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## MEMO

DATE: November 10, 2022  
TO: Mayor and City Council  
FROM: Spencer Nebel, City Manager

SUBJECT: Status Report for the Four-week Period Ending Friday, October 28, 2022

It has been a busy, and at times chaotic, fall here in City Hall. The month started out with the League of Oregon Cities' (LOC) Annual Conference in Bend, with me taking time off to spend with my brother who drove from Michigan to spend a week with us. This follows a month when I was out of the office for a number of extended periods. It is good to settle back in to a routine after all the activities during the last couple of months.

### Highlights of activities over the four weeks include the following:

- Held a regular Department Head meeting.
- Participated with the City Council in a work session on October 3 to review revenue collection methods, and to discuss access for Police and Fire to various emergency caches, and an executive session on real property transactions.
- Participated in the regular October 3 City Council meeting.
- Participated in a regular Board meeting of the Oregon City County Management Association (OCCMA). This was done in conjunction with the LOC Annual Conference in Bend, Oregon. As part of that meeting, I participated in a joint dinner of the OCCMA Board, the Oregon Association of Mayors (OMA) Board, and the LOC Board.
- Mayor Sawyer, all members of Council, Special Projects Director, Peggy Hawker, Assistant City Manager/City Recorder, Erik Glover, and I participated in the 97<sup>th</sup> Annual League of Oregon Cities Annual Conference in Bend, Oregon. Activities during the Conference include the following:
  - Attended the OCCMA workshop which included three separate sessions on building relationships with a governing body, reimagining retention and recruitment, and discussing the City Manager's role in Police use-of-force incidents.

Building the Relationships with a Governing Body was coordinated by City Managers Eric King of Bend, and Erin Reynolds of Philomath. Bend has a New Councilors Resource page on their City website, which is available to all sitting Councilors, as well as candidates considering serving on the City

Council. They conduct elected officials' orientation. During COVID-19, some of these activities were restricted but they have resumed in-person meetings which helps build relationships among newly-elected individuals to Council. Bend has two standing committees of Councilors with one focusing on growth issues in Bend, and the second on intergovernmental relations.

Bend has a process for Councilors adding items to the agenda. Councilors are given an amount of time not to exceed 15 minutes, to present the agenda item to the Council at a work session. A majority may approve moving an item to an advisory committee, work session, or a regular meeting, if there is a consensus. If not, at the regular business meeting, a motion and vote can be requested by the Councilor to place an item on a future agenda.

Bend has also been streamlining their Council strategic planning process. Having 80 active issues is too much for staff and Council to manage. They are looking at narrowing these down to a much smaller group of Council priorities to make them achievable.

The City of Florence provides a training program for Council candidates (both incumbents and challengers). Part of this helps them understand how the Council operates, where to find things such as the budget and strategic plan, and a brief review of those documents. They also incorporate elected officials into various community events. It is important for the elected officials to engage with the community.

Florence has been using more consultants due to staffing vacancies they are experiencing. They have been frustrated by their ability to try to keep moving projects and efforts forward, in addition to the day-to-day work that the City is obligated to provide. One thing they have done is a department expo for Council and the community. This has been well-received with both Council and the community, with both getting a better idea of the specific projects and items that each of the departments are working on.

- The next session was called Reimagine Retention and Recruitment. Recruitment of employees can be impacted by an organization's lack of transparency, word-of-mouth opinions about the organization, lack of evident values for the organization, and other similar items. It is important to have an updated website that presents this information in a clear and concise manner. It is also helpful to have other employee experiences outlined on the site.

Job descriptions need to be clear, as well. Most job descriptions are written for defending future employee issues, rather than to promote a current position. Employers need to think about reducing education and other skills where these skills could be acquired, and looking for employers who are motivated to learn how to fill the requirements of the job. Looking at these

requirements is critical to attract good people to the jobs that are open based on today's labor market. Employees are also evaluating workplace culture when deciding about accepting a job. These things can include evident support of equity, inclusion, flexibility, the longevity of your employees' tenures, budget, training, and other employee development issues. In government work, it is important to evaluate how employees will relate with the public and each other, as much as their specific experience that qualifies them for the position. It is important in developing workplace culture to survey employees to understand where they are at in certain issues, provide training and experiences so employees understand how equity and inclusion benefits an organization, and have the values of the organization clearly available and evidence that the values are important for guiding the organization.

In retaining employees, having an effective performance management system is key. It is important to try to rid an organization of toxic employees. This can drive your good employees out of the organization. It is important that employees are engaged in innovation and training programs, see value beyond the paycheck, and see why they are members of the organization. Empowering employees to do their job is important to strengthen job satisfaction. Problem employees need to be addressed through a sound performance management system. For employees not performing, then performance improvement plans are very important.

Key problems in recruiting include the length of the process, utilization of old job descriptions, low pay, lack of a commitment to training, having a toxic workplace, and limited future career opportunities within the organization. It is also important to utilize various services such as Neogov (which we use) and social media opportunities such as LinkedIn and other sources to make people aware of the openings within the organization.

