



AGENDA and Notice of Special Meeting of the Newport City Council

The City Council of the City of Newport will hold a Special Meeting on Tuesday, December 22, 2015, at 12 P.M., in Conference Room A at City Hall, 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

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

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

City Council Special Meeting Tuesday, December 22, 2015 – 12 P.M. Conference Room A

- I. Call to Order**
- II. Public Comment**
This is an additional opportunity for members of the audience to provide public comment. Comments will be limited to five (5) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.
- III. Declaration of Local Emergency**
- IV. Adjournment**



Agenda Item: **Declaration of Local Emergency**

Background:

As you are aware the City of Newport has received significant rain/precipitation with various wind events during the past two weeks. According to the Oregon State University Hatfield Marine Science Center the total rainfall for December so far is 22.05 inches. This is already nearly double the monthly norm with 10 days to go in December. The city has experienced a series of property losses due to the unusually weather conditions. This included damage or loss to five home on SE 70th Drive, a major slide at the Municipal Airport near the terminal apron area, damage and settlement to a number of streets, of a more minor nature, storm sewer damage near Government Street, significant overflow situations at various lift stations throughout the community with pump failures occurring at two of the lift stations resulting from continued high water and debris being flush down the sanitary sewer system, broken water main from shifting soils, limited flooding and other similar damages due to weather events.

Under Section 1.70 of the Newport Municipal Code, an emergency situation exists when the health safety or welfare of the city or a portion of the city is threatened by a potential or actual natural disaster, accident, act of war or terrorism, disease, or other event or ongoing occurrence that results in an immediate and substantial threat to life, health, or property.

Under Section 1.70.030, the city manager may declare a temporary emergency when faced with a sudden event that results in an emergency under Section 1.70.010. A meeting is then scheduled with the City Council following that declaration. Once the Council meets the Council can either declare an emergency or the temporary emergency designation declared by the City Manager will end. In the State of Oregon under ORS 401.165, the Governor may declare a state of emergency by proclamation at the request of a county governing body after determining that an emergency has occur or is eminent. Please note that under this provision, "cities must submit request through the governing body of the county in which the majority of the city's property is located." Yesterday, the Lincoln County Board of Commissioners formally declared an emergency resulting from conditions that began December 7, 2015, that continue as a single event. The County resolution is significant in that the declaration made earlier by the Governor ended before this more recent round of damage occurred. In order for the State to seek a federal declaration, sufficient aggregated damage amounts, both public and private, need to be obtained. It is my belief that the city action to formally declare an emergency will complement the efforts taken by Lincoln County to this end.

Furthermore, we are very concerned with the current level of saturation soils that exists. The impact of even a minor amount of additional rainfall could cause additional significant events with city infrastructure and with private property to occur in the City of Newport.

To date there have been two expenditures that have be made in order to address issues. One was for contracting equipment and manpower to haul concrete rubble to fill a significant slide area at the airport. The second issue is the procurement of new pumps for two of our lift stations where pumps are failing under the extreme conditions. Under the terms of the Council declaration we will continue to update the Council on any exceptions to normal procurement or budgeting practices as they occur in responds to this emergency. It is all our hope that the significant weather will curtail and that we will not see any other significant occurrences in the next few weeks. I think it is prudent to be prepared in the event that additional major problems happen in the community.

Recommended Action:

I recommend the City Council consider the following motion:

I move adoption of Resolution No. 3738, a resolution declaring an emergency in the City of Newport.

Fiscal Effects:

Additional resources have been spent responding to various aspects of the emergency. In addition equipment and manpower were procured to address a major slide at the airport and pumps have been order for two lift stations under the temporary emergency declaration by the City Manager.

Alternatives:

Do not declare an emergency at this time. Since the City of Newport is specifically included in the Lincoln County declaration it may not be necessary for the city to declare its own emergency for inclusion in preparation of a potential federal declaration which would provide funding back to the city for various losses incurred from this ongoing weather event. Furthermore, temporary emergencies could be declared for other issues that come up in responses to weather conditions in the next couple of weeks. It is my belief that the city would be better served by the Council declaring an emergency at this time.

