



AGENDA & Notice of Work Session & City Council Meeting

The City Council of the City of Newport will hold a work session on Monday, February 4, 2013, at 12:00 Noon, followed by a regular City Council meeting at 6:00 P.M. The work session will be held in Conference Room "A" at City Hall, and the Council meeting will be held in the Council Chambers, City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

The meeting locations are accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder 541.574.0613.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session and/or meeting. Action items that do not require a public hearing may be moved up earlier in the meeting.

CITY COUNCIL WORK SESSION **Monday, February 4, 2013 - 12:00 P.M.** **Conference Room A**

- I. Conceptual framework for workforce housing
 - II. Discuss scheduling Council Goal Session
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COUNCIL MEETING AGENDA **Monday, February 4, 2013 -- 6:00 P.M.** **Council Chamber**

Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the City Council Chamber. Anyone commenting on a subject not on the agenda will be called upon during the Public Comment section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

I. Pledge of Allegiance

II. Call to Order and Roll Call

III. Additions/Deletions and Approval of Agenda

IV. Public Comment

This is an opportunity for members of the audience to bring to the Council's attention any item not listed on the Agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

V. Consent Calendar

The consent calendar consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

- A. Approval of minutes from the Work Session and Regular City Council Meeting of January 22, 2013, and joint work session with Fire Districts on January 24, 2013.
(Hawker)

VI. Officer's Reports

- A. Mayor's Report
- B. City Manager's Report
 - i. Project Management Report

VII. Discussion Items and Presentations

Items that do not require immediate Council action, such as presentations, and/or discussion of potential future action items.

- A. Report & Recommendations from the Port Pedestrian Safety Task Force
(Voetberg)
- B. Police - Officer Involved Shooting Protocol
(Miranda)

VIII. Public Hearings - 7:00 P.M.

- A. Authorization to sell substandard undeveloped property described as a Portion of Gladys Street
(Tokos)

IX. Action Items

Citizens will be provided an opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. (Action items are expected to result in motions, resolutions, orders, or ordinances.)

- A. Intergovernmental Agreement between the State of Oregon & Local Contracting Agency for the Disposal of Surplus Property (Gross)
- B. De-Annexation of a portion of the 668 acre Wolf Tree Destination Resort Property (Tokos)

X. Council Reports and Comments

XI. Public Comment (Additional time for public comment - 5 minutes per speaker)

XII. Adjournment

Memorandum

To: Newport City Council
From: Derrick Tokos, Community Development Director 
Date: January 30, 2013
Re: Conceptual Framework for Workforce Housing

Enclosed is a conceptual framework that implements recommendations from the 2011 Newport Housing Needs Analysis, summarized under Goals 1 and 2 of the Housing element of the Newport Comprehensive Plan, which calls for the City to play an active role in facilitating the development of workforce housing.

The proposal leverages the City's land inventory as a "residential land bank" making the property available to the Lincoln Community Land Trust (LCLT) at no cost, to construct at least six units over a five year period. Turning property over to the LCLT allows the land value to be factored out of the sales price, reducing the cost of the home for a potential buyer. Putting in place a land bank (Implementation Measure 2.1), was a top priority of the Planning Commission and a City Council goal for this fiscal year.

Additionally, this concept makes available a revolving loan program for the construction of workforce housing that was put in place this fiscal year and funded out of the proceeds of the sale of a city owned property. This creative funding tool (Implementation Measure 1.4) provides the LCLT with a means of financing the construction of the homes. While the LCLT is a non-profit, actual home construction will be done by private developers through a competitive bid process.

LCLT is an ideal partner in that its model ensures long term affordability by splitting up the property at time of sale, with the home going to the buyer and the land into a 99 year inheritable and renewable lease that is managed by the Trust. Stipulations are also put in place to ensure that future resale of the home will stay within the target affordability range of 60 to 120 percent of annual median family income. This long term lease arrangement is ideal for the "land bank" concept in that it guarantees that property the City is effectively giving away continues to be used for its intended purpose.

Considering that the LCLT is still developing its organizational capacity, with just three properties (all in Lincoln City), it is prudent that the City simultaneously enter into an Intergovernmental Agreement with the Community Service Consortium so that the LCLT has sufficient staff resources to carry out its obligations and to ensure that the long term leases will be properly managed in the event the LCLT is no longer capable of carrying out that responsibility. The \$10,000 annual payment to the LCLT covers staff expenses to meet the terms of the contract. This would be a general fund expense.

Lincoln County may contribute resources to this effort, such as additional funds for site preparation, or making land or funds available for home construction. If that happens then the contract and Intergovernmental Agreement could be expanded to include the County as a participant.

Please take a moment to review the concept and I look forward to your feedback as to whether or not the City should proceed as outlined, or if the approach should be modified.

Attachments: (a) Workforce housing conceptual framework, (b) draft minutes from the 1-28-13 Planning Commission meeting, (c) LCLT response to Commission questions, (d) LCLT Board of Directors, (e) LCLT background information, and (f) Housing Policies of the Newport Comprehensive Plan.

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COAST GUARD CITY, USA

mombetsu, japan, sister city

Conceptual Framework for Interagency Agreement and Contract for Workforce Housing Development

Issues:

- (1) City of Newport lacks an adequate supply of affordable workforce housing, as documented in the 2011 Newport Housing Needs Analysis. This is attributed to property values consistently outpacing increases in median family incomes. Consequently, it is difficult for workers to find housing within the city limits, which negatively influences long term growth of the economy, the City's ability to attract and retain employees and employers, emergency response times by emergency personnel living outside the City, and reinvestment in the economy by community members who spend more on housing.
- (2) The City of Newport is committed to actively participating in the development of workforce housing and desires to make available land out of its property inventory as a "land bank" to private developers, non-profits, or agencies with the organizational capacity to achieve this objective (Goals 1 and 2, Housing Element, Newport Comprehensive Plan). The LCLT model guarantees affordability over the long-term through a land lease arrangement, consistent with the City's policy objectives.

Proposal:

City of Newport to enter into a five (5) year contract with the Lincoln Community Land Trust (LCLT) to construct at least six (6) owner-occupied workforce housing units inside the city. Units are to be marketed to individuals or families making between 60 and 120 percent of median family income annually¹. Properties upon which the units are constructed will be placed into 99 year inheritable and renewable land leases to be managed by LCLT or its successor to ensure long term affordability within this target income range.

An Intergovernmental Agreement would also be prepared between the City of Newport and Community Services Consortium (CSC) to ensure that the trust has sufficient staff resources to carry out the terms of the contract and for CSC to serve as a failsafe to guarantee that the lease terms and affordability requirements of the LCLT are met in the event that the trust can no longer uphold the contract terms.

City of Newport's Commitments (via contract with LCLT and IGA with CSC)

- Make property available from its land inventory

¹ For example, for a family of four persons this equates to a household income range of \$33,600 to \$67,200.

- Reserve up to \$30,000 of one-time funds to be applied towards site improvements.²
- Make available a minimum of \$150,000 of revolving loan funds for construction of the units.²
- Pay a sum of \$10,000 per annum to LCLT for professional services associated with performance of contract terms (may be used for general operating expenses or to buy down the sales price of homes, at LCLT's discretion).³
- Allocate staff time to assist LCLT in identifying suitable properties and bringing forward preferred sites and plans to the Planning Commission and Council.

Lincoln Community Land Trust Commitments (via contract with Newport)

- Consult with city staff to identify properties suitable for development
- Vet properties and plans with the City of Newport Planning Commission and City Council, including development of cost estimates sufficient to demonstrate that the sales price achieves affordability
- Perform all necessary due diligence from property selection through design and construction to satisfactory completion.
- Provide homebuyer education, including ensuring that a Housing and Urban Development (HUD) certified course is completed, income requirements verified, and legal review of lease with the buyer is completed.
- Oversee sale of property, including realtor and legal services necessary to complete the transactions and transfer the land into 99 year inheritable and renewable land leases.

Community Service Consortium Commitments (via IGA with Newport)

- Provide staff support to LCLT sufficient to ensure that contract terms are satisfied.
- Carryout the lease terms and affordability requirements of the LCLT in the event that the trust is no longer able to uphold the terms of the contract between the City of Newport and LCLT.

² To be funded out of the Housing Fund (Cost Center #4710) where monies from the sale of city owned property were set aside for use as a revolving loan to fund the construction of workforce housing.

³ The Community Development Department has sufficient funds to cover the initial year of the professional services contract. Language would be added to the contract addressing LCLT's obligations to perform, or lack thereof, should funding not be available for future years.

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, January 28, 2013

Planning Commissioners Present: Glen Small, Mark Fisher, Rod Croteau, Jim McIntyre, and Gary East.

Planning Commissioners Absent: Jim Patrick and Bill Branigan (*both excused*).

Citizens Advisory Committee Members Present: Suzanne Dalton.

Citizens Advisory Committee Members Absent: Lee Hardy and Bob Berman (*both excused*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

In the absence of the Chair, Vice-Chair Small called the Planning Commission work session to order at 6:00 p.m. and turned the meeting over to CDD Tokos.

A. New Business.

1. Conceptual framework for workforce housing initiative. Tokos noted that the Commission had put time into the housing needs study and recommendations. One top priority was to put in a land bank where the City would make property available for housing for those between 60 and 120 percent of median family annual income. That was also a City Council goal. Tokos said that what this concept has is a recommendation on how to put that land bank in place. This is something that has been discussed with the Land Trust, the Community Services Consortium, and Lincoln County; and all of them are on board at this point. The City will contract with the Land Trust. It will be a five-year contract for construction of at least six units. They will be owner-occupied. The Land Trust model is that once the unit is built, the home is sold to a buyer. The land is put into a 99-year renewable lease controlled by the Land Trust. That program is uniquely suited for the City's objectives. If the City is giving away property out of our inventory, we want to make sure it will be available for affordable housing. Tokos noted that the Land Trust is relatively young. He is one of the board members. There are three units in Lincoln City at this point. There was federal money available for acquisition of properties in distressed areas, and Lincoln City was identified as distressed. Those funds are no longer available. This program would effectively be a contract with the Land Trust. Because of the Trust's age, there would be a backup intergovernmental agreement with CSC. CSC covers a three-county area and provides staff resources to the Trust. They would serve if the Trust was no longer able to act as a backup guarantee. The City would make the property available, and the Land Trust would be responsible for putting a house on that. The City has a revolving fund that would be available, which originated from the sale of city-owned property. This would be an on-going commitment. The language would say if we choose not to fund operating contributions to the Trust what the ramifications are to that. The Trust would put out for bid, and the work would be done by building contractors; and there is a private sector element as well.

Small noted that the City is putting in \$10,000, but asked if the other entities also are putting anything into these funds. Tokos said that right now the cities within the County contributed toward general operating expenses. On projects, the Land Trust is putting \$9-10 thousand a pop into these houses in terms of staff work. They would have the choice of either running into the sales price or using this money as general operating support. Tokos noted that this is flexible. Tokos has looked at the City's inventory to make sure we have enough properties. He noted that there are a number of sites; some would include site preparation work. Small asked what the process would be for choosing properties. Tokos said it would be vetted to the Planning Commission and the City Council.

McIntyre noted that this concept talks about a 99-year lease and wondered who is going to be making the lease payments. Tokos said it would be the home buyer, but the lease would be pretty small at something like \$100 a month. McIntyre asked if the cost of the ground is being taken out of the cost of the building to keep the price down, and Tokos confirmed that was the case. McIntyre had a question about who is sharing equity. Tokos thought that the shared equity concept has more to do with the land lease than to the home. When the home is sold, there are restrictions on how much of an increase they can sell the unit for. They would receive full benefit from the proceeds of the sale of the house. The owner gets all equity in the house. McIntyre noted that the lender usually shares a portion of equity as payment for taking a risk of holding the contract. Tokos said he can get additional details on how that works.

Fisher asked about the SDCs, and Tokos said that we have no capacity to waive that.

Dalton asked about the timeline. Tokos said there would be six units over a 5-year period. They hope to have the agreement in place over the next couple of months. The Trust serves the entire county. They are trying to get one in Toledo. There should be an average of one unit every ten months.

East mentioned the Aqua Vista development in Yachats that is similar to this. Tokos said that was under a planned development, and the Trust didn't want to tackle that at this point.

Tokos noted that these homes are for anybody in the community that falls within the 60-120% median family income. By itself, this is not enough homes to support the needs of Newport.

Croteau said that assumed the Trust already has selection procedures in place for the dwelling. He wondered if the price is going to be set or competitive for a group of people. Tokos said the price will be set depending on the parcel and how it is developed. That will be brought forward to the Council. The price will be set when the Trust goes out looking for a contractor. Croteau noted that this is restricted to median income for qualified buyers, but wondered if it is like any other real estate financing; first come first served. Tokos said that buyers go through a home-buyer educational course. Income requirements are verified. There is legal review of the lease with the buyer. The Trust is responsible for overseeing the sale of the property. He noted that the Trust is to the point of having three properties under development and have a pretty good model going. They also borrow from a large land trust in the Portland area.

Small wondered, after a house is built and the initial owner decides to sell, how we make sure the next purchased falls under those qualifications. Tokos said he believes that is in the purchase agreement initially. He can bring back additional information on that in terms of future buyers. Fisher said that part of it would be that how much they can sell for will dictate keeping it in this income level. Small said that this house would be sold below market value, and who wouldn't like to buy at that level. He said there should be something saying that future buyers have to have income within those marks. McIntyre agreed that the framework will have to guarantee that. Tokos said those guarantees are in place, and he will have to bring that to the Commission.

East said that in the past, the Commission has talked about City fees and prorating to the size of the house on a square footage basis to control costs. He wondered if we could talk about that again. Fisher noted that SDCs are expensive right now. Tokos said that SDCs for a single-family home are \$10,600 now; but that is not the total development cost. It is about \$17,000-\$18,000 when looking at a water meter, the school construction excise tax, etc. The capital projects SDCs are intended to fund are expensive too. Croteau said it sounds like something the City should do.

Tokos said he will bring back details in terms of how the sales agreement works for buyers and what exactly guarantees future buyers will be in that 60-120% median so the City's objectives are guaranteed to go forward in years to come.

Small said he could image a great waiting list of potential buyers and wondered how they will be qualified. McIntyre said there would have to be some restrictions to prevent people from speculating and turning around and renting the houses. Small noted that it is owner-occupied. Fisher said that HUD essentially requires the owner to live there a year. Tokos said the Trust's has experience to date with one sold unit, one on the market, and one almost finished. They haven't had huge lists. It could be lack of familiarity. It's not a conventional sale. They can't sell at market rate. They don't own the land; they own only the house. They are restricted on the resale. That does away with speculation. Those within the 60-120 MFI can't afford anything else. This is the only way they can get a house of that size in that type of price range. East wondered if there would be a certain square footage or number of bedrooms requirement. Tokos said that is why he left it as units. Depending on the properties, they might be more suitable for duplexes. McIntyre asked if they could be condominiums, and Tokos said potentially; but not likely. Based on what we have in inventory, they will be more single-family or duplex type development. McIntyre wondered how you establish ownership on a duplex, and Tokos said common wall. Fisher said they would be more of a townhouse. Tokos said they would have to bring those proposals before the Planning Commission. McIntyre asked if they open bids to builders, and Tokos confirmed that.

Dalton said that she is imagining lessons could be learned from other communities and is imagining connecting with them. She asked that as things come up, if Tokos will alert the Commission to those things.

Tokos said that the way this arrangement is set up, the Planning Commission and City Council review proposals brought forward by the Trust consistent with the housing agenda. Goals were put in place in terms of long term affordability. McIntyre wondered who would be vetting the builders and their proposals, and Tokos said that would be the Trust. McIntyre wondered if the Trust would develop a list of approved contractors. Tokos said they have to be licensed; other than that, it's a competitive bidding process. Fisher wondered why individuals couldn't do the construction themselves. Tokos said having the Trust overseeing the construction is a way to insure the final sales price is consistent with the targeted range of 60-120 MFI. The Trust has to be very selective on what select hit that price range. Someone building to suit might go with custom

cabinets that don't fit within the price range. The Trust has the land long term and is involved and has the relationships to make sure contractors are using long-term products.

Small wondered if the Trust selects the floor plans; and Tokos confirmed that they do. The buyers come in when the house is finished. They get a finished product. Small asked if contractors are building an established set of plans. Tokos said there may be some flexibility in floor plans submitted. East agreed it has to be flexible. He said construction costs will influence the cost of the house and the size. There has to be a lot of flexibility until they have done it long enough that they know a certain square foot set of plans will meet that price range. McIntyre said he thought the Trust staff will be looking at plans and sees the type of house they can build and then get bids on that once a house is designed; then builders build to that design. Tokos said it is the role of the Trust staff to have enough detail that they are comfortable it will work on that site.

Croteau wondered who would manage the revolving fund. Tokos said they would make that request to the City Council. Then it is paid back on the sale of the house.

Small noted that this mentions employee families, but he asked what about the retired or the disabled. He wondered if there was a definition of workforce housing. Tokos said that he didn't know if we pinned that down that tight in the City's policies. He said that to the extent we define that, we want to be consistent with what we did in the policies. He can take a look at that. Fisher wondered if it had to be the gainfully employed. The disabled would qualify but are not in the workforce. Tokos said that he doesn't recall defining workforce, but just targeting it at the 60-120% MFI.

Tokos said that he can bring some additional information about shared equity, how this plays out for future buyers, and if this is for anybody or more targeted to the workforce. Tokos asked, and the Commissioners said that they think that the framework looks okay.

2. Summary Building/Land Use Activity (2012). Tokos had provided an overview of what was done in the last year and where things stand. At the next meeting, he would like to do an update of the actual work program as we did in the past so that we can have goals conversation. The City Council will set goals later in February. Tokos noted that in terms of permit traffic, building permits were up a little over last year. Electric permits were up considerably. Plumbing permits were down. Construction value was down. Land use actions were on par. The increase in land use fees were still going through the 4-year phase in, so that is why they were quite a bit higher. The memo includes charts showing land use reviews and building permits over the last 10 years. 2008 and 2009 were tough on building; and 2012 was not so bad. Land use reviews were on the lower end. There were fourteen single-family dwelling permits in each of the last two years, which is relatively modest. There were a fair amount of industrial construction; with research and institutional; with NOAA, Aquarium Science, Port of Newport; and LCSD. Commercial construction has been pretty steady with renovations; with the bigger ones being Walmart, and Fred Meyer. Commercial looks like it will continue. Walgreens went out last year in December. Safeway will be doing a renovation. They are looking to start construction toward the end of March. They are locked in a lease and are confined to the existing footprint.

Dalton noted that sometimes Safeway and Fred Meyer do gas stations, but not in Newport. Tokos noted that Fred Meyers tried to find a location. It is just a lack of sites. Safeway hasn't talked to the City yet. Tokos noted that Umpqua Bank is planning to submit plans to rebuild where the bank burned down. They anticipate having plans in February. O'Reilly Auto Parts already submitted plans are in review. They are waiting for the structural fill next door to be done first. Small wondered if any of these would lead to something coming before the Planning Commission. Tokos said these are all pretty straight-forward unless there is something like an exception or adjustment to parking or structure height. Tokos noted that the Teevin Brothers Log Yard is moving forward, which is one of the largest industrial developments we've seen in a long time. Residential will probably remain pretty steady as it has been.

Tokos noted that the Teevin development is controversial. There are folks that either want to see it or those that don't. Fisher noted that their operation is an outright use for that facility. He said that when he was on the Port Commission, there was a log yard there. Because the port doc went upside down, they left; and it hasn't been used for a while. Tokos noted that Teevin will be subject to a DEQ permit. They have a \$300,000 investment in a storm drainage system to deal with that. He said that everything associated with their project is located upland; there is nothing in the Bay. Tokos talked about the debarking operation. He said it is noisy, but will be set back and will adhere to the noise ordinances. Tokos said that Teevin has their Traffic Impact Analysis (TIA) in with the City. We are requesting additional information. It is in the public comment period, and he is getting lots of letters; but a lot have nothing to do with the criteria. He said there is a very high chance that the Planning Commission will see an appeal on this. He received a request for appeal forms before this even hit the streets. The Commission may have multiple TIAs to look at. Fisher talked about the log operation that was there before.

Fisher asked about the sign code amendments that the Commission went through and passed on to the Council. He wondered in the end how much different the ordinance was than what the Commission came up with. Tokos said not materially different.

There was a big debate by the Council whether to consider it at all, whether electronic message signs make sense, and dealing with sign massing along the highway. The majority thought it was fine. There was just some cleanup.

Tokos went over the legislative items shown on the back of his memo. He said that it was a pretty productive year in terms of legislative actions. We wrapped up things that had been in process for multiple years; like the TSP, of which the County is still working on their piece. That had been some 5-6 years in the works. The VRD and BB update is complete and is being implemented. Most units have been inspected. There have been a lot of corrections in terms of people addressing safety issues. That was positive. Tokos said we have 85 or so endorsement applications. The companies associated with rentals are all tuned in with it. The Economic Opportunity Analysis was finished on phase 1. We are working with the TAC on wrapping up the recommendation for the upcoming budget for the business recruitment/retention position. The Tree City ordinance was accomplished. The Parks Department submitted the application. Coho/Brant was completed and was rolled into the submittal to ODOT for the STIP project that involves the intersection at 35th and cleanup of Ferry Slip. Tokos said it looks like we will get that funding from ODOT to help with the Urban Renewal funds. \$1.5 million came out of Urban Renewal. The modification of the zoning ordinance that we have been working on for years was finally taken care of.

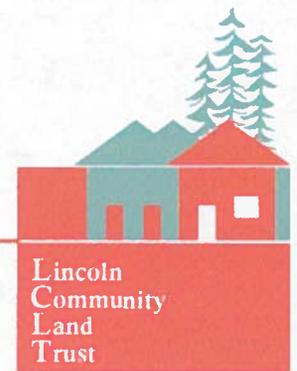
Tokos noted that ongoing legislative initiatives include the amendments that the Planning Commission will consider tonight in regular session to clean up the rules for UGB expansion. Then there will be the UGB expansion itself. The city-wide erosion control has gone slowly. Tokos is not sure we have the capacity in the building department to implement that. He said that stormwater could go in sync with that. He said it is still a priority.

Tokos said issues for the coming year include annexation strategy for South Beach industrial areas, concepts for formation of a north-side Urban Renewal Area district that will probably be budgeted by the City Council in the upcoming year and with which the Planning Commission will have to get involved. There is the scheduled review of the Nye Beach Design Review Overlay. Assuming that the UGB expansion goes through, it will have to be annexed. The City Center is working on design guidelines. Tokos noted that the City just met with ODOT on the 25th to talk about bridge replacement. He said that discussion is just getting started; but the fact that they are on board to talk about it is a big deal. As mentioned in work session, we still have the park model issue out there. Development of standards for stormwater runoff is still out there as well. Tokos said that the Territorial Sea Plan may come up. He noted that plan amendments were approved by LCDC authorizing offshore development. It was a little more generous to the wave industry than the advisory committee wanted. But for Newport, because we secured the grid-connected test facility and have the non-grid-connected test facility, it doesn't look like we will see commercial deployment within the territorial seas (3 miles out).

B. Adjournment. Having no further discussion, the work session meeting adjourned at 7:00 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant



January 30, 2013

Newport City Hall
ATTN: Newport City Council
169 SW Coast Hwy
Newport, OR 97365

Dear Councilors of Newport and the Newport Planning Commission,

Please find responses to the questions regarding the proposed initiative to create additional units of affordable workforce housing in Newport. Please contact me or the board should there be any further questions. Your support of this initiative is greatly appreciated and will further the affordable homeownership efforts underway in Lincoln County.

1. Please describe the concept of "shared equity" and how it is applied in the Lincoln Community Land Trust model.

Shared equity homeownership, often called third sector housing, is an important middle ground between rentals and conventional homeownership. It works especially well in areas where high home prices force lower to moderate income families out of homeownership. The primary difference in shared equity homes is that the home's value on the housing market can only appreciate up to a set amount each year. For Lincoln Community Land Trust, that amount is 2% per year compounding beginning with the sales price. This ensures that the home is affordable over the long term, giving subsequent homebuyers the same opportunity to own the home affordably. While a shared equity home does limit the return on appreciation it still gives the homeowner the chance to build wealth. It also is a proven model for the long term protection of subsidies invested in the home as the subsidy remains at work for a long period of time because of the shared equity. It is known that many shared equity homeowners eventually do go on to purchase conventional market rate homes.

2. How will the City be assured that homes developed pursuant to this contract will continue to be priced within 60 to 120% of MFI for each subsequent buyer?

The Lincoln Community Land Trust land lease that is recorded with each home sale specifies in article 10 that the homeowner may only transfer (sell) the home and its leasehold interest in the land to an income-qualified person. Income qualified is stipulated by a person or group of persons whose household income is not greater than 120% of the Median Family Income for that area, defined by HUD's annually published income limits. The land lease also stipulates that the LCLT be contacted if interested in selling the home prior to the sale. The bank is expected to also contact the LCLT as the land lease is recorded with the home and its full terms in effect pertaining to the resale of the home as described above.

The Lincoln Community Land Trust homebuyer application gathers the income and expenses of the household with proof of income documentation to determine eligibility. A HUD approved homeownership counselor works in partnership with LCLT, through the local Community Action Agency, to review these applications, check credit, and assist in calculating the Median Family Income of the applicant. If the LCLT application shows the interested homebuyer is over the 120% of MFI, they are considered ineligible to purchase a home and notified accordingly.

The third purpose of the LCLT listed in the Articles of Incorporation is to provide opportunities for people living in Lincoln County with low and moderate incomes to secure housing that is safe, decent, and affordable. Low income as defined by HUD income limits is 80% and moderate is defined as up to 120% of Median Family Income defined by the Neighborhood Stabilization Program, a HUD support program to community land trusts nationwide. For as long as the LCLT is in existence and operational, these terms must be upheld per the Articles of Incorporation and the land lease provisions. Should the LCLT experience the dissolution, the assets including the land and homes attached to the land will be given over to a like minded organization to maintain their affordability in perpetuity. The articles of incorporation establish an exempt not for profit or government entity to be the recipient of the assets should this occur. Per the provisions of this contract, the CSC has been approached to be the steward of the affordability of these homes and uphold the land lease provisions in the absence of LCLT.

3. The objective of this initiative is to facilitate the provision of “workforce” housing. What assurances, if any, can LCLT provide that the units to be constructed will ultimately be purchased by persons who are actually working in the community?

The eligibility criteria for owning a land trust home is that the family be employed in Lincoln County and meet the income requirements. Once the application is submitted, the land trust designated review committee and the HUD certified homeownership counselor review the application for eligibility. This is in compliance with the LCLT articles of corporation which state land trust housing must be made available to those in the Community (defined as Lincoln County per the articles) with low and moderate incomes and assisting them to obtain affordable housing in the areas where they work so they may live in the areas they serve. It is the mission of the organization to provide affordable homes to working families of Lincoln County as well as a requirement of the articles of incorporation.

Sincerely,



Bert Baggett, Director



01/01/12

Lincoln Community Land Trust
2012 Board of Directors



Name	Prof./Interest Area	Company/Affil.	Email
Bill Hall, Chair	Lincoln County Commissioner/ Housing Advocate	Lincoln County	bhall@co.lincoln.or.us
Curt Abbott, Vice Chair	Director, CLPUD/ Housing Advocate	Central Lincoln People's Utility District	cabbott@peak.org
Alison Robertson, Secretary	Assistant Director, Urban Renewal/ Urban Planning	City of Lincoln City	alisonn@lincolncity.org
Ron Tierney, Treasurer	Housing/Finance	City of Lincoln City	ront@lincolncity.org
Sally Bovett	Director, Habitat for Humanity	Lincoln County HFH	sbovett@habitatlincoln.org
Michelle Amberg	City Manager/Workforce Housing Advocate	City of Toledo	manager@cityoftoledo.org
Max Glenn	Consultant/Housing Advocate	Yachats Workforce Housing Committee	m35glenn@peak.org
Derrick Tokos	Director, Community Development	City of Newport	d.tokos@newportoregon.gov
Position Vacant	General Representative		

Derrick Tokos

From: Benjamin Baggett [bbaggett@communityservices.us]
Sent: Friday, January 25, 2013 11:18 AM
To: Derrick Tokos
Subject: LCLT Background info.
Attachments: Capacity-Building Request Ltr to Business 2011.doc

Derrick,

The mission of the Lincoln Community Land Trust (LCLT) is to provide permanently affordable homeownership for working individuals and families in Lincoln County. LCLT, established in 2008, is a 501(c)(3) community led, member-based organization. The organization was created from an action item in [At Home in Lincoln County: A Ten-Year Housing Plan for Lincoln County](#), a report made possible by The Lincoln County Government and the regional community action agency. An all-volunteer organizing committee met in September, 2007 and formed the organization. Today members and an all-volunteer board direct the organization and one part-time staff person.

The goals of the Lincoln Community Land Trust

1. To build or renovate homes in Lincoln County for sale at prices that will remain affordable to working individuals and families with low and moderate incomes.
2. To use public and private resources responsibly to bring home prices within reach for working individuals and families.
3. To restrict the resale price of LCLT homes in order to ensure they remain affordable for future buyers.
4. To provide homes that are characterized by quality, attractiveness, and sustainability in development and operation so they are considered an asset by all communities within Lincoln County

Attached is a capacity building request letter that is a good summary of the work of LCLT.

Since this letter LCLT has grown a bit as we now have two additional homes.

I can provide more information about those homes or other if you like.

Good luck on your presentation, if you need me to be there let me know.

