



**AGENDA and Notice of
Work Session and Regular Meeting of the Newport City Council**

The City Council of the City of Newport will hold work session on Monday, March 5, 2012, at Noon, followed by a Regular Council meeting at 6:00 P.M. The work session will be held in Conference Room A at City Hall, and the regular 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. Action items that do not require a public hearing may be moved up earlier in the meeting.

CITY COUNCIL WORK SESSION
Monday, March 5, 2012 - Noon
Conference Room A

- I. Budget Committee Interviews
 - II. Oregon Coast Community Forest Association- Planning for Forest Park
 - III. Public Arts Policy- Review and Discuss Task Force Recommendations
 - IV. Individual City Council Goals
 - V. Evaluation Process and Tools for City Manager
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REGULAR MEETING AGENDA
Monday, February 6, 2012 - 6:00 P.M.
City Council Chambers

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 Chambers. Anyone commenting on a subject not on the agenda will be called upon during the Public Comment section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

- I. Pledge of Allegiance
- II. Call to Order and Roll Call
- III. Additions/Deletions and Approval of Agenda
- IV. Public Comment

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

- V. Consent Calendar

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

- A. Approval of minutes from City Council work session and Regular Meeting of February 21, 2012
(Hawker)

- VI. Officer's Reports

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

- VII. Discussion items and Presentations

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

- A. Ford Family Presentation-Jorge Hernandez
 - B. Microenterprise, Community Development Block Grant- Guy Faust

7:00 P.M.

VIII. Public Hearings

- A. Tree City USA Ordinances
(Tokos)

IX. Action Items

Citizens will be provided the 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. Consideration of Resolution No. 3580 Enacting a Soft Freeze of the City's Employee Pension Plan
(Marshall)
- B. Consideration of Resolution No. 3581 Supporting a Lincoln County Animal Services District
- C. Adoption of Council Goals
- D. Consideration of ODOT Fund Exchange Agreement No. 28345
(Gross)
- E. Consideration of Tourism Facilities Task Force Recommendations
(Voetberg)
- F. Consideration of Non-Profit Funding Recommendations
(Voetberg)

X. Council Reports and Comments

XI. Public Comment

(Additional time for public comment - 5 minutes per speaker)

XII. Adjournment

Peggy Hawker

From: CommitteeApp@newportoregon.gov
Sent: Wednesday, February 22, 2012 12:08 PM
To: Nicole Clark; Peggy Hawker
Cc: jeff.wiseman@oregonstate.edu
Subject: Committee Application

Application for City Council - Email Application
Date: 2/22/2012
Commission/Committee of Interest: Budget Committee
Name: Jeff Wiseman
Address: [REDACTED]
Newport, OR 97365
Workphone: [REDACTED]
Homephone: [REDACTED]
Email: [REDACTED].
Occupation: Accounting Technician
Employer: OSU-Hatfield Marine Science Center

Why do you want to serve on this committee/commission/board/task force, and how do you believe you can add value? I am a new member of the Newport community, having transferred from Klanath Falls, OR. I have always been involved in the community I live in. In the past I was a member\chairman of the Klamath County Commission on Children and Families. This gave me experience dealing with public issues on a local and state level in dealing with financial budgeting. Having to review grant proposals, award state and federal dollars, and present budget proposals to county government gives experience that would be important to a city budget member. I also have dealt with budgeting while working for a state funded university as a member of the Fiscal Oversight and appropriation committee. This background as well as being a fresh voice in the Newport community will add a new dimension to the committee. Dealing with public funds is a serious task that I believe should be an open and transparent process with input from all citizens.

What is a difficult decision you have made concerning issues of bias and/or issues of conflict of interest? As a member of the Klamath County Commission on Children and Families we dealt with many local agencies asking for funding. I also was involved in the local Boy Scouts, ChildCare community, United Way, YMCA Programs for Youth, after school programs, and church programs. As you can imagine there were few non profits and local programs I was not acquainted with. Many who would ask for funding through the commission. I had to decide which of them I had direct\indirect involvement to the extent of should I be involved in the funding process for them or do I excuse myself. I spoke to the commission members of my involvement and let them decide whether to allow my participation in discussion of those particular proposals. There were times when I thought I should have been allowed, but let the commission have the final say.

Describe the process of how you make decisions. My process goes like this:

1. Listen to what is being presented.
2. Ask questions of those presenting about the What, Why, Where, When, Who's of the presentation.
3. Research the presentations historical records, outcomes, failures, successes, and where they are in the present.
4. Discuss with others who are familiar with the presentation and those who it will affect. Gather input from them and bring it to the table.
5. Ask more questions based on my research, discuss other avenues I see as being options with the presenter.
6. Review steps 1 through 5 with stakeholders and decision makers.

7. Voice my decision and look to others to convince me otherwise.

What do you think about consensus decision making? What does the consensus decision making process mean to you? Consensus Decision making is accomplished when everyone with a stake in the discussion has been heard, all facets discussed, and consensus is reached by all involved that the chosen decision is the best possible given the facts for the stakeholders.

When dealing with issues that concern a community or group Consensus decision making is preferred. Many times it may seem like there is no consensus, which is when you step back and table the decision or go with majority if it has been discussed and cussed into the ground. You must realize this is not a perfect world and htere are times when you can not please all the people all the time.

Describe all other pertinent information/background for this position. I have given you a background of my involvement, experience, and understanding of the process of budgeting.

I would like to say that it would an appointment I take as a serious task, willing to put in te time needed and provide for the community the best I know how to. I have read through some of the previous meeting minutes on the website and find the members doing the research, asking the questions, and making decisions that are in the best interest of the community.

**City of Newport
Public Arts Task Force**

**“Public Art Policies and Procedures”
& Recommendations
(Draft Document)**

November 21, 2011



City of Newport - Public Arts Task Force

Public Art Policies and Procedures

Executive Summary

November 21, 2011

The original Oregon Coast Council for the Arts (OCCA) Public Art Committee and the newer City of Newport Public Arts Task Force members have, over the last twenty-four months, spent cumulatively 553 hours researching all aspects of public art including, but not limited to: purpose and mission, project identification, site criteria, artist/artwork criteria, public art panels, public art funding, artists' contracts, accepting gifts, educational initiatives, and de-accessioning. They kept in mind what would be applicable to the central Oregon coast and to the City of Newport.

Recommendations

The City of Newport Public Arts Task Force makes the following recommendations to the City of Newport City Manager and City Council:

1. Accept and adopt the attached Public Art Policies and Procedures
2. Establish a Newport Public Art Committee
3. Implement a Percent for Art for the City of Newport

Public Art

The term "art" broadly signifies those things that are visually meaningful. "Public" designates those places that, whether owned by the government or by a private entity, are open and accessible to the public.

Public art highlights a community's commitment to art and enhances the community's quality of life. Public art should contribute to people's use and enjoyment of public places. It creates destinations in a community where people walk and gather. By providing access to art and creating an environment of enrichment and pride for all citizens, public art within our city gives a sense of discovery and vibrancy to public spaces.

It educates and inspires citizens and stimulates creativity in the workplace and in our schools.

Public art has historic and educational value. It can commemorate events, honor individuals, or identify historic locations. It also creates an opportunity for the expression of the diversity and the unique character of a group or area.

Studies show that public art serves as a powerful economic force, attracting businesses and qualified workforces.



Public art advances overall cityscape initiatives or priorities for a community by delineating gateways and neighborhoods and beautifying traditionally unremarkable aspects of public works infrastructure. Public art can welcome people to our town and provide shade and resting places in a park.

Public art may serve as a forum for supporting local and regional artists and can provide opportunities for potential community involvement and collaborations.

As Newport works to enhance the quality and character of its public buildings and spaces, there is a tremendous opportunity to illustrate the rich visual heritage of our region.

For all these reasons, public art is an essential component of a thriving community. It is the hope of this Public Arts Task Force that through these Public Art Policies and Procedures and the Recommendations stated above that they will enhance the character of Newport, Oregon and its public art.

Background - Timeline

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|----------------------|---|
| 2007 - 2008 | Various situations arise about public art in the Nye Beach area. The Oregon Coast Council for the Arts (OCCA) is called in by the Newport City Manager, Alan O'Neal, for background and information. Eventually a solution is found. |
| Spring 2009 | OCCA formed an internal public art committee because it was going to be the recipient of a large piece of art that would have to be installed in a public place. |
| Summer 2009 | OCCA learns that the City of Newport does not have a public art policies and procedures document. Research was done by city employees to determine that. |
| Fall 2009 | The art gift to OCCA did not materialize; however, City Manager, Jim Voetberg suggested to OCCA that some public art policies are needed and should be created. |
| November 2009 | The first OCCA Public Art Committee meeting was held with OCCA Executive Director, Catherine Rickbone and former Public Art Commissioner for the City of Ashland, OR, as chair. The group initially consisted of: Lawrence Adrian, Founder of the Oregon Coast Children's Theatre; and a public art artist; Lon Brusselback, representing Nye Beach area, the City Council, and a public art sculptor; Sam Briseno, public art sculptor; Carol Deslippe from Coastal Arts Guild; Sally Houck, OCCA VAC Director; Jim Provita representing Newport Parks and Recreation Department; Sandy Roumagoux a visual artist and representing the Oregon Coast Community College; Stephan, an artist and representing City Center Newport Association; and Lavern Weber, OCCA Board member and former Director of the Hatfield Marine Science Center. |



**Nov. 2009 –
Sept. 2010**

OCCA Public Art Committee researched, discussed, wrote, revised, re-wrote, revised a draft document of Public Arts Policies and Procedures. They met monthly on the third Thursday. (See attached research sources.)

Oct. 2010

Jim Voetberg and Penelope McCarthy, City Attorney, attended the October committee meeting and the Public Art Committee presented its draft Policies and Procedures to them.

Oct.– Nov. 2010

Penelope McCarthy reviewed the draft document and made comments. Then she advised that the OCCA Public Art Committee become a City of Newport Public Arts Task Force. The Committee did not meet in Nov.

Nov. 2010

City of Newport Resolution # 3528 on November 16, 2010 established the Public Arts Task Force. We were advised not to meet until we had been through training on government ethics for public officials, how to handle public meetings, etc.

Jan. - Feb. 2011

Members of the newly established Public Arts Task Force were trained by employees of the City on proper procedures for public meetings and Task Forces.

Feb. 2011

Public Arts Task Force met to hear city officials talk about Public Works projects and to develop criteria for Task Force membership. Announcement for application to Task Force membership was posted.

Mar. 2011

The Task Force met to finalize interview questions. Announcement for Task Force candidates went out again.

April 2011

Interviewed Public Arts Task Force applicants. Selected two. Public Arts Task Force now consists of: Carol Deslippe from Coastal Arts Guild; Bobbi Flewellyn, Sally Houck, OCCA VAC Director; Carla Perry, Catherine Rickbone, OCCA Executive Director and chair. Jim Protiva is the City of Newport staff liaison and Sandy Roumagoux and Lon Brusselback are City Council representatives. The last three are nonvoting members.

May – Nov. 2011

Task Force processed McCarthy's suggestions. Researched percent for art, further revised Policies and Procedures and condensed the document. Prepared recommendations for City Council and the City Manager.

Nov. 2011

Public Arts Task Force presents to City Council the draft of Public Art Policies and Procedures.



Newport Public Arts Task Force

Recommended Public Art Policies and Procedures

(November 21, 2011)

The November 16, 2010 City of Newport (City) Resolution No. 3528 authorized the creation of the Newport Public Arts Task Force, which, in turn, is recommending herein the establishment of a Newport Public Arts Committee (NPAC) with the following Policies and Procedures and Recommendations.

Throughout history the arts have been instrumental in creating unique public places that have provided physical, social and economic benefits for a community. The purpose of these policies and procedures is to provide a process for selecting, commissioning, placing, maintaining and de-accessioning (removal) art for the benefit of the City of Newport and its residents. This document is subject to on-going review, revision and clarification. This document is meant to serve as a guideline for the City of Newport and the Newport Public Arts Committee.

I. Purpose of the Newport Public Arts Committee (NPAC)

The Committee is responsible for all public art and art object donations, such as making decisions to accept or decline public art by utilizing criteria in Sections VII, VIII, IX, X and overseeing the care and management of donated public art. It is responsible for advancing public understanding of visual arts; enhancing the aesthetic quality of public places; and helping stimulate the vitality and economy of the City.

II. The Responsibilities of the Newport Public Arts Committee

NPAC will conduct public meetings and establish a Selection Panel per Section III.

It will encourage:

1. Public dialogue to increase public understanding and the enjoyment of visual art through appropriate public education forums and programs
2. Human interaction in public places and areas of public ownership and accessibility, via the placement of works of art
3. Collaborative efforts between artists, architects, engineers, and landscape artists
4. Artists to reach creative solutions to the aesthetic problems they have been employed to solve
5. Stimulation of the vitality and economy of the City by creating works of art in public places.

NPAC will recommend artists and artwork to the City Council utilizing the criteria in Sections VII, VIII; recommend expenditure of funds on public artworks and art projects; and recommend Requests for Proposal (RFP) requirements.

NPAC responsibilities include commissioning works of art from artists. Coordinating with and seek approval from: (1) the Lincoln County PUD for all electrical, mechanical and engineering components that may be involved with the art and its installation, (2) City Council regarding recommended placement of public art on public streets and rights-of-way, (3) City Parks & Recreation Director for locations on City properties [away from streets.]

NPAC approves the final site and monitors installations per Section VIII. It routinely discusses art projects regarding availability of sites, budget and community will.

NPAC promotes public art and education per Section XI; considers any or all public art and cash donations per Sections IX, X; provides a permanent record of all commissioned, donated, and de-accessioned works of art to the City Recorder's office, including conditions of the art and date(s) of transaction(s); and de-accession of artwork per Section XI.

III. Newport Public Arts Selection Panel

A "Selection Panel" shall be assembled on a per-project basis to recommend placement and selection of public art.

A. Voting members will include:

1. At least two members of the NPAC
2. One recognized art professional, such as a museum curator, art historian, conservator, or gallery director
3. One professional visual artist
4. Two ad hoc Newport citizens at large
5. The Executive Director of the Oregon Coast Council for the Arts

B. Non-voting members will include:

1. Director of Parks & Recreation or designee
2. One City Council liaison

Any member of the NPAC and/or Selection Panel will recuse him/herself from discussing and voting on the work in question if there exists any of the following: a professional or personal relationship with the considered artist, and/or business interest in selling the art.

IV. Public Art Funding

The NPAC recommends that the City of Newport establish a Percent for Arts and Art in Public Places Program (See addendum.)

The Percent for Arts and Art in Public Places Program focuses on the outside and the inside of new and remodeled City-owned public spaces and new, private development projects with public access. The art may serve a function, express a theme, or commemorate an important person. It may underscore or provide a counterpoint to the architecture and surrounding site. It may serve as a landmark that adds definition to the City of Newport.

The Percent for Arts and Art in Public Places Program would require one percent (1%) of eligible construction costs of City capital improvement projects paid wholly or in part by the City of Newport to construct or remodel any public or city building, structure, park or any portion thereof to be allocated for public art. No less than eighty percent (80%) of this one percent (1%) would be used for on-site Artwork. No more than twenty percent (20%) would be deposited in a Public Art Trust Fund used to fund additional art projects and provide maintenance for existing works. In cases where the eligible construction costs of a City capital improvement project is less than \$100,000, and at the discretion of the Newport Public Art Committee, a particular piece of on-site art is not required and one hundred percent (100%) of the one percent (1%) may be deposited in the Public Art Trust Fund.

Private developers of projects with public access may be allowed to pay in-lieu fees to a public art fund as an alternative.

V. Public Art Project Identification

Public art will be defined as the following: sculptures, architectural accents two-dimensional art, multimedia, temporary art, other visual art as appropriate.

VI. Artist Selection Criteria

Artists may be chosen based on the following:

- Meeting the requirements for Request for Proposals (RFP)/Request for Qualifications (RFQ)
- Vision and concept of the artwork
- Warrant that the artwork is unique and an edition of one or part of a limited edition
- Ability for a successful likelihood of completion as proposed by the artist
- Qualifications as demonstrated by past work (e.g., public art)
- A willingness to fully participate in a collaborative process
- Representation of a broad distribution of commissions among artists.

Artists who will not be considered are members of the NPAC, Selection Panel, and/or employees of the City of Newport or art students.

The City of Newport does not discriminate against any person on the basis of race, color, national origin, disability, or age in admission, treatment, or participation in its programs, services and activities, or in employment

VII. Public Artwork Selection Criteria

The NPAC will select artwork based on the following criteria:

A. Esthetics

- Contribute to the City's art collection as a whole,
- Provide diversity in style, scale, media, form or intent,

- May represent the local, regional, national or international communities,
- May enhance the City's identity,
- Shall meet the context of the site (i.e., architectural, historical, geographical and socio-cultural).

B. Craftsmanship

- High construction quality with structural and surface soundness
- Resistant to theft, vandalism, weathering and excessive maintenance or repair costs,
- Of no hazard to public health (See Section VIII).

Other considerations for artwork selection are: Artwork that is intentionally temporary, compliance with budget and timeline constraints, compliance with City/County zoning, construction and/or design guidelines, any additional criteria that shall be outlined in the NPAC's written instructions, other criteria that may be established by the City of Newport or the community and/or the NPAC.

VIII. Site Selection Criteria

A. Public art shall be placed where:

1. The relationship and scale of the artwork is appropriate to the proposed site, surroundings, and collection as a whole
2. It is immediately visible to the public
3. Clearance is maintained from above- and -below ground utilities
4. It allows for easy passage to both drivers and pedestrians.

B. Public art shall not:

1. Obstruct the greater view, such as the ocean, windows, doors, or street signs or traffic
2. Interfere with utility access points, benches, crosswalk ramps, sight of the curb, or unduly disrupt curb use activities, loading zones ingresses and egresses for transit buses or opening of car doors
3. Be placed where it could cause distractions for drivers or pedestrians that might cause accidents or tripping (e.g., catching spike heels or causing water to pool)
4. Have moving parts or edges that could cause injury.

IX. Accepting Public Art Donations

All public art donations must be presented to the NPAC. When deemed necessary, a Selection Panel will be assembled to assist with the decision. Meetings will be held with the donor to discuss the commissioning process. Documentation of existing artwork (or the actual artwork) will be necessary in order to evaluate concept and placement.

Conceptualized artworks not yet materialized will be presented with schematic renderings and/or

three-dimensional models (maquettes) and will undergo the same process of evaluation and discussion. Newly commissioned artworks will be subject to the same process of evaluation and discussions in order to become public art. The artwork concept will be evaluated to accept or reject further processing. If the concept is acceptable, the potential usability of the artwork will be evaluated utilizing criteria in Sections VII and VIII. A vote will be conducted by the NPAC and the results recorded in the minutes per normal procedure.

The potential donor will be notified of the decision. If approved, the selected artist will follow the criteria in Sections IX and X for implementing the artwork. If commissioned, full project fees will be deposited in separate designated Public Arts City Fund for the artist to draw upon to ensure uninterrupted completion of the project. The cost of plaques and/or other promotional materials will be included in the donation or other arrangements may be made for installation and maintenance.

Intent: Donations be the most beneficial tax-wise to the donor.

X. Accepting Cash Donations

If people wish to contribute to the Public Art Fund of the City of Newport, monies will be held in a separate designated bank without risk of redirection of the funds for other City purposes. Monies will be accounted for by using generally accepted accounting procedures including receipts provided to the donors.

Intent: Cash donations be deposited in an account that will be the most beneficial tax-wise to the donor.

XI. Art Education

NPAC considers one of its main responsibilities is to educate the public to the public art in the community with the purpose of raising the public's awareness of its environment by expanding the public's knowledge, understanding and appreciation of the arts

The NPAC shall conduct art education generally covering: The City's art collection, art-related subjects and general topics and events suggested by community members.

Upon selection of a topic or event, a curriculum will be developed and/or education planed in concert with community requests to include: timelines, resources (people and funding), key requirements (goals and objectives) for successful implementation and outcome and alignment with the mission and values of the NPAC.

The NPAC may participate directly by involving partnerships with City and community partners to accomplish the educational goals. These partnerships may result in but not limited to:

- Walking tours of public art
- Driving tours of historical and/or artistic significance
- Brochures regarding public art and historical sights
- Events with the Parks and Recreation Department and the library's youth programs

- Artist's talks
- Art dedications, openings or ceremonies.

NPAC may also outsource the education program through community providers. It may work with the community to generate funds, if funding is required. After completion of each educational program, NPAC will ensure the utilization of a proper evaluation process to measure the success of the program in relationship to the state plan (goals and objectives).

XII. De-accession Criteria for Public Art

The Term "de-accession" denotes the formal process used to permanently remove an object from the collection.

- A. De-accessioning may be considered if the artwork meets at least one or more of the following criteria:
- Has physically or organically deteriorated
 - Is damaged or stolen beyond hope of recovery
 - Cannot be properly exhibited or stored by the City
 - Endangers public safety
 - The relationship to site is no longer appropriate due to significant changes in the use, character or actual design of the sites
 - Existing artwork is replaced when the City Council wishes a more significant artwork created by the same artist.

De-accession should only be considered after a careful and impartial evaluation to avoid the influence of fluctuations of taste, premature removal, or when exceptions may be made.

When the particular artwork is deemed as ready for removal, the NPAC will attempt to locate the artist or donor per the USC section 106A "Visual Artists Rights Act of 1990", attempt to find a way for it to be reused, and if not reusable, dispose of it appropriately or prepare it for resale.

Artwork resale restrictions shall include:

1. All artwork shall be sold at public auction through the bidding process and shall be sold directly or indirectly.
2. Artwork shall not be sold directly or indirectly to City employees, representatives, members of the NPAC and/or Selection Panel, but those individuals shall be allowed to bid.
3. It shall be sold to the highest bidder.
4. When the artwork is estimated to be worth more than \$10,000, more than one appraisal may be sought.
5. These appraisals would be used as a basis for establishing the price below which the item should not be sold.
6. Any preempting contract conditions between artist and city will be honored.

City of Newport Percent for Arts Program. (Draft language to be considered)

This would become part of an ordinance that would include Policies and Procedures

The City of Newport intends to promote the creation and inclusion of works of art in its public buildings and public spaces through the Percent for Arts and Art in Public Places Policy. The City of Newport will provide the cultural leadership to guide the evolution of a distinct and vibrant artistic character for civic public places and ensure a visual legacy. Percent for Arts and Art in Public Places is a vital ingredient in the cultural fabric and streetscape of a creative city. The Percent for Arts and Art in Public Places Policy will become an integral component of the city's cultural plan.