- **Manager's Role in Police Use-of-Force Incidents.** The presentation was made by former Woodburn Police Chief, Jim Ferraris, and focused on the role of the city manager when police shootings occur. A use of force/police shooting incident creates a significant level of work for the cities where an officer utilizes deadly force to address a policing issue. This will generate a lot of legal, liability, workers' comp, staffing, and other issues that need to be addressed. The City's insurer (CIS) needs to be notified immediately, as well as the worker's comp carrier and OSHA, if officers are injured. It is very meaningful for the manager to go to the hospital to visit an injured officer. The elected council members or manager should not talk about any of the details of the incident, but should focus sharing on the process utilized to investigate and evaluate the actions taken. Several "to do's" for the manager include: show up at the hospital, provide any injured officers support. Recognize this is a very emotional experience, showing emotions is appropriate. Having a public safety chaplain available, providing food and comfort to staff is also appropriate. It is also important not to do certain things as: make promises you cannot keep, insert yourself into the process,

tell Councilors things that you do not want to be circulated in the community, get too wrapped up in the reading details and stories of this matter, and avoid following social media to maintain mental sanity. If an issue becomes a potential criminal issue for involved officers, the Fraternal Order of Police (FOP) does provide legal support for those officers who are members.

- Participated in the annual membership meeting for OCCMA. I was asked to be the parliamentarian for the meeting. Fortunately, there were no procedural issues that I had to address.
- Participated in the session updating people on HB 4123. This Bill provides funding for pilot projects focusing on local coordination to tackle homelessness in rural areas of Oregon. Lincoln County is one of the eight projects that are named in this Bill. It should be noted that several of the counties were underway with regional initiatives at the time HB 4123 was passed. Lincoln County is currently catching up with several of the eight counties in the project. Tillamook County, neither the governmental entities or the non-profit sector, had the capacity to address things on a collective basis, even though there were several initiatives happening in various corners of the county. They had initiated a collective process prior to receiving the HB 4123 grant. They hope that this funding will help create that capacity, and collectively utilize the current services being provided in a more effective and efficient way to address the homelessness problem.

Deschutes County identified homelessness as their number one problem. They have seen a double digit increase in homelessness occurring, and realized that this issue was not just a city issue, but had to be regionally dealt with. They have created a website to collect information, <https://www.houselessindeschutes.org>.

The local governments in Deschutes County really had no knowledge of funding sources that were being used or available for addressing these issues since local government deals with infrastructure, parks, police and fire services in their community. One of the concepts they are trying, is referred to as the “15<sup>th</sup> night”. There is some research that has demonstrated that if you can provide some stability for chronically homeless individuals for 15 days, that often can be a turning point for those individuals.

Hood River, Wasco, and Sherman Counties, coordinated by the Mid-Columbia Community Action Council (MCCAC), received a \$35,000 grant that allowed them to start the pilot project. They are looking forward to finding sustainable funding to maintain programs is critical. Through the vision of the MCCAC, the Glory Center will centralize multiple non-profit and social service agencies in one building, allowing community members easy access to the services they need. Sheltered housing has been included in this Center as smaller villages sharing a central community garden. The Community Action Agency has been working collaboratively with local government to pull this project together. The project received a gift of 2.7 acres of land to create this center.

- Heard from keynote speaker Eric Klinenberg, author of “Palaces for the People: How Social Infrastructure Can Help Fight Inequality, Polarization, and the Decline of Civic Life.” He addressed how public investments on social infrastructure like Libraries, Parks, and Civic organizations provide places where connections are formed. These places help bring people physically together. They are alternatives to shopping, phones, and video games which socially isolates people. The value of these public spaces has been discounted in recent years. He used the example of investing billions of dollars across the country to create a place where people can gather and utilize services for free, as a concept that is would be difficult sell today. That is, however, exactly the concept that the United States and other countries implemented in the late 1800s, and through the turn of the century, in creating Libraries across the country where people could go, utilize books for free, and return those books when they were finished. Libraries provided a gathering place and provided information to the people. This concept drew the attention of philanthropist Andrew Carnegie who funded a total of 2,509 Libraries across the country during the years 1883-1929. Carnegie offered to provide the financial commitments for building Libraries, if the towns made a commitment to continue to maintain and operate that Library. Today, it is hard to imagine the processes of creating an extensive system of infrastructure in communities across the country that this was provided to its citizens free of charge. It is this type of public spaces that help create the society of yesteryear that built much of the infrastructure that we utilize today. His message of building places for people to gather is critical to help bridge the current divides in our society.
- Attended a session of First Amendment impacts on Cities. This was provided by Markowitz Herbold, PC, Attorneys Anit Jindal and Hannah Hoffman. The First Amendment covers the rights of individuals regarding speech, religion, press assembly and the right to petition government. Article I Section VIII of the Oregon Constitution provides further protections at the state level. “No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatsoever; but every person shall be responsible for the abuse of this right.” Case law on First Amendment issues have further defined what actions are allowable or restricted.