Sincerely,

Ben

Ben Baggett, Director

Lincoln Community Land Trust

www.lincolnclt.org

545 SW 2nd St., Suite A

Corvallis, OR 97333

541-758-2761



July 29th, 2011

Name
Title, Business Name
Address
City, State Zip

Dear _____:

The Lincoln Community Land Trust (LCLT) is seeking \$_____ capacity-building support from _____ to facilitate the development of affordable workforce housing in Lincoln County. See our 2010 Annual Report online at www.lincolnclt.org for more information about our progress. Also, we look forward to unveiling our Lincoln County wide Workforce Housing Needs Assessment in September. Your contributions will help cover the expenses of the special event. You will receive an invitation and special recognition of your contribution at the event. See attached giving levels details. We are also in the midst of selling our first home and constructing our second on the adjacent lot. Our goal is to create a green, energy efficient home that remains affordable to those who deserve it. You may specify how you would like your contribution to be used, construction fund or general operating support.

And now a little background about our work and the need for workforce housing in Lincoln County:

Problem: Lack of Affordable Homes for our Local Workforce

Increasingly, the workforce in Lincoln County is struggling to secure affordable housing. Home prices have far surpassed wage growth over the past two decades leaving few affordable housing opportunities. Lincoln County businesses are feeling the impacts of this and share concerns about employee recruitment, retention, satisfaction, and productivity; all which continue to affect the bottom line for our local businesses.

Solution: Lincoln Community Land Trust

The Lincoln Community Land Trust (LCLT), a registered 501 (c)(3) tax-exempt organization, works to provide permanently affordable homeownership opportunities to working families and individuals across Lincoln County. LCLT makes homes permanently affordable by selling the home and leasing the land in a 99 year lease. Permanently affordable homes can be a natural step between renting and full market homeownership by keeping housing costs low while building equity.

Opportunity: Local Business Partnership with LCLT

Businesses benefit from the LCLT's success. LCLT creates new affordable homeownership opportunities, provides stability from the housing market, gives additional protection to homeowner's investment, delivers HUD approved homeownership counseling and support, and gives employees affordable housing options close to work.

Capacity building support contributions give LCLT part-time staffing, legal and accounting support, public outreach materials, resources, and training resulting in project development, community outreach, and organizational development.

Members of the LCLT Board of Directors would like to review this request with you and answer questions at your convenience. Feel free to contact me at (541) 758-2761 or bbaggett@communityservices.us. Contributions may be sent to the address below. Checks can be made to LCLT.

Sincerely,

Benjamin Baggett, Director
Lincoln Community Land Trust
545 SW 2nd Street, Suite A
Corvallis, OR 97333
www.lincolnclt.org

Attachment 1
Community Land Trusts

Community Land Trusts (CLTs) are primarily focused on providing ownership housing that is affordable to people with modest incomes. One of the unique features of CLTs is that they are equally concerned with housing affordability today as well as in the future.

CLTs typically have the following goals²:

- Remove land as a commodity so it's no longer subject to market pressures.
- Make homes affordable to families who can't yet or will not be able to afford market-rate housing.
- Offer families the opportunity to create stability and wealth.
- Attempt to balance the interests of communities with the interests of individuals.
- Ensure a stock of affordable homes.
- Help create and maintain balanced communities that contain income-diverse neighborhoods.
- Prevent displacement of households with low and moderate incomes as neighborhoods convert to seasonal rentals.

CLTs typically have the following characteristics:

- **Nonprofit, Tax-exempt Corporation.** Some CLTs are stand-alone 501(c)(3) corporations, and others exist as a program area housed within another nonprofit corporation.
- **Dual Ownership.** Typically, the CLT owns the land, and an individual or family owns the house. In some cases, where land ownership by the CLT is not feasible or desirable (such as in a mixed-income condominium), the CLT retains an ownership interest in the property in order to enforce the resale restriction that maintains housing affordability.
- **Leased Land.** A 99-year, renewable, inheritable lease gives the homeowner full rights to use of the land and protects the interests of the homeowner, the land trust and the lender that financed the deal. In condominiums, CLTs may use perpetual deed covenants that contain the same provisions, rights and restrictions as the land lease.
- **Perpetual Affordability.** A resale formula in the legal documents gives homeowners a fair return on their investment while giving future homebuyers fair access to homes at an affordable price.
- **Perpetual Responsibility.** The CLT has an ongoing interest in what happens to the homes on its land – and to the people who live in them.
- **Place-based Membership.** A CLT is beholden to the residents of the “community” it serves.
- **Community Control.** CLT members nominate, elect and may serve on the Board of Directors.

There are 245 CLTs across the United States in almost every state. There are 9 CLTs or organizations using the CLT model operating or preparing to operate in Oregon.

² Adapted from "What is a Community Land Trust?" produced by the Northwest Community Land Trust Coalition.

Attachment 3
Market Analysis

Population. Between 2000 and 2008, the population in Lincoln County grew at a modest pace compared with the overall growth of the Oregon population³.

Geography	1990 Census	2000 Census	2008 PSU Estimate	2000-2008 Growth
Depoe Bay	870	1,174	1,405	19.68%
Lincoln City	5,903	7,437	7,875	5.89%
Newport	8,437	9,532	10,580	10.99%
Siletz	992	1,133	1,190	5.03%
Toledo	3,174	3,472	3,610	3.97%
Waldport	1,595	2,050	2,145	4.63%
Yachats	533	617	780	26.42%
Unincorporated	17,385	19,064	17,130	-10.14%
Lincoln County	38,889	44,479	44,715	0.53%
Oregon	2,842,321	3,421,399	3,791,075	10.80%

That trend is anticipated to continue: Oregon population growth is expected to outpace Lincoln County growth well into the future⁴.

Seasonal demand. These data do not reflect recent trends that have created a significant seasonal population. First, Lincoln County has a very high percentage of homes owned by people claiming residence outside the County. These second homes comprise 37% of the total stock of ownership housing⁵. Second, Lincoln County's economy has moved away from fishing, forestry, and farming toward tourism and recreation. This shift brings visitors and employment to support the visitors in the warmer months of each year.

For-sale home prices. Seasonal demand for housing and the shift toward tourism have increase demand for Lincoln County housing generally and for ownership housing specifically. This contributes to accelerating growth in the median sales price of homes⁵, which more than doubled from 1990 to 2000 and have roughly doubled again since then.

Median Sales Price	1990	2000	2007	2000-2007 Change
Bare Land (Non-View)	\$14,500	\$35,000	\$76,500	118.57%
Improved Property (Non-View)	\$54,000	\$111,750	\$248,000	121.92%
All Housing Units	\$59,500	\$130,000	\$257,750	98.27%

³ Portland State University Population Estimates

⁴ Oregon Office of Economic Analysis Long-Term County Forecast

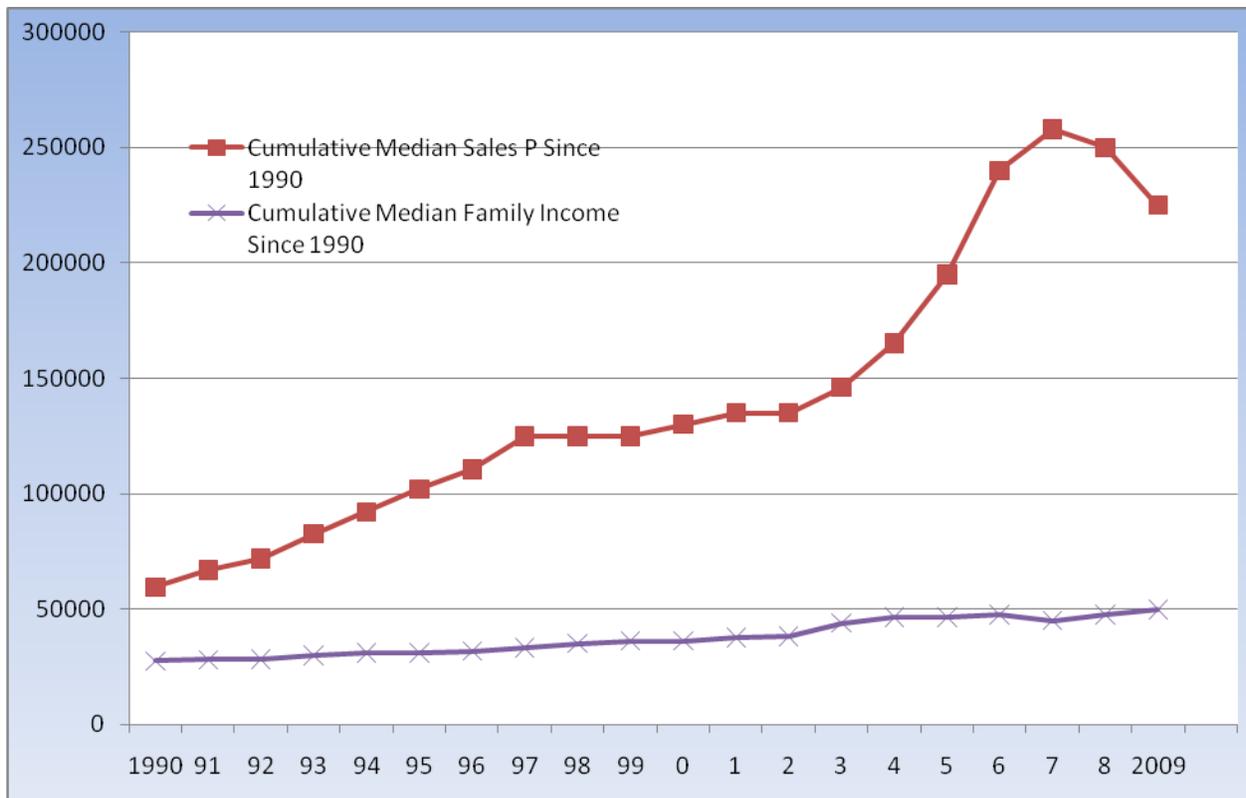
⁵ Lincoln County Assessor

Effects on income. The shift in Lincoln County’s economy from commodities to tourism has also had a depressing effect on wages. Wages in Lincoln County have grown about 3% each year since 2000⁶.

Covered Employment	1990	2000	2007	2000-2007 Change
Average Pay – All Industries	\$16,757	\$23,226	\$28,359	22.10%

The number of Lincoln County residents in poverty has grown by almost 40% between 2000 and 2005 (most recent data available)⁷. Lincoln County is listed as a “Distressed County” for 2007 taking into consideration a number of factors including employment change, average wage change, annual unemployment compared with Oregon, and per capita personal income compared with Oregon⁸.

The housing market in Lincoln County is becoming increasingly unaffordable to the local workforce. The following chart shows a widening gap between growth in income and growth in housing sales price particularly before 1997 and after 2003.



⁶ Oregon Employment Department, Average Pay for All Industries

⁷ US Census Bureau, Small Area Income & Poverty Estimates, All Ages in Poverty

⁸ Oregon Economic and Community Development Department

Specific examples of the effects of this widening gap include the following:

- Samaritan North Lincoln Hospital in Lincoln City has nurses commuting from McMinnville due to the lack of good affordable housing in Lincoln City.
- The Lincoln County School District hired 35 new teachers one summer and five of them resigned their contracts and took jobs elsewhere before school started. In all five cases, they cited housing prices as the reason.
- Lincoln County recruited for a top managerial position in the county and lost a candidate because of housing prices. The salary was comparable to what the candidate was earning in a similar position in the Midwest, but the differential in housing prices made it impossible to consider the move.
- A new business in Lincoln City had to delay its opening. It had hired six employees, all from out of the area, and three of the six decided not to accept the positions at the last minute. All three cited housing prices as the reason

These people, and many other workers like them, represent the market for LCLT homes. Accessing the market will require specific outreach to residents with low and moderate incomes, employers, and community housing partners in Lincoln County. It requires the LCLT remain visible those already living in the community through public presentations and to those considering becoming a part of the community through a website. The LCLT will also continue participation on the County-sponsored Workforce Housing Committee.

Attachment 4
Shared Equity Homeownership

The following article is published by NCB Capital Impact. NCB Capital Impact “is a national non-profit organization that creates access to capital and expert technical assistance otherwise unavailable for low- and moderate-income communities.” Community land trusts are one form of shared equity homeownership. This article provides some background on the importance of having community land trusts as one strategy to address affordable workforce housing.



Shared Equity Homeownership

A new path to economic opportunity

We have reached the end of an era in housing policy. For the first time in decades the national homeownership rate has begun to fall. Once a path for economic advancement for lower income families, homeownership has become a key barrier to prosperity for a growing segment of society. Overcoming widening wealth disparities will require bridging the growing gap between renting and owning. Since the 1930s, federal and state policies promoting homeownership have relied primarily on mortgage product innovations to expand access to homeownership. The spectacular failure of more recent mortgage product innovations, however, resulting in a rising foreclosure rate, suggests we may have reached the limits of this approach. Alongside mortgage market supports, federal, state and local governments also provide direct subsidies to assist lower income homebuyers. These subsidy programs cost billions of dollars each year, but they serve only a tiny fraction of the nation's income-eligible households.

Shared equity homeownership offers a more effective, resilient, and sustainable approach to asset building and economic advancement for lower income families. By investing current homeownership subsidies more wisely, we could build a growing portfolio of permanently affordable homeownership units that offer predictable wealth creation opportunities at a scale necessary to make a difference to the overall structure of American society. We could share the risk and responsibilities of homeownership, greatly increasing the likelihood that first-time homeowners with limited income become successful homeowners. Building a large-scale shared equity homeownership sector will not require any grand new federal program, only a willingness to rethink the terms of our current investments.

The promise of mortgage product innovation

In 1932, Franklin Roosevelt, then a Presidential candidate in the depth of the Depression, recognized that rapidly rising economic inequality in the 1920s had contributed to the financial crash and social unrest of the 1930s and offered Americans a "new deal." Roosevelt sought to save the market economy from itself by offering more Americans a greater stake in economic growth. A centerpiece of the New Deal was a dramatic restructuring of the housing finance system. Rather than simply rebuild confidence in the failed system, Roosevelt launched a new era in which federal intervention in designing and backing new financial products for the housing market made possible the long-term, fixed-rate, self-amortizing mortgage, an innovation that helped to bring homeownership within reach of a huge new segment of the population. Between 1945 and 1960, the homeownership rate rose from 45% to 65%.

Widespread homeownership became a key feature of American society, and it did, as Roosevelt hoped, help create a vast new American middle class. After the war, millions of working class families were able to take advantage of federal mortgage insurance to obtain low-interest mortgages to purchase brand new suburban homes. And these new homes grew in value over the ensuing decades, helping these families to finance, larger homes, new businesses, and college educations for their children. For working families this was, indeed, a "new deal."

The limits of mortgage product innovation

But this strategy left many people behind. Today the very federal housing innovations intended to overcome class difference help to reinforce rather than remove economic inequality. And as the homeownership rate grew, so grew the consequences of **not** owning a home. As the gap between rich and poor has grown, the gap between renting and owning has grown even faster. Today the average homeowner under the age of 65 has a net worth of \$57,000 while renters in the same age group have an average worth of less than \$5,000. Home equity makes up nearly all of this difference. This places renter households at a permanent disadvantage, one which is passed on to future generations.

So it should be no surprise that millions of American families, in their zeal for ownership, entered into loans that required them to pay more than they could reasonably afford. Millions of families who attained homeownership only through unsound loans, now face foreclosure. Millions more will avoid foreclosure only by selling at a loss. For these families, ownership has not been an asset building strategy. Many will face lasting financial and credit problems as a result. While some were lied to by predatory lenders, many misled themselves in their single minded pursuit of an otherwise unattainable goal - a goal that they rightly perceive to be key to so much else in American life. Some portion of the blame for the current crisis must be laid on American housing policy which, since the New Deal, has made homeownership a powerful path for economic advancement and renting a dead end.

The spectacular failure of mortgage products that were hailed only a few years ago as holding the key to expanded low income and minority homeownership, has touched off a world wide credit crunch and led to the largest financial crisis our nation has seen since the Great Depression. This crisis suggests that a limit may have been reached in the strategy of using innovations in mortgage product design to promote rising homeownership. Many observers are now questioning the wisdom of the goal of pushing for higher and higher rates of homeownership - especially among low-income families. Nonetheless it is clear there is important unfinished business to address in the housing sector.

A new approach to homeownership and wealth building

As we prepare once again to rescue the market economy from itself, it seems a good time to step back and reflect on the underlying goals of homeownership policy. Having reached the limits of the mortgage product innovation approach we need a new path forward. And if housing policy is to be a means to full inclusion and social equality then that path must involve spanning the ever widening distance between renting and owning.

Bridging this gap does not mean turning everyone into a homeowner. It is neither possible nor desirable to carry every last renter over this river. Instead, we need new stepping stones - housing options **in between** traditional rental housing and traditional ownership that allow those who choose to, to cross on their own. Perhaps as important, we need a wider range of options so that those who make it to homeownership do not lose their homes to foreclosure and those who never make it to homeownership can still build meaningful wealth.

Since the mid-1990s, much of the wealth creation that American families have realized has come from speculative increases in the value of their houses. We need to remember, however, that over the past century, the vast majority of homeowner asset accumulation has, instead, come from the gradual and predictable retirement of mortgage debt. That renters are denied the right to speculate in short term movements of the housing market is no great

injustice. However, the lack of access to the more modest and reliable asset accumulation that typically accompanies homeownership in hot and cold markets alike leaves most renter households falling ever further behind a society where nearly 70% of households own and where home equity is the only significant source of asset growth for most families.

Shared Equity Homeownership

Filling in this economic gap with additional stepping stones is no pipe dream. What is now called “Shared Equity Homeownership” brings together a range of different housing models including limited equity housing cooperatives, community land trusts and deed restricted houses and condominiums. What these models have in common is a commitment to balancing the twin goals of preserving housing affordability for future generations and offering today’s generation of first-time homeowners a dependable opportunity to build significant wealth. Shared equity homeownership programs achieve this balance by selling homes at below-market prices to lower-income buyers and limiting the resale price that these homeowners can charge when they later decide to sell. They offer steady wealth creation without the boom and bust of speculation.

Ironically, it is this limitation on the homeowner’s future profits that makes shared equity homeownership a promising strategy for overcoming asset inequality in America. Many local homeownership assistance programs fail to preserve long-term affordability and these programs do, indeed, generally offer homeowners greater opportunities for individual wealth creation when the market is hot. But because so very few homebuyers are able to benefit from these one-time grants, the programs don’t make a meaningful contribution to overall asset building goals. In contrast, shared equity homeownership programs use the same initial investment to produce a lasting stock of permanently affordable housing which offers asset building opportunities and stable housing to one generation after another and allows modest annual investments to serve much larger numbers of people.

Shared equity homeownership programs generally provide post purchase support to lower income owners, ensure occupancy and promote ongoing maintenance of assisted homes and help owners avoid foreclosures. A recent study found that active intervention on the part of community land trusts allowed owners to avoid foreclosure in almost all cases. The foreclosure rate among CLT homeowners was less than 0.2% - one tenth of the national average and an even smaller fraction of the average among the lower income homeowners that CLTs serve. This “backstopping” support helps to stabilize both the homeowners and the neighborhoods that they live in. Shared equity homeownership limits the negative impacts that substantial swings in home values often have on lower income communities - gentrification during substantial “up” periods, and increased vacancies and dilapidation during “down” periods.

Taking Shared Equity to Scale

The appeal of mortgage product innovation lies in the fact that simple market or regulatory changes can make homeownership a reality for millions of families without requiring correspondingly large amounts of public investment. By contrast, federal, state and local governments together spend billions of dollars each year to create subsidized homeownership opportunities for lower income households but these programs together offer assistance to such a small fraction of lower income families that they are largely irrelevant to the larger challenge of economic equality.

For example, states and local governments use approximately 25% of their annual federal HOME allocations - or about \$300 to \$400 million per year nationally - to provide assistance to around 30,000 lower income homebuyers. Homeowners are largely allowed to keep this subsidy if they remain in their homes for a period of 5 to 15 years. The average amount of HOME subsidy provided per homeowner in new construction projects has increased from approximately \$20,000 in 1997 to \$31,000 in 2007. This is a wonderful gift for those families but not an effective asset building program for the nation because it serves only 3 in every 10,000 US households each year.

For comparison, the MacArthur Foundation estimates that our \$33 billion annual investment in affordable rental housing provides assistance to fully one quarter of all eligible households. It is neither likely nor desirable to allocate similar resources to affordable homeownership. But what could we realistically achieve by simply investing the money we already spend on ownership in a smarter way?

Between the 1950s and 1980s, several federal and local programs supported the development of 425,000 units of permanently affordable Limited Equity Housing Cooperatives, one type of shared equity homeownership. While those funding programs have been largely phased out, these homes survive and remain affordable. Each year approximately 42,000 new households are offered affordable housing and asset building opportunities as a result of the normal turnover of these units. At no annual cost to taxpayers, these co-ops boost more families into homeownership each year than are helped into homeownership by the \$1 billion spent by the HOME program.

There are roughly 29 million households earning between 50% and 100% of median income. Of these, 18 million are already homeowners. Roughly, 3 million are renters who express no desire for homeownership. It is the remaining 8 million renter households who are most likely to benefit from shared equity homeownership. Two and a half million of the 18 million homeowners earning between 50% and 100% of AMI are paying more than 50% of their income for housing costs. Financially precarious, such cost-burdened homeowners are constantly at risk of slipping back into tenancy. These households, along with approximately another half a million households outside this income range, make up the 11 million household potential market for publicly assisted homeownership.

Currently HOME funded ownership assistance helps *less than 3 tenths of one percent* of these potential beneficiaries. But if we were to invest HOME funds in a lasting way, each year we would add these 30,000 new homes to a steadily growing pool of shared equity homeownership units. Over a 40 year period, with the same annual investment (adjusted for inflation) we would build a stock of nearly 1.2 million permanently affordable homes. Together with the half million or more existing shared equity homeownership units, this portfolio would still represent only 1.4 percent of all housing. However, these units would meet the needs of nearly 20% of the 11 million potential beneficiaries - a high enough share that most households could benefit at some point in their lives. With the regular turnover in this stock of permanently affordable housing, approximately 285,000 units would become available for new buyers each year.

A number of communities have already achieved this degree of market penetration. For example, shared equity homeownership represents roughly 1.7% of the housing stock of the city of Burlington, Vermont. Among households earning between 50 and 80% of median (the program's target market), this same stock is sufficient to house 10% of all households and

nearly half of all homeowners in the target income range. At this level of market penetration, families are able to consider shared equity homeownership as one of several *normal* options in the housing market and to move into and out of the system as their circumstances dictate. At this scale, realtors, appraisers, lenders and other real estate professionals are generally familiar with shared equity homeownership and can help would-be buyers make informed decisions about whether shared equity homeownership makes sense for them. At this scale, buyers don't need to worry that there will be a lender willing to make a loan and another family willing to purchase when they choose to sell.

The next step is to expand the number of jurisdictions that have the level of shared equity homeownership penetration that makes real estate professionals comfortable with shared equity homeownership and that gives buyers confidence that a reliable resale infrastructure is in place when they are ready to sell. While it is an ambitious goal, if we are able to sustain interest in fundamentally changing the way affordable homeownership gets developed in the United States, we believe that within 10 years, it is realistic to expect that at least 20 jurisdictions would be producing permanently affordable units at a rate sufficient to house 10% of households within their target income range.

What will it take?

NCB Capital Impact believes that Shared Equity Homeownership is the new affordable housing approach that will:

1. Bridge the gap between traditional owners and renters by creating a safe, incremental system for allowing families to build real wealth;
2. Preserve ownership options in high cost areas near jobs and services to build more sustainable communities; and
3. Make dramatically more efficient use of existing homeownership subsidies to build the case for increasing government spending to promote homeownership.

Inclusion of equity sharing provisions in the Housing and Economic Recovery Act of 2008 opens the door for a more comprehensive embrace of shared equity homeownership as a key component of federal housing policy. This kind of significant redirection of the basic goals of federal homeownership policy won't (and shouldn't) happen overnight. A significant period of adjustment will be necessary for state and local housing agencies and their nonprofit and private partners to better understand shared equity homeownership models and to revise policies and procedures to first accommodate and later encourage shared equity homeownership.

A concerted effort to raise the profile and expand the footprint of shared equity homeownership will require:

1. Dramatically increasing awareness and understanding of shared equity homeownership among policy makers and stakeholders within the real estate and affordable housing industries.
2. Measuring and strengthening documentation of the social and economic impact of established shared equity homeownership programs.
3. Investing in the growth of a robust sector of public and nonprofit agencies with the skills, systems, policies and procedures needed to successfully manage rapidly growing portfolios of shared equity homeownership units.
4. Developing a greater range of standardized national loan products designed to meet the needs of shared equity homeownership programs.

5. Demonstrating that individual shared equity homeownership programs can operate at a more significant scale and identifying key elements for higher production volumes.
6. Realigning existing affordable homeownership programs at the federal, state and local levels to strike a more sustainable balance between asset building and preservation of affordability.
7. Partnering with a broad array of organizations with an interest in affordable housing, smart growth and other complementary issues and promoting Shared Equity Homeownership as a key component of new Smart Growth communities to ensure those areas more fully reflect the economic diversity of most markets and maintain their mixed income character.

Such a national effort should show immediate impact by dramatically expanding the number of states and regions in which shared equity homeownership is widely accepted. Over a 10-year period it is realistic to expect that shared equity homeownership can become the dominant approach to subsidized homeownership throughout the country and that the majority of direct homeownership subsidies would be invested through shared equity homeownership programs.

A national system of non-speculative homeownership opportunities could stabilize housing markets and strengthen neighborhoods while providing both affordable housing costs and predictable wealth creation to millions of American families. By filling the widening gap between renting and traditional homeownership with a new, intermediate, form of housing tenure, we can return to a housing policy that offers both greater security and an opportunity to build wealth for lower income households. We can grow this new housing sector to a scale where it offers housing and wealth building opportunities to the majority of all families currently on the cusp between renting and owning. Lastly, we can do that without any increase in funding for affordable homeownership. In redirecting only a portion of what we currently spend to subsidize homeownership into longer lasting investments we could build a permanent portfolio of affordable homeownership units large enough to permanently bridge the gap between renting and traditional ownership.

10/1/08

HOUSING GOALS, POLICIES, AND IMPLEMENTATION MEASURES

Goals:

Goal 1: To provide for the housing needs of the citizens of Newport in adequate numbers, price ranges, and rent levels which are commensurate with the financial capabilities of Newport households.

Goal 2: To provide adequate housing that is affordable to Newport workers at all wage levels.

Policy 1: The City of Newport shall assess the housing needs and desires of Newport residents to formulate or refine specific action programs to meet those needs.

Implementation Measure 1.1: The City of Newport shall establish a set of verifiable and empirically measurable metrics to track trends in housing development and affordability. The metrics should be based on readily available data sets that are available on an annual basis and should include income and housing cost trends, housing sales, building permits by type and value, as well as others.

Implementation Measure 1.2: The Community Development Department shall prepare annual housing activity reports that include data on residential building permits issued, residential land consumption, and other indicators relevant to housing activity.

Implementation Measure 1.3: The Community Development Department shall conduct an assessment of the housing needs of Newport residents and workforce every five years. This assessment shall focus on the implementation measures and related housing programs as described in the Housing section of the Newport Comprehensive Plan.

Implementation Measure 1.4: The City of Newport shall assess the use of creative funding and land use tools to facilitate the development of government-assisted housing and workforce housing. Tools to be evaluated include urban renewal, lodging tax revenues, system development charge structures, in lieu fees, and others.

Policy 2: The city shall cooperate with private developers, nonprofits, and federal, state, and local government agencies in the provision and improvement of government assisted and workforce housing.

Implementation Measure 2.1: The City shall establish a residential land bank program with the intent of facilitating the development of government-assisted and workforce housing.

Policy 3: The city shall encourage diversity and innovation in residential design, development and redevelopment that is consistent with community goals.

Implementation Measure 3.1: The City shall review the potential for establishing policies and locations for transitional housing in ORS 446.265.

Implementation Measure 3.2: The City shall review options for allowing innovative housing design including pre-approved housing plans. The review shall consider impacts on government assisted or workforce housing on innovative design and should include consideration of innovative options that would result in an increase of workforce or government-assisted housing.

Implementation Measure 3.3: The City shall evaluate how the zoning code can be modified to create more flexibility for innovative housing design, such as form-based code options, or modifications to the conditional use process.

Policy 4: The City of Newport shall designate and zone land for different housing types in appropriate locations. Higher density housing types shall be located in areas that are close to major transportation corridors and services.

Implementation Measure 4.1: The City of Newport shall review the comprehensive plan and zoning maps to ensure that low- and high-density residential lands are located in areas that are appropriate to associated housing types.

Implementation Measure 4.2: The City of Newport shall review the Newport Zoning Code to identify potential amendments related to facilitating the development of needed housing types. The review shall, at a minimum, include the following elements: (1) reduced minimum lot size in the R-1 and R-2 zones; (2) allowing small homes under certain circumstances; (3) adoption of an accessory dwelling unit ordinance; and (4) street width standards. Any proposals to reduce minimum lot sizes shall consider building mass and the potential need to reduce lot coverage allowances.

Policy 5: The City of Newport shall coordinate planning for housing with provision of infrastructure. The Community Development Department shall coordinate with other city departments and state agencies to ensure the provision of adequate and cost-effective infrastructure to support housing development.

Implementation Measure 5.1: The Community Development Department shall review functional plans (e.g., water, wastewater, transportation, etc.) to identify areas that have service constraints or will be more expensive to service. This review shall occur in conjunction with the five-year housing needs evaluation described in Implementation Measure 1.3.

Policy 6: The City of Newport shall discourage, and in some cases, prohibit the development of residences in known environmentally hazardous or sensitive areas where legal and appropriately engineered modifications cannot be successfully made. In support of this policy, the city shall inventory, and to the greatest extent possible, specifically designate areas that are not buildable or require special building techniques.

Policy 7: As much as possible, the City of Newport shall protect residential development from impacts that arise from incompatible commercial and industrial uses; however, the city also recognizes that some land use conflicts are inevitable and cannot be eliminated. Where such conflicts occur, the uses shall be buffered, where possible, to eliminate or reduce adverse affects. Residences that develop next to objectionable uses are assumed to be cognizant of their actions, so no special effort by the adjacent use is required. The residential development will, therefore, be responsible for the amelioration of harmful affects.

