



McCleary City Council Agenda

03/11/20- 6:30PM

Flag Salute

Roll Call: ___ Pos. 1-Amsbury, ___ Pos. 2-Huff , ___ Pos. 3- Heller, ___ Pos. 4- Blankenship, ___ Pos. 5- Iversen

Presentation	<input type="checkbox"/>	
Executive Session	<input type="checkbox"/>	
Public Hearing	<input type="checkbox"/>	
Mayor Comments	<input type="checkbox"/>	
Public Comment	<input type="checkbox"/>	
Minutes	<input type="checkbox"/>	Tab A 2/26/2020
Approval of Vouchers	<input type="checkbox"/>	
Staff Reports	<input type="checkbox"/>	Chris Coker - Verbal Memo
	<input type="checkbox"/>	Tab B Staff Reports
	<input type="checkbox"/>	
Old Business	<input type="checkbox"/>	Tab C Sidewalk program information
	<input type="checkbox"/>	
New Business	<input type="checkbox"/>	Tab D Tenelco Rate Adjustment
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
Ordinances	<input type="checkbox"/>	
Resolutions	<input type="checkbox"/>	
Contracts	<input type="checkbox"/>	
	<input type="checkbox"/>	
Mayor/Council Comments	<input type="checkbox"/>	
Public Comments	<input type="checkbox"/>	
Adjourn/Recess Meeting	<input type="checkbox"/>	

Please turn off Cell Phones- Thank you

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

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La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador

TAB - A

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, February 26, 2020

ROLL CALL AND FLAG SALUTE	Councilmembers Jenna Amsbury, Brycen Huff, Jaron Heller, Ben Blankenship and Joy Iversen were in attendance. Mayor Brenda Orffer was also present.
ABSENT	None.
PUBLIC HEARING	None.
STAFF PRESENT	Present at the meeting were Clerk-Treasurer Wendy Collins, Director of Public Works Todd Baun, Police Chief Steve Blumer and City Attorney Chris Coker.
EXECUTIVE SESSION	None.
MAYOR COMMENTS	<p>Mayor Orffer thanked the group that met to discuss truck permits. An outcome from that meeting that came to her attention was there was a concern that the DOT had reached out to the City, suggesting they take over 3rd Street for maintenance and upkeep and the Mayor had declined their offer. She said that is absolutely not the case and she has never spoken with anyone from the DOT regarding this. She may have had a conversation with Todd in years past about this but it was before her time on Council. The only conversation she has had with the DOT is when we were working on this ordinance and they did not offer to take over 3rd Street. She would never have a discussion like that without bringing it to Council.</p> <p>The Mayor was sad she missed the Shrove Pancake Race this past weekend because she was running in a Disneyworld Princess Marathon. She heard it went well.</p>
PUBLIC COMMENT	<p>Chris Vessey was on the City Council in the 1990's when the Department of Transportation (DOT) put in the overpass due to fatalities. At that time, it was dangerous for any truck to cross HWY 108 at the west end and it even more dangerous now. He recently spoke to a Councilmember that served with him and he also spoke to a past employee, Brian Shay, who now works as the City Administrator for the City of Hoquiam because Brian did a good job working with the DOT to get the overpass project going.</p> <p>Mr. Vessey does not believe a truck driver should be held accountable to know every city code in the County. He spoke about various truck sizes and how they would not fit in our permit criteria until they are off of the highway. The signage does not state the requirement before they enter the City. They have to come in town and find a place to turn around. He asked the Council and Mayor what facts they took into consideration when working on this truck permit ordinance and where was the truck study from? Councilmember Blankenship said it was a study Todd provided that was a vehicle survey that was done on South Mox Chehalis Road in 2017. Todd said he provided a traffic count report.</p> <p>Chris Vessey said traffic counts change daily. He thinks the Mayor should get ahold of the DOT and discuss having them take 3rd Street back over. He asked if since the money is generated by 3rd Street permits, will it be spent only on 3rd Street and Mayor Orffer said the ordinance outlines how the money is allocated and the majority of the money is for streets, with some going to administration for processing their permits. Mr. Vessey believes the money should only be used for 3rd Street maintenance. Mayor Orffer thanked him for sharing his perspective and said she is happy to have a conversation with the DOT if that is what the Council wishes.</p> <p>Carmen Smith said Jeff Geer stated he had stopped by the office and he asked the front office staff how much money the Council was expecting to get from the permits and they told him \$100,000 dollars. She is wondering how long it will take to get that much money, but it certainly won't be in a year if it is based off of the traffic study she looked at. The study was based off of axels, not what type of trucks they were and you have to consider how many vehicles could have been motor homes.</p> <p>Andrea Watts from the McCleary Civic Renewal Council thanked the City for supporting the Shrove Day Pancake Race. They appreciate the City helping with preparing the race route and being supportive of the event.</p>