The Courts have rules that a City cannot retaliate against a City employee for private speech, however if the speech is done as part of their role as a City employee they can be held responsible for those comments. A public employee on City time is not protected by the First Amendment. The Courts ruled that President Trump blocking comments on Twitter violated the First Amendment since he was using his Twitter account as a communication tool as an elected official, not a private citizen. It is important to separate the government hat that we all wear from our private lives. Deleting items from social media sites where actions or the business of the City are shared, can be a violation of record retention issues. Similarly, a governmental entity cannot take down hate speech. If you allow people to comment on social media sites, you cannot edit those comments. It is

appropriate for local government to have time, place, and manner restraints in place for expressing speech.

In a recent challenge of a violation to the First Amendment, a member of Council walked out of a Council meeting when a gadfly spoke during the public comment period. It was indicated that this did not create a violation, however, if the entire Council walked out, then it could be a violation of the individual's right to petition government. Local governments have a lot of control about making rules for how people can speak before Council meetings, if the Council is not controlling the content of what people can say at a meeting, and the policy is enforced equally among all participants. The rules for protests must be consistent. You cannot treat one group that has a seemingly positive message any different than a group that has a message contrary to what the local government issues may be. If you require permits for protests, then as long as the group is meeting the same requirements that everyone else is expected to meet, they have a right to utilize City grounds for that purpose. If you do not utilize any permits, then you cannot request a certain group get a permit when others do not. The process needs to be done consistently.

- Attended a session called Charting Your Community's Future without a Facilitator. Ron Holifield from SGR provided this presentation. He indicated that some of the mistakes occur when there is not a clear understanding about the role of the elected Councilors and the City Manager. In general, the elected officials should be providing the strategic vision, with management conducting the strategic planning to implement that vision. The Council is steering the ship and management is creating that strategic plan on how that vision can be accomplished. It is important to understand the dynamics of City Councils. In a healthy Council relationship, there are differing ways that are discussed, and by a majority vote, a decision is made on how to proceed. Some Councils can have a "process terrorist" who can utilize strategic planning or goal-setting sessions to derail the wish of the majority. It is often helpful to have an outsider facilitate strategic planning, if the Council has "process terrorists" on Council (fortunately, our Councils have had a very constructive nature that allows Council to move forward on issues even when there are differences among members). In a well-functioning Council, the Mayor needs to be the leader of Council. The Mayor can play a significant role in working with the various personalities of the elected officials to address non-policy issues that sometimes can interfere with the strategic planning process. We are fortunate that our Mayor and Councilors work closely together to get through various non-policy issues that can come up. A healthy Council may fight like cats and dogs on a specific issue, but maintain friendships after the fact. It is important to build community consensus on major initiatives to counter a "process terrorist" that may be on Council. Community visioning exercises need to get widespread impact from members of the community. It is important to realize that an issue may have several people speak against it at a Council meeting, however, from a community standpoint there may be widespread support. Those most motivated to stop a project are most

likely to provide those comments at a public meeting, while those that agree with the trend, tend to be quiet on the issue. This is a role that surveys and other collection of opinions can play to counter the vocal minority that may be speaking for or against an issue before the City Council.

It is also important to remember that the public does not necessarily understand facts that are important to strategic planning. A recent study indicated that six percent of the public believes that chocolate milk comes from brown cows. This is a rather concerning stat, but with the divisions in the public today, it is scary to deal with the differences in what people believe. At Council meetings, if one person brings up a concern, often elected officials will think it is a significant public issue. If two people bring up a significant issue, elected officials may think it is a movement. If three people bring up the same concern, it appears to be a mandate.

Surveys show that 20% of the people may love the elected officials, 20% may hate the officials, and 60% do not have an opinion. Often, the elected officials will only directly hear from the those love them, while the ones that hate them will speak to people who share their same beliefs. Mr. Holifield indicated that a process that works well in reviewing strategic questions includes utilizing smaller work groups of three members to share ideas and perspectives on the questions that they are evaluating. The groups can discuss the question for 10-15 minutes, with each group then reporting back what they discussed. Their answers can be summarized on a flip chart. Then the group can be reassigned or focused on the next question. This process tends to get a deeper understanding of the strategies that are being discussed collectively. It also allows for more detailed discussion by breaking the group up to various small groups. It is important to ask questions regarding the strategic plan to reflect on what individuals heard from the process and what it means to the City organization.

