

Kelso City Council Agenda

Regular Meeting, 6:00 pm
July 1, 2014
City Hall, Council Chambers
203 South Pacific
Kelso, WA 98626



Special accommodations for the handicapped and hearing impaired are available by special arrangement through the City Clerk's Office at 360-423-0900

Invocation:

Pastor Mark Schmutz, Northlake Baptist Church

Roll Call to Council Members:

1. Approve Minutes:

1.1. June 17, 2014 – Regular Meeting

2. Consent Items:

2.1. Appointment – Firemen Pension Board

3. Citizen Business:

4. Council Business:

4.1. Discussion – Emergency Shelter, Low Barrier, and Transitional Housing Zoning Code Amendment (KMC 17.08, 17.15, 17.30)

5. Action/Motion Items:

5.1. Ordinance, 2nd Reading

5.1.1. Columbia and Cowlitz Railway Franchise Agreement

Other Items:

- City Manager Report
- Staff/Dept Head Reports
- Council Reports
- Other Business
- Executive Session

Pastor Jerry Dahlke, North Gate City Church, gave the invocation. Mayor David Futcher led the flag salute. The Regular Meeting of the Kelso City Council was called to order by Mayor David Futcher. Councilmembers in attendance were: Futcher, McDaniel, Franklin, and Schimmel. Councilmembers absent were: Archer, Roberson, and Myers.

Minutes: Upon motion by Councilmember Schimmel, seconded by Councilmember Franklin, 'Approve the Minutes of the 6/3/14 Regular Meeting,' motion carried, all voting yes.

PRESENTATIONS:

Waste Control: Waste Control Recycling Inc. President Joseph Willis commented that he was here to provide the opportunity for the Council and the public to voice any questions or concerns. He invited the Council to contact him if anyone was interested in a tour of the new transfer facility and landfill site.

2014 Open Government Trainings Act: City Attorney Janean Parker conducted a basic training session regarding public records and open public meetings.

CONSENT AGENDA:

1. **Lodging Tax Advisory Committee Appointment:** Pamela Fierst - term to expire 1/1/15. She will be taking Paul Thornton's place on the committee.
2. **Auditing of Accounts:** \$1,811,009.78

Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, 'Approve the Consent Agenda and the Auditing of Accounts in the amount of \$1,811,009.78,' motion carried, all voting yes.

CITIZEN BUSINESS:

Rod Wright, 97 Banyon Drive, spoke about the Lewis & Clark Bowman proposal for an archery range facility on the Aldercrest property.

Aldercrest Property Status Update: City Manager Steve Taylor provided an update on the land use restrictions for the property.

Ron Earley, 207 Banyon Drive, spoke about having a traffic sign installed on Banyon Drive.

Johann Peters, 512 West Main Street, spoke about the West Main Realignment project.

Citizens who spoke about the proposed low barrier shelter:

- Nicole Mackey, 1106 South 3rd Avenue
- Glen L. Sensenbach, 311 Ostrander Road
- Cameron M. Svenson, 935 Vandercook Way
- Chuck Hendrickson, 121 Olive Way
- Kim Swart, 904 South 3rd Avenue
- Rick Von Rock, 400 North 7th Avenue
- Melissa Taylor, Cowlitz Wahkiakum Council of Governments

COUNCIL BUSINESS:**Longview Public Development Authority – Hotel/Sports Complex Feasibility Studies**

Discussion: City Manager Steve Taylor led a discussion regarding a proposal for Kelso's financial contribution and participation in the project. Upon motion by Councilmember McDaniel, seconded by Councilmember Schimmel, 'Authorize staff to prepare an application and take it to the Lodging Tax Advisory Committee.' Discussion followed. Councilmembers Futcher and McDaniel voted yes. Councilmembers Schimmel and Franklin voted no. Motion failed.

MOTION ITEMS:

Ordinance No. (1st Reading) Emergency Shelter, Low Barrier, and Transitional Housing Zoning Code Amendment (KMC 17.08, 17.15, and 17.30): The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember Franklin, 'Pass on 1st reading, 'AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON AMENDING VARIOUS SECTIONS OF THE KELSO MUNICIPAL CODE RELATING TO EMERGENCY HOUSING, LOW BARRIER EMERGENCY HOUSING, AND URBAN REST STOPS AND IDENTIFYING THE PERMITTED ZONES FOR SUCH USES, ESTABLISHING REGULATIONS FOR SUCH USES, AND REPEALING THE MORATORIUM IN EFFECT ON SUCH USES.' Discussion followed. Upon motion by Councilmember Franklin, seconded by Mayor Futcher, 'Amend the motion to incorporate staff's recommendations to the second reading of the proposed ordinance.' Councilmembers Franklin and Futcher voted yes. Councilmembers Schimmel and McDaniel voted no. Motion failed.

Mayor Futcher reiterated the original motion. Motion passed, all voting yes.

Ordinance No. (1st Reading) Columbia and Cowlitz Railway Franchise Agreement:

The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, 'Pass on 1st reading, 'AN ORDINANCE GRANTING TO COLUMBIA & COWLITZ RAILWAY, LLC, ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY (20) YEARS, THE RIGHT AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A

RAILWAY WITHIN CERTAIN DESCRIBED LIMITS OF THE CITY OF KELSO.’
Motion passed, all voting yes.

Ordinance No. 14-3826 – Weyerhaeuser/Norpac/Solvay Energy Transmission Facilities Franchise Agreement: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, ‘Adopt Ordinance No. 14-3826, ‘AN ORDINANCE GRANTING TO WEYERHAEUSER NR COMPANY, NORTH PACIFIC PAPER CORPORATION AND SOLVAY CHEMICALS, INC., THEIR SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY (20) YEARS, THE RIGHT AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE ENERGY TRANSMISSION FACILITIES WITHIN CERTAIN DESCRIBED LIMITS OF THE CITY OF KELSO.’
Motion passed, all voting yes.

Resolution No. 14-1120 – 2014-2019 Six Year Transportation Improvement Plan: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Schimmel, ‘Pass Resolution No. 14-1120, ‘A RESOLUTION OF THE CITY OF KELSO, COWLITZ COUNTY, WASHINGTON, ADOPTING AN AMENDMENT TO THE SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM FOR CONSTRUCTION OF STREET IMPROVEMENTS.’ Motion passed, all voting yes.