Implementation Measure 7.1: The City of Newport shall investigate and evaluate housing programs that may reduce the costs on renters and home buyers.

Implementation Measure 7.2: The City of Newport shall eliminate any unnecessary review processes.

Policy 8: The City of Newport recognizes that mobile homes and manufactured dwellings provide an affordable alternative to the housing needs of the citizens of Newport. The city shall provide for those types of housing units through appropriate zoning provisions.

Implementation Measure 8.1: The City of Newport shall review the mobile home park inventory maintained by the Oregon Department of Housing and Community Services to identify parks that may be at risk of transition to commercial uses. Mobile home parks represent a low-cost housing alternative for lower income households. The City should consider strategies to mitigate the conversion of mobile home parks into other uses including working with park owners or managers.

Implementation Measure 8.2: The City of Newport shall review the zoning code to allow and encourage “park model” RVs as a viable housing type. This review should include establishing appropriate definitions for Park Model RVs, establishing appropriate development standards, reviewing minimum lot sizes, and establishing a set of pre-approved Park Model plans.

**CITY OF NEWPORT
CITY COUNCIL GOALS
FISCAL YEAR 2012/2013**

FIRE DEPARTMENT

Ongoing Goals

- A. Strengthen volunteer and paid staff relationships
- B. Volunteer Recruitment

Fiscal Year 2012/2013 Goals

- A. Reconfiguration of main station
- B. Develop a comprehensive Fire Inspection Program
- C. Consider and/or Update Comprehensive Plan

1 - 5 Year Goals

- A. Implement recommendations from ESCI
- B. Develop a strategic plan

5+ Year Goals

- A. Implement strategic plan

POLICE DEPARTMENT

Ongoing Goals

- A. Maintain volunteer force
- B. Continue to support education and crime prevention
- C. Evaluate and monitor staffing levels
- D. Conduct annual public surveys

Fiscal Year 2012/2013 Goals

- A. Update Comprehensive Plan
- B. Develop and implement a policy review schedule
- C. Develop a technology and equipment replacement schedule
- D. Participate in LINT as staffing allows
- E. Develop a strategy to achieve 100% FTE levels at all times
- F. Develop a resource and partnership to reinstate a school resource officer

1 - 5 Year Goals

- A. Add school resource officer

5+ Year Goals

- A. Become accredited with the Oregon Accreditation Alliance (OAA)

PUBLIC SAFETY

Ongoing Goals

- A. Education and public outreach and designation of October as Emergency Preparedness Month
- B. Maintain Community Emergency Response Team (CERT) program

Fiscal Year 2012/2013 Goals

- A. Transition to an updated 911 system
- B. Develop Tsunami alerts and evacuation routes and sites
- C. Evaluate public facilities for earthquake readiness
- D. Form an Emergency Preparedness Committee - staff level and include ICS training

1 - 5 Year Goals

- A. Implement plan to upgrade structures for earthquake readiness
- B. Become a NOAA TsunamiReady City
- C. Develop a plan and implement stockpiles for emergency preparedness

AIRPORT

Ongoing Goals

- A. Comply with FAA Part 139 regulations by continuing to develop staff by cross-training in all aspects of airport operations
- B. Maintain and develop operational and maintenance core guiding plans for field operations
- C. Continue to explore management options for the FBO
- D. Continue to develop and implement Airport Improvement Projects (AIP)

Fiscal Year 2012/2013 Goals

- A. Complete operational and maintenance plans for field operations
- B. Continue advanced training of operational staff
- C. Develop a plan to offer services of a full-service FBO

1 - 5 Year Goals

- A. Develop the FBO to a level that it becomes profitable and attractive to independent operations
- B. Continue to develop and support a volunteer association to support and promote ONP
- C. Continue to develop airport business opportunities including infrastructure upgrades

LIBRARY

Ongoing Goals

- A. Ensure the safety of library users and staff and minimize risk
- B. Pursue improvements to keep the library current

Fiscal Year 2012/2013 Goals

- A. Conduct an electrical and energy inspection and implement a plan to update heating and lighting systems
- B. Increase funding for collection development
- C. Develop an equipment and furnishings maintenance and replacement plan
- D. Install security cameras and improved lighting

1 - 5 Year Goals

- A. Plan for library expansion/relocation study
- B. Implement the Radio Frequency Identification (RFID) security system

5+ Year Goals

- A. Expand or relocate the library

FINANCE AND BUDGETING

Ongoing Goals

- A. Develop and produce award-winning audits and budgets

Fiscal Year 2012/2013 Goals

- A. Install and make operational a purchase requisition/purchase order system
- B. Implement the new accounting system - Cassell

1 - 5 Year Goals

- A. Focus on reorganization of administrative duties in relation to finance and administration activities

PARKS AND RECREATION DEPARTMENT

Ongoing Goals

- A. Provide recreational programming and opportunities
- B. Maintain and continue to update programs and equipment
- C. Appoint and maintain the operation of the Parks and Recreation Advisory Committee

Fiscal Year 2012/2013 Goals

- A. Form and Parks and Recreation Foundation
- B. Implement an "Adopt-a-Park" and an "Adopt-a-Streetscape" program
- C. Develop a schedule and implementation plan for equipment and facilities repair and replacement
- D. Review the existing Comprehensive Plan with the Parks and Recreation Advisory Committee and staff and report the findings to the City Council
- E. Update the CIP
- F. Create a cost recovery program and define subsidy levels
- G. Remodel and update the control desk, circuit room, and gym lights

1 - 5 Year Goals

- A. Address the issue of replacing the aquatic facility (municipal pool)
- B. Consider an update to the Parks and Open Space Master Plan

ECONOMIC DEVELOPMENT

Ongoing Goals

- A. Maintain and implement economic development strategies
- B. Involve citizens in every aspect of planning

Fiscal Year 2012/2013 Goals

- A. Work with the City Center Newport Association to develop a renewal plan
- B. Finalize the EOA and Economic Development Plan
- C. Address annexation and land supply issues
- D. Annex and zone city's water reservoir

1 - 5 Year Goals

- A. Implement measures from the EOA and the Economic Development Plan
- B. Develop strategies for annexing property in the Urban Growth Boundary

COMMUNITY DEVELOPMENT

Ongoing Goals

- A. Involve citizens in every aspect of planning

Fiscal Year 2012/2013 Goals

- A. Organize city records to handle leases, franchises, and easements
- B. Automate addressing and inspection records
- C. Develop incentives and regulatory changes to facilitate development of work force housing and develop a land bank
- D. Achieve "Tree City USA" designation
- E. Develop an open space policy and plan
- F. Adopt a city-wide erosion control code
- G. Work toward the Adoption of a Common Design Theme for South Beach

1 - 5 Year Goals

- A. Adopt recommendations related to the handling of/or treatment of storm runoff associated with new development
- B. Coordinate with the state and FEMA on flood plain and wetland regulations
- C. Develop a plan for handling city building inspection services
- D. Develop strategies for property acquisitions, sales, and other city assets
- E. Develop a plan for the inclusion of park models
- F. Adopt and Begin Implementing a Common Design Theme for South Beach

WATER

Ongoing Goals

- A. Update the Water System Master Plan and the Comprehensive Plan

Fiscal Year 2012/2013 Goals

- A. Consider construction of the new Agate Beach water tank
- B. Switch out water meters to "radio reads"
- C. Begin the systematic replacement of water supply lines and develop plans for future replacement

1 - 5 Year Goals

- A. Develop a watershed management plan
- B. Develop a water conservation plan and review the distribution system
- C. Implement automatic meter reading system
- D. Extend water system to the airport

5+ Year Goals

- A. Plan for future raw water supply

WASTEWATER

Ongoing Goals

- A. Update and maintain mapping of systems (water, stormwater, and wastewater)

Fiscal Year 2012/2013 Goals

- A. Start, or continue with, initial inventory and mapping of systems
- B. Plan for bonding issues to provide for big project funding

1 - 5 Year Goals

- A. Develop wastewater plans for service to the airport
- B. Develop a Wastewater Master Plan
- C. Identify and reduce inflow, infiltration, and pollution
- D. Upgrade sewer pump stations in the north end
- E. Plan for funding of major reconstruction of wastewater systems

STORMWATER

Ongoing Goals

- A. Update and maintain mapping of systems

Fiscal Year 2012/2013 Goals

- A. Participate in Emergency Response Committee planning process
- B. Consider implementation of stormwater fee
- C. Continue with initial inventory and mapping of systems
- D. Plan for funding of major construction/repair of system
- E. Continue to identify cross-connections and pollution sources
- F. Plan for NPDES requirements

1 - 5 Year Goals

- A. Develop Stormwater Master Plan

5+ Year Goals

- A. Plan for funding of major construction project

STREETS AND TRANSPORTATION

Ongoing Goals

- A. Continue to support the Lincoln County Transit District and the shuttle program
- B. Continue with the wayfinding project

Fiscal Year 2012/2013 Goals

- A. Designate and develop pedestrian and bicycle routes in association with streets
- B. Designate and develop gravel streets for paving, and develop a paving inventory and replacement program

1 - 5 Year Goals

- A. Develop a system to support electric/alternative fuel vehicles

COMMUNICATIONS

Ongoing Goals

- A. Continue utilizing employee surveys
- B. Continue to support the City Employee Committee
- C. Provide communication management training to supervisors and the management team

SUSTAINABILITY

Ongoing Goals

- A. Every city department will look at ways of conserving resources

January 22, 2013
11:00 A.M.
Newport, Oregon

CITY COUNCIL WORK SESSION

Councilors present: Beemer, Roumagoux, Sawyer, Busby, Saelens, and Swanson. Allen arrived later.

Staff present: Voetberg, Hawker, Smith, Paige, Marshall, and Christy Monson from the Local Government Law Group (City Attorney).

Roumagoux called the meeting to order and roll was taken.

1. Monson conducted a City Council orientation. A copy of the PowerPoint she presented is attached to this document.
2. Roumagoux appointed City Council liaisons to committees as follows:

Senior Advisory Committee - Swanson

Bicycle/Pedestrian Committee - Saelens (Allen as alternate)

Audit Committee - Allen

Retirement Board of Trustees - Allen

Public Arts Committee - Roumagoux

Parks and Recreation Committee - Saelens

Destination Newport Committee - Sawyer

Airport Committee - Busby

Library Board - Swanson

OCZMA - Allen (Roumagoux as alternate)

Port of Newport - Beemer

Council of Governments - Sawyer (Roumagoux as alternate)

CWACT - Sawyer (Busby as alternate)

Lincoln County School District - Sawyer

Oregon Coast Community College - Roumagoux

Hatfield Marine Science Center - Allen (marine issues); Beemer (Safe Haven Hill/tsunami issues); and Roumagoux (general education)

Tourism Facilities Grant Review Task Force - Sawyer

Plastic Bag Initiative (possibly recycling, and informal at this time) - Allen and Saelens

Wayfinding Committee (if it is formalized) - Saelens

Having no further business, the meeting adjourned to a tour of the Maritime Museum at 1:25 P.M.

Councilor Training January 2013



Local Government Law Group

975 Oak Street, Suite 700

Eugene, OR 97401

Telephone: 541.485.5151

J. Kenneth Jones (jkj@speerhoyt.com) ◻ Carolyn H. Connelly (chc@speerhoyt.com)

Christy K. Monson (christy@speerhoyt.com) ◻ Ross M. Williamson (ross@speerhoyt.com)

◻ Lauren A. Sommers (lauren@speerhoyt.com)

Welcome to On The Job Training



Congratulations! You are now the proud caretaker of a multi-million dollar corporation and the public trust.

- Learn the lay of the land: tours, orientations, homework, staff.
- Roles of Council,
- City Administrator, City Attorney.

10,000-Foot View of Government



- Federal Law
- State Law
- County Partners
- City Partners
- District Partners
- Tribal Law

Council Authority

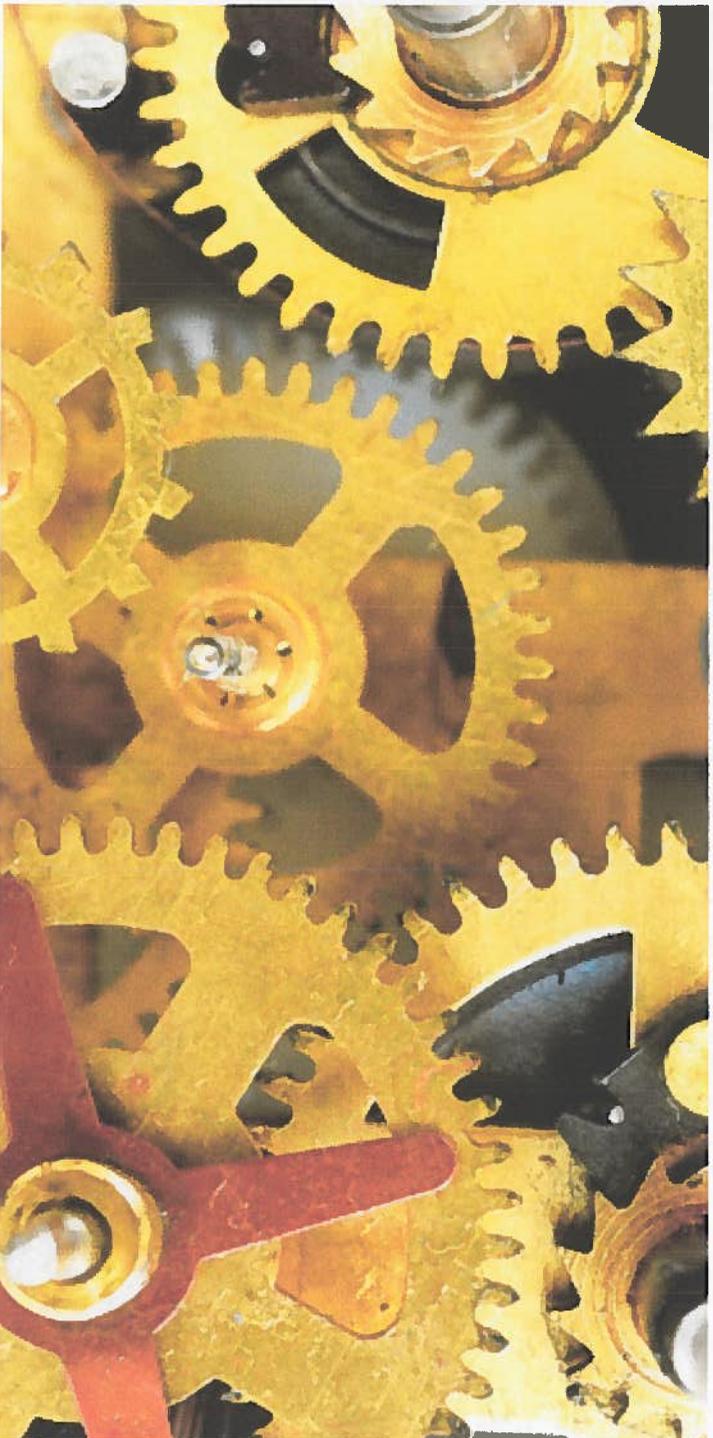
Ask Two Questions Before You Act

Question 1: Can we do it?

- Know your statutes, ordinances and policies
- Know your Council Rules
- Know your Roles
 - Working with staff?
 - Testifying?
 - Speaking with press?

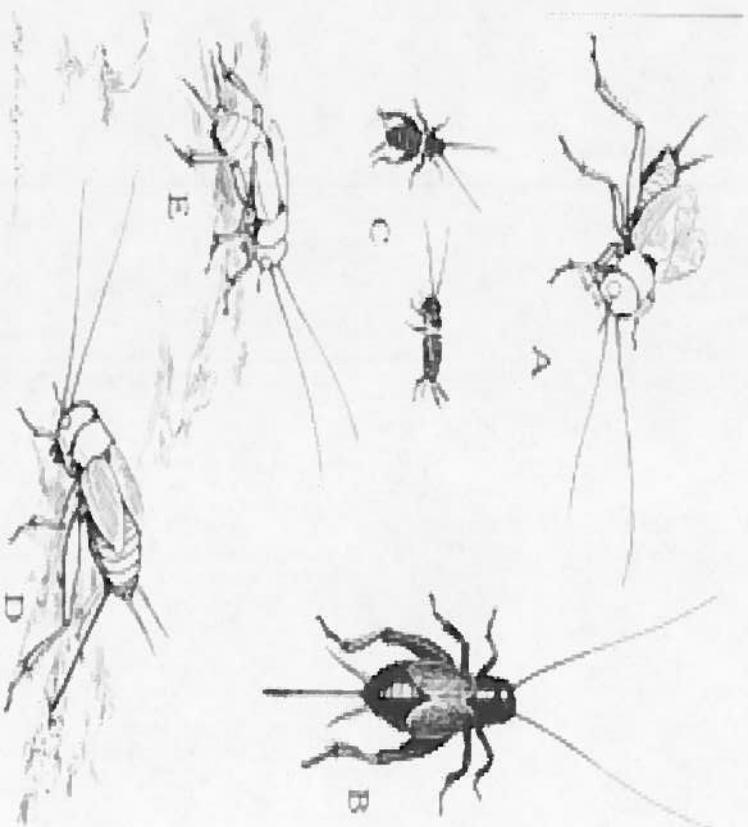
Council Authority

Question 2: Do we have a quorum and a majority?
(Single councillors are only one cog on the wheel.)



Individual Authority

... sound of crickets chirping.



City and Council Liability

- **ORS 294.100: Misexpenditure of Funds**
- **Scope of Duties/Employment**
- **Ethics**
- **Elections**
- **Public Meetings**
- **Criminal Actions**
- **Civil Actions**

City and Council Liability

City vs. Individual Liability

- Action against public body, not individual.
ORS 30.255; *but also* 42 USC §1983
- City duty to defend and indemnify. ORS 30.285
- Exceptions/ scope of employment
- Immunities: Discretionary immunity --
policy-making vs. managerial decisions

Process and Procedure

Councilor Tools

- **Ordinances.** Legislative power. Permanent in nature.
- **Resolutions.** Administrative/legislative. Policy-oriented. Usually temporary in nature.
- **Policies.** Administrative, temporary in nature, partnership with Manager.
- **Working Rules.** Simple, clear direction, your personal “how to” manual for Councilors.

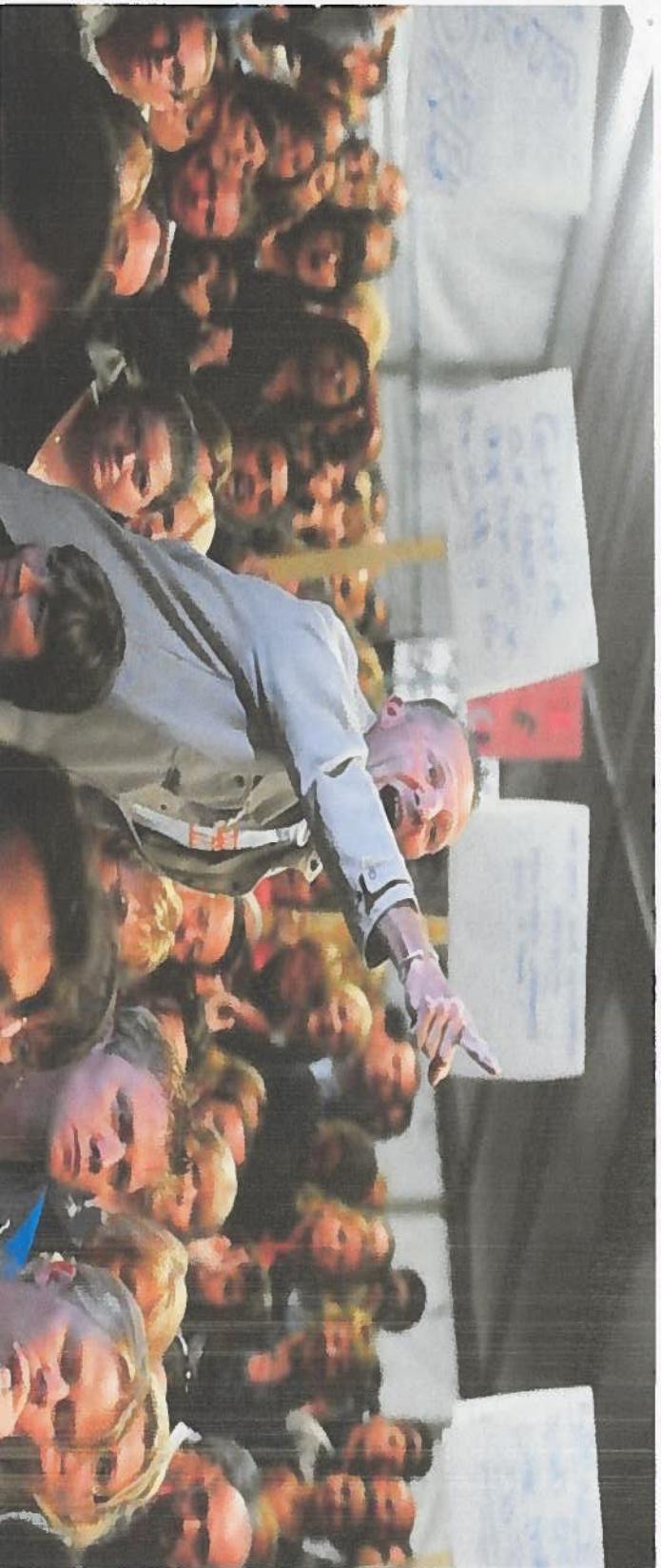
Use the right tool for the job

Process and Procedure

Public Meetings

Which public bodies are subject to the law?

all meetings of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.



Process and Procedure

Public Meetings

What meetings are subject to the law?

- Quorum, purpose of meeting
- Electronic meetings? Emails, IMs, and Texts.
- Serial discussions

What are the requirements of a public meeting?

- Notice
- Space, Location, Accessibility and Attendance
- Voting
- Records

Process and Procedure

Public Meetings

Executive Sessions

- Must read statutes
- Examples of misunderstood purposes
 - The “Employment” Myth. 192.660(2)(a)
 - Discussions with Legal Counsel.
192.660(2)(h)

Process and Procedure

Public Meetings

Executive Sessions

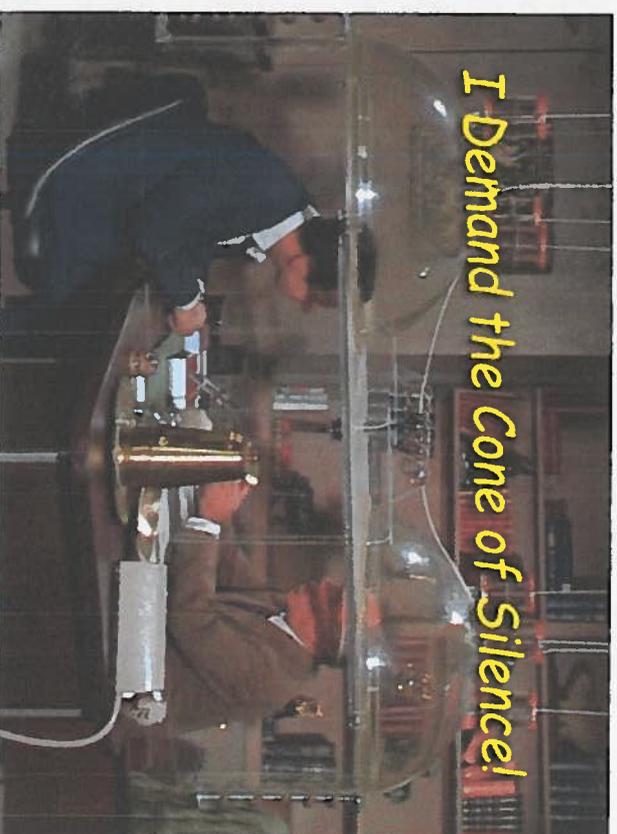
Limited discussions only

How to convene (see back of AG's

Manual for script)

No final decisions

Media



Process and Procedure

Public Meetings

The following contains non-legal advice on how you can have a productive meeting, serve the public, stay friends with your colleagues, maintain satisfying personal relationships, and still get home at a decent hour.

Process and Procedure

Public Meetings

- Chair must set realistic agenda
- Circulate materials/minutes in advance
- Keep it formal
- Have simple rules
- Public participation does not always mean public conversation
- Consider work sessions
- Restate vote, note if staff must follow up

Process and Procedure

Public Records

What is a public record?

- *Any writing that contains public business information that is prepared, owned, used, or retained by a public body regardless of physical form or characteristics*

Process and Procedure

Public Records

Oregon law favors disclosure.

- Not a confidentiality law. Must disclose unless exempt under the law. See ORS 192
- Even when exempt, often subject to public interest balancing tests.

Process and Procedure

Public Records

Some Balancing Test Exemptions.

- **192.501(1) Pertaining to Litigation**
- **192.501(12) Personnel Discipline**
- **192.501 (22) and (23) Interference with
Public Services and Security Measures**

Process and Procedure

Public Records

Some Other Exemptions.

- 192.502(2) Personal Privacy
- 192.502(3) Personal Information
- 192.502(4) Confidential Information
- *Documents otherwise protected*

Ethics

Don't Use Your Position for Personal Gain.



Ethics

The “BUT-FOR” Test 244.040(1)

A public official cannot use position

- To get money or to avoid losing money
- For the PO or for a relative or a member of the household or for the PO's business
- If that opportunity would not be available
BUT FOR your position

Ethics

DOES **NOT** INCLUDE

- Compensation or Reimbursement
- Unsolicited awards, or honoraria, or legal expense donations
- Or certain gifts (VERY limited)

Ethics

Gifts are Limited to \$50 per year, per giver with an interest in your position or your decisions.



**Gifts
Under
FIVE
Cents**

Ethics

“Gift” 244.020(5)

- Something of economic value
- Given to public official, the PO's relative or member of the PO's household
- Without receiving value back and
- **NOT** given to the general public on the same terms

Ethics

The GIFT RULE:

1. You (your relative or a member of household)
2. Cannot ask for, receive, or give
3. Or even hint at getting/giving
4. Gifts over \$50 from any single source in one year
5. IF your source has an interest in your official actions: i.e., a decision or vote

Ethics: Conflicts of Interest

COUNTERTHINK



Ethics

“Actual Conflicts” (Will Happen)

- An action, decision, or recommendation
- By a public official
- Resulting \$ to PO or a relative or business associated with PO or relative

Ethics

“Actual Conflicts” (Will Happen) (Cont.)

- Would result in avoidance of \$ detriment to public official
- Or *relative*
- Or any *business* associated with PO or *relative*

Ethics

“Potential Conflict” (Could Happen)

- Could result in avoidance of \$ detriment to public official
- Or *relative*
- Or any *business* associated with PO or *relative*

Ethics

Conflicts Rule: Actual and Potential

When in Doubt: **Shout it out!**



How to SHOUT it OUT

- State the nature of your conflict
- Do it before voting or discussing the matter
- Do it on the record
- Do it each meeting issue is discussed
- Send it to the Ethics Commission

Ethics

Actual Conflict **Only**

- When in Doubt, Shout It Out...and then Shut It Up.
- Same rules as Potential Conflict, but **no** talking and **no** voting...
- Unless Council cannot act without you (but still no talking)

Ethics

It is **not** a conflict if the financial benefit happens because of:

- Membership to a group required by law (bar association, medical review board)
- Membership in a class (any large, distinguishable group of citizens that the Commission determines is a class)
- Membership in a non-profit (501(c) status)

Ethics

Conflicts of Interest and Nepotism

Rules: ORS 244.177

- **Hiring Family? Think Conflict! You may not appoint, employ, promote, discharge, fire, or demote a relative or member of your household unless you follow the conflict of interest rules.**

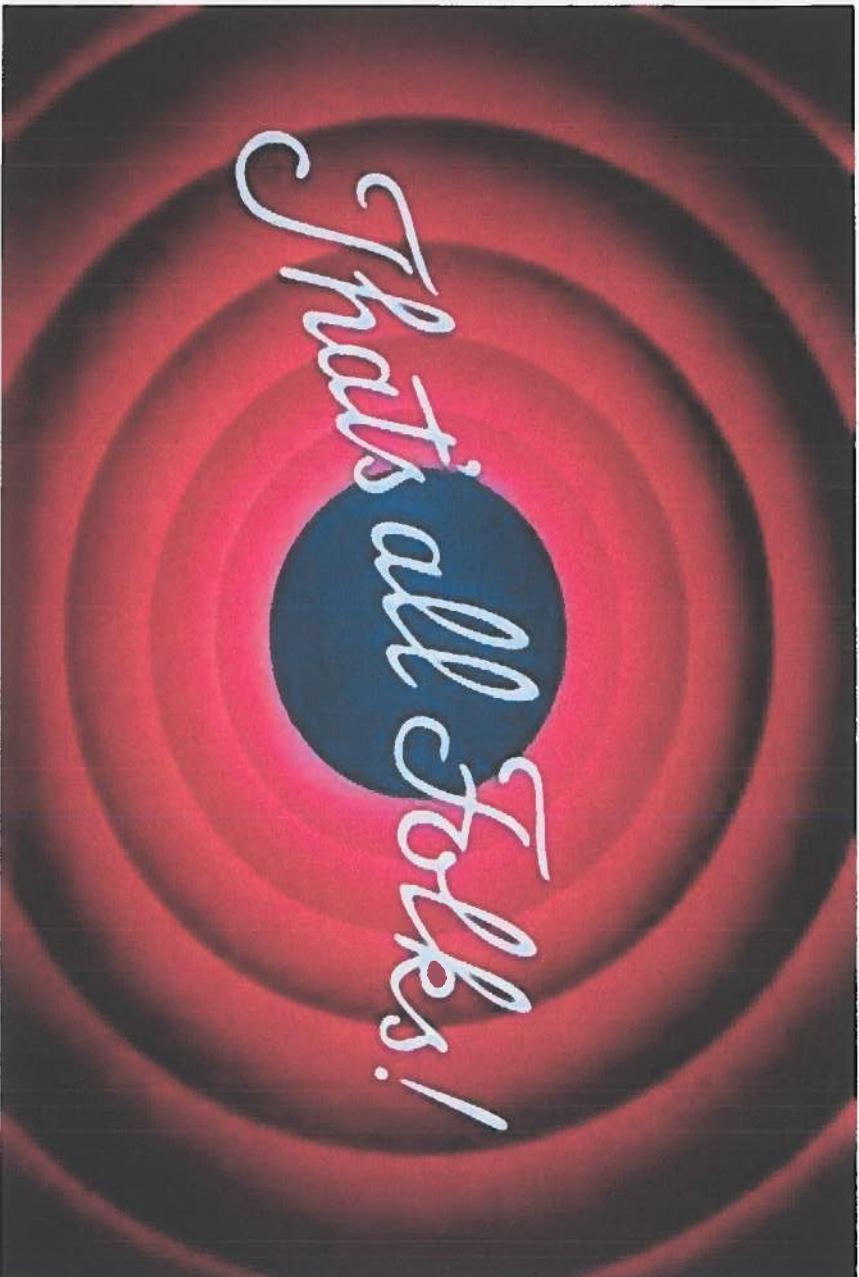
Ethics

Conflicts of Interest and Nepotism

Rules: ORS 244.177 (Cont.)