Sometimes it is difficult for people to describe the service level that they are seeking. Mr. Holifield has found that utilizing vehicle types is sometimes a good way to understand the level of service that is being requested (i.e. a Buick versus a Cadillac). Finally, it is important to point out the conflicts among the governing body to determine if there was common ground to move forward. It is important to remember that the world is constantly changing. It is important to keep a vision as a living document. With the impact of COVID-19, it is an appropriate time to discuss significant issues that have helped shape or change the community during this time. This can significantly impact the view of where the community should be in the next decade. Also, it helps reflect on what the pressing needs are for the community and how we can deal with those needs. There is also a benefit in strategic planning to meet individually with each of the Councilors to get their specific thoughts on what is working and what is not. One of the techniques for establishing visionary goals is to envision the newspaper report 20 years from now on what miracle turned the community around.

Attended a session on cooperation, coordination, and communication among neighboring cities. This session focused on relationships between two side-by-side cities (North Bend and Coos Bay) and three eastern Oregon cities located a couple hundred miles apart on US 395, including John Day, Burns, and Lakeview. In both cases, these communities entered several joint services. Eastern Oregon cities utilized ORS 190, which is heavily used in law enforcement, to develop joint ownership among the public works departments of the three cities. Each of these cities are small communities with limited resources, and jointly they were able to purchase equipment that was shared among the three public works departments of these cities. The relationship can include employees, equipment (such as chip sealing equipment) and joint contracting. By combining small crews, more work can get done.

In Coos Bay/North Bend, focus has been on joint economic development, joint water utility, joint partnerships for the enterprise zone, joint tourism, Council, and joint dispatch. Again, with the communities bordering each other, there is often confusion about where one city ends and the other begins. Finding those areas which collaboration makes sense to both communities can be a very efficient use of tools.

- Attended the annual awards banquet and we were very pleased that Special Projects Director, Peggy Hawker, was one of two people to receive the Herman Kehrli Award. This award is granted to a city employee who has provided lasting benefits to their community and profession through exceptional contributions. Particularly amazing, is that Peggy's husband, David Hawker, also received the Herman Kehrli Award during his tenure as the City Manager of Lincoln City. This makes them the only husband and wife recipients of this prestigious award. Congratulations to Peggy on this well-deserved award.
- The final session was with Senator Wyden. He focused on several across-the-state issues, including securing Kahoots funding for law enforcement organizations in Oregon. This combines policing with mental health and social services to deal with problems within the community he spoke about focusing on several federal bills to help spur additional low-income housing, and talked about Pendleton's efforts at expanding the availability of childcare.

Overall, it was a great conference and it was nice that all seven Council members were able to participate in this event in Bend. This is always a great opportunity to reaffirm activities and strategies that are ongoing in the City of Newport, and glean ideas of other types of functions being provided by other cities across the state.

- Held a meeting on the next steps with Longview Hills Master water meter. We will be developing a notice for both the park owner and the tenants of the park regarding the conversion from individual meters to a master meter. The park will need to begin implementing the process to read the individual meters and bill their tenants accordingly, based on the Federal Court ruling on this matter.



- Derrick Tokos and I met with Mark Colson regarding various development issues at the Aquarium.
- Participated in Emergency Preparedness Committee meeting.
- Efforts are continuing to be made regarding emergency planning for the folks that would be impacted by a failure of the Big Creek Dam.
- Met with Golam Azam regarding concerns about the difficulty of converting property into a short-term rental.
- Mayor Sawyer and I met with Todd Farmer, and other representatives of the National Guard, regarding the future of the armory on US 101. The 1994 Newport Peninsula Urban Design Plan suggested that the armory be moved to another location of this property be utilized as a park and gathering location for City Center. I have made a couple inquiries in the past to the National Guard regarding the long-term future of this facility, and whether the National Guard would be interested in potentially swapping property at the airport for the property on US 101.

During the meeting with the Mayor Sawyer, this concept was discussed. The National Guard indicated that they have no funding, or specific need, to move the armory from its current location. It is also important to the National Guard that they remain at a location north of the Yaquina Bay Bridge due to service demands in case of a natural disaster that would disable the Yaquina Bay Bridge. They have been funded for major seismic and other upgrades for the armory. The timeframe for relocating the armory, which includes Federal support, is a couple decades long process. The National Guard wants to expand its use as a community center moving forward, and with the future funding, will work to improve the exterior appearance of this facility. The National Guard likes high visibility locations that are publicly seen and used as it relates to recruitment efforts for both the National Guard and regular military recruiting. The National Guard also offered to participate in the City Center discussions that will be taking place this winter through the DLCD technical assistance grant used to develop a refinement plan to guide development of the City Center, and on US 20 as part of the follow-up in the transportation system plan.