JANUARY MAYOR BUSINESS FORUM REPORT	Mayor Pro Tem Brycen Huff attended the Mayor's Business Forum Meeting last month in Aberdeen with Wendy Collins. The Business Forum Meeting was on projects happening in cities around the Harbor and it was a packed room. He found it was interesting to hear what people are doing in different cities. Montesano has a running start type of a program for people who are interested in going into the public service to help educate people who are interested in going into the public service field for law enforcement, fire and dispatch. It's similar to the New Market program in Tumwater. He said it was a good experience and he met Mayors from Hoquiam and Ocean Shores and Hoquiam's City Administrator Brian Shay, who used to be McCleary's City Administrator. Councilmember Iversen said she heard from Summit Pacific Hospital representatives that said Brycen spoke well and did a really nice job representing our city.
CITY ATTORNEY REPORT	Chris Coker has been working with Todd Baun on some different things. There are resolutions that are missing and they are working on how to recreate these through the municipal code and old minutes. He also shared there is a problem house on East Cedar Street that may have a potential buyer. He is working on a public disclosure that is significant and he stated his philosophy is when you are in doubt of something being subject to disclosure, then you should disclose. Councilmember Amsbury asked if anyone has checked the State Archives for the missing resolutions and Todd said he hadn't.
DIRECTOR OF PUBLIC WORKS REPORT	Todd Baun introduced Steve Randich, the new Public Facilities Manager for the Public Works crew. Steve comes from a background of working at Grays Harbor County and the City of Aberdeen. The Council welcomed him to the City.
MINUTES APPROVED	It was moved by Councilmember Iversen, seconded by Councilmember Blankenship to adopt the minutes from the February 12, 2020 meeting. Motion Carried 5-0.
VOUCHERS	Accounts Payable checks approved were 47332 - 47455, including EFT's, in the amount of \$298,293.11. Payroll checks approved were 47178 - 47331, including EFT's, in the amount of \$221,562.29. Bank reconciliation for January 2020. It was moved by Councilmember Blankenship, seconded by Councilmember Heller to approve the vouchers. Motion Carried 5-0.
PUBLIC COMMENT	Councilmember Blankenship held a truck permit meeting with members of the community. One suggestion was to request the DOT to take over 3rd Street and he stated he is not opposed to that idea at all. Other options they discussed were adding signage to the Highway so the truckers know about the required trucking permit before they exit into McCleary, correct the ordinance number that is on the current signs, add a quarterly fee to the fee schedule and increase the approved weight limit to 105,500 with a 68' length. They will be meeting again on March 16th at noon. Mayor Orffer said she will call the Department of Transportation and have a conversation regarding the transfer of 3rd Street before the 16th for the committee to review and discuss.
MISSION/VISION/CORE VALUES DISCUSSION	Councilmembers Huff and Amsbury both like the flow of Councilmember Iversen's version of the mission statement. Councilmember Iversen wants to discuss core values in more detail. Mayor Orffer will bring Councilmember Iversen's version of the mission statement to the next meeting for adoption.
HOQUIAM SIDEWALK PROGRAM	Todd was informed of this program by Steve Randich, which is currently being run through the City of Hoquiam. Todd called Brian Shay to get more information and he received the brochure that is in the packet. The program is set up to help maintain the sidewalks in town. If a resident purchases all of the materials, the City will install or fix the sidewalk and the average cost is \$400 to \$600. Councilmember Iversen is concerned because our community has a lot of struggling residents who cannot afford this. She asked who is responsible for the sidewalks and Todd said the residents are. He said the ordinance is written stating the homeowner is responsible for the sidewalk in front of their house. She asked Todd if she could see our ordinance to review the language. Councilmember Amsbury brought this up with the McCleary School Board because they have walking routes for students that live within a certain distance from the school. She wants to have safe walking routes for those students that have to walk because the bus won't pick them up. She is looking for joint projects that the citizens, school and city can benefit from by pooling resources.