There is hereby established a Percent for Arts and Art in Public Places Program. The Mayor is responsible for directing the program and shall appoint a Public Art Committee. With the advice of the Public Art Committee and the advice and consent of the City Council, the City of Newport will coordinate and administer the program.

The Percent for Arts and Art in Public Places Program focuses on the outside and the inside of new and remodeled City-owned public spaces and new, private development projects with public access. The art may serve a function, express a theme, or commemorate an important person. It may underscore or provide a counterpoint to the architecture and surrounding site. It may serve as a landmark that adds definition to the City of Newport.

The Percent for Arts and Art in Public Places Program requires one percent (1%) of eligible construction costs of City capital improvement projects paid wholly or in part by the City of Newport to construct or remodel any public or city building, structure, park or any portion thereof to be allocated for public art. No less than eighty percent (80%) of this one percent (1%) will be used for on-site Artwork. No more than twenty percent (20%) will be deposited in a Public Art Trust Fund used to fund additional art projects and provide maintenance for existing works. In cases where the eligible construction costs of a City capital improvement project is less than \$100,000, and at the discretion of the Public Art Committee, a particular piece of on-site art is not required and one hundred percent (100%) of the one percent (1%) may be deposited in the Public Art Trust Fund.

Private developers of projects with public access may be allowed to pay in-lieu of fees to a public art fund as an alternative to installation of public art.

The Percent for Arts and Art in Public Places Program shall be implemented without discrimination based on race, religion, sex, marital status, color, national origin, ancestry, or creed.

Purpose of the Percent for Arts and Art in Public Places Policy:

- to increase the livability and artistic richness of the city by making art a permanent part of our environment and a legacy for future generations.
- to provide opportunities for the public to increase their awareness, appreciation, knowledge and education of public art.
- to develop a sense of place, community pride and identity through the creation of new works.
- to integrate art and artists into a variety of public settings.
- to create art that inspires people and is an expression of the time.
- to enhance the attractiveness of the city, and promote cultural tourism.
- to provide opportunities for artists.

Exemptions from the Percent for Arts Program:

The following categories of projects are exempt from the Percent for Arts requirements:

- A. Street construction and repair, inclusive of the public right of way improvements, such as curb, sidewalk and traffic control facilities and landscaping.
- B. Maintenance projects.

These exemptions do not preclude the City from proposing and including funding for art in a project. City departments are encouraged to include art to some degree in these exempted categories.

Public Art Glossary of Terms

Definitions

A. "Architect" is the person or firm designing the Project to which the one percent (1%) funding applies. Where the architect is a firm, the term Architect shall mean the principal of that firm in charge of designing the Project for which the one percent (1%) funding applies.

B. "Artist" is a practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent and recognized ability who produces artworks and is not a member of the project architectural/design firm.

C. "Artwork" includes but is not limited to, paintings, murals, inscriptions, stained glass, fiber work, statues, reliefs or other sculpture, monuments, fountains, arches, or other structures intended for ornament or commemoration. Also included are carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints, crafts, both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials. Landscape items include the artistic placement of natural materials or other functional art objects. Works of art may be portable as well as permanent.

D. "Capital Improvement Program" (CIP) means the annual Capital Improvement Program adopted for City-financed public improvement projects.

E. "City" is the City of Newport.

F. "Construction Cost" is the contracted sum for construction of the designated project including any change orders. Construction costs do not include costs such as professional fees, cost of land, rights of way and financing.

G. "Construction Project" means any capital improvement project paid wholly or in part by the City of Newport to construct or remodel any public or city building, structure, park or any portion thereof.

H. "Consultant" is any firm, individual, joint venture or team of firms or individuals with which the City contracts for design or other consulting services related to construction projects.

I. "De-accessioning" is a procedure for the withdrawal of an artwork from the public collection.

J. "Eligible Construction Cost" is that portion of the construction cost of any construction project paid for by the City of Newport to construct or remodel any building, decorative or commemorative structure, parking facility, recreational facility, or any portion thereof, located on City property, provided that the source of funds for such project(s) is not restricted by law or regulation as to its use for artworks.

K. "Maintenance" is the periodic work on a facility required to maintain its original functionality.

L. "Newport Public Art Committee" is a committee created as a standing city committee designated to review, advocate and develop public art projects in the public domain and on private property for the City of Newport. It will develop a Public Art Program in which to create, develop and maintain public art according to the Public Art Policies and Procedures as well as further public accessibility to the arts.

M. "Private property with public access" is businesses and their parking lots, shopping malls, hospitals, medical facilities, other government buildings, public non-profits, and private property, such as apartment complexes/condo/residential developments, with common areas open to the public, to name a few.

N. "Public Art Trust Fund" is a funding mechanism that aggregates portions of the individual private, site-specific Percent for Arts and Art in Public Places requirement and redistributes these funds to promote, finance and maintain public art projects throughout the City.

O. "Remodel" is work required to substantially change or enhance the functionality of a facility.

P. "Staff Representative" is the designated professional within the City of Newport responsible to advise and assist the City of Newport and the Newport Public Art Committee.

Q. "Visual Arts Professional" shall mean any of the following who is respected in his/her field and knowledgeable about (contemporary) visual arts: artist, curator, art critic, art historian, architect, landscape architect, or fine arts professional.

Public Art Research Sources

Primary sources include, but not limited to:

1. City of Ashland, OR, Public Art Master Plan document, November 2007.
2. City of Ashland, OR, Public Arts Commission Policies and Procedures, August 2006
3. City of Bend, Acceptance and De-accession Policy & Review Criteria
4. City of Bend, Public Art, personal tour and brochures
5. Cannon Beach, OR, Public Art Program, personal tour and brochures
6. Clackamas County Public Art Program, Policies and Guidelines, September 2000
7. City of Eugene, Art Acquisition (Donation) Policy, January 2008
8. City of Eugene, Public Art Collection De-accessioning Procedure, January 2008
9. City of Eugene, Public Art Committee Membership & Guidelines, January, 2008
10. City of Grand Junction Commission on Arts And Culture, "Economic & Social Importance of the Arts in the Grand Valley," June 2007
11. City of Grand Junction Commission on Arts and Culture, "Public Art Programs," 2009
12. City of Lake Oswego Public Art, personal tour and brochures
13. City of Lake Oswego, Municipal Code Chapter 18: Percent for Art Program
14. The Arts Council of Lake Oswego, "Tour the New Gallery Without Wall Art"
15. City of Lincoln City, OR, Public Art Guidelines, December 2006
16. City of Lincoln City, Ordinance Establishing a Percent for Arts Program and a Public Arts Committee, October 2004
17. City of Loveland, CO, Art in Public Places
18. City of Newport, OR, Municipal Code

19. Oregon Arts Commission, Developing Public Art in Oregon's Rural Communities, October 2000
20. Oregon Arts Commission, Oregon Percent for Art Program: A Public Legacy, September 2006
21. Percent for art research: examples of cities and states that have effectively used "percent for the Arts": Philadelphia, PA, Portland, OR, New York City, Louisiana, Minnesota, Ohio, Wisconsin
22. City of Portland, Acquisition of Public Art, December 2005
23. City of Portland, Multnomah County, Policy for De-accessioning Work of Art, September 1995
24. City of Portland & Multnomah County, Percent for Art Guidelines, October 2006
25. Portland Community College, Art Curatorial Procedures
26. Regional Arts & Culture Council (Portland, OR), Artist Guide to RACC's Public Art Program
27. Port of San Diego's Public Art Department, Public Art Updates, February 2008
28. City of Seattle, Public Art Ordinance (Seattle Municipal Code)
29. City of St. Helens, St. Helens Arts & Cultural Commission Ordinance NO.2952, June 2005
30. Time Magazine, excerpt on public art and percent for the arts, July, 1962
31. The Visual Artists Rights Act of 1990 (VARA) – interpreted by Cornell University Law School, Legal Information Institute (LII), U.S. Code Collection and by Ivan Hoffman, J.D.

Memo

To: Jim Voetberg, City Manager
Via Email To: j.voetberg@newportoregon.gov

From: Ross M. Williamson

Date: February 7, 2012

Re: City of Newport / Public Art Policy Review

I. Purpose

The purpose of this memo is to identify issues for discussion and resolution as the City Council takes on the review of the Newport Public Arts Task Force report. The Task Force report raises several policy issues that should be discussed by the Council. The Council's discussions on these issues will guide staff in presenting the Council with documents to implement the Council's policy directions.

II. Adopting Public Art Policy

Adopting a basic public arts policy can be accomplished through a Council resolution. Predominately, a public arts policy would relate to internal City procedures and would be administrative in nature. As a result, adoption via resolution is appropriate.

To the extent the Council wishes to adopt policies and requirements related to a percent-for-art program, I recommend the Council adopt those provisions with an ordinance. If the program only concerns City-projects, an ordinance would not be required, but using the ordinance process signifies a commitment by the City to the percent-for art program. If the program involves requirements on private developers, the policies would need to be adopted by ordinance after allowing the public to comment at a public hearing.

III. Policy Questions for Council

In order to act upon the Newport Public Arts Task Force report, the Council should offer its policy direction to staff on five questions. In answering these five questions, the

Council will provide needed direction on how the City should implement the Task Force report.

Policy Question 1

Does the Council want policies to direct the City's actions related to public art?

Discussion

This is the foundational question for considering the work of the Task Force. Apart from the percent-for-art program discussed below, the task force recommends that the City adopt public art policies that govern how the City: selects artwork for placement in public spaces; selects artist to work on public art; selects the location and placement for pieces of public art; becomes involved in arts education; and conducts the de-accession process for public art. The Task Force recommends formal adoption of City policies on these issues. However, there is no requirement that the City have formally adopted policies. The City could operate through informal practices and address situations on an *ad-hoc* basis as they arise. Policies would allow the City to address situations consistently over time, but policies can also reduce the City's ability to react with flexibility to different situations. Policies are a good idea, but not required.

Policy Question 2

Does the Council want the City's public arts policies implemented by a public art committee or City staff (e.g., visual arts coordinator)?

Discussion

The Task Force recommends the creation of a standing City committee charged with implementing the City's public arts policies. While the City would certainly benefit from implementing the public arts policies using the expertise of committee members, a committee is not necessary. The duty of overseeing the City's public arts policy could be assigned to a staff person. Given the on-going problem of recruiting volunteers to serve on committees, having a staff person take on the duties may provide some continuity that a committee of ever-changing volunteers may not be able to provide.

Policy Question 3

If the Council favors a public arts committee, should the committee be a standing committee, or should the committee be instituted *ad-hoc*, with members serving on a per-project basis?

Discussion

An option for implementing a public arts committee is to only institute the committee when there is a project/decision that falls within the committee's purview. It is generally difficult to obtain a large pool of volunteers to serve on standing committees.

Paradoxically, it is also often hard to maintain standing committees if there is not much work for the committee. Convening the committee on an *ad-hoc* basis, with members drawn each time from predetermined stakeholder groups, may help the City in soliciting volunteer committee members.

Policy Question 4

Should the City adopt a "percent-for-art" program for public projects?

Discussion

The Task Force recommends implementing a percent-for-art program. For purposes of City-financed projects, the program would require a certain percentage (e.g., 1%) of a project's total costs to be transferred to a public arts fund where it would be used to install artwork in the City. While the concept of such a program is fairly basic, the implementation of such a program is more complex.

If the Council wants to move forward with a program, there are many specifics that will need attention. The following questions must be addressed in formulating the program. Are all public improvement projects included, or does the program exclude certain projects such as transportation projects? Are all projects included, or are only projects above a certain dollar value included? What costs are included within the definition of "total project costs?" What costs associated with the artwork can be financed with program funds?

Policy Question 5

Should the City adopt a "percent-for-art" program for private development projects?

Discussion

The Task Force's recommendation for a percent-for-art program recommends the program for all projects involving public spaces. The Task Force defined public space to include not only City property, but also private property that is open to the public. This broad definition would have private project included within the percent-for-art program. The definition would also include projects from other governmental entities, although it is probable the City would be unable to enforce the program against federal or state projects.

As applied to private projects, the percent-for-art program envisioned by the Task Force would essentially create a development fee payable to the City by builders of projects in the City. The fee would either be paid to the City, or would be accounted for as part of an art installation as part of the project. As with the program applied to City-projects, there are similar questions that will need to be answered to develop the details of the program if it is to be applied to private developments. In addition, for private projects, the program raises new issues related to oversight and enforcement.

The City could also explore other mechanism for private projects that do not involve direct assessment of development fees. For instance, builders could be encouraged to include public art in projects by providing incentives that reduce City fees or that provide options within City regulations that are not available to projects without public art.

IV. Conclusion

With Council's answers and guidance on the above questions, staff will be able to bring back the appropriate implementing documents to keep this initiative moving forward with public arts policies that are in the best interests of the City.

February 21, 2012
8:30 A.M.
Newport, Oregon

CITY COUNCIL WORK SESSION AND GOAL SETTING SESSION

Councilors present: McConnell, Beemer, Brusselback, Allen, Sawyer, Bertuleit, and Roumagoux.

Staff present: Voetberg and Hawker.

1. Voetberg explained that the city's Comprehensive Plan contains official community-established goals. He noted that the Comprehensive Plan goals that pertain to specific departments were given to the department heads who then talked with staff regarding those goals. He distributed and update to the 2011-2012 goals. Bertuleit asked what the employee reaction was to the Comprehensive Plan. Beemer asked whether employee feedback was encouraged, and Voetberg reported that it was. A brief discussion ensued regarding the periodic review and update of the Comprehensive Plan. McConnell noted that Council would use the current goals adding goals if necessary.
2. Phil Paige addressed Fire Department goals. Council established the following Fire Department goals for 2012/2013:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

5+ Year Goals

- A. Implement strategic plan

3. Mark Miranda addressed the Police Department goals. Council established the following Police Department goals for 2012/2013:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Add school resource officer

5+ Year Goals

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

4. Miranda and Page addressed the Public Safety goals. Council established the following Public Safety goals for 2012/2013:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Implement plan to upgrade structures for earthquake readiness
- B. Become a NOAA TsunamiReady City

- C. Develop a plan and implement stockpiles for emergency preparedness
- 5. Cossey addressed Airport goals. Council established the following Airport goals for 2012/2013:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Develop the FBO to a level that it becomes profitable and attractive to independent operations
- B. Continue to develop and support a volunteer association to support and promote ONP
- C. Continue to develop airport business opportunities including infrastructure upgrades
- 6. Smith addressed Library goals. Council established the following Library goals for 2012/2013:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Plan for library expansion/relocation study

B. Implement the Radio Frequency Identification (RFID) security system

5+ Year Goals

A. Expand or relocate the library

7. Marshall addressed Finance and Budgeting goals. Council established the following Finance and Budgeting goals for 2012/2013:

Ongoing Goals

A. Develop and produce award-winning audits and budgets

Fiscal Year 2012/2013 Goals

A. Install and make operational a purchase requisition/purchase order system

B. Implement the new accounting system - Cassell

1 - 5 Year Goals

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

8. Protiva addressed the Parks and Recreation Department goals. Council established the following Parks and Recreation goals for 2012/2013:

Ongoing Goals

A. Provide recreational programming and opportunities

B. Maintain and continue to update programs and equipment

C. Appoint and maintain the operation of the Parks and Recreation Advisory Committee

Fiscal Year 2012/2013 Goals

A. Form and Parks and Recreation Foundation

B. Implement an "Adopt-a-Park" and an "Adopt-a-Streetscape" program

C. Develop a schedule and implementation plan for equipment and facilities repair and replacement

D. Review the existing Comprehensive Plan with the Parks and Recreation Advisory Committee and staff and report the findings to the City Council

E. Update the CIP

F. Create a cost recovery program and define subsidy levels

G. Remodel and update the control desk, circuit room, and gym lights

1 - 5 Year Goals

A. Address the issue of replacing the aquatic facility (municipal pool)

- B. Consider an update to the Parks and Open Space Master Plan
- 9. Tokos addressed economic development goals. Council established the following economic development goals:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Implement measures from the EOA and the Economic Development Plan
 - B. Develop strategies for annexing property in the Urban Growth Boundary
10. Tokos addressed Community Development Department goals. Council established the following goals for the Community Development Department:

Ongoing Goals

- A. Involve citizens in every aspect of planning

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

11. Gross addressed goals for the water division of the Public Works Department. Council established the following goals for the water division:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

5+ Year Goals

A. Plan for future raw water supply

12. Gross addressed goals for the wastewater division of the Public Works Department. Council established the following goals for the wastewater division:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

13. Gross addressed goals for the stormwater division of the Public Works Department. Council established the following goals for the stormwater division:

Ongoing Goals

- A. Update and maintain mapping of systems

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Develop Stormwater Master Plan

5+ Year Goals

- A. Plan for funding of major construction projects

14. Gross addressed goals for the streets and transportation division of the Public Works Department. Council established the following goals for the streets and transportation division:

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

15. Council established the following communication goals:

Ongoing Goals

- A. Continue utilizing employee surveys
- B. Continue to support the City Employee Committee

C. Provide communication management training to supervisors and the management team

16. McConnell noted that most Councilors had specific goals in mind when they ran for office. He asked that they bring those individual goals to the next meeting so that they can be discussed and added to the list of goals.

Having no further business, the meeting adjourned at 3:36 P.M.

February 21, 2012
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, Brusselback, Beemer, Allen, McConnell, Bertuleit, and Roumagoux were present. Sawyer was excused

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

PLEDGE OF ALLEGIANCE

Council and audience participated in the Pledge of Allegiance.

McConnell reported that Sawyer had attended the work session earlier in the day but had to leave to attend a funeral on the east coast. MOTION was made by Roumagoux, seconded by Beemer to excuse Sawyer from this meeting. The motion carried unanimously in a voice vote.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session and regular meeting of February 6, 2012;
- B. Approval of City Council executive session minutes from January 17, 2012;
- C. Approval of City Council Town Hall meeting minutes from January 30, 2012;
- D. Police and Fire Department Reports for January 2012;
- E. Report of accounts paid for January 2012;
- F. OLCC License - Pepsi.

McConnell reported that he had not attended the January 30, 2012 and February 6, 2012 Council meetings. Allen made several corrections to the minutes. MOTION was made by Bertuleit, seconded by Brusselback, to approve the consent calendar with the noted corrections to the minutes. The motion carried unanimously in a voice vote.

OFFICER'S REPORTS

Mayor's Report. McConnell thanked Council and staff for participating in the goal setting session today. McConnell appointed Mary Ann Bozza to the Bicycle/Pedestrian Committee. MOTION was made by Beemer, seconded by Brusselback, to ratify the Mayor's appointment. The motion carried unanimously in a voice vote.

McConnell reported that requests for funding had been received from Meals on Wheels and the Lincoln County Land Trust.

McConnell reported that he had received information regarding the "If I Were Mayor" contest sponsored by the League of Oregon Cities. He noted that this consists of a poster, essay, and video production contest.

McConnell reported that he had received a letter from Commissioner Hall regarding the homeless car camping ordinance and requesting the city consider it. He suggested that Hall appear before Council with Jordan from the Americorps/Vista program to discuss this issue.

McConnell noted that he had also received a letter from the Commissioners regarding a response to Commissioner Thompson's request regarding DUII processing. Voetberg noted that the staff was waiting for direction from Council on how to proceed on this matter, and suggested that it be treated as a public records request. Council supported handling this issue as a public records request.

McConnell asked Council how they would like to proceed with the corporate personhood issue that was brought up at the February 6, 2012 City Council meeting. Roumagoux reported that the City of Corvallis had agreed to place this matter on the November ballot for an advisory vote. McConnell noted that he will be meeting with members of this group, but suggested that he could issue a proclamation if requested.

City Manager's Report. Voetberg reported that the updated suggestion/concern/complaint form is included in the packet. He noted that the cleaning of the Nye Beach restrooms has been addressed.

Voetberg reported that the LOC will hold town hall meetings throughout the state, and that one will be held on March 7, at 5:00 P.M., in Newport, at the City Hall.

Voetberg reported that Airport Director Cossey has received a certification from the American Association of Airport Executives.

Voetberg reported that the packet contains information regarding water rates of various cities and that Newport's rates are in the mid-range.

Voetberg reported that the packet contains several letters of thanks regarding the Public Works Department and the Senior Center.

Voetberg reported that the Police Department is sponsoring another Citizen's Academy, and is still accepting applicants.

Voetberg reported that the Public Works Department is in the preliminary planning stages of recommending how to provide water service in geologic hazard areas.

Voetberg reported that staff will bring a change to the pension plan for Council consideration at the March 5, 2012 City Council meeting. Allen stated that he will provide more details during Council comments.

Voetberg reported that the packet contains the weekly manager's reports for January 30 and February 6.

Voetberg reported that the Tourism Facilities Grant Review Task Force met and made recommendations. He added that awards of this grant money will occur at the next Council meeting. Brusselback reported that interviews occurred last Friday, and that the Task Force recommended funding to OCCA, the Lincoln County Historical Society, and the Oregon Coast Aquarium.

Voetberg reported that HB4090-A has generated a lot of discussion. He recommended that McConnell draft a letter to our senator asking for caution in voting until the issue is fully understood.

Voetberg reported that the monthly departmental reports are included in the packet.

DISCUSSION ITEMS AND PRESENTATIONS

Lincoln County Animal Services. Wayne Belmont, Lincoln County Counsel, and Laura Ireland, manager of the animal shelter appeared before Council. Belmont reported that the County is interested in forming an animal services district. He stated that the Board has indicated that the tax rate will not exceed the current tax rate and may be a lesser rate. A brief discussion ensued. McConnell asked staff to develop a resolution supporting the formation of an animal services district.

Seven Month Financial Review. Marshall reviewed the seven month financials and responded to Council questions. He noted that ending fund balances will all be positive this year. He noted that it does not appear that appropriations will be exceeded this year, but that possible corrective action may be needed for the water distribution, wastewater collection, and parks division cost centers.

