the protection of its records and to prevent interference with the regular discharge of its duties. Any rule it implements must not be designed solely to make public access to records more difficult and must be carefully designed to expedite staff identification of requested records.

The *Public Records Policy (Effective April 11, 2023)* is attached to this Staff Report. It details an orderly, consistent, and reasonable process for the City's response to requests, defines public records, lists the City's statutory obligations, informs Staff and the public of the City's processes involved with respect to public records requests, details common exemptions from disclosure, and establishes the basis for the City's fees intended to reimburse it for its actual costs incurred in responding to requests (consistent with the City's Fee Schedule). I drafted this Policy to ensure the City is performing its obligations under the Oregon Public Records Law with transparency, integrity, and consistency.

While this is not a public hearing, best practices suggest and it would be appropriate for the Mayor to offer the audience an opportunity for public comment on the draft Policy so as to avoid the appearance of arbitrary City decision-making.

BUDGET IMPLICATIONS: None.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to adopt and authorize the City Manager to execute the City's Public Records Policy, effective April 11, 2023, as presented.*
2. Move to adopt and authorize the City Manager to execute an amended Public Records Policy, effective April 11, 2023, as modified.
3. Decline formal action and provide Staff additional direction.



PUBLIC RECORDS POLICY

Effective Date: April 11, 2023

I. Policy and Purpose

- A. Policy. The City recognizes the Oregon Public Records Law (ORS 192.311 *et seq.*) gives every person the right to inspect any of the City's nonexempt public records; inherent in that right is the understanding not all records in the City's custody are subject to disclosure and, in making a disclosure determination, the City may balance the right of public access against individual privacy rights, governmental interests, confidentiality issues, and lawyer-client privilege. Additionally, the City incurs costs to provide its response to requests to inspect or copy public records and it is in the public interest those costs be recovered by the City.
- B. Purpose. Generally, the purpose of this Policy is to ensure the City's responses to requests for public records are consistent with the Oregon Public Records Law and is intended to inform both the public and City staff of the City's procedures and rules applicable to public records requests as of the Effective Date. Specifically, this Policy:
- (1) details an orderly, consistent, and reasonable process for the City's response to requests; and
 - (2) establishes the basis for a fee schedule intended to reimburse the City for its actual costs incurred in responding to requests.

II. Public Records

- A. Public Record Defined. The Oregon Public Records Law defines a **public record** as *any writing that contains information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used, or retained by a public body regardless of physical form or characteristics.*
- B. Record Retrieval. The City is required to retrieve pre-existing information (including electronic data stored in its databases) regardless of whether the City has actually generated a report for its own use containing the requested data. Information contained in a record is not exempt from disclosure simply because the City stores it electronically or because retrieving the data would require the City to query its information systems in ways it otherwise might not.
- C. Format. The City will provide public records in the format requested, if available. If the requested format is unavailable, then the City will provide the data in the form it is maintained.

III. Requests for Information/Freedom of Information Act

- A. Requests for Information. Both City staff and the public must keep in mind the distinction between a **request for information** and a **public records request**. Many public records requests are actually requests for information requiring the City to create a new public record or analyze its records. The State of Oregon does not have a law governing requests for information and thus the City is not obligated to respond to such requests. The Oregon Public Records Law does **not** require the City to:
- (1) create new public records to respond to a request when none exist;
 - (2) disclose the reasoning behind its actions;
 - (3) answer questions about records in its custody;
 - (4) analyze its records for any reason, including to determine whether they contain responsive information; or
 - (5) perform legal research to identify responsive records.
- B. Freedom of Information Act. The City's obligations to provide public records in its custody is an exclusive function of the Oregon Public Records Law—the federal Freedom of Information Act (5 U.S.C. § 552) does not apply to cities and the City is not bound by its timeframes or any of its other provisions; however, the City will strive to construe all public records requests it receives consistent with the Oregon Public Records Law's framework.

