

# River Heights City

---

SPECIAL

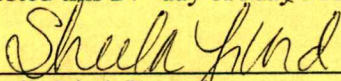
## COUNCIL MEETING AGENDA

Thursday, May 25, 2017

Notice is hereby given that the River Heights City Council will hold a special council meeting beginning at 6:30 p.m. in the River Heights City Office Building, 520 S 500 E.

- 6:30 p.m. Revisit the Motion Regarding the Interlocal Sewer Contract Between Logan and River Heights
- 6:45 p.m. Adjourn

Posted this 24<sup>th</sup> day of May 2017

  
\_\_\_\_\_  
Sheila Lind, Recorder

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.





46 He also handed out and read from discussions he's had with Mayor Petersen and Issa Hamud  
47 this week. Included was an update that Nibley City cannot opt out of their contract until the remaining  
48 15 years has passed. (The Council wasn't aware of this when they voted two days ago.)

49 Mayor Brackner stated the Rate Setting Committee will be meeting on June 19 to discuss city  
50 specific sewer treatment agreements. Mr. Hamud said each agreement will be different, based on the  
51 individual city's needs, therefore he doesn't have a copy of the one River Heights would adopt. He  
52 also said he would support a 2-year termination clause, but cautioned it would go both ways.

53 Mayor Brackner asked what he should do.

54 Councilmember Smith informed that a couple weeks ago he was under the impression that each  
55 city was going to renegotiate their contracts, starting over with 30 years. Then he found out we would  
56 tweak our current contract and need to renegotiate in eight years, which wasn't appealing to him.  
57 Because of this and the fact that the information was vague and not in writing he voted 'no' on the last  
58 motion. He would like to have a written document in front of us before he votes in favor or give time  
59 for the city and city attorney to work through a contract which we feel good about.

60 Mayor Brackner recommended a modification of the current contract which would give us until  
61 2025 to get a new one worked out.

62 Councilmember Wilson has never understood the pressure on River Heights to join or to make  
63 a decision. We are such a small part of the system. Councilmember Clausen answered that Mayor  
64 Brackner feels we should join and pay our fair share. The new rates go into effect on July 1. Mayor  
65 Brackner said Logan has offered that we can keep our contract but only change the rate.

66 Mayor Brackner said Logan is having to come up with \$116,000,000 and they are hoping those  
67 using the system will help pay. Councilmember Wilson has a lot of issues with the way Logan has  
68 bullied, manipulated and threatened River Heights over the years. Mayor Brackner reminded they  
69 have had a lot of extra costs that River Heights wouldn't participate in. Ms. Wilson reminded they  
70 have been making it up by collecting an extra 41 cents for collection ever since 2006 that we didn't  
71 know about beforehand, and we paid it. Mayor Brackner stated the amount they have collected is not  
72 very much in comparison to the costs.

73 Councilmember Clausen asked the Council if they should still have the mayor try to negotiate a  
74 2 year opt out, knowing that Logan will ask for the same. Mayor Brackner opinion is to not go for  
75 that, but to stay with our old contract since we only have three years before the new plant is in before  
76 that's over. He doesn't believe Logan City would kick us out of their system after two years. Doug  
77 felt on Tuesday that if some new technology came along we could take advantage of it by backing out  
78 with Logan. Now he thinks that may be difficult because we'd have to join with Providence and  
79 Nibley and we wouldn't know what the cost of that would be. Although, he feels there is a remote  
80 possibility.

81 Councilmember Wright said now we know Nibley can't go to Hyrum for 15 years, it's no  
82 longer feasible for River Heights to join Hyrum. Mayor Brackner said he doesn't see Hyrum making  
83 their system economical for us.

84 Councilmember Wright is in favor of River Heights paying their fair share. He is in favor of  
85 River Heights signing the interlocal agreement as long as we get a fair city specific contract. It may  
86 take two weeks to negotiate or two years. Mayor Brackner said the rate committee is ready to raise  
87 rates the first of July. Mr. Wright suggested whether they charge us or not in July, we should impose it  
88 on our citizens because we will need to pay it someday. He suggested telling them we are still  
89 negotiating and will decide at some point. Mayor Brackner doesn't think we can join later with the  
90 new rates because it will foul up their system. We won't be involved in funding their capital system so  
91 why would they take us later. Mr. Wright agrees with going with the new rates July 1, even though we



92 are still looking at a contract. Meanwhile, we will increase sewer rates and put the extra in our  
3 enterprise fund. On the day we feel good about our new contract, we will hand the money over.

94 Councilmember Wilson moved to “keep the old contract, adjust our rates to build a reserve  
95 (rates to be determined at a later date) as we observe what happens with the progress and costs of the  
96 new treatment plant over the next 24 months.” It’s a motion to build a reserve but keep our options  
97 open.