Chris Coker is looking at case law and it says that cities generally are responsible for sidewalks unless the city can prove damage caused by the homeowner. He does not recommend creating an ordinance that's going to define liability. Councilmember Iversen wants to see any ordinance we have that states the homeowner is responsible for sidewalks in front of their homes.

NASPO SOFTWARE
CONTRACT

Todd looked at the Request For Proposal (RFP) for document retention software and technically, he doesn't know if he can write the RFP. NASPO is the State Contract system and they have three vendor companies that provide the service we need for document management and retention software. Councilmember Amsbury has not had very good experiences with middle-man companies and suggested any time we can go directly to a company, it's better for support and everything involved. Middle-men companies are frustrating and you could be waiting days for simple support assistance. She is happy to help with drafting whatever needs to be prepared and suggested a committee to work on it and suggested including the IT person because it does get technical and we need their input.

Mayor Orffer said she hears the Council approving Todd to use the NASPO contract. Councilmember Iversen asked if they are going to have a committee to look at NASPO options and Chief Steve Blumer said he can work with Todd on that and he knows all of our IT stuff and can work with Jesse. Mayor Orffer said if they have questions, we have a good resource in Councilmember Amsbury who just went through this in her job working with the County Commissioners.

PUBLIC COMMENT

Mayor Orffer will be participating in Reading Across America at the McCleary School. She will be reading to a classroom.

Councilmember Huff may have to miss the next meeting and if he does, he would appreciate being excused.

Councilmember Amsbury asked if they are going to discuss committees. Chris Coker reminded the Council keep committees to only two Councilmembers and include staff. The public can be added on a case by case situation. He said to pick the critical things that need to be addressed first because it can be daunting. The Council agreed to two committees; Review Ordinance and Code Committee with both Councilmember Amsbury and Iversen and a Public Works Committee including Councilmembers Huff and Heller, along with the McCleary Civic Renewal Council.

MEETING ADJOURNED

It was moved by Councilmember Iversen, seconded by Councilmember Amsbury to adjourn the meeting at 7:38 pm. The next meeting will be Wednesday, March 11, 2020 at 6:30 pm. Motion Carried 5-0.

Approved by Mayor Brenda Orffer and Clerk-Treasurer Wendy Collins.

TAB - B

To: Mayor and City Council
 From: Josh Cooper
 Date: March 5th, 2020
 Re: Building and Planning Department Activity.

New Permit Activities for February 2020

428 West Oak ST	New SFR	Total Fee - \$6,071.26
509 West Simpson Ave	Excavation Permit	Total Fee - \$139.00
Building Department Related Revenues & Valuation	Total fees charged from February	Total fees collected from February
Total Valuation for 2020: \$1,239,129.20	\$6,210.26	\$6,210.26

Permit Activity Totals

New Homes Permitted for 2020 5	All Permits Issued for 2020 31	Total Fees Charged for 2020 \$47,657.82
New Homes Permitted for 2019 28	All Permits Issued for 2019 269	Total Fees Charged for 2019 \$378,456.40
New Homes Permitted for 2018 17	All Permits Issued for 2018 57	Total Fees Charged for 2018 \$212,089.41
New Homes Permitted for 2017 11	All Permits Issued for 2017 104	Total Fees Charged for 2017 \$124,686.92

Nuisances of February & March:

- **211 East Beck Street (Utility Abatement) - Complied**
- **907 West Simpson Ave. (Utility Abatement) - Complied**
- **302 East Beck (8.16.020) – Active (Sent to PD)**
- **5 Larson Road (8.16.020) – Active**
- **115 South 5th Street (8.16.020) – Active**
- **310 West Maple Street (8.16.020 & 10.20.020) – Active**
- **423 West Pine Street (8.16.020 & 10.25.020) – Active**
- **121 South 5th Street (8.16.020 & 10.20.020) - Active**

TAB - C

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: March 4, 2020
Re: Street Sidewalk Policy

This is for information only. Most of this information came from MRSC. I will be have this for discussion at the March 25th Council meeting.

In the City's Municipal Code, 12.04.030, it states:

12.04.030 State statutes accepted--Exemption.

The provisions of RCW Chapter 35.70 as now existing or hereafter amended or supplanted, are accepted by the city and the provisions of said Chapter shall hereafter apply to the construction if not done voluntarily by the owners of said properties in McCleary.