IV. Making a Public Records Request

Every *person* (as defined by the Oregon Public Records Law) may make a request for public records in the City's custody as provided herein:

- A. Submittal. Any person may send their request to inspect or receive a copy of a public record to the office of the City Attorney of The Dalles (the **City Attorney's Office**). The City reserves the right to identify additional individuals who may accept a request on behalf of the City; consistent with ORS 192.324(7)(a), the City maintains a list of those individuals on the City's Legal Department [website](#).
- B. Written Requests. Consistent with ORS 192.324(2), the City's obligations under the Oregon Public Records Law are triggered **only** when a person sends the City Attorney's Office a written request by:
- (1) personally delivering or mailing a completed paper **Public Records Request Form** furnished by the City to the City Attorney's Office, addressed:

City Attorney's Office
ATTN: *Public Records Request*
313 Court Street
The Dalles, OR 97058

(2) scanning a completed paper **Public Records Request Form** furnished by the City to the City Attorney's Office and emailing it to publicrecords@ci.the-dalles.or.us; or

(3) submitting a digital **Public Records Request Form** through the City's [website](#).

C. **Completeness**. In order for the City Attorney's Office to deem a request complete, it must:

(1) comply with **Subsections IV(A) and (B)**;

(2) contain the requester's name, address, and telephone number, email address, or other contact information; and

(3) provide a sufficiently detailed description of the records requested to allow the City Attorney's Office to search for and identify responsive records.

D. **Process**. Once the City Attorney's Office receives a complete and written request, certain deadlines to acknowledge and fulfill the request are triggered by the Oregon Public Records Law:

(1) **Acknowledgment**. The City will acknowledge receipt of a complete request and will send a written acknowledgement to the requester **within five (5) business days** and containing a:

a. confirmation of whether the City is the custodian of responsive records;

b. statement no such records exist;

c. statement the City is uncertain whether it possesses any requested records and indicating it will search for responsive records and respond as soon as practicable after it receives prepayment of the estimated fees the requester must pay to process the request;

d. statement Oregon or federal law prohibits the City from acknowledging whether the record exists and a citation to the applicable prohibiting law;

e. copy of all requested public records for which the City does not claim an exemption from disclosure or an estimate of time in which copies will be provided or inspection will be available;

f. request for additional information or clarification of the records sought; and/or

g. fee estimate or fee adjustment accompanied by a notice prepayment must be submitted before the request will be processed, depending on the relative workload associated with fulfilling the request (see **Sections VI and VII**).

(2) **Response Timeline**. The City will provide its response as soon as reasonably possible but **not later than ten (10) business days** after the date the City is

required to acknowledge its receipt of the complete request.¹ Pursuant to ORS 192.329(6), none of the Oregon Public Records Law's timelines or time periods for the City's acknowledgment or response apply if compliance by the City would be impracticable because:

- a. the staff necessary to complete the City's response are unavailable (e.g., on leave, not scheduled to work, etc.);
- b. compliance will demonstrably impede the City's ability to perform other necessary services; or
- c. of the volume of other requests simultaneously being processed by the City.

(3) *Additional Information and Clarification*. The City may request additional information or clarification from a requester for the purpose of expediting the City's response to a request. If the City requests additional information or clarification, its obligation to further complete its response to the request is suspended until the requester provides the requested information or clarification or affirmatively declines to provide that information or clarification. If the requester fails to respond within 60 days to the City's good faith request for information or clarification, the City will close the request and take no further action.

(4) *Coordination*. Upon the City Attorney's Office receipt of a completed request (and, if necessary, the requester's fee prepayment), the City Attorney's Office will coordinate with the requester, applicable City staff, and others as necessary to timely complete its response to the request.

(5) *Response*. If the City Attorney believes a request should be denied in whole or in part, they will prepare and deliver to the requester a written explanation of the statutory basis for the denial identifying all applicable exemptions from disclosure for each part of the record or records being withheld. Otherwise, the City Attorney's Office will transmit the requested records or coordinate with the requester a reasonable time for their inspection of the records at City Hall. The City completes its response to and closes a request when it:

- a. provides the requester with access to or copies of all nonexempt responsive records or explained where the records are already publicly available;
- b. cites in writing to the requester any exemption it asserts to withhold responsive records;

¹ If the City does not meet this timeline, it will provide a written statement to the requester indicating it is still processing the request and providing a reasonable estimated date by which the City expects to complete its response based on the information currently available. City staff must often consult with the City Attorney's Office regarding public records requests — briefly postponing the disclosure of records for that purpose does not violate the Oregon Public Records Law, which provides it is reasonable for the City to obtain legal advice on an extensive public records request when compliance will seriously disrupt the City's operations or result in the potential disclosure of documents appearing exempt or otherwise pertinent to a legal claim or litigation.