98 Councilmember Wright asked about the timing of signing the interlocal agreement. Mayor  
99 Brackner said if we don’t sign it, they don’t know how to set up their computerized system for billing  
100 us. The treatment rate is the same for everyone except us, unless we go with the interlocal agreement.  
101 Collection is different, which is addressed in the individual contracts. Councilmember Wright guesses  
102 there is no feasible way to opt out of the current contract if we sign the interlocal agreement now.  
103 He asked what it would mean to have Logan opt us out. Mayor Brackner said Issa Hamud said given  
104 the circumstances, this wouldn’t be good for River Heights, but he said they wouldn’t do that. Mr.  
105 Wright asked what the worst thing is that could happen. Councilmember Smith said their opt out may  
106 be to raise our rates. He wondered if we amended our current contract if we could have it done by July  
107 1. Mayor Brackner thought it could be done. He informed they would like each city to use the same  
108 template, with the specific city differences listed. Councilmember Smith doesn’t think River Heights  
109 will go to any other wastewater system in the next seven years.

110 Mayor Brackner said if we don’t switch over they can still charge us the 41cents for collection  
111 fee.

112 Councilmember Wilson said there is so much probability out there, that she can’t vote for it.

113 Councilmember Wright asked for pros and cons of a 2-year opt out. Mayor Brackner said a pro  
114 is, we could go somewhere else if another option becomes available. A con would be if Logan were to  
115 terminate us in two years, we would have to seek somewhere else. He doubts that would happen since  
116 it’s not legal and there’s not really anywhere else to go. So, there’s not a con.

117 Councilmember Wilson feels everyone on the council wants to be fair and pay our share. She  
118 supports raising the rates to save up, rather than pay Logan City now.

119 Councilmember Wright asked if we leave the previous motion as is, or take the 2-year thing  
120 out? He’s hearing it doesn’t really matter. Mayor Brackner said the old contract would stay the same  
121 except for the rate and we would put in a clause that our collection costs would be 27 cents. Another  
122 item is whether or not we put in the 2-year opt out option.

123 Councilmember Wright wonders if there are any legal benefits to any of these decisions.  
124 Mayor Brackner said Attorney Jenkins said once the Council agrees on what they are going to do, he  
125 can work out the details with the Logan City attorney.

126 Mayor Brackner asked for a second to Councilmember Wilson’s motion, which was re-read.  
127 There was none. He asked for another motion. There was none. Councilmember Wright read the  
128 motion from two days ago. He suggested modifying the motion to include a request that the mayor  
129 and attorney negotiate our city-specific contract.

130 **Councilmember Clausen moved to “replace the motion from May 23, 2017 with the**  
131 **following: Mayor Brackner will sign the Interlocal Agreement Creating a Regional Wastewater**  
132 **Treatment Rate Committee. The mayor and city attorney are directed to negotiate the city-**  
133 **specific agreement with Logan City. We further direct that our current collection cost will drop**  
134 **from the present rate to 27 cents/1,000 gallons of waste treated.” Scott seconded the motion,**  
135 **which carried with Clausen, Scott, Smith and Wright in favor. Wilson opposed.**

136 The meeting adjourned at 8:10 p.m.

---

**From:** Craig Petersen  
**Sent:** Wednesday, May 24, 2017 3:21 PM  
**To:** James Brackner  
**Subject:** Re: Question

Sounds good thanks

Sent from my iPad

On May 24, 2017, at 1:57 PM, James Brackner <[jbrackner@msn.com](mailto:jbrackner@msn.com)> wrote:

Hi Craig,

I talked to the city councilman who stated that Nibley had a 24 month cancellation agreement. The two of us contacted city officials in Nibley and were told that the 24 month cancellation clause was only effective after the 30 year contract was completed. Based on this information, I propose to call an emergency meeting of the city council to correct this information and seek their direction.

I will contact you after I have received new direction from our city council.

Jim Brackner

Sent from Mail for Windows 10

---

**From:** Craig Petersen  
**Sent:** Wednesday, May 24, 2017 11:24 AM  
**To:** James Brackner  
**Subject:** Re: Question

I'll get back to you ASAP. Your Council member is wrong (I think) about Nibley. Nibley signed a 30 year agreement and it has 15 years left. It provides for opt out on two year notice after 15 more years.

On Wed, May 24, 2017 at 11:12 AM, James Brackner <[jbrackner@msn.com](mailto:jbrackner@msn.com)> wrote:

Dear Craig,

The River Heights City (RHC) Council voted 3 to 2 to sign the "Interlocal Agreement Creating Regional Wastewater Treatment Rate Committee" and to comply with its terms provided that:

1. The present contract signed in 1975 be amended to change the rates charged to RHC to be the same as charged the other five cities, and
2. A provision that RHC can opt out of the contract if RHC gives a 24 month notification.



One of our city councilors reported that the City of Nibley can opt out of their contract if they give a 24 month notice and several of our city councilors wanted the same option for RHC. I stated that I have had no discussion about a 24 month notification of termination but the Council agreed that If Logan is unwilling to accept the 24 month notice that I am instructed to not sign the interlocal agreement

Another item that must be addressed is the collection cost. Issa Hamud stated at the last Rate Committee meeting that RHC was obligated by our contract to pay \$.41 per thousand gallons of wastewater treated. In fact, the 1975 contract is silent regarding collection cost and we need to amend it to state that RHC will be charged \$.27 per thousand gallons of wastewater treated.