ACTION ITEMS

Consideration of Authorization to Submit a National Endowment for the Arts Grant for the Art Deco Corridor Visioning Process in City Center. It was reported that the issue before Council is the consideration of whether the city, in partnership with the City Center Newport Association and the Oregon Coast Council for the Arts, should submit an "Our Town" grant application to the National Endowment for the Arts. It was noted that the City Center Newport Association would like to repurpose monies set aside for the Deco Park for this project. Tokos noted that this would be a specific budgeted item, and the Deco Park would not be budgeted next year. Allen noted that if monies from the Deco Park project are to be used, Council should acknowledge its previous motion that provided funding for this project. McConnell noted that the area where the Deco Park was planned is unkempt, and should be cleaned up. A discussion ensued regarding the funding planned for the Deco Park and its repurposing. Michelle Harris, CCNA president, stated that CCNA would want an opportunity to help decide the direction of funds, other than the grant match. Allen noted that the grant application is a good use of the money, but the city setting money aside is premature. He added that he is not willing to go that route, but will defer until there is a report. Ken Irwin, CCNA board member, asked whether it is possible to put some money into the park. Tokos noted that CCNA is regrouping and going after the bigger picture rather than just the park site. Protiva reported that the parks crew will clean up the park site in April, but the fundamental appearance of the site will not change. He noted that participation in the Adopt-A-Park program would be good idea. MOTION was made by Roumagoux, seconded by Brusselback, to authorize staff to submit an "Our Town" grant application to the National Endowment for the Arts, in partnership with the city Center Newport Association and the Oregon Coast Council for the Arts, to further develop the Deco District concept, and to

use funding that had been previously designated for the Deco Park project for that purpose. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3579 for SDC Annual Adjustments. It was reported that the issue before Council is consideration of Resolution No. 3579 adjusting how the city makes annual updates to the SDCs. It was noted that this resolution addresses two issues: 1. It requires that annual updates be scheduled as action items so that the Council can take public testimony; and 2. The resolution calls for the Capital Improvement project list to be evaluated at the same time as annual adjustments are made to SDC fees to account for changes in construction costs. The CIP serves as the basis for SDC charges, and there is currently no policy direction for when those project lists should be reviewed and updated. This resolution will also readopt current SDC rates. MOTION was made by Beemer, seconded by Bertuleit, to adopt Resolution No. 3579, consolidating prior SDC resolutions and readopting city SDC methodologies, rates, and adjustment procedures. The motion carried unanimously in a voice vote.

Consideration of Ordinance No. 2029 regarding the leasing of city-owned properties. It was reported that the issue before Council is consideration of Ordinance No. 2029 that sets out a procedure for leasing city-owned properties. MOTION was made by Allen, seconded by Roumagoux, to read Ordinance No. 2029, regarding the leasing of city-owned properties, by title only and place for final adoption. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2029. Voting aye on the adoption of Ordinance No. 2029 were Allen, Beemer, Bertuleit, Brusselback, McConnell, and Roumagoux.

Consideration of Municipal Judge Employment Agreement. It was reported that the issue before Council is consideration of the terms of an employment agreement with Municipal Judge Pridgeon. Brusselback reviewed the method at which the compensation was developed, and noted that the judge agreed. MOTION was made by Brusselback, seconded by Beemer, that the Mayor with the City Attorney to draft an employment agreement between the city and Jeffrey Pridgeon with a monthly compensation of \$18,000 per year, and authorize the Mayor to sign the agreement on behalf of the city. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3578 a Budget Transfer for Payroll Adjustments. It was reported that the issue before Council is the consideration of Resolution No. 3578 transferring payroll appropriations from Cost Centers 1200 and 4150 to Cost Center 1035. MOTION was made by Bertuleit, seconded by Beemer, to adopt Resolution No. 3578 transferring payroll budgets from old cost centers in Parks and Recreation and the General Fund to cost center 1035, Building and Grounds Maintenance. The motion carried unanimously in a voice vote.

Consideration of Destination Newport Tourism Marketing Grant Recommendation for the NW Poets Concord. It was reported that the issue before Council is the request from the Northwest Poets Concord for tourism marketing grant funding, in the amount of \$1,000, for assistance with marketing the Concord to be held in Newport on May 4 - 6, 2012. MOTION was made by Brusselback, seconded by Beemer, to approve the

tourism marketing grant fund application, submitted by the Northwest Poets Concord for assistance with marketing and advertising for the annual Concord, in the amount of \$1,000. The motion carried unanimously in a voice vote.

Consideration of Destination Newport Contract with OnDisplay Advertising. It was reported that the issue before Council is the consideration of a billboard located on SW 4th and Oak Streets in Portland, Oregon. It was noted that a proposal was submitted by OnDisplay Advertising, and reviewed and recommended by the Destination Newport Committee. MOTION was made by Beemer, seconded by Bertuleit, to approve the billboard location at SW 4th and Oak Streets in Portland, Oregon, with OnDisplay Advertising in the amount of \$29,174. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Brusselback reported on a recent meeting of the Bicycle/Pedestrian Committee. Mary Ann Bozza was interviewed as a potential Committee member. It was reported that the North Jetty Trail would be opening soon. Gross attended and reported on the sidewalk program, and the possibility of hiring a grant writer.

Allen reported that the Retirement Board of Trustees met recently. He added that as a part of the meeting, Linda Brown mentioned the potential soft freeze of the defined benefit plan. He noted that West Coast Bank Trust indicated they could handle some of the investment strategies if the city goes that way.

ADJOURNMENT

Having no further business, the meeting adjourned at 7:59 P.M.

Margaret M. Hawker, City Recorder

Mark McConnell, Mayor



Jim Voetberg
City Manager
CITY OF NEWPORT
169 S.W. Coast Hwy.
Newport, OR 97365
j.voetberg@thecityofnewport.net

Manager's Report Meeting of March 5, 2012

Following is the Manager's Report for the City Council meeting of March 5, 2012:

Budget Committee Meeting: A Budget Committee meeting has been schedule for March 14, 2012 at 6:00pm. The purpose of the meeting is not to discuss next year's budget, but to discuss the budget layout or structure, and go over current year projected revenues and costs. As a reminder, David Marshall gave everyone a budgeting 101 test last year, so be prepared.

Volunteer Appreciation and Recognition Dinner: The Volunteer Appreciation and Recognition dinner has been scheduled for Tuesday April 17th. The Council is asked to mark this on their calendars.

Connect Oregon IV: As part of the regional review process regarding Connect Oregon IV project applications, Cascades West Area Commission on Transportation (CWACT) has invited applicants to attend the March 22 CWACT meeting and make a brief presentation (5-10 minutes for each application) about their proposed projects and to answer questions. Under ODOT guidelines, this is an informational session and there will be no "consideration" or ranking at the meeting. Gene Cossey and I plan on attending the CWACT meeting and will make a presentation. As Council may recall, the City's Connect Oregon IV request is the local match to the airport's AIP runway improvement project.

Land Conservation and Development Commission: The Land Conservation and Development Commission will be holding their March meeting in Newport. The meeting will take place Wednesday March 14 through Friday March 16 and will be held in the City Council Chambers for the regular business portions of the meeting. It is customary for the Commission to spend a part of one day on a tour of the local region to see and be briefed on local issues related to planning and community development. Mayor McConnell and other local officials have been invited to participate in the tour. Although time is somewhat limited, they are planning visits to the Port of Newport's International Terminal Project, the City's Marine Science Drive improvement project, and the Wilder

planned development site. Community Development Director Derrick Tokos, Public Works Director Tim Gross and I will accompany the tour and they have welcomed other members of the City Council to come along as well.

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

Manager's Weekly Report: Attached is the Weekly Manager's Report for February 13 and 20, 2012.

Manager's Office Weekly Report

Week of 2-13-12

Following are various items and issues which the City has been involved with during the week of February 13, 2012.

Chamber Economic Development Meeting: Derrick Tokos and I attended a Chamber Economic Development meeting. The Chamber's Economic Development Committee is coordinating nicely with the City's visioning work on economic development.

Personal Policy Manual Update: Working with CIS, staff is nearing completion of an update to our personnel policies. The update will better clarify actual practices and will assist the city in risk management.

City Employee Committee Meeting: I attended the City Employee Committee. I provided the Committee with an update on my thoughts, ideas and opportunities relating to the City's pension and health care plans. The Committee members did not have questions for the co-workers they represent. The Committee continued work on developing employee value statements.

County Commissioner Meeting – Public Hearing on Lincom: I attended a public hearing held by the County Commissioners regarding the possible change in 911 dispatch. Two individuals testified, one with a general question about costs and one individual who did not support the move due to the loss of jobs.

Oregon Aviation Management Association Spring Conference: I participated on a panel with the City Administrator of Creswell and the Urban Renewal Director of Salem on the benefits of airports on the local economy.

Recreation Meeting: I attended the weekly recreation management staff meeting. There was a discussion about the recent water fountain water problem that flooded the east gym. Closing and opening procedures were to be established that will reduce the risk of this occurring in the future. Jim Protiva, who is heading up the Home and Garden Show continues to promote this event. Liam Hughes informed the group that the downhill bike race was picking up momentum and will be a great event.

ODSL – Remediation Rulemaking Advisory Committee: I attended ODSL's Remediation Rulemaking Advisory Committee (RRAC) as an alternate City representative. The charge of the RRAC is to seek collaboration solutions for how ODSL can best meet its public trust responsibilities and receive fair compensation through a set of administrative rules to facilitate the sale or granting of authorization for the use of state land for remediation and restoration activities.

Upcoming issues:

- Staffing needs of various Departments including Fire/Police/Administration/Streets.
- FY12/13 Budget
- Single use bag.
- Tree City Designation (currently with the Planning commission).

- City Employee Insurance Plan.
- City Pension Plan.
- Adoption of updated personnel policies
- Adoption of Safety Manual
- Adoption of updated purchasing policies

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

- Business License and Room Tax Ordinance – David Marshall, Jim Voetberg.
- Business License Payment – David Marshall, Jim Voetberg.
- Transportation Plan Update – Derrick Tokos
- Leases; Thompson Sanitation and Aerovironment
- Sale of property on Bay Blvd.
- Review of VRD Ordinance
- Sign Code Amendment
- SDC Update Resolution
- Hedge Nuisance; A portion of the hedge has been removed, Code Enforcement continues to work with homeowners on minor additional trimming
- Art Policy (should be before Council at its February 20th meeting)
- LID Process

Manager's Office Weekly Report **Week of 2-20-12**

Following are various items and issues which the City has been involved with during the week of February 20, 2012.

Goal Setting: Council and staff worked collaboratively to develop the City's goals for this upcoming year.

IAFF Negotiations: The City and IAFF held its first labor negotiation meeting. An executive meeting has/will be scheduled for March 19th, to give Council an update on the status of labor negotiations.

Community Non-Profit Service Grants: The Community Non-Profit Service Grant Committee met to review the six groups who submitted grant applications. As Council will recall, this year's budget included \$10,000 for a granting program to help fund local non-profit organizations that provide community services. Council award of the grants is scheduled for the meeting of March 5th.

Safety Committee: I met with members of the safety committee to discuss means of increasing safety awareness to our employees.

Economic Opportunity Analysis. I attended the City's economic opportunity analysis committee meeting. As Council will recall, the purpose of the committee is to (a) update the City's economic data, (b) develop a cohesive economic strategy and vision for the community, and (c) better define the City's role in helping to achieve community economic development aspirations through specific policies and implementation measures. Information on this meeting, past meetings and various reports can be viewed on the City's Community Development web page.

Developed Agreement For Marketing Grants: With the recent award of marketing grants exceeding \$5,000, staff has developed an agreement that grant recipients will need to sign. The agreement outlines that the funds are to be used for marketing and advertising events outside of Newport (we used the states tourist definition for this) and clarifies that the recipient will get paid upon submitting documentation of outside marketing (documentation can include an agreement with a marketing will occur so that the event organizers won't have cash flow issues).

Upcoming issues:

- Staffing needs of various Departments including Fire/Police/Administration/Streets.
- FY12/13 Budget
- Single use bag.
- Tree City Designation (currently with the Planning commission).
- City Employee Insurance Plan.
- City Pension Plan.
- Adoption of updated personnel policies
- Adoption of Safety Manual
- Adoption of updated purchasing policies

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- **Business License and Room Tax Ordinance – David Marshall, Jim Voetberg.**
- **Business License Payment – David Marshall, Jim Voetberg.**
- **Transportation Plan Update – Derrick Tokos**
- **Leases; Thompson Sanitation and Aerovironment**
- **Sale of property on Bay Blvd.**
- **Review of VRD Ordinance**
- **Sign Code Amendment**
- **SDC Update Resolution**
- **Hedge Nuisance; A portion of the hedge has been removed; Code Enforcement continues to work with homeowners on minor additional trimming.**
- **Art Policy (should be before Council at its February 20th meeting)**
- **LID Process**



Memo

To: Jim Voetberg, City Manager and City Council
From: Ted Jones, Senior Project Manager
Date: March 5th, 2012
Re: Capital Projects Status Update

Project: **Airport Fill**
Project Number: 2011-026
Status: Sand stockpiling completed. Surveys indicate approximately 32,000 cubic yards of sand has been stockpiled. The project is on track to come in under budget due to lower stockpiled quantities and reduced contractor unit pricing.
Next Task: Seeding and site stabilization.
Budget: \$75,000
Description: Through collaboration with the Port of Newport, the City is working to develop currently unusable ground. The Port will provide the sand for placement, final grading, and vegetation.

Project: **Big Creek Pipe Bursting**
Project Number: 2010-001
Status: Televised inspection was completed on approximately 80% of the planned sewer lines. The lines not televised were too inundated with water and debris. A significant sewer line break was found on the sewer servicing Crestview Drive, which discharges to the Big Creek Sewer. Repair work for the Crestview Drive sewer has been planned.
Next Task: Review televised sewer findings and complete Crestview Dr. sewer repair.
Budget: \$400,000
Description: This project will address infiltration and inflow issues that are contributing to sanitary sewer backups at the Big Creek Lift Station. In addition, the backwash water from the new water treatment plant will be discharged to this system. For these reasons, the Big Creek sanitary sewer system between Hwy 101 and Big Creek Road will be replaced and the pipe size increased through pipe bursting.

Project: **Hwy 101 Sewer & Water Improvements**
Project Number: 2011-008
Status: Easement acquisition negotiations on-going.
Next Task: Continue with easement acquisition. Prepare final Contract Documents.
Budget: \$490,000
Description: This project replaces undersized and aging water pipes in the South Beach area, improving water capacity and pressure. In addition, sanitary sewer pipes are being extended allowing adjacent properties to connect to City services, thereby abandoning aging septic systems. The extension of water and sewer services in this area allows future residential and commercial growth in South Beach. This project is primarily funded through South Beach Urban Renewal.

Project: Infrastructure Mapping
Project Number: 2010-010
Status: Map data collection is on-going.
Next Task: Continue bi-weekly status updates with consultant and implement mapping best practices.
Budget: \$121,000
Description: Provide comprehensive mapping of the City's infrastructure systems, to allow better identification of cross connections and other environmental impacts associated with storm water discharge. A comprehensive system map, which could include elements such as structure locations and depths, pipe sizes and alignments, condition assessments, and other pertinent data, can be used for identifying cross connections between systems, identifying where sources of pollutants are coming from, and identifying where capacity issues exist which may contribute to sewer backups and overflows. In addition to these immediate benefits, a comprehensive infrastructure mapping system will also form the backbone of future system master planning. Future master plans will allow City staff to better plan for and fund infrastructure projects, prioritize critical projects, and will open up grant opportunities addressing water quality and pollution prevention.

Project: Naterlin Dr. to YBSP Sidewalks
Project Number: 2011-010
Status: Design review underway.
Next Task: Initiate contract document preparation.
Budget: \$150,000
Description: Construct a network of sidewalks at the north end of the Yaquina Bay Bridge, connecting Naterlin Drive, Yaquina State Park, and Highway 101.

Project: North Jetty Trail Access
Project Number: 2011-017
Status: Fencing in place and vehicular access gate has been secured.
Next Task: Install a permanent bollard on the pedestrian entrance, signage, and gravel the walkway.
Budget: \$20,000
Description: This will open a public-access trail from Naterlin Drive to the North Jetty.

Project: Water Treatment Plant
Project Number: 2010-010
Status: Perimeter fencing is complete. Intake pump station foundation construction has started. Interior flooring installation is underway. Intake pump station modifications continue.
Next Task: Complete pump modifications, install new intake pump station components, and continue Finish Interior work.
Budget: \$15,000,000
Description: Construction of a new water treatment plant which will provide significantly increased production and quality of water for residents of Newport.

Project: Hwy 101 Crosswalk Improvements
Project Number: 2012-001
Status: ODOT has identified the City as a grant recipient.
Next Task: Awaiting confirmation on the grant award before formulating a work plan, incorporating into FY13 Capital Budget, and initiating project planning/design.
Budget: \$368,000
Description: This project will improve the visibility and safety of multiple crosswalks on Highway 101 between 15th Street and the bridge. Proposed improvements include curb extensions and/or pedestrian safety islands, improved signage and pavement markings, and in one location pedestrian activated warning lights. (Photo shows similar improvements in Florence)

Project: Airport Sinkhole
Project Number: 2012-005
Status: The sinkhole has been stabilized and bypass pumping of the ponded area has been started to draw down the water and facilitate repairs. Televised inspection of the failed 24-inch stormwater line was performed to determine the location of the collapse. The exact location of the pipe failure could not be determined due to too much water/debris in the line.
Next Task: Continue ponded area drawdown and plug the existing line. Provide overflow drainage from the ponded area.
Budget: To be determined
Description: During the mid-January storm a large sinkhole developed over a 40' deep storm sewer causing significant ponding in adjacent areas. The sinkhole is located approximately 300 feet east of Runway 2/20. This damage was included as part of the FEMA application.

Project: Lower Agate Beach Tank Project
Project Number: 2011-018
Status: Incorporating the relocation of the Salmon Run Booster station into design documents.
Next Task: 60% design documents.
Budget: \$180,000
Description: Will provide 1 million gallons of storage capacity for Agate Beach area, improving capacity, pressure, and fire flow. Current budget is for design only.

Project: Big Creek Road Landslide Repairs
Project Number: 2011-003
Status: The geotechnical engineers are preparing preliminary cost estimates for the evaluated repair options. FEMA is reviewing the design scope of work.
Next Task: Initiate design by the civil engineering consultant.
Budget: \$750,000
Description: This project will restore Big Creek Road. Heavy rainfall in January of 2011 caused portions of the road to slide away, making the road unsafe for vehicles and jeopardizing a buried water main and electrical and telecommunications overhead transmission lines. This project is 75% funded through FEMA.

Project: Miscellaneous Emergency Repairs
Project Number: N/A
Budget: Varies by incident, to be determined
Description: 1) NW 56th St Sewer, Proj. No. 2012-004 – Repair work completed.

Activity ID	Activity Name	Start	Finish	2012											
				Feb	Mar	Apr	May	Jun	Jul	Aug	Qtr 3, 2012	Qtr 2, 2012	Qtr 1, 2012	Oct	
Newport,OR-Water Filtration Facility...															
Membrane Procurement-Pall Equip...															
05050	Computer Equip Delivery	08-Mar-12	11-Sep-12												
05060	Membrane Modules Delivery	08-Mar-12	22-May-12												
05070	Spare Parts Delivery	02-May-12	22-May-12												
Electrical Ductbanks															
1880	Conductors HH-1S&1E to HH-3S&3E	08-Mar-12	21-Mar-12												
1850	Conductors Intake PS to HH-1S&1E	28-Mar-12	03-Apr-12												
Water Treatment Building															
5830	Office Electrical	26-Jan-12 A	11-Sep-12												
5840	Electrical Terminations Membrane R...	28-Jan-12 A	10-Feb-12 A												
5770	TAG I&C Checkouts	13-Feb-12 A	07-Mar-12												
5500	Pall I&C Checkouts	04-Apr-12	10-Apr-12												
5580	Pall Instrument & Equipment Dry Che ...	11-Apr-12	24-Apr-12												
5650	Pall Wet Checks	25-Apr-12	01-May-12												
5670	Pall Wet Checks	09-May-12	22-May-12												
5670	Membrane Installation	23-May-12	29-May-12												
5680	Pall System Flushing & Fine Tuning	30-May-12	05-Jun-12												
5660	Pall Startup & Testing	06-Jun-12	19-Jun-12												
5530	Commissioning	20-Jun-12	17-Jul-12												
5550	Training	20-Jun-12	10-Jul-12												
5540	Facility Operating	17-Jul-12	17-Jul-12												
5400	Acceptance Test, Operational Trainin...	16-Jul-12	11-Sep-12												
Clearwell															
5650	Hydro Test	28-Feb-12	12-Mar-12												
Intake Pump Station															
3190	Pump Can Fabrication	12-Jan-12 A	08-May-12												
3220	Excavate/Shore	20-Feb-12 A	24-Feb-12 A												
3230	F/R/P Base Slab	27-Feb-12 A	02-Mar-12												
3200	Pump Can Delivery	29-Feb-12	02-Mar-12												
3240	Install Pump Cans	05-Mar-12	06-Mar-12												
3210	F/R/P Can Walls Lift 1	07-Mar-12	12-Mar-12												
3250	F/R/P Can Walls Lift 2	13-Mar-12	15-Mar-12												

Page 1 of 2

TASK filters: 6-Month Lookahead, In Progress, Not Started.

Legend:
 Actual Work
 Remaining Work
 Critical Remaining ...
 Milestone

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Activity ID	Activity Name	Start	Finish	2012													
				Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
3260	Backfill Pump Cans/ Prep Slab	16-Mar-12	20-Mar-12														
3270	F/R/P Building Slab	21-Mar-12	27-Mar-12														
3280	Erect Building	28-Mar-12	03-Apr-12														
3020	Intake Mechanical & Electrical Work	04-Apr-12	01-May-12														
3120	Raw Water Pump Start-up	02-May-12	08-May-12														

Backfill Pump Cans/ ...
 F/R/P Building Slab
 Erect Building
 Intake Mechanical & ...
 Raw Water Pump Start...