- You're Not the Boss of Me. You may not directly supervise a relative or member of your household (but your City may choose to adopt policies allowing for your direct supervision.)

The End



January 22, 2013
6:03 P.M.
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Beemer, Allen, Roumagoux, Sawyer, Saelens, Busby, and Swanson were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Finance Director Marshall, Library Director Smith, Parks and Recreation Director Protiva, Fire Chief Paige, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

ADDITIONS/DELETIONS AND APPROVAL OF THE AGENDA

Allen noted that a date needed to be set for a joint meeting, and public hearing, with the Port to hear comments regarding the proposed Teevin Brothers log exporting business. Voetberg reported that the Task Force will make a presentation to Council on February 4, and the hearing should be scheduled after that date.

PUBLIC COMMENT

Ronald Halverson addressed the proposed Teevin Brothers log exporting operation noting that it would create family wage jobs in the community potentially allowing some of the homeless population to find housing. He urged Council support of the proposal.

Allen Newell, representing the rental pool at The Landing, reported that rental pool members are disturbed by the proposal to bring logging trucks adjacent to The Landing, noting that it would cause major negative impacts to their rental business.

Yale Fogarty spoke in support of the proposed Teevin Brothers log yard. He reported that there are no pollutants (creosote or chemicals) created by the debarking process. He added that the speed limit on SE Moore Drive and Bay Boulevard is 25 miles per hour; and contemporary log trucks are quieter with cleaning burning fuel. He added that the operation would benefit the international terminal; and create family wage jobs. He noted that the majority of investments along the proposed route were built during the peak of a previous log shipping operation. He summarized by noting that the benefits of this operation will be huge and the impact minimal.

Sawyer stated that the street is actually SE Moore Drive.

Mike Peterson questioned statistics presented by Ronald Halverson. He stated that there are ten longshoremen who live in Newport who would realize jobs from the log exporting operation, and others would be commuters. He stated that he is a homeowner on the route and is not inclined to donate his home for the cause. He added that the trucks should have decibel testing. He stated that he hears jake brakes on SE Moore

Drive on a daily basis. He asked Council to choose between a few jobs and the loss of property value of homes in the area.

Allen reported that the Task Force is addressing issues and encouraged the audience to attend the City Council meeting on February 4, 2013, at 6 P.M.

Jackie Trahan distributed a letter to Council. She stated that she chose to move to Newport because of the quality of life, and expressed opposition to the Teevin Brothers proposal.

Peggy Sabanskas stated that she has lived in the area for 34 years, and was here during the previous logging operation. She noted that it was a great thing that created jobs in Lincoln County. She reported that SE Moore Drive was built by the Port for logging, and that it was constructed to higher standards to accommodate logging trucks. She added that she does not believe the operation will negatively impact home values in the area, and supports the proposal.

Katherine Howard suggested that the logs should be milled here rather than in Asia, adding that shipping raw logs is wrong.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session and regular meeting of January 7, 2013;
- B. Report of accounts paid for December 2012.

MOTION was made by Beemer, seconded by Saelens, to approve the consent calendar with the corrections to the minutes as noted by Allen. The motion carried unanimously in a voice vote.

OFFICER'S REPORTS

Mayor's Report. Roumagoux reported that she met with Dave Price, the new Director of the Small Business Development Center at OCCC, on January 9. He is replacing Guy Faust who has retired.

Roumagoux attended the Police Department's management meeting at the Boone Center on January 2. Miranda requested that Council sign up for police ride-alongs. She reported that she rode with Sergeant Real and it was quite informative.

Roumagoux reported that she gave the welcoming address to the Central Coast/Willamette Valley Lions meeting on January 19.

Roumagoux reported that she has been invited to the City Employee Committee meeting on February 12.

Roumagoux reported that she was a guest on the Chamber of Commerce news radio program on January 21.

Roumagoux reported that she met with the hospital board regarding the new health education building. She anticipates a presentation to Council will be forthcoming.

Roumagoux reported that she recently met with Representative Gomberg, Senator Roblan, and Senator Merkeley, with whom she discussed city issues.

Roumagoux appointed Autumn Belloni and Debora Chandler to the Library Board, and Neal Henning to the Destination Newport Committee. MOTION was made by Allen, seconded by Beemer, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

City Manager's Report. Voetberg reported that the updated suggestion/concern/complaint report is in the packet along with departmental reports. He noted that a draft overdue library letter (a last resort letter) is also included in the packet.

Allen asked that staff issue a press release regarding the ability to comment, and the comment period, for the Traffic Impact Analysis produced for the proposed Teevin Brothers project.

Sawyer asked how many satellite phones the city has, and which departments have them.

Sawyer asked when the OSU Extension Office will be moving to the Bayfront.

Sawyer complimented LINT for eradicating an issue near a public school.

Sawyer noted that a piece of the Japanese dock that washed ashore at Agate Beach after the Japanese tsunami is coming back to Newport. He thanked everyone who worked on this issue.

Voetberg reported that City Day at the Capitol is February 27, and to let staff know if anyone is interested in attending.

Voetberg reported that the tsunami dock will be returning to Newport tomorrow morning, and that it will be placed at the Hatfield Marine Science Center.

Voetberg reported that Marshall has developed a first draft of the business license administrative rules, and hopes to have a more refined draft by February 18. He added that Marshall will try to address any big issues.

Voetberg reported that an ad hoc wayfinding group has been meeting for years, and that while most of the wayfinding plan is in place, there will be ongoing issues. He asked whether Council was interested in formalizing the committee, and if so, staff will develop the general duties and scope of the committee and return to Council for action. Council concurred and staff agreed to develop the framework for the committee and bring it back to Council.

Allen asked whether the administrative rules for business licensing were being vetted through the City Attorney, and if so, would there be something more formal to review on February 18. He added that since there are interested parties, like Patricia Patrick-Joling, and others, they should have the opportunity to look at the draft before the meetings. Marshall reported that he has talked with Patricia Patrick-Joling, Loren Joling, and Lee Hardy, and they have reviewed the draft. It was noted that the term "owner" should be defined in the ordinance, and that will be a first big step toward developing the administrative rules. He added that another issue is to find a method for dealing with "hybrid organizations." Busby suggested providing a list of definitions at the beginning of the ordinance. A brief discussion ensued regarding what it means to do business in Newport.

Patricia Patrick-Joling stated that Marshall has been cordial, and that she would appreciate being involved in any kind of meeting or communication with the attorney so the issues can really be defined. She suggested staying with language that aligns with state statutes as much as possible. She added that the ORS clearly defines "owner,"

and would trump the city ordinance. She noted that she will save additional comments for the February meeting. Patrick-Joling stated that the other issue she wanted to discuss from the December 17 meeting is the memo that Voetberg sent to that other entity. Allen requested that Voetberg communicate with Patrick-Joling between now and February 18 to see if this matter can be addressed.

Allen asked about the scheduling of the joint meeting between the City Council and the Port. It was suggested that it occur on either February 20 or 21, and that staff share these dates with the Port.

DISCUSSION ITEMS AND PRESENTATIONS

Oath of Office of Fire Captains and Firefighters. Hawker administered the oath of office to the following fire personnel: Brian Haggerty, Doyle Helmricks, Tracy Cole, Richard Giles, and Tom Jackson.

Audit Finding No. 16: Monitoring Financial Activities by the City Council and Six Month Financial Review. Marshall presented a potential solution to the auditor's Finding 16 regarding the monitoring of financial activities by the governing body. He discussed the recommended review periods and the accounts to be reviewed. Allen noted that the underlying legal ability to spend does not necessarily pertain to budgets and must be met.

Marshall noted that Council should review the general fund, parks and recreation fund, and the airport fund on a quarterly basis. He added that Council receives a transient room tax report monthly. He noted that he will do a more thorough job of review throughout the year. Busby stated that this is progress, but that his expectations are a lot greater. Marshall noted that if the expectation is to review every expense and revenue on a monthly basis, it would require another half-time person.

PUBLIC HEARINGS

Continued Public Hearing on Ordinance No. 2047, Creating a New Municipal Code Chapter 4.30, Prohibiting the Distribution of Single-Use Plastic Carryout Bags by Retail Establishments. Roumagoux opened the continued public hearing on Ordinance No. 2047, creating a new Municipal Code Chapter 4.30, prohibiting the distribution of single-use plastic carryout bags by retail establishments. She noted that she had received two letters opposed to a ban on plastic bags; one from Darlene LaFollette, and one unsigned. She asked for public comment.

Matt Hawkyard, chair of the Newport Chapter of the Surfrider Foundation, and chair of the Plastic Bag Community Plan Task Force, reminded Council that this issue has been vetted through a long process. He added that the local Surfrider Foundation has provided hundreds of signatures opposed to plastic bags; there were six months of Task Force meetings where the Task Force listened to, and voted on, a range of different options; and the majority supported an ordinance similar to the one proposed this evening. He reported that there have been multiple public hearings, and he asked that as the issue moves forward; it is given a chance to succeed. Allen asked whether there is a difference between check-out and carryout bags. Hawkyard noted that these are

bags that are provided at the point of sale and not in the meat or produce departments, or for items sold in plastic bags.

It was noted that Allen and Saelens reviewed the proposed ordinance to see if any provisions needed clarification with the intent of making sure that this ordinance is a product the voters understand. Suggested changes include: the purpose statement end after the word "options" in the third line; that definitions be included for the terms "vendor" and "special event vendor;" that the term "violation" be defined; and the word "fine" in 4.30.050(C) be changed to "civil penalty;" and that the civil penalty be an amount not to exceed \$100; and that the timeline for implementation be six months from the date the ordinance is adopted by voters; and the addition of an extension of the six month implementation due to reasonable hardship.

Charlie Plybon, representing the Surfrider Foundation, noted that outreach in other communities had found that smaller stores have more of a hardship regarding turnover of bags. He stated that federal discrimination law prevents the ability to give away free bags to certain benefited folks, including SNAP recipients. He urged Council to spend time thinking about what an infraction event is and to define it as cleanly as possible.

Peggy Sabanskas, owner of the antique mall which is a smaller business, and a member of the Task Force noted that she only orders bags once a year, and that order lasts for a year. She added that it would take her a year to use the bags and research alternatives. It was suggested that a hardship exemption could apply, but that the exemptions be for no longer than a year in duration.

Saelens addressed the issue of special event vendors noting that it sends the wrong message to only apply the ordinance to one aspect of the community.

Alisha Kern stated that if the election is held May 21, it seems like a long time for implementation. It was noted that the implementation will be six months after the election if the ordinance is approved.

Roumagoux closed the public hearing at 7:40 P.M.

MOTION was made by Allen, seconded by Beemer, to direct staff to prepare a resolution calling for an election on the adoption of Ordinance No. 2047, as changed per the direction of the City Council this evening, which would create a new Municipal Code Chapter 4.30 regarding single-use plastic carryout bags and stating an effective date; and adopting a ballot title and explanatory statement, and bring this resolution to Council for consideration at its meeting of February 19, 2013. The motion carried unanimously in a voice vote.

ACTION ITEMS

Consideration of Teevin Brothers Appeal of System Development Charge Assessment. Roumagoux reported that she had received a letter from the Oregon Coast Alliance (ORCA) and asked that the letter be entered into the record. Allen stated that he would like to know who ORCA represents. Tokos reported that he received a letter from Christy Peterson that does not speak specifically to the SDC issue. Tokos delivered the staff report and reviewed what SDC's are and their categories. He noted that the funds are used for larger system wide projects. He added that state law is explicit in terms of how SDCs are developed and applied, and that a clear methodology is developed to ensure that SDCs are fair and based on clear criteria. He added that there was a comprehensive update to the methodology in 2007, which was developed

through a public process with broad representation. He added that the methodology is referenced in the Municipal Code. The SDCs applied to this project are for streets, water, sewer, and stormwater. He reported that the streets, water, and sewer SDCs have been credited out. He noted that the city's SDC credit system applies additional credits if there has been a use or structure on the property within the last 30 years, and that this property was used for a log exporting operation within the last 30 years. He added that Teevin Brothers will get full credit for transportation impacts. He stated that the city is not required to offer the credit, but chose to adopt credits; similarly with water and sewer. He noted that stormwater is different and is applied based on the amount of impervious surfaces. He stated that Teevin Brothers report that stormwater will be managed on site, and believe that because it will be managed on site, they should be able to pay a reduced fee and are requesting that it be reduced 50%. He noted that the issue before Council is a determination of whether the City Manager's decision to assess Teevin Brothers a stormwater system development charge fee in the amount of \$.30 per square foot of new impervious area associated with their planned log exporting operation is in accordance with the city's ordinance for collecting system development charges and state law. Tokos noted that SDCs are imposed on new development and are used to help pay for capital infrastructure improvements that all city residents and property owners benefit from. He added that the assessment is fair in terms of credit already taken by Teevin Brothers. He noted that the code is unclear in what triggers a decision. He stated that he has worked with Teevin Brothers, and believes the appeal is timely filed. He added that a reduction in the amount of impervious surface would cause a reduction in the SDCs. A discussion ensued regarding the City Attorney's memo, and it was noted that the memo can be interpreted to apply the credits. Allen asked what the legal options are based on the City Attorney's memo. Tokos noted that one would be to affirm the City Manager's decision, and the other is to allow an optional credit in the methodology, but that a formula would have to be established for determining that credit.

Paul Langner, representing Teevin Brothers, and Ralph Dunham, from Stuntzner Engineering and Forestry, addressed Council. Langner stated that the issue is fairness, and questioned the scale of the SDC assessment. He reported that Teevin Brothers will be restoring a lost stormwater management function, and will not add one drop of new water to the city's stormwater system; will reduce heavy run-off into bay; will be held to a higher level of stormwater management than the city; and will have to monitor, test and report on potential pollutants. He added that SDC assessments must be proportionate and relative to impacts, adding that Teevin Brothers believes that one half of the assessment would be an agreeable fee. Dunham noted that staff supports adopted rules and applies them across the board. He added that Teevin Brothers is trying to make this work for everyone in the best way possible. He stated that they are not connecting to the city storm system, and therefore not increasing flows into the city system, and they are reducing run-off from the site. He added that the premise is to deal with increased run-off on impervious surface, and that the SDC's are based on impervious surface area. He stated that Teevin Brothers do not need to pave the area, but paving provides cleanliness and containment, and to compensate for paving. Teevin Brothers is providing detention and retention facilities, and a bioswale, and since it is not impacting the bay or city system, believes it should qualify for an impervious surface credit. He added that the project will not increase traffic or flows into the storm system, but it will be

paying for 15 acres for which they are trying to be environmentally sensitive. He noted that the forgiven SDC's were for sewer, water, and transportation amounting to approximately \$42,000. He stated that Teevin Brothers has also paid approximately \$30,000 in building permit fees. He added that the SDCs could be reduced by installing gravel rather than asphalt.

Langner reported that Teevin Brothers plans to be here for many years and is a good fit for the community. He added that this operation will bring back business, and that the investment is in the millions of dollars. He stated that the business will create family wage jobs and that Teevin Brothers is philanthropic and involved in its communities. He added that the project does not fit neatly into the model. He stated that he believes it is right to pay some of the fees, but asked for consideration of the request of a reduction of fifty percent of the stormwater SDC assessment.

Dunham stated that if Council allows Teevin Brothers some relief from the SDCs, that it should be amending the rules to allow the same consideration for other entities. He added that what Teevin Brothers is asking for is a fifty percent reduction of the stormwater SDCs despite a zero impact and reducing runoff.

Allen noted that the City Attorney mentioned that the option for credit is available and discretionary, but if you go that route, you must justify what you are doing. He asked whether the suggestion to base the SDC assessment on half is an arbitrary number or whether there is an underlying factual basis. Dunham noted that the number is relatively arbitrary, adding that the impact per square foot of impervious surface is zero to the city system. He added that there are other impacts; traffic offsite and people traveling to and from the site; and that these numbers are difficult to assimilate. He noted that he looked at other stormwater fees and methodologies and believes that Teevin Brothers is being generous offering to pay half the assessed SDCs.

Allen asked what it would cost to gravel the site to eliminate the SDC charge. It was noted that gravel would cost approximately \$200,000 and paving would cost approximately \$2.1 million. A discussion ensued regarding the ongoing maintenance costs of gravel and asphalt. Allen noted that there are a lot of advantages to asphalt, and Dunham responded that environmental risk is the main advantage. Saelens asked why the payment of the assessed SDCs is such a big deal for such a small percentage of the overall investment. Langner stated that the issue is fairness, noting that they are used to offset the impact to city, and this project is not creating additional impacts. He added that Teevin Brothers has already spent a quarter million dollars on the project, and they want to be in Newport, but the overarching issue is fairness. He added that the city boxed itself in with the methodology. Dunham noted that the ordinance does not contain a provision for a reduction in flow.

Busby asked whether the city has any precedence and whether anyone else has constructed a self-contained drainage system. Tokos reported that this is the first appeal of SDCs under this methodology. He added that there are circumstances where stormwater is detained on other property but the SDCs were still paid. Tokos noted that Teevin Brothers are at the end of the system, and historically, the property has received runoff. He added that if the city starts exempting out properties, it will start to chip away at the city's overall capital program.

Allen asked whether the system Teevin Brothers is creating will have little impact on the city system. Tokos noted that he did not look at it that way, but added that Teevin Brothers are doing a lot to manage stormwater on their property, but that the project is

having impacts above and beyond what is going into the site. Allen noted that the credit being discussed is 5.83, and asked whether what Teevin Brothers has mentioned is consistent with this. Tokos noted that it is consistent, but the language is not perfect, and anything should be done in a thoughtful way, and relate to the calculation of stormwater fees generally. Allen asked whether the ordinance and methodology should be refined, and Tokos responded that they should be, specifically as they relate to stormwater. Busby noted that a reason to reduce the fees is because they are not discharging into the city system. Beemer agreed with Busby. Allen noted that the issue was whether that was a legally sufficient way to proceed.

Yale Fogarty stated that he believes the city needs to review this process and ordinance because it lacks flexibility and discourages economic development. He added that Teevin Brothers will be leasing the property that it will use for the water filtration system. He stated that Teevin Brothers deserves the credit.

Peggy Sabanskas stated that she served sixteen years on the City Council and worked on SDCs for five years. She suggested exercising caution before setting a precedent by adjusting the SDCs. She added that the fees need to be built into projects. She added that Teevin Brothers has the right to appeal, but that the City Council has to look at best interest of Newport.

Mike Peterson spoke in opposition to Council giving Teevin Brothers an additional stormwater SDC credit. He submitted a letter for the records.

Jackie Trahan and Larry Johnson commented from the audience.

Rob Halverson stated that he understands the system is already in place to establish the fee, but that this is a unique situation where the city is dealing with a company applying for a reduction based on putting zero back into the city system. He noted that what triggered this was the permit process. He suggested establishing a maximum of 50% reduction based on zero impact into the system determined by a sliding scale.

Allen asked Tokos whether, from a timing standpoint, Council is under a constraint to make a decision tonight or could the issue be continued to the next meeting. He added that tonight's testimony has clarified issues and he now needs time to think about it, and to come up with a methodology. Beemer agreed with Allen. Tokos noted that Council's scope of appeal is limited to a determination on whether the assessment is consistent with ordinance and state law. He added that if Council wishes to continue the issue and wants to see something more mathematical, it should advise Teevin Brothers to develop something other than an arbitrary 50% and continue the matter. Allen, Sawyer, and Busby concurred that a factual methodology should be developed. Voetberg suggested continuing the issue to a date no later than February 19. MOTION was made by Allen, seconded by Beemer, to continue this action item and matter to no later than the second regular City Council meeting in February which will be February 19. The motion carried unanimously in a voice vote.

Recommendation from the Destination Newport Committee to Utilize a Vinyl Wallscape for Advertising Newport in the Portland Market. Lorna Davis, executive director of the Greater Newport Chamber of Commerce, and a member of the Destination Newport Committee, reported that the issue before Council is whether to approve a building wallscape at SW 4th and Oak Streets in Portland. She added that a proposal was submitted by OnDisplay Advertising, and reviewed and recommended by the Destination Newport Committee. MOTION was made by Swanson, seconded by

Sawyer, to approve the promotion of Newport by advertising on a billboard (building wallscape) located at SW 4th and Oak Streets in Portland, through a contract with OnDisplay Advertising. The billboard advertising will occur over two separate 12 week periods at a cost of \$27,995 per twelve week period for a total cost of \$55,990. The first advertising period will occur prior to June 30, 2013, and will be charged against the FY13 budget, and the second advertising period will occur after July 1, 2013, and will be charged against the FY14 budget. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Sawyer reported on a recent meeting of the Destination Newport Committee at which the above approved advertising opportunity, and other billboards, was discussed. He noted that Neal Henning, who was appointed to the DNC earlier this evening, will be a great asset to the committee.

Saelens reported that he has been actively involved in working on the plastic bag ordinance. He expressed appreciation for the Council Orientation session held earlier today.

Swanson also expressed appreciation for the Council Orientation and requested a list of department heads and telephone numbers.

Busby reported that he attended a recent City Center Newport Association meeting, and also presentations by state and US legislators.

Beemer reported that he has spent time on Safe Haven Hill watching the clearing, noting that the homeless camps were removed, and most of the rotten logs and brush were burned on site.

Allen reported that the Port Task Force met on January 9, and that short-term recommendations will be coming to Council. He noted that he and Beemer will exchange places as liaison and alternate to this Task Force. Allen noted that PMEC selected Newport for its site. He thanked Tokos for playing a prominent role in the presentation to the PMEC site selection team. Allen noted that he and Saelens had attended a recent Depoe Bay City Council meeting on separate issues. Allen added that there will be quite a few ocean policy meetings over the next few weeks, adding that LCDC will hold its final meeting to adopt TSP amendments for wave energy siting. He noted that this is the culmination of a five year process.

ADJOURNMENT

Having no further business, the meeting adjourned at 10:07 P.M.

Margaret M. Hawker, City Recorder

Sandra Roumagoux, Mayor

January 16, 2013
6:00 P.M.
Newport, Oregon

**JOINT WORK SESSION
NEWPORT CITY COUNCIL AND THE
CENTRAL OREGON COAST FIRE AND RESCUE DISTRICT,
NEWPORT RURAL FIRE PROTECTION DISTRICT, AND
DEPOE BAY FIRE DEPARTMENT**

Councilor Members present: Roumagoux, Swanson, Sawyer, Busby, Saelens, and Beemer. Allen was excused.

City Staff present: Jim Voetberg, Peggy Hawker, Phil Paige, Chris Rampley, Tracy Cole, Melanie Nelson, and David Marshall.

Others present:

Central Oregon Coast Fire and Rescue District - Derek Clawson, Chief, Dave Brooks, Board Member, Jerry Phillips, Board Member, Ray Woodruff - Board Member, Julie Becker, Tim Grady.

Depoe Bay Fire Department: Joshua Williams, Chief, Barbara Leff, Board Member, Gary Nees, Board Member, Phil Taunton, Board Member Harry Riches, Kirk Medefesser, David Jensen, Phyllis Palmer.

Newport Rural Fire Protection District: Ron Beck, Board Member, Yale Fogarty, Board member, Ron Benfield, Board Member, Peter Boris, Board Member, Shamus Gamache, Board Member, and Kent Gibson, Board Member.

Also in attendance were: Tracy Shaw, Seal Rock Rural Fire Protection District; Don Baker, North Lincoln Fire District; David Morgan, News Lincoln County.

Leff called the meeting to order at 6:00 P.M. The Pledge of Allegiance was recited. Roll was taken by each agency.

Leff noted that this is a workshop and no vote will be taken. She noted that public comment will be limited to three minutes per speaker, and asked that everyone in attendance sign-in.

Leff introduced Chief Phil Paige of the Newport Fire Department. Paige introduced

Derek Clawson, Chief of the Central Oregon Coast Fire and Rescue District, and Joshua Williams, Chief of the Depoe Bay Fire Department.

Paige made a PowerPoint presentation. The presentation included the history of collaboration efforts and the ESCI study; the reasons for collaboration; the challenges of cooperation; the options; the recommendations. He noted that an intergovernmental agreement is recommended to form a board with representatives from each participating agency. Paige noted that a collaboration committee was formed that developed goals and recommendations. The recommendations include the consolidation of administrative functions of the Newport Fire Department, Depoe Bay Fire Department, and the Central Oregon Coast Fire and Rescue Department. The governing board would be comprised of five members, one from each agency, and two from Newport. He added that a draft contract is under development and should be complete within the next week. He reviewed a sample budget for the first year; an organizational chart; responsibilities of shared positions; and suggested an implementation date of July 1 if it is decided to move forward.

Paige commented, as Chief of the Newport Fire Department, that he was impressed with the process and input. He stated that Newport's career and volunteer firefighters are not supportive of the idea, adding that there are details to work through. He added that he believes this plan is the best for citizens to provide better protection for the long-term.

Clawson stated that the Central Coast Fire and Rescue Department is 100% committed to the process, and ready to move forward as a group and meet the challenges together.

Williams thanked the committee for its work adding that change is not easy. He stated that the responsibility is to keep up with change and manage it, and the recommendation is a blueprint for the process.

David Jensen, Depoe Bay Fire Department, stated that he is in favor of consolidation.

Chris Rampley, Newport Fire Department, read a statement noting that the career firefighters were unanimous in their opposition to this plan. He noted that the changes can be achieved through mutual aid agreements.

Leff stated that the committee had done excellent work. She called for public comment.

Kirk Medefesser, Depoe Bay Fire Department, stated that this department is 100% in favor of the proposal.

Leff asked for questions from the governing bodies.

Beemer asked about the number of volunteers in the Depoe Bay Fire Department; how many of them are local residents; and whether they are certified to enter burning buildings. It was noted that there are approximately 26 volunteers, and three are local residents and all three are certified to enter burning buildings.

Busby asked why the districts that are not participating thought that the concept is not a good idea. Tracy Shaw, from the Seal Rock Fire District, stated that his district is monitoring the collaboration efforts and may participate at another time.

Beemer noted that it is his understanding that the Newport volunteer firefighters voted on this issue last night. Paige reported that the vote was 9-2 to oppose the effort. He noted that the Assistant Chief supports the collaboration efforts.

Don Baker, North Lincoln Fire District stated that there is no specific reason that this district is not participating, but noted that there are cultural differences in the three participating agencies.

Swanson asked why the Depoe Bay Fire Department supports the collaboration. It was reported that collaboration would provide better and overlapping coverage, and potential sharing of equipment.

Sawyer noted that the consolidated organization is similar to a three-legged stool with oversight by the consolidated board, the Newport City Manager, and the fire boards of the other districts. He asked what would happen if Paige did something that the others found egregious, and the City Manager suspended him for a week and the other members of the consolidate board believed he should be terminated. Woodruff stated that nothing will change but administrative duties. He reviewed the organization and how it would work, noting that overall, it would provide more services for the money.

Leff noted that only Newport could terminate Paige in the scenario described by Sawyer.

Leff stated that the goal of this effort is to decide on the number of fire districts in the county so that the state does not mandate consolidation.

Saelens noted that fire districts are not the only agencies needing to review efficiencies and potential consolidations and collaborations. He suggested carefully weighing the present to what the future could bring.

Yale Fogarty, board member of the Newport Rural Fire Protection District, stated that this district is the broken leg of the stool. He noted that the district has a contract with the city, and to participate in the consolidation would add liability that the district currently does not have.

Paige noted that many directions were discussed, and that what makes sense now would allow for future flexibility. He noted that the new governing body would need errors and omissions insurance for its decision-makers.

Fogarty stated that he was under the impression that there would be new lettering on the trucks, and that this might create/increase liability of participating departments/districts. Paige reported that the preliminary thought is that a sticker/decals of the new collaboration could be affixed to all equipment used by the consolidated

group. Fogarty noted that the affixing of the decal on the equipment could lead to assuming a portion of the liability. A discussion ensued regarding liability.

Fogarty noted that the consolidation may be good in the long-term, but that a start date of July 1 may be too ambitious.

It was suggested that the City Council and fire district boards develop questions for the collaboration/consolidation committee, and hold another meeting in 60 - 90 days.

Beck noted that his district is the gap if there is a consolidation, and that the geography is what brings this district to the table. He added that there are eleven fire authorities and nine fire chiefs in Lincoln County. It was suggested that a discussion of the services that will go away be held prior to determining whether only one chief is needed.

