



AGENDA & Notice of City Council Work Session & Regular City Council Meeting

The City Council of the City of Newport will hold a work session on Monday, October 7, 2013, at 12:00 P.M., followed by regular City Council meeting at 6:00 P.M. The work session will be held in Conference Room A at City Hall, and the City 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.

CITY COUNCIL WORK SESSION Monday, October 7, 2013 - 12:00 P.M. Conference Room A

- I. Additional Work Session Items Not Listed on the Agenda (for this and future work sessions)
 - II. Review and Discussion of Draft General Legal Services Agreement
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COUNCIL MEETING AGENDA Monday, October 7, 2013 -6:00 P.M.

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 other.

V. Proclamations, Recognitions & Special Presentations

- A. National Magic Week
- B. Rogue Ales 25th Anniversary Days
- C. Great Oregon Shakeout
- D. Aviation Appreciation Month
- E. National Fire Prevention Week October 6-12, 2013
- F. Fire Badge Ceremony

VI. 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 City Council Minutes from the Special City Council Meetings and Executive Sessions of September 9, 2013, September 11, 2013, and September 30, 2013; Work Session, Executive Session and Regular Meeting of September 16, 2013 (Hawker)

VII. Officer's Reports

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

VIII. Discussion Items and Presentations

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

- A. City Manager's Evaluation Process as Developed by Council Sub-Group

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

- A. Public Hearing and Consideration of Ordinance No. 2060 for Annexing a South Beach Property Owned By Spy, LLC into the Corporate Limits of the City of Newport and Withdrawing the Property from the Newport Rural Fire Protection District and Lincoln County Library District.

X. 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. Re-envisioning the City's Role in Supporting the Visual Arts. (Tokos)
- B. Authorization to Proceed with Partitioning the Visual Arts Center Property. (Tokos)
- C. Consideration of Ordinance No. 2058 Regarding Taxi Cab Endorsements to Business Licenses (Hawker)
- D. Formation of Business License Review Task Force

- XI. Council Reports and Comments
- XII. Public Comment (Additional time for public comment - 5 minutes per speaker)
- XIII. Adjournment



PROCLAMATION

**NATIONAL MAGIC WEEK
IN THE CITY OF NEWPORT**

WHEREAS, The Society of American Magicians was founded in 1902, with magicians in every state in the union; and

WHEREAS, Members of the Society of American Magicians both professional and amateur, generously offer their time and talent for charitable purposes, providing entertainment for children and adults; and

WHEREAS, Magic is an ancient and delightful form of entertainment which continues to give much pleasure to young and old; and

WHEREAS, the Society of American Magicians encourages youngsters to develop self-esteem through performance of magic; and

WHEREAS, The Society of American Magicians is dedicated to elevating the art of magic with its endowment fund providing educational and humanitarian assistance to its members; and

Now, Therefore, I, Sandra Roumagoux, Mayor of the City of Newport, Oregon, do hereby proclaim the week of October 20 - 27, 2013, as National Magic Week in the City of Newport, and encourage all citizens to enjoy and recognize magic as wholesome and fun entertainment.

Dated this 7th day of October, 2013.


Sandra N. Roumagoux, Mayor





PROCLAMATION

CELEBRATING ROGUE ALES 25th ANNIVERSARY DAYS

WHEREAS, Rogue Ales Brewery began brewing in a basement in Ashland, Oregon, opening a 60-seat pub to serve beer from its brew system in October 1988; and

WHEREAS, the first beer brewed by Rogue Ales was Golden Ale, and in honor of 25 years of brewing, Rogue has brewed Golden again, now made with ingredients fresh from Rogue Farms to create Integrity Ale; and

WHEREAS, in 1989, Jack Joyce became stranded in Newport during a freak snow storm and met Mohave Niemi, founder of Mo's Clam Chowder; and

WHEREAS, Mo served Jack some clam chowder and told him about her dream of living above a bar; and

WHEREAS, Mo rented Jack a garage in which to build a brewery and pub with two stipulations: one, a picture of Mo naked in a bathtub be forever displayed at the pub, and two, Rogue feed the fishermen; and

WHEREAS, Rogue has continued Mo's tradition of humor and service to the community for 25 years; and

WHEREAS, Rogue moved its brewery to the South Beach Bayfront in 1992 and has established three pubs in Portland, a brewery in Eugene, and farms in Independence and Tygh Valley which are home to seven million bees and 1,500 acres of Oregon-grown hops, barley, pumpkins, rye, jalapenos, and more; and

WHEREAS, Rogue Brewmaster, John Maier, has trained 28 brewers and brewed 500 flavors of beer in more than 15,000 brews; and

WHEREAS, citizens of Newport have joined the Rogue Revolution, saving the terroir of hops and barley one acre at a time and solidifying Oregon's fame as the world's beervana;

NOW, THEREFORE, I Sandra Roumagoux, Mayor of the City of Newport, hereby proclaim October 25 - 27, 2013 to be Rogue Ales 25th Anniversary Days in the City of Newport and encourage all Newport residents to join in this observance.

Dated this 7th day of October, 2013.


Sandra N. Roumagoux, Mayor





**PROCLAMATION
A RESOLUTION OF INTENT TO PARTICIPATE IN THE GREAT OREGON
SHAKEOUT AND WORK TOWARD BECOMING A SAFER COMMUNITY.**

WHEREAS, the City of Newport recognizes that no community is immune from natural hazards whether it be earthquake, wildfire, flood, winter storms, drought, heat wave, or dam failure and recognizes the importance enhancing its ability to withstand natural hazards as well as the importance of reducing the human suffering, property damage, interruption of public services and economic losses caused by those hazards; and

WHEREAS, major earthquakes pose a particular, significant, and ongoing threat to the entire City region; and

WHEREAS, the City has a responsibility to promote earthquake preparedness internally as well as with the public and plan appropriately for earthquake-related disasters; and

WHEREAS, the protection of City employees will allow them to facilitate the continuity of government and assist the public following a major earthquake event; and

WHEREAS, community resiliency to earthquakes and other disasters depends on the preparedness levels of all stakeholders in the community – individuals, families, schools, community organizations, faith-based organizations, non-profits, businesses, and government; and

WHEREAS, by participating in **The Great Oregon ShakeOut** on October 17, 2013, the City of Newport has the opportunity to join and support all Oregonians in strengthening community and regional resiliency; and

WHEREAS, by supporting **The Great Oregon ShakeOut**, the City of Newport can utilize the information on www.ShakeOut.org/oregon to educate its residents regarding actions to protect life and property, including mitigating structural and non-structural hazards and participating in earthquake drills; and

WHEREAS, by registering at www.ShakeOut.org/oregon, City employees can participate in the ShakeOut “Drop Cover and Hold on” earthquake drill on October 17 at 10:17 a.m., and encourage the public, schools, businesses, and other community stakeholders to also register.

NOW, THEREFORE, I Sandra Roumagoux, Mayor of the City of Newport, Oregon, do hereby approve participating in the Great Oregon Shakeout hereto by taking time to recognize and acknowledge the importance of preparing our City for the purposes of building a safer community and reducing the loss of lives and property from a major earthquake event by taking proactive steps today.

Dated this 7th day of October, 2013.



By Sandra Roumagoux
Sandra Roumagoux, Mayor



PROCLAMATION

AVIATION APPRECIATION MONTH

WHEREAS, General aviation and community airports play a critical role in the lives of our citizens, as well as in the operation of our cities, counties, businesses, ranches and farms; and

WHEREAS, The state of Oregon has a significant interest in the continued vitality of general aviation, aircraft manufacturing, aviation organizations, and community airports; and

WHEREAS, There are 97 public use airports and over 360 private airports in the state which are part of the essential national system of airports serving our nation's 617,000 pilots; and

WHEREAS, There are over 400 aviation related businesses in 78 cities throughout Oregon with an average wage of more than \$62,395; and

WHEREAS, General aviation airports play a vital role in the state's response to emergencies and natural disasters including aviation firefighting, medevac, earthquake and tsunami response; and

WHEREAS, Airports in Oregon were responsible for more than 12,000 family-wage jobs in 78 cities around the state, and over \$2 billion in economic impact attributable to the state's aviation industry.

NOW, THEREFORE, I Sandra Roumagoux, Mayor of the City of Newport, hereby proclaim October 2013 as Aviation Appreciation Month in the city and encourage all Newport residents to join in this observance.

Dated this 7th day of October, 2013.



Sandra N. Roumagoux, Mayor



PROCLAMATION
NATIONAL FIRE PREVENTION WEEK
OCTOBER 6-12, 2013

WHEREAS, the City of Newport, Oregon is committed to ensuring the safety and security of all those living in and visiting our city; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, the nonprofit National Fire Protection Association (NFPA) has documented through its research that home fires killed 2,500 people in the U.S. in 2011 - roughly seven people every day; and

WHEREAS, cooking is the leading cause of home fires in the United States where fire departments responded to more than 156,000 annually between 2007 and 2011; and

WHEREAS, Newport's firefighters are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, the 2013 Fire Prevention Week theme, "Prevent Kitchen Fires!" effectively serves to remind us to stay alert and use caution when cooking to reduce the risk of kitchen fires;

NOW, THEREFORE, I Sandra Roumagoux, Mayor of the City of Newport, Oregon, do hereby proclaim October 6-12, 2013 as National Fire Prevention week, and I urge all the people of Newport by checking their kitchens for fire hazards and using safe cooking practices during Fire Prevention Week 2013.

Dated this 7th day of October, 2013.



Sandra N. Roumagoux
Sandra N. Roumagoux, Mayor

September 9, 2013
11:00 A.M.
Newport, Oregon

The City Council of the City of Newport met in a Special Meeting, on the above date, in Conference Room A of the Newport City Hall. Allen, Roumagoux, Sawyer, Beemer and Swanson were present. Saelens and Busby were excused.

Staff attending was as follows: Smith, Hawker.

Recruitment consultants Bob Gibson and Jeri Knudsen were in attendance.

Also in attendance was Larry Coonrod from the Newport News-Times.

MOTION was made by Beemer, seconded by Swanson and Allen, to enter executive session to discuss the employment of a City Manager. The motion carried unanimously in a voice vote, and Council entered executive session at 11:06 A.M.

MOTION was made by Beemer, seconded by Swanson, to return to the special meeting. The motion carried unanimously in a voice vote, and Council returned to its special meeting at 1:12 P.M.

Having no further business, the meeting adjourned at 1:12 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

September 11, 2013
Noon
Newport, Oregon

The City Council of the City of Newport met in a Special Meeting, on the above date, in Conference Room A of the Newport City Hall. Allen, Roumagoux, Sawyer, Busby, Beemer and Swanson were present. Saelens was excused.

Staff attending was as follows: Smith, Hawker.

Recruitment consultant Bob Gibson was in attendance.

Also in attendance was Dave Morgan from News Lincoln County.

MOTION was made by Beemer, seconded by Allen, to enter executive session to discuss the employment of a City Manager. The motion carried unanimously in a voice vote, and Council entered executive session at 12:06 A.M.

MOTION was made by Beemer, seconded by Allen, to return to the special meeting. The motion carried unanimously in a voice vote, and Council returned to its special meeting at 1:10 P.M.

A brief discussion ensued regarding from which account the expenses for City Manager finalist travel would come from. Staff was asked to determine this and report to Council.

A discussion ensued regarding a revision of the timeline attached to Resolution No. 3631 to allow for a telephone interview process and to change some of the dates, including the interview dates. Staff will bring a new resolution, revising Resolution No. 3631, to the next City Council meeting or Council consideration.

Having no further business, the meeting adjourned at 1:17 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

September 30, 2013
Noon
Newport, Oregon

The City Council of the City of Newport met in a Special Meeting, on the above date, in Conference Room A of the Newport City Hall. Allen, Roumagoux, Sawyer, Busby, Beemer and Saelens were present.

Staff attending was as follows: Hawker, Tokos, Gazewood, and Protiva.

Also in attendance was Dave Morgan from News Lincoln County and Dennis Anstine from the Newport News-Times.

Roumagoux asked for a motion to enter executive session.

MOTION was made by Beemer, seconded by Allen, to enter executive session pursuant to ORS 192.660(2)(e) to discuss real property transactions regarding the potential purchase of property. The motion carried unanimously in a voice vote, and Council entered executive session at 12:03 P.M.

MOTION was made by Allen, seconded by Busby, to return to the special meeting. The motion carried unanimously in a voice vote, and Council returned to its special meeting at 12:55 P.M.

Roumagoux proposed removing the potential sale of the Visual Arts Center from the October 7, 2013 City Council agenda. She reported that she had met with Catherine Rickbone, Executive Director of the Oregon Coast Council for the Arts, and suggested that the arts community begin looking at the revisioning of the VAC, and come back in four to six months with possible alternatives for the next 30 years. It was noted that cleaning up the property boundaries is a good idea. Allen suggested a proposal containing the views of Tokos and Roumagoux. Sawyer noted that there is a significant grass roots campaign regarding this issue. Tokos reported that the property partitioning and outreach can happen concurrently with a further discussion six to eight months in the future. Tokos noted that he will develop a list of questions, including whether it is in the public interest to own the facility, or could the use be accommodated elsewhere; and how is the facility maintained, among other questions. Roumagoux noted that she believes that the collection of information from the arts community, utilizing an informal process, will help in developing responses to the city's questions.

A discussion ensued regarding the selection of a citizen panel for the City Manager interviews. It was agreed that the following individuals would be asked to serve on the panel: Mark Watkins, Patricia Patrick-Joling, Janet Webster, Robert Ornelas, Don Mann, and alternates are Ken Riley or Rob Thompson and Mark Fisher.

Having no further business, the meeting adjourned at 1:20 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

September 16, 2013
Noon
Newport, Oregon

CITY COUNCIL WORK SESSION

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

Staff present: Smith, Hawker, Gazewood, Tokos, and Paige.

Media present: Dave Morgan from News Lincoln County.

Others present: Dennis Bartoldus, Sunnetta Ransom, and others interested in the business license issue.

Roumagoux called the meeting to order and roll was taken.

1. Roumagoux asked whether there were additional items to discuss at this meeting. Saelens noted that there needs to be a city representative to the Solid Waste Advisory Committee which plans to meet on September 24 from 3 - 5 P.M. Beemer noted that he would be willing to represent the city if Tim Gross is unable to participate.
2. It was suggested that there be a brief discussion regarding the purchase of Fire Department apparatus, and an update on the general legal proposals.
3. MOTION was made by Beemer, seconded by Saelens, to enter executive session pursuant to ORS 192.660(2)(h) to consult with legal counsel regarding litigation or litigation likely to occur involving Teevin Brothers, and pursuant to ORS 192.660(2)(e) to discuss real property transactions. The motion carried unanimously in a voice vote, and Council entered executive session at 12:04 P.M.

MOTION was made by Beemer, seconded by Saelens, to leave executive session and return to the Council work session. The executive session adjourned at 12:59 P.M.

4. MOTION was made by Allen, seconded by Beemer to direct Emily Jerome, attorney with Speer Hoyt, to notify LUBA that the City of Newport reserves the right to file a reply brief if necessary after the respondents/intervenors have filed their brief in response to the petitioner's opening brief in the Teevin Brothers matter. The motion carried unanimously in a voice vote.
5. Council directed that an action item be added to tonight's meeting to direct staff to begin to position real property for sale. Tokos stated that he would specify that the property in question is the VAC.
6. Smith distributed a financial update prepared by Gazewood who had to leave this meeting early.
7. A discussion ensued regarding business licenses. Busby reported that he requested that this item be placed on the agenda as it seems like there are a number of issues and potential issues relative to business licensing. He suggested Council consider the formation of a group to study the issue. Busby noted that he had twice requested information regarding business licenses, and that based on the revenue numbers, he

assumes there are approximately 1,300 business licenses. Busby reviewed some of the issues he has found with the current licensing ordinance, including: rates; definition of business; enforcement; ownership and management; lack of data; enforcement plan; application and approval process time; exempt parties obtaining a license despite there being no fee; deliveries by transient commercial businesses; and on-line businesses. Saelens suggested re-examining how to create a better business license process. He noted that the data is important even without a fee. Roumagoux asked what the staff cost is to process and administer business licenses. Allen noted that there is a valid need for a business license ordinance. He added that the goal is how to be fair and equitable. Allen suggested the formation of a group or task force comprised of City Councilors and stakeholders. Beemer suggested that the task force be chaired by Busby. Tokos noted that having worked in both types of communities, he prefers the business license. Sawyer stated that the matter should be examined regularly. Roumagoux asked how to regulate “underground” businesses.

Bartoldus noted that the requirement for the Embarcadero to purchase individual business licenses for all renting units has caused the unintended consequence of requiring those unit owners to meet vacation rental standards rather than hotel standards. He added that in looking at vacation rental dwellings, hotels, and timeshare, these are all similar uses with three different standards. He added that his client is comfortable with the business license requirement, but the upgrade for health and safety issues is a very real problem. Allen noted that Bartoldus input could be beneficial with respect to these other issues as they are discussed and reviewed. A discussion ensued regarding the “administrative rules” for business licenses, and Allen noted that these are a big issue.

Bartoldus stated that the uniform fee is more simplified and workable, and that some provisions of the ordinance are good, need to continue, and make sense.

Smith noted that once a business is identified, the city has a responsibility to enforce the code. Tokos noted that the city needs to issue the endorsements and licenses under the current code. He added that the vacation rental dwelling standards are straightforward.

Bartoldus noted that if the city changes standards that all establishments similar to the Embarcadero should meet those standards, and that all businesses used for the same purpose should be treated the same relative to endorsements and health and safety standards.

Allen suggested a grandfather clause for exemptions. He noted that requirements should be equitable among similar businesses. Allen noted that the task force could make recommendations on some of these issues. Allen suggested that a Planning Commissioner be a task force member as there are interrelated issues. Saelens noted that Council needs to define the issues for the task force. Allen suggested that the membership and scope of work of the task force be discussed at a future meeting.

Tokos reported that he has the capacity to allow for delayed installation of upgrades required by the VRD ordinance. He reiterated that the business licenses and endorsements need to go out to applicants. It was suggested that Tokos and Bartoldus could work on language for delayed upgrade requirements.

Allen suggested that the issue of a business license task force could be on the agenda of the next evening meeting as a discussion item, and that the establishment of the task force could occur at a later meeting where the membership and scope of work is defined.

8. Smith reported that Gazewood had to leave but had distributed the financial update.
9. A discussion ensued relative to the proposals received for general legal services, Allen stated that on August 19, when this item was last discussed, he mentioned to Mayor Roumagoux and the City Council that he was considering looking at the general legal services position, so he declared a conflict of interest and left the room. He noted that subsequently, on August 23, he notified Roumagoux and the City Council that he was no longer interested in the position and no longer has to declare a conflict of interest. It was noted that proposers for general legal services would be interviewed at a special meeting on Friday, September 20, and that the agenda would contain an action item relative to naming a person or firm to provide general legal services.
10. A discussion ensued regarding the proposed purchase of a fire engine. Allen inquired whether the proposed fire engine purchase had gone through a formal bidding process. It was reported that Paige would have the information on the purchasing guidelines and findings of fact at the evening meeting. Busby noted that the city is spending 4.2 million dollars more this year than it is taking in. Allen asked whether the funding for the fire engine needed to be determined by the evening meeting, or whether Council could simply state that it will purchase the fire engine. Allen noted Gazewood's concern regarding the lease/purchase of the equipment and asked what Council will do if Gazewood is unable to attend the evening meeting. Saelens noted that unless it is critical, the purchase could be rescheduled to another session. Allen suggested keeping the item on the evening agenda and postponing a decision if necessary.
11. It was noted that a Town Hall meeting was scheduled on September 30, at the Boone Center at Newport High School.
12. It was noted that the public hearing on the taxicab endorsement for Ken's Cab will not occur at this evening's meeting.

Having no further business, the meeting adjourned at 2:39 P.M.

September 16, 2013
6:00 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, Busby, Swanson, Sawyer, and Saelens were present.

Staff present was Interim City Manager Smith, City Recorder Hawker, Community Development Director Tokos, Interim Finance Director Gazewood, Public Works Director Gross, Fire Chief Paige, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Ken Franklin, representing Ken's Cab (a taxicab endorsement applicant), addressed Council regarding the difficulty of the current taxicab endorsement ordinance. Roumagoux noted that Council will consider a new taxicab endorsement ordinance.

Todd Butterfield spoke in support of the taxicab endorsement for Ken Franklin.

Allen noted that the public hearing on the taxicab endorsement application by Ken's Cab is still scheduled for 7:00 P.M.

Rae Hail addressed Council regarding ADA barriers and 8.20.015(E) of the Newport Municipal Code. Rae reported that he is President of the Blind Veterans Association and a volunteer for ADA Northwest. He distributed hand-outs to Council. He stated that there is a problem with 8.20.015(E) of the Municipal Code in that it allows dogs to be off-leash as long as they are under voice control. Hail stated that when dogs are allowed to run free, they become a barrier. He added that disabled citizens need to feel that they have equal protection under the law. He noted that there are paths of travel, covered by the ADA, in the city where there are trees, brush, and other sidewalk obstructions, making it difficult or impossible to use by disabled individuals.

Robert Clark reported that he has had many encounters with dogs that are off-leash. He added that often, the dog is out of control, and the pet owner cannot control it, and he has to get his dog under control. Clark stated that his dog cannot work when she is being hassled by another dog. He noted that six-foot leashes do not work on narrow sidewalks with other dogs. Clark spoke regarding overhanging vegetation and other sidewalk obstructions. He stated that there are at least five areas with sidewalk obstructions between 3rd Street and JC Market. He added that some people park on the sidewalk. He stated that he would like to have something done about the obstructions. He reviewed several areas with sidewalk obstructions, including one on Coast Street where the tree grows over the sidewalk; two bushes in the same area; low hanging trees on Coast Street around the corner from Green Gables; a bush growing over the sidewalk, covering half the width of the sidewalk; a van parked on the sidewalk; and a bush on top of a retaining wall growing over the sidewalk on the north side of Olive Street after Brook Street; a picket fence that has become overgrown across from

Literacy Park; the entire block across from the American Legion has a lot of vegetation growing over the sidewalk; and shore pines that are emerging on Coast Street near the PAC.

Patty Hail reported that there are two big access issues along the sidewalks. One is the maintenance of sidewalks as some are broken; and the other is dogs that are off-leash.

ADDITIONS/DELETIONS TO AGENDA

Allen noted that items discussed at the work session are included on the revised agenda.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session, executive session, and regular meeting of September 3, 2013;
- B. Acknowledgment of accounts paid for August 2013;
- C. OLCC application - Asiatico Sushi Bar.

MOTION was made by Beemer, seconded by Sawyer, to approve the consent calendar with the changes to the minutes as noted by Allen. There were questions regarding the accounts paid related to the airport golf cart and the right-of-way purchase. The motion carried unanimously in a voice vote.

OFFICER'S REPORTS

Mayor's Report. Roumagoux reported that Council had met to begin reviewing the applications for the City Manager position.

Roumagoux reported that she had met with Dave Price, director of the Small Business Center, for OCCC.

Roumagoux reported that she had attended the city staff barbecue.

Roumagoux reported that she received a letter from Jill Ledet requesting that Council consider creating additional public vending spaces.

Roumagoux reported that she had received a letter from Meals on Wheels thanking the city for its donation to the program.

Roumagoux reported that she had received a letter from Gabe Wilson resigning from the Destination Newport Committee due to work and family commitments. Council thanked Wilson for her work and commitment to the city.

City Manager's Report. Smith reported that the monthly departmental reports were included in the packet.

Smith reported that he had attended the "Real Heroes" breakfast where Chris Rampley, from the Fire Department, was recognized as a real hero for saving a fisherman who had fallen from his boat. Smith noted that there is an article in the Statesman Journal regarding the folks recognized as "real heroes."

Smith reported that he spoke at the recent Leadership Lincoln session as a part of a panel that included David Bigelow, Tom Rinearson, and Lyle Mattson.

Allen asked whether a meeting of the Port Pedestrian Safety Task Force had been scheduled. Tokos agreed to follow-up.

Allen asked about the safety zone grant that the Police Department is working outside the city limits, and particularly why the Lincoln County Sheriff's Office and OSP had declined to accept the grant due to personnel shortages. He asked whether the city had similar personnel shortages and whether the city is paying overtime. Miranda reported that the staffing is primarily overtime that is funded by the grant, and that the grant ends at the end of September.

ACTION ITEMS

Consideration of Application for a SAFER Grant for the Staffing for Adequate Fire and Emergency Response. Paige reported that the issue before Council is the consideration of support for an application for a SAFER Grant, noting that it is a program that FEMA offers every year. He added that the city has not been successful in obtaining the grant in the past. He stated that this year, staff have applied for a grant to hire two firefighters in relief positions. He recommended Council support of the grant noting that there is no requirement for the city to provide matching funds. He stated that after two years, a decision will have to be made regarding whether to keep the two positions assuming the grant is successful. He added that the chances of getting the grant are slim due to the number of applications. He stated that if the city is offered the grant, the matter will return to Council for acceptance of the grant. He noted that he is asking for approval to submit the grant, adding that the city likely will not know whether it receives the grant until next summer because of the low priority category that the city is in. Allen stated that the grant is only for two years, and there is no expectation of continued employment for the two employees. He asked whether the employees will become union members, and whether that will be an issue, if after two years, the city has to release them. Paige reported that in this situation, the bargaining agreement layoff provision would apply. Allen asked whether Paige would be clear and candid with the employees hired that this is a limited term position. Paige reported that he would be up front with the two employees. MOTION was made by Swanson, seconded by Beemer, to approve the submittal of the SAFER Grant application for the purpose of increasing career firefighter staffing levels. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3650 Regarding the Payment of Franchise Fees by City-Owned Utilities. Gazewood reported that the issue before Council is consideration of Resolution No. 3650 which would formally approve the five percent fees of gross water and wastewater revenue as set forth in the annual budget document. He noted that this action should have occurred in 2001. He added that it was included in the budget; went through the budget adoption phase; and continued each fiscal year after that. Gazewood reviewed percentages and amounts of funding. He noted that the resolution provides for a monthly transfer of the monies and does not include proceeds from bond sale proceeds or interest earnings. Allen noted that the reason this is being presented tonight is that the Infrastructure Task Force is talking about how to pay for infrastructure improvements by looking internally in the budget to bolster the water and

sewer funds. He added that Council may see some recommendation on whether the city should continue the fee in lieu of concept for the next fiscal year. Allen noted that this resolution acknowledges what the city has done for the last ten years. MOTION was made by Beemer, seconded by Busby and Allen, to adopt Resolution No. 3650, a resolution regarding the payment of fees in lieu of franchise fees by city-owned utilities with a revision to Finding 2 to read as follows: "The City has charged or collected such fees since fiscal year 2002-03 through the annual budget approval and adoption process." The motion carried unanimously in a voice vote.