Actual Work
 Remaining Work
 Critical Remaining ...
 Milestone

ing/Barricades/Signs	LS	11,560.00	0.00	0.00	11,560.00	11,560.00	0.00	11,560.00	0.00	11,560.00
Down Area / Roads	LS	19,921.00	0.00	0.00	19,921.00	19,921.00	0.00	19,921.00	0.00	19,921.00
Management	MOS	3,000.00	0.00	0.00	3,000.00	3,000.00	0.00	3,000.00	0.00	3,000.00
	ALL	5,000.00	0.00	(3,375.00)	1,625.00	1,625.00	0.00	1,625.00	0.00	1,625.00
Retaining Wall	LS	299,500.00	0.00	0.00	299,500.00	299,500.00	0.00	299,500.00	0.00	299,500.00
Fascia	LS	176,500.00	0.00	0.00	176,500.00	176,500.00	0.00	176,500.00	0.00	176,500.00
n	LS	62,100.00	0.00	0.00	62,100.00	62,100.00	0.00	62,100.00	0.00	62,100.00
Drainage Swale	LS	21,000.00	0.00	(3,189.00)	17,811.00	17,811.00	0.00	17,811.00	0.00	17,811.00
Coated Chain Link Fence	LS	8,900.00	0.00	(8,900.00)	0.00	0.00	0.00	0.00	0.00	0.00
In Sewer Line & HDPE Conduit	LS	79,710.21	0.00	4,041.72	83,751.93	83,751.93	0.00	83,751.93	0.00	83,751.93
Existing Piping at Clearwell	ALL	59,107.00	0.00	28,704.93	87,811.93	87,811.93	0.00	87,811.93	0.00	87,811.93
Aggregate Piers	ALL	400,000.00	0.00	(112,074.30)	287,925.70	287,925.70	0.00	287,925.70	0.00	287,925.70
emo	ALL	28,598.78	0.00	(17,798.78)	10,800.00	10,800.00	0.00	10,800.00	0.00	10,800.00
General Conditions	MOS	300,000.00	0.00	0.00	300,000.00	300,000.00	0.00	300,000.00	0.00	300,000.00
General Conditions	MOS	0.00	0.00	147,500.00	147,500.00	147,500.00	0.00	29,500.00	118,000.00	147,500.00
roduction Costs	ALL	7,500.00	0.00	0.00	7,500.00	7,500.00	2,250.00	5,750.00	1,750.00	7,500.00
General Housekeeping	MOS	40,244.00	0.00	0.00	40,244.00	40,244.00	0.00	40,244.00	7,200.00	47,444.00
aterial Hoisting/Distribution	MOS	110,045.00	0.00	0.00	110,045.00	110,045.00	0.00	110,045.00	0.00	110,045.00
emp Fence Maintenance/Signs	LS	1,500.00	0.00	0.00	1,500.00	1,500.00	0.00	1,500.00	0.00	1,500.00
dn Restoration of laydown areas	LS	7,570.00	0.00	0.00	7,570.00	2,500.00	5,070.00	2,500.00	5,070.00	7,570.00
y Weather Protection	ALL	15,000.00	0.00	0.00	15,000.00	15,000.00	0.00	15,000.00	0.00	15,000.00
Vaste Management	MOS	12,000.00	0.00	0.00	12,000.00	12,000.00	0.00	12,000.00	4,500.00	16,500.00
urveying	ALL	7,000.00	0.00	0.00	7,000.00	4,075.00	2,925.00	4,075.00	1,425.00	5,500.00
ie Bldg Encasements	LS	84,355.00	0.00	0.00	84,355.00	84,355.00	0.00	84,355.00	0.00	84,355.00
g Material	LS	245,583.00	0.00	0.00	245,583.00	245,583.00	0.00	245,583.00	0.00	245,583.00
g Placement	LS	360,389.27	0.00	0.00	360,389.27	360,389.27	0.00	360,389.27	0.00	360,389.27
l Fill Placement & Grading	LS	81,038.00	0.00	0.00	81,038.00	81,038.00	0.00	81,038.00	0.00	81,038.00
k Allowance	ALL	23,596.00	0.00	0.00	23,596.00	22,322.07	1,273.93	22,322.07	1,273.93	23,596.00
rfacing Allowance	ALL	24,750.00	0.00	0.00	24,750.00	13,464.41	11,285.59	13,464.41	11,285.59	24,750.00
c Fence	LS	16,259.00	0.00	8,900.00	25,159.00	25,159.00	0.00	25,159.00	0.00	25,159.00
ing Allowance	ALL	2,500.00	0.00	0.00	2,500.00	0.00	2,500.00	0.00	2,500.00	2,500.00
erials	LS	44,971.00	0.00	0.00	44,971.00	44,971.00	0.00	44,971.00	0.00	44,971.00
Reinforcement	LS	133,866.00	0.00	0.00	133,866.00	133,866.00	0.00	133,866.00	0.00	133,866.00
& Concrete Pumping	LS	160,038.00	0.00	0.00	160,038.00	160,038.00	0.00	160,038.00	0.00	160,038.00
.	LS	52,378.00	0.00	0.00	52,378.00	52,378.00	0.00	52,378.00	0.00	52,378.00
ie Bldg Concrete Placement	LS	138,912.00	0.00	0.00	138,912.00	138,912.00	0.00	138,912.00	0.00	138,912.00
Concrete Placement	LS	30,389.00	0.00	0.00	30,389.00	30,389.00	0.00	30,389.00	0.00	30,389.00
Concrete Placement	LS	26,325.00	0.00	0.00	26,325.00	26,325.00	0.00	26,325.00	0.00	26,325.00
	LS	349,677.00	0.00	0.00	349,677.00	349,677.00	0.00	349,677.00	0.00	349,677.00
s & Decking	LS	182,790.00	0.00	0.00	182,790.00	182,790.00	0.00	182,790.00	0.00	182,790.00
d Metals	LS	167,393.00	0.00	0.00	167,393.00	167,393.00	0.00	167,393.00	0.00	167,393.00
nsulation	ALL	7,500.00	0.00	0.00	7,500.00	7,272.00	228.00	7,272.00	0.00	7,272.00
ofing	LS	147,662.00	0.00	0.00	147,662.00	147,662.00	0.00	147,662.00	0.00	147,662.00
ors & Frames	LS	37,388.00	0.00	0.00	37,388.00	37,388.00	0.00	37,388.00	0.00	37,388.00
s & Frames	LS	28,066.00	0.00	0.00	28,066.00	28,066.00	0.00	28,066.00	0.00	28,066.00
l Doors	LS	16,675.00	0.00	0.00	16,675.00	16,675.00	0.00	16,675.00	0.00	16,675.00
t Windows & Glazing	LS	7,950.00	0.00	0.00	7,950.00	7,950.00	0.00	7,950.00	0.00	7,950.00
ardware	LS	22,326.00	0.00	0.00	22,326.00	22,326.00	0.00	22,326.00	0.00	22,326.00
raming	LS	15,677.00	0.00	0.00	15,677.00	15,677.00	0.00	15,677.00	0.00	15,677.00
l Ceiling	LS	11,544.00	0.00	0.00	11,544.00	11,544.00	0.00	11,544.00	0.00	11,544.00
	LS	31,353.00	0.00	0.00	31,353.00	31,353.00	0.00	31,353.00	0.00	31,353.00
ile	LS	5,693.00	0.00	0.00	5,693.00	5,693.00	0.00	0.00	0.00	0.00
looring & Base	LS	3,209.00	0.00	0.00	3,209.00	3,209.00	0.00	3,209.00	0.00	3,209.00
Protective Coatings	LS	105,700.00	0.00	0.00	105,700.00	105,700.00	0.00	103,700.00	2,000.00	105,700.00
eous Specialties	LS	12,174.00	0.00	0.00	12,174.00	6,087.00	6,087.00	6,087.00	0.00	12,174.00
it Hoisting & Accessories	LS	28,000.00	0.00	0.00	28,000.00	28,000.00	0.00	28,000.00	0.00	28,000.00
Submersible & Sampling Pumps	LS	5,200.00	0.00	0.00	5,200.00	5,200.00	0.00	5,200.00	0.00	5,200.00
ubmersible Pump Station	LS	15,800.00	0.00	0.00	15,800.00	15,800.00	0.00	14,220.00	1,580.00	15,800.00
urbine Line Pumps	LS	108,000.00	0.00	0.00	108,000.00	108,000.00	0.00	108,000.00	0.00	108,000.00
urbine Can Pumps	LS	146,300.00	0.00	0.00	146,300.00	146,300.00	0.00	146,300.00	0.00	146,300.00
ble Non-Clog pumps	LS	11,500.00	0.00	0.00	11,500.00	11,500.00	0.00	10,350.00	1,150.00	11,500.00
: Pumps	LS	69,900.00	0.00	0.00	69,900.00	69,900.00	0.00	69,900.00	0.00	69,900.00
Storage Tanks	LS	59,200.00	0.00	0.00	59,200.00	59,200.00	0.00	59,200.00	0.00	59,200.00
im	LS	326,934.00	0.00	0.00	326,934.00	326,934.00	0.00	289,800.00	37,134.00	326,934.00
on System	LS	109,500.00	0.00	0.00	109,500.00	109,500.00	0.00	109,500.00	0.00	109,500.00
otes	LS	11,600.00	0.00	0.00	11,600.00	11,600.00	0.00	11,600.00	0.00	11,600.00
y Accessories	LS	10,500.00	0.00	0.00	10,500.00	0.00	10,500.00	0.00	0.00	0.00
y Casework & Fumehood	LS	36,323.00	0.00	0.00	36,323.00	36,323.00	0.00	36,323.00	0.00	36,323.00
gs	LS	2,731.00	0.00	0.00	2,731.00	2,731.00	0.00	1,876.00	855.00	2,731.00
sted Wood Building	ALL	40,855.00	0.00	0.00	40,855.00	21,107.00	19,748.00	14,820.00	22,797.94	37,617.94
ad Steel Reservoir	LS	279,700.00	0.00	0.00	279,700.00	279,700.00	0.00	274,106.00	5,594.00	279,700.00
l Equipment	LS	79,400.00	0.00	0.00	79,400.00	79,400.00	0.00	72,580.00	6,820.00	79,400.00
station & Controls	LS	197,506.00	0.00	0.00	197,506.00	197,506.00	0.00	192,759.29	4,746.71	197,506.00
Elevator	LS	43,750.00	0.00	0.00	43,750.00	43,750.00	0.00	41,562.50	2,187.50	43,750.00
echanical Installation	LS	245,420.00	0.00	0.00	245,420.00	245,420.00	0.00	245,420.00	0.00	245,420.00
echanical Materials	LS	417,815.00	0.00	0.00	417,815.00	417,815.00	0.00	417,815.00	0.00	417,815.00
al Supports	LS	71,554.00	0.00	0.00	71,554.00	71,554.00	0.00	71,554.00	0.00	71,554.00
	LS	92,620.00	0.00	0.00	92,620.00	92,620.00	0.00	92,620.00	0.00	92,620.00
ction	LS	37,102.00	0.00	0.00	37,102.00	37,102.00	0.00	37,102.00	0.00	37,102.00
	LS	129,550.00	0.00	0.00	129,550.00	129,550.00	0.00	129,550.00	0.00	129,550.00
	LS	439,500.00	0.00	0.00	439,500.00	439,500.00	0.00	432,907.50	6,592.50	439,500.00
	LS	1,433,094.00	0.00	0.00	1,433,094.00	1,433,094.00	0.00	1,420,349.87	12,744.13	1,433,094.00
chanical	ALL	297,612.00	0.00	153,000.00	450,612.00	259,693.79	190,918.21	259,693.79	190,918.21	450,612.00
Creek Crossing	ALL	128,289.00	0.00	0.00	128,289.00	112,941.00	15,348.00	112,941.00	0.00	112,941.00
ar Line Replacement	ALL	200,000.00	0.00	3,375.00	203,375.00	209,606.09	0.00	209,606.09	0.00	209,606.09
ontingency	LS	260,252.00	(263,901.33)	51,065.20	47,415.87	0.00	47,415.87	0.00	13,940.00	13,940.00
ansfer #1	LS	0.00	10,776.00	0.00	10,776.00	10,776.00	0.00	10,776.00	0.00	10,776.00
ansfer #2	LS	0.00	71,645.00	0.00	71,645.00	71,645.00	0.00	71,645.00	0.00	71,645.00
ansfer #3	LS	0.00	7,120.00	0.00	7,120.00	7,120.00	0.00	7,120.00	0.00	7,120.00
ansfer #4	LS	0.00	3,000.00	0.00	3,000.00	3,000.00	0.00	3,000.00	0.00	3,000.00
ansfer #5	LS	0.00	37,886.00	0.00	37,886.00	37,886.00	0.00	37,886.00	0.00	37,886.00



Memo

To: Jim Voetberg, City Manager and City Council
From: Ted Jones, Senior Project Manager
Date: March 5th, 2012
Re: Capital Projects Status Update

Project: **Airport Fill**
Project Number: 2011-026
Status: Sand stockpiling completed. Surveys indicate approximately 32,000 cubic yards of sand has been stockpiled. The project is on track to come in under budget due to lower stockpiled quantities and reduced contractor unit pricing.
Next Task: Seeding and site stabilization.
Budget: \$75,000
Description: Through collaboration with the Port of Newport, the City is working to develop currently unusable ground. The Port will provide the sand for placement, final grading, and vegetation.

Project: **Big Creek Pipe Bursting**
Project Number: 2010-001
Status: Televised inspection was completed on approximately 80% of the planned sewer lines. The lines not televised were too inundated with water and debris. A significant sewer line break was found on the sewer servicing Crestview Drive, which discharges to the Big Creek Sewer. Repair work for the Crestview Drive sewer has been planned.
Next Task: Review televised sewer findings and complete Crestview Dr. sewer repair.
Budget: \$400,000
Description: This project will address infiltration and inflow issues that are contributing to sanitary sewer backups at the Big Creek Lift Station. In addition, the backwash water from the new water treatment plant will be discharged to this system. For these reasons, the Big Creek sanitary sewer system between Hwy 101 and Big Creek Road will be replaced and the pipe size increased through pipe bursting.

Project: **Hwy 101 Sewer & Water Improvements**
Project Number: 2011-008
Status: Easement acquisition negotiations on-going.
Next Task: Continue with easement acquisition. Prepare final Contract Documents.
Budget: \$490,000
Description: This project replaces undersized and aging water pipes in the South Beach area, improving water capacity and pressure. In addition, sanitary sewer pipes are being extended allowing adjacent properties to connect to City services, thereby abandoning aging septic systems. The extension of water and sewer services in this area allows future residential and commercial growth in South Beach. This project is primarily funded through South Beach Urban Renewal.

Project: Infrastructure Mapping
Project Number: 2010-010
Status: Map data collection is on-going.
Next Task: Continue bi-weekly status updates with consultant and implement mapping best practices.
Budget: \$121,000
Description: Provide comprehensive mapping of the City's infrastructure systems, to allow better identification of cross connections and other environmental impacts associated with storm water discharge. A comprehensive system map, which could include elements such as structure locations and depths, pipe sizes and alignments, condition assessments, and other pertinent data, can be used for identifying cross connections between systems, identifying where sources of pollutants are coming from, and identifying where capacity issues exist which may contribute to sewer backups and overflows. In addition to these immediate benefits, a comprehensive infrastructure mapping system will also form the backbone of future system master planning. Future master plans will allow City staff to better plan for and fund infrastructure projects, prioritize critical projects, and will open up grant opportunities addressing water quality and pollution prevention.

Project: Naterlin Dr. to YBSP Sidewalks
Project Number: 2011-010
Status: Design review underway.
Next Task: Initiate contract document preparation.
Budget: \$150,000
Description: Construct a network of sidewalks at the north end of the Yaquina Bay Bridge, connecting Naterlin Drive, Yaquina State Park, and Highway 101.

Project: North Jetty Trail Access
Project Number: 2011-017
Status: Fencing in place and vehicular access gate has been secured.
Next Task: Install a permanent bollard on the pedestrian entrance, signage, and gravel the walkway.
Budget: \$20,000
Description: This will open a public-access trail from Naterlin Drive to the North Jetty.

Project: Water Treatment Plant
Project Number: 2010-010
Status: Perimeter fencing is complete. Intake pump station foundation construction has started. Interior flooring installation is underway. Intake pump station modifications continue.
Next Task: Complete pump modifications, install new intake pump station components, and continue Finish Interior work.
Budget: \$15,000,000
Description: Construction of a new water treatment plant which will provide significantly increased production and quality of water for residents of Newport.

Project: Hwy 101 Crosswalk Improvements
Project Number: 2012-001
Status: ODOT has identified the City as a grant recipient.
Next Task: Awaiting confirmation on the grant award before formulating a work plan, incorporating into FY13 Capital Budget, and initiating project planning/design.
Budget: \$368,000
Description: This project will improve the visibility and safety of multiple crosswalks on Highway 101 between 15th Street and the bridge. Proposed improvements include curb extensions and/or pedestrian safety islands, improved signage and pavement markings, and in one location pedestrian activated warning lights. (Photo shows similar improvements in Florence)

Project: Airport Sinkhole
Project Number: 2012-005
Status: The sinkhole has been stabilized and bypass pumping of the ponded area has been started to draw down the water and facilitate repairs. Televised inspection of the failed 24-inch stormwater line was performed to determine the location of the collapse. The exact location of the pipe failure could not be determined due to too much water/debris in the line.
Next Task: Continue ponded area drawdown and plug the existing line. Provide overflow drainage from the ponded area.
Budget: To be determined
Description: During the mid-January storm a large sinkhole developed over a 40' deep storm sewer causing significant ponding in adjacent areas. The sinkhole is located approximately 300 feet east of Runway 2/20. This damage was included as part of the FEMA application.

Project: Lower Agate Beach Tank Project
Project Number: 2011-018
Status: Incorporating the relocation of the Salmon Run Booster station into design documents.
Next Task: 60% design documents.
Budget: \$180,000
Description: Will provide 1 million gallons of storage capacity for Agate Beach area, improving capacity, pressure, and fire flow. Current budget is for design only.

Project: Big Creek Road Landslide Repairs
Project Number: 2011-003
Status: The geotechnical engineers are preparing preliminary cost estimates for the evaluated repair options. FEMA is reviewing the design scope of work.
Next Task: Initiate design by the civil engineering consultant.
Budget: \$750,000
Description: This project will restore Big Creek Road. Heavy rainfall in January of 2011 caused portions of the road to slide away, making the road unsafe for vehicles and jeopardizing a buried water main and electrical and telecommunications overhead transmission lines. This project is 75% funded through FEMA.

Project: Miscellaneous Emergency Repairs
Project Number: N/A
Budget: Varies by incident, to be determined
Description: 1) NW 56th St Sewer, Proj. No. 2012-004 – Repair work completed.

Activity ID	Activity Name	Start	Finish	2012		Qtr 2, 2012				Qtr 3, 2012			4, 2012
				Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	
Newport,OR-Water Filtration Facili...				12-Jan-12 A	11-Sep-12								
Membrane Procurement-Pall Equip...				08-Mar-12	22-May-12								
05050	Computer Equip Delivery	08-Mar-12	21-Mar-12										
05060	Membrane Modules Delivery	02-May-12	15-May-12										
05070	Spare Parts Delivery	02-May-12	22-May-12										
Electrical Ductbanks				08-Mar-12	03-Apr-12								
1880	Conductors HH-1S&1E to HH-3S&3E	08-Mar-12	21-Mar-12										
1850	Conductors Intake PS to HH-1S&1E	28-Mar-12	03-Apr-12										
Water Treatment Building				26-Jan-12 A	11-Sep-12								
5830	Office Electrical	26-Jan-12 A	10-Feb-12 A										
5840	Electrical Terminations Membrane R...	13-Feb-12 A	07-Mar-12										
5770	TAG I&C Checkouts	04-Apr-12	10-Apr-12										
5500	Pall I&C Checkouts	11-Apr-12	24-Apr-12										
5580	Pall Instrument & Equipment Dry Che...	25-Apr-12	01-May-12										
5850	Pall Wet Checks	09-May-12	22-May-12										
5870	Membrane Installation	23-May-12	29-May-12										
5880	Pall System Flushing & Fine Tuning	30-May-12	05-Jun-12										
5860	Pall Startup & Testing	06-Jun-12	19-Jun-12										
5530	Commissioning	20-Jun-12	17-Jul-12										
5550	Training	20-Jun-12	10-Jul-12										
5540	Facility Operating		17-Jul-12										
5400	Acceptance Test, Operational Trainin...	18-Jul-12	11-Sep-12										
Clearwell				28-Feb-12	12-Mar-12								
5650	Hydro Test	28-Feb-12	12-Mar-12										
Intake Pump Station				12-Jan-12 A	08-May-12								
3190	Pump Can Fabrication	12-Jan-12 A	28-Feb-12										
3220	Excavate/Shore	20-Feb-12 A	24-Feb-12 A										
3230	F/R/P Base Slab	27-Feb-12 A	02-Mar-12										
3200	Pump Can Delivery	29-Feb-12	02-Mar-12										
3240	Install Pump Cans	05-Mar-12	06-Mar-12										
3210	F/R/P Can Walls Lift 1	07-Mar-12	12-Mar-12										
3250	F/R/P Can Walls Lift 2	13-Mar-12	15-Mar-12										

█ Actual Work █ Critical Remaining ...
█ Remaining Work ◆ Milestone

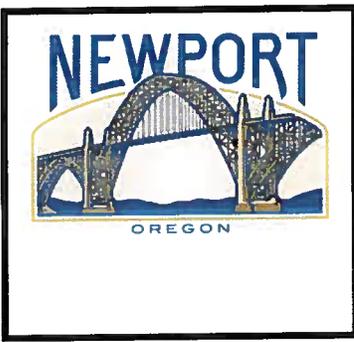
Activity ID	Activity Name	Start	Finish	, 2012		Qtr 2, 2012			Qtr 3, 2012			4, 2012
				Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
3260	Backfill Pump Cans/ Prep Slab	16-Mar-12	20-Mar-12		■							
3270	F/R/P Building Slab	21-Mar-12	27-Mar-12		■							
3280	Erect Building	28-Mar-12	03-Apr-12		■							
3020	Intake Mechanical & Electrical Work	04-Apr-12	01-May-12			■						
3120	Raw Water Pump Start-up	02-May-12	08-May-12				■					