Respectfully submitted,



Spencer R. Nebel
City Manager

CITY OF NEWPORT

RESOLUTION NO. 3738
DECLARATION OF AN EMERGENCY

WHEREAS, beginning on December 7, 2015 and continuing to this date, rain has saturated the Oregon Coast, including the City of Newport, in anticipated record amounts in both duration and intensity and when coupled with periodic high winds, has caused damage to homes, roads and public works facilities through sinkholes, landslides, local flooding, and overflowing and damaged public utilities; and

WHEREAS, a number of people have been evacuated from their homes and property and have suffered property damage, and conditions continue to remain unstable with continued forecast of rain and wind; and

WHEREAS, the initial damages and impacts include considerable overtime work by public entities responding to emergencies, repairs to roads, public utilities and facilities, and private homes and property damaged by slides, and sinkholes; and

WHEREAS, the city has committed public resources including public safety and public works department crews and contracted service to address landslides, sanity sewer system, storm system and other impacts on infrastructure and with additional precipitation, the impact of previous and additional forecasted precipitation will likely continue to damage public and private property; and

WHEREAS, under chapter 1.70 of the Newport Municipal Code, an emergency situation exists when the health safety or welfare of the city or a portion of the city is threatened by a potential or actual natural disaster, accident, act of war or terrorism, disease, or other event or ongoing occurrence that results in an immediate and substantial threat to life, health, or property; and

WHEREAS, on December 18, 2015, the City Manager declared an emergency dealing with various weather related events that have occurred since December 7, 2015, including slides, road damage, sewer damage, destruction of private property; and

WHEREAS, this declaration of emergency is temporary until the City Council reviews and acts upon the declaration; and

WHEREAS, the City Manager recommends the City Council consider declaring an emergency for the city to be able to address damage that has occurred and to respond to the threat of additional occurrence that are likely with the current weather pattern continuing into the future.

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. In accordance with Chapter 1.70 of the City of Newport Municipal Code the City Council determines that since December 7, 2015, the City of Newport has been impacted by a natural disaster resulting from excessive rainfalls which have led to slides, road damage, damage to the sanity sewer system, damage to the storm sewer system, damage to the water system, and other public infrastructure within the City of Newport as well as to private property with the loss and damage to seven houses located within the City of Newport. Furthermore the Council determines that the potential for additional damage is significant should the weather pattern of the past two weeks continue as forecasted.

Section 2. The City Council requests that the governor declare an emergency in the City of Newport, Lincoln County and other areas in the State of Oregon beginning December 7, 2015, and continuing through the end of the record rainy cycle being experienced in sections of Oregon.

Section 3. In accordance with ORS 401.165 the City Council formally submits this request through the Lincoln County Board of Commissioners to the Governor to facilitate the assessment of public and private damages to include in a federal emergency declaration request and to provide necessary state resources to address continued clean-up, recovering, and mitigation of this event.

Section 4. The City Council authorizes the City Manager or the Manager's Designee to take necessary action as provided in Section 1.70.020 of the City Code with reports being provided back to the City Council at each subsequent City Council meeting as to resources utilized to address the emergency situations existing in the City of Newport and any specific actions to the in accordance with the declaration.

Section 5. This Emergency Declaration will continue through January 18th unless extended or terminated earlier by the City Council.

Adopted by the City Council of the City of Newport on December 22, 2015.

Sandra N. Roumagoux, Mayor

ATTEST:

Cynthia Breves for Margaret M. Hawker, City Recorder

DECLARATION OF AN EMERGENCY

Findings:

1. Chapter 1.70.010 of the Newport Municipal Code reads, "An emergency situation exists when the health, safety, or welfare of the city or a portion of the city is threatened by a potential or actual natural disaster, accident, act of war or terrorism, disease, or other event or ongoing occurrence that results in an immediate and substantial threat to life, health, or property. The city may declare an emergency following the procedures of Chapter 1.70.030 of the Newport Municipal Code when an emergency situation exists."
2. In accordance with Chapter 1.70 of the Newport Municipal Code, the City Manager may declare a temporary emergency when faced with a sudden event that results in an emergency under Chapter 1.70.070 of the Newport Municipal Code. At the time of declaring a temporary emergency, the City Manager shall schedule a meeting of the Council to be held as soon as possible. The temporary emergency declaration shall remain in effect only through the end of the Council meeting.
3. The City Manager or designee must declare the existence of an emergency, which pursuant to Chapter 1.70.020(B) shall authorize the city to take any of the following necessary actions during the emergency:
 - A. Procure goods and services without compliance with normal procurement procedures.
 - B. Use any available city funds for emergency purposes.
 - C. Close or limit the use of streets and other public places.
 - D. Order and assist the evacuation of people to protect safety or health.
 - E. Turn off water, gas, or electricity.
 - F. Control, restrict, and/or regulate the sale of goods and services, including the imposition of price controls.