Nees stated that he has 38 years in the fire service, and he worked for the Tualatin Valley Fire District which consolidated decades ago. He added that consolidation can be accomplished but that it needs to be done in a good and safe manner. He urged folks not to be hung up on the suggested July 1 start date. He stated that there are two errors in the ESCI study and they are that the Depoe Bay Fire Department and the Central Coast Fire and Rescue District are not in compression. He added that Newport is closest to compression and that parts of South Beach are in compression.

Paige stated that the July 1 start date is an artificial date and was chosen due to the fiscal year.

It was again suggested that each group develop questions and reconvene to discuss answers. It was noted that the agencies will not stop working together regardless.

Beck addressed the letter from Speer Hoyt regarding there being no conflict of interest for representing four of the involved agencies.

At the conclusion of the meeting, it was reiterated that questions should be developed by each agency and that another meeting occur to discuss those questions and answers.

Having no further business, the meeting adjourned at 7:30 P.M.



Jim Voetberg
City Manager
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Manager's Report Meeting of February 4, 2013

Following is the Manager's Report for the City Council meeting of February 4, 2013:

Newport Entry Signs: Included in this year's budget was funds for restoration of the Newport entry signs. On February 5th, the contractor will be disconnecting power (lights that shine on the signs) to all three signs, removing the signs, and taking them to their shop for restoration. It is anticipated the restoration will take approximately six weeks. Of note, our signs will not be up for some upcoming events including the Seafood and Wine Festival.

FEMA Funding of Safe Haven Hill Improvements: FEMA has finally requested funding (allocation) for the Phase I component of the Tsunami Safe Haven Hill Project consisting of a feasibility study and a cost benefit analysis. Once this money is obligated, Oregon Emergency Management (OEM) will prepare necessary agreements between OEM and the City for the Phase I work. When the overall project moves to Phase II, contingent upon a favorable cost benefit analysis from the Phase I feasibility analysis, OEM and the City will simply do a contract funding addendum. The significance of this is that apparently the addendum will not require going through the entire FEMA approval process, which through past experience is not necessarily timely.

Fire Authority Update: After listening to comments at the joint Fire District/Department meeting where the concept of consolidating administrative functions was discussed, the three Fire Chief's have met and will begin addressing the various questions raised. Specific to the services provided to the Newport Rural Fire District by the City of Newport's Fire Department, comments at the meeting pointed out that the current ORS190 agreement needs to be updated. Council can expect to see this agreement updated prior to consideration of an ORS190 agreement for administrative consolidation with Depoe Bay and Central Coast Fire/Rescue Districts.

Capital Project Update: Attached is a status update on the City's capital projects which has been prepared by Senior Projects Manager Ted Jones.

Manager's Weekly Report: Attached is the Weekly Manager's Report for the weeks of January 14 and 21, 2013.



Memo

To: Jim Voetberg, City Manager and City Council
From: Ted Jones, PE, Sr Proj Mgr
Date: February 4th, 2013
Re: Capital Projects Status Update

Project: Hwy 101 Sewer & Water Improvements
Project Number: 2011-008
Status: Installing service connections, fire hydrants, and main line connections to existing water system.
Next Task: Complete connections and prepare for system disinfection and testing.
Budget: \$1.3MM
Description: This project replaces undersized and aging water pipes in the South Beach area, improving water capacity and pressure. In addition, sanitary sewer pipes are being extended allowing adjacent properties to connect to City services, thereby abandoning aging septic systems. The extension of water and sewer services in this area allows future residential and commercial growth in South Beach. This project is primarily funded through South Beach Urban Renewal.

Project: AIP-020 RWY 16/34 Rehabilitation Pre-Design
Project Number: 2012-094
Status: Field work completed and finalizing pre-design alternatives. FAA Engineering Services is preparing the associated NAVAIDS design.
Next Task: Review the consultants design recommendations and start detailed design.
Budget: \$500,000
Description: Pre-design to rehabilitate RWY 16/34 with a FAA compliant x-section, a full overlay, improved drainage, lighting, and safety areas. The last major pavement improvement project was 30 years ago and the pavement is at the end of its useful service life.

Project: Big Creek Road Landslide Repairs
Project Number: 2011-003
Status: FEMA has re-engaged and approval to proceed is imminent.
Next Task: Authorize final contract document for spring 2013 bid opening.
Budget: \$750,000
Description: This project will restore Big Creek Road. Heavy rainfall in January of 2011 caused portions of the road to slide away, making the road unsafe for vehicles and jeopardizing a buried water main and electrical and telecommunications overhead transmission lines. This project is 75% funded through FEMA.

Project: Ash Street Design and Construction

Project Number: 2010-003

Status: Contract documents are being finalized.

Next Task: Release for a spring 2013 bid opening.

Budget: \$557,000

Description: Design and construct Ash Street between SE 40th St. and SE Ferry Slip Road.

Projects in Design or Analysis Phase

Water Treatment and Distribution

- 2011-018 Agate Beach Tank, Salmon Run Pump Station and Waterlines – Contract documents are being finalized for a spring 2013 bid opening.
- 2012-012 Big Creek Dam Outlet Rehab Project – Final technical recommendations are being prepared for OWRD Dam Safety review. Planned bid opening in summer 2013.
- 2012-014 South Beach SCADA Improvements – Consultant and the IT Contractor are starting the implementation plan. Completion slated for 2013.
- 2012-013 Lakewood Hills Pump Station Upgrades – Contract documents are being finalized for a spring 2013 bid opening.
- 2012-010 Yaquina Heights Tank Rehab - Scope of Work under development - NTR
- 2011-025 Big Creek Dam 1 and 2 – Final report issued, coordinating with consultant on best alternatives. Preparing an RFQ for a Dam Consultant of Record.

Streets and Storm Drainage

- 2012-015 Bayfront/John Moore Drainage Upgrade – Met with consultant and reviewed the preliminary drainage study. Planning for a summer 2013 bid opening.
- 2011-027 Infrastructure Mapping – Methods and equipment have been improved allowing for more effective data collection and mapping. Planning for a spring 2013 completion.
- 2011-024 US-101 Crosswalks – ODOT is reviewing the consultant's resource allocation to accommodate cultural/environmental impact. Will cause a delay to the planned spring 2013 bid opening.

Wastewater Collection and Treatment

- 2012-008 WWTP Biosolids Evaluation – Staffing adjustments have been implemented and process monitoring/optimization continues.
- 2011-005 Bayside Sewer Rehab – Preliminary report has been presented to Engineering Staff and the preferred design option is being refined.
- 2012-025 Big Creek Pump Station – The consultant is preparing a life cycle cost analysis of the pump station alternates.
- 2012-024 Big Creek Force Main – Geotechnical and survey data collection is underway. Preliminary design alternatives have been presented. Planning for a late spring 2013 bid opening.
- 2012-027 Sanitary Sewer Flow Monitoring – Flow monitors installed and data collection underway.

Manager's Office Weekly Report Weeks of 1-14, 2013

Following are various items and issues which the City has been involved with during the week of January 14, 2013.

Utility Billing: As a reminder to Councilors, the utility bills that customers will received in February will include two months of usage charges (December and January) as the December usage was not included in the January bills. It can be expected that customers will have questions and complaints associated with their utility bill received in February. A bill stuffer with information regarding this issue was included in the January billing and will also be included in the February billing. On another note, beginning in February, customers will be able to pay their utility bills with credit/debit cards or on-line with express billpay. Information regarding this enhanced method of payment will be included with the February bills and through a news release.

Administrative Assistant: An offer has been accepted by Cynthia Breves to fill the Manager's Administrative Assistant position. Cynthia will begin February 4th.

Piece of Tsunami Dock: The City's piece of the Tsunami Dock should be arriving Wednesday the 23rd around 10:00am. We have been working with Mark McConnell to get the news out to the local, state and Japanese media.

Airport Runway 16/34 Project: Precision Air Engineering (PAE) has informed the city that part of the design associated with navigational aids, which is required to be done by the FAA, may be behind schedule thereby impacting the project bid date. A conference call has been scheduled between the City, PAE, FAA Grant Section and FAA Navigational Aid Design Section for Wednesday the 23rd to discuss timing of the project.

Embarcadero Unit Owner Business License: The City met with Michael Van Dyke who is the Legislative Policy Director for the Oregon Association of Realtors to discuss business license requirements for Embarcadero Unit Owners. As the Council may be aware, staff has interpreted the business license code to treat individual unit owners who participate in the hotel-like operations of the Embarcadero Association as a hotel, meaning the "hotel" pays for the business license. Unit owners who choose not to participate in the hotel will be required to obtain an individual business license. Dolphin Realty has indicated its desire that all Embarcadero Unit owners to pay for a business license. The Oregon Association of Realtors has taken on this issue on behalf of Dolphin Realty who is one of its members. There is the likelihood that the Oregon Association of Realtors may insist the City require all unit owners of the Embarcadero to obtain a business license.

Confined Space Emergency Extraction: Public Works has brought up the issue of how the City handles confined space emergency extraction. While Public Works is trained and has the equipment to enter confined spaces, the relationship between Public Works and the Fire Department as it relates to confined space emergency extraction needs to be refined. As the Council should be aware, the Fire Department is not the community's designated responder to confined space emergency extraction. Every business who may enter confined spaces are responsible for employee training, acquiring necessary equipment and emergency extraction.

Upcoming issues:

- Updating Sign Code
- Vehicle Camping
- OPRD Agreement for use of Room Tax Funds for improvements to South Beach State Park

Staff has been/continues working with LGLG on the following issues:

- Fiber Build-out and potential agreements with Coastcom.
- LID Process
- Miscellaneous Agreements
- Employment issues

Manager's Office Weekly Report Weeks of 1-21, 2013

Following are various items and issues which the City has been involved with during the week of January 21, 2013.

Tsunami Dock: Working with the Hatfield Marine Science Center, a piece of the Tsunami Dock has made its way back to Newport. Because of the unanticipated size of the dock piece, it has been temporarily placed on Port property near the International Dock. Hatfield has taken ownership of the dock piece and will further cut the dock to a size that best fits their needs. As reported to Council, the City paid \$3,500 to transfer the dock piece to Newport which will be charged against the Room Tax fund, Sister City line item, budgeted at \$5,000.

City Pension Fund Investment Report: West Coast Trust, the company who provides investment management for the City's pension funds, provided the City its fourth quarter 2012 investment performance report. For newer Councilors, West Coast Trust provides this information to the City's Board of Trustees' Committee which consists of Councilor David Allen, John Baker, Mike Schultz, Rick Trout, Rick Wright, Rebecca Cohen, Tim Johnson, David Marshall and JJ Schofield. A copy of the report can be viewed in the City Manager or Finance office.

Tourism Facilities Grant Project – Coast Aquarium Pinniped (Seal and Sea Lion) Viewing Expansion Project: I attended the ground breaking for the Coast Aquarium Pinniped (Seal and Sea Lion) Viewing Expansion Project. For newer Councilors, the City contributed \$250,000 towards this \$500,000 project awarded last year through the Room Tax Tourism Facilities grant. It is anticipated the work will be completed by spring break.

Lincoln County Fire Department Administration Consolidation Meeting: Thank you for attending the meeting with neighboring Fire District Boards interested in consolidating fire department administrative duties. The comments and discussion were open and valuable. The four Chiefs involved will be considering the input provided and come back with recommendations on how to proceed. On a related matter, the ORS190 Agreement between the City and the Newport Rural Fire District is in need of updating as it appears the City may be providing emergency response services not identified in the agreement. This may also be an opportunity to resolve the liability issue Board Members from the Newport Rural Fire District mentioned should the consolidating of administrative functions with other fire departments proceed.

LinCom 911 Emergency Dispatch Meeting: Although emergency dispatch is being provided by Willamette Valley Communication Center (WVCC), the former dispatch service provider, LinCom, will continue to officially exist until all assets and legal matters are finalized. Fortunately, County Counsel Wayne Belmont is assisting in overseeing this dissolution of LinCom, including the legal aspects and surplus of assets. The Lincom Executive Board met to continue along with this process.

Upcoming issues:

- Updating Sign Code
- Vehicle Camping

- OPRD Agreement for use of Room Tax Funds for improvements to South Beach State Park

Staff has been/continues working with LGLG on the following issues:

- Fiber Build-out and potential agreements with Coastcom.
- LID Process
- Miscellaneous Agreements
- Employment issues

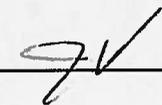


Agenda Item #
Meeting Date

VII.A.
Feb. 4, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Port of Newport Vehicle/Pedestrian Safety Plan Task Force Short Term Recommendations

Prepared By: Voetberg Dept Head Approval: City Manager Approval: 

Issue Before the Council: Presentation by the Port of Newport's Vehicle/Pedestrian Safety Plan Task Force on short term improvements associated with the Port's anticipated log export use at its International Terminal.

Staff Recommendation: Staff recommends that Council listen to the Port's Vehicle/Pedestrian Safety Plan Task Force presentation then forward these recommendations, along with Council comments, to Public Works for review, cost analysis and recommendations. A report to Council by Public Works would be scheduled for a future meeting.

Proposed Motion: I move the Port of Newport's Vehicle/Pedestrian Safety Plan Task Force short term recommendations be forwarded to the Public Works Department with direction that Public Works review the recommendations and report back to the Council at a future meeting.

Key Facts and Information Summary: The Port of Newport anticipates utilizing its recently upgraded International Dock facility for log export operations. The property is zoned for this type of use; and as such, the City cannot deny this activity, or add additional requirements or restrictions beyond what is currently called for, or outlined in the Newport Municipal Code.

Principal access from Highway 20 to the port facilities and other industrial uses along Bay Boulevard has historically been SE Moore Drive. SE Moore was designed and constructed for these purposes. The Port's log export developer has submitted a traffic impact analysis for their operations, and will be required to address any vehicle capacity/vehicle safety issue, or any structural road issue identified by a qualified traffic engineer.

Recognizing the need to ensure the public was fully aware of the log export activities that would be occurring at their International Terminal, the Port established a Task Force to discuss and make recommendations on pedestrian and vehicle safety impacts associated with increased truck traffic. At its August 6, 2012, meeting, Council adopted Resolution 3608 supporting the Port's Task Force, a copy of which is attached. The Task Force began meeting September 19, 2012. Attached for Council convenience is a Task Force work plan, agendas and meeting notes for each meeting.

As mentioned above, Staff recommends that Council listen to the Port's Vehicle/Pedestrian Safety Plan Task Force presentation then forward these recommendations, along with Council comments, to Public Works for review, cost analysis and recommendations. Public Works would review the Task

Force's recommendations from a traffic engineer and road engineer point of view and report back to the Council at a future meeting. Not necessarily an item to discuss at the meeting of February 4th, but when Public Works comes back with their recommendations and costs, staff will be seeking Council's expectations as to the city's participation in paying for any improvements identified.

Future Task Force meetings will begin focusing on long-term solutions including a secondary by-pass road from Highway 20 to the Bay Road, east of the International Terminal. While technically feasible that a by-pass road could be constructed within city limits, it must be candidly pointed out that the constructability would be extremely difficult due to elevation differences between Highway 20 and the Bay Road, steepness of the terrain, geology and cost.

Other Alternatives Considered: N/A

City Council Goals: N/A

Attachment List: Resolution 3608; Task Force Work Plan; Task Force's Agendas and meeting notes for September 19, 2012, October 10, 2012, November 14, 2012 and January 9, 2013.

Fiscal Notes: N/A

CITY OF NEWPORT
RESOLUTION NO. 3608

A RESOLUTION SUPPORTING THE PORT OF NEWPORT
PEDESTRIAN/VEHICLE SAFETY PLAN TASK FORCE

Findings:

- A. The Newport City Council and Port of Newport Commission met in a joint work session on June 18, 2012; and
- B. At the June 18 work session, the Newport City Council and Port of Newport Commission agreed that it is in the best interest of the community that the Port appoint a task force to discuss pedestrian and vehicle safety related to increased truck traffic on Moore Drive and East Bay Boulevard created by a log yard handling firm interested in shipping timber products through the Port's International Terminal; and
- C. At the June 18 work session, there was public testimony expressing concern for the use of Moore Drive and East Bay Boulevard for travel to the International Terminal to deliver timber products; and
- D. The City Council of the City of Newport acknowledges that the proposed use of shipping timber products is a permitted use pursuant to the Newport Zoning Ordinance;
- E. The Port, at its July 24, 2012 meeting adopted a resolution establishing a Pedestrian/Vehicle Safety Plan Task Force.

Based on these Findings, the City of Newport resolves:

Section 1. The City Council of the City of Newport supports the efforts of the Port of Newport Pedestrian/Vehicle Safety Plan Task Force.

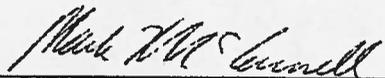
Section 2. The City of Newport will appoint Council liaison(s) and Jim Voetberg, City Manager, or his designee, to attend meetings of the Task Force.

Section 3. The City of Newport will provide meeting space, when available, for meetings of the Task Force.

Section 4. The City of Newport will further support the Task Force in any manner deemed appropriate by the City Manager.

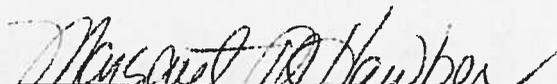
Section 5. This Resolution shall become effective immediately.

Adopted by the City Council on August 6, 2012.



Mark McConnell, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

Port of Newport and City of Newport

**Pedestrian/Vehicle Safety Plan Task Force
relating to increased truck traffic
and the Port of Newport International Terminal**

Objective

To collect input from neighbors, businesses, and other stakeholders to minimize the effect of increased truck traffic on John Moore Road and East Bay Boulevard on pedestrian and vehicle safety, and prepare written recommendations to the Port Commission and City Council to include both short term and long term solutions.

Representation

There are sixteen (16) members participating on the task force. (See attached list and contact information.)

Purpose

The task force is established to carry out the following functions:

- Provide input, advice, and recommendations to the Port and City for short and long term solutions to address safety issues relating to increased truck traffic that will be transiting the intersections of John Moore St. and HWY 20; John Moore St and Bay Boulevard and along the current truck route of East Bay Boulevard to the east entrance of the Port of Newport International Terminal industrial property.

No. 1 Priority Short Term (60 days)

Scope The task force will prioritize addressing safety issues concerning increased truck traffic use on John Moore Road and the intersection of East Bay Boulevard near the Embarcadero.

Discussion points should include but are not limited to:

- Signage
- Lighting improvements
- Cross walk improvements
- Sidewalk improvements
- Widening or turnouts
- Striping

Long Term (90-120 days)

Following the submission of any short term recommendations, the task force should consider long term solutions.

Scope

Consider an alternate truck route from Highway 20 to the Port's international Terminal industrial property

- Widening of the East Bay Boulevard east of Vista Drive to the east Terminal entrance
- Additional sidewalks/bike lanes
- Permanent signage
- Speed limit reductions
- Consider frequency of truck traffic
- Long term maintenance requirements and costs on current infrastructure
- Provide a timeline and tasks required to accomplish a new truck route from Highway 20 to the Terminal

Term and frequency of meetings

- First meeting to be held on September 19, 2012, 6 PM at City Hall council chamber.
- Short term considerations—meet monthly, or as needed, not to exceed three (3) months
- Long term considerations—continue to meet monthly for three (3) additional months and as needed thereafter

Procedures

- The task force will make recommendations to the Port Commission and City Council for consideration and action. The task force does not have the authority to make a final decision.
- All recommendations will be reached by a consensus process
- The facilitator will work with the task force to assist in keeping task force objectives and members on point
- The Port will staff the task force meetings

Port of Newport

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Port Pedestrian/Vehicle Safety Plan Task Force Regarding Port of Newport International Terminal 11/19/2012

Name	Phone	Email	Interest
Lee Fries 1266 SE Wade Way	541-574-7845	canyonman@charter.net	Terminal Design Advisory Committee
Doug Wills 411 SE Scenic Loop	541-574-1920 541-961-2146	dtwills@charter.net	Stakeholder/Possible chair person
Rob Halverson 985 SE First	541-961-1631	rhalverson@charter.net teamtazz@charter.net	ILWU Local 53
Yale Fogarty (Alternate) 429 SE 98th Street South Beach, OR 97366			
Lloyd "Oly" Olson	541-574-0737	loison0737@charter.net	Stakeholder
Dave McKuhan	541-961-0764	Mums60@actionnet.net	Used to haul logs and has worked on the docks Truck Driver/Stakeholder
Jim Buisman Lincoln County Public Works 880 NE 7th	541-265-5747	jbuisman@co.lincoln.or.us	County Public Works
Walter Chuck Dean Fleck (alternate)	541-270-4919 541-265-9275	walterportofnewport@gmail.com dfleck@englundmarine.com	Port Commission
Jim Johnson 516 SE First	541-574-9293	johnson4159@yahoo.com	Lived here since 1971, former planning commission member
Sunnetta Ransom	541-265-8135	sunnetta@embarcaderooua.com	Unit Owner's Association—Embarcadero
Dave Wright Pacific Shrimp PO Box 1230	541-265-4215 X205	dwright@pacseafood.com	Fishing Industry/Processor
Ken Dennis	541-272-2578	kdennis@actionnet.net	Bike-Pedestrian

**Port of Newport/ City of Newport Joint
Pedestrian/Vehicle Safety Plan Task Force
Relating to Increased Truck Traffic and the Port of Newport
International Terminal Facility**

Agenda

September 19, 2012

6PM

City Hall Council Chamber

Facilitator: Doug Wills

- **Welcome – Walter Chuck, Port Commissioner, David Alan, City Councilor**
- **Introductions – self intros**
- **Opening remarks – Don Mann, GM Port of Newport**
- **Meeting Procedures – Doug Wills**
- **Review of Task Force Objectives and Purpose – Doug Wills**
- **This session: Short term Priorities (round table discussion) - all**
- **Review discussion topics – Doug Wills**
- **Wrap-up comments**
- **Set date for next meeting**
- **Adjourn**

**Port of Newport and City of Newport
Pedestrian/Vehicle Safety Plan Task Force
City of Newport Council Chambers
September 19, 2012 6:00 p.m. – 8:15 p.m.**

Task force members present: David Allen, Jim Buisman, Walter Chuck, Ken Dennis, Lee Fries, Rob Halverson, Jim Johnson, Don Mann, Lloyd "Oly" Olson, Sunnetta Ransom, Mike Shaffer, Jim Voetberg, Doug Wills, Dave Wright

Others present: JoAnn Barton, Patty Benjamin, Al & Lavonne Bussey, Yale Fogarty, William Grimm, Erik Knutson, Bruce Lovelin, David Marshall, Jay Moeller, Dave Morgan, Prof. Hal Pritchett, Pat Ruddiman, Laura Seager

Findings:

- Newport City Council acknowledges in resolution that proposed use of shipping timber products is the permitted use pursuant to Newport zoning ordinance.

Representation:

- David Allen, Newport City Council, and Walter Chuck, Port Commission, will participate fully in task force deliberations and discussions but will abstain from voting on final recommendation.
- Doug Wills and Lloyd "Oly" Olson appointed as chair and vice-chair, respectively. David Allen and Walter Chuck will work with the chair and vice-chair on setting the agendas.

Time Line:

- Teevin Bros. is still gathering information for permit applications. Once a joint permit application is submitted, turnaround time is a minimum of ninety days.
- The International Terminal construction will be complete in January of 2013. Teevin log yard completion target date is March or April of 2013.
- Until the end of this year, the only truck movement will likely be trucks moving sand and trucks related to ongoing construction at the terminal.

Short Term:

- Educate trucking companies about Highway 20 and John Moore Road interchange.

- Don Mann will talk to Teevin about the getting information to independent drivers and an estimate of the number of trucks Teevin will use on a monthly basis.
- Speed limit notifications need to be modified.
- Need notification of speed limit dropping to 45 mph and notification that speed drops to 30 mph should be set up at the top of the hill.
- Move 45 mph signage east.
- Consider warning signs on the grade coming from the west on Highway 20.
- Consider intersection signage on the road to warn drivers of congestion, pedestrian traffic, runners, bicycles, and crosswalks.
- LED illuminated signage.
- Newport City Council can make recommendation to ODOT regarding speed limit. Process can be started anytime.
- ODOT can put counters out to monitor average daily trips in that area. Will have input at the next meeting on what they can do and a time line.
- Consider lengthening the left turn lane on Highway 20 onto John Moore Road.
- Trucks from fish plants will likely be the longest loads using the intersection.

John Moore Road:

- Still a school zone, even though signs have been removed.
- Cars park on both sides of the road during softball games.
- Consider extending no parking zone past the Elk's Club
- Consider no parking hours 7:30 a.m. – 4:30 p.m. Monday – Friday, when trucks are running.
- When turning right onto Bay Boulevard, can't see boat trailers and trucks that are parked across from Englund Marine around the corner from John Moore Road.

- Consider shaving the corner, putting in a new curb, and extending no parking zone past Englund Marine's driveway.
- Consider rumble strips, either real or painted, to warn of sharp turn and upcoming intersection as vehicles approach intersection.
- Noise issues and safety issues related to "jake" brakes, compression brakes, and non-compression brakes.
- Suggest talk to someone in trucking industry to see what impact restrictions would have on them from a safety standpoint.
- David Allen will pull a copy of the noise abatement regulations and bring it to the next meeting.

Cross Walks:

- Don't need additional cross walks (there are two) but they need to be better defined and marked.

Bay Road:

- Some curbing is painted yellow going east; some areas there is no curbing; and there are no signs saying no parking.
- Existing bike lane going east needs to be repainted.
- Vegetation has grown up on south side of Bay Road to the log yard obstructing sight.
- David Allen will follow up with Tim Gross, Newport Public Works, about preparing a schematic for the next meeting for use in incorporating task force's suggestions related to the intersection of John Moore Road and Bay Boulevard.

Public Comment:

Discussions of by-pass road; noise abatement issues; formula for distribution of road tax monies to various jurisdictions

Long term issues vs short term issues:

Long term issues will require planning, engineering, infrastructure, and funding.

Short term issues need to be in place in this time frame, sixty to ninety days before major activity starts, to start out safely when the first truck delivers logs.

Next meeting:

- Goal will be to set format, prioritize the time line, and prepare an action plan.
- Next meeting Wednesday, October 10, 6:00 p.m.
- David Allen with confirm Council Chamber's availability.

**Port of Newport/ City of Newport Joint
Pedestrian/Vehicle Safety Plan Task Force
Relating to Increased Truck Traffic and the Port of Newport
International Terminal Facility**

Tentative Agenda

October 10, 2012

6:00 PM

City Hall Council Chamber

- **Welcome – Doug Wills, Chair**
- **Recap of Short-Term Priority Recommendations from September 19 Meeting**
- **Identify Priority Tasks and Responsible Partners
Define a Specific List of Tasks to be Accomplished by Each Partner**
 - **ODOT, Mike Shaffer**
 - **City of Newport, David Allen and Tim Gross**
 - **Lincoln County, Jim Buisman**
 - **Port of Newport, Walter Chuck**
- **Public Comment (3 minutes per person)**
- **Final Comments/Questions – Task Force**
- **Set Date for Next Meeting**
- **Adjourn**

**Port of Newport and City of Newport
Pedestrian/Vehicle Safety Plan Task Force
City of Newport Council Chambers
October 10, 2012, 6:00 p.m. – 8:00 p.m.**

Task force members present: David Allen, Jim Buisman, Walter Chuck, Ken Dennis, Lee Fries, Rob Halverson, Jim Johnson, Lloyd "Oly" Olson, Sunnetta Ransom, Jim Voetberg, Doug Wills

Others present: Patty Benjamin, Wayde Dudley, Yale Fogarty, Tim Gross, Mark Miranda, Dave Morgan, Pat Ruddiman, Jim Shaw

Recap of Short-Term Priority Recommendations from September 19 Meeting:

The first meeting focused on short-term tasks to be accomplished by ODOT, the City of Newport, Lincoln County, and the Port of Newport. The focus of this meeting would be to discuss and prioritize those tasks so a list of suggestions could be presented to the task force partners.

Identify Priority Tasks

ODOT

Discussion on lengthening turn lane coming down John Moore Road:

- ODOT to put "counters" on John Moore Road to measure current traffic.
- Don Mann will get estimate from Teevin Bros as to how many trucks per day to anticipate.
- Turn lane is currently 240 feet. Can accommodate four 60-foot trucks. "Bumping out" the turn lane would add another 240 feet.

Discussion on speed limits:

- Speed limits are established by the State Traffic Engineer as either statutory or warranted limits based on technical analysis.
- Requesting a speed limit study to determine what limits can actually be warranted might not result in the desired reduction in the speed limit.
- Advisory signs warning of a speed limit reduction ahead are also based on an engineering standard but there is more flexibility as to how far ahead they can be placed.
- Suggest requesting advisory signs to be placed at the top of the hill and then wait for log truck traffic to actually develop before requesting speed limit analysis based on changes in traffic caused by the logging operation.

Discussion on restricting parking on John Moore Road.

Suggestions to present to ODOT:

1. Speed limits with warning signs. Advisory sign to 30 mph at top of hill.
2. Investigate desirability of lengthening left turn lane
3. Improve left turn radius from Highway 20 to John Moore Road.

City

Tim Gross, Public Works Director, presented a conceptual design drawn to what the SE Bay Boulevard and SE Moore Drive intersection could look like after changes to accommodate increased log truck traffic.

- Discussion of turn lane from John Moore Road into Oregon Coast Bank. Suggest a title search to determine if Oregon Coast Bank has granted an easement to the City for the property where the sidewalk is on the corner.
- Discussion of the difficulty in seeing around the corner of Moore Drive and Bay Boulevard, due to trees and retaining wall.
- Discussion of funding issues: City, Port, and Teevin sharing costs of intersection improvements. Noted that conversation has already been initiated but had not been discussed in detail.
- Discussion of timeline of intersection improvements, as it relates to storm drain analysis project currently underway in that area. Would be logical to coincide intersection improvements with the potential stormwater improvement project that could start in June or July of 2013, if funding is in place.
- Discussion of possible improvements in the interim: restriping to eliminate left turn conflict; LED lights or flashers to draw attention to signage; mark no parking on Bay Boulevard until past Englund Marine's driveway.
- Discussion of school zones: speed zone comes into application when people are walking or biking to school. Children attending the school on John Moore Road are bused or driven to special classes and alternative programs.
- Suggest moving the yellow line on the last 100 feet of John Moore Road east 5-6 feet to the right to allow greater turning radius for trucks coming in both directions. Noted that it is a "huge" turning radius but staggering stop bars there would provide extra space for left turn movement without reducing the lane width for traffic going northbound.