Newport Water Treatment Plant
Construction Cost Tracking

Costs through: 2/29/12
Report Date: 2/27/12

A	B	C	BUDGET			ENCUMBRANCES		COSTS				
			D	E	F	G = D + E + F	H	I	J	K	L = J + K	M = L - G
Item	Description	UM	Project Budget	Budget Adjustments	Change Orders	Current Budget	Encumbrances to date*	Encumbrances to complete	Costs To-Date	Costs To Complete	Forecast Cost at Completion	Variance
001008	Preconstruction Services		98,260.00	0.00	0.00	98,260.00	98,260.00	0.00	98,260.00	0.00	98,260.00	0.00
1000	Early Work Amendment #1 Allowance	ALL	225,335.74	0.00	(3,399.87)	221,995.87	221,995.87	0.00	221,995.87	0.00	221,995.87	0.00
100	General Conditions	MOS	90,000.00	0.00	0.00	90,000.00	90,000.00	0.00	90,000.00	0.00	90,000.00	0.00
101	GMP #1 Mobilization	LS	130,000.00	0.00	0.00	130,000.00	130,000.00	0.00	130,000.00	0.00	130,000.00	0.00
102	Advertising	LS	21,730.00	0.00	0.00	21,730.00	21,730.00	0.00	21,730.00	0.00	21,730.00	0.00
103	Reproduction Costs	ALL	12,500.00	0.00	(1,500.00)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
104	General Housekeeping	MOS	10,086.00	0.00	0.00	10,086.00	10,086.00	0.00	10,086.00	0.00	10,086.00	0.00
105	Material Hoisting/Distribution	MOS	27,536.34	0.00	0.00	27,536.34	27,536.34	0.00	27,536.34	0.00	27,536.34	0.00
106	Temp Fencing/Barricades/Signs	LS	11,560.00	0.00	0.00	11,560.00	11,560.00	0.00	11,560.00	0.00	11,560.00	0.00
107	Temp Lay Down Area / Roads	LS	19,921.00	0.00	0.00	19,921.00	19,921.00	0.00	19,921.00	0.00	19,921.00	0.00
108	Waste Management	MOS	3,000.00	0.00	0.00	3,000.00	3,000.00	0.00	3,000.00	0.00	3,000.00	0.00
150	Surveying	ALL	5,000.00	0.00	(3,375.00)	1,625.00	1,625.00	0.00	1,625.00	0.00	1,625.00	0.00
2000	Soldier Pile Retaining Wall	LS	299,500.00	0.00	0.00	299,500.00	299,500.00	0.00	299,500.00	0.00	299,500.00	0.00
2001	Concrete Fascia	LS	176,500.00	0.00	0.00	176,500.00	176,500.00	0.00	176,500.00	0.00	176,500.00	0.00
2002	Excavation	LS	62,100.00	0.00	0.00	62,100.00	62,100.00	0.00	62,100.00	0.00	62,100.00	0.00
2003	Concrete Drainage Swale	LS	21,000.00	0.00	(3,189.00)	17,811.00	17,811.00	0.00	17,811.00	0.00	17,811.00	0.00
2004	6 Ft Vinyl Coated Chain Link Fence	LS	8,900.00	0.00	(8,900.00)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2010	Force Main Sewer Line & HDPE Conduit	LS	79,710.21	0.00	4,041.72	83,751.93	83,751.93	0.00	83,751.93	0.00	83,751.93	0.00
2020	Relocate Existing Piping at Clearwell	ALL	59,107.00	0.00	28,704.93	87,811.93	87,811.93	0.00	87,811.93	0.00	87,811.93	0.00
2030	Rammed Aggregate Piers	ALL	400,000.00	0.00	(112,074.30)	287,925.70	287,925.70	0.00	287,925.70	0.00	287,925.70	0.00
2072	Garage Demo	ALL	28,598.78	0.00	(17,798.78)	10,800.00	10,800.00	0.00	10,800.00	0.00	10,800.00	0.00
01100	GMP #2 General Conditions	MOS	300,000.00	0.00	0.00	300,000.00	300,000.00	0.00	300,000.00	0.00	300,000.00	0.00
1101	Extended General Conditions	MOS	0.00	0.00	147,500.00	147,500.00	147,500.00	0.00	29,500.00	118,000.00	147,500.00	0.00
01105	GMP #2 Reproduction Costs	ALL	7,500.00	0.00	0.00	7,500.00	5,250.00	2,250.00	5,750.00	1,750.00	7,500.00	0.00
01110	GMP #2 General Housekeeping	MOS	40,244.00	0.00	0.00	40,244.00	40,244.00	0.00	40,244.00	7,200.00	47,444.00	7,200.00
01115	GMP #2 Material Hoisting/Distribution	MOS	110,045.00	0.00	0.00	110,045.00	110,045.00	0.00	110,045.00	0.00	110,045.00	0.00
01120	GMP #2 Temp Fence Maintenance/Signs	LS	1,500.00	0.00	0.00	1,500.00	1,500.00	0.00	1,500.00	0.00	1,500.00	0.00
01125	Remove and Restoration of laydown areas	LS	7,570.00	0.00	0.00	7,570.00	2,500.00	5,070.00	2,500.00	5,070.00	7,570.00	0.00
01130	Temporary Weather Protection	ALL	15,000.00	0.00	0.00	15,000.00	15,000.00	0.00	15,000.00	0.00	15,000.00	0.00
01135	GMP #2 Waste Management	MOS	12,000.00	0.00	0.00	12,000.00	12,000.00	0.00	12,000.00	4,500.00	16,500.00	4,500.00
01150	GMP #2 Surveying	ALL	7,000.00	0.00	0.00	7,000.00	4,075.00	2,925.00	4,075.00	1,425.00	5,500.00	(1,500.00)
02221	Membrane Bldg Encasements	LS	84,355.00	0.00	0.00	84,355.00	84,355.00	0.00	84,355.00	0.00	84,355.00	0.00
02222	Site Piping Material	LS	245,583.00	0.00	0.00	245,583.00	245,583.00	0.00	245,583.00	0.00	245,583.00	0.00
02223	Site Piping Placement	LS	360,389.27	0.00	0.00	360,389.27	360,389.27	0.00	360,389.27	0.00	360,389.27	0.00
02224	Structural Fill Placement & Grading	LS	81,038.00	0.00	0.00	81,038.00	81,038.00	0.00	81,038.00	0.00	81,038.00	0.00
02250	Earthwork Allowance	ALL	23,596.00	0.00	0.00	23,596.00	22,322.07	1,273.93	22,322.07	1,273.93	23,596.00	0.00
02272	Gravel Surfacing Allowance	ALL	24,750.00	0.00	0.00	24,750.00	13,464.41	11,285.59	13,464.41	11,285.59	24,750.00	0.00
02444	Chain Link Fence	LS	16,250.00	0.00	8,900.00	25,150.00	25,150.00	0.00	25,150.00	0.00	25,150.00	0.00
02950	Landscaping Allowance	ALL	2,500.00	0.00	0.00	2,500.00	0.00	2,500.00	0.00	2,500.00	0.00	
03100	Form Materials	LS	44,971.00	0.00	0.00	44,971.00	44,971.00	0.00	44,971.00	0.00	44,971.00	0.00
03200	Concrete Reinforcement	LS	133,866.00	0.00	0.00	133,866.00	133,866.00	0.00	133,866.00	0.00	133,866.00	0.00
03300	Concrete & Concrete Pumping	LS	160,038.00	0.00	0.00	160,038.00	160,038.00	0.00	160,038.00	0.00	160,038.00	0.00
03110	Sidewalks	LS	52,378.00	0.00	0.00	52,378.00	52,378.00	0.00	52,378.00	0.00	52,378.00	0.00
03320	Membrane Bldg Concrete Placement	LS	138,912.00	0.00	0.00	138,912.00	138,912.00	0.00	138,912.00	0.00	138,912.00	0.00
03330	Clearwell Concrete Placement	LS	30,389.00	0.00	0.00	30,389.00	30,389.00	0.00	30,389.00	0.00	30,389.00	0.00
03350	GAC/Flocc Concrete Placement	LS	26,325.00	0.00	0.00	26,325.00	26,325.00	0.00	26,325.00	0.00	26,325.00	0.00
04200	Masonry	LS	349,677.00	0.00	0.00	349,677.00	349,677.00	0.00	349,677.00	0.00	349,677.00	0.00
05211	Steel Joists & Decking	LS	182,790.00	0.00	0.00	182,790.00	182,790.00	0.00	182,790.00	0.00	182,790.00	0.00
05500	Fabricated Metals	LS	167,393.00	0.00	0.00	167,393.00	167,393.00	0.00	167,393.00	0.00	167,393.00	0.00
07210	Building Insulation	ALL	7,500.00	0.00	0.00	7,500.00	2,272.00	228.00	7,272.00	0.00	7,272.00	(228.00)
07412	Metal Roofing	LS	147,662.00	0.00	0.00	147,662.00	147,662.00	0.00	147,662.00	0.00	147,662.00	0.00
08110	Metal Doors & Frames	LS	37,388.00	0.00	0.00	37,388.00	37,388.00	0.00	37,388.00	0.00	37,388.00	0.00
08220	FRP Doors & Frames	LS	28,066.00	0.00	0.00	28,066.00	28,066.00	0.00	28,066.00	0.00	28,066.00	0.00
08332	Overhead Doors	LS	16,675.00	0.00	0.00	16,675.00	16,675.00	0.00	16,675.00	0.00	16,675.00	0.00
08410	Storefront Windows & Glazing	LS	7,950.00	0.00	0.00	7,950.00	7,950.00	0.00	7,950.00	0.00	7,950.00	0.00
08700	Finish Hardware	LS	22,326.00	0.00	0.00	22,326.00	22,326.00	0.00	22,326.00	0.00	22,326.00	0.00
09110	Interior Framing	LS	15,677.00	0.00	0.00	15,677.00	15,677.00	0.00	15,677.00	0.00	15,677.00	0.00
09130	Acoustical Ceiling	LS	11,544.00	0.00	0.00	11,544.00	11,544.00	0.00	11,544.00	0.00	11,544.00	0.00
09250	Drywall	LS	31,353.00	0.00	0.00	31,353.00	31,353.00	0.00	31,353.00	0.00	31,353.00	0.00
09310	Ceramic Tile	LS	5,693.00	0.00	0.00	5,693.00	0.00	0.00	0.00	0.00	5,693.00	(5,693.00)
09660	Resilient Flooring & Base	LS	3,209.00	0.00	0.00	3,209.00	3,209.00	0.00	3,209.00	0.00	3,209.00	0.00
09905	Painting & Protective Coatings	LS	105,700.00	0.00	0.00	105,700.00	105,700.00	0.00	103,700.00	2,000.00	105,700.00	0.00
10400	Miscellaneous Specialties	LS	12,174.00	0.00	0.00	12,174.00	6,087.00	6,087.00	6,087.00	6,087.00	12,174.00	0.00
11000	Equipment Hoisting & Accessories	LS	28,000.00	0.00	0.00	28,000.00	28,000.00	0.00	28,000.00	0.00	28,000.00	0.00
11062	Chemical Submersible & Sampling Pumps	LS	5,200.00	0.00	0.00	5,200.00	5,200.00	0.00	5,200.00	0.00	5,200.00	0.00
11063	Floating Submersible Pump Station	LS	15,800.00	0.00	0.00	15,800.00	15,800.00	0.00	14,220.00	1,580.00	15,800.00	0.00
11072	Vertical Turbine Line Pumps	LS	108,000.00	0.00	0.00	108,000.00	108,000.00	0.00	108,000.00	0.00	108,000.00	0.00
11075	Vertical Turbine Can Pumps	LS	146,300.00	0.00	0.00	146,300.00	146,300.00	0.00	146,300.00	0.00	146,300.00	0.00
11076	Submersible Non-Clog pumps	LS	11,500.00	0.00	0.00	11,500.00	11,500.00	0.00	10,350.00	1,150.00	11,500.00	0.00
11082	Peristaltic Pumps	LS	69,900.00	0.00	0.00	69,900.00	69,900.00	0.00	69,900.00	0.00	69,900.00	0.00
11182	Chemical Storage Tanks	LS	59,200.00	0.00	0.00	59,200.00	59,200.00	0.00	59,200.00	0.00	59,200.00	0.00
11358	GAC System	LS	326,934.00	0.00	0.00	326,934.00	326,934.00	0.00	289,800.00	37,134.00	326,934.00	0.00
11359	Flocculation System	LS	109,500.00	0.00	0.00	109,500.00	109,500.00	0.00	109,500.00	0.00	109,500.00	0.00
11500	Storage Totes	LS	11,600.00	0.00	0.00	11,600.00	11,600.00					



Agenda Item #
Meeting Date

March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Consideration of an ordinance amending the Newport Zoning Ordinance and Newport Municipal Code to establish criteria for the management of the city's urban tree canopy (File No. 5-Z-11)

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

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest to amend Chapters 2.05 (Boards and Commissions), 8.10 (Nuisances), 9.10 (Right-of-Way Permits), 9.15 (Encroachment Permits), 9.25 (Intersection Safety) and 13.05 (Subdivisions and Partitions) of the Newport Municipal Code, and Sections 2-4-3 (Clear Vision Areas) and 2-4-5 (Landscaping Requirements) of the Newport Zoning Ordinance. The changes put in place a program for managing the city's urban tree canopy and will be used to support an application for a "Tree City USA" designation with the Arbor Day Foundation.

STAFF RECOMMENDATION: Staff recommends that the council adopt the ordinance.

MOTIONS FOR ADOPTION: I move for reading by title only of an ordinance amending the City of Newport Zoning Ordinance and Municipal Code to establish criteria for the management of the city's urban tree canopy and for adoption by roll call vote.

KEY FACTS AND INFORMATION SUMMARY: The City Council desires that the City obtain a "Tree City USA" designation from the Arbor Day Foundation. To accomplish this, the City must put in place a tree care ordinance for managing its urban tree canopy. The proposed ordinance charges the Parks and Recreation Committee with the responsibility of developing a tree plan. That plan will provide guidelines for planting, maintaining, or removing trees along streets, and in parks and other public spaces. This may include the establishment of a heritage tree program to protect trees that have particular scenic or historic value. The Committee will also be responsible for coordinating an annual Arbor Day celebration and proclamation, and for taking any other steps required to maintain the designation over time.

Establishing standards for the placement, maintenance, and removal of trees will prevent premature damage to City water, sewer, street and sidewalk infrastructure attributed to tree growth; limits demands for tree maintenance beneath overhead utility lines; reduces the chances that vegetation will obstruct sidewalks or obscure vehicles line of sight at intersections; and should enhance survivability of plantings through selection of appropriate tree species. The City already requires that members of the public obtain permits for the removal of trees within public rights-of-way, and those procedures are being clarified and amended to ensure that they address standards for planting and maintenance of trees that will be developed by the Tree Board. City permitting processes are also being adjusted to provide clear guidance to the public for how permits can be obtained.

Cross references have been added to the City of Newport Subdivision and Zoning Ordinances to ensure that plantings within public rights-of-way that are associated with new development adhere to the adopted tree plan.

The Newport Municipal Code and Zoning Ordinance contain conflicting standards related to the establishment and maintenance of clear vision areas. These provisions need to be consolidated and clarified. It is also appropriate to change the method of measuring clear vision areas at street intersections to reference the curb line or edge of the road

surface as opposed to the property boundary. This will make it easier for the public and staff to verify the size of the clear vision area in the field and avoids the need for costly surveys.

The Newport Parks and Recreation Committee reviewed the proposed ordinance language at its December 21, 2011 meeting and voted to endorse the concept of the City of Newport pursuing a "Tree City USA" designation, with the Parks and Recreation Committee serving as the City's Tree Board.

The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed the proposed changes at a work session on November 14, 2011. A noticed public hearing was held before the Planning Commission on January 23, 2012. Following the hearing, the Commission recommended the Council adopt the proposed changes.

The Department of Land Conservation and Development was provided notice of the proposed amendments on December 12, 2011 in accordance with the agency's requirements. Newspaper notice was provided for this City Council hearing on February 24, 2012 as required under the Newport Zoning Ordinance.

As this is a legislative item, there are no approval criteria.

OTHER ALTERNATIVES CONSIDERED: Ordinances from other municipalities were considered as this proposal was developed. The concept that has been moved forward puts in place a basic tree care program. It does not extend to private property, and is thus less restrictive than the approaches taken by many cities.

CITY COUNCIL GOALS: The proposed changes implement the Council's goal of developing a tree ordinance so that Newport can obtain a "Tree City USA" designation from the Arbor Day Foundation.

ATTACHMENT LIST:

Proposed ordinance
1/23/12 Planning Commission Staff Report with attachments
Minutes from the 1/23/12 Planning Commission meeting
Hearing notice for this 3/5/12 City Council meeting

FISCAL NOTES: The City does not currently charge a permit fee for the removal of trees within the public right-of-way. As this program grows, the Council may need to consider establishing a modest permit fee to offset some of the cost of administering the program.

CITY OF NEWPORT

ORDINANCE NO. 2031

AN ORDINANCE AMENDING CITY OF NEWPORT ZONING ORDINANCE AND MUNICIPAL CODE TO ESTABLISH CRITERIA FOR THE MANAGEMENT OF THE CITY'S URBAN TREE CANOPY

Summary of Findings:

1. Establishing a program for managing the City of Newport's urban tree canopy along streets, and in parks and other public spaces furthers the health, safety, and welfare of the citizens of this community.
2. The role of the Parks and Recreation Committee, as outlined in Chapter 2.05 of the Newport Municipal Code (Ordinance No 1951), should be expanded to include serving as the City of Newport's official "tree board," charged with the responsibility of developing and periodically updating a "tree plan" for planting, maintaining and removing trees within these areas. This plan may include criteria and standards for protecting heritage trees that have particular historic or scenic value. The Committee shall also pursue a "Tree City USA" designation from the National Arbor Day Foundation, including the coordination of Arbor Day observances and related proclamations.
3. Establishing standards for the placement, maintenance, and removal of trees prevents premature damage to city water, sewer, street and sidewalk infrastructure attributed to tree growth; limits demands for tree maintenance beneath overhead utility lines; reduces the chances that vegetation will obstruct public ways or obscure vehicle line of sight at street intersections; and enhances survivability of plantings through selection of tree species appropriate to the local climate.
4. While Chapters 9.10 and 9.15 of the Newport Municipal Code (Ordinance No. 1949) require members of the public to obtain permits for the removal of trees within public rights-of-way, those procedures need to be clarified and amended to ensure that they address standards for planting and maintenance of trees that are being developed by the Tree Board and provide clear guidance to the public for how permits can be obtained.
5. Newport Subdivision Ordinance No. 1990 and Section 2-4-5 of Newport Zoning Ordinance No. 1308 contain criteria for installation of street trees and landscaping within public rights-of-way that are associated with new development. These provisions need to be amended to ensure that such plantings are consistent with the adopted tree plan.
6. Chapter 8.10 the Newport Municipal Code (Ordinance No 1921), Chapter 9.25 of the Newport Municipal Code (Ordinance No. 1949) and Section 2-4-3 of Newport Zoning Ordinance No. 1308 contain conflicting standards related to the establishment and maintenance

of clear vision areas. These provisions need to be consolidated and clarified. Further, it is appropriate to change the method of measuring clear vision areas at street intersections to reference the curb line or edge of the road surface as opposed to the property boundary. This will make it easier for the public and staff to verify the size of the clear vision area in the field and avoids the need for costly surveys.

7. The Newport Parks and Recreation Committee reviewed the above changes at its December 21, 2011 meeting and voted to endorse the concept of the City of Newport pursuing a “Tree City USA” designation, with the Parks and Recreation Committee serving as the City’s tree board.

8. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed the above changes (File No. 5-Z-11) at a work session on November 14, 2011. Following a public hearing on January 23, 2012, the Planning Commission voted to recommend adoption of the proposed amendments.

9. The City Council held a public hearing on March 5, 2012 regarding the question of the proposed revisions and voted in favor of their adoption after considering the recommendations of the Parks and Recreation Committee, Planning Commission, and evidence and argument in the record.

10. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are hereby adopted as support for the Council’s following amendments.

Section 2. The following language is hereby added to Section 2.05.040(B) of Ordinance No. 1951, codified under Chapter 2.05, Boards and Commissions, of the Newport Municipal Code:

5. To serve as the City’s “Tree Board,” with the responsibility to study, investigate, develop and periodically update a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of trees in parks, along public streets, and in other public places.

a. As part of this plan, a list of acceptable species shall be developed and maintained for planting trees along public streets. The list shall provide spacing and planting details for each species, and divide trees into three classes based upon mature height: small (under 30 feet); medium (30 to 50 feet) and large (over 50 feet);

b. The plan may include criteria for determining, and standards for protecting heritage trees within the city. The purpose of the heritage tree designation is to recognize, foster appreciation of, and protect trees having significance to the community. Criteria may include such things as species rarity, age, size, quality, association with historical events or persons, or scenic enhancement;

- c. A draft of the plan, and any amendments thereof, shall be presented to the City Council and, upon Council acceptance and approval, will constitute the official tree plan for the city; and
 - d. The plan shall be reviewed completely at least once in every three-year period after initial approval.
6. To obtain the annual Tree City USA designation by the National Arbor Day Foundation, including coordination of an Arbor Day observance and proclamation.

Section 3. Sections 9.10.020, 9.10.030 and 9.10.040 of Ordinance No. 1949, codified under Chapter 9.10, Right-of-Way Permits, of the Newport Municipal Code, are hereby amended to read:

9.10.020 Applicability

The requirements of this chapter shall apply to all rights-of-way controlled or administered by the City of Newport, whether as a result of a dedication by plat or deed or agreement with Lincoln County or the State of Oregon. This chapter shall further apply to the planting, pruning, maintenance and removal of trees within parks and other city owned properties.

9.10.030 Permit Required

- A. No person may cut, break, dig up, damage in any manner, undermine or tunnel for any purpose in any developed portion of a right-of-way, or obstruct any developed portion of right-of-way, without obtaining a right-of-way permit under this chapter. Developed portions of rights-of-way include all streets, sidewalks and any other paved or improved area. No person may cut, break, dig up, damage in any manner, undermine or tunnel within any portion of a right of way to place, modify, repair or maintain any utility facility without obtaining a right-of-way permit. No person may construct any street, sidewalk, trail or path within any right-of-way without a right-of-way permit. Application for permits shall be in the form prescribed by the city. Permits shall be issued for a limited time and shall specify the extent of the authority granted by the permit. No permit shall be issued unless the applicant has complied with or is not subject to Chapter 9.05.
- B. No person shall plant, prune, or remove a tree within public rights-of-way, public easements, or on city owned property without obtaining a right-of-way permit.
- C. Any person who cuts, breaks, digs up, damages in any manner, undermines or tunnels under any unimproved portion of a right of way for purposes other than as specified in subsections (A) and (B) must obtain an encroachment permit pursuant to Chapter 9.15.

9.10.040 Permit Applications

- A. Applications for right-of-way permits shall be submitted on forms provided by the city and shall be accompanied by drawings, plans, and specifications in sufficient detail to demonstrate:
 - 1. That all work will be performed and any facilities will be constructed in accordance with all applicable codes, rules, and regulations.

2. That all work will be performed and any facilities will be constructed by or for a franchisee in accordance with the franchise agreement

3. The location, route, and description of all of applicant's new facilities to be installed as well as all of applicant's existing facilities in the construction area, including a cross-section to show the facilities in relation to the existing street, curb, sidewalk, and right-of-way.

4. The construction methods to be employed for protection of existing structures, fixtures and facilities and a description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.

5. Installation of trees along public streets is in accordance with the subsection 9.10.140.

B. Applications for right-of-way permits, other than for the planting, pruning or removal of trees, shall be accompanied by the following:

1. A verification that the drawings, plans, and specifications submitted with the application comply with all applicable technical codes, rules and regulations. The city may require that the verification be by a registered professional engineer.

2. A written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city engineer.

3. The permit fee in an amount to be determined by resolution of the City Council, unless otherwise provided in a franchise agreement or applicable state law. The fee shall be designed to defray the costs of city administration of the construction permit program. Permit fees shall not be charged to any franchisee operating under a currently valid franchise or to any other person using city rights-of-way under an agreement with the city that requires payment of a franchise fee.

C. Applications for right-of-way permits for planting trees, or pruning or removing trees with a diameter of at least 8-inches dbh (diameter breast height) shall be accompanied by the following:

1. A statement describing the work to be performed; and

2. A scaled drawing identifying the size, location, and species of the tree or trees to be planted, pruned or removed. For plantings the drawing shall also include distances between trees and nearby utilities, curbs and sidewalks.