IT IS RESOLVED:

Various weather related events including slides, roads damage, sewer damage, destruction of private property has been occurring and continues to occur since December 7, 2015.

The City Manager hereby declares an emergency through the end of a future City Council meeting, and will take necessary actions to preserve the health and safety of the citizens of Newport.


Spencer R. Nebel, City Manager

12-18-15
Date

BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

In the Matter of Declaring)
A State of Emergency within)
Lincoln County)

RESOLUTION # 15-21-12

DECLARATION OF STATE OF EMERGENCY

This matter came before the Board of Commissioners at a special meeting on December 21, 2015 involving an emergency situation created by severe and prolonged winter rain and wind storms during the month of December, 2015 which is threatening life and property; and

WHEREAS, beginning on December 7, 2015 and continuing to today, rain has saturated the Oregon Coast, including Lincoln County, in anticipated record amounts in both duration and intensity and when coupled with periodic high winds, has caused countywide damage to homes, roads and public works facilities through sinkholes, landslides, flooding, and overflowing and damaged public utilities; and

WHEREAS the weather events have struck the entirety of Lincoln County; and

WHEREAS, a number of people have been evacuated from their homes and property and have suffered property damage, and conditions continue to remain unstable caused by continuing rain and wind; and

WHEREAS, the initial damages and impacts include considerable overtime work by public entities responding to emergencies, likely replacement and repair of numerous roads, culverts, public utilities and facilities, and private homes and property damaged by slides, sinkholes, and flooding; and

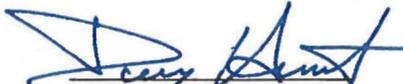
WHEREAS, the following actions have been taken and resources have been committed by the County including commitment of public works crews and resources to clean landslides and halt traffic on dangerous roads, and emergency services staff to provide assistance to the City of

Newport, Lincoln City, the City of Yachats, the City of Siletz and the City of Waldport and several special districts (water and road) with sinkholes, slides, road and utility emergencies in each of those communities and within unincorporated areas of the County. There are still reports coming in from public entities and private parties with additional damages;

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners, under the emergency powers granted by ORS 401.305, declares that a State of Emergency exists within Lincoln County. Further, Lincoln County's Emergency Services is hereby directed to take all necessary steps authorized by law to secure the persons and property of the citizens of Lincoln County. Under ORS 401.165 State assistance is requested immediately and includes the following:

- Declare an emergency in Lincoln County and other areas in the State of Oregon beginning December 7, 2015 and continuing through today as a single event.
- Facilitate our assessment of the public and private damages to include in a federal emergency declaration request.
- Make available, as needed and requested, state resources to the County, Cities, Special Districts (and if needed Tribes) to address continuing clean up, recovery and mitigation of this event.

LINCOLN COUNTY BOARD OF COMMISSIONERS


County Chair


Commissioner

EXCUSED
Commissioner



Newport, OR Weather

10:00 am PST

10-Day Forecast

Expand Daily Details ↓

DAY	HIGH/LOW	COND	PRECIP	WIND	HUMIDITY
TODAY Dec 22	48° / 42°	Rain/Wind	80%	WSW 23 mph	85%
WED Dec 23	46° / 38°	Rain/Wind	80%	W 23 mph	75%
THU Dec 24	44° / 38°	Rain	80%	WNW 11 mph	79%
FRI Dec 25	46° / 35°	AM Showers	60%	NNW 7 mph	74%
SAT Dec 26	46° / 38°	AM Clouds/PM Sun	0%	ESE 9 mph	71%
SUN Dec 27	46° / 42°	PM Showers	30%	SSE 15 mph	73%
MON Dec 28	49° / 43°	Rain	80%	SSW 8 mph	83%
TUE Dec 29	49° / 43°	Rain	60%	S 13 mph	84%
WED Dec 30	50° / 40°	AM Showers	60%	SSE 12 mph	83%
THU Dec 31	48° / 41°	Mostly Sunny	20%	SSE 10 mph	87%
FRI Jan 1	51° / 40°	Showers	60%	SSE 12 mph	83%
SAT Jan 2	50° / 41°	Partly Cloudy	20%	SSE 12 mph	80%
SUN Jan 3	49° / 41°	Showers	60%	SSE 11 mph	79%
MON Jan 4	51° / 40°	Few Showers	30%	SSE 11 mph	82%
TUE Jan 5	51° / 40°	Showers	60%	SE 11 mph	81%