Consideration and Discussion of Potential Sale of the Visual Arts Center. Catherine Rickbone, Executive Director of the Oregon Coast Council for the Arts (OCCA), which manages the PAC and the VAC for the city, appeared before Council regarding the potential sale of the VAC. She stated that the discussion of the potential sale of the VAC is a surprise. She noted that several OCCA board members are in attendance at this meeting. She asked when and how public comment will be taken on the potential sale of the VAC, and how the matter will proceed. Tokos reported that Council is considering whether to position the property for potential sale. He added that a public hearing would be scheduled in the late winter or early spring if Council accepts what is outlined in the staff report. He noted that if this property is going to be sold; steps need to be taken to make that possible, and that those steps include a partitioning process; an appraisal following the partition process; and a revisiting of the management agreement with OCCA. He reiterated that there would be a public hearing at which Council would consider whether it is in the public interest to sell the property. Tokos noted that there would be an investment of approximately \$5,000 - \$8,000 to get to the point of the public hearing, and that the CDD budget has sufficient professional service funds to cover this expense. Allen reported that direction was given to Tokos to indicate to the public that the City Council is considering this potential sale and to identify the appropriate steps to position the property for sale.

Mark McConnell noted that Council had held an executive session regarding real property transactions, and asked whether the sale of the VAC was discussed during the executive session. Allen noted that if McConnell listens to the audio file from the earlier work session, he will hear the direction to Tokos to bring this information forward tonight. McConnell asked who is behind this particular building being looked at for a potential sale. Roumagoux noted that Council is looking at all city-owned properties. Gross noted that part of the budget discussion was focused on where the city spends money, and that there has been more spent on this building due to its age and conditions. McConnell asked whether other properties will be included on the list of potential sale properties, including the FBO and the Abbey Street Pier building. He stated that it was a mistake not having more public input ahead of time. Allen noted that one of the reasons Council included this item on the agenda was to begin a discussion about this property and other properties. McConnell noted that the revised agenda was not posted on the city's website, and that this item did not have to come up at this meeting.

Rickbone reported that this matter was first brought to her attention a few days ago, and expressed concern about the future of the PAC. She noted that OCCA is embarking on a 4.3 million dollar capital campaign, and that she would not recommend continuing with that campaign if the PAC may be considered for sale.

Wendy Engler asked what other properties the city may be considering for potential sale. Allen noted that this evening's discussion is the beginning of the process. He added that if the proposed motion passes that the next meeting agenda could contain a discussion item on the subject so that Council could hear the issues from OCCA. He added that the city can provide informal public engagement while preparing for a more formal process. McConnell suggested tabling this issue and placing it on the next agenda. Engler asked why the VAC was chosen for potential sale. Allen noted that Council is looking at other properties. He added that some recommendations have come from the Infrastructure Task Force, and that McConnell is aware of those discussions. Swanson suggested tabling the issue and discussing it in a few weeks. Busby reiterated that the VAC is not the only city property being discussed. Allen noted that the city website has a link to an inventory of city-owned property.

After further discussion, MOTION was made by Swanson, seconded by Saelens, to table this matter until October 7, 2013. The motion carried unanimously in a voice vote.

Consideration of City Manager Evaluation as Developed by Council Sub-Group.

Allen reported that the City Manager Evaluation Process Sub-Group had submitted a final draft of the evaluation document/process. He reviewed the proposed process. It was agreed to table action on the City Manager evaluation process until the October 7, 2013 meeting at which time the draft document and Sub-Group minutes will be presented for Council review and approval.

PUBLIC HEARINGS

Public Hearing on Application for Taxicab Endorsement to a Business License by Ken's Cab. Roumagoux opened the public hearing on the application for a taxicab endorsement to a business license application filed by Ken's Cab at 7:16 P.M. A discussion ensued regarding a draft revised taxicab endorsement ordinance. Franklin noted that his business could not survive a three-month waiting period for the ordinance to become effective. It was suggested that the ordinance could be an emergency ordinance so that it could become effective after adoption by Council. There was no further comment, and the hearing was closed at 7:20 P.M.

Public Hearing on and Consideration of Resolution No. 3649 Amending Resolution No. 3631 - A Resolution Establishing the Hiring Standards, Criteria, Policy Directives, and a Timeline for the Recruitment, and Hiring of the City Manager for the City of Newport, and Specifically Amending the Timeline (Exhibit A). Roumagoux opened the public hearing on Resolution No. 3649 at 7:20 P.M. Saelens recused himself. She asked for the staff report. Hawker reported that the issue before Council is to seek public input on Resolution No. 3649 that amends the timeline for recruitment of a City Manager.

Roumagoux asked for public comment. There was none.

Roumagoux closed the public hearing for Council deliberation at 7:25 P.M. It was suggested that the last "whereas clause" read "telephone interview screening process" to be consistent with the wording in the timeline.

MOTION was made by Beemer, seconded by Allen, to adopt Resolution No. 3649, amending Exhibit A of Resolution No. 3631 regarding changes to the timeline (established in Resolution No. 3631) for hiring a City Manager as amended. The motion

carried unanimously in a voice vote. Hawker noted that the new timeline includes an executive session to be held Friday which she will notice along with a special meeting to include interviews with proposers for general legal services.

LOCAL CONTRACT REVIEW BOARD MEETING

Roumagoux called the meeting of the Local Contract Review Board (City Council acting as such) to order.

Consideration of Purchase of Fire Department Apparatus. Paige reported that the issue before the City Council, acting as the Local Contract Review Board, is consideration of whether the Fire Department should procure a new “demonstrator” fire engine to replace a 1994 fire engine. He recommended that the lease/purchase of one HME “demonstrator” fire engine, for a total negotiated price of \$401,425, be approved, and that the 1994 International/KME fire engine be declared surplus and the city receive a \$10,000 trade-in credit toward the “demonstrator.” Paige reviewed the need for this fire engine and how it would be funded. He reported that Gazewood recommended not purchasing this apparatus, but to look at a five year special levy. Paige recommended a capital equipment bond measure as it would be a more comprehensive way to deal with needs.

Gazewood reviewed potential financing terms. He noted that the General Fund operating budget supports a lot of departments. He added that the Police Department has a continual need to replace vehicles, and subsidies are provided to the Parks and Recreation Department and other departments from the General Fund. He noted that the General Fund has its own problems with debt structure and annual payments. He reviewed the fiscal impact over a six-year period noting that the impact would be a 1.1 million dollar outlay from the General Fund over this period of time for the Fire Department. Gazewood added that he is concerned with the overall impact to the General Fund and its ability to meet and maintain service levels in all departments. He noted that if the water and sewer fees in lieu of are removed, the budget will be further reduced by approximately \$377,000. Gazewood stated that while the fire engine is a good deal, the purchase would have a huge impact on the General Fund over the next five years. He noted that there are better ways to pay for capital rolling stock, and this would not be the only city that addressed the issue of purchasing rolling stock without using general operating monies. Gazewood stated that a local option levy allows cities to go to the voters for operating or equipment levies. Gazewood reviewed the list of equipment replacement schedules provided by Paige. Gazewood further reviewed the fiscal impact this purchase would have on the General Fund.

Paige noted that he is looking at the big picture for the Fire Department, and added that if the first out engine is not replaced; the opportunity is gone; and problems could be created without at least one new engine.

Swanson asked what would happen if the truck is not purchased and the current first out engine is disabled. Paige stated that the first out fire engine has to be a high priority for the city, and higher than some other needs of other departments.

Busby stated that the city is spending more money than it is bringing in, and that has to stop at some point.

Beemer noted that he saw the response from the art community when it was suggested that the city sell the VAC. He added that someone's feelings will be hurt because Council has to make tough decisions regarding money.

Roumagoux asked about obligating future City Council's, and Gazewood noted that the purchase of the fire engine would bind the Council at that debt level for five years.

Paige asked whether it would be legal to use levy monies to satisfy this debt, and Gazewood noted that he does not think the proceeds could be used to pay off debt, but that he would research that issue.

Allen noted that Paige and Gazewood have different valid perspectives. He added that he is not disputing the importance of the equipment for a functioning Fire Department, but that in his position, he has to look at the entire city organization, and there are two valid issues butting heads. He added that he tends to look at things more like Gazewood, although he does not dispute the validity of what Paige is advocating for. He stated that this is not an easy decision, but Gazewood is making important points in making decisions beyond Fire Department issues.

Paige stated that he has not been asked questions regarding apparatus from the Infrastructure Task Force. Allen asked why the department heads could not use Gazewood's expertise and develop a plan for the replacement of rolling stock that can meet the needs of all departments for five to ten years. Smith noted that it would be great to see how one departmental request affects other departments and how the city can purchase all the necessary rolling stock. Paige asked why the fire stations and equipment are not included as part of the city's infrastructure.

Gross noted that departments pay for equipment differently. Gazewood noted that equipment in the water and sewer funds could impact the General Fund if the water and sewer fees in lieu of are removed from the General Fund.

Saelens noted that he would like nothing better than to grant the request for the new fire engine, adding that Paige and Gazewood presented valid perspectives. He stated that this is a tough decision, and he supports a more deliberate planning process.

Allen stated that he cannot support the proposed motion because Council and staff need to take a more comprehensive look at the city organization; and develop a more comprehensive plan for rolling stock and its financing. He added that he does not like piecemeal purchases, and suggested staff work with Gazewood and return to Council with a plan on how to proceed with purchases of rolling stock.

Beemer agreed with Allen.

Sawyer disagreed with Allen noting that this is a unique situation and there is a need for the fire engine. He noted that he supports the purchase.

Swanson expressed support for the purchase of the fire engine.

MOTION was made by Swanson, seconded by Sawyer, that staff be authorized to lease/purchase one 2013 H&W demonstrator fire engine (#22428) for \$401,425 and hereby declare a 1994 International/KEM fire engine as surplus property, and accept staff's finding that trading in the 1994 engine will promote the public interest and probably result in a higher net return than if sold by a competitive bid process, and trade it in for a \$10,000 credit toward the sale price of the new fire engine. Those voting aye in a voice vote were Swanson and Sawyer. Voting nay in a voice vote were Allen, Beemer, Busby, Roumagoux, and Saelens. The motion failed.

RESUME CITY COUNCIL MEETING

COUNCIL REPORTS AND COMMENTS

Sawyer reported that Gabe Wilson has been a wonderful addition to the Destination Newport Committee. He expressed appreciation for the time she has given to the city.

Saelens reported that he attended the employee barbecue.

Saelens reported that he will participate in the upcoming Bon Sante event at the 60+ Activity Center.

Busby reported that he attended the half marathon, and noted that it was a successful event benefiting the aquatic center.

Busby reported that he had attended the recent Airport Committee meeting, and that members of the Committee are rewriting the business plan and developing an initial set of minimum standards.

Busby noted that Council had talked about developing a task force to review business licenses and building codes. Allen noted that this task force would be a discussion item on the October 7 agenda to develop a scope of work, define the membership, and establish timelines.

Beemer reported that he had attended the employee barbecue.

Beemer reported that he, Miranda, Garbarino, Murphy, Paige, and Smith had attended the Red Cross honor event in Salem that recognized Chris Rampley as a local hero.

Beemer reported that he had attended the Wildish preconstruction meeting with Gross and work is scheduled to begin this week on the repair of Big Creek Road.

Allen reported that the Infrastructure Task Force met and discussed projected infrastructure needs. He noted that the Task Force will meet on Thursday, October 10 and 31, November 7 and 21, with a final meeting on December 5 and a recommendation at the first Council meeting in January 2014.

Allen reported that he attended the employee barbecue.

Allen reported that he attended a recent meeting of the City Employee Committee at which there was a good discussion. He noted that this was John Baker's last meeting with the CEC. He added that Smith could prepare a letter to Baker, if Council wishes, to let Baker know that his services are completed.

Allen noted that the Audit Committee is scheduled to meet September 23, and that he will check with Gazewood and Linda Brown to determine the time of the meeting. He noted that the most recent edition of the "Local Focus" has an article regarding audit committees.

Allen noted that Council had not yet received the monthly invoice from LGLG.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:49 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor



Ted Smith
Interim City Manager
CITY OF NEWPORT
169 S.W. Coast Hwy.
Newport, OR 97365
t.smith@newportoregon.gov

Interim Manager's Report Through October 4, 2013

Following is the Interim City Manager's report for the period ending September 13:

Interim City Manager/Staff Interactions

The Interim City Manager met with the following individuals (some on multiple occasions) during this reporting period:

Linda Brown, Melissa Roman, Lance Vanderbeck, Terry Durham, Chuck Norman, Chief Phil Paige, Bob Gazewood, Jim Protiva, Kay Eldon, Tim Gross, Derrick Tokos, Tim Gross, Jim Salisbury

In addition, the Interim City Manager met with the following employee groups:

Airport staff, Finance staff, Library staff, Library Supervisors, Parks & Rec Supervisors, Department Heads

Committee Attendance

The Interim City Manager met with the following committees, task forces or sub groups:
Parks & Recreation

Citizens, Clubs and Other Organizations

The Interim City Manager met with the following people, groups of people or organizations:

Rotary Club of Newport, Chamber of Commerce

On September 17, and 18, the Interim City Manager participated in telephone interviews that involved sixteen applicants.

On September 17, the Interim City Manager and Department heads met at the Water Treatment Plant for their bi-monthly meeting. We are holding these meetings at a different department each month to give department heads a more rounded understanding of the various departments, their responsibilities and needs. At this meeting department heads were also involved in discussing how to plan for future rolling stock replacement. There's no silver bullet here; Police and Public Works have their rolling stock

replacements already planned into each year's budget. Replacing Fire Department rolling stock is more problematic as it entails purchasing many very expensive pieces of equipment.

On September 23, the Interim City Manager met with the Board of the Oregon Coast Council for the Arts (OCCA) to talk about the recent discussions concerning the possible sale of the Visual Arts Center. The purpose of this meeting was to make sure that lines of communication were open and that no walls were being built. The OCCA Board reiterated that they want to continue the great partnership we've shared over the years.

On September 26, 27 and 28, the Interim City Manager attended the 88th Annual Conference of the League of Oregon Cities. I attended the following workshops:

1. The Moment of OH! A Strategy for High-voltage Public Decision Making.
2. Trade Reception – Vendors and Networking
3. Thursday Keynote Speaker – Jim Hunt and “Amazing Cities”
4. Beachball Management: Survival Skills for Managers and Public Officials
5. Ethics: What You Need to Know About Oregon's Ethics Laws
6. Fraud: It Could Happen to You
7. Affordable Housing: How Your City Can Fit In
8. Saturday Keynote Speaker – Lowell Catlett and “Imagining the World of 2020”

Respectfully Submitted,

Ted Smith



Memo

To: Ted Smith, Interim City Manager and City Council
From: Ted Jones, PE, Sr. Project Manager
Date: October 7, 2013
Re: Capital Projects Status Update

Project: **Ash Street Design and Construction**
Project Number: 2010-003
Status: Light poles complete.
Next Task: Close out the project.
Budget: \$557,000
Description: Design and construct Ash Street between SE 40th St. and SE Ferry Slip Road.

Project: **Big Creek Road Landslide Repairs**
Project Number: 2011-003
Status: Contractor has mobilized, performed preliminary clearing, and is adjusting their work methods to handle site specific issues.
Next Task: Initiate the drilling for retaining wall's piles/supports.
Budget: \$750,000
Description: This project will restore Big Creek Road. A January of 2011 storm 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 and 25% through IFA (Oregon).

Project: **Lower Big Creek Reservoir Drawdown Pipe Repair**
Project Number: 2012-012
Status: The repair is in operation.
Next Task: Waiting for delivery on the downstream valve operator and repair diver to adjust/remove the existing upstream slide gate.
Budget: \$160,000
Description: Repair a structurally deficient and functionally obsolete 30-inch corrugated metal outfall pipe with a 24-inch HDPE Liner and structural grout.

Project: **Agate Beach/NE 71st Waterlines and Lakewood Hills Pump Station**
Project Number: 2011-018 and 2012-013
Status: Pre-construction meeting with WW Construction on 01 October 2013.
Next Task: Estimated construction start date for the 71st St. waterline is 15 October 2013.
Budget: \$1.3 MM
Description: Installing a new water distribution pipeline along US-101 in the Agate Beach area and along NE 71st St for Phase 1 of the NE 71st St. Water System Improvements Project. The Lakewood Hills Pump Station which will improve performance and reliability for pressure and fire flow.

Project: **Jeffries Creek Culvert Installation**
Project Number: none
Status: Culverts installed the week of September 16th.
Next Task: None, project completed.
Budget: \$15,000
Description: City staff violated fish passage regulations by adding additional rock to the service road leading to the main water tanks behind the City pool. To avoid a citation, the City agreed to install larger culverts to improve fish passage in Jeffries Creek.

July 25, 2013
1:00 P.M.
Newport, Oregon

The City of Newport City Manager Evaluation Process Sub-Group met on the above date in the City Manager's Conference Room of the Newport City Hall. In attendance were City Councilors David Allen, Mark Saelens, and Laura Swanson, Interim City Manager, Ted Smith, and City Recorder/Special Projects Director, Peggy Hawker. Also in attendance was John Baker from Northwest Management Consultants.

CALL TO ORDER

Allen called the meeting to order and noted the attendees. He added that this is the fourth meeting of the sub-group, and that after the City Council looked at the draft evaluation form, it asked the sub-group to obtain feedback on that form from Smith and Baker.

DISCUSSION REGARDING DRAFT CITY MANAGER EVALUATION FORM AND PROCESS INCLUDING COMMENTS FROM JOHN BAKER AND INTERIM CITY MANAGER, TED SMITH

Saelens noted that the goal is to give the City Manager who is being evaluated a fair shake and to develop a tool that can be used throughout the year. Swanson reiterated that the goal is to develop a level playing field.

Allen noted that during the City Manager recruitment process, Saelens had expressed interest in possibly applying for the position, but since this evaluation tool is generic, Saelens is comfortable that there is not a conflict of any kind.

Baker noted that all the input is good, and he applauded the City Council for taking the evaluation process seriously. He noted that the sub-group had covered a lot of elements in an evaluation and self-evaluation, and it is its duty to draft an evaluation process that works.

Baker stated that he focused on the product rather than the elements in his review of the draft document. He added that there are three types of goals: routine, corrective, and innovative. He noted that he does not like the mid-point.

Swanson asked whether the department heads could participate in evaluating the City Manager. Baker stated that numbers can be used for a statistical comparison. Allen noted that the goal is to get away from the tendency to use grading systems and acronyms will keep people from using numbers. Swanson noted that numbers could be assigned to ratings if needed for statistics. Baker added that there needs to be criteria for why people did what they did. He added that the person being evaluated gets to complete the self-evaluation, so that it is a 360 degree process that involves the City Council, department heads, and City Manager. Baker stated that he rarely recommends using numbers, but numbers must be tied to criteria such as contained in the draft form and process.

Baker distributed and reviewed several documents including: The Baker-Sexson 3-Level Supervisory Assessment; a "City Manager Performance Evaluation Form," and an article entitled, "Building a Happy Workplace."

Allen noted that at a previous meeting, it was agreed that each Councilor would complete the evaluation form and have it in front of them during the evaluation in an executive session. He added that each Councilor would have an opportunity to speak on the document. Afterward, the City Manager would have completed the self-evaluation and have an opportunity to discuss it. It was suggested that the last page of Baker's "City Manager Performance Evaluation Form" could be used as the summary that is released to the public.

A discussion ensued regarding department head evaluations of the City Manager. Baker noted that he would want to make these evaluations completely anonymous. Allen noted that if the department head evaluations were discussed in executive session, and if there was a public records request, the records might have to be disclosed, and the potential exists for the City Manager to identify the department head evaluators. Baker stated that he would talk with Rob Bovett regarding the possible disclosure of department head evaluations.

ESTABLISH NEXT MEETING DATE

It was agreed to try to schedule a meeting prior to August 20, 2013, and to defer questions for Baker until a later date.

ADJOURNMENT

Having no further business, the meeting adjourned at 2:00 P.M.

CITY MANAGER PERFORMANCE EVALUATION OVERVIEW

The following information, inclusive of an evaluation form, supports the System Integration™ (SI) City Manager Evaluation Process which reviews progress and results in three areas: (1) Adherence to Council policy; (2) Annual Performance Plan achievements; and (3) Leadership Competency Assessment results.

Each City Council will have its own specific challenges and may suggest modifications to this document that improve its value to their own unique circumstances.

1. What is a City Manager evaluation?
 - a. The process of planning, reviewing, and providing feedback on the performance of the City Manager.
 - b. A means of demonstrating organizational accountability to citizens, employees, and key regional partners.
 - c. A means of maintaining alignment between goals set and achievements reached.
 - d. An element of decision about compensation.
 - e. A means of determining the need for further professional development, education, or training.

2. What is the role of the City Council?
 - a. Be familiar with all policy established by Council that describes how authority is delegated to the City Manager and its proper use monitored; the City Manager's role and his/her authority and accountability; constraints on the City Manager's authority which establish the practical, ethical, and legal boundaries within which all staff activity and decision-making will take place and be monitored; and what the Council intends for the city to achieve.
 - b. Schedule agenda time quarterly for the Personnel Committee report.
 - c. Provide annual review of City Manager performance and results achievement.
 - d. Maintain a balance of support and trust with a relationship of accountability with the City Manager.

3. What is the process?
 - a. Council appoints a Personnel Committee responsible for monitoring progress and measuring results of City Manager performance.
 - b. Personnel Committee meets each quarter with the City Manager to review adherence to the governance policies and the city's progress on the Annual Performance Plan.
 - c. Personnel Committee is responsible for providing quarterly updates to the full Council on City Manager progress and achievements.
 - d. Personnel Committee facilitates a full Council review annually of City Manager performance.
 - e. Council arranges for an annual assessment of City Manager Leadership Competencies.

This draft was assembled from different City Manager evaluation forms provided as a part of the process.

- f. Based on the results of the comprehensive annual review, Council determines the need for further professional development, education, or training for the City Manager and adjusts compensation accordingly.

4. Opportunities

In a relationship of trust and support, Council members and the City Manager can have an honest dialogue about what is being accomplished, where the gaps may be, and how to maintain progress. Good relationships promote candor and constructive planning.

Evaluate the WHAT and the HOW - Results that should be accomplished and leadership skills that should be demonstrated.

Examples of WHAT include: Fulfillment of the City Mission, achievement of the objectives on the Annual Performance Plan, operational effectiveness, fiscal and staff management, public relations and advocacy.

Examples of HOW include: Personal qualities such as integrity and commitment, interpersonal skills such as effective communication and influence, and leadership skills such as vision, staff development, innovation, and process efficiency.

5. Pitfalls to Avoid

- a. Council members represent a diverse group of voices that may not be unified in their expectations of the City Manager.
- b. Relationships are too close, supportive, and friendly, there can be a reluctance to bring up areas of performance that need improvement and a tendency to avoid conflict.
- c. Compensation adjustments do not reflect the results of the annual review.
- d. Members of the Personnel Committee have no experience in performance management.

Rating Period: _____

Performance Standard Rating

Exceeds Expectations	=	EE
Fully Effective	=	FE
Developing	=	DEV
Needs Improvement	=	NI
No Opinion/Not Observed	=	NO

The standard evaluation form rates the City Manager performance at four levels defined as follows:

Exceeds Expectations: Employee performance exceeds normal expectations of the position.

Fully Effective: Employee has achieved full competence in all critical measures of performance and overall contribution is entirely satisfactory.

Developing: Employee has not yet achieved full effectiveness but is in a training or development mode AND the rate of growth is proceeding at a satisfactory rate.

Needs Improvement: Employee has had adequate time, training, and the opportunity to achieve the fully effective level but performance in one or more areas is below the level of full competence and effectiveness.

No Opinion/Not Observed: Evaluator has no opinion and/or knowledge in this area.

Element A: Department Operations

Overall Rating _____

Indicators	Rating
1. Does the Manager facilitate an on-going leadership partnership between elected officials and Department Heads?	
2. Does the Manager inform and consult Council about anticipated changes?	
3. Does the Manager take a long-term view and initiate and manage organizational change for the future; build the vision with others; spot opportunities to move the organization toward the vision?	
4. Does the Manager evaluate City organization, operations and programs, and explore new methods for conducting city business and enhancing city effectiveness?	
5. Does the Manager actively promote, support, and champion efforts to Involve mid-level managers in city management issues?	
6. Does the Manager foster an environment that promotes an expectation of high performance standards throughout the organization?	

Comments including examples of performance to support your appraisal.

Element B: Department Operations

Overall Rating _____

Indicators	Rating
1. Is the Finance Department effective and meeting community needs? (Finance, Human Resources, and Municipal Court)	
2. Is the Community Development Department effective and meeting community needs? (Planning and Building)	
3. Is the Fire Department effective and meeting community needs?	
4. Is the City Manager's Office effective and meeting community needs? (City Manager, City Recorder)	
5. Is the Parks and Recreation Department effective and meeting community needs?	
6. Is the Library effective and meeting community needs?	
7. Is the Public Works Department effective and meeting community needs? (Building Maintenance, Streets, Storm Drainage, Wastewater, Water, Grounds Maintenance)	
8. Is the Police Department effective and meeting community needs?	
9. Is the Airport effective and meeting community needs?	

Comments including examples of performance to support your appraisal.

Element C: Financial Management

Overall Rating _____

Indicators	Rating
1. Does the Manager develop financial Plans that allow City Council to Anticipate and respond to changes In the city's finances?	
2. Do the budgets developed by the Manager reflect Council priorities?	
3. Does the Manager ensure that the City budget is based on a sustainable Service and funding strategy so that Ongoing expenses are supported by Ongoing revenue?	
4. Does the Manager control Expenditures in accordance with Approved budgets?	
5. Does the Manager ensure that city Financial matters are clear and Available to the public?	

Comments including examples of performance to support your appraisal.

Element D: Personal Traits

Overall Rating _____

Indicators	Rating
1. Communication: Ensures both oral and written communication is clear, concise, and articulate.	
2. Initiative: Proposes, when appropriate, ideas that could Represent new or different ways To advance Council, department, Staff, or management goals.	
3. Judgment: Exercises good judgment in fiscal, personnel, and other matters of public concern.	
4. Fairness and Impartiality: Deals with the Council, Department Heads, and staff in a fair and impartial manner.	
5. Creativity: Demonstrates a willingness to explore new ways to leverage existing and potential assets.	
6. Professional Development: Seeks and undertakes professional development opportunities that could enhance efficiency, effectiveness, and creativity in areas that would benefit the city.	
7. Professional Leadership: Seeks roles in local and regional organizations.	
8. Ethics and Morals: Exhibits high standards of personal moral and ethical behavior.	

Comments including examples of performance to support your appraisal.

Element E: External Stakeholder Relations

Overall Rating: _____

Indicators	Rating
1. Builds and maintains active partnerships with local, regional, state, and federal government jurisdictions and agencies.	
2. Builds and maintains active partnerships with non-profit and non-governmental organizations.	
3. Builds and maintains active partnerships with private enterprise.	
4. Builds and maintains relationships with members of boards and commissions.	
5. Ensures strategic pursuit of financial resources (grants) from other agencies, including proactive notice to Council of opportunities that may require re-prioritization of goals.	
6. Contributes to good government through regular participation in local, regional, and state committees and organizations.	
7. Lobbies effectively with legislators and state agencies regarding city programs and projects.	