Section 4. The following language is hereby added as Section 9.10.140 to Ordinance No. 1949, codified under Chapter 9.10, Right-of-Way Permits, of the Newport Municipal Code:

9.10.140 Planting, Maintenance and Removal of Trees

A. The planting of trees along public streets shall adhere to the following standards:

1. Only those tree species identified in the city's adopted tree plan may be planted along public streets;

2. Spacing between trees shall be in accordance with recommendations contained in the adopted tree plan;
 3. Only those trees listed as small in the adopted tree plan may be planted under or within 10 lateral feet of any overhead utility wire, underground water line, sewer line, transmission line or other utility;
 4. Trees shall be setback from curbs and sidewalks by the size classification in the adopted tree plan, as follows: small trees, two feet; medium trees; three feet; and large trees, four feet;
 5. No street trees shall be planted closer than 35 feet of a street corner, measured from the point of nearest intersecting curbs, curb lines, or edge of pavement; and
 6. Trees shall be setback at least 10 feet from fire hydrants.
- B. The city shall have the right to plant, prune, maintain, and remove trees within public rights-of-way and city owned property, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public spaces.
 - C. Persons performing activities described in subsection (B) shall not be required to obtain a permit provided a written statement is filed with the Public Works Department confirming that they have reviewed and will follow applicable provisions of the city's adopted tree plan. Such statements shall be current within 12 months of the date work is to be performed.
 - D. City Manager may order the removal of any tree, or part thereof, irrespective of the adopted tree plan, upon a determination that such action is necessary to resolve an unsafe condition or prevent damage to public improvements.

Section 5. Section 9.15.010(A), codified under Chapter 9.15, Encroachment Permits, of the Newport Municipal Code, is hereby amended to read:

- A. The following actions are prohibited within rights-of-way or on city property except as authorized by the city by a temporary encroachment permit:
 1. Placing or maintaining a structure.
 2. Excavation or fill, including placing of rocks or other landscaping materials.
 3. Landscaping activities, other than in the portion of the right-of-way immediately adjacent to property owned, controlled or possessed by the person.

Section 6. Section 9.15.020(A), codified under Chapter 9.15, Encroachment Permits, of the Newport Municipal Code, is hereby amended to read:

- A. Certain encroachments are exempt from the encroachment permit requirement. Exempt encroachments are those which would have a minor impact on the present or planned use of

the unimproved public right-of-way, easement or public property and those which are expressly permitted by ordinance. Exempt encroachments are:

1. Mailboxes and their enclosing structures.
2. Guard/handrails along edges of driveway approaches, walks, stairs, etc. encroaching in unimproved public right-of-way.
3. Bicycle lockers and racks authorized in an approved parking district parking plan.
4. Work authorized by a right-of-way permit.

Section 7. The following language is hereby added to Section 13.05.015 of Ordinance No. 1990, codified as the Newport Subdivision Ordinance:

M. Street Trees. Trees may be installed within proposed or existing rights-of-ways provided the plantings conform to the city's adopted tree plan.

Section 8. The following language is hereby added as Section 2-4-5.055 of Ordinance No. 1308, codified as the Newport Zoning Ordinance:

2-4-5.055. Tree Plantings. Trees may be installed within rights-of-ways provided the plantings conform to the city's adopted tree plan.

Section 9. Section 8.10.060(D) of Ordinance No. 1921, codified under Chapter 8.10, Nuisances, of the Newport Municipal Code, is hereby amended to read:

D. Any vegetation, wall, fence, or other vision-obstructing structure exceeding 36 inches in height measured from the top of the curb, or where no curb exists, from the street centerline grade. Vegetation, walls, fences, or structures obstruct vision if they are within a clear vision area pursuant to Section 2-4-3 of the Newport Zoning Ordinance and, in the determination of the city manager, constitutes a safety hazard.

Section 10. Chapter 9.25, Intersection Safety, of Ordinance No. 1949, codified under the Newport Municipal Code, is hereby repealed in its entirety.

Section 11. Section 2-4-3, Vision Clearance Requirements, of Ordinance No. 1308, codified as the Newport Zoning Ordinance, is hereby repealed and replaced as follows:

NZO SECTION 2-4-3. CLEAR VISION AREAS

2-4-3.005. Purpose. The purpose of this section is to promote safety at intersections and drive access points by reducing obstructions to clear vision at intersections.

2-4-3.010. Clear Vision Area Defined. A vision clearance area includes the following:

- A. At the intersection of two streets, a triangle formed by the intersection of the curb lines, with each leg of the vision clearance triangle being a minimum of 35 feet in length. Where curbs are absent the edge of the asphalt or future curb location shall be used as a guide. The City Engineer may modify this requirement, in writing, upon finding that more or less distance is required (i.e. due to traffic speeds, roadway alignment, etc.).
- B. A portion of a lot subject to a front yard setback as defined in Section 2-3-2. A clear vision area does not include that portion of a second front yard outside of the area described in subsection (A).

2-4-3.015. Clear Vision Area Requirements. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees located within a clear vision area shall have their branches and foliage removed to the height of eight feet above the grade.

2-4-3.020. Maintenance of Clear Vision Areas. It shall be the duty of the person who owns, possesses, or controls real property or right-of-way adjacent thereto, to maintain a clear vision area in the manner provided in this section.

2-4-3.025. Exemptions for Buildings. A building erected in compliance with zoning ordinance setbacks is exempt from this section.

2-4-3.030. Liability. The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by this Section. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this Section.

2-4-3.035. Variances. The requirements of this section shall be subject to the processes and criteria contained in Section 2-5-2, Adjustments and Variances.

Section 12. This ordinance shall take effect at such time as a tree plan is developed by the Parks and Recreation Committee and approved by the Newport City Council.

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2012.

Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

PLANNING STAFF MEMORANDUM
FILE No. 5-Z-11

- I. **Applicant:** City of Newport.
- II. **Request:** The request before the Planning Commission is to review and to provide a recommendation to the City Council on proposed legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) and Newport Municipal Code to put in place a program for managing the City of Newport's urban tree canopy. The changes will be used to support an application for an Arbor Day Foundation "Tree City USA" designation. The proposal amends Chapters 2.05 (Boards and Commissions), 8.10 (Nuisances), 9.10 (Right-of-Way Permits), and 13.05 (Subdivisions and Partitions) of the Newport Municipal Code, and Section 2-4-3 (Clear Vision Areas) and 2-4-5 (Landscaping Requirements) of the Newport Zoning Ordinance.
- III. **Findings Required:** As this is a legislative action, there are no required findings. In deliberating on this request the Planning Commission must consider whether or not the amendments further a public necessity and are needed for the general welfare of the community (NZO Section 2-5-5.005).
- IV. **Planning Staff Memorandum Attachments:**
- Attachment "A" – Mark-up Copy of Amendments with Rationale, dated 1/20/12.
 - Attachment "B" – Planning Commission Minutes, dated 11/14/11.
 - Attachment "C" – Email from Kristen Ramstad, ODF, dated 12/15/11 (with staff response).
 - Attachment "D" – Minutes from the 12/21/11 Recreation and Parks Committee Meeting.
 - Attachment "E" – Notice of Public Hearing.
- V. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment in accordance with the DLCDC requirements on December 12, 2011. Notice of the Planning Commission hearing was also published in the Newport News-Times on January 13, 2012. See Planning Staff Memorandum Attachment "E" (Notice of Public Hearing).
- VI. **Comments:** Written comments received in response to the notice are included as attachments.
- VII. **Discussion of Request:** The Newport City Council desires that the City obtain a "Tree City USA" designation from the Arbor Day Foundation. To accomplish this, the City must put in place a tree care ordinance for managing its urban tree canopy. The proposed code charges the Parks and Recreation Committee with the responsibility of developing a tree plan for planting, maintaining, or removing trees along streets, and in parks or other public places. The Committee will also be responsible for coordinating an annual Arbor Day celebration and proclamation, and for taking any other steps required to maintain the designation over time.

The City already requires that members of the public obtain permits for the removal of trees within public rights-of-way. That process, administered by the Public Works Department, is being clarified and modified to pick up planting and maintenance of trees, and standards are being put in place for the issuance of permits. Parks staff and others responsible for maintaining City landscaping will be required to review the tree plan annually as an alternative to pulling a permit.

Cross references have been added to the City of Newport Subdivision and Zoning Ordinances to ensure that plantings along streets or public properties associated with new development adhere to the adopted tree plan.

The City of Newport Municipal Code and Zoning Ordinance contain conflicting standards related to the establishment and maintenance of clear vision areas at street intersections. Proposed changes clarify these requirements.

If the proposed changes are found to be acceptable, it is anticipated that they will go into effect at such time as the City Council accepts and approves the tree plan. Public outreach will also be needed so that property owners are aware of the new rules.

VIII. **Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council on the request. The Commission recommendation can include suggested changes to the proposed amendments.



Derrick I. Tokos, AICP
Community Development Director
City of Newport

January 20, 2012

January 20, 2012 MARKUP COPY OF NEWPORT MUNICIPAL CODE (NMC) AND NEWPORT ZONING ORDINANCE (NZO) AMENDMENTS TO MEET REQUIREMENTS FOR A TREE CITY USA DESIGNATION

<p align="center">Draft Code Revisions for Tree City USA Designation (latest revisions in strikethrough and <u>double underline</u>)</p>	<p align="center">Rationale for Change</p>
<p>NMC CHAPTER 2.05 BOARDS AND COMMISSIONS</p> <p>***</p> <p>2.05.040 Parks and Recreation Committee</p> <p>A. The Parks and Recreation Committee shall consist of five members and shall serve two-year terms. The parks director shall serve ex officio and shall act as secretary for the committee.</p> <p>B. The Parks and Recreation Committee shall have the following rights, responsibilities, and authority:</p> <ol style="list-style-type: none"> 1. To make recommendations to the Council concerning city parks and recreation facilities, including the authority to make studies as necessary to assist their recommendations. Recommendations may include recommendations relating to acquisition, development, use, operation, and disposition of parks and recreation facilities. 2. To make recommendations concerning playground recreational facilities. 3. To make recommendations concerning financial and budgetary matters relating to parks and recreation. 4. To recommend rules and regulations relating to parks and recreation. 5. <u>To serve as the City's "Tree Board," with the responsibility to study, investigate, develop and periodically update a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of trees in parks, along public streets, and in other public places.</u> 	<p>These changes create a "Tree Board," which is one of the requirements for obtaining a Tree City USA designation. The City's Parks and Recreation Committee is proposed to serve in this capacity.</p> <p>The Committee will be charged with preparing a plan for planting, maintaining, and removing trees along streets, and in parks and other public spaces. The plan must include a list of acceptable "street trees," and may also include a heritage tree program.</p> <p>City Council approval is required and the plan must be reviewed once every three years. The Committee is also charged with annually following up with the Arbor Day Foundation to maintain the City's Tree City USA designation.</p> <p>This proposal is tailored after ordinances that were adopted by Seaside and Coos Bay, and represents minimum steps that a jurisdiction can take to obtain a Tree City USA designation.</p>

<p>a. <u>As part of this plan, a list of acceptable species shall be developed and maintained for planting trees along public streets. The list shall provide spacing and planting details for each species, and divide trees into three classes based upon mature height: small (under 30 feet); medium (30 to 50 feet) and large (over 50 feet).</u></p> <p>b. <u>The plan may include criteria for determining, and standards for protecting heritage trees within the city. The purpose of the heritage tree designation is to recognize, foster appreciation of and protect trees having significance to the community. Criteria may include such things as species rarity, age, size, quality, association with historical events or persons, or scenic enhancement.</u></p> <p>c. <u>A draft of the plan, and any amendments thereof, shall be presented to the City Council and, upon Council acceptance and approval, will constitute the official tree plan for the city; and</u></p> <p>d. <u>The plan shall be reviewed completely at least once in every three-year period after initial approval.</u></p> <p>6. <u>To obtain the annual Tree City USA designation by the National Arbor Day Foundation, including coordination of an Arbor Day observance and proclamation.</u></p>	
<p>NMC CHAPTER 9.10 RIGHT-OF-WAY PERMITS</p> <p>***</p> <p>9.10.020 Applicability</p> <p>The requirements of this chapter shall apply to all rights-of-way controlled or administered by the City of Newport, whether as a result of a dedication by plat or deed or agreement with Lincoln County or the State of Oregon. <u>This chapter shall further apply to the planting, pruning, maintenance and removal of trees within parks and other city owned properties.</u></p>	<p>The City of Newport's right-of-way permitting process has been interpreted to apply to the removal of trees within the right-of-way, although the existing code is somewhat unclear.</p> <p>Some sort of permitting process is needed to ensure that planting, maintenance, and removal of trees within public rights-of-way, parks or other public places occurs in a manner that is consistent with the adopted tree plan. The proposed changes modify the right-of-way permitting process to serve this purpose.</p>

<p>9.10.030 Permit Required</p> <p><u>A.</u> No person may cut, break, dig up, damage in any manner, undermine or tunnel for any purpose in any developed portion of a right-of-way, or obstruct any developed portion of right-of-way, without obtaining a right-of-way permit under this chapter. Developed portions of rights of way include all streets, sidewalks and any other paved or improved area. No person may cut, break, dig up, damage in any manner, undermine or tunnel within any portion of a right of way to place, modify, repair or maintain any utility facility without obtaining a right-of-way permit. No person may construct any street, sidewalk, trail or path within any right-of-way without a right-of-way permit. Application for permits shall be in the form prescribed by the city. Permits shall be issued for a limited time and shall specify the extent of the authority granted by the permit. No permit shall be issued unless the applicant has complied with or is not subject to Chapter 9.05.</p> <p><u>A.B.</u> No person shall plant, prune, or remove a tree within public rights-of-way, public easements, or on city owned property without obtaining a right-of-way permit.</p> <p><u>B.C.</u> Any person who cuts, breaks, digs up, damages in any manner, undermines or tunnels under any unimproved portion of a right of way for non-utility purposes <u>other than as specified in subsections (A) and (B)</u> must obtain an encroachment permit pursuant to Chapter 9.15.</p>	<p>To accomplish this, the scope of right-of-way permits has been expanded to apply to parks and other city owned properties. The relationship between a right-of-way permit and encroachment permit has also been clarified.</p> <p>An implementing ordinance can be crafted such that changes to the right-of-way permitting chapter of the Municipal Code will not go into effect until a tree plan is adopted.</p>
<p>9.10.040 Permit Applications</p> <p>A. Applications for right-of-way permits shall be submitted on forms provided by the city and shall be accompanied by drawings, plans, and specifications in sufficient detail to demonstrate:</p> <ol style="list-style-type: none"> 1. That all work will be performed and any facilities will be constructed in accordance with all applicable codes, rules, and regulations. 	<p>A requirement has been added that persons planting trees along public streets must do so in a manner consistent with the specific standards. Application submittal requirements are also included for proposals to plant, prune or remove trees.</p>

<p>2. That all work will be performed and any facilities will be constructed by or for a franchisee in accordance with the franchise agreement</p> <p>3. The location, route, and description of all of applicant's new facilities to be installed as well as all of applicant's existing facilities in the construction area, including a cross-section to show the facilities in relation to the existing street, curb, sidewalk, and right-of-way.</p> <p>4. The construction methods to be employed for protection of existing structures, fixtures and facilities and a description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.</p> <p><u>4.5 Installation of trees along public streets is in accordance with the subsection 9.10.140.</u></p>	
<p>B. Applications for right-of-way permits <u>other than for the planting, pruning or removal of trees</u>, shall be accompanied by the following:</p> <ol style="list-style-type: none">1. A verification that the drawings, plans, and specifications submitted with the application comply with all applicable technical codes, rules and regulations. The city may require that the verification be by a registered professional engineer.2. A written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city engineer.3. The permit fee in an amount to be determined by resolution of the City Council, unless otherwise provided in a franchise agreement or applicable state law. The fee shall be designed to defray the costs of city administration of the construction permit program. Permit fees shall not be charged to any franchisee operating under a currently valid franchise or to any other person using city rights of way under	

<p>an agreement with the city that requires payment of a franchise fee.</p> <p><u>C. Applications for right-of-way permits for planting trees, or pruning or removing trees with a diameter of at least 8-inches dbh (diameter breast height) shall be accompanied by the following:</u></p> <ol style="list-style-type: none"> <u>1. A statement describing the work to be performed, and</u> <u>2. A scaled drawing identifying the size, location, and species of the tree or trees to be planted, pruned or removed. For plantings the drawing shall also include distances between trees and nearby utilities, curbs and sidewalks.</u> <p>***</p>	
<p>[Add new section 9.10.140. All subsequent subsections to be renumbered.]</p> <p><u>9.10.140 Planting, Maintenance and Removal of Trees</u></p> <p><u>A. The planting of trees along public streets shall adhere to the following standards:</u></p> <ol style="list-style-type: none"> <u>1. Only those tree species identified in the city's adopted tree plan may be planted along public streets;</u> <u>2. Spacing between trees shall be in accordance with recommendations contained in the adopted tree plan;</u> <u>3. Only those trees listed as small in the adopted tree plan may be planted under or within 10 lateral feet of any overhead utility wire, underground water line, sewer line, transmission line or other utility;</u> <u>4. Trees shall be setback from curbs and sidewalks by the size classification in the adopted tree plan, as follows: small trees, two feet; medium trees, three feet; and large trees, four feet;</u> 	<p>This new subsection contains specific standards for planting trees along public streets. They are intended to ensure that such plantings do not compromise public infrastructure or increase maintenance costs to the City. Cross references to the adopted tree plan have been added where appropriate.</p> <p>Language is included exempting the City from having to obtain permits. As an alternative, City staff and others performing work on behalf of the City will be required to file paperwork establishing that they have reviewed and will follow the adopted tree plan.</p> <p>An outlet is provided for the City Manager to require the removal of hazard trees irrespective of the adopted tree plan. This could be particularly relevant if a heritage tree program is adopted.</p>

<p><u>5. No street trees shall be planted closer than 35 feet of a street corner, measured from the point of nearest intersecting curbs, curb lines, or edge of pavement; and</u></p> <p><u>6. Trees shall be setback at least 10 feet from fire hydrants.</u></p> <p><u>B. The city shall have the right to plant, prune, maintain, and remove trees within public rights-of-way and city owned property, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public spaces.</u></p> <p><u>C. Persons performing activities described in subsection (B) shall not be required to obtain a permit provided a written statement is filed with the Public Works Department confirming that they have reviewed and will follow applicable provisions of the city's adopted tree plan. Such statements shall be current within 12 months of the date work is to be performed.</u></p> <p><u>D. City Manager may order the removal of any tree, or part thereof, irrespective of the adopted tree plan, upon a determination that such action is necessary to resolve an unsafe condition or prevent damage to public improvements.</u></p>	
<p>NMC CHAPTER 9.15 ENCROACHMENT PERMITS</p> <p>9.15.010 Permit Requirement</p> <p>A. The following actions are prohibited within rights-of-way or on city property except as authorized by the city by a temporary encroachment permit:</p> <ol style="list-style-type: none"> 1. Placing or maintaining a structure. 2. Excavation or fill, including placing of rocks or other landscaping 	<p>The proposed change removes a reference that an encroachment permit is required for planting trees in the public right-of-way.</p> <p>Issuance of an encroachment permit involves the preparation of a legal agreement between a property owner and City. They are targeted at structures, such as fences and retaining walls that often change the use of a portion of a right-of-way. An encroachment permit is an ill suited and cumbersome tool to apply to tree plantings and to staffs knowledge a permit has never been issued for that purpose.</p>

<p>materials.</p> <p>3. Planting a tree-</p> <p>4.3 Landscaping activities, other than in the portion of the right-of-way immediately adjacent to property owned, controlled or possessed by the person.</p> <p>B. Encroachment into improved right of way is only allowed if specifically authorized by the city pursuant to Chapter 9.10.</p> <p>C. The person in control of any encroachment of a structure in or over any right of way existing prior to the effective date of this chapter shall apply for an encroachment permit within 10 days of being requested to do so by the city. No action charging a violation of this section may be initiated for an encroachment existing prior to the effective date of this ordinance or while a timely filed application for an encroachment permit is under consideration by the city.</p> <p>D. This chapter does not apply to signs, which may be placed in rights of way only as authorized by a permit issued under Chapter 10.10.</p> <p>***</p>	
<p>9.15.020 Exemptions</p> <p>A. Certain encroachments are exempt from the encroachment permit requirement. Exempt encroachments are those which would have a minor impact on the present or planned use of the unimproved public right of way, easement or public property and those which are expressly permitted by ordinance. Exempt encroachments are:</p> <ol style="list-style-type: none"> 1. Mailboxes and their enclosing structures. 2. Guard/handrails along edges of driveway approaches, walks, stairs, etc. encroaching in unimproved public right of way. 	<p>This exemption is not needed. It implies that an encroachment permit would be required for plantings (including trees) that obstruct line of sight within public rights-of-way. That is not the case. Line of sight obstructions are addressed with separate regulations.</p>

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<p>3. Lawns and plants encroaching in unimproved public right-of-way that do not obstruct visibility for pedestrians, bicyclists and motorists, and that are placed or maintained by the owner or person in possession of the adjacent property.</p> <p>4.3 Bicycle lockers and racks authorized in an approved parking district parking plan.</p> <p>5.4 Work authorized by a right-of-way permit.</p>	
<p>NMC CHAPTER 13.05 SUBDIVISION AND PARTITION</p> <p>***</p> <p>13.05.015 Streets</p> <p>***</p> <p><u>M. Street Trees. Trees may be installed within proposed or existing rights-of-ways provided the plantings conform to the city's adopted tree plan.</u></p>	<p>A cross reference has been added to the Subdivision Ordinance pointing out that street trees are subject to the city's adopted tree plan.</p>
<p>NZO SECTION 2-4-5. LANDSCAPING REQUIREMENT*</p> <p>***</p> <p>[Add new section 2-4-5.050. All subsequent subsections to be renumbered.]</p> <p><u>2-4-5.050. Tree Plantings. Trees may be installed within rights-of-ways provided the plantings conform to the city's adopted tree plan.</u></p>	<p>A cross reference has been added to note that plantings within the right-of-way must adhere to the city's adopted tree plan.</p>
<p>VISION CLEARANCE REQUIREMENTS</p>	
<p>NMC 8.10 Nuisances</p> <p>***</p>	<p>The nuisance code is amended so that it is consistent with, and cross references to, the City's clear vision area requirements.</p>