 <p>Current Weather Conditions 08:35 PST December 22, 2015 New: Plot Page</p>				<p>Webcam at HMSC</p>  <p>Click on picture for larger view</p>				<p>Useful Links:</p> <ul style="list-style-type: none"> Newport Forecast Yaquina Bay Tides Weather Links Satellite Photos Web Cameras 			
<p>Current Conditions for 5 minute period ending 08:35 PST</p>				<p>Daily Min., Max, and Total</p>							
Wind (mph)	Speed	Direction	Gust	Max Speed	Time of Max	Max Gust	Time of Max				
	4.0	NE (49)	4.6	12.4	02:05	18.3	02:05				
Temperature (F)	(F)	Dew Point	Wind Chill	Max	Time of Max	Min	Time of Min				
	44.5	43.2	42.5	49.5	01:45	43.9	06:45				
Atmospheric Pressure	HG	mb	1-Hour Tendency (mb)	Max	Time of Max	Min	Time of Min				
	29.61	1002.7	0.0	29.61	06:45	29.57	00:10				
Relative Humidity	RH (%)		-	RH Max	Time of Max	RH Min	Time of Min				
	95.1		-	96.6	07:10	69.7	01:45				
Precipitation (in)	Last 5 Min.	Last Hour	Since Midnight	Yesterday	This Month	Monthly Norm	This Year				
	0.01	0.01	0.01	1.30	22.05	11.36	63.95				

[[Data for Current Month](#)] [[Data Archives](#)] [[Daily Summary](#)] [[Past Daily Summaries](#)] [[HMSC](#)] [[OSU](#)] [[Instrumentation](#)]

CHAPTER 1.70 EMERGENCIES

1.70.010 Emergency Situation and Declaration

An emergency situation exists when the health, safety or welfare of the city or a portion of the city is threatened by a potential or actual natural disaster, accident, act of war or terrorism, disease, or other event or ongoing occurrence that results in an immediate and substantial threat to life, health or property. The city may declare an emergency following the procedures of Section 1.70.030 when an emergency situation exists.

1.70.020 Effect of Emergency Declaration

- A. On declaration of an emergency, the city shall have all powers not prohibited by federal and state constitutions and laws, including any powers authorized in emergency situations. The powers of the city shall be exercised by the emergency response coordinator. The emergency response coordinator shall be the city manager or other person designated in the emergency declaration. Notwithstanding the delegation of powers to the emergency response coordinator under this section, the City Council will remain the governing body of the city and the emergency response coordinator shall remain subject to Council direction and control.
- B. Notwithstanding any other provision of law, the city may take the following actions during an emergency:
1. Procure goods and services without compliance with normal procurement procedures.
 2. Use any available city funds for emergency purposes.
 3. Close or limit the use of streets and other public places.
 4. Order and assist the evacuation of people to protect safety or health.
 5. Turn off water, gas, or electricity.
 6. Control, restrict, and/or regulate the sale of goods and services, including the imposition of price controls.

- C. In the event of an emergency, the city will continue to provide government services to the extent reasonably practical under the circumstances. City employees are expected to report to work if possible and may be re-assigned to other than their normal job responsibilities in order to provide essential services.

1.70.030 Emergency Declaration

- A. The city manager may declare a temporary emergency when faced with a sudden event that results in an emergency under Section 1.70.010. At the time of declaring a temporary emergency, the city manager shall schedule a meeting of the Council to be held as soon as possible. The temporary emergency declaration shall remain in effect only through the end of the Council meeting.
- B. In the event that a quorum of the Council cannot meet because of an emergency, a majority of Council members who are able to participate in a meeting in person or electronically may declare an emergency. Any declaration under these circumstances shall be reconsidered by a quorum of the Council when a quorum can be assembled.
- C. The City Council may by motion or resolution declare an emergency in an emergency, special, or regular Council meeting.

1.70.040 Limited Emergencies

- A. The city may include an emergency clause in an ordinance to allow the ordinance to take effect immediately. An emergency clause in an ordinance does not have the effect of an emergency declaration under Section 1.70.020.
- B. Some emergencies may be limited in effect. Examples of limited emergencies include a landslide that affects only one area or a water shortage that affects only water supply and usage. The emergency declaration for a limited emergency shall give the emergency response coordinator only the powers that are necessary to deal with the limited emergency.