Comments including examples of performance to support your appraisal.

Element F: Foresight/Vision

Overall Rating _____

Indicators	Rating
1. Maintains the long-term view for the city in national, state, county, and local affairs.	
2. Communicates and interacts productively with governmental entities at local, state, and national levels.	

Comments including examples of performance to support your appraisal.

CITY MANAGER'S SELF-EVALUATION

1. Employee's overall self-evaluation of performance:
2. Development plans and areas targeted for improved performance:
3. Recommended major goals and objectives for next year:
4. How can your Mayor and/or City Council assist in your job success and enjoyment?
5. Additional Comments:

Employee Signature _____ Date _____

Rater's comments on employment input form:

Rater's Signature _____ Date _____

This draft was assembled from different City Manager evaluation forms provided as a part of the process.

CITY MANAGER EVALUATION SUMMARY

GOALS FOR THE UPCOMING YEAR:

- 1.
- 2.
- 3.

JOB-RELATED STRENGTHS:

- 1.
- 2.
- 3.

PLANS TO STRENGTHEN PERFORMANCE:

- 1.
- 2.
- 3.

SUMMARY:

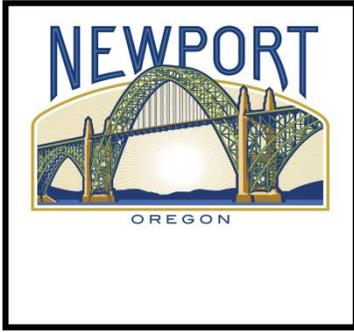
City Manager

Date

Mayor

Date

This draft was assembled from different City Manager evaluation forms provided as a part of the process.



Agenda Item # IX.A.
Meeting Date October 7, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Public Hearing and Possible Adoption of Ord. No. 2060 Annexing Property Owned by Spy, LLC and Withdrawing said Property from the Newport Rural Fire Protection District and Lincoln County Library District

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: _____

ISSUE BEFORE THE COUNCIL: Consideration of whether or not an application filed by Spy, LLC conforms with city and state requirements governing the annexation of real property and, if so, whether it is in the public interest to bring the property into the corporate limits of the city with a I-1/“Light Industrial” zoning designation.

STAFF RECOMMENDATION: Staff recommends the City Council approve the annexation request and zone change by adopting Ordinance No. 2060.

PROPOSED MOTION: I move for reading by title only of Ordinance No. 2060, an ordinance annexing territory to the City of Newport, withdrawing the annexed territory from the Newport Rural Fire Protection District and Lincoln County Library District, and establishing zoning for the annexed territory and that the Mayor be authorized to sign the ordinance following review by the City Attorney.

KEY FACTS AND INFORMATION SUMMARY: On August 27, 2013 property owner Spy, LLC (Gregory Palser, registered agent) submitted an application to annex property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property of I-1/"Light Industrial."

The applicant indicates that they are seeking annexation so that their warehouse and office can be connected to City sewer service, which was recently extended and is now available to properties in the area. The subject properties are identified as 4535 S Coast Hwy (Lincoln County Assessor’s Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor’s Map 11-11-20-BA Tax Lot 1300) and a portion of US 101 right-of-way.

Criteria for an annexation are listed in Newport Municipal Code Section 14.37.040, which provides that the owners must consent in writing to the annexation, that the affected territory be within the acknowledged urban growth boundary, and that the territory to be annexed is contiguous to the existing city limits. The criteria for a zoning map amendment are listed in Newport Municipal Code Section 14.36.010. They require findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

The Planning Commission held a public hearing on the proposed requests on September 23, 2013. Gregory Palser, representing Spy, LLC was the only party to testify at the hearing. The Commission voted unanimously to recommend approval.

Required notice was provided to the Department of Land Conservation and Development on September 6, 2013. For the Planning Commission public hearing, notification was provided in accordance with the Newport Municipal Code Section 14.52.060(C). This included direct mail notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on August 29, 2013. Notice of the public hearing was also published

in the Newport News-Times on September 13, 2013. For the City Council hearing, notice was also provided as required pursuant to ORS 222.120(3), which calls for the notice to be published once each week for two successive weeks prior to the day of the hearing. This occurred in the Newport News-Times on September 25, 2013 and October 2, 2013. The statute also requires that notice of the hearing be posted in four public places in the city. This requirement was met with postings at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center.

OTHER ALTERNATIVES CONSIDERED: None.

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

ATTACHMENT LIST:

- Draft Ordinance with exhibits and attachments
- Public Notice of the October 7, 2013 hearing

FISCAL NOTES: The property owner will be subject to city taxes which will offset the cost of services the City will be providing to the property. Therefore, there should be no fiscal impact.

CITY OF NEWPORT

ORDINANCE NO. 2060

**AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF NEWPORT,
WITHDRAWING THE ANNEXED TERRITORY FROM THE LINCOLN
COUNTY LIBRARY DISTRICT AND NEWPORT RURAL FIRE PROTECTION
DISTRICT AND ESTABLISHING ZONING FOR THE ANNEXED TERRITORY**

Summary of Findings:

1. A request (Newport File No. 2-AX-13/3-Z-13) was filed by the owners of real property (Spy, LLC, Gregory Palser, registered agent) to annex property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property of I-1/"Light Industrial." The request includes a portion of US 101 right-of-way.

2. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on September 23, 2013, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the property owner's request.

3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on October 7, 2013, on the requested annexation and withdrawal, and the zoning of the property to be annexed.

4. The City Council made a determination after considering the recommendation of the Planning Commission, and the evidence and argument presented at the public hearing and in the record, that each of the requests were in compliance with the applicable criteria and voted to approve the requested annexation, withdrawal, and zoning designations.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. ANNEXATION, WITHDRAWAL, AND ZONING

A. Annexation. The following described territory (illustrated in Exhibit "A") is hereby annexed to and incorporated within the City of Newport, Oregon:

Beginning at the ¼ corner common to sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South 00°58'33" West, 1127.47 feet to the northeast corner of

Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South 87°52'45" West, along the north line of said Parcel 2, 80.46 feet; thence North 78°40'12" West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South 25°09'00" West, along said easterly line, 93.85 feet; thence North 88°16'59" West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South 25°09'00" West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South 88°16'59" East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South 25°09'00" West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, to the south east corner thereof; thence North 00°58'33" East, 358.53 feet, to the northeast corner of said Parcel 2 and to the point of beginning.

This parcel contains 3.063 acres, more or less.

B. **Withdrawal.** The property annexed to the City of Newport, as described in Section 1 (A) above, is hereby withdrawn from the Lincoln County Library District and the Newport Rural Fire Protection District, such withdrawal being deemed to be in the best interest of the City of Newport. The City of Newport also hereby elects to assume the liabilities and indebtedness, if any, against the property so withdrawn from the Lincoln County Library District and Rural Fire Protection District and further elects to assume such liability to the Lincoln County Library District in the manner provided by ORS 222.520(2)(b).

C. **Zoning.** Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the property annexed to the City of Newport by designating the subject property described in Section 1(A) above with the zone designation of I-1/"Light Industrial".

Section 2. The findings attached as Exhibit "B" are hereby adopted in support of the annexation, withdrawal, and zoning designations as adopted in Section 1.

Section 3. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2013.

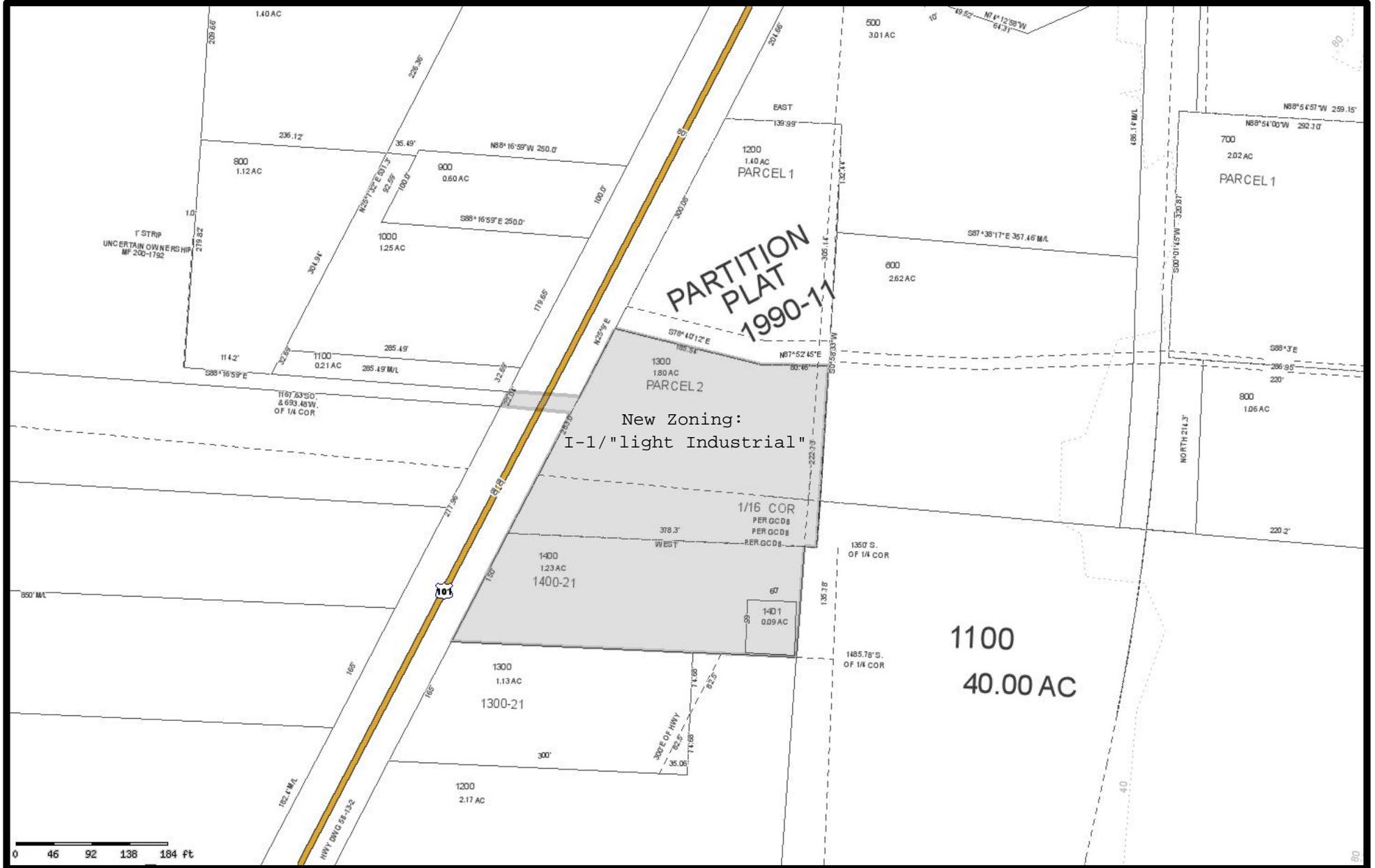
Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

Exhibit A

Ordinance No. 2060
Spy, LLC Annexation
(File 2-AX-13/3-Z-13)



Printed 10/03/2013

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EXHIBIT "B"

Findings for Requested Annexation of Property, Withdrawal from the Newport Rural Fire Protection District and the Newport Library District, and Establishment of a Zoning Designation

FINDINGS OF FACT

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 2-AX-13/3-Z-13) was filed by Spy, LLC (Gregory Palser, authorized agent) on August 27, 2013. The application included consideration of a request to: (1) annex approximately 3.063 acres of real property into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial," or I-3/ "Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The applicant indicates that they are seeking annexation so that their warehouse and office can be connected to City sewer service, which was recently extended and is now available to properties in the area.
3. The property subject to the request is identified as 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300) and a portion of US 101 right-of-way.
4. The legal description of the area to be annexed is as follows:

Beginning at the ¼ corner common to sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South 00°58'33" West, 1127.47 feet to the northeast corner of Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South 87°52'45" West, along the north line of said Parcel 2, 80.46 feet; thence North 78°40'12" West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South 25°09'00" West, along said easterly line, 93.85 feet; thence North 88°16'59" West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South 25°09'00" West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South 88°16'59" East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South 25°09'00" West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, to the south east corner thereof; thence North 00°58'33" East, 358.53 feet, to the northeast corner of said Parcel 2 and to the point of beginning.

This parcel contains 3.063 acres, more or less.

5. Staff reported the following information regarding the requests:

A. Plan Designation: The subject properties are within the Newport Urban Growth Boundary and are designated as "Industrial" on the Newport Comprehensive Plan Map.

B. Zone Designation: City of Newport zoning is established at time of annexation. Either the I-1/“Light Industrial”, I-2/“Medium Industrial”, or I-3/ “Heavy Industrial” zone designations are consistent with Comprehensive Plan designation of Industrial. The applicant is requesting the I-1 zone designation. The County designation for the property is currently I-P/ “Planned Industrial.”

C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity include light and heavy industrial and public land uses.

D. Topography and Vegetation: The property is moderately sloped and largely devoid of vegetation.

E. Existing Residences/Buildings: one 40’ x 120’ shop building, three 48’ x 48’ warehouses, one 40’ x 48’ warehouse, and one 40’ x 40’ dock building.

F. Utilities: Currently receiving city water service. Sewage is managed via an on-site septic system. The owner intends to connect to city sewer once the property is annexed.

G. Development Constraints: None known.

H. Past Land Use Actions: None known.

I. Notification: Required notice to the Department of Land Conservation and Development was mailed on September 6, 2013. For the Planning Commission public hearing, notification in accordance with the Newport Municipal Code Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on August 29, 2013. The notice of public hearing in the Newport News-Times was published on September 13, 2013.

In accordance with Oregon Revised Statute 222.120(3), notice of the October 7, 2013 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on September 25, 2013 and October 2, 2013. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center for this same period of time.

6. Written comments in response to the public notice were received from the Newport Police Department and Oregon Department of Transportation. The Newport Police Department indicated that they do not object to the proposal, but would ultimately like to see all of that portion of US 101 in South Beach between the bridge and airport annexed into the City. This would help them resolve jurisdictional issues. The Oregon Department of Transportation advised that they have no objections to the proposal.

7. The Planning Commission held a public hearing on the proposed requests on September 23, 2013. Gregory Palser, representing Spy, LLC was the only party to testify at the hearing. The Commission voted unanimously to recommend approval with the I-1/“Light Industrial” zone designation.

8. The City Council held a public hearing on the proposed requests on October 7, 2013. A Planning Staff Report, dated September 19, 2013, was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:

- Attachment "A" – Applicant Request
- Attachment "B" – Notice of Public Hearing and Map
- Attachment "C" – Aerial Photo of Area to be Annexed
- Attachment "D" – Newport Zoning Map
- Attachment "D-1" – Uses allowed in the I-1, I-2, and I-3 zones
- Attachment "D-2" – Intent of Zoning Districts
- Attachment "E" – Legal Description of the Area to be Annexed
- Attachment "F" – Copy of ORS 222.170 and ORS 222.524
- Attachment "G" – September 18, 2013 email from ODOT
- Attachment "H" – Comments from Newport Police Department, dated September 9, 2013
- Attachment "I" – Email from John Pariani, dated September 23, 2013
- Attachment "J" – Draft September 23, 2013 Planning Commission Meeting Minutes

9. At the October 7, 2013, public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the proposed requests. Following the close of the public hearing, the Council deliberated and voted to approve the requests. The minutes of the October 7, 2013 public hearing are hereby incorporated by reference into the findings.

10. The applicable criteria for each of the requests are as follows:

A. For the annexation/withdrawal portion of the requests, Newport Municipal Code Section 14.37.040 provides *“The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.”*

B. For the zoning map amendment portion of the requests, the applicable criteria per Newport Municipal Code Section 14.36.010 are *“Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.”*

11. Scott Branchfield, Lead Digital Cartographer, Lincoln County Assessor’s Office, reviewed the legal description for the area to be annexed and notes that the Department of Revenue may take issue with its quality. See Attachment "I" (Email from John Pariani, dated September 23, 2013). John Pariani, a licensed surveyor, prepared the legal description and concludes that it can still be valid. He also notes that there may be a property boundary overlap along the east side of the Spy, LLC properties.

CONCLUSIONS

1. In regard to the criteria for approval of the annexation request under Newport Municipal Code Section 14.37.040 the City Council concludes as follows:

A. In regard to the first criterion (*The required consents have been filed*), the City

Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as US 101, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above. The applicant owns both tax lots, which account for the bulk of the property subject to this request (i.e. all but the small portion of the US 101 highway right-of-way). The applicant has provided signed consent forms requesting that the properties be annexed. See Attachment "A" (Applicant Request).

B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), The City Council concludes that the property is currently within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport and is designated "Industrial."

C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the City Council concludes that the subject territory is contiguous to the existing city limits along the west side of US 101 as graphically depicted on Exhibit "A."

2. In regard to the withdrawal request, the City Council finds that there are no applicable criteria and the withdrawal of the property from the Newport Rural Fire Protection District and the Lincoln County Library District occur during annexation when the City of Newport becomes the service provider within the city limits.

3. In regard to the establishment of a City of Newport zone designation upon annexation, the City Council concludes as follows for establishment of an I-1/"Light Industrial" zone designation in regard to the applicable criteria from Newport Municipal Code Section 14.36.010 (*Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*):

A. The Comprehensive Plan designation of Industrial is implemented by either the I-1/"Light Industrial" zone, I-2/"Medium Industrial" zone, or I-3/ "Heavy Industrial" zone. The applicant intends to connect an existing office and warehouse to city sewer. They also have plans to construct one or more storage/warehouse buildings for a fiber optic construction company, which conforms to the I-1 designation. Therefore, the applicant is requesting an I-1 zoning designation. The uses permitted outright and conditionally in the I-1, I-2, and I-3 zones are included as Attachment "D-1" (Uses allowed in the I-1, I-2, and I-3 zones). The intent of the I-1, I-2, and I-3 zoning districts is included as Attachment "D-2" (Intent of Zoning Districts).

B. Currently, the abutting property within the City limits immediately to the west of the subject property is designated with a P-2 zone designation. The property to the northeast within City limits is designated I-3; and the properties to the southwest and to the south are designated I-1. See Planning Staff Report Attachment "D" (Newport Zoning Map).

C. This property has been designated in the Newport Comprehensive Plan as Industrial, and the I-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, so it is appropriate to conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

D. Further, the South Beach Urban Renewal District recently funded the extension of sewer service from SE 40th Street to SE 50th Street. This was done to facilitate further development of industrial properties situated along the US 101 corridor, including the subject site. Annexing the property so that it can be connected to this newly extended service is consistent with the objectives of the District and promotes the general welfare by facilitating connection to a waste disposal system that can more readily meet the needs of a growing industrial development.

E. Lincoln County Assessor's Office concerns with regards to the adequacy of the legal description are attributed to the vague language contained in the deed for Tax Lot 1400 (Page 2234 at Book 397 of the Lincoln County Microfilm Records). It is the City's understanding that the legal description, prepared by a licensed surveyor, accurately reflects the area to be annexed and the ownership of the property described herein. In the event the Oregon Department of Revenue rejects the description, or Spy, LLC seeks to clarify the boundary of its ownership in a manner that is inconsistent with this legal description, then further action may be required by the City.

OVERALL CONCLUSION

Based on the staff report and attachments, the application material, and other evidence and testimony in the record, the City Council concludes that the requested annexation, withdrawal, and zone designations comply with the criteria established for approval of each of the requests under the applicable criteria as explained in the findings. The requested annexation, withdrawal, and establishment of a zone designation are hereby **APPROVED**.

PLANNING STAFF REPORT
Case File No. 2-AX-13 / 3-Z-13

- A. **APPLICANT:** Spy, LLC (applicant and owner) and State of Oregon (owner).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 3.063 acres of real property** (consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD and Tax Lot 1300 of Map 11-11-20-BA and a portion of US 101 right-of-way within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial," or I-3/ "Heavy Industrial"); and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300) and a portion of US 101 right-of-way.
- D. **PROPERTY SIZE:** Approximately 3.063 acres.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
 - a. **Plan Designation:** The subject properties are within the Newport Urban Growth Boundary and are designated as "Industrial" on the Newport Comprehensive Plan Map.
 - b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the I-1/"Light Industrial", I-2/"Medium Industrial", or I-3/ "Heavy Industrial" zone designations are consistent with Comprehensive Plan designation of Industrial. The applicant is requesting the I-1 zone designation. The County designation for the property is currently I-P/ "Planned Industrial."
 - c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include light and heavy industrial and public land uses.
 - d. **Topography and Vegetation:** The property is moderately sloped and largely devoid of vegetation.
 - e. **Existing Residences/Buildings:** one 40' x 120' shop building, three 48' x 48' warehouses, one 40' x 48' warehouse, and one 40' x 40' dock building.
 - f. **Utilities:** Currently receiving city water service. Sewage is managed via an

on-site septic system. The owner intends to connect to city sewer once the property is annexed.

- g. Development Constraints:** None known.
- h. Past Land Use Actions:** None known.
- i. Notification:** Required notice to the Department of Land Conservation and Development was mailed on September 6, 2013.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on August 29, 2013. The notice of public hearing in the Newport News-Times was published on September 13, 2013.

j. Attachments:

- Attachment "A" – Applicant Request
- Attachment "B" – Notice of Public Hearing and Map
- Attachment "C"– Aerial Photo of Area to be Annexed
- Attachment "D" – Newport Zoning Map
- Attachment "D-1" – Uses allowed in the I-1, I-2, and I-3 zones
- Attachment "D-2" – Intent of Zoning Districts
- Attachment "E"– Legal Description of the Area to be Annexed
- Attachment "F"– Copy of ORS 222.170 and ORS 222.524
- Attachment "G"– September 18, 2013 email from ODOT
- Attachment "H"– Comments from Mark Miranda, Chief of Police, Newport Police Department, dated September 9, 2013.

- 2. Explanation of the Request:** Pursuant to NMC Section 14.52.030(A) (Approving Authorities), all actions that have the City Council as the approving authority (with the exception of withdrawals) shall first be referred to the Planning Commission for review and recommendation.

The petitioners are requesting the City Council to include certain territory into the city limits of Newport and to change the zoning designation of the subject property. The applicant is seeking annexation in order to connect to City sewer service. Consequently, a public hearing by the Planning Commission is required to make recommendations to the City Council regarding the request.

As part of the annexation and as provided for in Oregon Revised Statutes (ORS) 222.524, the subject property would be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District as the City of Newport provides these services.

3. **Evaluation of the Request:**

a.) **Comments:** Notices of the proposed annexation and Zoning Map amendments were mailed on August 29, 2013, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of September 19, 2013, comments were received from the Newport Police Department and Oregon Department of Transportation. The Newport Police Department indicated that they do not object to the proposal, but would ultimately like to see all of that portion of US 101 in South Beach between the bridge and airport annexed into the City. This would help them resolve jurisdictional issues. The Oregon Department of Transportation advised that they have no objections to the proposal.

b.) **Applicable Criteria:**

(1) **Annexation/Withdrawal:**

Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

Note: There are not specific criteria for withdrawals from a district. Withdrawals are done in conjunction with the annexation when the City becomes the service provider for the property.

(2) **Zone Map Amendment:**

Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

c.) **Staff Analysis:**

(1) Annexation: Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

A. The required consents have been filed:

Pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as US 101, that is exempt from ad valorem taxes, shall not

be factored into the calculus outlined above.

The applicant owns both tax lots, which accounts for the bulk of the property subject to this request (i.e. all but the small portion of the US 101 highway right-of-way). The applicant has provided signed consent forms requesting that the properties be annexed. See Planning Staff Report Attachment "A" (Applicant Request).

B. the territory to be annexed is within the acknowledged urban growth boundary (UGB):

The property is currently within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport and is designated "Industrial."

C. territory to be annexed is contiguous to the existing city limits.

The subject territory is contiguous to the existing city limits along the west side of US 101 as graphically depicted on the aerial photograph illustrating the land area. See Planning Staff Report Attachment "C" (Aerial Photo of Area to be Annexed).

(2) Zone Map Amendment: Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

The Comprehensive Plan designation of Industrial is implemented by either the I-1/"Light Industrial" zone, I-2/"Medium Industrial" zone, or I-3/ "Heavy Industrial" zone. The intent of the applicant is to construct a storage/warehouse building for a fiber optic construction company, which conforms to the I-1 designation. Therefore, the applicant is requesting an I-1 zoning designation. The uses permitted outright and conditionally in the I-1, I-2, and I-3 zones are included as Planning Staff Report Attachment "D-1". The intent of the I-1, I-2, and I-3 zoning districts is included as Planning Staff Report Attachment "D-2".

Currently, the abutting property within the City limits immediately to the west of the subject property is designated with a P-2 zone designation. The property to the northeast within City limits is designated I-3; and the properties to the southwest and to the south are designated I-1. See Planning Staff Report Attachment "D".

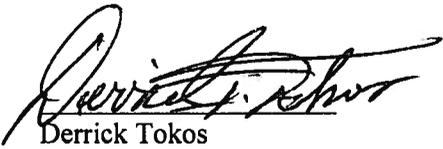
This property has been designated in the Newport Comprehensive Plan as Industrial, and the I-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained

in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, the Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

Further, the South Beach Urban Renewal District recently funded the extension of sewer service from SE 40th Street to SE 50th Street. This was done to facilitate further development of industrial properties situated along the US 101 corridor, including the subject site. Annexing the property so that it can be connected to this newly extended service is consistent with the objectives of the District and promotes the general welfare by facilitating connection to a waste disposal system that can more readily meet the needs of a growing industrial development.

4. **Conclusion:** If the Commission finds that the request meets the criteria, then the Commission should recommend approval of the request with any conditions for annexation as the Commission deems necessary for compliance with the criteria. Additionally, the Commission should recommend to the City Council whether or not the zoning designation should be I-1, I-2, or I-3. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should identify the portion(s) of the criteria with which the annexation request is not in compliance.

F. **STAFF RECOMMENDATION:** Based on the information received as of September 16, 2013, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment.