(Ord. 538 § 27, 1988: Ord. 30 § 3, 1945)

I also have a draft policy, and draft resolution.

Back Ground

When a jurisdiction fails to keep its sidewalks in a reasonable state of repair, free of dangerous and unsafe conditions, the results can be costly in terms of injury claims.

Many cities and towns have ordinances that impose the cost of sidewalk repair upon abutting property owners. If a sidewalk needs repair, the jurisdiction requests the abutting property owner to make the repair. If the repair is not made, the jurisdiction will make the repair and bill the property owner. While these ordinances provide a means to repair and maintain sidewalks, they do not relieve the jurisdiction from liability.

Jurisdictions must comply with the requirements of chapters 35.68 through 35.70 RCW. However, the jurisdiction may not transfer liability for damages caused by defective sidewalks to abutting landowners, regardless of fault (*Rivett v. Tacoma*, see liability for discussion).

Statutes

RCW 35.70.020

Owners' responsibility.

In all cities of the second class and towns the burden and expense of constructing sidewalks along the side of any street or other public place shall devolve upon and be borne by the property directly abutting thereon. The cost of reconstructing or repairing

existing sidewalks may devolve upon the abutting property subject to the limitations in RCW 35.69.020 (2) and (3).

RCW 35.69.020

Resolution of necessity—Liability of abutting property—Reconstruction.

(1) Whenever a portion, not longer than one block in length, of any street in any city is not improved by the construction of a sidewalk thereon, or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the city council of such city by resolution finds that the improvement of such portion of such street by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion except as provided in subsections (2) and (3) of this section.

(2) An abutting property shall not be charged with any costs of construction or reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, in excess of fifty percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purposes of general taxation.

(3) An abutting property shall not be charged with any costs of reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, if the reconstruction is required to correct deterioration of or damage to the sidewalk that is the direct result of actions by the city or its agents or to correct deterioration of or damage to the sidewalk that is the direct result of the failure of the city to enforce its ordinances.

Liability

In the Rivett v. Tacoma decision (123 Wn.2d 573 (1994)), the state supreme court invalidated Tacoma ordinance provisions that imposed liability upon abutting property owners for damages caused by defective sidewalks, regardless of fault. Tacoma's ordinance was not based upon the statutory provisions of chapters 35.68 through 35.70 RCW. It was based upon the city's authority as a first class city to regulate public rights-of-way, including sidewalks, and upon its nuisance authority.

Current Inventory

The City currently has 6.17 miles of sidewalks in the City of McCleary. Of those sidewalks, only 1.39 miles of the sidewalks are older than 20 years.

On the next few pages, I have provided some pictures that will show different conditions of new and old sidewalks.

STAFF REPORT

#1



#1- Tree Root Damage on sidewalk installed in 2007.

#2



#2- Damage from vehicle on sidewalk. Installation unknown.

#3



#3- Vehicle Damage on sidewalk. Unknown installation

#4



#4- Mid-block sidewalk- Possible extension? - Unknown installation

STAFF REPORT

#5



#5- Sidewalk in alley- does not meet construction standards- unknown installation

#6



#6 No sidewalk in area- Would not qualify for program.

Operations--Sidewalk Replacement Program

POLICY

Effective Date:

See Also: Sidewalk Contract Form

POL – 1.00.0 SIDEWALK REPLACEMENT PROGRAM

This policy describes sidewalk repair and replacement practices.

1. Existing Sidewalk

Public sidewalk repair and maintenance is the responsibility of the abutting property owner, occupant or agent. However, the City has established this sidewalk replacement program to provide residential and business property owners the ability to have eligible sidewalks replaced by the City, provided the benefiting property owner(s) pays for the cost of materials ~~and disposal~~.

A property owner(s) that desires to use this program should file a request with the Department of Public Works to remove and replace abutting public sidewalks that are in poor condition. In consideration of the City's performance, the abutting property owner(s) shall pay for the ~~materials~~ concrete to construct the new sidewalk ~~and disposal of the old material~~. The City shall not remove a sidewalk without a signed sidewalk contract by the abutting property owner(s).

2. Order of Work

The Public Works Director or designee shall determine the schedule, staging and/or prioritization for performing sidewalk work covered by this program based upon, but not limited to, these factors: the severity of safety hazards; volume of pedestrian traffic; visibility of condition; length of time that the condition has existed; and availability of City resources.