Discussion of Jake Brakes:

- Newport Municipal Code/Noise Ordinance 8.15.020 (A) states that the use of Jake brakes, except in an emergency, is prohibited at all times within the city limits. Some warning signs are installed now. Can put signage up on John Moore Road.

Discussion of rumble strips:

- They don't last long and grooved pavement could create safety issues for bicycles.

Education for the trucking company used by Teevin Bros, as discussed at last month's meeting, will be a Port issue with input from Ken Dennis.

ODOT might be willing to donate reader boards for a period of time to notify public of changes in traffic patterns or signage. (Falls into long term plan.)

David Allen, Newport City Council, said he would not participate in assigning recommendation numbers for City issues as a member of the task force because he would address the recommendations as a councilor on the City Council level.

Suggestions to present to the City of Newport:

1. Modify Bay Boulevard/John Moore Road intersection with a target start of July 2013.
2. (a) LED on signs and location of signs
(b) Jake brake signs
3. Left turn lane into Oregon Coast Bank from John Moore Road
4. No Parking Zone on John Moore Road and west on Bay Boulevard
5. Rumble strips
6. (or 11.) Moving the yellow line on the last 100 feet of John Moore Road east about six feet to allow a greater turning radius for trucks.

The Port of Newport's regular meeting is usually held on the fourth Tuesday of every month but has been changed for this month only to October 30. The Newport City Council meets the first week of the month. Lloyd "Oly" Olson volunteered to make a presentation on the task force's suggestions at the Port meeting on October 30. Doug Wills and others will request time on the agenda for the City Council's evening session the following week.

County

- The county can post statutory speed limits but does not have authority to set warranted speed limits on county roads. The county would have to initiate the process of reducing a speed limit through the state traffic engineer.
- Maintenance, including clearing brush within the right of way, is a county issue.
- There does not appear to be a speed issue on the stretch of road where log trucks would enter the storage yard. It is a straight stretch with good visibility.
- The road is basically structurally okay for trucks at this time.

County issues would be put on hold and incorporated into long-term goals.

Ken Dennis asked where the "Share the Road" sign was in relation to the truck routes.

If ODOT is requested to look at the length of the left turn lane and move advisory signs, one of the jurisdictions (Port, City, or County) would be the point jurisdiction on the request, with concurrence by the other jurisdiction.

Public Comment

There was no public comment.

Final Comments/Questions—Task Force

Walter Chuck said Eric Oien from Teevin Bros would attend the next meeting and provide information on the decibel levels at Teevin's other facility.

Set Date for Next Meeting

The next meeting was scheduled for November 14, 2012. The agenda will include finalizing the short-term goals.

Jim Voetberg will check on availability of the council chamber.

Adjourn

Meeting was adjourned at 8:00 p.m.

**Port of Newport/City of Newport Joint
Pedestrian/Vehicle Safety Plan Task Force
Relating to Increased Truck Traffic and the Port of Newport
International Terminal Facility**

Tentative Agenda

November 14, 2012

6:00 PM

City Hall Council Chamber

- **Welcome – Doug Wills, Chair**
- **Recap of Short-Term Priority Recommendations from October Meeting**
- **Identify Priority Tasks and Responsible Partners and draw up a formal request document of Tasks to be Accomplished by Each Partner**
 - **ODOT, Mike Shaffer**
 - **City of Newport, David Allen and Tim Gross**
 - **Lincoln County, Jim Buisman**
- **Public Comment (3 minutes per person)**
- **Final Comments/Questions – Task Force**
- **Set Date for Next Meeting**
- **Adjourn**

**Port of Newport and City of Newport
Pedestrian/Vehicle Safety Plan Task Force
City of Newport Council Chambers
November 14, 2012, 6:00 p.m. – 8:00 p.m.**

Task force members present: David Allen, Walter Chuck, Ken Dennis, Lee Fries, Rob Halverson, Jim Johnson, Dave McKuhn, Lloyd "Oly" Olson, Sunnetta Ransom, Jim Voetberg, Doug Wills.

Others present: Dick Beemer, Patty Benjamin, Yale Fogarty, Mark Miranda, Mike Peterson; Pat Ruddiman, Dean Sawyer.

Recap of Short-Term Priority Recommendations from October 10 Meeting:

The goal of this meeting was to define the short-term recommendations that the task force would present to ODOT and the City of Newport relating to pedestrian/vehicle safety issues caused by increased truck traffic on John Moore Road and its intersections with Highway 20 and Bay Boulevard.

Recommendations for Lincoln County would proceed with Phase 2 of the task force's work, when long-term goals, such as a by-pass road or a more efficient way to get trucks in and out, would be considered.

"Oly" Olson and Doug Wills had made presentations to update the Port of Newport Commission and Newport City Council on the task force's progress. The presentation would be shown to the task force members to provide an overview for a discussion of the issues.

ODOT

The proposed truck route is 1.3 miles long, within 3 jurisdictions (City, ODOT, County); has 2 major intersections, 10 residential side streets, and 6 commercial driveways.

The speed limit for Highway 20 westbound traffic is 55 mph, and then is reduced to 45 and then to 30 mph 180 feet before the stop light. There is no warning sign for the 30 mph speed limit.

The task force is not recommending that ODOT change the speed limit but does propose that the 30 mph speed limit sign for traffic coming from the east should be moved back to the top of the hill, and the 45 mph speed limit sign be moved back as well, to allow trucks time to slow down and work their way into the intersections.

Noted: West to east on Highway 20 includes truck traffic to Georgia Pacific. **The task force proposes placing warning signs west of John Moore Road for east bound traffic.**

The left turn lane from Highway 20 onto John Moore road is approximately 240 feet long. An average truck is 60-65 feet long. That leaves space for 2-3 trucks without them sticking out into Highway 20. **The task force proposes extending the left turn lane an additional 200 feet for a total of 440 feet.**

The task force proposes pulling back the left turn stop line on John Moore Road for eastbound Highway 20 traffic turning left.

Noted: If the task force proceeds with these recommendations, they should come from one jurisdiction (City of Newport) with a letter saying that the other jurisdiction (Port of Newport) supports the recommendation. Separate meetings have been scheduled between ODOT and the Port and ODOT and the City on November 27 and in mid-December.

City

City put up a new sign on John Moore road prohibiting engine exhaust braking. The sign is right after the left turn onto John Moore Road. Chair suggests moving it down a bit further so it is more easily seen.

It was the consensus of the panel that the intersection between John Moore Road and Bay Boulevard/Bay Road needs to be better marked. Drivers do not realize that cross traffic does not stop. Discussion followed about the conceptual drawing Tim Gross had presented at the meeting on October 10.

The task force proposes:

- **Moving the stop line at the top of John Moore Road back from the crosswalk to increase trucks' turning radius.**
- **Moving the center line 6 feet east on John Moore Road to create left turn lanes onto First Street, View Street, and into the Oregon Coast Bank, and eliminate all parking along John Moore Road.**
- **Enhancing sign visibility with LED lights.**
- **Installing rumble strips and signs prohibiting use of "Jake Brakes" down the hill.**

It was the consensus of the task force members, by way of a vote, that educating truck drivers about safety issues relating to bicyclists was outside the scope of the task force and should not be a formal recommendation. However, the task

force noted Ken Dennis' concerns and suggested that he approach the Port as a task force member or approach the City as a member of the Bicycle Advisory Committee, to discuss a voluntary education process towards that specific issue, once Teevin actually starts their operation. It was also noted that it would not be just Teevin drivers utilizing that area, but truck drivers from all over as well as other vehicular traffic, so singling out a specific industry for mandatory education would not be part of the task force's focus.

David Allen suggested as a consideration for the City Council some signage leading up to the log yard that would address bicycles or other congestion issues.

It was suggested that a right turn lane to the log dump access would give trucks a better chance to make the turn and be aware of other traffic.

David Allen noted for the record that he would abstain with respect to City recommendations since he would be addressing them on a City Council level.

City Manager Jim Voetberg said it was brought to his attention by Community Development Director Derrick Tokos that under the City's new revised code Teevin Bros' development will trigger a requirement for a professional traffic impact analysis. Voetberg did not know if Teevin Bros was aware of that. A discussion followed about whether this requirement would apply to only Teevin Bros or to each company that would use the terminal. Voetberg said he would ask Tokos to send an e-mail to Patty Benjamin with a copy of the new requirement attached, and she will forward it to the task force members.

Local resident Mike Peterson had attended the joint meeting between the Port and the City Council and expressed concerns about decibel levels, carbon monoxide levels, and a possible decrease in property values as a result of increased truck traffic. A letter from Peterson had been forwarded to the City Council, the Port, and the task force members. Peterson asked if the task force was going to address those concerns. David Allen read from the resolution adopted by the Port and supported by the City defining what the task force had been charged to accomplish, which was to produce written recommendations regarding short and long-term solutions that would minimize the effects of pedestrian and vehicle safety related to increased truck traffic. Allen said he recognized that Peterson's issues may be important but the task force would focus on the work set forth in that resolution.

Yale Fogarty suggested installing push-button warning lights at the crosswalk at the bottom of the hill on John Moore Road. The flashing lights could be activated by pedestrians as a warning to trucks.

The chair said he would prefer to wait until the new council is seated in January before making any further presentations to the City Council. He said he would arrange a meeting with Port of Newport General Manager Don Mann and Patty

Benjamin to discuss preparing the formal recommendations and would meet with Allen after that to review the formal recommendations.

Lloyd "Oly" Olson will attend the Port Commission meeting on November 27.

Public Comment

There was no public comment.

Set Date for Next Meeting

The next meeting of the task force was tentatively scheduled for the January 9, 2013.

Adjourn

Meeting was adjourned at 7:25 p.m.

**Port of Newport/City of Newport Joint
Pedestrian/Vehicle Safety Plan Task Force
Relating to Increased Truck Traffic and the Port of Newport
International Terminal Facility**

Tentative Agenda

January 9, 2013

6:00 PM

City Hall Council Chamber

- **Welcome – Doug Wills, Chair**
- **Approve Minutes—November 14, 2012 Meeting**
- **Recap of City/Port Resolution and Task Force Assignment—Doug Wills**
- **Updates:**
 - a.) **City**
 - b.) **ODOT**
 - c.) **Teevin Bros.**
 - d.) **Task Force**
- **Public Comment (3 minutes per person)**
- **Final Comments/Questions—Task Force**
- **Adopt Final Short-Term Recommendations**
- **Review Next Steps Moving Forward**
- **Set Date for Next Meeting: February 13, 2013**
- **Adjourn**

Final Task Force Recommendations for Short-Term Pedestrian/Vehicle safety for

- **Highway 20 and SE Moore Road intersection**
- **SE Moore Road from Highway 20 to Bay Boulevard**
- **SE Moore Road and SE Bay Boulevard intersection**

Preamble

The charge of the Task Force was to produce written recommendations regarding short and long-term solutions that would minimize the effects of pedestrian and vehicle safety related to increased truck traffic.

The affected traffic route is 1.3 miles long, within 3 jurisdictions (City, ODOT, County); has 2 major intersections, 10 residential side streets, and 6 commercial driveways.

The speed limit for Highway 20 westbound traffic is 55 mph, and then is reduced to 45 and then to 30 mph 180 feet before the stop light. There is no warning sign for the 30 mph speed limit.

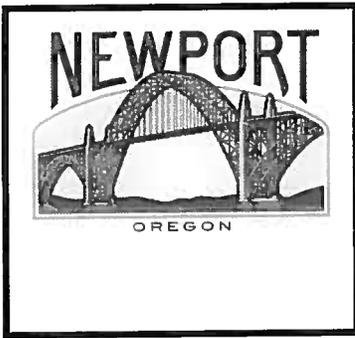
Short-Term Recommendations

The first recommendation is made to ODOT and is very important to accomplishing overall safety for current, as well as any added, truck traffic to the above Highway 20 and Moore Road jurisdictions.

- **The Task Force is not recommending that ODOT change the speed limit but does recommend that the 30 mph speed limit sign for traffic coming from the east should be moved back to the top of the hill, and the 45 mph speed limit sign be moved back as well, to allow trucks time to slow down and work their way into the intersections.**
- **West to east on Highway 20 includes truck traffic to Georgia Pacific. The Task Force proposes placing warning signs west of John Moore Road for east bound traffic.**
- **The left turn lane from Highway 20 onto John Moore road is approximately 240 feet long. An average truck is 60-65 feet long. That leaves space for 2-3 trucks without them sticking out into Highway 20. The Task Force proposes extending the left turn lane an additional 200 feet for a total of 440 feet.**

Recommendations for this section of SE Moore Road and the intersection of Moore Road and Bay Boulevard are to the City of Newport.

- **The Task Force proposes pulling back the left turn stop line on John Moore Road for westbound Highway 20 traffic turning left onto John Moore Road.**
- **The Task Force requests that the City put up a new sign or relocate the current sign on John Moore road prohibiting engine exhaust braking. The current sign is right after the left turn onto John Moore Road. The Task Force suggests moving it down a bit further so it is more easily seen or add one around the bend.**
- **Must be enforced.**
- **Moving the center line 6 feet east on John Moore Road to create left turn lanes onto First Street, View Street, and into the Oregon Coast Bank, and eliminate all parking along John Moore Road.**
- **The Task Force recommends that the intersection at John Moore Road and Bay Boulevard/Bay Road needs to be better marked. Drivers do not realize that cross traffic does not stop. Therefore, the Task Force proposes:**
 1. **Widening the intersection per drawings.**
 2. **Add informational signs.**
 3. **Install rumble strips and markings on Moore Road.**
 4. **Push button warning light for cross walk.**
 5. **Enhancing ALL sign visibility with LED lights.**
 6. **Additional signage for 25 mph speed limit on Bay Road east of intersection, and maybe rumble strips as well.**
 7. **Add “Jake Brake” sign on bay Road east of intersection.**



Agenda Item #
Meeting Date

VIII.A.
February 4, 2012

CITY COUNCIL AGENDA ITEM SUMMARY

City Of Newport, Oregon

Issue/Agenda Title Authorization to sell substandard undeveloped property (a portion of NW Gladys Street)

Prepared By :Greg Schaecher/Derrick Tokos Dept Head Approval: Derrick Tokos City Mgr Approval: Jim Voetberg

Issue Before the Council: Consideration of whether or not it is in the public interest to convey portions of NW Gladys Street that the City attempted to vacate in the 1980's and early 1990's. The conveyances involve 6-foot wide strips of land adjoining properties identified as Tax Lots 5002, 6200, 9300, and 11200 of Lincoln County Assessor's Tax Map 10-11-29-BB. If approved the strips of land would accrue to the owners of those properties.

Staff Recommendation: The Council should proceed with the conveyances, as it was determined by a prior Council that the land is not needed for road purposes when they attempted to vacate what at the time they thought was road right-of-way. Once it was discovered that the City owned fee title to the land, an attempt was made to address the situation with the conveyance of deeds to the affected property owners. These four properties were missed and the deeds we have drafted correct that oversight.

Proposed Motion: I move that the Council find that property described in the bargain and sale deed documents presented at this meeting is no longer needed for public use, and that the Mayor is authorized to sign the deeds conveying the property to adjoining landowners. Such action is consistent with the City's intent of vacating what it had originally thought was excess road right-of-way.

Key Facts and Information Summary: On December 20, 2012, the City received a letter from the Lincoln County Assessor's Office indicating that they had identified issues with NW Gladys Street in Agate Beach. This street, originally a part of the U.S. Spruce Production Railroad Right-of-Way, was a 66-foot wide right-of-way according to the County's tax map 10-11-29BB. It was determined that the City did not need this wide a width so in the 1980's through early 1990's, the City vacated the westerly 6-feet and easterly 10-feet of the right-of-way decreasing the width from 66-feet to 50-feet. It was then found out that NW Gladys Street was actually property, not public right-of-way, owned by Lincoln County. Lincoln County deeded NW Gladys Street to the City during the time the City was vacating it. Once the City discovered this, it drafted bargain and sale deeds conveying the strips of land that it had vacated to the affected property owners. In light of the County Assessor's letter, in which they indicate that the County never received any record of the conveyances, staff retained the services of a local title company and was able to ascertain that all but four of the conveyances had been completed. One of the remaining properties belongs to the City of Newport. The other three properties are privately owned.

Newport Municipal Code Section 2.25.030 sets out the City's process for selling substandard, undeveloped property. It requires that notice be provided to property owners within 300-feet of the affected parcels indicating the City's intent to sell the land. This occurred on January 23, 2013. Interested person may appear to testify on the matter. If, after taking testimony, the Council determines that the land is surplus to the City's needs and should be sold, then it shall provide direction on how the sale should proceed. Because the City already determined that it is appropriate that these properties accrue to the adjoining land owners, as would occur with a conventional right-of-way vacation, no further action is needed. In other words, the Council may direct that the conveyances be completed in lieu of publicizing the properties to determine if there is interest from prospective purchasers.

Other Alternatives Considered: None.

City Council Goals: This action addresses discrepancies in the City's property records and is; therefore, consistent with the Council's goal of improving the organization of its records and developing strategies for the acquisition and sale of City assets.

Attachment List:

- Letter from the Lincoln County Assessor's Office, dated December 20, 2012
- Map depicting the subject property
- Copies of the four bargain and sale deeds
- Public Hearing Notice

Fiscal Notes: The City will be responsible for the recording costs of the four bargain and sale deeds. While three of the four properties will become taxable given that they will no longer be publicly owned, it is unlikely to result in any measurable increase in tax revenue given the small size of the conveyances.



County of Lincoln

Office of the Assessor

Courthouse, Room 207
225 W. Olive St.
Newport, OR 97365
(541) 265-4102

December 20, 2012

Hi Derrick,

When I finished remapping Newport a number of years ago, I gave the then Community Development Director a list of all the problems I found that I thought the city should be aware of. I have since found another one that I thought you should know about. NW Gladys Street in Agate Beach which is on Assessor map 10-11-29-BB, is unique in that it is not really a street. I have found no evidence that it was ever dedicated as a street, though it has been used as such. It was once the old Spruce Production Railroad right-of-way and was deeded in fee title to the railroad. It passed through a number of hands until it was finally deeded from Lincoln County to the City of Newport (MF 154-1210). It has been treated like a street and has always appeared on the Assessor map as a street (even though I think it probably should have been shown as a tax lot.) The city has treated it as a street and has passed many ordinances vacating parts of it. It was probably true that the adjacent land owners needed portions of the road vacated due to encroachments of buildings, fences etc. But if the city owns fee title to the land, vacating it only removes the public easement (if there is one) not the city's ownership. We see in the later ordinances that the city recognized that it owned the fee and it said "*prior to the final reading of this ordinance. . . the city will convey the fee ownership to said adjacent property owners. . .*" We have never seen any deeds from the city to the property owners. It is possible that they were issued but never recorded or it is possible that the city thought that the ordinance was enough to convey title.

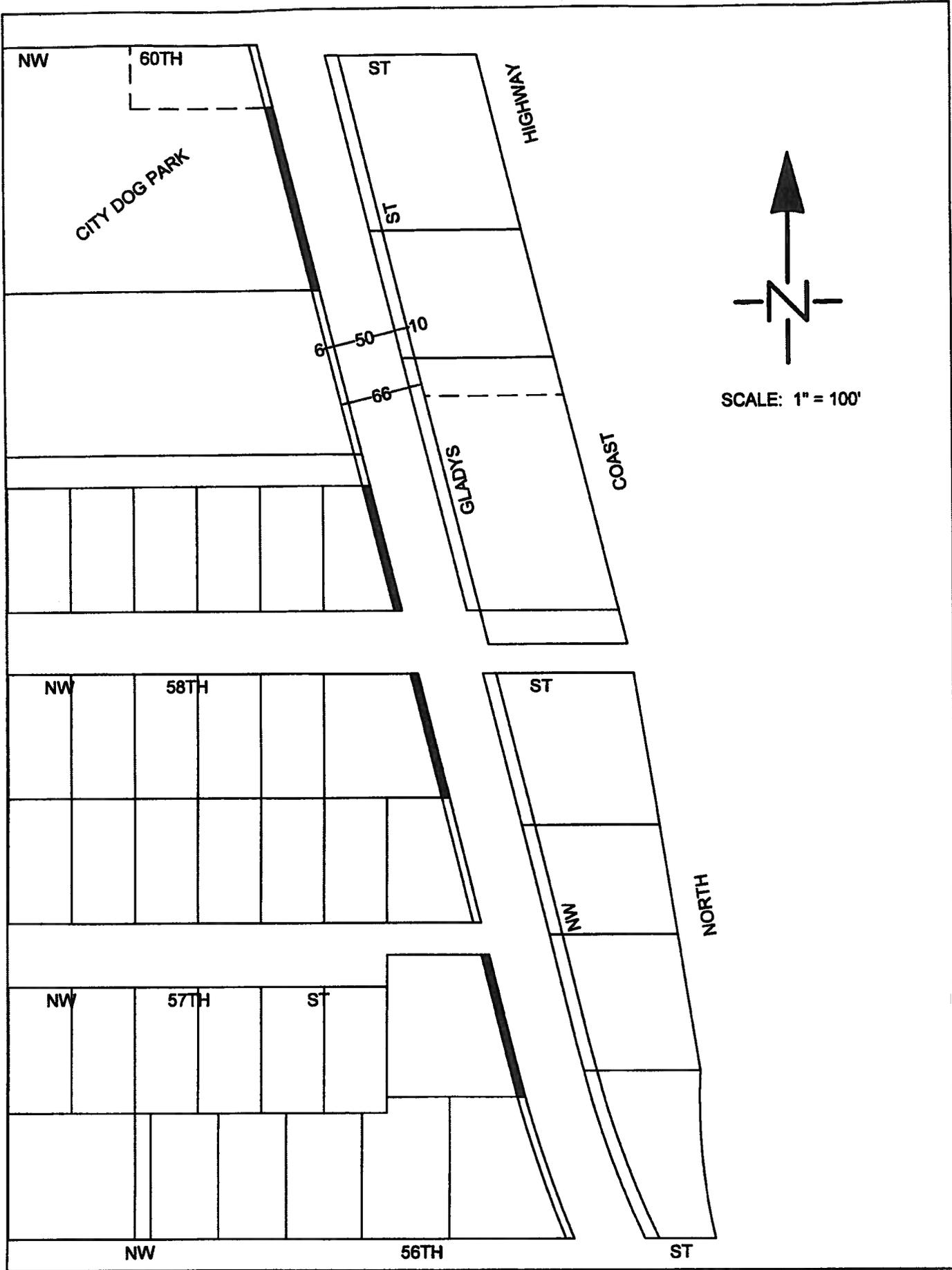
The problem is exacerbated in the earliest vacation ordinances where the city vacated parts of Gladys Street Before the county had deeded it to the city.

The city vacation ordinances are:

- #1381 (before the city owned the street)
- #1409 (before the city owned the street)
- #1439 (Vacation only. No mention of fee)
- #1510
- #1646
- #1670

I have spoken with our County Counsel Wayne Belmont. He feels it would be wise for the city to issue quitclaim deeds to the current owners of the lands adjacent to the described vacations to clear up any doubt about ownership.

Scott Branchfield
Lead Digital Cartographer



GRANTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365

GRANTEE:

Richard E. Thackeray
Tracey A. Thackeray
5657 NW Gladys Street
Newport, OR 97365

After Recording Return To:

City of Newport
169 SW Coast Highway
Newport, OR 97365

Until A Change Is Requested

Send Tax Statements To:

Richard E. Thackeray
Tracey A. Thackeray
5657 NW Gladys Street
Newport, OR 97365

**BARGAIN AND SALE DEED
STATUTORY FORM**

City of Newport, a political subdivision of the State of Oregon, Grantor, conveys to Richard E. Thackeray and Tracey A. Thackeray, Grantee, the following described real property situated in Lincoln County, Oregon, to-wit:

Beginning at the northeasterly corner of that tract of land conveyed to Richard E. and Tracey A. Thackeray, recorded July 31, 1991, in Book 232, Page 1489, Microfilm Records for Lincoln County, Oregon, said northeasterly corner also being the intersection of the southerly boundary line of the NORTH AVENUE ADDITION, a subdivision of record in the Northwest quarter of the Northwest quarter of Section 29, Township 10 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, and the westerly right-of-way line NW Gladys Street, (formerly known as the U.S. Spruce Production Railroad Right-of-Way); thence easterly along the easterly extension of said southerly line of NORTH AVENUE ADDITION, a distance of 6.34 feet, more or less, to its intersection with a line that is 6.00 feet northeasterly of and parallel to said westerly right-of-way line of NW Gladys Street; thence southeasterly along said line that is 6.00 feet northeasterly of and parallel to the westerly right-of-way line of NW Gladys Street, a distance of 119 feet, more or less, to its intersection with the easterly extension of the southerly line of said Thackeray Tract; thence westerly along said easterly extension of the southerly line of the Thackeray Tract, a distance of 6.34 feet, to the southeasterly corner of said Thackeray Tract; thence northwesterly along said westerly right-of-way line of NW Gladys Street, a distance of 119 feet, more or less, to the point of beginning.

Subject to easements for utilities, if any, across any portion of NW Gladys Street.

The true consideration for this conveyance in terms of dollars is \$-0-, which is the whole consideration.

Dated this _____ day of _____, 20_____.

GRANTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365

GRANTEE:

Rebecca K. Wheatley
PO Box 481
Newport, OR 97365

After Recording Return To:

City of Newport
169 SW Coast Highway
Newport, OR 97365

Until A Change Is Requested

Send Tax Statements To:

Rebecca K. Wheatley
PO Box 481
Newport, OR 97365

**BARGAIN AND SALE DEED
STATUTORY FORM**

City of Newport, a political subdivision of the State of Oregon, Grantor, conveys to Rebecca K. Wheatley, Grantee, the following described real property situated in Lincoln County, Oregon, to-wit:

Beginning at the northeasterly corner of Lot 8, Block 1, NORTH AVENUE ADDITION, a subdivision of record in the Northwest quarter of the Northwest quarter of Section 29, Township 10 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, said northeasterly corner of Lot 8 being the intersection of the southerly right-of-way line of NW 58th Street and the westerly right-of-way line NW Gladys Street, (formerly known as the U.S. Spruce Production Railroad Right-of-Way); thence easterly along the easterly extension of the northerly line of said Lot 8, a distance of 6.19 feet, more or less, to its intersection with a line that is 6.00 feet northeasterly of and parallel to said westerly right-of-way line of NW Gladys Street; thence southeasterly along said line that is 6.00 feet northeasterly of and parallel to the westerly right-of-way line of NW Gladys Street, a distance of 103 feet, more or less, to its intersection with the easterly extension of the southerly line of said Lot 8; thence westerly along said easterly extension of the southerly line of Lot 8, a distance of 6.19 feet, more or less, to the southeasterly corner of said Lot 8; thence northwesterly along said westerly right-of-way line of NW Gladys Street, a distance of 103 feet, more or less, to the point of beginning.

Subject to easements for utilities, if any, over and across any portion of NW Gladys Street.

The true consideration for this conveyance in terms of dollars is \$-0-, which is the whole consideration.

Dated this _____ day of _____, 20_____.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE

GRANTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365

GRANTEE:

City of Newport
169 SW Coast Highway
Newport, OR 97365

After Recording Return To:

City of Newport
169 SW Coast Highway
Newport, OR 97365

Until A Change Is Requested

Send Tax Statements To:

City of Newport
169 SW Coast Highway
Newport, OR 97365

**BARGAIN AND SALE DEED
STATUTORY FORM**

City of Newport, a political subdivision of the State of Oregon, Grantor, conveys to Helen M. Wellman, Grantee, the following described real property situated in Lincoln County, Oregon, to-wit:

Beginning at a point that is 50 feet East and 50 feet North of the Northeast corner of Block 126, AGATE BEACH NO. 1, a subdivision of record in the Northwest quarter of the Northwest quarter of Section 29, Township 10 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon; thence North, a distance of 605 feet, to the Section line of Sections 20 and 29, said Township 10 South, Range 11 West of the Willamette Meridian; thence East along said Section Line, a distance of 300 feet; thence South, a distance of 200 feet; thence East, a distance of 113.89 feet, more or less, to the right-of-way line NW Gladys Street, (formerly known as the U.S. Spruce Production Railroad Right-of-Way), said point being the true point of beginning; thence southeasterly along said westerly right-of-way line of NW Gladys Street, a distance of 155 feet, more or less, to the northeasterly corner of that tract of land conveyed to Gerald A. and Sheryl L. Bates, recorded October 26, 1982, in Book 136, Page 1152, Microfilm Records for Lincoln County, Oregon; thence easterly along the easterly extension of the southerly line of said Bates Tract, a distance of 6.2 feet, more or less, to a point on a line which is 6.00 feet northeasterly of and parallel to said westerly right-of-way line of NW Gladys Street; thence northwesterly and parallel to said westerly right-of-way line of NW Gladys Street, a distance of 155 feet, more or less, to a point which is East of the true point of beginning; thence West, a distance of 6.2 feet, more or less, to the true point of beginning.

Subject to easements for utilities, if any, over and across any portion of NW Gladys Street.

The true consideration for this conveyance in terms of dollars is \$-0-, which is the whole consideration.

Dated this _____ day of _____, 20_____.