Derrick Tokos
Community Development Director/City of Newport

September 19, 2013

City of Newport Land Use Application

ATTACHMENT "A"
Applicant Request

PLEASE PRINT OR TYPE - COMPLETE ALL BOXES - USE ADDITIONAL PAPER

File No. 2-AX-13 / 3-Z-13

Applicant Name(s): SPY LLC	Property Owner Name(s): <i>If other</i>
Applicant Mailing Address: 2560 NW Pacific St Newport, OR 97365	Property Owner Mailing Address: <i>If other than applicant</i>
Applicant Telephone No.: 541-270-1500	Property Owner Telephone No.: <i>If other than applicant</i>
E-mail: spyg@CoastCom.net	E-mail:
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicants behalf</i>	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.:	E-Mail:

Project Information

Property Location: <i>Street name if address # not assigned</i> 4535 S Coast Hwy, Newport, OR 97365	
Tax Assessor's Map No.: 11-11-20-BA and BD	Tax Lot(s): 1300(BA) and 1400(BD)
Zone Designation: LP	Legal Description: <i>Add additional sheets if necessary</i>
Comp Plan Designation:	See attached
Brief Description of Land Use Request(s):	
<i>Examples:</i> 1. Move north Property line 5 feet south, or 2. Variance of 2 feet from the required 15-foot front yard setback	
Existing Structures: <i>If any</i> 3 shop bldgs (40x120) 3 metal warehouses (48x48) 1 warehouse (40x48) 1 Dock bldg (40x40)	
Topography and Vegetation: Wastely bare land	

APPLICATION TYPE (please check all that apply)

<input checked="" type="checkbox"/> Annexation <input type="checkbox"/> Appeal <input type="checkbox"/> Comp Plan/Map Amendment <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> PC <input type="checkbox"/> Staff <input type="checkbox"/> Design Review <input type="checkbox"/> Geologic Permit	<input type="checkbox"/> Interpretation <input type="checkbox"/> Minor Replat <input type="checkbox"/> Partition <input type="checkbox"/> Planned Development <input type="checkbox"/> Property Line Adjustment <input type="checkbox"/> Shoreland Impact <input type="checkbox"/> Subdivision <input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> UGB Amendment <input type="checkbox"/> Vacation <input type="checkbox"/> Variance/Adjustment <input type="checkbox"/> PC <input type="checkbox"/> Staff <input type="checkbox"/> Zone Ord/Map Amendment <input type="checkbox"/> Other _____
---	---	---

FOR OFFICE USE ONLY

Date Received: 3/22/13	File No. Assigned: 2-AX-13-3-263	Date Accepted as Complete: _____
Received By: _____	Fee Amount: _____	Accepted By: _____
	Receipt No.: _____	

(SEE REVERSE SIDE)

For recording, please mail to:
Community Development Department
City of Newport
195W Coast Hwy
Newport, OR 97365

Urban Growth Area Development Agreement

I, THE UNDERSIGNED, SPY, LLC, owner of the following described real property within Lincoln County, Oregon, do-vit *(insert legal description: if a platted area, lot, block, and name of the subdivision; description of metes and bounds if not a platted area; please include tax lot number, as well, if known; if you have any co-owners, please indicate the name and mailing address of the co-owner and have the co-owner sign)*:

1. The following property is described by Warranty Deed as recorded in Book 597 Page 2234 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-3D as Tax Lot 140:

Beginning at a point that is 1350.0 feet South of the North quarter corner of Section 20, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; thence west to the East line of Highway 101; thence southwesterly along the east line of Highway 101 a distance of 150 feet; thence East to a place South of the point of beginning; thence North 135.78 feet to the point of beginning.

2. The following property is described by Warranty Deed as recorded in Book 597 Page 2236 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-3A as Tax Lot 140:

Decret 2 of Partition Plat 11-1990, filed for record May 9, 1990, in Lincoln County Plat Records, in the County of Lincoln and State of Oregon.

I wish to develop said property prior to the availability of City of Newport services. Such development may include, but not be limited to, the division of land, the building of a dwelling or other buildings, the installation of a sewer system including the drilling of a well, the installation of a septic tank, and the construction or dedication of a roadway.

I affirm that the Comprehensive Plan of the City of Newport (Maintenance) contains the following policies to be followed:

PURPOSE OF ANNEXATION

The intent of the property owner is to build a new structure on tax lot 1400. This structure would be used as storage/warehouse space for a fiber optic construction company. The intended use would conform to I-1 "Light Industrial" zoning under Newport Municipal Code 14.28.030 (D).

There is an existing structure on the property with a few plumbing fixtures. Any waste water lines would be moved from the existing septic system to the City services at the street.

ADDRESSES OF PROPERTIES TO BE ANNEXED

11-11-20-BA-01300

SITUS ADDRESS(ES)

4541 S COAST HWY UNIT A, SOUTH BEACH 97366

4541 S COAST HWY UNIT B, SOUTH BEACH 97366

4545 S COAST HWY UNIT A, SOUTH BEACH 97366

4545 S COAST HWY UNIT B, SOUTH BEACH 97366

4549 S COAST HWY UNIT A, SOUTH BEACH 97366

4549 S COAST HWY UNIT B, SOUTH BEACH 97366

4553 S COAST HWY UNIT A, SOUTH BEACH 97366

4553 S COAST HWY UNIT B, SOUTH BEACH 97366

11-11-20-BD-01400

SITUS ADDRESS

4535 S COAST HWY, SOUTH BEACH 97366

S

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R467262 Map Taxlot: 11-11-20-BD-01400-00 Map: 11s11w20BD Legal: TOWNSHIP 11, RANG 11, ACRES 1.23, MF397-2234 LESS MF398-0145 TaxCode: 192 Acres: 1.23	Neighborhood: 5105 PropertyClass: 231	Owner: SPY LLC Address: 1917 N BEAVER CREEK RD SEAL ROCK, OR 97376 Situs: 4535 S COAST HWY

IMPROVEMENTS	VALUE AND SALES HISTORY

Description	Area	Yr Built	Foundation	Heat	Plumbing	BDMS Value	Value Year	Imp.	Land	Total Market	Total Assessed
MAIN AREA	6600	1964				201680	2012	248,990	208,100	457,090	329,710
MAIN AREA	2304					47310	2011	276,460	231,330	507,790	320,110
							2010	276,460	231,330	507,790	310,790
							2009	276,460	231,330	507,790	301,740
							2008	276,460	231,330	507,790	292,960
							2007	276,460	173,760	450,220	284,430
							SaleDate	Price	Document	Type	Code
							2/24/2000	290000	MF397-2234	13	WD

LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value		
INDUSTRIAL DEV SITE	1.23	197,640		25221.16	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 1/22/2013 using tax data effective 1/1/2012
IND SITE DEVELOPMENT		10,460			

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R501504 Map Taxlot: 11-11-20-BA-01300-00 Map: 11s11w20BA Legal: PART. PLAT 1990-11, PARCEL 2, ACRES 1.80, DV129-387 TaxCode: 192 Acres: 1.80	Neighborhood: 5166 PropertyClass: 001	Owner: SPY LLC Address: 1917 N BEAVER CREEK RD SEAL ROCK, OR 97376 4541 S COAST HWY, UNIT A ;4541 S COAST HWY, UNIT B ;4545 S COAST HWY, UNIT A ;4545 S COAST HWY, UNIT B ;4549 S COAST HWY, UNIT A ;4549 S COAST HWY, UNIT B ;4553 S COAST HWY, UNIT A ;4553 S COAST HWY, UNIT B

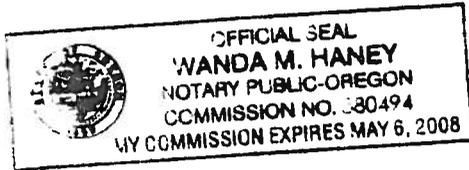
IMPROVEMENTS				VALUE AND SALES HISTORY								
Description	Area	Yr Built	Foundation	Hear	Plumbing	BDMS	Value	Value Year	Imp.	Land	Total Market	Total Assessed
MAIN AREA	2304	2006	CONC				47310	2012	132,200	292,310	424,510	233,090
MAIN AREA	2304	2006	CONC				47310	2011	146,790	324,960	471,750	226,310
MAIN AREA	1728	2006	CONC				37580	2010	146,790	324,960	471,750	219,720
								2009	146,790	324,960	471,750	213,330
								2008	146,790	324,960	471,750	207,120
								2007	146,790	244,070	390,860	201,090
				SaleDate		Price		Document		Type		Code
				2/24/2000		160000		MF397-2236		13		WD

LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value	No Related Accounts	This report was produced using the Lincoln County assessment estimator. This estimator is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created 11/27/2012 using tax data exported 11/26/12
COMMERCIAL DEV SITE	1.80	289,220		No Related Accounts	
SITE DEVELOPMENT		3,090			

STATE OF OREGON)
)
COUNTY OF LINCOLN)

ss.

I, the undersigned notary public in and for said state and county, do hereby certify that on this 12th day of May, 2005, personally appeared before me, Margaret Hawker, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.



Wanda M. Haney
Notary Public for Oregon

My Commission Expires: 5/6/08

STATE OF OREGON)
)
COUNTY OF LINCOLN)

ss.

I, the undersigned notary public in and for said state and county, do hereby certify that on this 13th day of May, 2005, personally appeared before me Spike Jones, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as hi/her free and voluntary act and deed for the uses and purposes therein mentioned.



Aletta M. Myers
Notary Public for Oregon

My Commission Expires: 3/17/06

After recording, please mail to:
Community Development Department
City of Newport
159 SW Coast Hwy
Newport, OR 97365

Urban Growth Area Development Agreement

1.) THE UNDERSIGNED, SPY, LLC, owner of the following described real property within Lincoln County, Oregon, to-wit (*insert legal description: if a platted area, Lot, Block, and name of the subdivision; description of metes and bounds if not a platted area; please include tax lot number, as well, if known; if you have any co-owners, please indicate the name and mailing address of the co-owner and have the co-owner sign*):

A. The following property as described by Warranty Deed as recorded in Book 397 Page 2234 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BD as Tax Lot 1400:

Beginning at a point that is 1350.0 feet South of the North quarter corner of Section 20, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; running thence west to the East line of Highway 101; thence Southwesterly along the east line of Highway 101 a distance of 150 feet; thence East to a place South of the point of beginning; thence North 135.78 feet to the point of beginning.

B. The following property as described by Warranty Deed as recorded in Book 397 Page 2236 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BA as Tax Lot 1300:

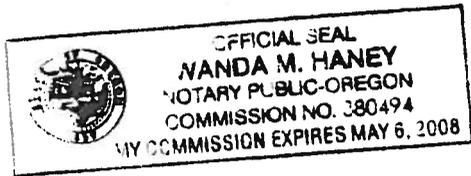
Parcel 2 of Partition Plat 11-1990, filed for record May 9, 1990, in Lincoln County Plat Records, in the County of Lincoln and State of Oregon.

wishes to develop said property prior to the availability of City of Newport services. Such development may include, but not be limited to, the division of land, the building of a dwelling or other buildings, the installation of a water system including the drilling of a well, the installation of a septic tank, and the construction or dedication of a roadway.

2.) Whereas the Comprehensive Plan of the City of Newport (Ordinance No. 1621) requires that the following policies be followed:

STATE OF OREGON)
) ss.
COUNTY OF LINCOLN)

I, the undersigned notary public in and for said state and county, do hereby certify that on this 12th day of May, 2005, personally appeared before me, Margaret Hawker, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.



Nanda M. Haney
Notary Public for Oregon

My Commission Expires: 5/6/08

STATE OF OREGON)
) ss.
COUNTY OF LINCOLN)

I, the undersigned notary public in and for said state and county, do hereby certify that on this 13th day of May, 2005, personally appeared before me Spike Jones, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as hi/her free and voluntary act and deed for the uses and purposes therein mentioned.



Aletta M. Myers
Notary Public for Oregon

My Commission Expires: 3/17/06

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on September 23, 2013, to review the following request for annexation, zone designation, and withdrawal and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

File No. 2-AX-13

Applicants: Spy, LLC.

Request: Consideration of requests to: **(1) annex approximately 3.03 acres of real property** (consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD and Tax Lot 1300 of Map 11-11-20-BA and a portion of US 101 right-of-way (map attached) within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an I-1 "Light Industrial" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2 "Medium Industrial", or I-3 "Heavy Industrial"); and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**

Applicable Criteria: (1) **Annexations (as per Newport Municipal Code (NMC) Section 14.37.040):** The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. (2) **Zone Map Amendments (as per NMC Section 14.36.010):** Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

Location: 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300).

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department (address below in "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Application Materials: The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy., Newport, Oregon 97365, seven days prior to the hearing. The application materials, applicable criteria, and other file material are available for inspection at no cost or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above in "Reports/Application Materials").

Time/Place of Planning Commission Hearing: Monday, September 23, 2013; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

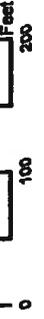
MAILED: August 29, 2013.

PUBLISHED: September 13, 2013/News-Times.



City of Newport
Community Development Department
189 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)



This map is for informational use only and has not been prepared for, nor is it suitable for, legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its completion or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

sting small spinners or fly fishing can be very productive in deeper pools or glides. Sea-cutthroat trout are showing in good numbers. This time year they can be spread out through the basin. Trolling or using small lures can be effective in tidewater.

Siletz River: chinook, steelhead, cutthroat trout

Joint anglers in the tidewater areas continue to have fair to good success during the early part of the run. Trolling herring plugs with the incoming tide is a good option. Small pulsed fish have even moved above water in response to the recent rain events. Summer steelhead fishing is slow as the river conditions are clear and around the warm side of the year. Good numbers of herring in the river and can be used from head of tide water to the fishing deadline with the best fishing in the upper river early in the mornings. Good access is from Moonshine Park up to the deadline. Cutthroat trout are available through the main stem and other tributaries such as Drift Creek and Schooner Creek. This is the time of year when a run cutthroat trout are available from the bay through most of the main stem river.

Siuslaw River: chinook, cutthroat trout

The fall chinook fishery is picking up with anglers catching fish from the jetties to mid-tide around Cushman. Fishing is incoming tide through high tide tends to be the most productive. The good push of fish usually does not start until mid-September. The Siuslaw and Lake Creek rivers can provide anglers with a good cutthroat trout fishery. Using small spinners or flies in the slower deeper sections by cover or cool water areas can be a productive technique. Sea-run cutthroat can be found through tidewater up into the lower reaches of

may be only one mahi mahi caught every three to five years.

Bottom Fishing

Charterboat anglers returned with limits or near limits of rockfish last week. Private boat anglers had a lower catch rate, but often private boat anglers only catch enough for that night's dinner. Lingcod catches were still very poor everywhere but Pacific City where the catch rate was one and a half fish for every angler.

Fishing for groundfish is closed offshore of the 30-fathom line defined by latitude and longitude.

Cabezon retention is allowed July 1 through Sept. 30. Under the federal cabezon quota, there is only enough cabezon to be open for two to three months during the busy summer period. When ODFW asked for public input in the fall, many people said they preferred a later season (July-September) over an earlier season. The daily bag and size limits remain the same (one-fish sublimit, 16-inch minimum length).

The marine fish daily bag limit is seven fish (of which no more than one may be a cabezon during the cabezon season). There are separate daily limits for lingcod (two) and flatfish (other than Pacific halibut (25)).

Remember: yelloweye rockfish and canary rockfish may not be retained.

The Stomewall Bank Yelloweye Rockfish Conservation Area, approximately 15 miles west of Newport, is closed to the harvest of rockfish, lingcod, flatfish and other species in the groundfish group.

Ocean Salmon

Anglers out of Astoria and Pacific City caught one salmon per angler with about a fourth of those being chinook and the rest coho. In Garibaldi, Depoe Bay and Newport catch rates were one coho for every three or four anglers with very few chinook landed. In ports south of Newport the catch rates were reversed with anglers catching mostly chinook - one for every

with an unclipped chinook on board. It will be prohibited from between Buoy 10 and Buoy 11 and under new Buoy 10 regulations effective Aug. 24. Anglers fishing in ocean waters adjacent to Tillamook Bay between Twin Rocks and Pyramid Rock and within the 15-fathom depth contour are reminded that only adipose fin clipped chinook salmon may be retained.

Fishing for chinook salmon from Humbug Mountain to the Oregon/California border is open through Sept. 8.

Retained chinook salmon statewide must be 24 inches or larger.

Crabs

Bay crabbing is picking up, with more legal-sized male Dungeness crab entering the fishery after successfully molting. Bay crabbing success should continue to improve over the next few months. Newly-molted crabs are lighter in weight and have softer shells.

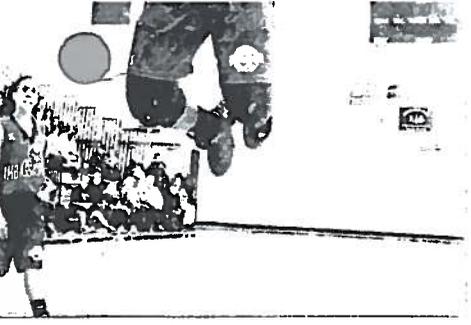
Ocean crabbing has been good. Recreational crabbing in the ocean is open along the entire Oregon coast until Oct. 16.

As many kids as we can to come sit on the bench, have a front row seat during the show, and get involved in all of the fun stuff we do.

The Ambassadors set themselves apart from other "Harlem-style" basketball teams by working with local not-for-profit and service organizations and holding Harlem Ambassadors shows as community fundraising events. For Waldport's event the Ambassadors have

partnered with Lions clubs in Yachats and Waldport and the Waldport High School Booster Club to help raise funds for support of Waldport High School athletic programs.

The Ambassadors have worked extensively with organizations such as Habitat for Humanity, Boys and Girls Clubs, Big Brothers Big Sisters and the American Red Cross



A member of the Harlem Ambassadors leaps for a slam dunk. The Ambassadors, a demonstration basketball team with a positive message for children, will appear at Waldport High School on Wednesday, Nov. 9. (Courtesy photo)

as well as Rotary, Lions and Kiwanis clubs in communities throughout the U.S., and perform more than 200 shows a year. Those shows have helped raise millions of dollars - an accomplishment of which Ambassadors President Dale Moss is very proud.

"It feels good to be able to provide quality entertainment and create memories that

the fans will take with them," Moss explained. "We're able to give even more when we can help provide funding for a Habitat for Humanity house or new computers for the school library, and that feels great."

Advance tickets to the Nov. 9 show are \$5 per person and \$20 per family. Tickets are available at <http://www.brownpapertickets.com/event/466271>

PUBLIC NOTICES

LEGAL DEADLINES:

WEDNESDAY
EDITION:
5:00pm Thursday

FRIDAY
EDITION:
5:00pm Tuesday

AUCTION
September 27, 2013 at 10:00 am in Depoe Bay Oregon. 134 E. Metcalf, Siletz, OR 97137. 330 541-338-2932. The items to be sold are: 178 Rhannon Hamel, 122 Summer Hadley, 198 Patricia Diamond, 197 Michael Tyson Men's 55L Cash only. We have the right to reject bids and sales. S-8, (06-13)

AUCTION
SEPTEMBER 28, 2013 3PM at Ideal Storage, 4 W Hwy 20 Toledo 97139. 531-338-2932. The following units will be sold to TORJ Janet Norris 151 Denise Mendicino and \$50. Cash only. We reserve the right to act on bids and sales. 6-13 (07-13)

PUBLIC SALE
September 21, 2013 11:00am at Depoe Bay Oregon. 440 Collins St. 1906 Bay, OR 97341. 531 senders, 25 E. 41st Depoe Bay, OR 97341. Celeste Martin, 318, 341, Depoe Bay, OR 97341. Scott Biggs, 5715 Pine St. Black WA, SD 57718 S-8, 13 8-13

NOTICE OF SHERIFF'S SALE
On October 8, 2013, at 10:00 am at

NOTICE OF SHERIFF'S SALE

On October 8, 2013, at the hour of 10:00 am, in the Lincoln County Sheriff's Office, 225 W Olive St., Rm 204, in the City of Newport, Oregon, in the case of JPMorgan Chase Bank, National Association, plaintiff vs. Richard K. Johnson, in M. Johnson; Citinancial, Inc.; Other persons or parties, including the defendant(s) whose names are unknown claiming any right, title, lien, or interest in the property described in the complaint herein, defendants the defendant's interest will be sold in the real property commonly known as 1008 N. Glenview Loop, Ots, OR 97368. This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to <http://www.oregonsheriffs.com/sales/lincoln.htm>. S-8, 13, 20, 27 (12-27)

TRUSTEE'S NOTICE OF SHERIFF'S SALE

The Trustee under the terms of the Trust Deed described herein, in the direction of the Beneficiary, hereby elects to set the property described in the complaint herein, subject to redemption, in the real property commonly known as 1008 N. Glenview Loop, Ots, OR 97368. This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to <http://www.oregonsheriffs.com/sales/lincoln.htm>. S-8, 13, 20, 27 (12-27)

NOTICE OF SHERIFF'S SALE

On October 8, 2013, at the hour of 10:00 am, in the Lincoln County Sheriff's Office, 225 W Olive St., Rm 204, in the City of Newport, Oregon, in the case of Nationalist Mortgage, LLC, plaintiff vs. the defendant(s) whose names are unknown claiming any right, title, lien, or interest in the property described in the complaint herein, defendants the defendant's interest will be sold in the real property commonly known as 54 Indian Shores Drive, Lincoln City, OR 97367. This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to <http://www.oregonsheriffs.com/sales/lincoln.htm>. S-8, 13, 20, 27 (12-27)

TRUSTEE'S NOTICE OF SHERIFF'S SALE

The Trustee under the terms of the Trust Deed described herein, in the direction of the Beneficiary, hereby elects to set the property described in the complaint herein, subject to redemption, in the real property commonly known as 54 Indian Shores Drive, Lincoln City, OR 97367. This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to <http://www.oregonsheriffs.com/sales/lincoln.htm>. S-8, 13, 20, 27 (12-27)

TO REINSTATE, ANY PERSON NAMED IN ORS 86.75:

has the right, at any time that is not later than five days before the trustee conducts the sale, to have this foreclosure dismissed and the Trust Deed reinstated by payment to the Beneficiary of the entire amount then due, other than such portion of the principal as would be due had no default occurred by, or by any other default that is capable of being cured by, the beneficiary. The notice required under the obligation or Trust Deed and by paying at costs and expenses actually incurred in enforcing the obligation and Trust Deed together with the trustee's and attorney's fees not exceeding the amount provided in ORS 86.75. You may contact the Trustee at 503.581.1542 DATED September 23, 2013 Christopher B. Matherly, Successor Trustee, Federation Edmonds, PO Box 108, Liberty St SE, Suite 110, Salem, OR 97302. S-6, 13, 20, 27 (14-27)

PUBLIC NOTICE

The PCID Board of Directors will meet in regular session on Monday, September 16, 2013 at 4:00 p.m. in the education room at Samaritan Pacific Communities Hospital, Newport, Oregon. The regular meeting agenda includes monthly financial reports legal and facilitate reports. Jamie Kraft, PACIFIC COMMUNITIES HEALTH DISTRICT. For additional information contact: 541-874.1803 S-13 (17-13)

GROSS, DECEASED, NOTICE TO INTERESTED PERSONS

Interest is hereby given that the undersigned has been appointed and has qualified as the personal representative of the above-referenced estate. All persons having claims against the estate are hereby required to present the same, with proper vouchers, within four (4) months after the date of first publication of this Notice, as stated below, to the personal representative at the address shown below, or they may be barred. All persons whose rights may be affected by the proceedings in this estate may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Date first published: September 13, 2013. DATED this 13th day of September, 2013. Guy B. Gross, Personal Representative. Charles E. Gross c/o Guy B. Douglas, Street 1070 Newport, Oregon 97365. Telephone: (541) 265-2801. Attorney for Personal Representative: Guy B. Gross, OSB No. 717829, P.O. Box 1070, 111 S. Douglas Street, Suite C, Newport Oregon 97365. Telephone: (541) 265-2801. Telecopier/Fax: (541) 265-8105, E-mail: greg@cooperdier.net S-13 20 (18-27)

PUBLIC SALE

A public sale will be held at Aquarium Village, 3101 SE Ferry Slip Rd. Unit #332 South Beach, Newport, Oregon. We reserve the right to reject any or all bids/sales. Contents of the property to be sold will be announced in writing. The acknowledged urban growth boundary (UGB) and the territory to be

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, September 23, 2013 at 7:30 a.m. in the City Hall Council Chambers to review File No. 2-AX-1331 in order to make a recommendation to the Newport City Council. A public hearing before the City Council will be held at a later date and notice of that will be provided. The applicant, SPC, LLC, is requesting for: (1) annex approximately 3.03 acres of real property (consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing Urban Growth Boundary) into the Newport city limits (2) amend the City of Newport Zoning Map to establish an I-17 Light Industrial zoning designation for the subject property consistent with the existing Newport Comprehensive Zoning Map designation of Industrial (which allows for either I-17/Medium Industrial, or I-37/Heavy Industrial); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable zoning designations are as follows: (1) Annexations (as per Newport Municipal Code (PMC) Section 14.37.040) if the city consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB) and the territory to be

COMMUNITY DEVELOPMENT (PLANNING) DEPARTMENT

annexed is contiguous to the existing city limits. (2) Zone Map Amendments as per PMC Section 14.36.010: Findings that the proposed zoning is consistent with the Comprehensive Plan. Map furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony will be taken during the course of the public hearing. Letters to the Community Development Planning Department, City Hall, 169 SW Coast Hwy Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or submitted to the Planning Commission by the applicant during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (b) any person (or the applicant) who is affected by the commission's decision on the application of the zoning map amendment, or the person representing the commission, may obtain additional information from the records of the commission. The person representing the commission, or the person representing the applicant, must file a written request for a public hearing or that the records be left open for at least seven days to present additional evidence or arguments or testimony regarding the application. The staff report must be reviewed or purchased to reasonable cost at the Newport

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF LINCOLN
PROBATE DEPARTMENT
IN THE MATTER OF THE ESTATE OF ALAN V. TRICKLEY
CASE NO. 13-2472
NOTICE TO INTERESTED PERSONS: NOTICE IS HEREBY GIVEN THAT DWIGHT F. MARS has been appointed personal representative of the above estate and is required to present the same with vouchers attached to the personal representative at 3408 Collins St. Newport, Oregon 97302 within 90 days after his date of appointment. All persons whose rights may be affected by the proceedings and deliberation by the Planning Commission, or the person representing the commission, may obtain additional information from the records of the commission. The person representing the commission, or the person representing the applicant, must file a written request for a public hearing or that the records be left open for at least seven days to present additional evidence or arguments or testimony regarding the application. The staff report must be reviewed or purchased to reasonable cost at the Newport

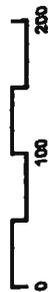
Newspaper - June 9/13/13



City of Newport
Community Development Department
188 SW Coast Highway
Newport, OR 97365

Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)

City of Newport
Community Development Department
Phone: 1.541.574.0629
Fax: 1.541.574.0844



This map is for informational use only and has not been prepared for, nor is it suitable for, legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for the completion or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.



**City of Newport
Community Development Department**

Legend

City of Newport Zoning

Zone

-  C-1 Retail and Service
-  C-2 Tourist
-  C-3 Heavy
-  I-1 Light
-  I-2 Medium
-  I-3 Heavy
-  P-1 Public Structures
-  P-2 Public Parks
-  P-3 Public Open Space
-  R-1 Low Density Single-Family
-  R-2 Medium Density Single-Family
-  R-3 Medium Density Multi-Family
-  R-4 High Density Multi-Family
-  W-1 Water Dependent
-  W-2 Water Related
-  City Limits

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the Newport Community Development Department.

169 SW Coast Highway Phone: 1.541.574.0626
Newport, Oregon 97365 Fax: 1.541.574.0644



CITY OF NEWPORT
I-1/"LIGHT INDUSTRIAL" ZONING DISTRICT USES

PERMITTED USES

Office

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

Retail Sales & Service

Sales-oriented, general retail

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

Sales-oriented, bulk retail

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

Personal Services

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

Entertainment

(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

Repair-oriented

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo

(PERMITTED USES CONTINUED)

or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

Major Event Entertainment

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

Vehicle Repair

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

Self-Service Storage

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products &

(PERMITTED USES CONTINUED)

beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.)