Resolution No. 14-1121 – Declare Surplus of Personal Property: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, ‘Pass Resolution No. 14-1121, ‘A RESOLUTION OF THE CITY OF KELSO, WASHINGTON, DECLARING CERTAIN PERSONAL PROPERTY OF THE CITY OF KELSO TO BE SURPLUS AND DIRECTING THE DISPOSITION THEREOF.’ Motion passed, all voting yes.

MANAGER’S REPORT:

Steve Taylor: No report.

COUNCIL REPORTS:

Todd McDaniel: No report.

Jared Franklin: No report.

Gary Schimmel: Announced that the 911 Communications Center is seeking applicants for a dispatcher position.

David Futcher: No report.

There being no further business, Mayor Fatcher adjourned the meeting at 8:35 p.m.

MAYOR

CITY CLERK

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Firemen Pension Board -Appointment

Agenda Item:_____

Dept. of Origin: Finance Department

For Agenda of: July 1, 2014

Originator: Steve Taylor

PRESENTED BY:

Brian Butterfield

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

N/A

SUMMARY STATEMENT:

The Firemen Pension Board held an election for the alternate position on the Board. Retired Fire Fighter Sid Cole was elected for the position.

RECOMMENDED ACTION:

Staff recommends approval of this appointment.

AGENDA SUMMARY SHEET

**Business of the City Council
City of Kelso, Washington**

SUBJECT TITLE: DISCUSSION RELATING TO EMERGENCY HOUSING, LOW BARRIER EMERGENCY HOUSING, AND URBAN REST STOPS AND IDENTIFYING THE PERMITTED ZONES FOR SUCH USES, ESTABLISHING REGULATIONS FOR SUCH USES, AND REPEALING THE MORATORIUM IN EFFECT ON SUCH USES

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: July 1, 2014

Originator: _____

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

PRESENTED BY:

Steve Taylor

Agenda Item Attachments:

Proposed Ordinance

Planning Commission Meeting Minutes w/ Public Hearing – May 13, 2013

SUMMARY STATEMENT:

On June 17, 2014, the City Council gave direction to staff to bring back for discussion, with a vote on 2nd reading scheduled for July 15, 2014, the proposed ordinance.

In December 2013, the City Council was approached by a group of citizens who were concerned that a certain type of development may be moving forward within the City known as low barrier housing, which was not adequately regulated and would allow negative secondary effects in their residential neighborhood. In order to allow time to review the matter and evaluate what regulations should be in place, the City Council adopted a moratorium on January 21, 2014 that temporarily prohibited low barrier shelters and urban rest stops. This moratorium is in effect until July 21, 2014.

At the March 11, 2014 Planning Commission meeting the Commission was given information received by MRSC. Janean Parker, the City's attorney, led a discussion regarding low barrier shelters and the Commission requested that staff provide examples of potential code language.

At the Planning Commission meeting held on April 8, 2014, a memo describing the issue, associated challenges, and available options was prepared by the City attorney and discussed with the Commission. At the end of the discussion, the Commission requested that staff prepare potential code language for review at the meeting on May 13, 2014.

At the Planning Commission meeting on May 13, 2014, a public hearing was held and two options were presented for the Commission's consideration. One option was a reflection of the

feedback received from the Planning Commission and the other option was a reflection of staff's considerations. The Planning Commission's recommendation contained the following code changes:

1. Amending definitions of emergency shelter and transitional housing facilities to prohibit use of drugs and alcohol while residing at the facility.
2. Adding a definition of Urban Rest Stop, which is a new use that has not been previously defined. This definition also expressly prohibits the use of drugs or alcohol while at the facility.
3. Only allowing emergency shelters and urban rest stops in the industrial zones.
4. Requiring a conditional use permit for the establishment of any transitional housing facility, emergency shelter, or urban rest stops.
5. Adopting standards for the consideration of the conditional use permit.

Staff's recommendation included:

1. Leaving the definition for emergency shelters and transitional housing largely the same and not seeking to regulate the use of drugs or alcohol via the definitions.
2. Adding a definition of urban rest stop.
3. Distinguishing zoning for transitional housing facilities based on the size of the facility and allowing smaller facilities to continue to operate in residential zones as a Type II administrative use.
4. Requiring larger transitional housing facilities to be in Residential Multifamily as a Type II administrative use, but require a Type III conditional use permit for these facilities that would be located in the Commercial Town Center, Commercial West Kelso, and Commercial Specialty Retail and Services zones. The conditional use permit process would address any project specific issues.
5. Allowing emergency shelters to be allowed in Commercial Town Center, Commercial West Kelso, and Commercial Specialty Retail and Services and requiring a Type III conditional use permit to address project specific issues.
6. Allow urban rest stops in Commercial Town Center, Commercial West Kelso, and Commercial Specialty Retail and Services zones, but requiring a Type III conditional use permit to address project specific issues.
7. Adopting standards for the consideration of the conditional use permit which include the prohibition of drug and alcohol use on the premises.

The two recommendations contained several significant differences, which include:

1. The Commission's desire to prohibit the use of drugs and alcohol in the definitions. Staff's recommendation did not include this prohibition because those concerns will be addressed through the conditional use permit process on a project specific basis. There are also concerns with the City's ability to monitor and enforce this type of definition.
2. Changing current administrative uses to conditional uses may require an unnecessary and burdensome review process.
3. Placing transitional housing, emergency shelters (residential uses), and urban rest stops in industrial areas is likely to be inconsistent with the City's Comprehensive plan which seeks to separate incompatible land uses. The City does not have an abundant supply of vacant industrial properties and placing residential or service facilities would not be the highest and best use of this scarce resource.
4. Placing transitional housing, emergency shelters, and urban rest stops in the prescribed residential and commercial zones would allow the city to keep these facilities in areas close to

services and other similar land uses. The conditional use permit process would allow project specific review and require appropriate conditions to mitigate the secondary effects associated with these types of facilities.

The Planning Commission was not unanimous throughout the discussion and after lengthy deliberation, they agreed in a 4-2 vote to provide the following recommendation for Council's consideration:

1. Amending the definitions of emergency shelter and transitional housing facility to prohibit use of drugs and alcohol while residing at the facility.
2. Requiring all transitional housing facilities, emergency shelters, and urban rest stops go through the conditional use permitting process.
3. The following changes to the Table of Permitted Uses:
 - i. Small transitional housing allowed in:
 1. Residential Single family
 2. Residential Multifamily
 3. Commercial Town Center
 - ii. Larger transitional housing allowed in:
 1. Residential Multifamily
 2. Commercial Specialty Retail and services
 3. Industrial Light Manufacturing
 4. Industrial General Manufacturing
 - iii. Emergency Shelters allowed in:
 1. Commercial West Kelso
 2. Industrial Light Manufacturing
 3. Industrial General Manufacturing
 - iv. Urban Rest Stop allowed in:
 1. Industrial Light Manufacturing
 2. Industrial General Manufacturing
4. Additional conditions for consideration by the hearings examiner.