- I met with Luke Bobeda on another armory issue. The National Guard is considering commissioning a mural be placed on the exterior wall facing US 101 by the same artist that has done the road murals. They have asked for feedback from the City's Public Arts Committee on this proposed plan.
- Mayor Sawyer, David Allen, Derrick Tokos, Jason Malloy and I met on the issue of camping and City Hall property. With the approval of the camping ordinance, we had a basis to notify the individuals camping on the City Hall site they were in violation of the ordinance. This proved to be a very helpful tool in addressing camping in unauthorized places, since now we have an ordinance that outlines time, place, and manner for camping within the city. We also work closely with CIS and their consulting attorneys addressing camping and First Amendment issues being exercised by the campers on City Hall property. Unlike camping, which has very few Court decisions guiding the legalities of various actions, First Amendment rights have been interpreted by the Court since the founding of the nation. It is clear that under the First Amendment, a government can provide standards for when, where, and how people express their First Amendment rights. The key is

that we administer these restrictions without consideration of content of the First Amendment messages being conveyed by various actions. This means that the same rules would apply to something we may be supportive of, as well as things that we may find inappropriate. I appreciate the efforts of staff, CIS and their legal counsel, helping us sort through these issues. I also appreciate the cooperation of those who were camping on City Hall property for their cooperation and complying with our new requirements.

- Barb James, Jason Malloy, and I met with Mark Wolf to develop a proposal to bring the Police wages level with neighboring departments.
- Jason Malloy and I met with DC, one of the folks camping at City Hall, regarding her desire to create a location where campers may camp. She indicated that she was in discussion with a landowner, and that she would like to meet with us, if she could pull this together. We indicated that we would be happy to continue the discussions with her. As of this time, we have not heard back from her.
- David Allen, Steve Baugher and I participated in a meeting with the State of Oregon on transferring room tax to the state of Oregon. This information was provided to Council at the October 17 work session.
- Derrick Tokos, Aaron Collett, Chris Beatty and I met with ODOT to discuss the Agate Beach pedestrian crossing. ODOT had several suggestions as to how this could take place. We will need to proceed with a design. ODOT indicated the preference would be that the crossing be on the north side of 60th St. We will be seeking proposals to initiate this design work so that we can proceed with getting a permit to ODOT to proceed with this project. Funding has been made available in the current year budget.
- Held a biweekly meeting with Barb James to discuss various HR issues.
- Held a biweekly meeting with Laura Kimberly to discuss Library issues.
- Rob Murphy, Tom Sakaris, Barb James and I met with Mark Wolf to discuss the upcoming negotiations with the firefighters.
- I was out of the office on Wednesday afternoon for a doctor's appointment.
- Prepared agenda items for the October 17 City Council meeting.
- Along with Eric Glover, participated in a Vision 2040 Advisory Committee meeting.
- I took a vacation day on Friday, October 14, to spend time with my brother who was visiting from Michigan.
- Participated in a routine Department Head meeting.
- Along with Mayor Sawyer, Derrick Tokos, and Mike Cavanagh, I participated in the homelessness workshop hosted by the League of Oregon Cities (LOC). This was held at the Best Western.
  - Patty Mulvihill, Executive Director of the LOC, provided a legal overview of addressing homelessness in public spaces. The sessions focused on the legal rulings regarding homelessness, collaboration addressing those aspects of homelessness that can be addressed at the local level, and barriers in dealing with use of public property for camping. There are laws at three levels that need to be considered when regulating camping, this includes federal, state, and local law. Federal Courts have made decisions in Martin vs. Boise and Blake vs. Grants Pass that indicate that local units of government cannot prohibit camping within their local units of government, if there are no other alternative places for homeless individuals

to sleep. Ordinances restricting all camping are prohibited by the Eighth Amendment which prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequences of one's status or being.

In Martin vs. Boise, the City prohibited camping on any street, sidewalk, park or public place at any time and camping meant to use public property as temporary or permanent place of dwelling, lodging or residence. The city had three homeless shelters that were privately run that were almost all regularly filled. Two of the shelters were run by religious organizations with certain religious requirements, and two of the shelters having durational limitations on the number of nights used. The Martin vs. Boise decision indicated that you cannot punish people if they have no place to go. Furthermore, local ordinances can impose reasonable time, place and manner restrictions for camping on public property within those jurisdictions. Martin v. Boise was vague as to any specifics regarding place, and manner restrictions. In Blake vs. Grants Pass the city had an ordinance that prohibited camping at sidewalk, streets, alley, lanes, public rights-of-way parks, benches, or other publicly owned property. "Camping" included the use of bedding, tents, vehicles for temporary places to live. Grants Pass had no real shelters. One of the big issues that was the focus of the court case were on-the-record statements made by elected officials and others about pushing homeless people out of the city. This was not reviewed favorably by the Courts. Blake vs. Grants Pass reinforced the Ninth Circuit's decision. In Martin vs. Boise homeless individuals have the right to have shelter from the weather, and can utilize tents, temporary shelter, or cars for providing that shelter from the weather. This decision allows local units to impose time, place and manner restrictions that are reasonable from the perspective of the homeless individuals.