Basic Utilities & Roads

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Community Service

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

(I-1 Uses)**(PERMITTED USES CONTINUED)****Educational Institutions****Trade/Vocational Schools/Other**

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

Communication Facilities

(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)

CONDITIONAL USES**Waste & Recycling Related**

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

Utility, Road & Transit Corridors

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

PROHIBITED USES**Manufacturing & Production****Heavy Manufacturing**

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.)

(PROHIBITED USES CONTINUED)**Educational Institutions****Elementary & Secondary Schools****College & Universities**

(examples: elementary, middle & high schools; universities, liberal arts colleges, community colleges.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

Mining**Sand & Gravel****Crushed Rock****Non-Metallic Minerals****All Others**

(examples: sand & gravel extraction; excavation of rock; mining of non-metallic minerals.)

**CITY OF NEWPORT
I-2/"MEDIUM INDUSTRIAL" ZONING DISTRICT USES**

PERMITTED USES

Office

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

Retail Sales & Service

Sales-oriented, general retail

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

Sales-oriented, bulk retail

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

Repair-oriented

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

Vehicle Repair

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

Self-Service Storage

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing &

(PERMITTED USES CONTINUED)

vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

(PERMITTED USES CONTINUED)**Basic Utilities & Roads**

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

Educational Institutions**Trade/Vocational Schools/Other**

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

Communication Facilities

(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)

CONDITIONAL USES**Retail Sales & Service****Personal Services**

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

Entertainment

(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

(CONDITIONAL USES CONTINUED)**Major Event Entertainment**

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

Manufacturing & Production**Heavy Manufacturing**

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.)

Waste & Recycling Related

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

Utility, Road & Transit Corridors

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

Community Service

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

Mining**Sand & Gravel****Non-Metallic Minerals**

(examples: sand & gravel extraction; mining of non-metallic minerals.)

PROHIBITED USES

Educational Institutions

Elementary & Secondary Schools

College & Universities

(examples: elementary, middle & high schools; universities, liberal arts colleges, community colleges.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

Mining

Crushed Rock

All Others

(examples: excavation of rock.)

**CITY OF NEWPORT
I-3/"HEAVY INDUSTRIAL" ZONING DISTRICT USES**

PERMITTED USES

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Heavy Manufacturing

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather

(PERMITTED USES CONTINUED)

tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales.

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

Basic Utilities & Roads

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Educational Institutions

Trade/Vocational Schools/Other

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

(PERMITTED USES CONTINUED)**Mining****Sand & Gravel****Crushed Rock****Non-Metallic Minerals***(examples: sand & gravel extraction; excavation of rock; mining of non-metallic minerals.)***Communication Facilities***(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)***CONDITIONAL USES****Retail Sales & Service****Sales-oriented, general retail***(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)***Sales-oriented, bulk retail***(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)***Waste & Recycling Related***(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)***Utility, Road & Transit Corridors***(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)***PROHIBITED USES****Office***(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities;***(I-3 Uses)****(PROHIBITED USES CONTINUED)***TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site.)***Retail Sales & Service****Personal Services***(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)***Entertainment***(examples: restaurants (sit-down & drive-thru); cafés; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)***Repair-oriented***(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)***Major Event Entertainment***(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)***Vehicle Repair***(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)***Self-Service Storage***(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)***Community Service***(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a*

(PROHIBITED USES CONTINUED)

public or non-profit agency); soup kitchens; surplus food distribution centers.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

Educational Institutions**Elementary & Secondary Schools****College & Universities**

(examples: elementary, middle & high schools; universities, liberal arts colleges, community colleges.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

Mining**All Others**

(other than sand & gravel extraction, excavation of rock, mining of non-metallic minerals.)

**Section 2-2-6.010 amended by Ordinance No. 1336 (7-5-83); Section 2-2-4 amended by Ordinance No. 1344 (11-7-83); Sections 2-2-1 and 2-2-6 amended by Ordinance No. 1356 (1-3-84); Sections 2-2-3, 2-2-4, 2-2-5, 2-2-6, and 2-2-7 amended by Ordinance No. 1447 (12-16-85); Section 2-2-6.015 amended by Ordinance No. 1468 (8-19-86); Section 2-2-4 amended by Ordinance No. 1526 (11-7-88); Section 2-2-2.010 amended by Ordinance No. 1565 (14.36.0010); Section 2-2-4 amended by Ordinance No. 1567 (14.36.0010); the above became obsolete when Sections 2-2-1 through 2-2-12 were totally amended by Ordinance No. 1575 (7-2-90); and then the entire Section was repealed and replaced by Ordinance No. 2022 (10-20-11).*

14.03.030. City of Newport Zoning Map. The zoning districts established by this section are officially identified on the map entitled "City of Newport Zoning Map," by reference incorporated herein. Zoning district boundaries, as shown on the official map, shall be construed as follows:

- A. City limit lines;
- B. Platted lot lines or other property lines as shown on the Lincoln County Assessor's plat maps;
- C. The centerline of streets, railroad tracks, or other public transportation routes;
- D. The centerline of streams or other watercourses as measured at Mean Low Water. In the event of a natural change in location of the centerline of such watercourse, then the zoning district boundary shall be construed to moving with the channel centerline; and
- E. The Mean Higher High Tide Line.

14.03.040 Intent of Zoning Districts. Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

R-1/"Low Density Single-Family Residential." The intent of the R-1 district is to provide for large lot residential development. This district should also be applied where environmental constraints such as topography, soils, geology, or flooding restrict the development potential of the land.

R-2/"Medium Density Single-Family Residential." The intent of this district is to provide for low density, smaller lot size residential development. It is also the ambition of this district to serve as a transitional area between the low density

residential district and higher density residential districts.

R-3/"Medium Density Multi-Family Residential." This district is intended for medium density multi-family residential development. It is planned for areas that are able to accommodate the development of apartments. New R-3 zones should be near major streets, on relatively flat land, and near community or neighborhood activity centers.

R-4/"High Density Multi-Family Residential." This district is intended to provide for high density multi-family residential and some limited commercial development. New R-4 zones should be on major streets, on relatively flat land, and near commercial centers.

C-1/"Retail and Service Commercial." The intent of the C-1 district is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Manufacturing, processing, repair, storage, or warehousing is prohibited unless such activity is clearly incidental to the business and occupies less than 50% of the floor area.

C-2/"Tourist Commercial." The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents.

C-3/"Heavy Commercial." The intent of this zone is to provide for commercial uses that are frequently incompatible with retail and service commercial uses. This zone is also intended to provide uses that utilize more than 50% of the floor area for storage, repair, or compounding of products but do not constitute a nuisance because of noise, dust, vibration or fumes.

I-1/"Light Industrial." The intent of this zone is to provide for commercial and industrial uses that can be located near residential or commercial zones. Uses that are associated with excessive noise, dust, vibration, or fumes shall be prohibited.

I-2/"Medium Industrial." The intent of this zone is to provide areas suitable for industrial activities, including manufacturing, fabricating, processing, packing, storage, repairing, and wholesaling. This classification should be applied to industrial areas having good access to

transportation facilities and not near residential zones.

I-3/"Heavy Industrial." The intent of this zone is to provide for industrial uses that involve production and processing activities generating noise, vibration, dust, and fumes. Typically, this zone requires good access to transportation, large lots, and segregation from other uses due to nuisances.

W-1/"Water-Dependent." The intent of the W-1 district is to protect areas of the Yaquina Bay Shorelands, as identified in the Newport Comprehensive Plan, for water-dependent uses. For purposes of this section, a water-dependent use is one which needs contact with or use of the water for water-borne transportation, recreation, energy production, or water supply. All uses in a W-1 district shall comply with the following standards:

- A. Existing water-dependent uses or future water-dependent uses anticipated by the Comprehensive Plan shall not be preempted or restricted by non-water-dependent uses. In determining whether or not a use preempts or restricts a water-dependent use, the following shall be considered:
 - 1. Water-related uses accessory to and in conjunction with water-dependent uses.
 - 2. Temporary or mobile uses such as parking lots or temporary storage areas.
 - 3. Incidental and accessory non-water-dependent uses sharing an existing structure with a water-dependent use.
- B. Applicable policies in the Yaquina Bay Estuary and Yaquina Bay Shoreland sections of the Comprehensive Plan shall be followed.
- C. In determining whether a conditional use should be allowed, consideration shall be given to whether the site or portion thereof is within an area designated as especially suited for water-dependent or water-related uses in the Comprehensive Plan. If the property is within that area, then the site shall be protected for water-dependent and water-related recreational, commercial, and industrial uses.

W-2/"Water-Related." The intent of the W-2 district is to pro-

ANNEXATION PARCEL –

Beginning at the ¼ corner common to sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South 00°58'33" West, 1127.47 feet to the northeast corner of Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South 87°52'45" West, along the north line of said Parcel 2, 80.46 feet; thence North 78°40'12" West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South 25°09'00" West, along said easterly line, 93.85 feet; thence North 88°16'59" West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South 25°09'00" West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South 88°16'59" East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South 25°09'00" West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, to the south east corner thereof; thence North 00°58'33" East, 358.53 feet, to the northeast corner of said Parcel 2 and to the point of beginning.

This parcel contains 3.063 acres, more or less.

222.170 Effect of consent to annexation by territory; proclamation with and without city election.

(1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

222.524 Procedure for withdrawal of part of district from district. (1) If as authorized by ORS 222.520 the governing body of the city elects to cause the withdrawal from a district named in ORS 222.510 of that part of such district theretofore incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the governing body of the city shall hear objections to the withdrawal and shall determine whether such withdrawal is for the best interest of the city.

(2) The governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(3) After the hearing, the governing body of the city may by ordinance declare that the part of the district which was theretofore incorporated as or annexed to the city is withdrawn from the district.

(4) The ordinance referred to in subsection (3) of this section is subject to referendum.

(5) The city may withdraw from all of such districts at the same time in one proceeding under this section or may withdraw from each district in separate proceedings at different times.

(6) The public hearing and ordinance referred to in this section may be the same as the public hearing and ordinance in ORS 222.120. [1957 c.401 §3; 1963 c.347 §3; 1965 c.509 §3; 1985 c.702 §14]

Derrick Tokos

From: GRIGG DEVIS Valerie <Valerie.GRIGGDEVIS@odot.state.or.us>
Sent: Wednesday, September 18, 2013 4:45 PM
To: Derrick Tokos; SQUIRE Joe
Cc: SQUIRE Joe
Subject: RE: Annexation Involving Highway Right-of-Way

Hello Derrick -

As I understand it, you spoke to Joe Square today. He has advised me that ODOT has no objections to the proposed annexation.

If you have any other questions, please do not hesitate to contact us.

Best Regards,

Valerie Grigg Devis
Senior Region Planner
Oregon Department of Transportation
541-757-4197

From: Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]
Sent: Tuesday, September 17, 2013 9:44 AM
To: SQUIRE Joe
Cc: GRIGG DEVIS Valerie
Subject: FW: Annexation Involving Highway Right-of-Way

Joe,

Did Valerie talk to you about this? This annexation impacts a small stretch of US 101 (a little over 20-feet), so I am looking for an email from you, as a potentially affected party, indicating that you don't have any objections. Is that doable?

Derrick

From: Derrick Tokos
Sent: Tuesday, September 17, 2013 9:30 AM
To: GRIGG DEVIS Valerie
Subject: FW: Annexation Involving Highway Right-of-Way

Hi Valerie,

Would it be possible to get something in writing indicating that the State does not have an issue with this annexation? Our first hearing on this proposal will occur on Monday. Last we talked, I believe you were going to see if Joe Squire could put together an email.

Thanks,

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626
fax: 541.574.0644
d.tokos@newportoregon.gov

From: Derrick Tokos
Sent: Friday, August 23, 2013 4:25 PM
To: GRIGG DEVIS Valerie
Subject: Annexation Involving Highway Right-of-Way

Valerie,

I am working with a property owner on an annexation petition in South Beach and we will need to take in a small piece of highway right-of-way in order for the property to be contiguous to the City. Attached is a map. Are there any steps that we need to take with ODOT in order to move this forward?

Thanks for any assistance you can provide.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626
fax: 541.574.0644
d.tokos@newportoregon.gov



Noble
Professional
Dedicated

Newport Police Department
Memorandum

One Team - One Future

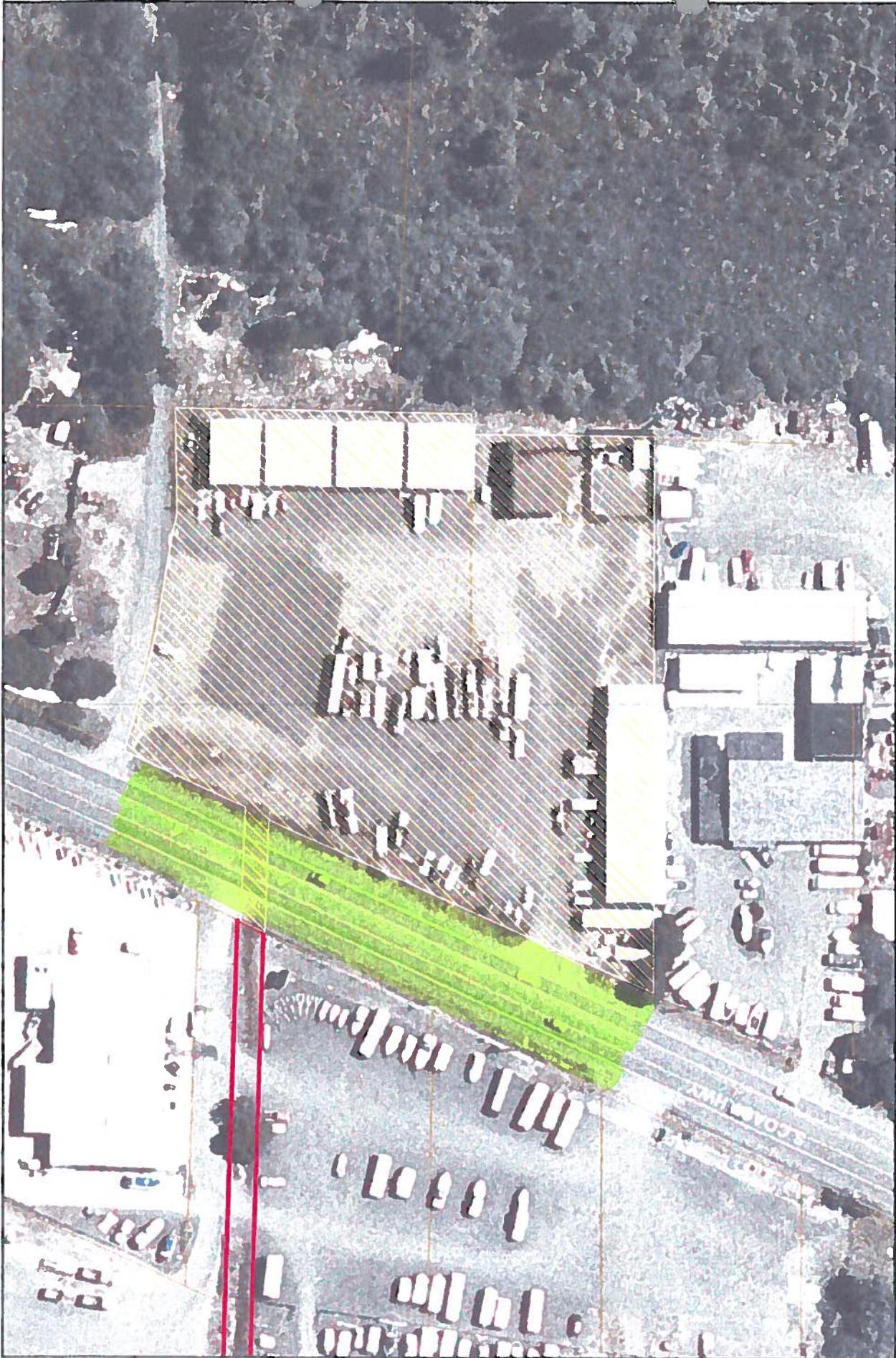
Date: September 9, 2013

To: Derrick Tokos, Community Development Director

From: Mark J. Miranda, Chief of Police *MJM*

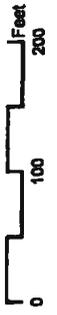
Subject: South Beach Annexation

I have no objection to the annexation proposed in South Beach under File No. 2-AX-13. I would request that the portion of US Highway 101 adjacent to the property also be annexed into the City. See the attached map. Right now, only portions of US Hwy 101 are within the City limits in South Beach. This makes identifying jurisdiction difficult at times. An ultimate goal should be to annex all of US Hwy 101 down to the Airport. It would help us out a lot.



City of Newport
Community Development Department
 189 SW Coast Highway
 Newport, OR 97365
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)



This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Derrick Tokos

From: John Pariani <parianils@yahoo.com>
Sent: Monday, September 23, 2013 10:05 PM
To: Derrick Tokos
Subject: Re: FW: Annexation

Derrick,

I will look into this further. There is some evidence that indicates a possible property boundary overlap along the east side of these properties, but the legal can still be valid. I will let you know what I find out.

Sent from Pariani's Smartphone

Derrick Tokos <D.Tokos@NewportOregon.gov> wrote:

>John,

>

>This is in regards to the legal description that you prepared for me. Could you take a look at Scott's comments and let me know if the description needs to be changed?

>

>Thanks,

>

>Derrick I. Tokos, AICP

>Community Development Director

>City of Newport

>169 SW Coast Highway

>Newport, OR 97365

>ph: 541.574.0626

>fax: 541.574.0644

>d.tokos@newportoregon.gov

>

>

>

>From: Scott Branchfield [mailto:sbranchfield@co.lincoln.or.us]

>Sent: Friday, September 20, 2013 4:46 PM

>To: Derrick Tokos

>Subject: Annexation

>

>Hi Derrick,

>Charlotte asked me to take a look at the legal description of the proposed annexation for Spy LLC. I think you might have a problem getting the legal description past the Department of Revenue. The last call which presumably starts at the SE corner of MF 397-2234 then goes N 0 deg 58'33"E 358.53 feet to the NE corner of "said parcel 2 . . ." But we don't have a bearing for the east line of tax lot 1400, it simply follows the 1/16 line. The east line of tax lot 1400 then intersects the south line of parcel 2 (tax lot 1300) you then have to jog easterly along the south line of parcel 2 to the southeast corner thereof. Then you can proceed N 0 deg 58'33"E to the NE corner of parcel 2.

>Part of this is complicated by the fact that the deed for 1400 overlaps into land that the grantor did not own (east of the 1/16th line) So the distance call you give along the south line of 1400 (440.24 feet) is not really correct, but since you call to the SE corner of the deed, we would accept that part. I don't know if the DOR will or not.

>I hope this makes some kind of sense.

>

>Scott

>Scott Branchfield

>Lead Digital Cartographer

>Lincoln County Assessor's Office

>(541) 265-0321

>sbranchfield@co.lincoln.or.us<mailto:sbranchfield@co.lincoln.or.us>

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, September 23, 2013

Commissioners Present: Jim Patrick, Jim McIntyre, Glen Small, Rod Croteau, Mark Fisher, and Bill Branigan.

Commissioners Absent: Gary East (*excused*).

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

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:10 p.m. because the work session ran a little long. On roll call, McIntyre, Small, Croteau, Patrick, Fisher, and Branigan were present; with East absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of August 12, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar.

E. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:12 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Fisher, McIntyre, and Patrick all noted that they often drive by the site, but haven't stopped at the site. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

Legislative Actions:

1. **File No. 2-AX-13/3-Z-13:** Consideration of a request submitted by Spy, LLC to annex approximately 3.063 acres consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing UGB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 2-AX-13/3-Z-13 at 7:14 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the staff report in the packet outlines the relevant criteria. He clarified that the property is approximately 3.063 acres instead of 3.03 as shown on the agenda. He noted that the legal description is included. An aerial photo showing the boundary of the annexation area is included. The standards for annexation coming from ORS 222 are essentially that the City receives the required consents. The consents have been filed by the property owner. Tokos noted that a little bit of highway right-of-way is included to get over to the right side of the highway where the state property is so that the annexation is contiguous to the city limits. As noted in the staff report, state law doesn't require the City to acquire consents from ODOT or any entity with road right-of-way because they are not paying taxes on it. Tokos has contacted ODOT, and they indicated that they have no issues. Tokos said that, as Chair Patrick pointed out, the property is within the UGB and has an industrial Comprehensive Plan designation that provides for a range of zoning designations. In this case, I-1 would be applied, which allows a range of uses consistent with what the owner intends to do with this property. Tokos said that the catalyst for the request is the extension of city sewer; and once the annexation is done, the owner intends to connect to city services.

Patrick asked if this included annexing both sides of the highway. Tokos referred to the aerial image in Attachment C and said to imagine a flag pole to get across to connect with the red line that is the city limits. It is shown by the yellow going across the highway. Tokos said this whole pocket is surrounded by the city; but to be contiguous, which is a requirement for annexation, it had to reach across the highway at this location. Patrick mentioned the comment from Police Chief Miranda with the area of the highway

he was suggesting be annexed shown in green. Tokos said that where the Chief is coming from is that he would like all of Highway 101 to be in city limits. The solution to that would be down the road that we pick up the rest of that pocket. We would have to engage those owners as well. If we did that now, it would impact their accesses. Taking in all of those pockets in South Beach would be the solution to Chief Miranda's wish. That is a goal of the City Council. It is their policy call whether to annex them or surround them by the city.

Patrick asked if I-1 is the right designation for this property. Tokos said yes, it fits well with our goals. It is consistent with what this corridor already within the City is designated.

Fisher said that part of the request is to withdraw from some districts and asked why we would do that. Tokos said they would be replaced by city taxes that meet the same purpose. It pulls them out of the rural districts and goes into the city. Tokos said he did contact the County to confirm those were the right districts to pull out of.

Proponents: Greg Paulser, 2560 NW Pacific St, Newport. Paulser said that he is looking forward to getting the property into the City so he can hook up to the sewer.

Opponents or Interested Parties: There were no opponents or interested parties present to testify, so there was no rebuttal.

Patrick closed the hearing at 7:21 p.m. for Commission deliberation. Branigan said he would recommend the annexation go forward. He doesn't see a downside to going forward with what has been proposed. Fisher agreed. Croteau saw no issues. Small agreed and said that his questions about the rural districts had been answered. He said it is pretty straight forward and thought that it is a good thing. McIntyre had no questions and agreed with the rest of the Commissioners. Patrick agreed also and said it is good to see something like this for a change.

MOTION was made by Commissioner Fisher, seconded by Commissioner Small, to forward a recommendation to the City Council to grant the annexation as requested in File No. 2-AX-13/3-Z-13. The motion carried unanimously in a voice vote. Tokos informed Paulser that the City Council hearing will be October 7th.

F. New Business.

1. Initiate Text Amendments to NMC Section 12.15 (System Development Charges) Subsection 12.15.065 (Credits). Tokos noted that as discussed at work session, the Planning Commission could elect to move forward with the SDC code amendments they have been discussing.

MOTION was made by Commissioner Croteau, seconded by Fisher, to initiate and move forward the amendments to the NMC SDC Credits section (12.15.065) with the changes discussed at work session. The motion carried unanimously in a voice vote.

G. Unfinished Business.

1. Tokos said that he is still waiting for a hearing date with the County Board of Commissioners for the UGB expansion. He said it's moving very slowly. He noted that the same goes for the TSP changes adopted quite some time ago. We are still waiting for a Board of Commissioners hearing date.

2. Regarding the Teevin Bros. appeal, the appellants had to file their brief September 10th or 11th. We took a look at it, and they are arguing three things: 1) the City should have required a geologic permit; 2) the analysis that was prepared for Teevin had insufficient analysis of intersections; and 3) the analysis was insufficient to establishing that the roads were sufficient for that traffic. Tokos said it is addressed in the record why a geologic permit wasn't required for this project. He said the other two really fall to Teevin. They were advised what the requirements were, and they modified their analysis to address those things. Tokos thinks they did it adequately. There is information on the intersecting road. The analysis on the big stuff showed that they were capable of handling the traffic. By doing that the traffic engineer determined that translated to the small roads, and they will be just fine. For the structural integrity, Stuntzner Engineering did a whole new supplemental analysis between the original staff-level decision and the Planning Commission hearing that was ordered on appeal where they did a full analysis against current standards. The analysis stated that the road was not new but suitable to handle the traffic at this point. The City Council has elected not to file a brief but will sign on to the brief filed by Teevin's attorney showing we are in support of their defense of the decision. That probably saves the City \$20 thousand on filing briefs. The response briefs will be followed by oral testimony at LUBA. Then LUBA has a period of time to make a decision. LUBA doesn't commonly have a hearing. Presentations by attorneys with questions and answers is usually what happens. If an appeal is filed against LUBA's decision, that goes to the Oregon Court of Appeals. Tokos thinks there are really only two things that could come out of LUBA. He believes most likely they will affirm the City's decision. It's less likely they will remand on one of those items, and Teevin has to supplement their reports. Then the City would have to make a decision on that. Tokos said that what is important to point out here is that the firm the appellants hired didn't provide an alternative. They only pointed out that certain things were not in Teevin's report; which Teevin then turned around and attempted to address. LUBA only has one set of technical analysis. Greenlight Engineering didn't do anything but throw darts at Teevin's analysis. LUBA will affirm the City's decision or remand it for lack of information in Teevin's analysis. It's Tokos' understanding that Teevin isn't

going to move forward until the appeals are done, but they are still committed to the project. He said it's not uncommon for the City not to file a brief. Cities don't typically defend permits; the third party is the one that asked for it.

3. Regarding the OMSI development, Tokos noted that OMSI has hired an architect and engineering team to begin design of their facility. They are still working on the schedule. Through urban renewal, the City invested in the preliminary subdivision plat that will end up before the Planning Commission for approval. The City will be reworking the right-of-way and will partner with OMSI to construct the road. Also on a related note, Tokos said that we found out that money we are looking for from ODOT for 35th and 101 and Ferry Slip projects will be approved. The final list has been selected, and we are on it. That is a \$3.5 million project with \$1.5 million from Urban Renewal and \$2 million from the State. This is a big project finishing off Ferry Slip with bicycle, pedestrian, and full street improvements from 40th to Marine Science Drive. On Ferry Slip, it will be a multi-use path on the west side all the way up. It also includes the new street at 35th connecting across and a signal. The signal at 32nd will be eliminated, and it will be right-in/right-out. There will be sidewalk from the bridge to 35th. This is on the 2015-2018 STIP. OMSI, unless their schedule slips because of fundraising, wants to open early 2016. It could run right into this project; and we could be looking to realize savings by bidding both Abalone and 35th/101 at the same time. On the STIP side, the State says they will put it in whatever year we need it to line up with OMSI. Tokos noted that this was about a 46% match. In the past typically the minimum for grant applications to STIP was 10-27%. Across our entire region, this average was like 35%. What this is telling us is that jurisdictions are clocking in with more cash trying to get high on the list because there is less money available. Tokos said that a conversation staff is having with the Infrastructure Task Force is that we need to make sure we are bringing a reasonable amount of money to the table. It is more competitive now. We can't just come in with in-kind or minimum match.