GRANTOR:

City of Newport
169 SW Coast Highway
Newport, OR 97365

GRANTEE:

Helen M. Wellman
PO Box 1845
Newport, OR 97365

After Recording Return To:

City of Newport
169 SW Coast Highway
Newport, OR 97365

**Until A Change Is Requested
Send Tax Statements To:**

Helen M. Wellman
PO Box 1845
Newport, OR 97365

**BARGAIN AND SALE DEED
STATUTORY FORM**

City of Newport, a political subdivision of the State of Oregon, Grantor, conveys to Helen M. Wellman, Grantee, the following described real property situated in Lincoln County, Oregon, to-wit:

Beginning at the southeast corner of Lot 10, Block 1, BATES 1ST ADDITION, a subdivision of record in the Northwest quarter of the Northwest quarter of Section 29, Township 10 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, said southeast corner of Lot 10 being the intersection of the northerly right-of-way line of NW 58th Street and the westerly right-of-way line NW Gladys Street, (formerly known as the U.S. Spruce Production Railroad Right-of-Way); thence South 89°55'42" East along the easterly extension of said northerly right-of-way line of NW 58th Street, a distance of 6.19 feet, to its intersection with a line that is 6.00 feet northeasterly of and parallel to said westerly right-of-way line of NW Gladys Street; thence North 14° 03'24" West along said line that is 6.00 feet northeasterly of and parallel to the westerly right-of-way line of NW Gladys Street, a distance of 103.12 feet, to its intersection with the easterly extension of the northerly line of said BATES 1ST ADDITION; thence North 89°55'42" West along said easterly extension of the northerly line of BATES 1ST ADDITION, a distance of 6.19 feet, to the northeast corner of said Lot 10; thence South 14°03'24" East along said westerly right-of-way line NW Gladys Street, a distance of 103.12 feet, to the point of beginning.

Subject to easements for utilities, if any, over and across any portion of NW Gladys Street.

The true consideration for this conveyance in terms of dollars is \$-0-NONE, which is the whole consideration.

Dated this _____ day of _____, 20_____.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS.

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹**

NOTICE IS HEREBY GIVEN that the City Council of the City of Newport, Oregon, will hold a public hearing on Monday, February 4, 2013, to review the following request:

File No. 1-MISC-13:

Applicant: City of Newport.

Explanation of the Request: In the 1980s the City of Newport vacated the westerly and easterly portions of NW Gladys Street, formerly the US Spruce Production Railroad Right-of-Way, to adjacent property owners believing that the street was a public right-of-way. It turned out at that time that it was actually property owned by Lincoln County and then later deeded to the City of Newport. In an effort to correct the problem, the City then deeded the original vacated portions of rights-of-way to the affected property owners. In a recent review of these actions, the City has discovered four properties along the westerly side of the street that were never deeded to the appropriate property owners. In order to correct this error, the City now intends to deed the appropriate portions of NW Gladys Street to these four property owners. Per Newport Municipal Code (NMC) Chapter 2.25 (Real Property) Section 2.25.030(A), the City Council may authorize the sale of substandard undeveloped property after holding a public hearing on this matter.

Property owners within 300 feet of the properties being conveyed are entitled to receive notice. As a property owner within that notification distance, you are receiving this notice and may contact the City if you have any comments or concerns with the conveyance.

Involved Properties: Lincoln County Assessor's Tax Map 10-11-29-BB, Tax Lots 6200, 9300, 11200, and 5002 (see attached map).

Contact: Derrick Tokos, Community Development Director (541) 574-0626, Community Development Dept., City Hall, 169 SW Coast Hwy, Newport, OR 97365.

Reports/Materials: On Friday prior to the hearing, an agenda summary that will include all the materials that will be considered by the Council will be available on the City's website (www.newportoregon.gov/citygov/comm/cc.asp).

Time/Place of Hearing: Monday, February 4, 2013; 7:00 p.m. or soon thereafter; City Hall Council Chambers (address above).

MAILED: January 23, 2013.

¹ Notice of the public hearing is being sent to affected property owners (according to Lincoln County Assessor's records) within the notification distance required for the request.

THIS MAP HAS PREPARED FOR
ASSIGNMENT PURPOSE ONLY

600 FEET NW 1/4 NW 1/4 SECTION 29 T10S R11W W1M
LINCOLN COUNTY
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NEWPORT

CANCELLED WA.
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LINCOLN COUNTY
LINCOLN COUNTY PROPERTY MANAGEMENT
JANET SCANLON
880 NE 7TH STREET
NEWPORT OR 97365

NIKKI ESHENSHADE
1239 HAMER ROAD
SILETZ OR 97380

MAYNARD U. SMITH
DELORES J. SMITH
408 NE 11TH STREET
NEWPORT OR 97365

RONALD R. GREENE
LINDA J. GREEN
335 NW 60TH STREET
NEWPORT OR 97365

THERESA M. MALONEY
318 NW 59TH STREET
NEWPORT OR 97365

JENNIFER J. WATSON
2913 129TH AVENUE SE
BELLEVUE WA 98005

KEVIN C. MCCARTHY
308 NW 59TH STREET
NEWPORT OR 97365

LINDA E. CRACKNELL
306 NW 59TH STREET
NEWPORT OR 97365

RICHARD E. WRIGHT
DEBORAH L. WRIGHT
PO BOX 722
NEWPORT OR 97365

JAMES G. THOMPSON
SHIRELY L. SENTER
311 NW 59TH STREET
NEWPORT OR 97365

NANCY L. BROWN
319 NW 59TH STREET
NEWPORT OR 97365

CRAIG L. GILLEY
6808 COOLIDGE ROAD
YAKIMA WA 98903

DENNIS U. STAHLNECKER
MARJORIE H. STAHLNECKER
818 35TH AVENUE SE
ALBANY OR 97322

STEVEN R. CARD
TERESA L. CARD
326 NW 58TH STREET
NEWPORT OR 97365

LUCY W. HOGG
SUSAN E. HOGG
PO BOX 537
NEWPORT OR 97365

STEVE H. MARSH, TRUSTEE
KIM D. MARSH, TRUSTEE
1080 NE LAUREL STREET
NEWPORT OR 97365

RICCI L. BROWN
FENGZHI SHAO
1147 NE NEWPORT HEIGHTS ROAD
NEWPORT OR 97365

NEWPORT APARTMENTS
LIMITED PARTNERSHIP
O N E COMPANY INC.
PO BOX 760
CRESWELL OR 97426

MELVIN E. KRAACK
BEVERLY C. KRAACK
186 NW 60TH STREET
NEWPORT OR 97365

JAMES A. BELANDER, TRUSTEE
CHERI D. BELANDER, TRUSTEE
2292 TUCKER ROAD
HOOD RIVER OR 97031

LINCOLN COUNTY DEVELOPMENT CORPORATION
PO BOX 1457
NEWPORT OR 97365

M & J LIVING TRUST
MARY MALINDA LIMBRUNNER
631 SE 1ST STREET
NEWPORT OR 97365

ROBERT E. HOLLEN
SUSIE WESP
PO BOX 1438
NEWPORT OR 97365

PATRICIA M. NIELSON
PO BOX 1595
WALDPORT OR 97394

CHRIS C. KRUMLAND
189 NW 57TH STREET
NEWPORT OR 97365

EDWARD T. SNODDERLY
232 NW 56TH STREET
NEWPORT OR 97365

ROBERT L. HALVERSON
DOREEN J. HALVERSON
985 SE 1ST STREET
NEWPORT OR 97365

VERLA L. RICKARD LIVING TRUST
LEORA M. JOHNSON, COTRUSTEE
BONNIE L. JOHNSON, COTRUSTEE
186 NW 56TH STREET
NEWPORT OR 97365

MARCIA BUCKLEY
MICHAEL E. WHEELER
PO BOX 636
NEWPORT OR 97365

BRIAN M. FENDLY, TRUSTEE
BARBARA A. MOTTICE, TRUSTEE
206 NW 56TH STREET
NEWPORT OR 97365

MICHAEL G. BLAKELEY
DIANA R. BLAKELEY
123 NW 57TH STREET
NEWPORT OR 97365

LORRAINE CARLSEN TRUST
LORRAINE CARLSON, TRUSTEE
PO BOX 423
NEWPORT OR 97365

IVAN D. MANGUM
NICOLE MANGUM
41 N. 750 WEST
OREM UT 84057

STACY L. MINNER
155 NW 57TH STREET
NEWPORT OR 97365

RICHARD E. THACKERAY
TRACY A. THACKERAY
5657 NW GLADYS STREET
NEWPORT OR 97365

HOUSING AUTHORITY OF LINCOLN COUNTY
PO BOX 1470
NEWPORT OR 97365

WILLIAM J. ROSS
PO BOX 1368
NEWPORT OR 97365

KUM Y. CHONG
1419 SW 218TH TERRACE
ALOHA OR 97006

RUSSELL J. JOHNSON
ORA M. LE
PO BOX 1204
NEWPORT OR 97365

KATHERINE D. OWENS
218 NW 56TH STREET
NEWPORT OR 97365

MARK A. STONE
PO BOX 1806
NEWPORT OR 97365

PATRICIA M. STONE, TRUSTEE
1498 FRUITVALE ROAD
NEWPORT OR 97365

K. BEA SANDS
215 NW 56TH STREET
NEWPORT OR 97365

STEVEN L. HUISENGA
CAROLINE M. HUISENGA
187 NW 56TH STREET, #B
NEWPORT OR 97365

VERA FORBIS
87 NW 56TH STREET
NEWPORT OR 97365

CHARLES R. KING
MELISSA A. KING
1336 NE OLD RIVER ROAD
SILETZ OR 97380

CHRISTOPHER L. COOPER
24000 HIGHWAY 20
PHILOMATH OR 97370

THOROUGHbred ESTATES LLC
PO BOX 2200
WALDPORT OR 97394

DEAN H. SAWYER, TRUSTEE
MARIE Y. SAWYER, TRUSTEE
2506 NE DOUGLAS STREET
NEWPORT OR 97365

B&R LEASING LLC
RICHARD D. FIDLIN
PO BOX 784
WALDPORT OR 97394

****UNDELIVERABLE****
LUIS A. GIL
ANA M. GIL
140 SW 61ST STREET
SOUTH BEACH OR 97366

MARVIN LINDBERG
MARSHA LINDBERG
4484 PACIFIC BOULEVARD SW
ALBANY OR 97321

TIM ANDERSON
NORMA ANDERSON
230 1ST STREET, #11
OTTER ROCK OR 97369

JASON P. BALEY
SARAH E. BALEY
144 NW 55TH STREET
NEWPORT OR 97365

EDWARD J. CATHERY
170 NW 55TH STREET
NEWPORT OR 97365

RAYMOND H. POMERING
CAROL R. POMERING
201 N. VICTORIA STREET
VICTORIA TX 77901

RAY I. FREDERICK
42 TROWBRIDGE COURT
SEQUIM WA 98382

SHARON L. WEBBER
344 NW 60TH STREET
NEWPORT OR 97365

RONALD L. HINRICHS
EILEEN M. ROBINSON HINRICHS
4281 RAWHIDE STREET
LAS VEGAS NV 89120

ROBERT M. KENT
328 NW 60TH STREET
NEWPORT OR 97365

JUDI MCDONALD COOPER
314 NW 60TH STREET
NEWPORT OR 97365

WILLIAM J. DICKINSON, SR.
SUSAN I. DICKINSON
304 NW 60TH STREET
NEWPORT OR 97365

JOSEPH WHALLON
CHLOE S. WHALLON
179 NW 58TH STREET
NEWPORT OR 97365

BRUCE E. WAUGH
CHRIS WAUGH
165 3RD STREET
OTTER ROCK OR 97369

REBECCA J. HERNANDEZ
161 NW 58TH STREET
NEWPORT OR 97365

JACK HENRICKSON, TRUSTEE
LORRAINE M. HENRICKSON, TRUSTEE
625 NW NYE STREET
NEWPORT OR 97365

JACOB N. ALBINIO II
MELANIE R. ALBINIO
141 NW 58TH STREET
NEWPORT OR 97365

KURT FISHER
403 NE 1ST STREET, #B
NEWPORT OR 97365

RICHARD G. DERBY
VICKIE L. DERBY
121 NW 58TH STREET
NEWPORT OR 97365

REBECCA K. WHEATLEY
PO BOX 481
NEWPORT OR 97365

BRIAN HAGGERTY
5711 NW GLADYS STREET
NEWPORT OR 97365

ROBERT P. WADDELL
409 NW 57TH STREET
NEWPORT OR 97365

WILLIAM L. MORRIS
LINDA C. MORRIS
130 NW 57TH STREET
NEWPORT OR 97365

BILLY R. GILMORE
SHIRLEY J. GILMORE
142 NW 57TH STREET
NEWPORT OR 97365

****UNDELIVERABLE****
SHARON S. MAUGHAN
305 NE 36TH STREET, APT 2
NEWPORT OR 97365

WHITTIER C. PATRICK
SELMA H. PATRICK
166 NW 57TH STREET
NEWPORT OR 97365

MARTINSON C. TESTAMENTARY TRUST
WEST COAST TRUST COMPANY, TRUSTEE
CHERRY DANIELS
PO BOX 1012
SALEM OR 97308

DAVID HOARD
6176 WILFORD PLACE SW
ALBANY OR 97321

BETTY L. JUSTICE
198 NW 58TH STREET
NEWPORT OR 97365

LAMAR L. HARDY, TRUSTEE
GLEN M. RAWLES
RAYNETTE I. RAWLES
192 NW 58TH STREET
NEWPORT OR 97365

****UNDELIVERABLE****
CHARLOTTE F. NASON
180 NW 58TH STREET
NEWPORT OR 97365

DOROTHY R. HOFFMANN
172 NW 58TH STREET
NEWPORT OR 97365

JOSE VARGAS
MICHELLE RIO5 VARGAS
168 NW 58TH STREET
NEWPORT OR 97365

GERALD W. WHITE
LYNN M. WHITE
PO BOX 554
NEWPORT OR 97365

CAROLYN M. MARCHAND
142 NW 58TH STREET
NEWPORT OR 97365

JAMES P. SHEPPARD, TRUSTEE
SHARON D. SHEPPARD, TRUSTEE
128 NW 58TH STREET
NEWPORT OR 97365

KENNETH D. CRAM
ANNA M. CRAM
PO BOX 333
NEWPORT OR 97365

HELEN M. WELLMAN
PO BOX 1845
NEWPORT OR 97365

10-11-29-BB



Item Number: IX. A
Meeting Date: 02/04/13

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Intergovernmental Agreement with State of Oregon, Department of Administrative Services, and City of Newport.

Prepared By: RNF **Dept Head Approval:**  **City Mgr Approval:** 

Issue Before the Council: The issue before the council is the consideration of an agreement to allow the acquisition, distribution, utilization, disposal, or sale of surplus personal property in accordance with federal and state laws.

Staff Recommendation: This is a City Council decision.

Proposed Motion: I move to approve the State of Oregon Intergovernmental Agreement as presented.

Key Facts and Information Summary: The attached IGA between the State of Oregon DAS and the City of Newport will allow the City to acquire and/or sell surplus personal property through the State's surplus property section. This section provides national advertising of surplus property in accordance with state and federal regulations and expedites the process of disposing of surplus personal property.

Other Alternatives Considered: None

City Council Goals: The request does not address specific City Council goals.

Attachment List: Intergovernmental Agreement between the State of Oregon and the City of Newport.

Fiscal Notes:

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE STATE OF OREGON AND LOCAL CONTRACTING AGENCY
FOR DISPOSAL OF SURPLUS PROPERTY**

This Intergovernmental Agreement (the "Agreement") is made and entered into this _____ day of _____, _____, by and between the State of Oregon; Department of Administrative Services, (the "State") and _____ (the " Local Contracting Agency ") (collectively, the "Parties") for the purpose of setting forth the terms and conditions for services to be provided by the State for the disposal of surplus personal property owned or under the control of the Local Contracting Agency.

RECITALS

Pursuant to ORS 190.110 and ORS 279A.250 to ORS 279A.285 (the "Authorizing Statutes") and rules adopted in accordance with the Authorizing Statutes, the State is authorized to enter into intergovernmental agreements with state agencies, local governments and special government bodies for the acquisition, distribution, utilization, disposal or sale of surplus personal property in accordance with federal and state laws.

The parties to this Agreement wish to enter into this Intergovernmental Agreement for the disposal of Surplus Property. In entering into this Agreement, the Parties understand and acknowledge that the Local Contracting Agency has no obligation to utilize any of the Services (as defined hereafter) provided by the State pursuant to the Agreement. Notwithstanding this understanding and acknowledgment, the Parties agree that any transaction with respect to the Services provided hereunder shall be governed by this Agreement.

The Parties agree as follows:

1. DEFINITIONS

- (a) "Administrative Fee" means the fee, calculated in accordance with the Administrative Fee Schedule attached hereto as Attachment A, which is charged to the Local Contracting Agency by the State for the disposal of a Property Item.
- (b) "Information Documents" means (1) a Property Disposition Request and (2) a Property Tag and (3) such other documents about the Property Item as may be requested by the State.
- (c) "Marketing Fee" means the fee charged to a Local Contracting Agency for the cost incurred by the State in connection with the marketing of a Property Item.
- (d) "Property Disposition Request" means the form prepared by the Local Contracting Agency which requests the State to provide the Services which are the subject of this Agreement.
- (e) "Property Item" means Surplus Property of the Local Contracting Agency which the Local Contracting Agency requests the State to dispose of pursuant to this Agreement.

- (f) "Property Tag" means the document prepared by the Local Contracting Agency for each Property Item which the State is authorized to dispose of on behalf of a Local Contracting Agency pursuant to the Agreement
- (g) "Reserve Price" means the minimum Transaction Price that the Local Contracting Agency will accept for the sale of the Property Item.
- (h) "Service Fee" means the fee charged to the Local Contracting Agency to cover the cost of repairs, maintenance or other services expended on a Property Item, by or at the direction of the State, when such repairs, maintenance or services may, in the judgment of the State, be expected to increase the potential Transaction Price of a Property Item.
- (i) "Services" means the acquisition, distribution, utilization, disposal or sale of Surplus Property of the Local Contracting Agency by the State.
- (j) "Surplus Property" means surplus personal property owned or under the control of the Local Contracting Agency that is designated by the Local Contracting Agency to be disposed of by the State.
- (k) "Surplus Property List" means the inventory list of Property Items for disposal maintained by the State.
- (l) "Transaction" means the disposal of a Property Item or group of Property Items by the State for and on behalf of the Local Contracting Agency.
- (m) "Transaction Price" means the disposal price received for a Property Item.

2. SERVICES TO BE PROVIDED.

The State agrees to provide the Services to the Local Contracting Agency on the terms and conditions set forth in the Agreement.

3. TERM OF THE AGREEMENT.

- (a). The Term of the Agreement shall be for a period of five (5) years commencing on the date it has been signed by the Parties and received all approvals required by applicable law.
- (b). The Agreement may be terminated by the Parties as provided in Section 6 below.

4. COMPENSATION TO THE STATE.

- (a). In consideration for the performance of the Services, the Local Contracting Agency shall pay an Administrative Fee to the State for each Transaction. In addition, the State may also require the payment of a Service Fee and Marketing Fee under the circumstances described hereafter. Local Contracting Agency agrees to pay these fees as assessed by the State.

- (b). The State may charge a Service Fee to the Local Contracting Agency where, in the judgment of the State, the potential Transaction Price of the Property Item may be increased by the repairs, maintenance or services on the Property Item.
- (c). The State may charge a Marketing Fee under the circumstances set forth in Section 5 and Section 7 (c).
- (c). The amount due each of the Parties from the Transaction Price for the disposal of the Property Item shall be calculated as set forth hereafter:
 - (1) First, the Administrative Fee shall be calculated and deducted from the Transaction Price and retained by the State.
 - (2) Second, if a Service Fee or Marketing Fee has also been incurred by the State in connection with the disposal of a Property Item, such fees will be deducted from the balance of the Transaction Price remaining after the deduction of the Administrative Fee. These fees shall also be retained by the State.
 - (3) The balance of the Transaction Price remaining after the deductions set forth in (1) and (2) above shall be remitted to the Local Contracting Agency within thirty (30) days of the receipt of the Transaction Price by the State.

5. REMOVAL OF PROPERTY ITEM FROM SURPLUS PROPERTY LIST

The Local Contracting Agency may, at any time, remove a Property Item from the Surplus Property List by notifying the State in writing. Upon receipt of the notice, the State shall take all actions required to stop marketing efforts in progress for the specified Property Item. As a condition of the removal of the Property Item from the Surplus Property List under this Section, the Local Contracting Agency agrees to pay to the State, within thirty (30) days of receipt of an invoice, the greater of \$100 or the sum of the any Service Fee and Marketing Fee incurred by the State in connection with the Property Item.

6. TERMINATION OF THE AGREEMENT

- (a) This Agreement may be terminated without liability or penalty, by either party, upon thirty (30) days written notice. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.
- (b) The State may terminate this Agreement immediately without liability or penalty in the event funding sufficient to support the program is suspended, withdrawn, denied or terminated. The State shall have absolute discretion to determine the availability of sufficient funding, and may effect termination of this Agreement by delivery of written notice to the Local Contracting Agency.

7. RESPONSIBILITY OF THE LOCAL CONTRACTING AGENCY,

- (a) Local Contracting Agency understands and acknowledges that it is under no obligation to utilize the Services of the State.

- (b) In the event that the Local Contracting Agency wishes to utilize the Services provided by the State, it will prepare and deliver to the State, (1) a Property Disposition Request and (2) a Property Tag for each Property Item. These Information Documents submitted to the State shall contain true and correct information known or, which through due inquiry, reasonably should have been known, by the Local Contracting Agency.
- (c) The Local Contracting Agency may specify a Reserve Price for each Property Item. If the Local Contracting Agency chooses to specify a Reserve Price for a Property Item, it will provide the State with information to support the reasonableness of the requested Reserve Price. The Reserve Price will not be lowered without the agreement of the Local Contracting Agency. If the Local Contracting Agency chooses to specify a Reserve Price, the State may charge a Marketing Fee for any additional expense attributable to the marketing of the Property Item.
- (d) The Local Contracting Agency shall provide such additional information about the Property Item as may be requested by the State in order to provide the Services in an effective and efficient manner.
- (e) The Local Contracting Agency agrees to allow all Administrative Fees, Service Fees and Marketing Fees to be deducted from the Transaction Price in accordance with Section 4 prior to the final disbursement of the balance of the Transaction Price to the Local Contracting Agency.
- (f) Local Contracting Agency shall maintain such insurance as it may deem appropriate on each Property Item to be disposed of by the State pursuant to this Agreement. **The State hereby notifies the Local Contracting Agency that the State does not maintain insurance for the damage to or destruction of any Property Item.**

8. REPRESENTATION AND WARRANTIES OF THE LOCAL CONTRACTING AGENCY AND AGREEMENT TO INDEMNIFY FOR BREACH

Local Contracting Agency hereby represents and warrants as follows:

- (a) that it is authorized by applicable statutes, administrative rules, ordinances, charter provisions, by-laws and or other applicable governing authority to enter into this Agreement and the Transactions contemplated by this Agreement.
- (b) that this Agreement, when executed and delivered, is a valid and binding obligation of the Local Contracting Agency that is enforceable in accordance with its terms;
- (c) that it owns or is lawfully in possession of the Surplus Property which it authorizes the State to sell in connection with the Services.
- (d) that the information provided to the State with respect to each Property Item, including the information provided on the Information Documents, is true and correct to the best of its knowledge.

- (e) that it will indemnify the State for any losses the State might suffer as a consequence of the breach of any of the representations and warranties set forth in Section 8 (a) through 8 (d) above.

9. RESPONSIBILITY OF THE STATE,

- (a) The State shall endeavor to use commercially reasonable efforts in providing the Services to the Local Contracting Agency.
- (b) The State will notify the Local Contracting Agency in writing at least thirty (30) days prior to any scheduled changes in services and or fees.
- (c) The State shall be obligated to transmit the proceeds of each Transaction to the Local Contracting Agency in accordance with the terms of the Agreement.
- (d) The State will take necessary actions to assist the Local Contracting Agency to become a subscriber to and user of the State Surplus Property disposal network, which belongs to and is used by the State of Oregon and its constituent agencies and divisions.

10. LIMITATION OF LIABILITY

The State's maximum liability for any damages claimed by the Local Contracting Agency, whether in contract or tort, shall not exceed the Administrative Fee which was charged the Local Contracting Agency for disposal of the Property Item (if the Property Item was disposed of) or the Administrative Fee that would have been charged (in the event that the Property Item was not disposed of) by the State. The Local Contracting Agency agrees that in no event shall the State be liable for any damage or destruction of a Property Item or for any indirect, incidental, special, punitive, or consequential damages, or any loss of profits or revenue, including, but not limited to, delay, interruption of business activities, or lost receipts.

11. INDEMNIFICATION BY THE LOCAL CONTRACTING AGENCY,

Subject to the limitations of Article XI, § 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), the Local Contracting Agency shall indemnify the State against any liability for personal injury or damage to life or property arising from the Local Contracting Agency's actions under this Agreement provided, however, the Local Contracting Agency shall not be required to indemnify the State for any such liability arising out of the wrongful acts of the State, its officers, employees or agents.

12. ASSIGNMENT,

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither party shall assign or transfer its interest in this Agreement without the prior written approval of the other.

13. WAIVER

The failure to either party to enforce any provisions of this Agreement shall not constitute a waiver by that party of that or any other provision of this Agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent, similar breach.

14. SEVERABILITY

If any provision of this Agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision. If any term or provision of this Agreement is declared by a court or tribunal of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

15. VENUE, CHOICE OF LAW AND CONSENT

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the State (and/or any other agency or department of the State of Oregon) and Local Contracting Agency that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

16. ATTORNEY FEES

In the event a lawsuit of any kind is instituted on behalf of either party to collect any payment due under this Agreement or to obtain performance of any kind under this Agreement, each party shall be responsible for its own attorney fees and all related costs and disbursements incurred therein.

17. INDEPENDENT CONTRACTOR STATUS

The State shall perform all of the Services as an independent contractor. Nothing contained in this Agreement is intended or should be construed as creating the relationship of partners, joint-venturers, an association between the State and the Local Contracting Agency or a principal/agent relationship. Nor shall the employees, agents or representatives of either party be considered to be employees, agents or representatives of the other party for any purpose.

18. MERGER.

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OR PROVISIONS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE SHALL BE EFFEVTIVE ONLY IN THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT.

19. NO THIRD PARTY BENEFICIARIES.

State and Local Contracting Agency are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

20. NOTICES

Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing, by email, personal delivery, facsimile, or mailing the same, postage prepaid, to the State or Local Contracting Agency at the address, number or email address set forth below in this Agreement, or to such other addresses or numbers as either party may indicate.

Contact Information for the State:

Bob "Duke" LaDuke, Program Analyst
State Surplus Property Program
PH (503) 378-2207 ext. 224
FAX (503) 378-8558
Bob.w.laduke@state.or.us

State of Oregon
Property Distribution Center
1655 Salem Industrial Drive NE
Salem, OR. 97303-4238

Contact Information for the Local Contracting Agency:

(Name, Title)

(Representing)

(PH)

(FAX)

(email)

(Location)

(Address 1)

(Address 2)

(City, State, ZIP)

Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against the State, any notice transmitted by facsimile must be confirmed by telephone notice to the State's Contact Manager. Any communication or notice given by personal delivery shall be effective when actually delivered. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

21. AMENDMENTS

This Agreement may be amended only by written instrument signed by the Parties and approved as may be required by all applicable laws, rules and ordinances, Provided however that the Administrative Fee Schedule (Attachment A) may be changed by the State at any time without the consent of the Local Contracting Agency upon written notice to the Local Contracting Agency in accordance with Section 20.

22. SIGNATURES.

Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this Agreement represents and warrants having authority to execute this Agreement.

FOR THE STATE OF OREGON
Department of Adm. Services (DAS)
State Services Division
Surplus Property Section

(By)

(Title)

(Date)

FOR LOCAL CONTRACTING AGENCY

(By)

(Title)

(Date)

Department of Adm. Services (DAS)
Operations Division
DAS Contract Services

(By)
DAS Contracts Mgr.

(Title)

(Date)

IGA
Cf

ATTACHMENT A
ADMINISTRATIVE FEE SCHEDULE

Oregon Surplus Property currently processes surplus, seized and/or recovered vehicles & personal property from Oregon State and Local Government Agencies, the U.S. Departments of Interior and Agriculture and various municipalities throughout the nation for public sale through a variety of effective sales channels. Fees for services provided will, whenever possible and practicable, be deducted from the property-generating Agencies' reimbursement as 'other receivables'. Reimbursements for sale items sold, and fees that exceed revenues, will be billed monthly on net 30 terms.

Administrative Fee – Personal Property:

100% of final auction value between \$.01 - 10.00, plus
20% of final auction value above \$10.00

Administrative Fee – Vehicles, Heavy Equipment, Titled Trailers & Watercraft:

The greater of \$260.00 or 7% of the final auction value

Service Fee - Towing:

\$ Actual (pass through) cost

Service Fee - Freight & Cartage:

The greater of \$35.00/hr. (Billed in 15 minute intervals, one hour minimum), and
\$1.35 per mile + fuel surcharge¹

¹See Attachment B (attached hereto) for additional information regarding fuel surcharges

Service Fee – Waste Disposal (non IT\hazardous equipment):

\$30.00 per cubic yard

Service Fee – Information Technology (IT) Equipment Disposal²:

No work is required by DAS\Surplus Property of the IT asset-generating agency, municipality, bureau or special district; assets accepted AS-IS. HAZMAT³ disposal costs will be reduced to absolute minimum allowed under current law and billed @ \$ Actual + 10%; there is no reimbursement for IT assets sold.

²See Attachment C (attached hereto) for a brief description of the (DAS\Surplus Property-mitigated) risks IT asset disposal poses to your agency.