<p>8.10.060 Vegetation and Vision Obstructions</p> <p>The following things, practices, or conditions on any property are nuisances. For purpose of this section, “property” includes any portion of a right-of-way adjacent to the property.</p> <p>A. Grass, thistles, cockleburrs, weeds, or other noxious vegetation greater than eight inches in height or that are a fire hazard. The city shall have discretion to not enforce this section based on the totality of circumstances, including the type and location of the property, whether the property is appropriately left in a natural state, whether the property has even been cleared without appropriate measure to prevent invasive plant species, and other similar factors.</p> <p>B. Dead, decaying, or unsafe trees or tree limbs that present a safety hazard to the public or adjacent property.</p> <p>C. Brush, bushes, shrubbery, tree limbs, or other growth that projects over a sidewalk at less than 8 feet above the sidewalk level, or that projects over a street at less than 13 feet above the street level.</p> <p>D. Any vegetation, wall, fence, or other vision-obstructing structure exceeding 36 inches in height measured from the roadway level that obstructs a driver’s view at an intersection or driveway access the top of the curb, or where no curb exists, from the street centerline grade. <u>Vegetation, walls, fences, or structures obstruct vision if it is they are within 20 feet of a lot corner at the intersection or at the edge of a driveway and a clear vision area pursuant to Section 2-4-3 of the Newport Zoning Ordinance and, in the determination of the city manager, constitutes a safety hazard.</u></p>	<p>This chapter of the Municipal Code included clear vision area requirements that duplicate and conflict with standards contained in the Zoning Ordinance. It also conflicted with language above, in the nuisance code. Because the Zoning Ordinance includes administrative remedies, such as a variance or code interpretation, it is a more desirable</p>
<p>CHAPTER 9.25 INTERSECTION SAFETY</p> <p>9.25.10 Purpose</p> <p><i>The purpose of this chapter is to promote safety at intersections and drive</i></p>	<p>This chapter of the Municipal Code included clear vision area requirements that duplicate and conflict with standards contained in the Zoning Ordinance. It also conflicted with language above, in the nuisance code. Because the Zoning Ordinance includes administrative remedies, such as a variance or code interpretation, it is a more desirable</p>

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<p>access points by reducing obstructions to clear vision at intersections.</p> <p>9.25.20 Definitions</p> <p>As used in this chapter:</p> <p>A. Fence means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry, or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.</p> <p>B. Street means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.</p> <p>C. Clear vision area means that area, as computed by Section 9.25.040, which allows the public using the city streets an unobstructed view of an intersection approach.</p> <p>D. Person means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, officer, or employee of any of them.</p> <p>E. Driveway or accessway means the point at which a motor vehicle gains ingress or egress to a property from a street.</p> <p>9.25.30 Requirements</p> <p>A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges, or other vegetation or projecting overhanging limbs that obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of city streets. It shall be the duty of the person who owns, possesses, or controls the property to remove or trim, and keep</p>	<p>location to consolidate clear vision area standards. That is why this Chapter of the Municipal Code is proposed to be deleted.</p>
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<p>trimmed, any obstructions to the view necessary for safe operation of motor vehicles.</p> <p>B. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by Section 9.25.040.</p> <p>C. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding thirty inches in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area, provided, all branches and foliage are removed to the height of eight feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.</p> <p>D. Structures erected in compliance with zoning ordinance setbacks are exempt from this chapter.</p> <p>9.25.40 Computation</p> <p>A. The clear vision area for street intersections and driveway or accessway intersections shall be that area within a twenty-foot radius of the lot corner nearest the intersection, or within a twenty-foot radius of the intersection of the lot line and the edge of a driveway. Any building that meets the applicable setback requirement in effect at the time of construction is exempt from the clear vision requirement.</p> <p>B. Modification of this computation may be made by the city engineer after considering traffic engineering and safety principles, taking into consideration the location of the actual edge of the roadway, type of intersection, site characteristics, traffic controls, vehicle speed, traffic volumes, and other similar factors. Aesthetics and length of time fences or vegetation have existed are not relevant factors.</p> <p>9.25.50 Enforcement</p>	
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<p>Violation of this chapter is a civil infraction and a nuisance. Enforcement procedures shall be suspended while an application for a modification is being considered.</p> <p>9.25.60 Liability</p> <p>The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 9.25.030. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this chapter.</p>	
<p><u>NZO SECTION 2-4.3. VISION CLEARANCE CLEAR VISION AREAS REQUIREMENT</u></p> <p>2-4-3.005. <u>Front Yard Vision Clearance.</u> No fence or hedges of any kind shall exceed three and one half feet in height in a required front yard or exceed three and one half feet in height in a second front yard. On corner lots where the rear lines of the rear yards are contiguous, fences not over six feet in height, measured above the sidewalk grade, may be permitted on side streets not closer than 40 feet from the principal street. All trees growing or standing in the street right-of-way in the front or second front yard that overhang the sidewalk shall be trimmed to a height not less than eight feet above the sidewalk, and all trees that overhang the curb and street pavement shall be trimmed to a height of not less than 12 feet over such curb and street pavement. All trees and shrubbery shall be trimmed so as not to interfere with sight distance at intersections.</p> <p>2-4-3.010. <u>Vision Clearance for Corner Lots.</u></p> <p>A. <u>Establishment:</u></p> <p>A vision clearance area is hereby established for all zones and shall be maintained.</p>	<p>This Section of the Zoning Ordinance has been amended to incorporate elements of Chapter 9.25 of the Municipal Code. The method of measuring clear vision areas at street intersections has been changed to reference the curb line or edge of pavement as opposed to the property boundary. This is easier for people to understand and for staff to verify in the field. It also avoids the need for costly surveys.</p> <p>Proposed language borrows elements from codes adopted by the cities of Newberg and Eugene (attached).</p>

B. Definition:

~~A vision clearance area for corner lots shall consist of a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the non-intersecting ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to the point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three and one-half (3 1/2) feet in height measured from the top of the curb.~~

C. Measurement of Vision Clearance for Corner Lots:

~~The following measurement shall establish clear vision areas:~~

Right of way Width	Street Width	Each Lot Line
60 feet	36 feet	30 feet Residential Only
50 feet	26 feet	40 feet Residential Only
50 feet	28 feet	20 feet Residential Only
Less than 50 feet	28 feet or Less	20 feet Residential and Commercial

~~2-4-3-015. Obstruction of Front Yards by Certain Vehicles Prohibited. No boat, trailer, travel trailer, mobile trailer, truck, automobile, or other vehicle may be stored or parked in the required front yards for longer than seven consecutive days.~~

~~2-4-3.005. Purpose. The purpose of this section is to promote safety at intersections and drive access points by reducing obstructions to clear vision at intersections.~~

~~2-4-3.010. Clear Vision Area Defined. A vision clearance area includes the following:~~

~~A. At the intersection of two streets, a triangle formed by the intersection of the curb lines, with each leg of the vision clearance triangle being a~~

minimum of 35 feet in length. Where curbs are absent the edge of the asphalt or future curb location shall be used as a guide. The City Engineer may modify this requirement, in writing, upon finding that more or less distance is required (i.e. due to traffic speeds, roadway alignment, etc.).

B. A portion of a lot subject to a front yard setback as defined in Section 2-3-2. A clear vision area does not include that portion of a second front yard outside of the area described in subsection (A).

2-4-3.015. Clear Vision Area Requirements. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees located within a clear vision area shall have their branches and foliage removed to the height of eight feet above the grade.

2-4-3.020. Maintenance of Clear Vision Areas. It shall be the duty of the person who owns, possesses, or controls real property or right-of-way adjacent thereto, to maintain a clear vision area in the manner provided in this section.

2-4-3.025. Exemptions for Buildings. A building erected in compliance with zoning ordinance setbacks is exempt from this section.

2-4-3.030. Liability. The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by this Section. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this Section.

2-4-3.035. Variances. The requirements of this section shall be subject to the processes and criteria contained in Section 2-5-2, Adjustments and Variances.

MINUTES
City of Newport
Planning Commission Work Session
City Hall Conference Room "A"
Monday, November 14, 2011

Planning Commissioners Present: Jim Patrick, Glen Small, Gary East, Melanie Sarazin, and Jim McIntyre.

Planning Commissioners Absent: Rod Croteau and Mark Fisher (excused).

Citizens Advisory Committee Members Present: Dustin Capri and Bill Branigan.

Citizens Advisory Committee Members Absent: Lisa Mulcahy.

Vacation Rental Ad Hoc Work Group Members Present: Rob Oberbillig, Bill Berman, and Lee Hardy.

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

Chair Patrick called the Planning Commission work session to order at 6:00 p.m. He reversed the order of the agenda and turned the meeting over to CDD Tokos.

A. Unfinished Business.

1. Review recommended revisions to the Vacation Rental Code from the AD Hoc Work Group. Tokos noted that included in the packets was a matrix which includes in the left column changes that the ad hoc group recommends be made to the draft that we have been working on. The right side includes the rationale. He also included a copy of the PowerPoint the ad hoc group used as a point of reference. Tokos noted that a few of the members of the ad hoc group were in attendance to answer any questions.

Tokos went through the draft code section by section. Beginning with "General Provisions", he noted this is where it explains that it is an endorsement as opposed to a license. For the endorsement there is a set of additional standards to meet, but there are not multiple licenses; it is all under one business license. Tokos said that endorsements aren't new; the City already does endorsements for vending on public property. The other aspects on page 2 have to do with the issue that came up in the open house – the desire to grandfather and have the rights run with the land. He said that the concern is that subsequent owners lose track and don't understand the rules. Having the endorsement specific to the owner ensures that subsequent buyers will know what the rules are they have to follow. An existing vacation rental or B&B can lose prior approval if they don't come in within the 120 days to get an endorsement. Tokos said we can get that outreach to those folks. Approval can also be voided if a business license lapses for 12 consecutive months. This also clarifies that a conditional use permit option is available. If they try to get an endorsement and get denied because they can't meet all the standards, there is the option of seeking a conditional use review. If that is approved by the Planning Commission, they can be granted relief from standards (one or more). It doesn't substitute having an endorsement. Tokos gave an example that an owner may have a small piece of property and can't provide off-street parking; but they believe there is ample on-street parking for their use. They can go through the conditional use review where the Planning Commission looks at it. If the Commission decides that is okay, then they don't have to meet that particular endorsement standard. They still have to obtain an endorsement because there are other standards they have to meet. Patrick asked if they basically get a conditional use permit first and then an endorsement; and Tokos confirmed that.

The next section, "Approval Authority" clarifies who is responsible for what. It makes it clear that the CDD can't issue an endorsement if the standards are not met.

For the "Application Submittal Requirements" section, no significant changes were made.

Under the "Standards for Vacation Rental Endorsement" section, Tokos made a change on the Maximum Building Occupancy subsection. At the open house the concern was that the 200 square feet gross floor area was too limiting for a single-family home, and smaller homes wouldn't be able to be rented for holidays. Tokos said this is the Uniform Fire Code, which is a standard the City already adopted and already applies. The question is whether to call it out so people are aware of it. It was the group consensus to at least call it out. Patrick noted that we will also have problems with regular rentals in that code. Tokos said the Fire Department says it is something they will deal with on a case by case basis; maybe from a complaint of a large party or something. Tokos noted that typically it is not practical to retrofit a single-family residence into a commercial structure. Hotels are under the commercial code and have better egress, are sprinkled, and have exit signage. Tokos said that the most significant change here has to do with the recommendation from the ad hoc group that prohibits the use of on-street

parking spaces for overnight guests. There was some feedback at the open house from that. That is difficult to enforce and they should be able to take advantage of those spaces just the same as anybody else. When they come in for an endorsement, we confirm that the off-street spaces are there, and that should be enough. McIntyre asked about a long driveway where cars are parked right behind one another. He wondered if it wouldn't be a violation if there were six cars in the driveway, and four couldn't access the street because two cars are parked behind and have them blocked in. Tokos said that if the spaces are not accessible to a guest, if it's blocked by other vehicles or spaces or are used for storage of a boat or something, the intent was that would be a violation. Under the Waste Management subsection, the group recognized that the dumpster prohibition was in there because it's not typical in a single-family residential area. It is common in multi-family and commercial zones. It would be too difficult to ferret that out. The group's recommendation is to strike the prohibition on dumpsters. Berman asked about handicap parking spaces, and Tokos noted that our parking code has language about when handicap parking needs to be available. Tokos noted that the Landscaping subsection, clarifies that the percentages are applicable in residential zones. Capri asked about small lots having 50% of the front yard in landscaping and still having off-street parking spaces available. Tokos noted that in those cases, the conditional use process is available. For the Guest Registry subsection, the group agreed that it was appropriate and wasn't overly intrusive. Hotels and motels do it already. It is necessary information in case of a catastrophe and for complaints. The change syncs up with what hotels are doing: obtain information on the primary occupant, the number of guests, and the vehicle license. The group felt that there needed to be just a few minor changes to the Contact Information subsection. They felt that the in-person response isn't always necessary or appropriate and they don't always have to have possession of a key. For the Emergency Provisions subsection, we received comments at the open house that we should get specific; and the group agreed. The items are listed, and there is still the catch-all that the City Council can adjust this if changes to the requirements come along. There were no significant changes to the Postings subsection; just some clarifications to language.

Regarding the "Inspections" section, comments were received at the open house that when existing approved vacation rentals come in for their initial endorsement within the 120-day period, upon inspection if something is found, it would be unreasonable to make them shut down. They should be given time to make changes. The group agreed that was appropriate. The building official has discretion on this. For units never before used as vacation rentals, they have to do corrections before they can start renting.

There were no changes to the "Notice Requirements" section.

The "Complaints" section had no significant changes.

No significant changes were made to the "Violations" section.

The "Penalties" section contained some minor clarification language. There are different penalties for land use actions, like conditional use permits, than for endorsements. Small wondered what the penalty was for failing to even get an endorsement. Tokos explained that is a straight violation of the zoning ordinance, which contains separate penalties for violations of the zoning ordinance. He said it's a fine from the City Manager. It's not cross-referenced here because we don't cross-reference for other types of permits.

The "Definitions" section has quite a bit of work done to it. It explains the difference between hotels, motels, B&Bs, and vacation rentals. In looking at the Oregon Structural Specialty Code to try to classify these, that code specifies that a lodging house can have no more than 5 bedrooms and not get into the commercial code. We used the building code to sync up with our definitions. Branigan asked what counts as a guest room under a vacation rental. Tokos said that we will be looking for them to identify that when they come in for their endorsement. Typically it's bedrooms. The difference between B&Bs and vacation rentals is that B&Bs would be providing meals. We just added language that B&Bs and vacation rentals are not hotels or motels. It was noted that we have a business that has a motel and also vacation rentals. This type of classification helps distinguish between the two. Tokos said a difference between hotels and motels is that hotel units don't open directly outdoors. He didn't propose to make further changes to those definitions. Berman asked why not just say bedrooms rather than guest rooms because for occupancy we say no more than two persons per bedroom. Tokos said that guest room matches up with what is in the building code so it's probably safest to leave it. Branigan wondered if two people per bedroom also counted babies. Patrick said it is called out by person. Tokos noted that the ad hoc group spent a fair amount of time looking at other codes, and it is all over the board. That seemed to be a reasonable threshold, and there was no feedback on that at the open house. The concern was on the maximum occupancy. Oberbillig asked about the 30 people per dining room regulation, and Tokos said that is in the fire code. From their perspective that is a problem.

Tokos noted that the last section is the "Zoning Districts", which lists the uses in the various zones. There was just terminology clarification there. There was feedback at the open house about potentially limiting B&Bs in the R-1 and R-2 zones or both B&Bs and vacation rentals. There was talk about tenancy limits. The ad hoc group looked at that, and it was discussed with the Planning Commission. There are some practical issues in trying to enforce that. There was some debate that there are people coming and going normally in a residential environment so why be concerned about tenancy limits. It was

determined that it is not worth going down that path. Tokos noted that there are no changes in the R-1 and R-2 zones. But, he said that the Commission can certainly propose to restrict B&Bs in R-1 and R-2 if they want. Vacation rentals are currently allowed in R-1 and R-2; so if the Commission wants to restrict them in those zones, we would have to send out a Measure 56 notice. The ad hoc group looked at what other jurisdictions do to limit vacation rentals, and nothing made sense. Our residential zones are not set up that way; they were put together for other reasons. Some jurisdictions don't even allow them in residential zones at all. Others, like Durango, have spacing limits. None of them had a clear rationale for what this achieves. The question is what would be the magic number. The ad hoc group felt that marketing will decide if a location makes sense or not. They thought it should be okay as long as we put in appropriate standards so it won't turn into something that isn't consistent with a residential area. Branigan asked if the 10 times goes away, and Tokos said that wasn't workable anyway; there was no way to hold them to the 10 occupancies.

Everyone agreed that these changes seem reasonable. Tokos asked if this is ready to go to public hearing. Patrick suggested taking it to public hearing to see where the rubbing points are. East thought this was at a great point for public discussion, and we can adjust it from there. Patrick said to make it clear what the City would have to go through if we back up and put more restrictions on the residential zones where vacation rentals will be allowed. Branigan wondered how this syncs with what Lincoln City is doing. Tokos said he hasn't been tracking what changes Lincoln City is proposing right now, but their code was one that was evaluated. Some elements are here. They are similar in landscaping, and we haven't had any push back on that. The open house notice was sent to everybody in the City, and we only had about 14 people or so show up. Tokos said the hope is that at the Council level we can present this the same time as the changes to the business license codes. He said that just makes sense. It should be February for the City Council. We can get this set up for a January public hearing before the Planning Commission. We are not planning on doing another mass mailing but will send out notice to those that expressed interest or gave contact information at the open house. Sarazin said that press releases would be sufficient.

2. Review draft ordinance for Tree City USA designation. Materials for this discussion were handed out. Tokos noted that there are a lot of changes to look at in the Tree City ordinance. He said this is just the initial draft. This is one of the City Council priorities, and some of the Councilors felt very strongly about this. They are comfortable with doing the minimum necessary to obtain Tree City USA designation because some of those things we should have been doing already. Minimalistic is how Tokos structured the code with basic standards so that our infrastructure is not being torn apart. The burden is put on a Parks and Recreation committee. Tokos has talked to Parks and Recreation Director Jim Protiva, and he is in agreement. The code creates a City Tree Board, which will meet to put together a Tree Plan that includes guidelines for how the urban tree canopy is to be maintained. There will be specific regulations for trees in public rights-of-way. There will be restrictions on types of trees under utility lines and close to curbs so that we are not finding that we are having to replace sidewalks or underground water and sewer lines or that PUD is having to trim trees. Tokos said this is looking at a longer-term vision here; 30-40 years down the road. Sarazin asked if this had been reviewed by PUD. Tokos thought that was a good point and that it should be. Tokos said there is a requirement that the Plan be reviewed every three years, and that the initial plan has to be approved by the City Council. Tokos noted that acceptable street trees later plug in under "Permitting". The Board can put in a Heritage Tree program if they want, which means they can identify certain trees that would be preserved in the community. Sarazin asked if there are any benefits to the City of being designated a Tree City. Tokos said primarily it is good PR, and there is a theory that it is advantageous for grants. Sarazin noted that this was really low on the Planning Commission's priority list. Tokos said this landed on the Council goals. Patrick said that this comes from the Midwest where it is hard to grow trees. Here we don't have that issue. Tokos said that we can look at this from the side that some of this we should be doing already. We don't want to let people plant willy-nilly in the right-of-way. Patrick asked about people chopping trees down in the rights-of-way, and Tokos said this will help with that too. Capri asked if this prevents planting a strip, and Tokos said no. Tokos said the more common example will be trees in unimproved rights-of-way. If the wrong kinds are planted, they will tear up infrastructure. It didn't specify native trees. He gave an example of Cypress trees in this community, which are not native trees. He said he wouldn't be surprised if the Board picked off something like that, even though they are not native. The Parks and Recreation committee will set up guidelines. The Heritage Trees piece is optional. The code applies to trees in the rights-of-way, but there is no limit for Heritage Trees. East asked if for master planned communities, if there are any landscaping standards already set up for those areas that can be transferred over. Tokos said not really. He added that there is a lot of benefit to encouraging street trees. If the Commission feels it needs to be put in the subdivision ordinance, we can. Tokos said on page two, it talks about right-of-way permits. The City already has a right-of-way permit; but this has been construed to apply to tree removal. He said that Public Works is on board with this. The permit will just have to be retrofitted for this permitting process. There is no cost for right-of-way permits now. There will have to be outreach here so the public is aware that if they plant in the rights-of-way, they have to get a permit. He thinks this can be done in a tactful way. The code is expanded to get to other City properties; so it applies to parks. Tokos said there is clarification in here that when installing trees along the street, you have to meet standards set out here. Patrick noted that around here we get so many volunteer trees, that you can literally mow trees down. He thought there should be a size specified. Tokos said we could use 8", which is consistent with what we did in the geologic hazards code. He will add that. Tokos explained that only those trees listed as "small" in the Tree Plan can be under utility lines. Trees should be set back a certain distance from curbs and sidewalks. He said this borrows from the Coos Bay and Seaside codes. The code gives guidelines for planting trees within a right-of-way that is underdeveloped. The 35 feet on street corners gets into site vision. The clause that the City has the right to maintain trees

for safety or beauty applies to street trees and parks. Public Works or Parks typically handle the safety issues with trees. They have to adhere to the adopted Tree Plan; however, they don't have to get permits. They just file a statement that they have read the Tree Plan. Tokos said the group will pick this up again at the next meeting.

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

Respectfully submitted,

Wanda Haney
Executive Assistant

Derrick Tokos

From: Derrick Tokos
Sent: Wednesday, December 21, 2011 2:27 PM
To: 'RAMSTAD Kristin'
Cc: Jim Protiva
Subject: RE: Newport Tree City USA Ordinance Draft

Kristin,

Thanks for providing comments. I'll clarify the draft ordinance to make it clear that the Tree Board is responsible for addressing the proclamation and celebration requirement. That is what I meant by saying it is responsible for obtaining the annual Tree City USA designation.

As to the issue of interim standards, I think the tact we would prefer to take is to make all or a portion of the ordinance operable at such time as a tree plan is adopted by the City Council. I understand that it will take time for the tree plan to be developed, and the City will need to undertake public outreach so folks understand the rules. Our objective is to get ready for the next Tree City application cycle. That should be around next December, right?

I'll take a look at the encroachment language, with your concerns in mind, and see if it can't be clarified.

Thanks again,

Derrick I. Tokos, AICP
Community Development Director
City of Newport
ph: 541-574-0626
fax: 541-574-0644
d.tokos@NewportOregon.gov

From: RAMSTAD Kristin [mailto:kristin.ramstad@state.or.us]
Sent: Thursday, December 15, 2011 3:04 PM
To: Derrick Tokos
Cc: Jim Protiva
Subject: RE: Newport Tree City USA Ordinance Draft

Hi Derrick,

I am just back in my office after being out earlier this week.