4. Tokos said that right now the City has a lot of projects with Federal funding: Highway 101 crosswalks that we are hoping to get done this winter; Agate Beach wayside under a grant agreement with ODOT, which is in consultant selection; Safe Haven Hill, which just finished Phase 1 analysis, and construction should be in the next year to year and a half. He said that there are a number of things with grant funds moving through the pipeline. We haven't submitted a new one for a major project; but they want options for the next legislative session. The next for us is consideration of a 9th Street couplet redirecting northbound traffic on 101. It would take it on 9th by the hospital and by City Hall and connect at Highway 20 at Benton by the Rec. Center. More likely as it comes around that curve, through where some houses are there, to tie into Coos. There would be a signal, and that would be further away from the signal at the Highway 101 and 20 intersection. For traffic that is continuing north, they would then turn left and then go right to go on up 101. Tokos said that is in the TSP. The State wants projects, so they will get a big project on that list from us. That is the one thing we will put on the table. The timing ties into the formation of a new North Side Urban Renewal District for matches. This would add a couple of blocks of viable commercial. That would allow a narrow-down on 101 and to widen the sidewalks; so city-center becomes more useable. Tokos said the thought is that 101 at 20 has the capacity for handling traffic; it is the run south of it. A connection at Highway 20 and Coos with a signal will manage it.

5. Tokos noted that one small thing we are looking to add in with the crosswalks is placement of a raised median at 101 and 20. Adding to the north would extend the left turn pocket for those trying to turn on Highway 20. Patrick noted that would take away an entry to JC Market. Tokos said that as long as they still have access, they are not entitled to anything beyond that. He noted that one crosswalk by City Hall at Angle will have pedestrian-activated lights. Each one of those is \$30 thousand. They can be retrofitted in the future.

H. Director's Comments. Tokos said that, as mentioned in work session, the City Council will have further discussion on October 7th about the consideration of selling the Visual Arts Center.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING**

The City of Newport City Council will hold a public hearing on Monday, October 7, 2013, at 7:00 p.m. or shortly thereafter in the City Hall Council Chambers to review File No. 2-AX-13 / 3-Z-13. The applicant, Spy, LLC, is requesting to: **(1) annex approximately 3.063 acres of real property** (consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District**. The applicable criteria are as follows: (1) **Annexations (as per Newport Municipal Code (NMC) Section 14.37.040)**: The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. (2) **Zone Map Amendments (as per NMC Section 14.36.010)**: Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the City Council in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the City Council. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) 7 days prior to the hearing. The application materials, applicable criteria, and other file material are available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above).

***FOR PUBLICATION ONCE ON WEDNESDAY, SEPTEMBER 25, 2013, and
ONCE ON WEDNESDAY, OCTOBER 2, 2013.***

WARRIORS Continued from page C1

as McKenzie rallied to even the score.

"I was kind of worried we might get have gotten a little over confident there," he said. "The kids stepped up, they dug deep and made some big plays there."

Big plays began more big plays, and the Siletz offense soon looked as hard to stop as the rain that soaked the field.

"We just got the momentum. That's the thing about eight-man football, you get the momentum and sometimes it's hard to stop," Butler said. "The kids just kept going with it. That fourth quarter was big for us."

Quarterback Tyler Sjystrom completed 10 of his 20 pass attempts for 235 yards and three scores, while taking 16 carries himself, grabbing 106 yards

and two touchdowns on the ground. Sjystrom also nabbed a pick-six on defense. Daniel Lindstrom caught four of those passes, gaining 160 yards and scoring twice. David Greenwald notched 173 all-purpose yards, scoring on a 20-yard catch and on runs of 75 and 12 yards. Will Dasher gained 127 all-purpose yards, scoring on a 48-yard run and catching seven passes.

"We improved a lot," Sjystrom said. "Offensively, blocking, just going through our offense and doing a better job."

Siletz alternates between two distinct offensive systems, a pass-heavy spread formation attack and a pack-it-in power run scheme called the "diesel." Butler said that he was able to find success with both on Friday.

"We tightened it back up and

did our diesel," he said "We got some good stuff in the spread, too, but I think we tightened our diesel up. The kids are feeling more relaxed in the diesel. But we still want to look to the spread, too, to mix it up."

Butler sees the victory as a turning point for the Warriors' season.

"This is big for us. The way our league is right now, I think we'll be right in the mix for the playoffs," he said. "If we build off this game, keep our momentum going, have a good week of practice and take one game at a time. This is a big win for us."

"I don't think there's another team that's going to beat us in league," Sjystrom added. "We'll have another tough team, but I think we've got a pretty good chance of going to the playoffs."

TIGERS Continued from page C1

we could feel the team, we could feel each other communicating. We knew where to set the ball, and we knew that person was going to slam it down," explained Taylor Adams. "Katie was amazing in the middle, too. I think in the second game, we just went for everything."

Adams added nine digs of her own, along with three aces in a 12 of 13 serving performance.

"We were just on it. We had our passes down and our sets down and our kills down," added BillyAnn Stempel. "Sometimes, we just get these games where it clicks, and other games it doesn't. We can't figure out what that 'it' is."

Stempel had five kills on the match, along with nine assists. Kelsey Wilkinson also added nine assists to go with four kills.

Even bigger for the Tigers than the second set win was the comeback to nearly take

the third set. Down 20-9, the Tigers showed their teeth, clawing back to a 23-21 deficit when Adams put down two of her aces to tie the set.

"We were down by 12, and I was just happy to see us rally that far off," Napoleon said. "We were tied 23-23, and we missed that one serve that switched the momentum back. I thought if we could have made that serve, anything could have happened."

The Cubs took the set 25-23, then stormed to a fourth set win. "The fourth game, we just went flat. The passing was not quite what it was the second game. Big difference was in the second game we played better defense, the passing went better," Napoleon explained. That's it for us, our key. If we're passing the ball well, we can compete.

Even without a match victory, Napoleon said his Tigers

achieved something they can be proud of.

"That was huge for us. The girls were very excited that they came back. They were a little disappointed that they didn't finish it off," he said. "But I kept reminding them, 'It takes a lot of heart to be that far down and not give up and almost come back, and do it. You guys have nothing to be ashamed of tonight.'"

"It was one of the most impressive comebacks I've seen for our volleyball team," Adams said. "We didn't give up. We know we can compete with them, and we know we're on their level."

"We're going to take what we learn from that game and use it in our next one," Stempel said. "We are starting to come together as a team a lot better than we have in past years. There's a lot less drama, and that's starting to show."

FOOTBALL ROUNDUP Continued from page C1

Newport 14, at Cascade 43

The Cubs league opener against the Cougars was still a ball game in the third quarter, when the Cubs scored two touchdowns in the late stages of that period to make it 14-29.

"It started to look promising," explained head coach Kurt Hargett. "We put a couple of really good drives together. We're having trouble with consistency, and that's how it is."

The Cougars racked up two more touchdowns within 30 seconds in the fourth quarter to set the final margin. Despite the score, there were moments that Hargett thought showed a lot of promise.

"If we play well and consistent, we can be in games," he said. "We know we can move the ball and score. When we threw the ball, Luke [Richcreek] and Carter [McLincoln] caught it pretty well. Luke's doing a really good job catching the ball when we get it thrown."

McBente caught four passes of 42 yards or more. While Richcreek grabbed 75 yards and a score on two completions.

Hargett said that the Cubs, a very young team, are still working out how to make best use of their resources.

"We are trying to solve every bit of the puzzle we can solve. We changed different personnel at times, we moved people in different spots," he said.

But what the Cubs definitely don't lack is effort, Hargett explained.

"The kids are great kids. I love them. They don't quit, they just keep playing. If that's how they are in life, they are going to be

great men, men that don't quit and give all they have. There's tons to be said about that. You can't ask for more than their best," Hargett said. "We're just not playing real well, and quite honestly, Cascade is a really good team. I think our kids are playing really hard. We're not playing really smart, we're not playing super-consistent, but we're playing real hard."

Taft 6, vs. Stayton 44

The Tigers opened their league season against Stayton at home Friday night on a down note.

"We weren't able to get continuity on either side of the ball," head coach James Mick explained. "We were lacking in drive; it was kind of a flat week."

That continuity wasn't helped when a medical situation forced starting quarterback Pete Lahti out from under center. "We had to change quarterbacks in the middle of the first quarter," Mick explained. Seth Steere took over the offense, while Lahti was able to remain in the game in other roles. "He ended up moving to receiver, but that really hurt continuity on offense," Mick added.

Steere hit Lahti for a touchdown pass that accounted for Taft's only score of the game.

"In the second half, our effort was better," Mick said. "Our kids are real positive and we were at home. In the second half, we competed better and really pushed."

Mick said he and the Tigers were surprised by Stayton's size up front.

"We looked at Stayton on film

and thought, 'maybe they won't be such a big team.'" Mick said. "But we went up against them, and they're twice our size across the board."

This sort of size mismatch is just par for the course for the Tigers.

"Every week for us is going to be an uphill battle. Every team has more players than us. So we have to be that much more prepared," Mick said. "We've got to compete at a bigger level. We've got to tackle every time and score more points just to be able to match."



The Taft Tigers volleyball team celebrates a point in their home match against Newport on Thursday, Sept. 26. (Photo by Rockne Roll)

PUBLIC NOTICES

LEGAL DEADLINES:

WEDNESDAY EDITION: 5:00pm THURSDAY Prior

FRIDAY EDITION: 5:00PM TUESDAY PRIOR

CITY OF NEWPORT NOTICE OF PUBLIC HEARING
The City of Newport City Council will hold a public hearing on Monday, October 7, 2013, at 7:00 p.m. or shortly thereafter in the City Hall Council Chambers at 100 S. Coast Hwy. The hearing will be held to discuss the proposed Comprehensive Plan Amendment (CPA) No. 2-A-X-13. The CPA describes the criteria for the designation of the subject property as a "Medium Industrial" (M-2) zone. The CPA also amends the Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the City Council in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the City Council. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional

evidence, arguments, or testimony regarding the application. This report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) 17 days prior to the hearing. The application and other file material are available for inspection at no cost or copied may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (503) 574-0505, d.tokos@newportoregon.gov (mailing address above) S-25, O-2 (26-02)

PUBLIC NOTICE
PUBLIC NOTICE is hereby given that the two-year period of redemption of real property, included in the 2011 delinquent tax lien foreclosure proceedings instituted by Lincoln County, Oregon, on August 24, 2011, in the circuit court of the State of Oregon for Lincoln County, Sub No. 11-2874, and included in the judgment entered therein on October 13, 2011, will expire on October 15, 2013. All properties ordered sold at the judgment, unless redeemed on or before October 15, 2013, will be deeded to Lincoln County, Oregon, immediately upon expiration of the period of redemption, and every right and interest of any person in such properties will be forfeited over to Lincoln County, Oregon. Lincoln County, Collector, Lincoln County, Oregon S-25, O-2 (26-02)

IN THE CIRCUIT COURT FOR THE STATE OF OREGON IN AND FOR THE COUNTY OF LINCOLN
BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVING, LP FKA COUNTRYWIDE HOME LOANS SERVING, LP, ITS SUCCESSORS IN INTEREST AND/OR ASSIGNS, PLAINTIFF, V. UNKNOWN HEIRS OF HELEN P. BUES; UNKNOWN SUCCESSOR TRUSTEE OF THE HELEN P. BUES TRUST, DATED SEPT. 24, 2004; MELODY ANN SMITH, AS SUCCESSOR TRUSTEE OF THE HELEN P. BUES TRUST, DATED SEPT. 24, 2004; MELBODY MARYANNE BUES BARTLETT; STATE OF OREGON; OFFICERS OF THE PREMISES, AND THE REAL PROPERTY LOCATED AT 360 SOUTHWEST DOUBLE EAGLE DRIVE, WALDPORT, OREGON 97394, DEFENDANTS.
CASE NO. 131816
SUMMONS TO PUBLICATION
TO THE DEFENDANTS UNKNOWN HEIRS OF HELEN P. BUES; UNKNOWN SUCCESSOR TRUSTEE OF THE HELEN P. BUES TRUST, DATED SEPT. 24, 2004; MELBODY MARYANNE BUES BARTLETT; STATE OF OREGON; YOU are hereby required to appear and answer the complaint filed against you in the above-entitled Court and cause on or before the expiration of 30 days from the date of the first publication of this summons. The date of first publication in this matter is September 25, 2013. If you fail timely to appear and answer, plaintiff will apply to the above-entitled court for the relief prayed for in its complaint. This is a judicial foreclosure of a deed of trust in which the plaintiff requests that the court be allowed to foreclose your interest in the following described real property: LOT 1, BLOCK 3, CEDAR HEIGHTS PARK PHASE 3 IN LINCOLN COUNTY, OREGON. Commonly known as: 360 Southwest Double Eagle Drive, Waldport, Oregon 97394. NOTICE TO DEFENDANTS: READ THESE PAPERS CAREFULLY! A lawsuit has been started against you in the above-entitled court by Bank of America, N.A., Successor by Merger to BAC Home Loans Serving, LP (BAC Home Loans Serving, LP (BAC Home Loans Serving, LP (BAC Home Loans Serving, LP). Plaintiff's claims are stated in the written complaint, a copy of which was filed with the above-entitled Court. You must "appear" in this case or the other side will be "automatically" to "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" (or "reply") must be given to the court clerk, addressed to the court, within 30 days of the date of first publication of this summons, with the required filing fee. It must be in proper form, and have proof of service on the plaintiff's attorney, or, if the plaintiff does not have an attorney, proof of service on the plaintiff. If you have any questions,

you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 in the Portland metropolitan area or toll-free elsewhere in Oregon at (800) 452-7638. This summons is issued pursuant to ORCP 7.00, LEGAL P.C. (Michael J. Bothwell, OSB #13327, mbothwell@rclegcol.com, Attorney for Plaintiff, 111 SW 100 Ave., Ste. 400, Portland, OR 97265, P. (503) 977-7840 F. (503) 977-7962 S-25, O-2, 9/16/29/16/13)

NOTICE
The City of Toledo is seeking qualified design professionals to respond to an RFP for pool design services. The City is seeking to rehabilitate and potentially expand its aging aquatic facility. Interested parties are invited to review the RFP and contact the RFP coordinator by October 4, 2013. The RFP can be obtained by contacting the City of Toledo website (www.cityoftoledo.org) or by contacting Jim Andrews, Aquatics Region Director, City of Toledo, PO Box 290, Toledo, Oregon 97351, or email contact at jandrews@54-336-3181 (Option 5) S-27, O-2 (34 0)

MEETING NOTICE
North Lincoln Fire & Rescue District #1 will hold a meeting of its Board of Directors on Tuesday, October 8, 2013, at 6:00 p.m. at the Fire Station 4523 SE Highway 101, Lincoln City. Items on business for the Board Directors will include payment of bills, other District business, O-2 (38 02)

Powerful Tools for Caregivers
A six week class series for people providing care to others

Tuesday October 8th to November 12th 2-4 pm
Yachats Community Presbyterian Church

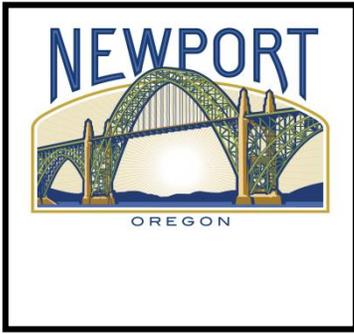
Questions? call (541) 547-3400

presenters:
Kath Schonau RN
Debra Fant RN

Low Low Payments Buy Local and SAVE

Newly Arrived Shipments of

2007 Mazda 3 2006 Honda 2004 Toyota Matrix 2007 Toyota



Agenda Item # X.A.
Meeting Date October 7, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Re-envisioning the City’s Role in Supporting the Visual Arts

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: _____

ISSUE BEFORE THE COUNCIL: Consideration of whether or not the City should encourage the arts community to undertake a visioning process to explore the role that public resources should play in supporting the visual arts. Public feedback would inform the Council’s upcoming budget discussions. The Visual Arts Center would serve as the venue for collecting information, and Oregon Coast Council for the Arts staff would be responsible for soliciting input and presenting the feedback and recommendations at a future Council meeting.

STAFF RECOMMENDATION: If the Council believes that this approach will provide the type of meaningful public feedback that it needs to inform its decision making on whether or not to proceed with a discussion about potentially selling the Visual Arts Center, or entertain other alternatives in advance of the next budget cycle, then staff recommends it provide direction to initiate the process.

MOTIONS FOR ADOPTION: I move that the Council direct the City Manager to coordinate with staff at the Visual Arts Center to put in place a process for soliciting public input on the City’s role in supporting the visual arts. The process should address the questions discussed tonight, with information being presented to the Council no later than its first regular meeting in March of 2014.

KEY FACTS AND INFORMATION SUMMARY: The Visual Arts Center (VAC) at 777 NW Beach Drive is owned by the City of Newport and managed by the Oregon Coast Council for the Arts (OCCA) as a public art exhibition space. It is also used for art education programs and provides meeting space for the general public. The property is zoned C-2/“Tourist Commercial.”

The building was originally constructed in 1982 by the Newport Urban Renewal Agency. An addition was constructed in 1990 and the property was conveyed to the City of Newport in 1992. Annual expenses the City incurs to operate the building range between \$60,000 and \$90,000 a year, and will likely exceed \$100,000 this fiscal year as a result of unforeseen maintenance issues primarily associated with the elevator. OCCA management fees, utilities, cleaning expenses, and insurance are costs the City incurs in addition to maintenance expenses. Annual revenues range between \$7,500 to a little over \$10,000 a year and are largely attributed to the rental of space at the facility. The VAC is situated in the heart of Nye Beach and possesses panoramic views of the Pacific Ocean. Lincoln County Assessment Records list a market value in excess of \$2.5 million, although this figure includes some unrelated city assets (public staircases, excess land, etc.).

Escalating maintenance costs attributed to the age of the VAC and budget limitations that may prevent the City from maintaining the building in a condition suitable for its current use are factors that suggest it is timely to discuss whether or not it is in the public interest for the City to own and subsidize a visual arts center. It is also relevant to consider that provision of gallery space for artists to display and profit from the sale of their works is often accommodated through private sector or non-profit ventures as opposed to public entities, and that the property the VAC is situated on may be put to better use if transitioned out of City ownership.

The Newport Urban Renewal Agency funded the construction of a number of public buildings including the Visual Arts Center, Library, Recreation Center, Performing Arts Center, Abbey Street Pier and Pier Building, City Hall, and the

Bayfront Boardwalks. Urban renewal funds were used to remodel and renovate these facilities; however, with the recent closure of the northside urban renewal district that funding source is no longer available and has not been replaced with other resources. This is another reason why it is timely for the City to take a critical look at whether or not it can continue to support a facility such as the VAC, or if it might be best to sell the property.

The local arts community and other members of the public have a vested interest in the VAC and should be afforded an opportunity and time to re-envision the City's role in supporting the visual arts. This could lead to new ideas being put on the table for how some of the listed concerns could be addressed and may chart a course for how overall community support for the visual arts might be strengthened. Key questions that should be considered include:

- What role should the City of Newport play in supporting the visual arts?
- Is it in the “public interest” for the City to own and subsidize a Visual Arts Center, or might that need best be accommodated by private or non-profit interests or in another facility?
- If the City elects to surplus the Visual Arts Center property should stipulations be placed on the sale of the property to ensure that the resulting use complements Nye Beach?
- If it is in the “public interest” that the City continue to own the Visual Arts Center then where will the funding come from to maintain the building in a manner in which it needs to be maintained?

Conducting a visioning process at the Visual Arts Center that seeks input from members of the public with direct ties to the facility may result in the Council receiving feedback that is not entirely representative of the views of the larger community. Opportunities for broader community engagement should be considered as the process unfolds.

OTHER ALTERNATIVES CONSIDERED: One option would be for the city to proceed with a hearings process to determine if it is in the public interest to sell the Visual Arts Center. While that may still take place, this interim step affords interested persons an opportunity to explore other options and alternatives that may preclude the need for the sale of the Visual Arts Center or may inform how that conversation moves forward.

CITY COUNCIL GOALS: Pursuing strategic property acquisitions and sale of city assets is a Council goal.

ATTACHMENT LIST:

- Summary of Visual Arts Center revenues and expenditures for the past three years
- Current OCCA management agreement for the Visual Arts Center

FISCAL NOTES: Outreach would be conducted by staff at the Visual Arts Center in consultation with the City Manager's Office. City has a management agreement in place with OCCA to staff the VAC and the scope of the outreach effort can be tailored so that the demands it places on OCCA staff are within the realm of what is envisioned under the agreement.

Visual Arts Center Revenue/Expenditures

Revenues:

FY 10/11	\$7,503.50
FY 11/12	\$10,307.00
FY 12/13	\$9,252.00

Expenses:¹

FY 10/11	\$89,381.53
FY 11/12	\$68,932.84
FY 12/13	\$62,435.51

Upcoming Repairs² \$89,780.00

¹ Includes OCCA management expenses, utilities (phone, alarm, electricity, gas, garbage, water/sewer (not billed)), cleaning, insurance, maintenance and repairs.

² Includes repairs to the elevator, fire alarm system, door locks, flooring, windows, interior/exterior paint, plumbing, lighting and HVAC system. City staff has identified points of water intrusion into the interior of the building, but has not yet identified the cause or extent of the problem. Therefore, it is not possible to estimate the cost of those repairs at this time.

AGREEMENT

This agreement is between the City of Newport, an Oregon municipal corporation (City) and the Oregon Coast Council for the Arts, an Oregon nonprofit corporation (OCCA).

RECITALS

A. City owns the Performing Arts Center (PAC) located at 777 W. Olive Street. City also owns the Visual Arts Center (VAC) located at 777 NW Beach Drive. The PAC and the VAC are referred to as the "facilities."

B. OCCA is a duly organized and registered non-profit corporation and tax-exempt entity.

C. OCCA promotes and assists arts on the Oregon coast, including within the City of Newport.

D. OCCA contributed approximately \$600,000 of the \$1.7 million cost of construction and furnishing of the PAC, with its contributions totaling about thirty-five percent of the total costs.

E. The contribution by OCCA was based on the mutual understanding that the OCCA would have certain rights in the City's art and cultural facilities, including some or all management rights of the facilities, subject to the City's right to use those facilities.

F. OCCA for many years has managed the facilities with greater management responsibilities of the PAC and lesser responsibilities as to the VAC. Originally the management of the PAC was subject to a detailed written agreement, but in recent years, the documentation of the management agreements has been minimal.

G. City and OCCA wish to enter into an agreement that more clearly establishes their respective obligations and rights relating to the management of the facilities.

H. This agreement is not subject to competitive bidding because the agreement effectuates the rights the OCCA acquired through its investment in the PAC. Furthermore, it is exempt from competitive bidding because it is a contract for personal services because the management of the facility requires professional-level management services. Furthermore, the City has determined that no other entity is capable of and willing to provide the management services, and OCCA therefore is the sole source of the services provided under this agreement.

TERMS OF AGREEMENT

Basic Term

OCCA will continue to manage the PAC and will have some management of the VAC, pursuant to the understanding by which OCCA provided funding for the PAC. The City will pay OCCA for the management of the facilities, subject to the detailed terms of this agreement.

Detailed Terms

1. This agreement is effective July 1, 2013, and shall remain in effect for five years, subject to the availability of budgeted funds.
2. OCCA shall manage and operate the VAC and shall continue its current level of management of the PAC, subject to the right of the City to use the facilities in whole or in part. The City has the right to use any portion of the facilities at any time that the facilities have not been committed to other use.
3. City shall pay OCCA \$112,500 for the period from July 1, 2013, through June 30, 2014. Payments shall be made quarterly. The amount the City pays for future fiscal years shall be set through the City's budgeting process, and shall be based on an amount sufficient, when considered with other sources of revenue, to pay OCCA's costs incurred in the management of the facilities. The parties anticipate that there will be reasonable increases in the amount paid in future years. OCCA may terminate this agreement within 30 days of the final adoption of any annual city budget or amendment of the budget items authorizing expenditures if OCCA determines in good faith that the budgeted amount is insufficient.
4. OCCA's responsibilities are to manage both the long-term and day-to-day operation of the PAC, including booking and scheduling of activities, providing for maintenance, cleaning, and security. OCCA shall continue its current level of management of the VAC, but shall not be responsible for cleaning or maintenance. The parties contemplate that OCCA's responsibilities as to management of the VAC may be increased and that any increase in responsibilities will be accompanied by additional payment from the City. In its operation of the facilities, OCCA shall act as if it were a public entity in providing equal treatment, due process, and other constitutional rights to the users of the facilities.
5. This agreement for management of the facilities is not a transfer of an interest or a lease, and the City remains the sole owner of the facilities, which are not subject to taxation, given the City's status as a governmental entity. If for any reason this agreement is determined to result in the facilities or operations of the facilities being subject to taxation, the agreement shall be

considered void.

6. The sole purpose of the City in owning the facilities and of OCCA in operating the facilities is to have the facilities available for the purposes of public cultural enrichment, education, and other public purposes which include the mission and purposes of the OCCA. No party expects to receive any net income from operation of the facilities, and all incomes from the facilities shall be used for the facilities and programs offered by the facilities.

7. OCCA shall provide a manager for each facility and the staff (paid and volunteer) necessary to operate each facility. OCCA may use contractors to provide services, such as food services. OCCA shall be responsible for booking, organizing, publicizing events at the facilities, as well as for ticket sales, collecting other payments, and other activities related to operation of the facilities and events at the facilities.

8. OCCA shall be responsible for utilities at the PAC, other than phone, water, and sewer, which will be provided at no cost by the City. City will continue to be responsible for all utilities at the VAC.

9. OCCA shall be responsible for cleaning, general maintenance, and minor repairs of the PAC. City shall be responsible for major repairs to the structure and essential components (heating, ventilation, plumbing and basic building electricity) of the PAC and VAC and for cleaning, maintenance and repair of the VAC. OCCA shall be responsible for any repairs caused by its acts or omissions.

10. Revenue for use of the PAC shall be paid to OCCA. Rental and other revenue from the VAC shall continue to be paid directly to the City.

11. City shall maintain insurance on the structure and public liability insurance. OCCA shall obtain and maintain public liability insurance as well as insurance on any personal property within the facility.

12. OCCA shall prepare and present to the City an annual report on activities, including a summary of revenue and expenditures. In addition to the annual report, OCCA shall submit a request for funding for the next fiscal year by March of each year.

13. OCCA shall defend, indemnify, and hold harmless the City, as well as its officials and employees, from all liability and claims, including attorney fees, relating to any act or omission of OCCA and its agents.

14. OCCA shall comply with all provisions required to be in an agreement of this type by state contracting law. A copy of relevant provisions is attached.