In deference to the Planning Commission's extensive research and deliberation process, staff would like to recommend the following amendments to the Planning Commission's proposal:

1. Do not include prohibition on drugs and alcohol in the definition of terms, but rather rely on those prohibitions as conditions for the hearing examiner to prescribe in the conditional use permit process.
2. Allow small transitional housing to remain an administrative use in both single family and multi-family residential zones.
3. Allow large transitional housing to be an administrative use in the Residential Multifamily zone.

OPTIONS:

1. Approve the Planning Commission's recommendation
2. Amend the Planning Commission's recommendation to reflect staff's amendments outlined above
3. Remand the issue back to the Planning Commission for additional consideration and extend the moratorium.
4. Take no action and allow the expiration of the moratorium.

RECOMMENDED ACTION:

Direction from Council on modifications to the proposed ordinance before 2nd reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON
AMENDING VARIOUS SECTIONS OF THE KELSO MUNICIPAL CODE
RELATING TO EMERGENCY HOUSING, LOW BARRIER
EMERGENCY HOUSING, AND URBAN REST STOPS AND
IDENTIFYING THE PERMITTED ZONES FOR SUCH USES,
ESTABLISHING REGULATIONS FOR SUCH USES, AND REPEALING
THE MORATORIUM IN EFFECT ON SUCH USES.**

WHEREAS, the City Council adopted Ordinance ____ imposing a six-month moratorium on applications for transitional housing land uses within the City; and

WHEREAS, low barrier emergency housing facilities are a developing trend in the provision of social services to better meet the needs of the homeless population; these facilities have minimum admission requirements and do not prohibit illegal or addictive behaviors as a condition of admission and their primary purpose appears to be harm reduction instead of transition to permanent housing; and

WHEREAS, urban rest stops are also a developing trend in the provision of social services; these uses provide general day use of facilities to assist those who may not have permanent housing such as laundry and cooking facilities, bathrooms, and showers; and

WHEREAS, the City Council finds that potential secondary impacts from the establishment of low barrier and emergency shelter facilities and urban rest stops are not appropriate for any zoning designation within the City, and

WHEREAS, the Council has studied the land uses and other secondary impacts of these uses and has now drafted a zoning ordinance to address these impacts; and

WHEREAS the City Council finds that the health safety and welfare of the community is best served by these amendments to the Kelso Zoning Code regulating these uses; and

WHEREAS, the SEPA Responsible Official issued a threshold decision for this draft ordinance on _____, which was not appealed; and

WHEREAS, the Planning Commission has held several meetings and workshops to review and deliberate the issues surrounding these uses and on _____, the Planning Commission held a public hearing on the draft zoning ordinance; and

WHEREAS, the Planning Commission recommended approval of the draft zoning ordinance to the Council; and

WHEREAS, on _____, the City Council considered the draft zoning ordinance during its regular meeting; and

WHEREAS, the Council has decided to adopt zoning regulations related to emergency and low barrier shelters and urban rest stops and to formally repeal the interim zoning ordinance related these uses;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. Repeal of Moratorium. The moratorium imposed under Ordinance No.____ is hereby repealed in its entirety.

SECTION 2. Findings Adopted. The City Council adopts all of the ‘whereas’ sections of this Ordinance as findings in support of this ordinance.

SECTION 3. KMC Section 17.08 Amended. Kelso Municipal Code Section 17.08.020 is hereby amended to add and revise the definitions as set forth in Exhibit A, attached hereto and incorporated fully by this reference.

SECTION 4. KMC Section 17.15.020 Amended. Kelso Municipal Code Section 17.15.020 is hereby amended as set forth in Exhibit B, attached hereto and incorporated fully by this reference.

SECTION 5. KMC Section 17.30.040 Amended. Kelso Municipal Code Section 17.15.040 is hereby amended as set forth in Exhibit C, attached hereto and incorporated fully by this reference.

SECTION 6. Corrections. Upon approval of the City Attorney, the City Clerk and code reviser are authorized to make necessary corrections to this ordinance, including without limitation the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 7. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 9. Effective Date. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____, 2014.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED:_____

Exhibit A

Chapter 17.08.020—Definitions

...

“Emergency shelter” means a congregate facility providing housing to shelter families and individuals offered on an emergency basis for a period not to exceed ninety days continuously. Shelters may offer meals, lodging and associated services on site, aimed at helping people move towards self-sufficiency. Facilities that allow the use of alcohol and drugs while residing at the facility are not included within this definition and are not permitted.

...

“Transitional housing facility” means a project-congregate facility that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually twenty-four months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children. Facilities that allow the use of alcohol and drugs while residing at the facility are not included within this definition and are not permitted.

NEW—

“Urban Rest Stop” means a facility that provides day use services rather than overnight stays and provides different kinds of facilities and services to assist those who may not have permanent housing, such as laundry facilities, cooking facilities, bathrooms, and showers. Facilities that allow use of alcohol and drugs while at the facility are not included within this definition and are not permitted.

Table 17.15

Table 17.15 Allowable Land Uses	Residential Single-Family	Residential Multifamily	Open Space	Commercial—Town Center	Commercial—West Kelso	Commercial Neighborhood Service Center	Commercial Specialty Retail and Services	Commercial—Major Retail	Industrial Light Manufacturing	Industrial General Manufacturing
	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Expansion and/or reconstruction of a residence	I	I	III							
Mobile home parks and subdivisions (B)		II								
Livestock* (R)	I ₁₆									
Accessory apartment* (T)	II									
Temporary manufactured home for aged relative (U)	II									
AMUSEMENT AND RECREATION										
Recreation facilities, active*	II	II	III ₁₈	I ₅	I	I	I	I	II	II
Recreation facilities, passive*	I	I	I							
Participant sports and recreation—indoor				III ₅	I	I/II ₇	I	I	II	
Participant sports and			III ₁₈		II		II	I		