- c. provides to the requester any nonexempt material from a public record also containing exempt material;
 - d. provides to the requester a written statement the City is not the custodian of any of the records;
 - e. cites in writing to the requester any federal or Oregon law prohibiting the City from acknowledging whether the requested records exist (or to a law that would impose a loss of federal benefits or other sanction) unless providing that citation would violate federal or Oregon law; and
 - f. if the City redacted from or withheld any responsive record, provides the requester a written statement they may seek review of its withholding pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427, and 192.431.
- E. Inspection. If a requester prefers physical inspection (as opposed to the City's provision of a copy) of a public record, City staff will be present **at all times** to supervise the inspection and to ensure no documents are removed, destroyed, or otherwise tampered with.
- F. Appeal. If the City denies a request in whole or in part, the requester may seek review of the City's withholding or redactions by petitioning the Wasco County District Attorney pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427, and 192.431.

V. Public Records Exempt from Disclosure

The Oregon Public Records Law exempts numerous types of public records from disclosure. Many of these specifically authorized exemptions are codified as **ORS 192.345 (conditional exemptions)** and **ORS 192.355 (unconditional exemptions)**. Additional exemptions may be codified in other Oregon and federal statutes. If the City Attorney determines even one statutory exemption applies to a public record responsive to a request, the City may or must withhold the record from or redact the applicable confidential information prior to disclosure. Without limitation in any way, a few specific exemptions worth special notice include:

Privacy Exemptions

- ***Personal Privacy*** – **ORS 192.355(2)**. Information of a personal nature, including information kept in a personal, medical, or similar file, is exempt from disclosure if disclosure would be an unreasonable invasion of privacy. Personal information includes an individual's home address, phone number, weight, and age.
- ***Personal Safety*** – **ORS 192.368(6)**. If an individual demonstrates to the City disclosure of their home address, personal telephone number, or personal email address would endanger their personal safety, or the personal safety of a family member residing with them, then the Oregon Public Records Law prohibits the City from disclosing records containing that information.
- ***Personnel Discipline Actions*** – **ORS 192.345(12)**. Public records of a completed discipline action where a sanction has been imposed (and materials or documents supporting that action) are conditionally exempt from disclosure.
- ***Public Employee/Volunteer Personal Information*** – **ORS 192.355(3)**. The City must withhold the following public employee and volunteer information as exempt from disclosure: home addresses, home phone numbers, personal cell phone numbers, personal email addresses, City-issued ID card numbers, emergency contact information, driver's license numbers, dates of birth, and Social Security Numbers.
- ***Social Security Numbers*** – **ORS 107.840**. No Social Security Numbers should be disclosed without prior consultation with the City Attorney. The City must redact Social Security Numbers from all public records prior to disclosure.
- ***Utility Records*** – **ORS 192.355(28)**. The City must redact its utility customers' names, dates of birth, driver's license numbers, phone numbers, email addresses, and Social Security Numbers.

Police and Criminal Record Exemptions

- ***Criminal Investigations*** – **ORS 192.345(3)**. The City must withhold the police report and any investigatory information compiled for criminal law purposes until the law enforcement investigation or criminal prosecution is completed or abandoned. Requesters are encouraged to contact and submit their request for information covered by this exemption to the Wasco County District Attorney's Office.

- *Public Safety Officer Personnel Records* – **ORS 181A.830(3)**. The City must withhold information about a personnel investigation of a City Police Officer if the investigation does not result in discipline unless the public interest requires disclosure, the employee consents to disclosure, the disclosure is necessary for an investigation by the City, DPSST, or a citizen review body designated by the City, or if the City determines nondisclosure would adversely impact the public’s confidence in the City.² In all cases, the City must notify the Police Officer if the City receives a request for any of their personnel information. Pursuant to ORS 192.385(2), in no event does the Oregon Public Records Law authorize the City to disclose audio or video records of internal investigation interviews with its Police Officers.
- *Body Camera Footage* – **ORS 192.345(40)**. All requests for City Police Officer body camera footage must identify the approximate date and time of an incident for which the recording is requested and be reasonably tailored to include only that material for which a public interest requires disclosure. The Oregon Public Records Law requires the City to edit or redact all body camera footage in all cases so as to render the faces of all persons within the recording unidentifiable. The City contracts with a third-party vendor for redacting body camera footage consistent with the Oregon Public Records Law and the City’s costs for the vendor’s services must be prepaid to the City by the requester (see **Section VI**) in all cases.