15. The rights and obligations created and imposed by this agreement are not transferable.

16. OCCA shall comply with all applicable laws and ordinances, including Federal equal rights laws.

17. OCCA is an independent contractor and not an employee of the City for any purpose. Although OCCA may be an agent of the City for purposes of ORS 30.260 to 30.300, it is not an agent of the City for other purposes and has no authority to bind the City.

18. The parties may terminate this agreement by mutual agreement. Either party may terminate this agreement on written notice provided at least 180 days before the proposed termination date.

19. In the event this agreement is determined to be subject to any competitive process requirement, the agreement shall terminate on selection of a contractor to manage and operate the facilities through a competitive selection process. OCCA shall not be prohibited from bidding. OCCA shall continue until a contractor has been selected.

20. Contact information. The contacts for notice and other purposes are:

For City:

City Manager
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.0601

For OCCA:

Catherine Rickbone
Executive Director
Oregon Coast Council for the Arts
P.O. Box 1315
Newport, Oregon 97365
541.265.2652

On behalf of the City of Newport:

Ted Smith
Ted Smith, Interim City Manager

10-2-13
Date

On behalf of the Oregon Coast Council for the Arts

Catherine Rickbone
Catherine Rickbone, Executive Director

10/2/13
Date

ATTACHMENT A

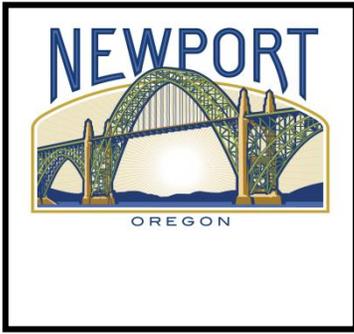
STATUTORY PROVISIONS

2796.220 Conditions concerning payment, contributions, liens, withholding. Every public contract shall contain a condition that the contractor shall:

- (1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.**
- (2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.**
- (3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.**
- (4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.**

2796.230 Condition concerning payment for medical care and providing workers' compensation.

- (1) Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.**
- (2) Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.**



Agenda Item # X.B.
Meeting Date October 7, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Consideration of the Need to Partition the Visual Arts Center Property

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: _____

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest to partition the Visual Arts Center (VAC) property at 777 NW Beach Drive so that the structure and associated parking areas are situated on one parcel of land.

STAFF RECOMMENDATION: Staff recommends the Council proceed to partition the property. The partition process can parallel discussions about the future of the Visual Arts Center and it is a step that the City should take irrespective of whether or not the City Council ultimately decides to sell the building since the current property configuration is also an impediment to any significant remodeling of the structure.

MOTIONS FOR ADOPTION: I move that the Council direct the City Manager to proceed with preparing a partition plat for the Visual Arts Center building and associated parking areas and to authorize the mayor to sign the plat once it is approved and ready to be recorded.

KEY FACTS AND INFORMATION SUMMARY: The Visual Arts Center (777 NW Beach Drive) and its associated parking areas are situated on parts of four separate deeded pieces of land, with the building straddling property lines. There is also a small piece of County owned property surrounded by the City's ownership (Tax Lot 10398). The totality of the City's ownership is larger than the Visual Arts Center and its parking areas, including public staircases, restrooms, and beachfront property.

Partitioning the property would allow for the Visual Arts Center and its parking areas to be placed on a parcel of land separate from the public staircases, restrooms and beachfront property. This would help position the property for sale if that is a course of action the City Council ultimately pursues. Partitioning the property in this manner would also resolve property line encroachments which make it difficult to remodel the building under current land use and building codes. The small piece of land owned by the County appears to have resulted from errors in past conveyances. Staff is working with the County to get this property deeded to the City. A partition plat is a land use action and should the process proceed there would be public notice and opportunity to comment prior to a decision being made, pursuant to Chapter 13.05 of the Newport Municipal Code.

OTHER ALTERNATIVES CONSIDERED: Leaving the property in its current condition.

CITY COUNCIL GOALS: Pursuing strategic property acquisitions and sale of city assets is a Council goal.

ATTACHMENT LIST:

- Map illustrating existing property boundaries
- Title report for the property

FISCAL NOTES: The Community Development Department has sufficient budgeted funds to cover the expense of partitioning the property.



Western Title & Escrow Company
255 SW Coast Highway, Suite 100
Newport, OR 97365
Office Phone: (541) 265-2288
Office Fax: (541) 265-9570

PUBLIC RECORDS REPORT

THIS REPORT IS FOR THE EXCLUSIVE USE OF:

City of Newport
Attention: Derrick Tokos
169 SW Coast Highway
Newport, OR 97365

Date Prepared: September 06, 2013

Report Number: 79684A

Fee: \$0.00

CONDITIONS, STIPULATIONS AND DEFINITIONS

(I) Definitions:

- (a) "Customer": The person or persons named or shown on this cover sheet.
- (b) "Effective date": The title plant date of August 29, 2013.
- (c) "Land": The land described, specifically as by reference, in this public record report and improvements affixed thereto which by law constitute real property.
- (d) "Liens and encumbrances": Include taxes, mortgages, and deeds of trust, contracts, assignments, rights of way, easements, covenants, and other restrictions on title.
- (e) "Public records": Those records which by the laws of the State of Oregon impart constructive notice of matters relating to said land.

(II) Liability of Western Title & Escrow Company:

- (a) THIS IS NOT A COMMITMENT TO ISSUE TITLE INSURANCE AND DOES NOT CONSTITUTE A POLICY OF TITLE INSURANCE.
- (b) The liability of Western Title & Escrow Company for errors or omissions in this public record report is limited to the amount of the fee paid by the customer, provided, however, that Western Title & Escrow Company has no liability in the event of no actual loss to the customer.
- (c) No costs of defense, or prosecution of any action, is afforded to the customer.
- (d) In any event, Western Title & Escrow Company assumes no liability for loss or damage by reason of the following:
 - 1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
 - 2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - 3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.

4. Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
5. (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (iii) water rights or claims or title to water.
6. Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
7. Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment of the land; (ii) the character, dimensions or location of an improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at the effective date hereof.
8. Any governmental police power not excluded by (II)(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at the effective date hereof.
9. Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the customer.

(III) Report Entire Contract:

Any rights or actions or rights of action that the customer may have or may bring against Western Title & Escrow Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of Western Title & Escrow Company. By accepting this form report, the customer acknowledges and agrees that the customer has been afforded the opportunity to purchase a title insurance policy but has elected to utilize this form of public record report and accepts the limitation of liability of Western Title & Escrow Company as set forth herein.

(IV) Fee:

The fee charged for this Report does not include supplemental reports, updates or other additional services of Western Title & Escrow Company.

REPORT

Report Number: 79684A

Effective Date: August 29, 2013 at 5:00 p.m.

- A. The land referred to in this public record report is located in the County of Lincoln, State of Oregon, and is described as follows:

SEE ATTACHED EXHIBIT "A"

- B. As of the effective date and according to the public records, we find title to the land apparently vested in:

The City of Newport, a political subdivision of the State of Oregon as to Parcels I, II and III and Lincoln County, a political subdivision of the State of Oregon, as to Parcel IV

- C. And as of the effective date and according to the public records, the land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

1. 2013-2014 taxes a lien in an amount to be determined, but not yet payable.
2. As disclosed by the Tax Roll, the premises herein are not subject to assessment by reason of governmental ownership, and at any time said land is returned to private ownership, the property will be subject to taxation.
Account: R1023432, R519148, R121054, R125816, R519149, R519136
3. City liens, if any of the City of Newport.
4. Rights of public and of governmental bodies in that portion of the subject land lying below the mean high water line of the Pacific Ocean and lying within the ocean shore and the dry sand area as declared under the provisions of ORS 390.605 through 390.770 and as found in Thornton v. Hay, 254 Or 584, 452 P2d 671 (1969).
(Parcels I and III)
5. Any adverse claim based upon the assertion that any portion of said land was not tide, submerged or submersible land subject to disposition by the State of Oregon, or that any portion thereof has ceased to be submerged or submersible lands by reason of erosion or by reason of having become upland by accretion.
(Parcels I and III)

END OF REPORT

Any questions concerning the Public Records Report should be directed to Mickey Keeney at 541-265-2288, or email at mkeeney@westerntitle.com.

Order No. 79684A

Exhibit "A"

PARCEL I:

Beginning at a point 35 feet West of the Southeast corner of Lot 2, Block 12, in NYE AND THOMPSON'S ADDITION to the City of Newport, Lincoln County, Oregon; running thence North 75 feet; thence West parallel with the North line of Agnes Street to the meander line of the Pacific Ocean; thence South along said meander line 75 feet to the North line of Agnes Street; thence East along the North line of Agnes Street to the Place of Beginning.

EXCEPTING THEREFROM any portion falling below the mean high tideline of the Pacific Ocean.

PARCEL II:

Beginning at a point 25 feet West and 75 feet North of the Southwest corner of Lot 1, Block 12, in NYE AND THOMPSON'S ADDITION to the City of Newport, Lincoln County, Oregon; thence North 75 feet; thence West 95 feet; thence South 75 feet; thence East 95 feet to the Place of Beginning.

EXCEPTING THEREFROM the South 10 feet thereof.

PARCEL III:

Beginning at a point which is 75 feet North and 120 feet West of the Southeast corner of Lot 2, Block 12, in NYE AND THOMPSON'S ADDITION to the City of Newport, Lincoln County, Oregon; thence North 75 feet; thence West 10 feet; thence South 65 feet; thence West to the meander line line of the Pacific Ocean; thence Southerly along said meander line 10 feet, more or less, to a point from which the point of beginning bears East; thence East to the Point of Beginning.

EXCEPTING THEREFROM any portion falling below the mean high tideline of the Pacific Ocean.

ALSO EXCEPTING THEREFROM any portion lying within N.W. Beach Drive.

ALSO EXCEPTING THEREFROM any portion lying within those parcels of land as described in Bargain and Sale Deed recorded October 20, 1953 in Book 160, Page 562, Lincoln County Records and in Warranty Deed recorded March 2, 1967 in Book 283, Page 300, Lincoln County Records and in Warranty Deed recorded December 2, 1971 on Book 30, Page 410, Lincoln County Records.

PARCEL IV:

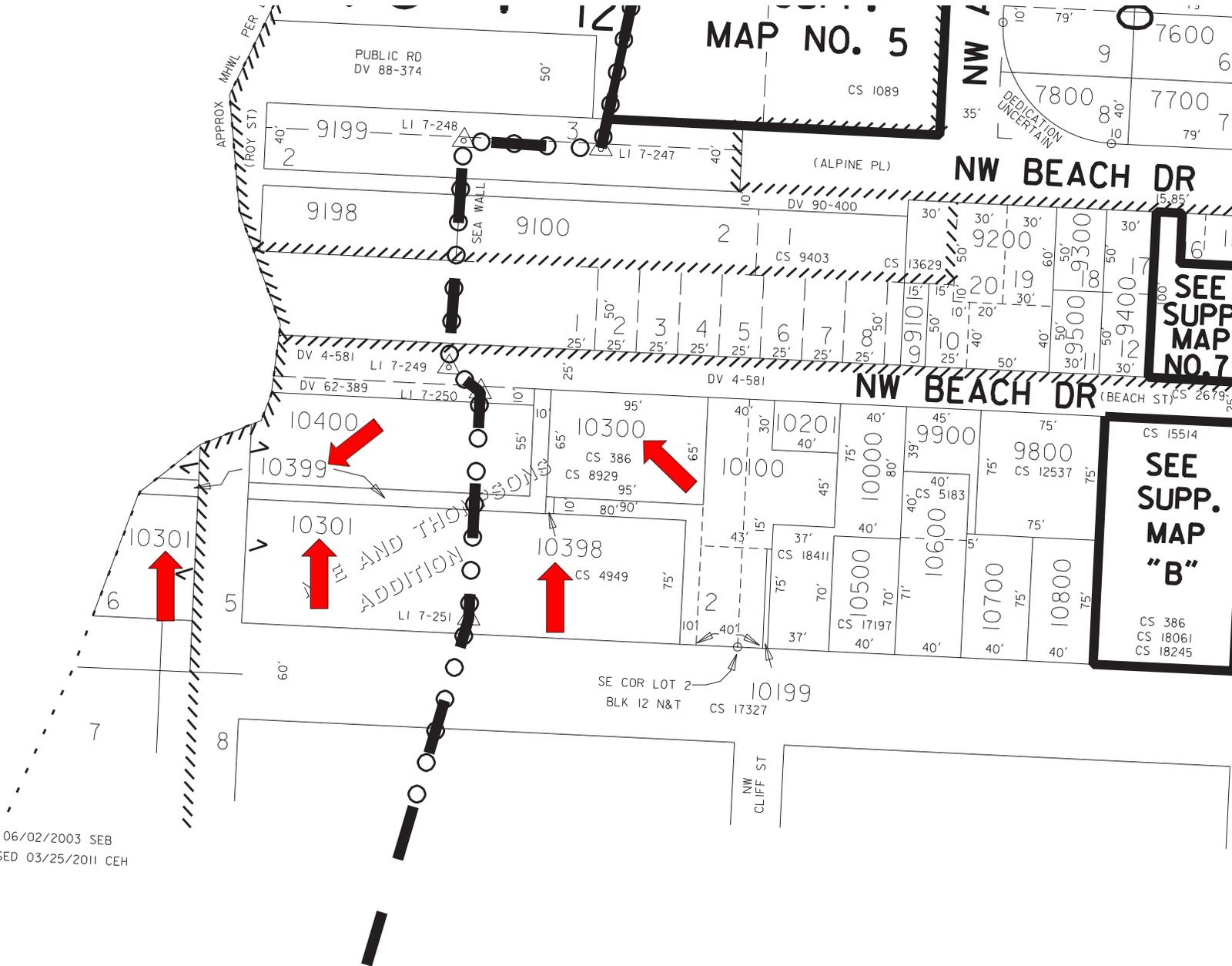
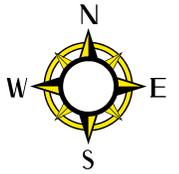
Commencing at a point 25 feet West of the Southeast corner of Lot 2, Block 12, NYE AND THOMPSONS ADDITION, to the City of Newport, Lincoln County, Oregon; thence North 75 feet; thence West 10 feet; thence North 10 feet; thence West 85 feet; thence North 65 feet to the South line of Beach Street; thence West along the South line of Beach Street to the Meander line of the Pacific Ocean; thence Southerly along said Meander line, 75 feet to the Northwest corner of a tract of land sold by H. J. Minthorn to Brouwer and Crocker April 7, 1914 and with the buildings thereon known as The Hot Sea Baths; thence East along the North side of said Hot Sea Baths property to the Northeast corner thereof; thence South along the South side of said Hot Sea Baths property 75 feet to the North line of Agnes Street; thence East long the North line of Agnes Street to the Place of Beginning.

EXCEPTING THEREFROM that portion as described in Deed recorded October 6, 1917 as Document No. 57-53, Lincoln County Records.

ALSO EXCEPTING THEREFROM that portion described in Bargain and Sale Deed recorded August 19,

1975 as Document No. 58-1394, Lincoln County Records.

ALSO EXCEPTING THEREFROM Parcel 2 as described in Warranty Deed recorded October 14, 1982 as Document No. 136-627, Lincoln County Records.



SEE SUPP. MAP NO. 7

SEE SUPP. MAP "B"

DE 06/02/2003 SEB
REVISED 03/25/2011 CEH



Western Title & Escrow
PRIVACY POLICY NOTICE
June 1, 2005

Western Title & Escrow Company is dedicated in providing a basis of trust with you, our customer, and the public we serve. With respect to the privacy expectations of today's consumers, and the requirements of applicable privacy laws, the Gramm-Leach-Bliley Act (GLBA) has been enacted to protect the privacy of nonpublic personal information relating to consumers and customers. GLBA generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices.

We are providing you with this document, which notifies you of our privacy policies and practices. We reserve the right to change this Privacy Policy Notice from time to time consistent with applicable privacy laws.

In the course of our business we may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as your social security number and information from applications or other forms we receive from you or your authorized representatives;
- Information about your transaction we secure from our files, or from our affiliates or others;
- Information from our or other internet web sites;
- Information we receive from a consumer reporting agency
- Information we receive from others involved in your transaction, such as the real estate agent or lender; and
- Information from the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

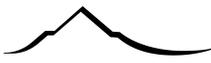
We also may share your personal information:

- to agents, lenders, brokers or representatives to provide you with the services you requested; and
- to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf.

In addition, we will disclose your personal information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your personal information when otherwise permitted by applicable privacy laws such as when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic information.

Exhibit



Western Title & Escrow
PRIVACY POLICY
June 1, 2005

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about a consumer with a nonaffiliated third party unless the institution provides the consumer with a notice of its privacy policies and practices, such as the type of information that it collects about the consumer and the categories of persons or entities to whom it may be disclosed.

Financial institutions can include title insurance companies, title insurance agents, survey companies, attorneys, appraisers, flood certification providers, and other providers of settlement services on residential transactions.

In compliance with the GLBA, we do not share nonpublic personal information about a consumer with a nonaffiliated third party, unless allowed by law.

In compliance with the GLBA, our privacy practices regarding nonpublic personal financial information of consumers and customers (as defined by GLBA) are as follows, subject to any exceptions as permitted by law.

- We protect nonpublic personal information of customers and consumers.
- We allow access on need to know basis only. Only company personnel who need to know can access the information. Examples may include accounting personnel, title examiners, title underwriter personnel, auditors, escrow closers and their assistants, management, scanning personnel, and claims related investigation personnel, including but not limited to retained counsel.
- We allow customers and consumers to review their nonpublic personal information that we have collected, and we allow them to provide us with requests for amendment or deletion of such information, to which we will reasonably respond.
- We require consent from a proper party to the transaction to provide nonpublic personal information relating to their transaction, which includes closed transactions.
- We maintain physical, electronic, and procedural safeguards that comply with law to guard the nonpublic personal information. We allow only authorized personnel to review the information, and we keep closed files in secure storage, with limited access, or we store the files on computer with limited password access.
- We generally do not keep copies of credit reports, loan applications, and tax returns on consumers and customers.
- If we share starter title information, we don't share nonpublic personal information, such as sales price (unless it is public information), policy numbers, or amount of insurance on owner's policies issued to customers.
- We don't share nonpublic personal information, such as social security numbers and bank account information, as may be shown on affidavits of indemnity, instructions to escrow, or as may be provided by a principal lender, broker or real estate agent.
- We periodically inform our personnel about our policy.
- We don't share nonpublic personal information with independent contractors, unless they have a need in the processing of the transaction as allowed by law.

Dated: June 1, 2005
Western Title & Escrow Company



Agenda Item # X.C.

Meeting Date 10/7/13

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Ordinance No. 2058 Repealing and Re-Enacting Chapter 4.15 of the Newport Municipal Code Pertaining to Taxicabs

Prepared By: Hawker Dept Head Approval: ph City Mgr Approval: _____

Issue Before the Council: The issue before Council is consideration of Ordinance No. 2058 which would repeal and re-enact Chapter 4.15 of the Municipal Code pertaining to taxicabs and taxicab endorsements to business licenses.

Staff Recommendation: This is entirely a Council decision, although staff recommends a change to the current code as it is confusing and difficult to administer.

Proposed Motion: I move to read Ordinance No. 2058, an ordinance repealing and re-enacting Chapter 4.15 of the Newport Municipal Code pertaining to taxicabs, by title only, and place for final passage.

Key Facts and Information Summary: The city recently received an application for a taxicab endorsement to a business license from Ken Franklin, owner of Ken's Cab. During the processing of this application, it became obvious that the Municipal Code, as it is written, is confusing to the point that compliance is difficult and the Code should be revised.

For example, the application was processed as a taxicab driver's permit by one department; considered to be a taxicab endorsement to a business license by another department; and set for public hearing by yet another department despite the requisite information not being provided by the applicant due to staff confusion. This is an illustration of how unclear and complicated the current Code is, and demonstrates the critical need for revision.

A request for copies of taxicab licenses from other cities produced a number of good examples, and the attached Ordinance No. 2058 contains the simplest and most equitable provisions. The draft ordinance before Council requires that the applicant provide compulsory information, and that the application is processed and approved or denied by the Police Chief while allowing for an appeal to the City Manager.

The public hearing on the taxicab endorsement to the business license of Ken's Cab was scheduled for September 16, 2013. It was reported, at that meeting, that the hearing

needed to be postponed, and that staff had advised Richard Diaz, counsel for Yaquina Cab, that the matter would not be heard that evening. Staff noted that a revised taxicab endorsement ordinance had been drafted and would be brought to the October 7, 2013 meeting for Council consideration. Staff also reported that the ordinance, if adopted at the October 7, 2013 City Council meeting, would not be effective for 30 days. Mr. Franklin stated that this delay would have a severe negative impact on his business. Council suggested that the newly revised ordinance could be an emergency ordinance, and the ordinance before Council has an emergency clause. If Council adopts the ordinance, it will become effective immediately upon adoption.

Other Alternatives Considered: None.

City Council Goals: None.

Attachment List: Ordinance No. 2058
Chapter 4.15 of the Newport Municipal Code

Fiscal Notes: None.

CITY OF NEWPORT

ORDINANCE NO. 2058

AN ORDINANCE REPEALING AND RE-ENACTING
CHAPTER 4.15 OF THE NEWPORT MUNICIPAL CODE
PERTAINING TO TAXICABS

WHEREAS, the City of Newport Charter provides that the city has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant; and

WHEREAS, the above referenced grant of power has been interpreted as affording the city all legislative power under the home rule provisions of the Oregon Constitution; and

WHEREAS, it is the purpose of this ordinance to require that persons operating taxicabs do so in a safe, fair, and efficient manner; and

WHEREAS, the taxicab industry is an important part of the city's transportation system, and transportation fundamentally impacts the well-being of the citizens, and some regulation is necessary to ensure that the public safety is protected, the public need provided for, and the public convenience promoted; and

WHEREAS, the City Council adopted Ordinance No. 1935 pertaining to taxicabs on September 4, 2007 and the ordinance needs to be updated to address safety, equity, and efficiency.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 4.15 of the Newport Municipal Code is repealed and re-enacted as shown in the attached Exhibit A.

Section 2. This ordinance is necessary for the immediate preservation of the public peace, health, and safety; an emergency is declared to exist; and this ordinance will take effect immediately on its adoption.

Adopted by the Newport City Council on the _____ day of _____, 2013.

Sandra N. Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

EXHIBIT A

ORDINANCE NO. 2058

4.15.010 Definitions

A. Except where the context clearly indicates otherwise, the following words shall mean:

1. "City Manager" means the City of Newport City Manager or his/her designee.
2. "Driver" means every person who is, or acts under or at the direction of, the owner, agent, or employee, and is in charge of operating any taxicab.
3. "Endorsement" means a taxicab endorsement to a business license to allow the business to operate a taxicab business in the city.
4. "Flat rate" is a fare which remains constant regardless of the distance traveled or time involved.
5. "Limousine" is a chauffeur-driven motor vehicle that carries passengers for hire where the minimum fare charged is at least \$50.00.
6. "Nonemergency medical transport vehicle" means a vehicle that carries a person for hire and such person requires nonemergency medical treatment or supervision by an emergency medical technician or first responder certified by the Oregon State Health Division while in the vehicle.
7. "Operate" means to drive a vehicle, to use a vehicle in the conduct of business, to receive money from the use of a vehicle, or cause or allow another person to do the same.
8. "Owner" means every person having use or control of any taxicab whether as owner, lessee, or otherwise.
9. "Permit" means Police Chief's authorization of a driver to operate a taxicab listed in an endorsement to the business license.
10. "Police Chief" means the City of Newport Police Chief or his/her designee.
11. "Street" means any street, alley, avenue, road, lane, highway, or public place in the city used for the purpose of public travel.
12. "Taxicab" means any vehicle that carries passengers for hire whose journey has originated in the city, where the destination and route may be controlled by a

passenger, and the fare is calculated on the basis of any combination of an initial fee, distance traveled, and delay, or the fare is a flat rate.

13. "Taxicab Driver Permit" means a permit issued to an individual to operate a taxicab in conjunction with a business possessing a taxicab endorsement to its business license.

14. "Temporary Driver Permit" means a permit issued to an operator for a special community event, such as the annual Seafood and Wine Festival.

- B. Any vehicle that has an appearance deceptively similar to a taxicab is a taxicab for the purposes of this Chapter.
- C. As used in this Chapter, "taxicab" does not include licensed ambulances, nonemergency medical transport vehicles, regular-route scheduled buses, state-approved buses engaged in charter service, limousines, courtesy vehicles operated by hotels and motels as a convenience for registered guests where no charges are made, vehicles operated for the exclusive use of senior citizens or persons with disabilities, vehicles contracted for special events by non-profit organizations.

4.15.020 Temporary Driver Permit

- A. Persons soliciting any rider for compensation including but not limited to donations and tips during a special event, such as the annual Seafood and Wine Festival, will apply for a temporary permit under this Chapter. Applicants for a temporary permit shall be 21 years of age and provide the following information with an application:
 - 1. A completed Temporary Driver Permit Application;
 - 2. Copy of valid Oregon driver's license;
 - 3. Two (2) passport sized copies of recent photograph of applicant;
 - 4. Copy of \$25.00 fee receipt (paid to the City of Newport);
 - 5. The make, type, year of manufacture, serial number, license plate number, and passenger seating capacity of the vehicle to be used;
 - 6. A photograph of the sign which will appear on the applicant's vehicle used to solicit riders; and
 - 7. Certificate of auto insurance with coverage limits of \$500,000.
- B. The Newport Police Chief, or his/her designee, will complete an investigation of the applicant and the Police Chief shall recommend approval or denial of the temporary permit within ten (10) days of receipt of a completed application. If an application is

denied, the denial may be appealed to the City Manager or his/her designee. The decision of the City Manager is not subject to appeal.

- C. If the Police Chief approves the temporary permit application, the successful applicant will:
1. Display a copy of the temporary permit in the vehicle included in the permit. The permit may not be used or displayed in any vehicle not included in the permit.
 2. Maintain the vehicle included in the permit in clean and sanitary condition and in good repair.
 3. Report to the Newport Police Chief within 24 hours after discovery of any property of value left in the vehicle by any passenger if the driver has not been able to return the property to the passenger or received instructions from the passenger for the return of the item. Property of value includes but is not limited to personal identification, bank cards, and cash.
- D. A temporary permit provided under this section will be effective only for the special event for the particular year of the permit application from 12:00 P.M. on the first day of the event and ending at 12:00 A.M. immediately following the last day of the event.

4.15.030 Taxicab Endorsement Required

No person shall operate any taxicab business in the city without possessing a valid taxicab endorsement to the business license for that business and its vehicles issued pursuant to this Chapter, as well as any other license required by the city.

4.15.040 Reissuance, Transfer, Cancellation, Suspension, or Revocation of Taxicab Endorsement or Driver Permit

- A. No taxicab endorsement or driver permit may be sold, assigned, mortgaged, or otherwise transferred.
- B. Any taxicab endorsement or driver permit may be suspended or revoked by the Police Chief if any one or more of the following conditions exist:
1. The owner ceases to operate any taxicab for a period of 15 consecutive days without obtaining permission to cease such operation from the Police Chief.
 2. The taxicab endorsement or driver permit holder fails to operate the taxicab in accordance with the provisions of this Chapter.
 3. The taxicab endorsement or driver permit holder fails to pay any of the fees or payments required to be paid by the provisions of this Chapter.