House Bill 3115 provides that any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be "objectively reasonable" based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. Any ordinances or administrative rules need to be reasonable by various perspectives. House Bill 3115 requires that all ordinances that are out of compliance with this bill, be updated by July 1, 2023. When removing camps, 72-hours' notice needs to be provided for established camps. Posting needs to be done and local units of government should avoid any campsite removal during severe or inclement weather. This creates an additional hardship for folks trying to find a place to sleep. House Bill 3124 provides that the local unit government may dispose of something that has no value, however, belongings of value need to be stored with a notice indicating how to access those belongings. To be in compliance with House Bill 3124, it is important for local units to review the provisions in camping ordinances, parking ordinances, park ordinances, nuisance ordinances, and right-of-way management ordinances, to share that language not consistent with this Bill, to ensure that this has been

corrected. At the City of Newport, we have handled the biggest piece of this, which included the camping and some of the parking provisions. We will be conducting further review to see what other changes are necessary.

- Another principle that has become more evident, are state-created dangers. This principle states that a City has a duty to act when it affirmatively places a person in danger by acting with deliberate indifference to a known or obvious danger. There are three elements to this, including that the City's own actions created or exposed a person to actual danger they would not have otherwise faced. The danger must have been one that was known or obvious, and the City acted with deliberate indifference to the danger. These issues come up when Cities establish a camping location or car parking location. Care needs to be taken that when people are being directed to a specific location that they are not going to be exposed to greater danger than the situation where they are being directed from.
- Patty Mulvihill indicated that it is important for Cities, when taking various actions and ordinances, utilize “whereas” clauses to show that the City is being objectively reasonable in the actions to regulate camping. This is an opportunity to explain why certain provisions have been included within an ordinance. Often, the Courts will place a significant weight in interpreting intent, based on these types of statements.
- Arielle Nelson of the LOC provided an overview of the Oregon Mayors’ Association proposal, which was presented to the legislature for operational and capital funding to address homelessness. This proposal has two components. One is a capital request for funding, with the second component being an annual allocation of funding to local units of government based on their populations. Under the proposal, the City would receive \$40 per capita per year that would be used to address homelessness within that local jurisdiction. For the City of Newport this would be approximately \$430,000 per year. Furthermore, the proposal outlines \$125 million capital outlay (for projects) to address various aspects of homelessness. This is a significant initiative which would give significant dollars to local units of government to make meaningful impacts on the issue of homelessness within each of our unities.

Mandy Solez, a former houseless individual, working for a nonprofit in Sisters, and Blair Bobier of Legal Aid Services of Oregon, talked about camping on public property from the perspective of those that are homeless. Mandy indicated that individuals who have moved recently, realize the level of stress that is created when you move from one location to another. For a homeless individual, that occurs on a regular basis throughout the year. This creates stress since what possessions you may have, you could lose because there's no way of securing your belongings. Housing is a basic human right that communities need. To address these issues, involve a team with broad-based experiences, both social service organizations and

other groups, to identify ways to address these issues, host community conversations, hold one-on-one discussions where possible, listen to the issues from the perspective of those who are houseless, and do the right thing to regulate these issues with a fair perspective of both the houseless individuals, and general community at large. These rules will not make everyone happy, but can provide a framework to give some stability to the issues related to those who are homeless, and those property owners who are dealing with some of the challenges related to unregulated homeless activities.

Blair Bobier indicated that our communities have many people without housing living on the streets. This is likely to get worse since there are a lot more people looking for housing, and there is less housing that's affordable and available. Housing for homeless individuals needs to be near transportation and/or services. The same is true for locating shelters. People on the street are human beings that need to be respected and treated with a level of dignity. Code provisions must be subjectively reasonable to pass the standards for providing reasonable time, place and manner restrictions for camping within the community.

Blair went to great lengths to describe the process of developing a camping ordinance in the City of Newport. He used it as an example of the right way to approach these very difficult community discussions since it involved feedback from those who are homeless, organizations supporting homeless individuals, property and businesses owners. The process allowed for people to provide input that changed the original provisions of this camping ordinance to try to address some of the legitimate concerns being expressed through the various public hearings, individual meetings, and comments that were received from the entire community. After Blair's presentation, we were asked about the process we went through with this ordinance and some of the changes that occurred from the beginning through the final adoption of the ordinance.

Overall, it was a great overview of a very complicated legal, humanitarian and regulatory issues. Patty Mulvihill pointed out that that unlike First Amendment issues, which has nearly 250 years of history of Court decisions interpreting the Constitution, camping by houseless individuals on public property is a new Constitutional issue. There will likely be many future Court decisions that will further define and refine the legal framework for addressing the rights of houseless individuals and private property owners in the years to come. Patty told us to be prepared to be flexible and be willing to make changes from time-to-time to address any changes in the legal framework on this very complex issue.

- Participated at a work session with the City Council on the discussion of the State collecting room taxes, low income rates for the Recreation and Aquatics Centers,

and discussion in the zoning changes for South Beach. In addition, an executive session was held to consult with labor negotiators.