Legal Exemptions

- *Lawyer-Client Privileged Communications* – **ORS 40.225(2)(a)**. Confidential communications covered by Oregon’s lawyer-client privilege are exempt from disclosure (e.g., communications between the City Attorney’s Office and City staff or officials).
- *Public Records Pertaining to Litigation* – **ORS 192.345(1)**. If the City is involved in litigation, or if litigation is reasonably likely in the future, public records relating to the litigation are conditionally exempt from disclosure.

Confidentiality Exemptions

- *Confidential Submissions* – **ORS 192.355(4)**. The City may withhold information submitted in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the City obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure. The purpose of this exemption is to encourage voluntary submission of relevant information to the City and was designed by the Oregon Legislature to protect the submitter, not the City.
 - The City Attorney, in their sole discretion, determines whether the City is obligated to maintain the confidentiality of materials submitted to the City and whether to assert this exemption in response to any public records request. Accordingly, any person intending to submit confidential information to the City must deliver to the City Attorney’s Office a declaration, affidavit, or signed memorandum explaining (a) why

² For investigations of a Police Officer stemming from a citizen’s complaint, ORS 181A.830(5) provides the City may disclose – to the complainant, only – the disposition of the complaint and a written summary of information obtained in the investigation to the extent the City considers it necessary to explain the City’s action on the complaint.

the information should reasonably be considered confidential and (b) how the City might benefit by having access to the voluntarily-submitted confidential information. If the City receives a request for records submitted after this Policy's Effective Date, the City reserves the right to not assert this exemption if the submitter has not provided the declaration, affidavit, or signed memorandum described here.

- **Juvenile Records – ORS Chapters 419A-C.** Most public records involving juvenile defendants are restricted from public disclosure by operation of the Oregon Juvenile Code. No records implicating juvenile information should be disclosed without prior consultation with the City Attorney.
- **Trade Secrets – ORS 192.345(2) and ORS 646.461(4).** In addition to information meeting the Uniform Trade Secrets Act's criteria to qualify as a *trade secret*, the City may withhold information not patented, known only to certain individuals within an organization and which is used in a business it conducts, if the information has actual or potential commercial value and gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.
 - The City Attorney, in their sole discretion, determines whether to assert this exemption in response to any public records request. Accordingly, any person intending to submit what they consider to be their trade secret information to the City must deliver to the City Attorney's Office a declaration, affidavit, or signed memorandum explaining how the information meets the definition of a trade secret under ORS 192.345(2) or ORS 646.461(4). If the City receives a request for records submitted after this Policy's Effective Date, the City reserves the right not to assert this exemption if the submitter has not provided the declaration, affidavit, or signed memorandum described here.

VI. Fees

- A. Fees Authorized. The Oregon Public Records Law authorizes the City to establish fees reasonably calculated to recover its actual costs for making public records available, including the costs for:
- (1) summarizing, compiling, or tailoring the public records to meet the person's request;
 - (2) locating responsive records;
 - (3) reviewing responsive records to redact exempt material;
 - (4) supervising a person's inspection of original documents to protect the records;
 - (5) copying records;
 - (6) certifying documents as true copies;
 - (7) sending records by special methods; and
 - (8) reviewing and redacting (but not time spent by the City Attorney's Office in determining the application of the Oregon Public Records Law or its exemptions).
- B. Accommodation. The City will never include charges for any additional costs incurred to provide records in an alternative format to individuals with vision or hearing impairments when required by the Americans with Disabilities Act (42 U.S.C. § 12131 *et seq.*).
- C. Fees Charged. The City's fee for responding to public records requests is listed on the [City's Fee Schedule](#), as amended. The City will waive all fees for easily accessible or routinely requested records if the request takes **less than one hour of staff time** to find, review, and provide the responsive records. The City will require prepayment in all cases (unless the City Attorney determines in writing a fee waiver is appropriate) if the request takes **more than one hour of staff time** to find, review, and provide the responsive records or otherwise complete its response.³
- D. Search Time. The City may charge for search time even if it fails to locate any records responsive to a request or even if the City Attorney subsequently determines the records located are exempt; however, where possible, the City will advise a requester beforehand if significant portions of the records are likely to be exempt.
- E. Negotiations. The City is permitted to negotiate with requesters to reduce the cost of fulfilling requests in many ways, including informing the requester how to access the records themselves, by agreeing to using narrower search terms or date ranges, limiting the search to only the most relevant City employees, or excluding records most likely to