4. The taxicab endorsement owner or driver permit holder no longer qualifies for a taxicab endorsement or driver permit under the provisions of this Chapter.
- C. After the city has issued a taxicab endorsement with a vehicle list, any change in the driver name or vehicle list requires the applicant to notify the Police Chief within 30 days of the change. The expiration date of the taxicab endorsement will remain the same.
- D. The city may use any means of enforcement authorized by law to enforce the provisions of this Chapter.

4.15.050 Surrender of Taxicab Endorsement

Any taxicab endorsement that is suspended or revoked by the Police Chief shall be surrendered to the Police Chief and the operations of any taxicab covered by such endorsement shall cease.

4.15.060 Taxicab Endorsement Fees

No taxicab endorsement may be issued, or a taxicab business continue in operation, until the applicant has paid the city's annual taxicab endorsement fee as established by resolution of the City Council for each vehicle listed in the taxicab endorsement or operated within the city.

4.15.070 Inspection of Vehicles

- A. Prior to the operation of any vehicle under the provisions of this Chapter and at least annually thereafter, the vehicle shall be thoroughly examined and inspected by either an automobile mechanic or a governmental vehicle inspection entity located within Lincoln County and shall be found to be in safe operating condition. An inspection for safe operating conditions must include, but is not limited to, inspection of brakes including parking brake; all lights, signals and reflectors; exhaust system; steering system; wipers including washers; suspension components; mirrors; horn and other warning devices; tires and restraint system. Record of such inspections, clearly identifying by vehicle license number, and vehicle identification number, of the vehicles inspected, must be made available to the city upon initial application and annual renewal.
- B. In addition to the initial and annual inspections required above, inspection or testing of all parts vital to the safe operation of the vehicle such as brakes, steering gear, tires, lights, and signaling devices shall be made at the beginning of each shift or each day by the driver, and as often as necessary during use. Any condition found then or at any other time that will prevent the safe operation of the vehicle shall be corrected before the vehicle is used.
- C. In the event a record of vehicle inspection is not produced within 24 hours of request, or if the record produced indicates the inspection occurred more than 12 months prior

to current date, the city shall notify the holder of a taxicab endorsement to complete an inspection showing compliance with the standards of this Chapter and deliver the record to the city within 24 hours of the oral or written request.

- D. Failure to timely produce a satisfactory record of inspection shall be grounds to deny, suspend, or revoke a taxicab endorsement and also constitutes a violation of this Chapter subject to enforcement under 4.15.180.
- E. A taxicab endorsement holder who permanently retires any taxicab from taxicab service must notify the Police Chief within 15 days from the date the taxicab is retired from service.

4.15.080 Taxicab Maintenance

Every vehicle operating under this Chapter is to be kept in a clean, sanitary, and good operational condition.

4.15.090 Operating Regulations

- A. Unless otherwise directed by the passenger, any taxicab driver hired to transport passengers to a definite point shall use the most direct route possible that will carry the passenger to that destination safely and expeditiously.
- B. Every driver, if requested, shall give a correct receipt upon payment of the correct fare.
- C. No person may refuse to pay a lawful taxicab fare after hiring a taxicab.
- D. Whenever a passenger occupies a taxicab, the driver must not permit any other person to occupy the taxicab except with consent of the original passenger.

4.15.100 Equipment

Every taxicab is to be equipped with the following:

- A. Except for taxicabs charging flat rates, a taximeter in accurate operating condition with a lighted face which can be read at all times by the customer. Taxicabs charging flat rates must be equipped with a sign complying with 4.15.120 stating "Flat Rate" conspicuous to a passenger upon entering the taxicab.
- B. A top light identifying it as a taxicab.
- C. The company name and telephone number where service can be requested displayed on the exterior of the vehicle.
- D. A mobile communication device with a hands-free accessory or state of the art taxi radio on a clear coordinated taxicab radio frequency for customer comfort and rapid dispatching of calls for service.

- E. The driver's approved city taxicab driver permit conspicuously displayed in a permanent mounted position inside the vehicle in a place where it can be easily viewed by a passenger.

4.15.110 Taxicab Driver Permit Required

It is unlawful for any person to operate a taxicab in the city unless the person has been issued a taxicab driver permit by the Police Chief in accordance with the terms of this Chapter.

- A. Application for a Taxicab Driver Permit. A person may apply for a taxicab driver permit by submitting a completed application to the Police Chief accompanied by the payment of a fee established by City Council resolution. The application must include the name, address, age, and Oregon driver's license number of the applicant and the following items attached to the application:
 - 1. Copy of driver license;
 - 2. Two (2) passport sized copies of a recent photograph of the applicant;
 - 3. FBI "Applicant" fingerprint card (not required for renewal or Temporary Driver's Permit application);
 - 4. Check payable to the Oregon State Police, at current rate (not required for renewal or Temporary Driver's Permit application);
 - 5. Copy of receipt from the city Finance Department.
- B. Upon receipt of a taxicab driver permit application, the Police Chief shall be responsible for investigating the applicant's background as necessary to verify compliance with subsection C. of this section, including initiating a criminal background check.
- C. The Police Chief shall not issue a taxicab driver permit unless the following applicant information has verified:
 - 1. Is 21 or more years of age;
 - 2. Possesses a valid Oregon driver's license;
 - 3. Has not had a driver's license revoked or suspended by any state within the last five years;
 - 4. Did not make any false statements in the application;

5. Has been investigated by the Police Chief which has verified the applicant's background is satisfactory.
 - a. In conducting the investigation of the applicant, the Police Chief shall verify that the applicant has not been convicted of any felony or misdemeanor involving a crime against persons as defined in ORS Chapter 163, including but not limited to homicide, manslaughter, assault, kidnapping, sexual offenses, harassment and stalking; or any violation of the Oregon Vehicle Code defined as a felony or misdemeanor, including driving under the influence of intoxicants as defined in ORS Chapter 813; or any misdemeanor involving theft or fraud.
 - b. Where the application or other information provided by the applicant indicates a conviction for violation of ORS Chapter 811 (Rules of the Road for Drivers), the Police Chief shall investigate the violation and determine whether the nature of the violation, when viewed in light of the circumstances of the violation and the city's duty to protect the public, is such that a reasonable person would believe the driver so convicted is an unacceptable risk to public safety. If the person making the investigation believes such a risk exists, and the applicant's background check is not satisfactory, and the Police Chief shall not issue a driver permit to the applicant.
 - c. The applicant does not owe the city any monies due to unpaid traffic fines, parking fines, or any other fee.
- D. If the Police Chief determines that the applicant meets the requirements of this Chapter, including paying any required fee, the Police Chief shall issue the taxicab driver permit.
- E. If the application is denied, or a driver permit is revoked or suspended by the Police Chief, the applicant may appeal the decision in writing to the City Manager within seven days of notice of the decision by the Police Chief. Within three days of a written appeal, the City Manager will set a time no later than seven days from the date of the written request to hear the appeal. Within three days after the hearing, the City Manager shall issue a decision either affirming the Police Chief's decision or taking other action including remanding the application to the Police Chief to issue the permit based on the information presented. The City Manager's decision is not subject to appeal.
- F. All taxicab driver permits expire on June 30 of each calendar year, and may be renewed from year to year upon application to the Police Chief. The fee for a renewal permit shall be set by resolution of the City Council.
- G. As a condition of licensing, a taxicab driver shall agree in writing to notify the Police Chief within ten days of conviction of any crime included in subsection (C)(5)(a) or (c) of this section.

4.15.120 Insurance Requirements

- A. No person may drive or operate, or cause to be driven or operated, any taxicab in the city unless the endorsement holder has on file with the Police Chief a certificate of insurance written by a responsible and solvent insurance carrier authorized to write insurance policies in Oregon, that it has issued to or for the benefit of the taxicab endorsement holder or taxicab driver a commercial auto liability policy which is in full force and effect, and designating in such policy the taxicabs which may be driven or operated and the drivers who may operate such taxicabs under this Chapter. These requirements are intended to insure the vehicle and its operation by the driver.
- B. The taxicab liability insurance policy shall insure the taxicab endorsement holder and any other person using or responsible for the use of any such taxicab against loss from the liability imposed upon such operation of such taxicab by law for injury to, or death of, any person, or damage to property growing out of the maintenance, operation or ownership of any taxicab, in the amount of \$1,000,000 combined single limit for bodily injury and property damage.
- C. The policy required in this section shall include a statement that the policy is not cancelable nor the coverage reducible except on 20 days' prior written notice to the Police Chief.
- D. The insurance minimum limits required by subsection (B) of this section apply when the city issues a new license, or reissues or renews a license.

4.15.130 Rates

- A. Except for a taxicab charging a flat rate, the rates to be charged to passengers are to be based on the following: the mileage from the point of origin to the point of destination by the more direct route, the time involved, and the number of passengers. Each taxicab must be equipped with a taximeter to compute the rate. In lieu of a computed rate, a flat rate may be charged.
- B. The rate schedule must be posted in each taxicab in a place where passengers may readily see the schedule. No taxicab may charge more than the posted rate.

4.15.140 Complaints

Taxicab endorsement holders shall maintain a record of all complaints received in writing or by telephone and shall keep posted in a conspicuous place in the passenger compartment of each taxicab a statement setting forth the address and telephone number of the owners to which complaints should be directed, and a notice that a record of all complaints shall be open to inspection and review by the city at any time on its request.

4.15.150 Taxicab Endorsement Application Requirements

- A. An application for a taxicab endorsement shall be filed with the Police Chief. The application must be verified under penalty of perjury and contain or be accompanied by the following information and documentation:
1. The name, business address, and residence address of the owner or person applying.
 2. The make, type, year of manufacture, and seating capacity of the vehicle(s) for which application for taxicab endorsement is made.
 3. A description of the proposed color scheme, insignia, trade style, or any other distinguishing characteristics of the proposed vehicle design.
 4. A statement whether the applicant or any officers of the applicant have been convicted of any felony, misdemeanor or violation of any municipal ordinance or state law, including non-moving traffic violations and parking offenses, the nature of the offense and the punishment or penalty assessed.
 5. A policy of insurance in the manner and form required under 4.15.110.
 6. Payment of a nonrefundable fee as provided by (B) of this section.
- B. The fee is to be set by resolution of the City Council. The resolution shall include an exception to the fee requirement, during the first calendar year or portion thereof in which these regulations apply, in response to a request from a person who has demonstrated current payment of a business license fee to the city. Such person shall be eligible to apply for a taxicab endorsement prior to June 30 of that year without payment of the fee as required in subsection (A) of this section.
- C. Before acting on any application for a taxicab endorsement, the Police Chief shall be responsible for conducting an investigation of the owner or applicant within 60 days from the date the application is filed, based on the following:
1. Copy of driver license;
 2. Two (2) passport sized copies of a recent photograph of the applicant;
 3. FBI "Applicant" fingerprint card (not required for renewal or Temporary Driver's Permit application);
 4. Check payable to the Oregon State Police, at current rate (not required for renewal or Temporary Driver's Permit application);
 5. Copy of receipt from the city Finance Department.
 6. The applicant does not owe the city any monies due to unpaid traffic fines, parking fines, or any other fee.

- D. If the Police Chief denies an application for a taxicab endorsement, or the taxicab endorsement is revoked or suspended by the Police Chief, the applicant may appeal the decision in writing to the City Manager within seven days of notice of the decision by the Police Chief. Within three days of a written appeal, the City Manager will set a time no later than seven days from the date of the written request to hear the appeal. Within three days after the hearing, the City Manager shall issue a decision either affirming the Police Chief's decision or taking other action including remanding the application to the Police Chief to issue the taxicab endorsement based on the information presented. The City Manager's decision is not subject to appeal.
- E. All taxicab endorsements expire on June 30 of each calendar year, and may be renewed from year to year upon application to the Police Chief. The fee for a taxicab endorsement renewal shall be set by resolution of the City Council.

4.15.160 Issuance of Taxicab Endorsement

The Police Chief will issue a taxicab endorsement to operate a taxicab if the applicant has met the requirements of this Chapter.

4.15.170 Indemnification

- A. Any recipient of a taxicab endorsement shall agree to pay all damages and penalties that the city may be legally be required to pay as a result of granting a taxicab endorsement and shall agree to defend and indemnify the city against all claims resulting from the granting of such a endorsement. These damages or penalties shall include, but not be limited to, damage arising out of the operation or maintenance of a taxicab as authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Chapter.
- B. The taxicab endorsement holder shall pay and, by its application and the granting of a taxicab endorsement to the business license, specifically agrees that it will pay all necessary and reasonable expenses incurred by the city in defending itself against all damages and penalties mentioned in subsection (A) of this section, including, but not limited to, reasonable attorney fees.

4.15.180 Reports to the Police Chief

- A. Every taxicab endorsement holder shall immediately report to the Police Chief, or his/her designee, as soon as any of the following events occur:
 - 1. The arrest or conviction for any criminal offense of any officer or principal managing employee of the taxicab endorsement holder involving the operation of the taxicab business;
 - 2. Any taxicab accident required to be reported to the state involving a vehicle driven for the taxicab taxicab endorsement holder;

3. The filing of a lawsuit against or on behalf of the taxicab endorsement holder related to the operation of the taxicab company;
 4. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the taxicab company;
 5. Lapse, cancellation, or reduction of coverage of any insurance policy the Police Chief relied on in issuing a taxicab endorsement or driver permit or renewal thereof.
 6. Any information required to be disclosed by subsection (B) of this section.
- B. Every taxicab driver shall report to the Police Chief, and to the taxicab endorsement holder for which he or she drives, the occurrence of the following:
1. Any arrest, charge, or conviction of the taxicab driver for any criminal offense, or any traffic violation, that occurs during, or arises out of, the taxicab driver's operation of a taxicab;
 2. Any arrest, charge, or conviction of the taxicab driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, traffic crimes, or any related offense;
 3. Any vehicle accident required to be reported to the state involving any taxicab operated by the taxicab driver;
 4. Any restriction, suspension or revocation of the taxicab driver's motor vehicle driver's license;

4.15.190 Violation - Enforcement

- A. A violation of any provision of this Chapter, including but not limited to operating a taxicab service from points originating within the city without holding a valid, approved taxicab endorsement, or operating a vehicle without a valid, approved driver permit, shall be enforced under Chapter 1.50.010 of the Newport Municipal Code.
- B. Each day's violation of a provision of this Chapter constitutes a separate offense.

4.15.200 Additional Remedies

Operating a taxi in violation of this Chapter is declared detrimental to the public health and safety and a nuisance as authorized by Chapter 8.10 of the Newport Municipal Code. As an alternative to any remedy provided for enforcement, the city may use the abatement procedures of Chapter 8.10 or institute injunctive or other appropriate proceedings to temporarily or permanently enjoin the operation of a taxi.

CHAPTER 4.15 TAXICABS

4.15.010 Definitions

The following definitions apply in this chapter.

Driver. Any person driving a taxicab for hire.

Operate. To own a taxicab business.

Person. An individual, corporation, partnership, company association or any other entity.

Taxicab. A vehicle hired with driver to transport passengers to a location specified by the passenger(s). Taxicab does not include a rental car with chauffeur that is rented for a specified period of time of at least two hours or a hotel courtesy vehicle that is used solely to transport guests or customers to or from the hotel.

4.15.020 Endorsed Business License and Permit Required

Except as otherwise set forth in this Chapter, no person shall operate any taxicab business nor solicit any rider for compensation including but not limited to donations and tips, within the city without a valid business license with taxicab endorsement. No person may drive a taxicab without a city taxicab driver's permit and a valid Oregon driver's license.

(Chapter 4.15.020 was revised by Ordinance No. 1997, adopted on January 19, 2010; effective January 19, 2010.)

4.15.025 Temporary Driver Permit

- A. Persons soliciting any rider for compensation including but not limited to donations and tips during an annual Seafood and Wine Festival will apply for a temporary permit under this Chapter. Applicants for a temporary permit shall be 21 years of age and provide the following information with an application:
1. A completed Temporary Driver Permit Application;
 2. Copy of driver's license;
 3. Two (2) copies of recent photograph of applicant;

4. Copy of \$25.00 fee receipt (paid to City of Newport);
5. Background check (criminal history; driving record, etc.);
6. The make, type, year of manufacturer, serial number, license plate number, and passenger seating capacity of the vehicle to be used;
7. A photograph of the sign which will appear on the applicant's vehicle used to solicit riders; and
8. Certificate of auto insurance with coverage limits of at least \$500,000.

(Chapter 4.15.025(A)(8.) was amended by Ordinance No. 1999, adopted on February 16, 2010; effective February 16, 2010.)

- B. The Newport Police Department will complete an investigation of the applicant and return a recommendation for approval or denial of the temporary permit to the city manager within ten (10) days of receipt of a completed application. The city manager or his/her designee will approve or deny a temporary permit application and notify an individual of such decision within five (5) days of receipt from the Newport Police Department. The city manager or his/her designee has complete discretion to approve or deny a temporary permit. This decision is not subject to appeal.
- C. If the city manager or his/her designee approves the temporary permit application, the successful applicant will:
 1. Display a copy of the temporary permit in the vehicle included in the permit. The permit may not be used or displayed in any vehicle not included in the permit.
 2. Maintain the vehicle included in the permit in clean and sanitary condition and in good repair.
 3. Report to the Newport Police Department within 24 hours after discovery of any property of value left in the vehicle by any passenger if the driver has not been able to return the property to the passenger or received instructions from the passenger for the return of the item. Property of value includes but is not limited to personal identification, bank cards, and cash.

- D. A temporary permit provided under this section will be effective only for the Seafood and Wine Festival for the particular year of the permit application from 12:00 P.M. on the first day of the Festival and ending at 12:00 A.M. immediately following the last day of the Festival.

(Chapter 4.15.025 added by Ordinance No. 1997, adopted January 19, 2010; effective January 19, 2010.)

4.15.030 Business License Taxicab Endorsement

- A. Persons seeking to operate a taxicab business in the city shall apply for a business license with a taxicab endorsement. In addition to the information required for all business licenses, applicants for a taxicab endorsement shall provide the following additional information:
1. The application must list every person with an ownership interest in the taxicab business as an applicant. If the business has a manager who is not an owner, the manager must also be listed as an applicant.
 2. The record of conviction of felonies, misdemeanors, and major traffic violations of all applicants, including any officer, partner, shareholder, manager or member of any applicant that is an entity.
 3. The make, type, year of manufacturer, serial number, license plate number and passenger seating capacity of the taxicabs to be included in the certificate.
 4. A description of the color scheme, insignia, or other identifying design which will appear on the applicant's taxicabs.
 5. The name or names of all taxicab drivers who are expected to drive taxicabs for the taxicab business. The drivers must hold or must contemporaneously apply for a taxicab driver's permit. Nothing in this section prohibits the taxicab business operator from using other permitted taxicab drivers.
 6. A list of proposed fares.
 7. The applicant's website address or a statement that the applicant does not have a website and agrees to pay the city to post its rates on the city's website.

8. Proof of liability insurance covering personal injury and property damage, with coverage limits of at least \$1,000,000.00, naming the city as an additional insured.
- B. The Council by resolution will set the amount for an application fee for a taxicab endorsement or renewal, in addition to the amount of the business license tax. If no greater fee has been adopted by resolution, the application/renewal fee for a taxicab endorsement shall be \$100.00. In addition, if the endorsement is approved, the endorsement holder shall pay an additional business license tax of \$50.00 per fiscal year per taxicab, and shall pay a deposit with the application equal to the additional business license tax.

4.15.040 Action on Application

- A. Within 30 days after the application is filed, the city manager shall complete an investigation of the applicant and shall submit to the Council a recommendation for the allowance or denial of the application for the taxicab endorsement. The Council shall conduct a public hearing to decide whether to grant the endorsement. The city shall provide written notice of the date, time, and place of the public hearing to the applicant and existing endorsement holders and shall publish notice of the hearing at the applicant's expense in a newspaper of general circulation within the city at least ten days prior to the public hearing.
- B. The Council shall grant the endorsement if it determines that all of the following criteria are met:
1. The financial responsibility, experience, and ability of the applicant, including owners and managers, are such that the applicant can be trusted with the safe care and custody of passengers.
 2. The proposed exterior color scheme, insignia or other identifying design does not imitate or conflict with any color scheme, insignia or other identifying design used on taxicabs already operating in the city in such a manner as to be misleading to the general public.
 3. The applicant has available a place of business, including a dispatch office, at a location within an

appropriate land use zone.

4. The taxicabs proposed for use are suitable and safe for use as taxicabs. The endorsement may include fewer taxicabs than applied for if the Council determines that any of the proposed taxicabs are unsuitable or unsafe for use as taxicabs.
5. One or more licensed taxicab drivers are available to drive the taxicabs.
6. The applicant has property damage and personal injury insurance coverage in the amount of at least \$1,000,000.00, naming the city as an additional insured.

In considering the experience of the applicant, the city shall consider any history of criminal or traffic offenses.

- C. A taxicab endorsement is not transferable. Any change in ownership of an applicant that is an entity is a transfer in ownership. A new taxicab endorsement must be applied for if any ownership interest is changed. If an individual owner or part-owner dies or becomes incapacitated, the certificate shall remain in effect for up to 90 days to allow time for an application for an endorsement by a new person or entity.

4.15.050 Driver's Permits

- A. A person desiring a permit to drive a taxicab shall submit an application for a permit on a city form that shall require the following information:
 1. The name, address, phone number and driver's license number of the applicant.
 2. A complete record of any criminal or traffic convictions and citations.
 3. A recent photograph of the applicant.
 4. Any work experience as a taxicab driver.
 5. Applicant's fingerprints, plus payment of a fingerprinting fee to be set by Council resolution. If no greater fee has been established by Council

resolution, the fee shall be \$75.00.

- B. The application shall include the application fee set by Council by resolution. If no fee has been established by resolution, the fee shall be \$25.00.
- C. The license shall be issued unless the city determines:
 - 1. The applicant has been convicted of a felony;
 - 2. The applicant has been convicted of a misdemeanor involving moral turpitude or a major traffic violation within the five years immediately preceding the application;
 - 3. The applicant has had an unacceptable number of minor traffic violations within the preceding five years;
 - 4. The applicant is otherwise unfit to be entrusted with the safe care and custody of passengers.
- D. A denial of an application for a taxicab driver's permit may be appealed by filing a written appeal within 10 days of the decision denying the decision. The Council shall hold a public hearing to consider whether the permit should be issued.

4.15.060 Revocation

If the city manager determines that grounds exist for revocation of a taxicab endorsement or a taxicab driver's permit, the manager shall schedule a public hearing before the City Council. The endorsement or permit holder shall be provided with written notice of the hearing at least 10 days before the hearing.

Grounds for revocation of endorsements and permits include:

- A. The holder has knowingly submitted a false application or application for renewal.
- B. The taxi meter, tires, odometer or any other part of the taxicab affecting the meter which determines the amount to be charged to the customer have been intentionally adjusted or tampered with, by or with the knowledge of the holder of the endorsement or permit, so that the amount payable is in excess of the published fare.

- C. The holder of a taxicab endorsement has allowed a taxicab to be driven for hire by a driver not having a valid taxicab driver's permit or has used a taxicab that has not been approved by the city.
- D. The holder has consistently failed to maintain standards in the operation of the taxicab business or as a taxicab driver as required under this chapter.
- E. The holder has committed a material violation of the terms and provisions of this chapter.
- F. The holder no longer meets the qualifications for approval of the endorsement or permit.

4.15.070 Renewal

- A. For the fiscal year beginning July 1, 2008, taxicab endorsements and taxicab driver's permits shall be for a valid for the period from July 1 of any year through June 30 of the following year (the period between July 1 and June 30 is a "fiscal year"). Taxicab business certificates and taxicab drivers permits issued for the 2007 calendar year shall remain effective through June 30, 2008, unless revoked. An endorsement or permit issued during a fiscal year shall be valid for the remainder of the fiscal year. Endorsements and permits shall be renewed annually if requested unless the city schedules a Council hearing on the renewal. The hearing on the renewal shall be during the month of June. A hearing shall be scheduled if the city receives objections to the renewal at least 30 days prior to the renewal or if the city manager determines that the approval criteria are no longer satisfied. A hearing on renewal may be scheduled in other circumstances at the discretion of the city manager.
- B. An endorsement or permit holder wishing to renew shall submit a renewal application on a city form at least 60 days prior to the expiration of the endorsement or permit, together with the annual fee.

4.15.080 Amendment of Endorsement

A taxicab endorsement may be amended at any time to delete or add one or more taxicabs from the business. Amendments to delete a taxicab shall be effective on filing of

notice of the deletion with the city. An amendment to add taxicabs shall be applied for on a city form, and the city manager shall approve or deny the amendment within 10 days of the application.

4.15.090 Display of Endorsement and Permit

- A. A copy of the business license with taxicab endorsement shall be displayed in each vehicle included in the endorsement and may not be displayed in any vehicle not included in the endorsement.
- B. A copy of the taxicab driver's permit of the driver of the taxicab shall be displayed in the taxicab.

4.15.100 Rates

- A. The holder of a taxicab endorsement shall file a list of all rates with the city recorder, and shall maintain the list of rates in each taxicab operated by the holder, at the holder's main place of business, and on the holder's website. Any change of rates shall be filed with the city recorder and shall not be effective until seven days after filing or the date specified in the filing, whichever occurs later.
- B. It is a violation to charge a customer or passenger a rate in excess of the rate on the rate list. In the event that different rates are listed on different rate sheets, the applicable rate shall be the lowest rate of the rates shown on the following:
 - 1. The rate list filed with the city recorder.
 - 2. The rate list in the taxicab providing the service.
 - 3. The rate list at the certificate holder's main place of business.
 - 4. The rate list on the holder's website.
- C. If the taxicab business does not have a website, the taxicab business shall pay the city an amount to be set by Council resolution so that the rate list can be posted on the city website. Until the amount is set by resolution the amount shall be \$25.00.

4.15.110 Reporting Lost Articles

The taxicab driver shall notify the Newport Police Department within 24 hours after discovery of any property of value left in the taxicab by any passenger if the driver has not been able to return the property to the passenger or received instructions from the passenger for the return of the item. Property of value includes but is not limited to personal identification, bank cards, and cash.

4.15.120 Taxicabs to Be Kept Clean and Maintained

All taxicabs shall be kept in a clean and sanitary condition and shall be maintained in good repair.

4.15.130 Fees

The fees authorized by this chapter are to be set in an amount to cover all of the city's costs of administering this chapter and an additional amount to compensate the city for the use of rights of way.

4.15.140 Violation

- A. A violation of any provision of this chapter is a civil infraction subject to a maximum penalty of \$1,000.00. Violations of separate provisions are separate offenses, and each day that a violation occurs or continues is a separate offense.
- B. The remedy set forth in this section is in addition to any other remedy available to the city, and all remedies and penalties are cumulative.

(Chapter 4.15 adopted by Ordinance No. 1935 on September 4, 2007; effective October 4, 2007)