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
recreation—outdoor										
Trails			I							
Wildlife and nature preserves			I							
COMMUNITY SERVICES										
Art galleries, noncommercial	II	II								
Auditoriums, clubhouses, meeting halls				II ₅	I		I	I		
Community centers	II	II		II ₅	I	I	I	I	I	I
Educational, cultural, or governmental	II	II		II	I	III	I	I	II	I
Health care facilities*	III	III		II	I	I ₇	I	I		
Clinics—walk in*				II	II	I	I	I		
Hospital	III	III				III				
Marinas, boardwalks, public piers				I	I		I	I		

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Museums	III	III		II	II					
Assisted living home*	II	II				II				
Post office				I						
Religious facilities	II	II		II ₅	II	II ₇	II	II	II	II
Social and fraternal clubs and lodges		II ₆		II	II					
Group home*	II	II								
Halfway house*	II	II		II ₅						
Day care center*	II	II		I ₅	II	II	II	II	II	
Transitional housing* -- Facilities serving less than 10 clients	III	III		III ₅						
Transitional housing * -- Facilities serving 10 or more clients		III					III		III	III
Emergency Shelter*					III				III	III
Urban rest stop*									III	III

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
contractors' or builders' equipment and supplies										
Marine-oriented commercial and industrial activities									II ₁₀	II ₁₀
Microbrewery*				II _{5,7}			II	II	II	II
Printing and publishing									I	I
Recycling centers						II	II		I	I
Sales of items manufactured on site									II	II
Skating rink—indoor								II	III	III
Vehicle towing and storage services									II	II
Vocational schools									I	I
Winery/brewery									I	I
Wood products									I	I
RETAIL TRADE AND SERVICE										

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Automobile sales—new or used					I		I	I	II	
Bed and breakfast*	II	II		II ₁	I	I	I	I		
Brewpub				I	I	I	I	I		
Cart vendors				I	II	II	II	I	I	II
Cemeteries, mausoleums and columbaria	III	III								
Convenience stores including gasoline sales and/or a car wash facility					II	II	I			
Crematorium	III	III								
Entertainment (e.g., theaters, video game arcades, etc., except adult motion picture theaters and other uses as described in Section 17.30.040 , Adult				I ₇	I	II	I	I		

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
oriented business (AOB) overlay zone)										
Farmer’s market				I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇		
Fitness center/sports club				II	II	II	I	I	II	
Formula take-out food restaurant with drive-through					I		I	I		
Formula take-out food restaurant without drive-through				I ₇	I		I	I		
Hotels, motels, inns*				I ₇	I		I	I		
Home occupation, major* (G, H)	II	II								
Home occupation, minor* (F, H)	I	I								
Kennels* (V)					II		II	II	II	
Minor vessel repair shop						I	I		I	I
Mixed		III		I _{4,7}	I ₄	I ₄	I ₄	I ₄		

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
commercial/residential										
Mortuaries, funeral homes and funeral chapels	III	III		II _{5,7}	II		II			
Personal services*				I _{5,7}	I	I	I	I		
Pet shop*				I	I	I	I	I		
Professional offices		III		I ₇	I	I	I	I	II ₈	I ₈
Restaurants				I ₇	I		I	I	II ₁₁	II ₁₁
Retail sales marijuana									I ₂₀	I ₂₀
Retail sales and services with drive-through businesses* (I)					I		I	I	II	
Retail sales and services without drive-through businesses				I _{7,12}	I	I ₇	I	I		
Retail sales and services with screened outdoor storage				II _{5,7}	II		II	II	I	I

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Roadside stands				I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇		
RV sales, storage and repair									I	I
Secondhand/consignment stores				I _{7,12}	I	I ₇	I	I		
Sexually oriented business* (E)										
Small engine repair						I	I		I	
Taverns				I ₇	I		I	I		
Uses which service the automobile (e.g., gasoline service station, car wash, minor/major vehicle repair shops)					II	I ₁₃	I	I	I	
Veterinarian clinics* (V)						I ₇	II	II		
Caretaker residence (K)									I	I
Temporary uses (S)	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇
Wholesale sales with							II	II	II	

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	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
limited retail sales										
TRANSPORTATION										
Park and ride lots*					II	II	I	II		
Park and ride lots, shared use*	II	II							II	I
Parking as principal use				II	I		I	I	II	I
Transit facilities				I ₁₄						
UTILITIES										
Public and private utility buildings and structures (L)	II	II	II	II	II	II	II	II	II	II
Communication antennas, category 1 (N)	I	I	I	I	I	I	I	I	I	I
Communication antennas, category 2 (O)	II		II	I	I	I	I	I	I	I
Communication antennas, category 3 (P)			II		II		II	II	I	I

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Table 17.15 Allowable Land Uses	Residential Single-Family	Residential Multifamily	Open Space	Commercial—Town Center	Commercial—West Kelso	Commercial Neighborhood Service Center	Commercial Specialty Retail and Services	Commercial—Major Retail	Industrial Light Manufacturing	Industrial General Manufacturing
	RSF	RMF	OPN	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Communication towers and monopoles (Q)			II ₁₉		II ₁₉		II ₁₉	II ₁₉	II ₁₉	II ₁₉
WHOLESALE TRADE—STORAGE										
Self-service storage facilities; provided, that no outside storage is visible from adjoining properties and public rights-of-way						III			I	
Warehousing (wholesale, bulk retail and trade)								III		

I = Type I Permitted Use

II = Type II Administrative Use

III = Type III Conditional Use

* = Defined Term

Letters and numbers refer to footnotes and regulatory notes within Sections [17.15.030](#) and [17.15.040](#).

Exhibit C

KMC 17.15.040(C)

C. Halfway houses, group homes, ~~and~~ transitional housing, emergency shelters, and urban rest stops are subject to the following standards:

1. One off-street parking space is required for each on-shift, nonresidential employee in addition to the residential parking requirements. Residential driveways are acceptable access ways.
2. Access streets, parking and/or loading areas shall be sufficient to safely accommodate the number of estimated vehicle trips generated by the use.
3. No structured area for active play or play structures may be located in the front yard. In the event of double frontage or similar situations, the director or designee shall determine which yard would have the least visual impact to the neighborhood.
4. The site shall conform to the lot size, building size, setback and lot coverage requirements of the zoning district.
5. Provide an off-street drop-off/pick-up area.
6. Comply with all business licensing requirements.
7. No structural or decorative alteration is permitted in a residential zone if that alteration changes the residential character of an existing residential structure or is incompatible with surrounding residences.
8. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be developed for review and approval by the city engineer.
9. The site must be landscaped in a manner compatible with adjacent residences in residential zones according to a plan approved by the community development department.
10. The following additional criteria shall govern the review and approval of a conditional use permit for transitional housing, emergency shelters and urban rest stops:

A. Site Plan. A detailed site plan shall be submitted with the application. The Examiner may increase the Development Standards of the Kelso Municipal Code as necessary to ensure compatibility of the use with surrounding uses. The Examiner shall take into consideration the neighborhood character and any adopted neighborhood plans.