(Chapter 1.70 adopted by Ordinance No. 1944 on January 7, 2008; effective February 6, 2008)

2013 ORS § 401.165¹

Declaration of state of emergency

- procedures

- (1) The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent.
- (2) All requests by a county governing body that the Governor declare an emergency shall be sent to the Office of Emergency Management. Cities must submit requests through the governing body of the county in which the majority of the city's property is located. Requests from counties shall be in writing and include the following:
 - (a) A certification signed by the county governing body that all local resources have been expended; **and**
 - (b) A preliminary assessment of property damage or loss, injuries and deaths.
- (3)
 - (a) If, in the judgment of the Adjutant General, the Governor cannot be reached by available communications facilities in time to respond appropriately to an emergency, the Adjutant General shall notify the Secretary of State or, if the Secretary of State is not available, the State Treasurer that the Governor is not available.
 - (b) After notice from the Adjutant General that the Governor is not available, the elected state official so notified may declare a state of emergency pursuant to the provisions of subsections (1) and (2) of this section.
 - (c) If the Adjutant General is unavailable to carry out the duties described in this subsection, such duties shall be performed by the Director of the Office of Emergency Management.
- (4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to this section has the same force and effect as if issued by the Governor, except that it must be affirmed by the Governor as soon as the Governor is reached. However, if the Governor does not set aside the proclamation within 24 hours of being reached, the proclamation shall be considered affirmed by the Governor.
- (5)

Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

- (6) The governing body of each county shall establish a procedure for receiving, processing and transmitting to the Office of Emergency Management, in a timely manner, a request submitted by a city that the Governor declare an emergency. [Formerly 401.055]

...

Chapter 401

Law Review Citations

54 OLR 677 (1975)

Related Statutes³

- 30.269
Limitations on awards under Oregon Tort Claims Act generally
- 30.788
Liability of architect, engineer, inspector or building evaluator for emergency relief services
- 401.109
Oregon Homeland Security Council
- 401.175
Additional powers during emergency
- 401.186
Waiver of waiting period for unemployment benefits
- 401.192
Effect of rules and orders during emergency
- 401.198
Seizure of firearms during emergency
- 401.236
Rules

- 401.309
Declaration of state of emergency by city or county
- 401.655
Practice by out-of-state health care provider during emergency
- 401.656
Provision of health care services by members of Oregon National Guard during emergency
- 401.657
Emergency health care facility
- 401.658
Provision of health care services by former health care provider during emergency
- 401.661
Provision of health care services after declaration of emergency
- 401.667
Coverage under Oregon Tort Claims Act
- 401.965
Abnormal disruption of market
- 433.441
Proclamation of public health emergency
- 433.443
Authority of Public Health Director during public health emergency
- 433.448
Use of immunization registry and tracking and recall system during state of public health emergency
- 454.745
Permit, service, report, variance and license fees
- 496.246
Use of public lands for hunting
- 676.586
Office responsibilities
- 731.870
State of emergency

- 823.012
Suspension of laws during emergency
- 837.335
Search and rescue

¹ Legislative Counsel Committee, *CHAPTER 401—Emergency Management and Services*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors401.html (2013) (last accessed Apr. 27, 2014).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2013, Chapter 401*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ano401.html (2013) (last accessed Apr. 27, 2014).

³ OregonLaws.org assembles these lists by analyzing references between Sections. Each listed item refers back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

Currency Information

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2013 ORS § 401.305¹

Emergency management agency of city, county or tribal government

- emergency program manager
- coordination of emergency management functions

- (1) As used in this section, tribal government means a federally recognized sovereign tribal government operating within the borders of this state or an intertribal organization formed by two or more federally recognized sovereign tribal governments operating within this state.
- (2) Each county of this state shall, and each city or tribal government may, establish an emergency management agency that is directly responsible to the executive officer or governing body of the county, city or tribe.
- (3) The executive officer or governing body of each county, and any city or tribe that participates, shall appoint an emergency program manager who is responsible for the organization, administration and operation of the emergency management agency, subject to the direction and control of the county, city or tribe.
- (4) When a city or tribal government has an emergency management agency, the city or tribal government, as applicable, and the counties within which the city or tribal government operates shall jointly establish policies that:
 - (a) Provide direction and identify and define the purpose and roles of the individual emergency management programs;
 - (b) Specify the responsibilities of the emergency program managers and staff; **and**
 - (c) Establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions.
- (5) Each emergency management agency shall perform emergency program management functions within the territorial limits of the county, city or tribal government and may perform the functions outside the territorial limits as required under any mutual aid or cooperative assistance agreement or as