I am hopeful that Logan will agree with these proposed changes to our contract and this issue can be resolved. If so, I recommend that Kymber Housley and our city legal counsel, Jon Jenkins, meet to draft the changes proposed.

Let me know your decision at your early convenience.

Best regards,

Jim Brackner

Sent from Mail for Windows 10

---

**From:** Craig Petersen  
**Sent:** Wednesday, May 24, 2017 8:53 AM  
**To:** James Brackner  
**Subject:** Question

Saw the article in the paper today. Neither Kymber nor I understand the 24 month termination period. Will you explain it to me?

--  
Craig Petersen  
Mayor, Logan City  
435-716-9002

---

**From:** James Brackner  
**Sent:** Thursday, May 25, 2017 1:33 PM  
**To:** Christine Willie  
**Subject:** RE: Rate Setting Committee

Hi Christine,

Thanks to you and Issa for sending this e-mail to me. I have left a message on Issa's telephone to call me. Would you please pass this e-mail message to him.

The River Heights City council voted 3 to 2 to sign the Wastewater Interlocal Agreement and pay the rates that the other 5 cities will pay but they also required that RHC could withdraw from the agreement with a 24 month notice. One of our city councilors had spoken with a representative of Nibley and understood that Nibley has such an agreement. Mayor Petersen clarified today that this is true only after the current contract matures in 15 more years. Because the vote was taken by our city council with faulty information, I have called a special meeting for tonight so they can clarify what their decision. Two councilors have indicated that they do not know what the separate agreement will require and have expressed reservations about approving the Wastewater Interlocal Agreement until we know. Is it possible for you to send me a copy of the "City Specific Sewer Treatment Agreement" referred to in the agenda for the June 19<sup>th</sup> Rate Setting Committee meeting?

Thanks,

Jim Brackner  
Mayor  
River Heights City

Sent from Mail for Windows 10

---

**From:** Christine Willie  
**Sent:** Wednesday, May 24, 2017 3:57 PM  
**To:** Craig Petersen; Craig Giles; BRET Randall; Issa Hamud; Jeffrey Jorgensen; John Drew; Shaun Dustin; Tyler Richards; Jim Harps; Mark Nielsen; James Brackner  
**Subject:** Rate Setting Committee

Issa Hamud asked me to send you the following message:

At our last meeting in March, we tentatively agreed to a meeting in June after each City approves the new rates through their council, discuss where we are with rates from every city, and River Height's decision regarding the new rates.

We've presented the new rates to Logan City Council in May and anticipate the approval of the new rates by Logan City at the next Logan City Council meeting June 6, 2017. I'm assuming that most of you have also taken some action on the rates.

The Herald Journal today reported (May 24, 2017) that River Heights City council decided to join the Rate Setting Committee and pay its fair share moving forward.

This email is intended to solicit your support to hold a meeting on Monday, June 19<sup>th</sup> at 3:00 p.m. to consider the following agenda:

1. Approved Rates
2. River Heights Acceptance of the Rates
3. Inclusion of River Heights in the Rate Setting Committee
4. City Specific Sewer Treatment Agreements

If you have other agenda items you want the committee to consider, please let me know.

—

Thank you  
Christine Willie  
Administrative Assistant  
City of Logan  
Environmental Department  
Work 435-716-9750



**From:** Issa Hamud  
**Sent:** Thursday, May 25, 2017 4:36 PM  
**To:** jbrackner@msn.com; Craig Petersen; Kymber Housley  
**Subject:** Sewer Agreement

Mayor Brackner,

I have your email and I understand your point of view on the two-year term condition your council attached to the approval of the new rates. I reviewed your current agreement specifically section 8 of the agreement (page 3 and 4) regarding the effective period, and also reviewed the Nibley City's current agreement section 12 regarding the effective period. Attached is a pdf copy of your agreement and Nibley City's agreement for your reference. The termination notice contemplated in these agreements is only effective after the agreement runs its course. If you think your council is interested to have the option to terminate the agreement with two years notice I am supportive of that and the new agreement will have a termination clause which will say **either party can terminate the agreement with two years written notice**. After our phone conversation, I had the opportunity to visit with Mayor Petersen and the City Attorney Kymber Housley, and they told me that they will support for a two-year termination clause in the River Heights City agreement.

I truly believe that this will not be an issue for Logan but it may be one you would like to think through by allowing the council vote to stand and asking your legal council to negotiate on your behalves with Logan City Attorney and Mayor. I suggest that you tell us what you want to have in the agreement and we will try to see ways we can accommodate your needs. We are at the beginning stage of updating the expired sewer agreement of the client cities (Providence, North Logan, Hyde Park, and Smithfield) and I am sure that every City will have some specific needs they want to have in the agreement. It will be in your best interest to keep your options open and seek an agreement that will meet your needs but also similar with the other cities.

Thanks

--  
*Issa A Hamud, PE*  
*City of Logan*  
*Environmental Director*  
~~435-716-9752~~