- Participated in the regular City Council meeting on Monday, October 17.
- Counselor Jacobi, Derrick Tokos, Jovita Ballentine and I met with Rob and Aimee Thompson regarding Surf View Village and other waste management issues. As part of our discussion, we indicated that the role of regulating a waste collection customer problem, falls with Thompson's Sanitary. The City provides a franchise that allows them exclusive use to collect waste within the City of Newport. Thompson's is not the City's contractor conducting these services. The City's role in dealing with disposal issues is when a nuisance is created by the storage of garbage. The City's role is enforcing the code and gaining compliance from the affected property owner. The Thompsons indicated that they would like to provide more input in the permit process for solid waste components with larger complexes. There are some design issues that the traditional enclosure creates as it relates to garbage collection. Derrick indicated that the City that would be open to reviewing the code to consider any suggestions that Thompson's may have for addressing some of these issues. The Thompsons asked if they could have a sign-off as part of the plans that are submitted for major housing projects. Due to the requirements imposed by the State of Oregon, we need to utilize clear standards and unambiguous standards for any housing project so that we are not discriminating against potential housing developments. As a result, we cannot (and Thompson's cannot) tell a developer of multifamily housing to build a certain type of disposal facility for that property. Instead, this needs to be clear in the code that developers need to comply with for the development of housing within the City of Newport. When Thompson's has a client who is not meeting the standards required for garbage collection, their ultimate solution is to refuse service. The customer could transport their own garbage to the transfer station. If nothing was done, this would create a code issue that Code Enforcement would be directly involved in, as well as Thompson's.

Overall, I think it was a good meeting that cleared the air as far as where responsibilities lie in these types of situations. Thompson's has forwarded the information that will be considered by the Planning Commission November 28 on garbage enclosures. Thompson's will be participating in the Planning Commission work session for that item.

- Mayor Sawyer, Council President Jacobi met with David Allen and me on the evaluation process for City Manager and City Attorney. The City Council will be holding a discussion on this at a future work session to see if any changes need to be made to the process.
- We conducted the shakeout drill at City facilities on October 20. We evacuated all City facilities and communicated via the radio to determine that all City locations were evacuated. This was good practice since we had done it earlier this summer, and this time everything seemed to be much more routine.
- Jason Malloy, Barb James and I met with Mark Wolf on the NPA proposal prior to meeting with the Association. We had a very brief meeting in which the Association was grateful for the Council's consideration of making a change mid-contract to

adjust the change in economic conditions from when the agreement was initially negotiated.

- Participated with Department Heads in a day-long retreat at the Hatfield Marine Science Center to continue our efforts at strengthening a healthy workplace culture for the City. We will be updating the Council on our efforts at a future work session.
- I participated in a meeting of the Oregon Coast Aquarium Board on Saturday, October 22. The Aquarium is delaying construction on most of the next phase of the redevelopment due to concerns that the contractor had of the ability to provide a full crew through the winter. The contractor was indicating that they would need a full year, which would interfere with the summer tourism season. The Aquarium is going to delay the start of this work until fall 2023. They will be evaluating whether the current contractor has a desire to continue with this project, or whether they will need to identify an alternate contractor to complete this work.
- Mayor Sawyer, Jason Malloy, Jovita Ballentine and I met on the veterans that are walking Highway 20 as part of the “long road” effort to raise awareness and money to recover the soldiers who remain missing in action. The walkers recently entered Idaho and are anticipated to be in Newport the week before Christmas. We are working with the organizers to try to fine tune that timeline. We would like to do a community event to welcome them at the conclusion of their walk on US 20 from Boston to Newport.
- Mayor Sawyer and I met with Sheila Stiley of Northwest Coastal Housing to discuss approaches to addressing homelessness in Newport. Northwest Coastal Housing operates the hotel that was purchased in Lincoln City, originally for fire victims. It has now been converted into a transitional housing for houseless individuals. Sheila provided a wealth of information on the various needs and approaches that should be considered by the City of Newport. Their organization has a grant to purchase a hotel in Newport that is currently pending. It was not funded in the first round. If additional funds are made available, they will be able to proceed with this project.
- David Allen, Erik Glover and I have met to discuss the issue of catching up with franchise agreements. This is an area that David has indicated that he will work on, but he has not had the time to catch up with all the work. We have several franchise agreements that have expired. We do have provisions in the code that provide how utilities without franchise agreements will function in the city. We need to put some emphasis on getting these agreements cleaned up.
- I met with the Lou Limbrunner regarding his concerns he has about some of our water policies. As this is an area, as I indicated to Lou, that I have been wanting to focus on for several years. The Finance Department has begun a review of our policies and practices relating to utility billing, and I am feeling optimistic that we will have something for Council consideration early in 2023.
- Held biweekly meetings with Jason Malloy, Rob Murphy and Laura Kimberly to discuss their departmental issues.
- I met with the new Oregon Coast Bank President, Lance Nunn, and Cora Warfield. Oregon Coast Bank is interested in soliciting business from governmental entities within the areas it serves. This has not been a big focus of the bank in the past. I indicated that when we can stabilize our personnel situation in Finance, this is something that we would be willing to review at that time. We have been with the

same bank for many years. We discussed the possibility of making a move back several years ago, however the benefit of making a switch was not evident at that time.