³Non-working (or 'condition unknown') cathode ray tube (CRT) monitors are considered HAZMAT by the U.S. Environmental Protection Agency (EPA), as are many components of IT assets (i.e., circuit boards) in large quantities.

Marketing Fee – Reserve Auctions:

1.2% of the reserve sought

Marketing Fee – Supplemental Advertising:

As requested & approved by the property generating agency @ \$ Actual + 5%

ATTACHMENT B
FUEL SURCHARGE CALCULATION (pg. 1 of 2)

A fuel surcharge is based upon the average retail price of diesel fuel in the region of origination, or where you pick up your load, on the date you pick up this load. This average retail price information, collected by the federal government's Energy Information Administration, is updated every Wednesday. The information is available by phone by calling (202) 586-6966 or you can go to their Web site: http://tonto.eia.doe.gov/oog/info/wohdp/diesel_detail_report.asp

Here's an example for the week of 9/27/2004:

Weekly On-Highway Diesel Prices - Retail (\$ per gallon, including all taxes)

9/27/2004 This will be your fuel surcharge per mile this week*

Region	Avg Price	Benchmark Price	Increase Per Gallon	Average MPG	Surcharge Per Mile
New England (CT, ME, MA, NH, RI VT)	2.102	1.10	1.002	5	0.2004
Central Atlantic (DE, MD, NJ, NY, PA & DC)	2.092	1.10	0.992	5	0.1984
Lower Atlantic (FL, GA, NC, SC, VA, WV)	1.981	1.10	0.881	5	0.1762
Midwest (IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, OH, OK, TN, WI)	1.982	1.10	0.882	5	0.1764
Gulf Coast (AL, AR, LA, MS, NM, TX)	1.971	1.10	0.871	5	0.1742
Rocky Mtn. (CO, ID, MT, UT, WY)	1.999	1.10	0.899	5	0.1798
West Coast (AL, AZ, CA, HI, NV, OR, WA)	2.169	1.10	1.069	5	0.2138

*The average price, minus the Benchmark price, divided by the miles per gallon, gives the surcharge rate multiplied times the miles driven gives the fuel surcharge amount.

These fuel surcharges are:

- based on the average price of fuel in each region for the week indicated.
- Assumes your truck gets an average 5 miles per gallon, and
- that a fuel surcharge per gallon is the difference between the average fuel price in your region and \$1.10 (standard industry benchmark price).

ATTACHMENT B
FUEL SURCHARGE CALCULATION (pg. 2 of 2)

To calculate the per mile surcharge:

While basic freight rates (\$1.35/mi.) cover costs when fuel is \$1.10 and lower, temporary fuel surcharges are imposed to recoup those higher costs when the price of fuel goes above \$1.10 per gallon.

Oregon's Surplus Property Program has adopted the formula that AITA (The American Independent Truckers Assn. - <http://www.aitaonline.com>) recommends to calculate the surcharge for increased fuel costs.

You need the following information:

- Total round trip miles from point of origin to destination;
- The average miles per gallon for your truck (Ours currently averages 5 mpg);
- The average price of fuel for that day in the region where you pick up the load (check the EIA at the web address on page 1 of this attachment).

Oregon, like most motor carriers, utilizes the average benchmark fuel price of \$1.10 per gallon

Methodology

Our example will use a fuel surcharge of \$1.669 per gallon:

Increased Fuel Costs:

Compute your increased fuel costs per gallon used: Subtract the Benchmark price from the Average Price, or, in our example, $\$1.669 - \$1.10 = \$0.569$ or 56.9 cents per gallon.

The increased cost of fuel per gallon (cpg) is 56.9

Compute the fuel surcharge per mile:

Divide the miles per gallon figure into the increased cost per gallon, which gives you the per mile surcharge. Our example is 5 mpg into 56.9 cpg which equals 11.38 cents per mile surcharge.

Total Fuel Surcharge:

Multiply this per mile surcharge times the total miles driven, and you get the total fuel surcharge amount to be assessed the shipper. Our example is 11.38 cpms times 130 miles equals \$14.79 for the load.

Add the standard rate for the total due:

Our example of 130 miles, when multiplied to Oregon Surplus Property's standard Freight & Cartage rate (\$1.35/mi.), comes to \$175.50; and totals \$190.29 when the fuel surcharge of \$14.79 is added.

ATTACHMENT C

ERASURE OR DESTRUCTION OF SENSITIVE ELECTRONIC DATA

Erasure or destruction of sensitive electronically recorded information from obsolete and excess IT assets can prevent data loss, expensive investigations, embarrassment, and other problematic events. Also, communications with other agencies, corporations, and contractors may also pose security risks. The Oregon Department of Administrative Services only recommends Department of Defense standards or total destruction.

Department of Defense Standard DOD 5220.22-M is the National Industrial Security Program Operating Manual (NISPOM) that the DOD, Department of Energy, Nuclear Regulatory Commission, and Central Intelligence Agency must use. The DOD 5220.22-M standard is the civilian term given to the terms and policies found in NISPOM. It prescribes methods and standards by which classified data needs to be secured. Regarding digital media, it requires that storage contain no residual data from the previously contained object before being assigned, allocated, or reallocated to another user. Specifically, the DOD 5220.22-M standard requires overwriting with a pattern, then its complement and, finally, with another pattern, such as overwriting first with 00110101, followed by 1100 1010, then 1001 0111. This standard requires a minimum of three overwrites.

Regulations Aimed at Data Privacy and Protection:

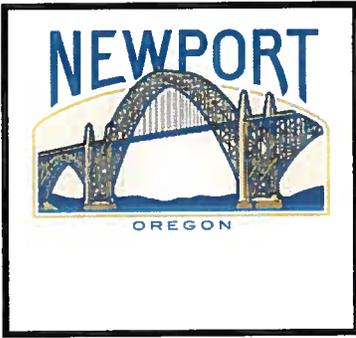
- The Health Insurance Portability & Accountability Act (HIPAA)
- The Gramm-Leach-Bliley Act
- The Electronic Communications Privacy Act
- The Computer Matching and Privacy Protection Act of 1988
- The Computer Security Act of 1987
- The Privacy Act of 1974

Heightened awareness of security issues has awakened both public agencies and corporations to the need for erasing all data from PC hard drives before disposal. With that comes the need for documenting the method of erasure or cleansing as it is sometimes called.

Disposing of computers without ensuring proper file deletion presents huge business risks as well as the danger of non-compliance with federal laws including the Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act.

The most common erasure technique involves simply "deleting" the data, which actually does not erase anything. This "clearing" process simply instructs the computer to forget about the data. Security professionals and hackers can recover that data with tools that are not hard to obtain.

"Sanitization" is the process of overwriting hard drives so that the data is harder to recover. The extent to which the process is implemented can make it almost impossible to recover any data whatsoever. While various levels of secure data erasure exist, only the highest levels that meet requirements of the Department of Defense will be suitable for IT equipment sold to the public by the State of Oregon.



Agenda Item #
Meeting Date

IX.B.
February 4, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title De-annexation of a portion of the 668 acre Wolf Tree Destination Resort Property

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: [Signature]

ISSUE BEFORE THE COUNCIL: Consideration of whether or not the Council should initiate the statutory process to withdraw a 71.39 acre property from the corporate limits of the City of Newport, as request by the owner Terry Lettenmaier. The property is a part of the larger 668 acre Wolf Tree Destination Resort site, and is specifically identified as Tax Lot 801, Section 5, T12S, R11W, W.M.

STAFF RECOMMENDATION: Staff recommends the City Council grant the request provided the owner submits a filing fee of \$700 to off-set notification costs for the public hearings that will need to be held.

PROPOSED MOTION: I move to direct staff to prepare a resolution, pursuant to ORS 222.460, initiating withdrawal of the subject property from the corporate limits of the City of Newport, upon receipt from the owner of a \$700 filing fee to off-set notification costs associated with this action. The resolution shall be presented to the Council at a future public meeting.

KEY FACTS AND INFORMATION SUMMARY: The subject property is a part of the Wolf Tree Destination Resort that was brought into the Newport Urban Growth Boundary in July of 1987 (Ord. #1492). The developer at that time envisioned constructing the resort in two stages. This property, being on the far northeastern edge of the site, was to be part of the second stage of development. It was annexed a year later, in September of 1988 (Ord. #1522) and made a part of the stage one concept because the developer came to the conclusion that additional acreage was needed to achieve the desired residential density once a preliminary design was completed for a planned golf course. Ultimately, the development never moved forward and the property has since changed hands.

The Wolf Tree resort site is zoned R-4/“High Density Residential” and C-2/“Tourist Commercial” with a Planned Destination Resort (PDR) overlay. The purpose of the overlay is to ensure that a destination resort use is established. To this end, it prohibits any use of the property that falls short of at least 150 rentable units, eating establishments for at least 100 persons, meeting room capacity for at least 100 persons and recreational facilities all of which must total an initial investment of at least \$6 million (in 1987 dollars). Such a scale of development would support the extension or development of urban services.

The property owner desires to construct one dwelling on the 71.39 acre property. Withdrawing the property from the City helps achieve this objective by allowing them to approach the County to rezone the site from R-4 with a PDR overlay to a designation where that use would be permissible.

ORS 222.460 sets out a procedure for withdrawing property from a City. The process must be initiated by Council resolution, followed within 30 days by a noticed public hearing at which the public is invited to testify on the proposal. If, after taking testimony, the Council desires to proceed than it must prepare an order to that affect and schedule a second hearing within 20-50 days. This last hearing is intended to provide persons who reside in the affected area a opportunity to weigh in on whether or not the action should be referred to the ballot. Since nobody resides on the

subject property, that won't happen; however, because the statute requires two public hearings, the second hearing will have to be held.

Ultimately, the Council will need to decide if it is in the public interest that the property be withdrawn from the City. This is not the first time land has been removed from the destination resort overlay. In 2006 the City approved the South Beach Neighborhood Plan, which removed 309 acres owned by Will Emery, east of the airport, in exchange for bringing in 268 acres, which is now known as the Wilder development. Mr. Emery's company, Steel String, Inc., is the primary landholder of the Wolf Tree site. At this time he is not opposed to the withdrawal. In a letter dated January 25, 2013, the owner of the subject property, Mr. Lettenmaier, argues that removing the property from the destination resort overlay will not adversely impact the development potential of the balance of the site because of its location at the northeast corner of the land allocated for the resort use, the fact that it is a small amount of the overall resort acreage, the severity of the on-site terrain, and the property's proximity to the airport approach. The City completed a residential buildable lands inventory in 2011. That study demonstrated that the City has a surplus of 1,657 acres of buildable land, above and beyond what is projected to be consumed over the next 20 years. Therefore, removing the 71.39 acres should not adversely impact the City's residential land supply.

It is relevant to note that withdrawal of the property from the City does not mean that it is forever foreclosed from being a part of the destination resort. The property would still be within the Urban Growth Boundary and could presumably be annexed back into the City in the future.

OTHER ALTERNATIVES CONSIDERED: Options for keeping the property in the City were considered. This would necessitate lifting the PDR overlay. The problem though is that would leave the property with conventional R-4 zoning, which provides for a density of development that is far greater than City services can support. In consultation with staff with the Department of Land Conservation and Development (DLCD), it became clear that the required findings could not be made to justify removing the PDR overlay if the zoning that remained was urban in nature.

CITY COUNCIL GOALS: This request is not related to any adopted Council goals.

ATTACHMENT LIST:

- Letter from Terry Lettenmaier, dated January 25, 2013
- Lincoln County Property Reports for the subject property
- Assessment map of the property
- Copy of ORS 222.460
- Vicinity map of the Wolf Tree Resort area, showing both stages of development as envisioned in 1988
- Exhibit 7, Stage One Conceptual Master Plan from the 1988 wolf Tree proposal
- Exhibit 9, Slopes/General Topography Map from the 1988 Wolf Tree proposal

FISCAL NOTES: The property is presently under a forest tax deferral with an assessed value of \$25,570. Given that this is the case, the withdrawal would have a negligible impact on the City's tax base.

PO Box 550
South Beach, OR 97366

January 25, 2013

Derrick Tokos
Community Development Director
City of Newport
169 South Coast Hwy
Newport, OR 97365

RE: De-annexation of 12-11-05-00-00801-00

Dear Mr. Tokos,

My wife, Laurie Weitkamp, and I own Lincoln County Map Taxlot 12-11-05-00-00801-00, which is 71 acres immediately north of SE 98th Street. This land is part of the Wolf Tree destination resort area in the City of Newport, and is currently zoned R-4 with a planned destination resort overlay. We would like to build a house on this property but this is not a permitted use under the current zoning. For this reason, we would like this land to be de-annexed from the City of Newport so that it can then be re-zoned by Lincoln County to allow a rural residence.

I would like to point out that the de-annexation of this property should not adversely affect future development of a destination resort on the remaining Wolf Tree area for the following reasons:

- This 71 acres is a small portion of the 668 total acres currently designated for the destination resort
- This land is in the far NE corner of the land allocated for the resort
- The topography of this land is steep, and it is also close to the airport approach

Given this, I think it is appropriate to remove this land from the destination resort area to allow rural residential use.

I ask that you initiate the process with the City Council for withdrawing this territory from the city per ORS 222.460.

Sincerely,



Terry Lettenmaier
541-961-5833 (cell)
541-867-4603 (home)
lett@peak.org

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R522062 Map Taxdot: 12-11-05-00-00801-00 Map: 12s11w05 Legal: TOWNSHIP 12, RNG 11, ACRES 20.30, POTENTIAL ADDITIONAL TAX LIABILITY, DOC201106639 TaxCode: 104 Acres: 20.30	Neighborhood: RUTB PropertyClass: 640	Owner: LETTENMAIER TERRANCE M & Address: WETTKAMP LAURIE A PO BOX 550 SOUTH BEACH, OR 97366 Situs:

IMPROVEMENTS								VALUE AND SALES HISTORY				
Description	Area	Yr Built	Foundation	Heat	Plumbing	BDMS	Value	Value Year	Imp.	Land	Total Market	Total Assessed
...NoInventory								2012	0	203,960	203,960	7,910
								2011	0	229,170	229,170	7,680
								2010	0	260,230	260,230	7,460
								2009	0	286,020	286,020	7,240
								2008	0	307,700	307,700	7,030
								2007	0	277,230	277,230	6,830
								SaleDate	Price	Document	Type	Code
								NoSales				

LAND				RELATED ACCOUNTS		DISCLAIMER
Description	Acres	Market Value	Special Use Value	R500182	R465957	This report was produced using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created: 1/28/2013 using tax data exported 10/2012
DESIGNATED FOREST	20.30	203,960	7,910			

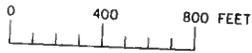
Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R500182 Map Taxlot: 12-11-05-00-00801-00 Map: 12s11w05 Legal: TWN5HP 12, RNG 11, ACRES 51.09, POTENTIAL ADDITIONAL TAX LIABILITY, DOC201106639 TaxCode: 126 Acres: 51.09	Neighborhood: <u>RUITB</u> PropertyClass: <u>640</u>	Owner: LETTENMAIER TERRANCE M & Address: WEITKAMP LAURIE A PO BOX 550 SOUTH BEACH, OR 97366 Situs:

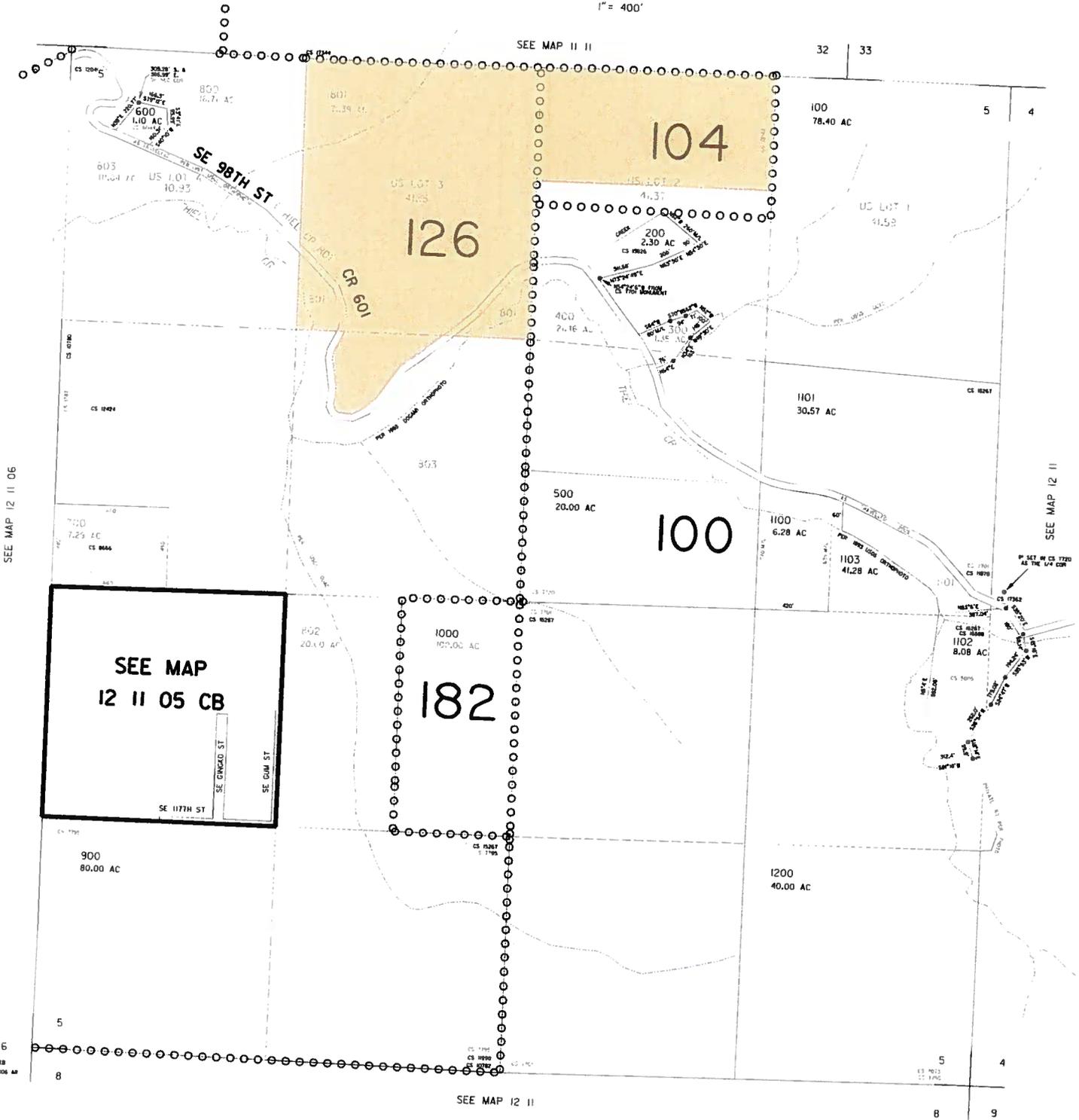
IMPROVEMENTS								VALUE AND SALES HISTORY				
Description	Area	Yr Built	Foundation	Heat	Plumbing	BDMS	Value	Value Year	Imp.	Land	Total Market	Total Assessed
...NoInventory								2012	0	513,330	513,330	17,660
								2011	0	576,750	576,750	17,140
								2010	0	654,940	654,940	16,650
								2009	0	719,690	719,690	16,170
								2008	0	774,260	774,260	15,700
								2007	0	697,580	697,580	15,240
								SaleDate	Price	Document	Type Code	
								7/13/2011	230000	201106639	32	WD
								7/9/2009	222000	200908197	28	SWD

LAND				RELATED ACCOUNTS		DISCLAIMER
Description	Acres	Market Value	Special Use Value	R522062	R46595Z	
DESIGNATED FOREST	5.83	58,580	2,270			<i>This report was produced using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created: 1/28/2013 using tax data exported 10/2012</i>
DESIGNATED FOREST	38.32	385,020	12,690			
DESIGNATED FOREST	6.94	69,730	2,700			

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



SECTION 5 T12S R11W WM
LINCOLN COUNTY
1" = 400'



SEE MAP 12 11 06

SEE MAP 12 11

SEE MAP
12 11 05 CB

SEE MAP 12 11

WITHDRAWAL OF TERRITORY

222.460 Procedures for withdrawal of territory; content of resolution; hearing; election; taxes and assessments. (1) Except as expressly prohibited by the city charter, when the legislative body of a city determines that the public interest will be furthered by a withdrawal or detachment of territory from the city, the legislative body of the city, on its own motion, may order the withdrawal of territory as provided in this section.

(2) A withdrawal of territory from the city shall be initiated by a resolution of the legislative body of the city.

(3) The resolution shall:

(a) Name the city and declare that it is the intent of the legislative body of the city to change the boundaries of the city by means of a withdrawal of territory;

(b) Describe the boundaries of the affected territory; and

(c) Have attached a county assessor's cadastral map showing the location of the affected territory.

(4) Not later than 30 days after adoption of the resolution, the legislative body of the city shall hold a public hearing at which the residents of the city may appear and be heard on the question of the withdrawal of territory. The legislative body of the city shall cause notice of the hearing to be given in the manner required under ORS 222.120 (3).

(5) After receiving testimony at the public hearing, the legislative body of the city may alter the boundaries described in the resolution to either include or exclude territory. If the legislative body of the city still favors the withdrawal of territory pursuant to the resolution, as approved or modified, it shall enter an order so declaring. The order shall set forth the boundaries of the area to be withdrawn. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the resolution. The order shall declare that if written requests for an election are not filed as provided by subsection (6) of this section, the legislative body of the city, at the time of the final hearing, will adopt a resolution or ordinance detaching the territory from the city.

(6) An election shall not be held on the question of withdrawal of the affected territory from the city unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the territory proposed to be withdrawn from the city.

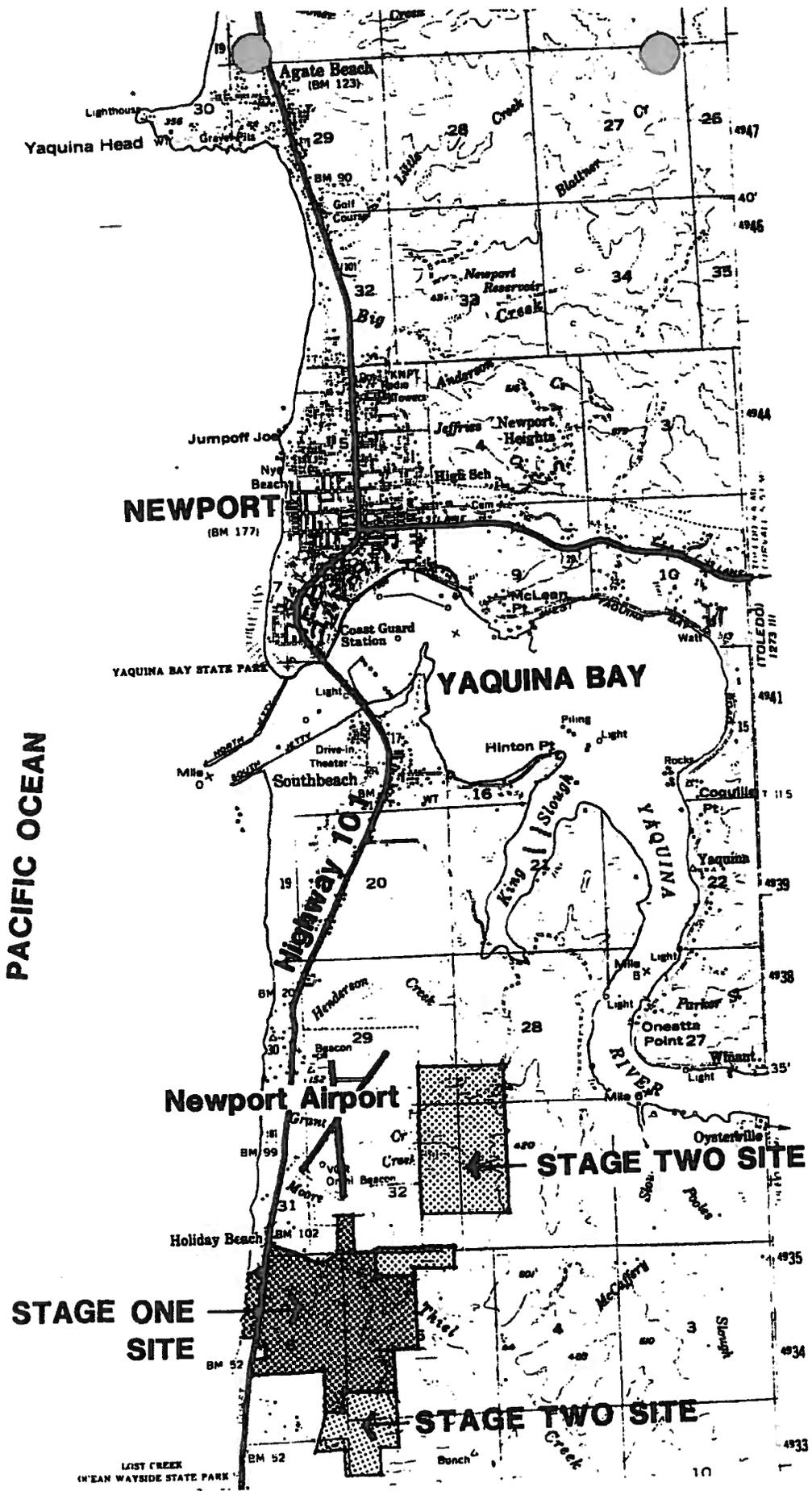
(7) At the time and place set for the final hearing upon the resolution for withdrawal, if the required number of written requests for an election on the proposed withdrawal have not been filed, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city.

(8) If the required number of requests for an election are filed on or before the final hearing, the legislative body of the city shall call an election in the city upon the question of the withdrawal of the affected territory.

(9) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the city, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city. If the majority of the votes cast is against the withdrawal, the legislative body of the city shall enter an order declaring the results of the election and that no withdrawal shall occur.

(10) The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the city. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the city immediately prior to the withdrawal. [1985 c.702 §2; 1989 c.1063 §13]

Note: 222.460 and 222.465 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.



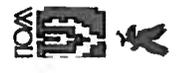
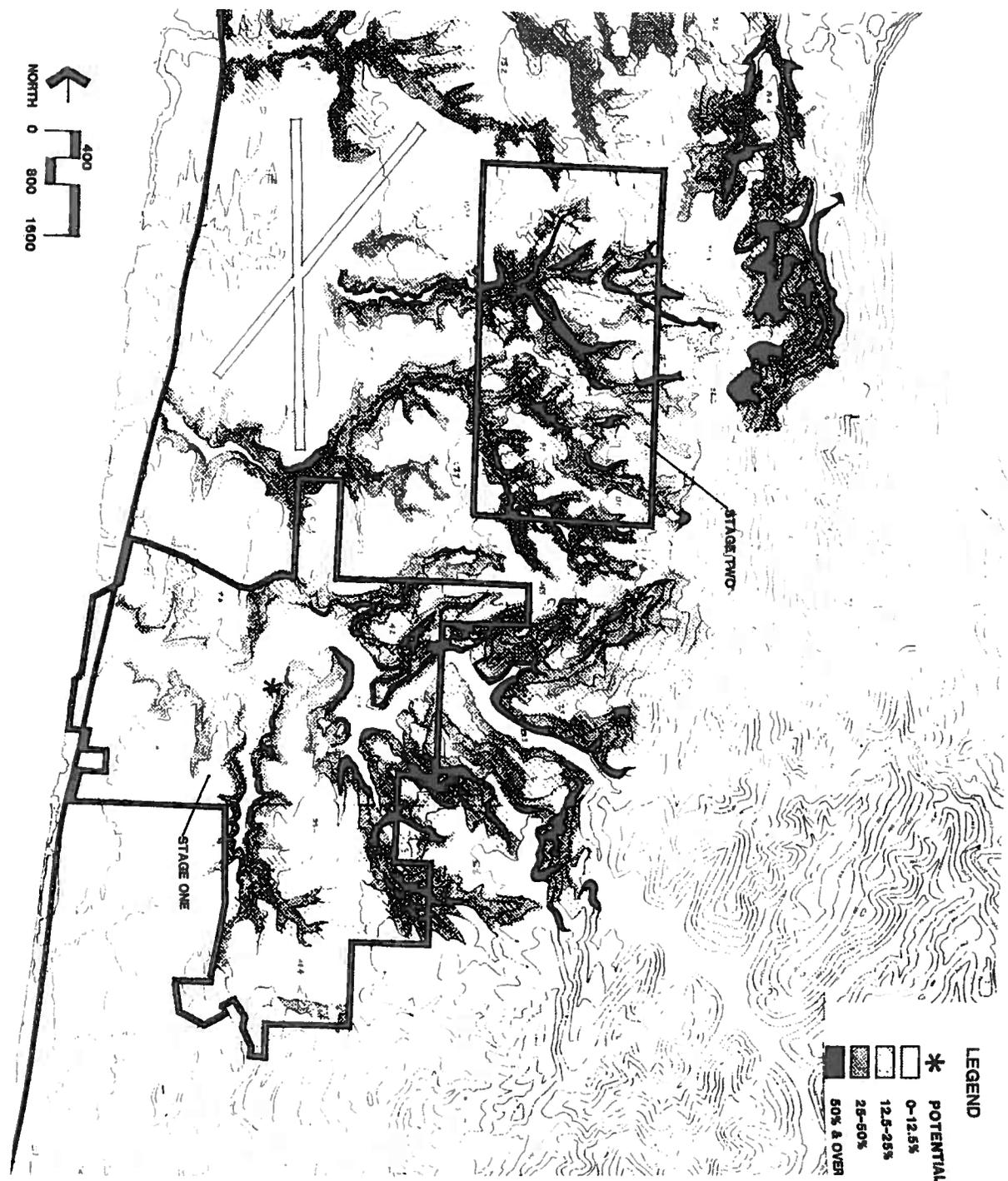


EXHIBIT 3
SLOPES / GENERAL TOPOGRAPHY MAI