Depending upon the availability of City resources and the demand for program services, the time required for a sidewalk to be constructed may be a lengthy period. During this time period, the property owner(s) retains his/her normal responsibilities for the condition of the abutting public sidewalk. For this reason, the property owner(s) may need to perform temporary measures to mitigate sidewalk hazards.

3. Scope of Work

Work eligible to be performed by the City shall include all public sidewalks and sidewalk sections of driveways that are located on the City right of way or City easements. Work shall be solely for the purpose of repair and maintenance of existing sidewalks to a reasonably safe condition, or installation of new sidewalks when permitted under this program. Work shall not take place in areas outside the City right of way or easements, including, but not limited to, private property, except minor accessory work that is needed to match grades of the replaced sidewalk with existing ground and facilities.

4. **Existing Curb and No Sidewalk**

Conditions where there is an existing curb and no sidewalk abutting an existing developed property are eligible for installation of a new sidewalk using this program.

5. **No existing Curb or Sidewalk**

Conditions where there is no existing curb or sidewalk are not eligible for this program.

6. **Compensation**

6.1 The abutting property owner shall pay the City, as compensation for the repair and replacement of the sidewalk, all costs for ~~disposal of old materials~~ concrete used to repair and replace the abutting sidewalk. All material unit costs shall be based on actual invoice costs to the City. Volume, length and weight material amounts shall be determined by City personnel from field measurements and unit conversions.

6.2 The abutting property owner shall ~~reimburse the City upon substantial completion of the work~~ *make arrangements for payment and delivery for concrete at a local concrete supplier.* After substantial completion of the work, the City ~~shall~~ may send an invoice to the abutting property owner of any *additional* the costs of materials used on the work. ~~The abutting property owner shall submit payment for the full amount identified in the invoice within 30 days of delivery of the invoice. All payments shall be subject to adjustment for any amounts found, upon audit or otherwise, to have been improperly invoiced.~~

RESOLUTION NO.

**A RESOLUTION OF THE CITY OF MCCLEARY, WASHINGTON,
ADOPTING A SIDEWALK REPLACEMENT PROGRAM FOR THE
REPAIR AND REPLACEMENT OF CITY PUBLIC SIDEWALKS TO
ENSURE SAFE AND WELL MAINTAINED CITY SIDEWALKS.**

WHEREAS, the City does not currently have a written policy for sidewalk replacement or repair; and

WHEREAS, 35.68 RCW, 35.69 RCW and 35.70 RCW enable the City to confer to the abutting property owner the cost for repair and maintenance of a public sidewalk; and

WHEREAS, the City Council supports an effective partnering between its citizens and the City in sharing the burden of sidewalk maintenance and repair; and

WHEREAS, safe and well maintained sidewalks promote the public health and attractiveness of the City, minimize risk of liability and aid in attracting citizens towards using foot travel as a means of travel.

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

That a new policy 1.00.00 for the Public Works Department Title, attached and incorporated hereto in its entirety, shall be adopted and followed in matters relating to the repair and replacement of sidewalks in the City of McCleary.

Adopted at a regular meeting of the City Council of the City of McCleary, Washington, held on March __, 2020.

Dates this ____ day of March, 2020

ACCEPTED BY:
CITY OF MCCLEARY

ATTEST:

Brenda Orffer, Mayor

Wendy Collins, City Clerk/Treasurer

APPROVED TO FORM

Chris Coker, City Attorney

TAB - D

TENELCO, INC.

***2824 Old Hartford Road, Unit A, Lake Stevens, WA 98258
425-397-7770***

February 20, 2020

City of McCleary
100 S. Third Street
McCleary, WA 98557
kevint@cityofmccleary.com

Re: Transportation and Land Application of Biosolids CPI rate adjustment

The Service Contract for the Transportation and Land Application of Biosolids between Tenelco, Inc. and The City of McCleary dated August 19, 2016, remains in effect until August 18, 2020. Per the agreement, this letter will address the annual price adjustment.

The October 2019 reported percentage increase of the Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue area for all Urban Wage Earners and Clerical Workers (CPI-W) is 1.7%. Your current rate is \$68.00 per wet ton. The increase will be \$1.16 per wet ton. This will make the new rate \$69.16 per wet ton, effective March 20, 2020.

Please sign below in acceptance and return to our office or contact Rick Eldredge, President, at 425-359-7773 for further negotiation or any concerns.



Rick Eldredge
President
Tenelco, Inc.

Date

City of McCleary

Date