B. Compliance with Building Code. Facilities must comply with all applicable standards, including International Building Code (IBC) standards for the number of residents or clients served. Adequate kitchens, bathrooms, lighting, safety features, and site access for emergency vehicles are required.

C. Separation. Facilities must be at least 1/2 mile from the same uses.

D. Drugs and Alcohol. Use of alcohol and controlled substances, except by prescription, is strictly prohibited at the premises.

E. Operations. Applicant must provide staffing and operating procedures adequate to the type of facility and adequate to address the secondary impacts of the facility.



Kelso Planning Commission Meeting Minutes Tuesday, May 13, 2014 6:00pm – 7:55pm

Commissioners Present: James Hill, Dan Jones, Toby Tabor, Rick VonRock, Jared Wade, James Webb.

Commissioners Absent: Clark Hislop.

Staff Present: Steve Taylor, City Manager; Michael Kardas, Community Development Director; Janean Parker, City Attorney; Stephanie Helem, Recording Secretary.

Call to Order:

Chair Rick VonRock called the meeting to order at 6:00pm.

Minutes:

Commissioner VonRock made the motion, seconded by Commissioner Hill to approve the minutes of April 8, 2014. Motion carried, all in favor.

Commission Business:

1. Introduction of new Commissioner James Hill.
2. Amendments to the Kelso Municipal Code on the receipt and processing of applications for permits for the establishment, operation, and maintenance of certain transition housing and land uses.

Public Hearing Introduction. Ms. Parker. The public hearing is for the Planning Commission's consideration of language to recommend to the City Council on the idea of low barrier housing and shelters, and urban rest stop. There have been several meetings and have taken some public comment to date. At the last meeting the Commission directed staff to bring back prepared language. There is a staff recommendation that is different than the language the Commission wanted to see. There are similar ordinance amendments to the definition of the zoning code, amendments to the land use table, and language for conditions for the hearings examiner to consider when looking at a conditional use permit.

Option 1 Planning Commission Preferred. This would be to amend the definitions to prohibit the use of drug and alcohol in the existing definition of shelters. Add definition of urban rest stop. Would allow uses only in industrial zones of the city and would require a conditional use permit for those uses. Added language to definitions. Added specific criteria for conditional use permits. Discussion followed.

Option 2 Staff Recommended. In preparing the Planning Commission ordinance there were a few concerns, staff met and drafted recommendation. The language in definitional requirements would be hard to apply as a land use definition. It governs behavior after the fact and not a type of facility. The other issue was that restricting to the industrial zone it is more akin to a residential type use than an industrial type use. There may be issues with the comprehensive plan. In making it a condition in the conditional use permit that the hearing examiner would impose for not allowing drugs or controlled substances there could be tailored conditions for the hearing examiner that could be specific to a particular type of application. An emergency shelter is not allowed in any zone currently however, there is a definition. Perhaps the land use table did not get appropriately updated. Emergency housing is added and would be conditional use permit and allowed in the Commercial Town Center (CTC), Commercial West Kelso (CWK), and Commercial Specialty Retail (CSR) zones. 'Emergency Housing' should read 'Emergency Shelter' as defined. Urban rest stop, same permit and same zones. Transitional housing for more than 10 residents allowed in CTC, CWK, CSR, and Residential Multi-Family (RMF). Transitional housing less than 10 residents no change, currently allowed in RSF, RMF and CTC zones. Discussion followed.

Clarification. The currently operating Emergency Shelter will not be affected by the code unless they closed and tried to reopen or moved.

Ms. Parker. This public hearing is a legislative matter. The general rules speak for an allotted time, 3 minutes, can allow a longer time. It needs to be on the topic of the proposed ordinance. Planning Commission's decision will be a recommendation to the City Council, who will then take further action, final decision.

Public Hearing:

Commissioner VonRock called the Public Hearing open at 6:21pm.

Please state name and address for public record.

Nicole Mackey, 1106 S 3rd Ave., Kelso, WA. Why is the residential multi-family zone noted as an administrative permit not a conditional use? In any of the shelters you are not allowed to do drugs or alcohol or be intoxicated or under the influence. Are they going to be allowed to come in under the influence of being intoxicated and under the influence of illegal drugs? In the zoning, is it required for there to be qualified staff that could handle volatile situations? Discussion followed.

Ms. Parker response. Transitional housing is a Type II use under Residential Multi-Family. Type II use does involve public notice and some review. Decision is made by planning director. This is in Option 2, not in Option 1. Language includes not using drugs while in the facility because of enforcement issues. Discussion followed.

Ms. Mackey. Shelter is open and what if there is needles and paraphernalia? Would this be part of it? What happens if it goes in and there is problems? Crime increase? What happens then?

Ms Parker. If there is a violation the permit can be revoked. There is some enforcement on land use context. Would be related to conditions placed.

Adena Grigsby, 1109 S. 3rd Ave., Kelso, WA. Brought letters from neighbors opposed to low barrier shelter in town. Does not like Option 2 definitely. Does not like Option 1 either. Option 2 leaves drug use open in the facility. Does not see why it has to be allowed or wait for a conditional use permit to decide to allow drugs in our community. Other places have added in their code that everyone coming into shelter has to be screened at intake to insure they are not under the influence of drugs and alcohol. Provided Commission, City of Bonita Springs Ordinance No. 13.04. They have added good neighbor policies. What is the reason why we can't put that people have to be screened for drugs and alcohol at intake? Have the service providers have some responsibility. Does not like staff recommendation. Worried about sex offenders being allowed at these facilities.

Chuck Hendrickson, 121 Olive St., Kelso, WA. Likes Option 2. That would be his recommendation. All though it is not fully what he would like to see have happen due to the services he does provide. He does believe it is a compromise. Recommendation Commission would support Option 2.

Public Hearing Closed 6:38pm.

Options Discussion. Commissioner VonRock asked for a rough opinion of commission thoughts on options.

Commissioner Wade. Commissioner Option 2 is closer to what is 'apropos' to city. The city has areas approved for temporary housing, motels/hotels. Similar type services.