³ The City contracts with a third-party vendor to redact **body camera footage** in accordance with the Oregon Public Records Law and the requester must prepay the full amount of the City's costs for the vendor's services in all cases; in addition to both staff time spent to fulfill the request and the vendor's costs (if applicable), the City also charges an additional one-time clerical fee per body camera footage request consistent with the City's Fee Schedule.

contain exempt information. While requesters are under no obligation to refine their request in order to reduce cost, many appreciate the opportunity to work with the City to obtain the most substantive records for a lower cost.

- F. Prepayment. If the fee estimate for a request exceeds \$25.00, the City must first provide a written estimate to the requester and receive confirmation the requester is willing to pay; unless the City Attorney determines in writing a fee waiver is appropriate, the City requires prepayment of its estimated charges before taking further action on a request. If the actual charges are less than the prepayment, the City will promptly refund any overpayment. A requester may coordinate prepayment with the City's Billing Clerk by emailing payments@ci.the-dalles.or.us for remittal instructions.

VII. Fee Adjustments

- A. Fee Waivers and Reductions. The City may furnish copies **without charge** or at a **reduced fee** if the City Attorney determines fee adjustment is in the public interest because making the record available primarily benefits the general public. If disclosure is in the public interest, the City's decision to deny a fee-waiver or fee-reduction request must be reasonable under the totality of the circumstances. A requester may contest the City's decision not to adjust their fee by submitting an appeal petition to the Wasco County District Attorney before or after paying the fee.
- B. Public Interest. For purposes of determining whether to grant a fee reduction for a request, the furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole — this is distinct from situations where disclosure would primarily impact a private party's concern or interest. Regardless of how interested the public may be in the matter implicated by the requested records, the Oregon Public Records Law provides disclosure will not primarily benefit the public if the requester fails to demonstrate their ability to meaningfully disseminate the information. The City is authorized to seek additional information from a requester to help clarify the basis for seeking a fee adjustment and, without such information, it may be difficult or even impossible to assess whether the requested disclosure is in the public interest.
- C. Fee-Waiver Determination. The City Attorney will make a determination as to whether a requester seeking a fee waiver has established a sufficient public interest to justify the waiver on an individualized, request-by-request basis. Factors typically relevant to the City Attorney's fee-waiver public-interest determination typically include:
 - (1) who the requester is;
 - (2) the purpose for which the requester intends to use the information;
 - (3) the character of the information (i.e., whether the information is customarily in the public domain or of a nature reasonably kept confidential);
 - (4) whether the requested information is already in the public domain;

- (5) the requester's inability to pay⁴; and
- (6) whether the requester can demonstrate the ability to disseminate the information to the public.

D. Fee-Reduction Determination. The City Attorney will make a fee-reduction determination on an individualized, request-by-request basis. Factors typically relevant to the City Attorney's fee-reduction public-interest determination typically include:

- (1) how narrowly tailored the request is to a matter of public interest;
- (2) the time and expense needed to fulfill the request;
- (3) the volume of the records requested;
- (4) the need to segregate exempt from nonexempt materials;
- (5) whether the fee was avoidable; and
- (6) the requester's ability to pay the fee.

E. City Discretion Despite Public Interest. Even if waiving or reducing the fee is in the public interest, the Oregon Public Records Law still provides the City with the discretion to deny a fee adjustment if its denial is reasonable under the totality of the circumstances; in exercising that discretion (on a request-by-request basis), the City Attorney may consider:

- (1) the character of the public interest in the particular disclosure;
- (2) the extent to which the fee impedes that public interest;
- (3) the extent to which a waiver would burden the City⁵; and
- (4) any other considerations potentially appropriate in any given request.

ADOPTED by the Council of the City of The Dalles at its regular April 10, 2023, meeting.

CITY OF THE DALLES

Matthew B. Klebes, City Manager

Date

⁴ The Oregon Public Records Law provides this factor, on its own, is not a sufficient basis for a fee waiver.

⁵ The City may consider the aggregate impact from numerous public records requests from the same requester in assessing this burden.