- Counselor Jacobi, County Commissioner Kaety Jacobson, and Toledo City Manager Judy Richter, Derrick Tokos and I met to discuss the housing studies currently being conducted by the City of Toledo, the City Newport and Lincoln County. Lincoln County's study is a different type. It was suggested that there is value to having linkages between these three reports because we are all dealing with the same market areas. Commissioner Jacobson was looking for some additional feedback on the County's efforts, as well. There would be some value in getting back together prior to the end of these three separate efforts.
- Mark Wolf, Barb James, Rob Murphy and I met to follow-up on IAFF negotiations.
- Participated in the Yaquina Bay Economic Foundation (YBEF) meeting, along with Councilor Goebel. YBEF unanimously approved a letter to two US senators supporting the appropriation of funding for the Big Creek Dam.
- Met with Fire Department personnel to follow up on individual meetings that I had with the firefighters early in 2022. It is amazing to see the change in personnel at the Fire Department since the recent hires. I covered issues addressed by Fire personnel, and steps that are being taken to address a number of those areas. The meetings have been quite positive.
- I participated in the pension trustees meeting. This was John Baker's last meeting as a trustee. He served on the board for 14 years. We had a little celebration for John to thank him for his service. The financial report for the year ending June 30 was a bit demoralizing with the impact that the bear market has had on investments during this past year. The Financial Advisors are indicating that it is important to stay the course since it is usually a mistake to step out of market and then miss the rebound that always occurs following a bear cycle. The employees have received all the individual account statements which show the losses for the 12-month period running from July 1 to June 30, 2022.
- Met with City staff regarding the camping ordinance follow-up. Overall implementation of the new camping ordinance has gone reasonably well. We will continue to monitor activities going forward.
- Derrick Tokos and I met with Paul Berger of Hali Development to discuss the South Beach urban renewal development plans for the urban renewal site. They will be refining their proposal, and it will be presented back to the Urban Renewal Agency once we receive the proposal. They feel confident that they will be able to proceed with their plans despite the economic challenges that are currently going on.
- I participated in a bimonthly meeting with Steve Baugher to discuss Finance departmental issues.
- Participated in the League of Oregon Cities HB 4123 pilot projects coordination meeting for all the eight pilot projects across the state.
- Participated in cybersecurity training provided by Richard Dutton. This is a follow-up to our evaluations that occurred through the course of this year on some of the threats that can be caused by our natural human tendency to help people. Richard did a great job of demonstrating the types of communications that are used by cybersecurity terrorists to break into various computer systems. Most of the malware, and other types of attacks, are initiated through this interacting with



people who have access through passwords to the city's information systems. This was an important step to try to make us all more aware when someone is trying to gain information that can be used to hack the system.

**Upcoming Events:**

- City Hall will be closed Friday, November 11, in observation of Veterans' Day.
- Friday, November 16 at 11 AM, an LOC's Small Cities meeting will be held.
- I will be attending an OCCMA retreat in Silverton on November 17 and 18.
- City Hall will be closed Thursday, November 24, and Friday, November 25, in observation of the Thanksgiving holiday.
- The LOC will be holding their elected essentials workshops at several locations in the state, including Manzanita on November 30, Depoe Bay on December 1, and Albany on December 6. These are held after the municipal elections and are intended for newly elected officials, or as a refresher for current officials.
- The Holiday tree lighting ceremony will occur on Friday, December 2 at 5 PM. A reception at City Hall to follow.
- City Hall will be closed half day on Friday, December 23, and all day on Monday, December 26, in celebration of the Christmas holiday.
- City Hall will be closed on Monday, January 2, 2023, in observation of the New Year's holiday. The organizational meeting for Council will be scheduled for 5 PM on Tuesday, January 3, 2023, with a regular meeting to follow.

**Attachments:**

- Attached is a memo to the City Council regarding the Glick plan as it relates to City Center. There was a lot said about this plan as it relates to the traffic patterns in the City Center. If folks read the plan, they would see that the City Council's action is quite consistent with what Glick was indicating to the City back in the early 1990s.
- Attached is a notice from the Chamber of Commerce that they will be holding the 2023 Newport Seafood and Wine Festival on February 23-28, 2023. This will be the first time after taking two years off due to COVID-19.
- Attached is a news release from Oregon State University since the University's Board of Trustees has appropriated \$13 million to improve the dock for the University research vessel at the Marine Science Center. This project is necessary to accommodate the new regional class research vessel, the RV Tanni, which is due to arrive in Newport in 2023.

Respectfully submitted,



Spencer R. Nebel, City Manager

cc: Department Heads