Commissioner Webb. Looking at industrial, commercial town center and residential. Why was the Commercial Neighborhood Service Center (CNH) zone not considered? This is near hospitals, doctor offices, where these services may be needed.

Mr. Taylor. For the CNH zone there are only a few of these zoned areas. Current existing uses. Discussion followed.

Commissioner Webb. Based on information, option 1 Planning Commission option.

Commissioner Hill. Difficult issue. Commission recommended proposal seems closer to his views, all though there are misgivings. Are there general liability insurance requirements as part of granting a permit?

Ms. Parker. As a general matter, the city does not require insurance as part of a land use permitting process. Discussion followed.

Commissioner Jones. Opposed to both options. The only way to be in favor if in the standards criteria for conditional use it prohibited people under the influence of drug or alcohol identified for the hearings examiner. Any transitional housing should be a conditional use.

Commissioner Tabor. Has lots of questions. There is more that needs to go into this. Leaning towards Planning Commission recommendation.

Commissioner VonRock. Leaning towards Planning Commission recommendation.

Ms. Parker. Staff is looking for recommendation to the City Council. It can be either option or modification. Moratorium is in effect until July 21st. The City Council would need opportunity for two full readings.

Mr. Taylor. Based on level of public comment leading up to moratorium, if staff doesn't get recommendation tonight, he asked there be another meeting scheduled to provide recommendation before next regularly scheduled meeting. He does not want to put the council in position of two readings and it gets knocked out of cycle by significant public comment, and then forced to extend moratorium.

Commissioner VonRock asked how many are in favor of Commission's recommendation? How many in favor of staff recommendation?

No consensus. Discussion followed.

Zoning. Commissioner VonRock - Which zoning is preferred out of both options? Consensus is staff recommended proposal as long as traditional housing goes to conditional use over 10. Over ten should not be in residential zone.

Ms. Parker. Clarification. Consensus for the commercial zones. Either not in RMF zone at all or if it is in RMF a conditional use permit. Discussion followed.

Commission consensus for transitional housing, keep separate for over and under 10.

Under 10, smaller facility. In staff recommendation it is allowed in RSF, RMF, CTC zones. Commission consensus agree.

Larger transitional housing facility. Where are they appropriate? Discussion followed. Commission consensus is to allow in residential multi-family zone with conditional use permit, commercial specialty retail zone, and both light and general industrial. Discussion followed.

Emergency Shelter. Discussion followed. Commission consensus not recommended for residential multi-family. Recommended for commercial west Kelso and light and general industrial.

Urban Rest stop. Discussion followed. Commission consensus recommended for industrial. No residential or commercial.

Conditional use permit language. At the end of the land use table there is a section that calls out other requirements for different types of uses. There are already requirements for group home type uses. Number 10 (A, B, C, D) was added to set forth the criteria the hearings examiner would look at in reviewing a conditional use permit. Discussion followed.

Number C. change language to "...from the same use." Discussion followed.

Added additional language. E. "Staffing and rules of procedure adequate for the type of facility and to address the secondary impacts of the facility." Discussion followed.

Ms. Parker. Commission consensus. It's a conditional use permit with these conditions as amended.

Definitions section. Consensus is Planning Commission preferred option for emergency shelter, transitional housing facility and urban rest stop definitions.

Mr. Taylor. The next scheduled meeting for the Planning Commission is June 10th, which gives the council their second meeting of June and two meetings in July. There is a one meeting cushion before the July 21st moratorium deadline.

There would be time to bring this back in final form to the Planning Commission for recommendation.

No citizen's business.

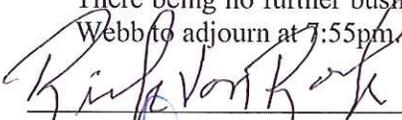
Staff has been directed to prepare an ordinance along the lines discussed tonight for the next meeting.

Other Business:

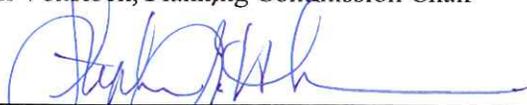
1. **Medical Marijuana.** Ms. Parker. In medical collective garden, there are not spacing requirements, signage and nuisance. There is nothing that would limit the land use. The question was, can't we leave it to the state and follow their rules? The legislature was supposed to act and they didn't. There is a disconnect between recreational and medical. The City of Kent took statute in place and banned medical marijuana outright and they were challenged. The court in making its decision, said yes Kent can ban it, has the authority to regulate, can't ban it because they have this authority, it can be banned because it is already illegal. There is a lot of questions about medical marijuana. Ms. Parker is recommending not taking any action until next term. A collective garden is currently not allowed under Kelso code. Discussion followed.
2. **Training.** Mr. Taylor asked how many Commissioners had training on open public meetings act, public records act, and appearance of fairness when you came onto Commission. WCIA does training Public Official liability training. There might be some refresher points and perhaps Janean can come in at a future meeting and go over main points to help the Commission and prevent adverse actions against the city by the decisions and actions you take.

Adjournment:

There being no further business, Commissioner VonRock made the motion, seconded by Commissioner Webb to adjourn at 7:55pm.



Rick VonRock, Planning Commission Chair



Respectfully submitted: Stephanie L. Helem, Recording Secretary

AGENDA SUMMARY SHEET
Business of the City Council
City of Kelso, Washington

SUBJECT TITLE:

2nd Reading ORDINANCE -- Railway Franchise
Renewal

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: July 1, 2014

Originator: Steve Taylor

PRESENTED BY:

Steve Taylor

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

Agenda Item Attachments:

Ordinance Granting Franchise for a Railway to Columbia & Cowlitz Railway, LLC
Ordinance No. 3120 is included in Weyerhaeuser, NORPAC, and Solvay Chemicals franchise renewal
information.

SUMMARY STATEMENT:

In 1975, the City granted a franchise to the Columbia and Cowlitz Railway Company, a subsidiary of Weyerhaeuser Co., to build and maintain a railway through the northwest corner West Kelso between Fisher's Lane and Clark Street. The franchise agreement was amended in 1989 to allow the construction and maintenance of energy transmission facilities, namely, a natural gas pipeline along that same stretch. The length of the franchise was twenty years. Subsequently, the railway was sold to Patriot Rail, but ownership of the natural gas pipeline was retained jointly by Weyerhaeuser, NORPAC, and Solvay Chemicals. The franchise agreement expired in 2009, and the parties have requested twenty-year renewals separately for the railway and energy transmission components.

The attached ordinance grants a twenty-year franchise to Columbia and Cowlitz Railway Company for the construction, maintenance and operation of a railway as it intersects and crosses city right-of-way.

OPTIONS:

- 1) Move to adopt the ordinance granting a franchise to Columbia and Cowlitz Railway Company for the construction, maintenance and operation of railway facilities in city right-of-way;
- 2) Do not approve the franchise ordinance;
- 3) Take no action and defer consideration to a subsequent regular meeting.

RECOMMENDED ACTION:

Move to adopt the ordinance on first reading granting the franchise.

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO COLUMBIA & COWLITZ RAILWAY, LLC, ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY (20) YEARS, THE RIGHT AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A RAILWAY WITHIN CERTAIN DESCRIBED LIMITS OF THE CITY OF KELSO.

WHEREAS, the City of Kelso adopted Ordinance No. 2614 in 1975 granting the Columbia & Cowlitz Railway, LLC the right and franchise to construct, maintain, and operate a railway within the City of Kelso, and

WHEREAS, the City adopted Ordinance No. 3120 in 1989 granting a modification to said franchise for a period of twenty (20) years that authorized the construction, operation and maintenance of utilities and energy transmission facilities, including a natural gas pipeline, and

WHEREAS, the term of said franchise as modified expired in 2009, and

WHEREAS, ownership of the railway, utilities and energy transmission facilities was subsequently transferred to different entities, and specifically, ownership of the energy transmission facilities has passed jointly to Weyerhaeuser NR Company, North Pacific Paper Corporation, and Solvay Chemicals, Inc., and ownership of the railway has passed to Columbia & Cowlitz Railway, LLC;

WHEREAS, Columbia & Cowlitz Railway, LLC has requested a new agreement for a period of twenty (20) years granting the right and franchise to construct, maintain, and operate a railway within the City of Kelso.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. That the terms and provisions of Ordinance No. 3120 related to the granting of the right and franchise to construct, maintain, and operate a railway is hereby superceded and replaced by the terms and provision set forth in this ordinance.

Section 2. That there be, and is hereby granted Columbia & Cowlitz Railway, LLC, a Delaware limited liability company, (hereafter "Grantee"), and to its successors and assigns and to any assignee of the railway rights as permitted in this ordinance, the right, privilege, franchise and authority, for and during the period of twenty (20) years from the effective date of this ordinance and subject to all the conditions and provisions hereof, to construct, maintain, and operate a railway in streets or public thoroughfares of the City of Kelso (hereafter "City"), whose boundaries, in whole or in part, may now or hereafter be included within the city limits, the location of such facilities described as follows:

BEGINNING at a point on the west boundary line of the City of Kelso, approximately one hundred twenty-five feet south of the south line of Clark Street in said City of Kelso and running thence in a northeasterly direction, crossing Clark Street and Fisher's Lane, to a point on the north boundary line of said City of Kelso approximately six hundred fifty feet east of the intersection of the north and west boundary lines of said City of Kelso.

Section 3. Grantee shall comply with all applicable City standards for road surface smoothness. That whenever said Grantee, in the exercise of the rights granted by this ordinance, or any of them, shall disturb or obstruct the surface and/or subsurface of any street or other public thoroughfare or any public or quasi-public utility lines, poles, mains or similar improvements, the Grantee shall, as soon as is reasonably practicable, restore the same to as good condition as existed before such disturbance. If such repairs or restoration is not completed within 90 days, the City shall provide to Grantee at least twenty (20) days advance written notice of the City's deadline for completion of said work. If Grantee does not meet the deadline or receive City approval of Grantee's written action plan setting forth justification for additional time, the City shall have the right to cause such repairs or restoration to be made and Grantee hereby agrees to pay to the City all reasonable and necessary costs for such repair or restoration upon receiving written documentation and notification from the City. The City may at any time order, do or have done any and all work necessary to restore to a safe condition any such street or other public thoroughfare or any such utility improvements where, in the sole judgment of the City Manager or Director of Public Works of the City, the Grantee has created a condition imminently dangerous to life or property and Grantee shall, upon demand of the City, pay to the City all reasonable and necessary costs for such repair or restoration upon receipt of written notification and documentation of such costs.

Section 4. The construction, maintenance and operation of any such railway under the franchise granted by this ordinance shall not preclude the City, its accredited agents or its contractors from blasting, tunneling, grading or doing other necessary work for the maintenance and/or installation of public utilities (including those installed by quasi-public bodies) and/or the construction, repair and maintenance of streets or other public thoroughfares contiguous to Grantee's railway, provided the City shall give Grantee not less than fourteen (14) days prior notice, or in the event of an emergency not less than twenty-four hours prior notice, in writing, of said blasting, excavating or other similar work so that Grantee may protect their railway and other property.

Section 5. The Grantee accepts this franchise and all rights conferred hereunder for the use and occupation of any portion of the City's streets or other thoroughfares, to construct, maintain and operate a railway.

Section 6. The obligations of Grantee under this Franchise shall be deemed to include every employee, nominee or independent contractor of the Grantees performing work within said streets or other thoroughfares under contract, direction, request or authority of the Grantees, and the Grantees, their agents, employees or independent contractors, severally, shall be responsible to the City for any injury or damage to Grantee's property or the expense incurred or suffered by the City in correcting defects in work, replacing or repairing City streets, other thoroughfares or other City-owned improvements damaged by the acts or negligence of such employees, agents or independent contractors of Grantees.

Section 7. If (a) the Grantee shall willfully violate or fail to comply with any of the provisions of the franchise hereby granted or through willful or unreasonable neglect fail to heed or comply with any notice given the Grantee under the provisions hereof, and (b) the Grantee fails to cure such violation or come into compliance with such provision within twenty (20) days of receipt of written notice from the City, then (c) the Grantee shall forfeit all rights conferred hereunder and such franchise may be revoked or annulled by the City Council of said City upon sixty (60) days prior written notice to the Grantee.

Section 8. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns and independent contractors of the Grantee, and all privileges of the Grantee shall inure to its successors, assigns and such contractors equally as if they were specifically

mentioned wherever the Grantee is mentioned.

Section 9. All provisions or conditions herein enumerated shall be deemed to be automatically amended to comply with and conform to any future amendment or other change in any state law of Washington affecting such enumerated provision or condition.

Section 10. Unless the said Grantee shall within thirty (30) days after the passage of this ordinance file with the Clerk of the City their written acceptance of this franchise herein granted, subject to the conditions herein set forth, this ordinance shall become void.

Section 11. By such acceptance, Grantee and City shall be deemed to covenant to indemnify and save harmless the other party from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation or property by reasons of any negligent acts or omissions, or faulty construction, defective material or equipment operation resulting from the improper construction, maintenance, repair or operation of Grantee's railway or City's right of way. In any suit or action that is brought against the City or Grantee for damages arising out of or by reason of any of the above mentioned causes, the indemnifying party will, upon notice of the commencement of such action, defend the same at their sole cost and expense and in case judgment shall be rendered against the other party in such suit or action, the indemnifying party will fully satisfy said judgment. In the event of concurrent negligence, each party shall be responsible for their proportional share of liability.

Section 12. If any provision of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 13. This Ordinance shall be in full force and effect from and after five (5) days from the date of its passage and publication.

Section 14. All notices, requests, demands, and other communications required by this Ordinance will be in writing and be delivered to the parties at the following addresses or such other address that a party may designate by written notice to the other parties from time to time:

City of Kelso
Attn: City Manager's Office
203 S. Pacific, Ste. 217
P.O. Box 819
Kelso, WA 98626

Columbia & Cowlitz Railway, LLC
Attn: Vice President and Chief Administrative Officer
10060 Skinner Lake Drive
Jacksonville, FL 32246

With a copy to:

General Counsel
Patriot Rail Company LLC
10060 Skinner Lake Drive
Jacksonville, FL 32246

Section 15. The Grantee shall provide, at its sole cost and expense, railroad crossing signalization as may be required by the Washington State Utilities and Transportation Commission and as requested, in writing, by the City. Said railroad crossing signalization shall be completed within a reasonable time after notification by the City. The City agrees to cooperate fully and to provide all information necessary for the Grantee to apply for any federal or state funds which may be available to pay a portion of the expense of such railroad crossing signalization.

All notices will be deemed complete upon personal service, delivery by a recognized overnight courier at the notice address, or another address as a party may identify in writing (email shall not be sufficient).

ADOPTED by the City Council and SIGNED by the Mayor this ____ day of _____, 2014.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____



ORDINANCE NO. 3120

AN ORDINANCE REPEALING ORDINANCE NO. 2614 AND SUBSTITUTING THEREFORE THE FOLLOWING TERMS AND PROVISIONS GRANTING TO THE COLUMBIA AND COWLITZ RAILWAY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A RAILWAY AND UTILITIES WITHIN CERTAIN DESCRIBED LIMITS IN THE CITY OF KELSO.

WHEREAS, by its adoption of Ordinance No. 2614 in 1975, the City of Kelso granted to the Columbia and Cowlitz Railway Company the right to construct, maintain, and operate a railway within the City of Kelso, and

WHEREAS, said Railway Company has requested modification of said franchise to include authorizing the construction, operation and maintenance of utilities and energy transmission facilities, including a natural gas pipeline, and

WHEREAS, the Kelso City Council has reviewed such request and finds that the best interests of the City would be served if such modifications were allowed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That Ordinance No. 2614 is hereby repealed.

SECTION 2. That the following terms and conditions embodying the grant of a franchise to the Columbia and Cowlitz Railway Company are hereby adopted, provided said terms and conditions are accepted by

said Company within 30 days of the passage of this Ordinance.

A. That there be and is hereby granted to the Columbia and Cowlitz Railway Company, a Washington corporation, its successors and assigns, and to any assignee of the operations referred to in this ordinance, the right, privilege, and authority, for and during the period of Twenty (20) years from the date of passage of this ordinance and subject to all the conditions and provisions hereof, to construct, maintain, and operate a railway and to construct, operate, and maintain utilities and energy transmission facilities, including a natural gas pipeline, in any street or public thoroughfare of the City of Kelso or part thereof whose boundaries may now or hereafter be included in the strip of land situated in the City of Kelso, Cowlitz County, Washington, bounded and described as follows:

BEGINNING at a point on the west boundary line of the City of Kelso, approximately one hundred twenty-five feet south of the south line of Clark Street in said City of Kelso and running thence in a northeasterly direction, crossing Clark Street and Fisher's Lane, to a point on the north boundary line of said City of Kelso approximately six hundred fifty-feet east of the intersection of the north and west boundary lines of said City of Kelso.

B. That whenever said Grantee, in the exercise of the rights granted by this Ordinance, or any of them, shall disturb or obstruct the surface of any street or other public thoroughfare, the said Grantee shall, as soon as is reasonably practicable, restore said

surface to as good condition as existed before such disturbance. If such repair or restoration is not completed within 90 days, the City shall have the right to cause such repair or restoration to be made and Grantee hereby agrees to pay to the City all costs for such repair or restoration upon receiving written documentation and notification from the City.

C. Grantee shall within thirty (30) days after passage of this ordinance file with the City Clerk its written acceptance of the franchise granted herein, subject to the conditions set forth herein. By filing such acceptance the Grantee shall be deemed to covenant to indemnify the City of Kelso for any injury arising from any casualty or accident to person or property by reason of any neglect or omission on the part of said Grantee to keep its property, while in any street or public thoroughfare of Kelso, in a safe condition. Grantee, during the term of this franchise, shall obtain insurance coverage in an amount of not less than twenty-five million dollars, providing liability coverage to Grantee in the event of fire, explosion, spill or other occurrence included in standard comprehensive general liability policies. Grantee shall furnish evidence of such insurance to the City on an annual basis.

D. Columbia and Cowlitz Railway Company shall provide, at its cost and expense, railroad crossing signalization as may be required

by the Washington State Transportation and Utilities Commission and as requested in writing by the City. Said railroad crossing signalization installation shall be completed within a reasonable time after notification by the City. The City agrees to apply for any funds which may be available to pay a portion of the expense of such railroad crossing signalization.

SECTION 3. This Ordinance shall be in full force and effect five days after its passage and posting as provided by law. Grantee shall pay the sum of one thousand dollars to the City of Kelso to cover the City's costs in processing this franchise.

ADOPTED by the City Council and SIGNED by the Mayor this 19th day of September, 1989.

Richard J. Woods
MAYOR

ATTEST:

Wendy A. Adams
CITY CLERK - Deputy

APPROVED AS TO FORM:

Peter P. Knoch
CITY ATTORNEY

ACCEPTED by the Columbia and Cowlitz Railway Company this 16th day of October, 1989.

Wayne S. Keegan