So far so good on your revisions I think. Here are a couple of thoughts:

(1) Many cities consider their Tree Boards or committees as advisory bodies that have specific purposes (such as developing a tree care plan) and handle things like tree complaints, but they ALSO are tasked with organizing and implementing the city's Arbor Day celebration(s). This is a way to address the required Arbor Day proclamation and

celebration requirement of Tree City. I suggest consideration of tasking Newport's tree committee with this purpose along with the others you mention.

(2) It usually takes a while for a committee, even a long-standing one, to come up with a workable tree plan and tree list. In the meantime, you may want to add something to your ordinance that requires that public tree care be done to a national standard, both by city employees and contractors. By hitching your city's tree care standards to a national standard, the tree care standard in your city will keep pace to the nationally recognized best practices for tree care and hold all people performing tree care to the same expectation. The two primary standards used in the tree care industry are: the ANSI A300 (for tree, shrub and other wood plant maintenance) and the ANSI Z133.1 (for arboricultural safety procedures). The PNW International Society of Arboriculture also publishes ANSI standard companion Best Management Practices booklets, to further explain and clarify the standards. If, when your tree committee gets down to work you, as a city, decides that it wants to create its own tree care standards, that's fine. In the meantime however, you have an excellent practice referred to in your code. [Having said all this however, be aware that you may need to provide exemptions for utility tree workers, who may not be able -- initially! -- to prune all the ROW trees near power lines to the ANSI A300 standards.]

(3) In your code language about encroachment, it is not clear to me that it addresses both overhead (e.g. tree limbs and sign clearance) and below-ground (roots that grow into private property or FROM private property to public ROW) issues.

I'll do another reread tomorrow afternoon and see if anything else pops out at me....

Cheers,
Kristin

Kristin Ramstad

Community Assistance Forester

p: 503-945-7390

f: 503-945-7416

You may call me toll-free: 1-800-437-4490 and ask the receptionist to transfer your call.

Please consider the environment before printing this message.

From: Derrick Tokos [<mailto:D.Tokos@NewportOregon.gov>]

Sent: Tuesday, December 13, 2011 3:27 PM

To: RAMSTAD Kristin

Cc: Jim Protiva

Subject: Newport Tree City USA Ordinance Draft

Hi Kristin,

I am working with Jim Protiva, our Parks Director, and the Newport City Council on positioning the City for making an application to the Arbor Day Foundation for a "Tree City USA" designation. To that end, I have put together a package of code amendments to serve as the City's Tree ordinance (attached). It designates the City's Parks and Recreation Committee to serve as a "Tree Board," charged with developing a plan for the care and maintenance of trees within road rights-of-way and on city property. They would also have the option of putting together a heritage tree program. Day-to-day implementation would be handled by our Public Works Department using an existing right-of-way permitting process.

The proposed amendments have been reviewed by the Newport Planning Commission. This draft incorporates their comments. The Newport Parks and Recreation Committee will review it at their December 21, 2011 meeting. I am hoping that you can take a look at the proposal and provide comments in advance of that meeting.

Let me know if you need more time. The City Council will hold a work session on the changes in January and an initial hearing before the Planning Commission won't happen until later that month, so there will be ample opportunities for you to plug into the process.

I appreciate any assistance you can provide.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
ph: 541-574-0626
fax: 541-574-0644
d.tokos@NewportOregon.gov

City of Newport
Parks and Recreation Committee Meeting
December 21th, 2011
MINUTES

1. Call to Order. The meeting was called to order by Ed Simon at 8:35 a.m.
2. Roll Call. Members present were Ed Simon, Nancy Steinberg, Susan Boehlert, Jimmy Rodriquez, Karen Smith, Sandra Surber and Sandy Roumagoux, City Council liaison. Absent: Roger Holstein.

Staff Present: Parks and Recreation Director, Jim Protiva and Derrick Tokos, Community Development Director.
3. Approval of Minutes. Nancy moved to approve the minutes of the November 16th, 2011 meeting. Seconded by Susan. Hearing no objections, the minutes were approved.
4. Concerns or Comments from Citizens. None.
5. Report of the Director. Jim noted that our basketball league sign-ups are at a record high. An analysis of recent financial history shows that our revenues are increasing while our expenditures are decreasing; at the same time there is still discussion that we need to continue that trend. Jim added that he was developing a policy for cost recovery and staff would be working on it in the next few months, noting that our current cost recovery is 57%. Ed Simon stated that through their research with the Task Force, it was found that Newport Parks & Recreation had one of the lowest subsidies around. Jim said that he would be bringing more information on this topic to the Committee in the near future. Jim advised the Committee that the air-handlers at the pool had been changed out as there was a fear they might fall through the roof. Repairs to both had been made. Also, there was recently a swim meet at the pool and evening drop-in usage is getting good numbers. Jim noted that he had visited the NOAA offices on Friday and had coffee with several of the staff there, informing them of some of the services that our Department offers. The Senior Center recently had a silent auction and made over \$1000.00.
6. New Business. Jim passed out information regarding the purpose and functions of the Parks and Recreation Committee and noted that the City Council had set a goal to become a "Tree City USA" and one of the requirements was the need for a "Tree Board." Derrick noted that besides a Tree Board, there was also a need for a tree care ordinance for care of trees in public places, plus a budget for tree care (\$2 per capita,) and at least one Arbor Day event and/or proclamation annually. The Council is generally supportive of moving forward with taking basic steps towards getting the designation. Several coastal and valley towns were looked at to see what their approaches have been. Derrick went through the issues the Committee would need to address as the Tree Board. Nancy moved and Karen seconded to endorse the concept of the City of Newport working toward becoming a Tree

City USA, with the Parks and Recreation Committee serving as the Tree Board. There were no objections and the motion passed.

Ed Simon noted two issues the Task Force would like the Committee to address; first, regarding the amendment of the City Ordinances to allow for a person outside of the City limits to serve on the Parks and Rec. Committee and second, having two students from the high school to serve on the Committee. Ed also mentioned that with the addition of a couple of more members, the Committee could sub-divide into sub-groups that could work with the Pool, Rec. Center, or Parks, which would remove some of the burden off the Director. Jim noted that this was an opportunity for the Committee to take a more active role in assisting the Department. The Committee also discussed the expansion of partnerships and the development of wellness programs within local businesses and the formation of a foundation to support the Parks and Recreation department.

7. Old Business. Jim asked the Committee to consider and discuss the long-term future of the pool. Jim referenced an article in the paper about FOCAP (Friends of Coastal Aquatic Park) and their desire to build a water park in South Beach, noting that such a facility would impact our municipal pool.

Jim presented the latest version of the Park Rules that had been reviewed by the City Attorney, which would now go before the City Council.

8. Other. Ed asked that the Committee bring their ideas for partnerships and sub-committees to the next meeting and e-mail them to Jim beforehand.
9. Adjournment. The meeting was adjourned at 10:05 a.m.

The next meeting is scheduled for January 18th, 2012

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

The Newport Planning Commission will hold a public hearing on Monday, January 23, 2012, at 7:00 p.m. in the City Hall Council Chambers to consider amendments to the Newport Municipal Code and Newport Zoning Ordinance that put in place a program for managing the city's urban tree canopy. If adopted, the amendments will support a City application for a "Tree City USA" designation with the Arbor Day Foundation. The Commission will 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 the City Council hearing will also be provided. Specifically, the proposal amends the following code sections: Amend NMC 2.05.040 (Park and Recreation Committee) to authorize the committee to serve as the City's tree board; amend NMC 9.10 (Right-of-Way Permits) to establish standards for planting and maintaining trees within public rights-of-way; amend NZO 2-4-5 (Landscaping Requirements) to cross-reference to the approved planting list and permit requirements of NMC 9.10 for trees and shrubs that are proposed within the public right-of-way; amend NMC 13.05.015 (Streets) to include a subsection requiring that street trees proposed within a subdivision or partition adhere to the approved list and placement standards of NMC 9.10; and amend NZO 2-4-3 (Vision Clearance Requirements) and NMC Chapter 9.25 (Intersection Safety) to clarify the standards and eliminate redundancy. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply 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 testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent 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 to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above).

(FOR PUBLICATION ONCE ON FRIDAY, JANUARY 13, 2012)

Minutes
City of Newport Planning Commission Regular Session
Monday, January 23, 2012

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

City Staff Present: Community Development Director (CDD) 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 7:05 p.m. On roll call, McIntyre, Small, Croteau, Patrick, Fisher, East, and Sarazin were present.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of January 9, 2012.

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

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

D. Consent Calendar.

1. **Final Order for File No. 2-ADJ-11.** Approval of a request submitted by Fred Meyer Stores, Inc. for an adjustment to Section 2-3-6.015 (Number of Parking Spaces Required). The Commission held a public hearing on this matter on January 9, 2012.

MOTION was made by Commissioner Small, seconded by Commissioner Fisher, to adopt the final order as presented. The motion carried unanimously in a voice vote.

E. Public Hearings.

Legislative Actions.

1. **File No. 5-Z-11.** Amendments to the Newport Municipal Code and Newport Zoning Ordinance that put in place a program for managing the City's urban tree canopy. If adopted, the amendments will support a City application for a "Tree City USA" designation with the Arbor Day Foundation. The Planning Commission will forward a recommendation on this matter to the City Council.

Patrick opened the public hearing portion of the meeting at 7:07 p.m. by reading the summary of File No. 5-Z-11 from the agenda. He read the statement of rights and relevance and asked the Commissioners for declarations of conflicts of interest, bias, ex parte contact, or site visits; and none were declared. He called for objections to any of the Planning Commissioners or the Commission as a whole hearing these matters; and no objections were raised. Patrick opened the public hearing for File No. 5-Z-11 at 7:10 p.m. by calling for the staff report. Tokos noted that this hearing involves the Tree City USA ordinance generated in Commission work session. He said that he had attended their meeting, and the Parks and Recreation committee is very excited about taking on this responsibility. Tokos said that he thinks the role of developing a tree plan and what is appropriate to be planted in public places is a very good one for them to play. The plan provides guidelines on how plantings should be done so that they don't destroy the city's infrastructure. It's about setting the City up for submitting an application for "Tree City USA" designation. This is a Council objective. The approach the City is taking is to do what we need to do to put in place a program that makes sense for Newport with the type of things we should be doing to make sure what is happening in our rights-of-way doesn't tear up streets or sidewalks or cause safety obstructions. Tokos said that what he tried to do was use existing City processes. The Parks and Recreation committee is an existing committee that is taking on the role of putting the tree plan together. Public Works already has a right-of-way permitting process. That will be clarified a little bit to deal with the new tree plantings and maintenance of trees. At the Commission's request, Tokos inserted the 8" dbh (diameter breast height) standard. Tokos noted that Kristen Ramstad of ODF is the state liaison for urban forestry, and she provided some comments. One had to do with clarifying that somebody needs to be responsible for the annual Arbor Day proclamation. He clarified the responsibility of the Parks and Recreation committee. She also thought we should not put together interim standards. Let the Parks and Recreation committee create the ordinance, and once the City Council approves it, it goes live. The effective date will be set to the date the City Council adopts the tree plan. That will give the Parks and Recreation committee time to put it together and give time for outreach. We have had issues with vision clearance, and this will help clean that up. One thing though, is that Tokos would like to spend more time with Public Works and Police covering the vision clearance portion before it goes to the City Council. He hasn't had a chance to cover that as thoroughly as he would like to. He said if the Commission is comfortable

recommending this ordinance, their recommendation may include that, if in the opinion of the Police Department or Public Works, some minor modifications may be made to the vision clearance standards (that might be an outcome). Patrick said that he thought there was an exception for commercial buildings because a lot can't meet 35 feet. Tokos said he doesn't believe that applies to commercial. The building exemption is on page 14, and says that a building erected in compliance with NZO setbacks is exempt. He said that fences are subject to this and have previously been. He noted that we have problems with vision clearances throughout the City. In addition, we have conflicting standards throughout. This cleared it all up by providing one standard and one that the public can figure out (from edge of pavement). Many people don't know where their property line is. Tokos said that the discussion he needs to have with Police and Public Works is if this standard is still sufficient or is there room to reduce it further and still be appropriate. He wants to make sure it is a standard that is readily achievable. He said it is a balancing act. Patrick thought we need some sort of variance for topography where we have a bank. Tokos said they could set up their recommendation that the City Council may want to consider putting in or looking at this standard as it relates to slope. Patrick said he would like to spend a little bit of time on that one. Tokos asked if the Commission wants to see it or is it just sufficient to make a recommendation to the City Council that they should consider it. Tokos said he would make sure he has that issue addressed before it goes to the City Council. Patrick said that as long as they get some sort of out for existing conditions. Tokos said maybe a recommendation that this package move forward with a note the City Council should look at the issue of slope within the vision clearance standard and make sure any expressed adjustment is made. Tokos said he can work on that. Patrick said that he does like the reference to the top of the curb or the center of the road. That gives you things that you can actually figure out. McIntyre said that, referring to 2-4-3.015 (clear vision areas requirements) on page 14, he notices it says temporary or permanent obstruction; which could be a bank. He said that is where it needs clarification. Tokos said he could work in some verbiage to that effect. He said that more often than not when a bank is in the right-of-way, the City would excavate that back to a point where it is easy to see around it. He said it may require some change to the size of the vision clearance as well, and he can look at that. Tokos said this is still housed in the land use code, so they can get variances. He said that was done intentionally.

There were no proponents, opponents, or interested parties present; so Patrick closed the public hearing.

MOTION was made by Commissioner Sarazin, seconded by Commissioner Croteau, to forward a favorable recommendation of the ordinance for File No. 5-Z-11 to the City Council with the caveat that Derrick had discussed about possible modifications to the vision clearance portion before it goes to the Council and with a suggestion that the Council focus on the topography issue within the vision clearance standard. The motion carried unanimously in a voice vote.

F. Unfinished Business.

G. New Business. Fisher asked if the City Council agreed on a joint meeting on March 12th. Tokos said he has not heard back, but will get an answer.

H. Director's Comments. Tokos noted that at the joint City Council/County Commissioners meeting, they discussed the Big Creek annexation the Commission had talked about at work session.

It looks like the City is going to be taking the lead on the territorial sea planning process. Tokos said his sense of how this will work is that the first step is going to be trying to bring the cities together for the state's second round of public outreach in Lincoln County being held in Depoe Bay in early March. The thought is we will have our Mayor write a letter to the other cities and county inviting them to the Depoe Bay meeting so they can get engaged in the process. There will be a follow-up round of public engagement that would be more driven by local government to provide feedback into the process. Tokos said the only reason he brought this up is that he may ask for a volunteer to serve as Planning Commission liaison to attend and help. That process should get more involved in a few months.

The EOA process is moving forward. The second meeting is scheduled for February 23rd. That is going to be review of economic visioning. Before that meeting, there is a survey being sent out to the TAC members. The consultant and Tokos will cover all past plans, what is invested, what the primary goals are, and the Chamber visioning survey so we can determine what the overall vision should be and what the goals should be. That will be shared with the Chamber. Hopefully we can get a consensus of what we should be focusing on. Our process will turn after that to what the City's role is and what the City can do to achieve that objective. Small, who is the Planning Commissioner serving on the TAC, agreed that this is an interesting concept. Tokos mentioned the Chamber's visioning survey on their website and encouraged the Commission members to take a look at it. He noted that they used the same survey that was taken earlier so they could compare.

Patrick said that he had been invited to go to the storm water utility fee meeting being held this week; and Tokos said it's not something he has been involved in.

Croteau said that after going through the tree ordinance, he was pleased to learn that the Parks and Recreation committee has approached their new role with enthusiasm. He asked Tokos to convey to them our pleasure that they so readily embrace the concept.

I. Adjournment. Having no further business to discuss, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,

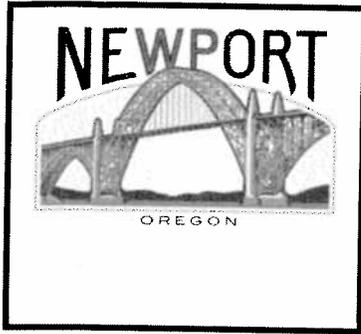
A handwritten signature in cursive script that reads "Wanda Haney". The signature is written in black ink and is positioned above a horizontal line.

Wanda Haney
Executive Assistant

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

The Newport City Council will hold a public hearing on Monday, March 5, 2012, at 7:00 p.m. or shortly thereafter in the City Hall Council Chambers to consider amendments to the Newport Municipal Code and Newport Zoning Ordinance that put in place a program for managing the city's urban tree canopy. If adopted, the amendments will support a City application for a "Tree City USA" designation with the Arbor Day Foundation. Specifically, the proposal amends the following code sections: Amend NMC 2.05.040 (Park and Recreation Committee) to authorize the committee to serve as the City's tree board; amend NMC 9.10 (Right-of-Way Permits) to establish standards for planting and maintaining trees within public rights-of-way; amend NZO 2-4-5 (Landscaping Requirements) to cross-reference to the approved planting list and permit requirements of NMC 9.10 for trees and shrubs that are proposed within the public right-of-way; amend NMC 13.05.015 (Streets) to include a subsection requiring that street trees proposed within a subdivision or partition adhere to the approved list and placement standards of NMC 9.10; and amend NZO 2-4-3 (Vision Clearance Requirements) and NMC Chapter 9.25 (Intersection Safety) to clarify the standards and eliminate redundancy. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply 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 testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the City Council. Written testimony sent 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 to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above).

(FOR PUBLICATION ONCE ON FRIDAY, FEBRUARY 24, 2012)



Agenda Item # IX. A.
Meeting Date March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Resolution No. 3580 - "Soft Freeze" of The City's Defined Benefit Plan and Change to the Money Purchase Pension portion of the Plan for Non-Collectively Bargained Employees

Prepared By: Ol' Dawg Dept Head Approval: City Manager Approval:

Issue Before the Council: The issue before Council is consideration of the adoption of Resolution No. 3580 which would implement a soft freeze of the city's defined benefit plan, and modify the money purchase pension portion (Defined Contribution) of the plan for non-collectively bargained employees hired after March 5, 2012.

Staff Recommendation: Staff recommends adoption of Resolution No. 3580.

Proposed Motion: I move to adopt Resolution No. 3580 which institutes a soft freeze of the Defined Benefit portion of the city's retirement plan and implements an additional matching contribution to the Money Purchase portion of the plan for non-collectively bargained employees hired after March 5, 2012.

Key Facts and Information Summary: On August 27, 2010, city representatives first met with Dave Dougherty, an actuary specializing in retirement plans, who was recommended to us by the trustees of the city's retirement plan.

From that meeting and two others with Mr. Dougherty, the prevailing thought of city administration and the City Council has been that the city's Defined Benefit plan was no longer affordable. In that thinking, the city conforms to the trends in both the private and public sectors, in which many organizations are "opting out" of Defined Benefit plans because, in the words of Mr. Dougherty, they are "dinosaurs." This action tonight formalizes over 18 months of discussion and analyses of the city's retirement plan.

The first issue that had to be resolved was the choice between a "soft freeze," and a "hard freeze." In a hard freeze, existing employees cannot accrue additional benefits, and the plan, in the words of the attorneys who administer the plan, "becomes a "wasting asset." But "... the bleeding stops." No additional liabilities are incurred. In a soft freeze, present employees remain active in the plan as it is written and administered, but new employees cannot participate in the Defined Benefit portion of the plan. No serious consideration was ever given to a hard freeze.

The next issue that had to be resolved was one of timing: When did we want this to happen? After speaking with the city's attorneys, the city's actuary, and with city staff, we chose to execute a soft freeze immediately, or at least as quickly as the plan could be formally amended and forwarded to the Council for action.

Another equally important issue was the relative difficulty of implementing a plan that would affect both “represented” and “non-represented” employees. This issue was solved by the expedient of addressing changes to the plan in a series of amendments - certainly two, and perhaps more. Thus, Amendment 2, before you tonight, amends the plan only for non-collectively bargained employees. After negotiations with the NEA and the NPA are concluded, there may be another amendment.

A final issue that had to be resolved was one of alternatives: if the city was no longer going to offer a Defined Benefit plan to new (hired on or after March 5, 2012) **non-collectively bargained employees**, what was it going to offer? We recommend that to hire and retain employees of the caliber we require, the city does the following:

- Retain the six percent contribution the city contributes to employees’ retirement
- Match 100% of an employee’s deferrals/voluntary contributions up to 3% of the employee’s compensation (that is, the match is capped at 3% of compensation).
- Retain the ability of employees to contribute another 7% (to a total of 10%) to their own retirement; this amount is *not* matched by the city.

Other Alternatives Considered: Do nothing
Implement a “hard freeze”

City Council Goals: None

Attachment List: Notice of Amendment to the City of Newport Employees’ Retirement Plan
Resolution No. 3580 Amending the City of Newport Employees’ Retirement Plan
Amendment No. 2 to the City of Newport Employees’ Retirement Plan
A Presentation Chock Full of Enticing Facts

Fiscal Notes: They are part of the presentation.

CITY OF NEWPORT

RESOLUTION NO. 3580

A RESOLUTION AMENDING THE
CITY OF NEWPORT EMPLOYEES' RETIREMENT PLAN

The City of Newport resolves as follows:

Section 1. Non-collectively bargained employees hired on or after March 5, 2012, shall be entitled to receive an additional matching Money Purchase contribution under Section 4 of the City of Newport Employees' Retirement Plan (the Plan) as set forth in the attached Amendment #2 (the Amendment); and

Section 2. Non-collectively bargained employees hired on or after March 5, 2012, shall not accrue benefits under Section 6 of the Plan; and

Section 3. The Amendment, as attached, is hereby approved and adopted and an authorized representative of the City of Newport is hereby authorized and directed to execute and deliver the Amendment to the Administrator of the Plan; and

Section 4. The undersigned authorized representative of the City of Newport (the Employer) hereby certifies that the following resolution was duly adopted by the City of Newport effective March 5, 2012, and that such resolution has not been modified or rescinded as of the date hereof; and

Section 5. The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted by this resolution.

Adopted by the Newport City Council on March 5, 2012.

CITY OF NEWPORT

Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

**AMENDMENT NO. 2 TO THE
CITY OF NEWPORT
EMPLOYEES' RETIREMENT PLAN**

The City of Newport, hereinafter "the City," sponsors the City of Newport Employees' Retirement Plan, hereinafter "the Plan." Article 11.01 of the Plan permits the City to make amendments to the Plan from time to time. Accordingly, effective March 5, 2012, the City hereby amends the Plan to provide as follows:

1. Section Number 4.02 (Money Purchase Contributions) is amended by revising the Section to read as follows:

4.02-1 Subject to Section 4.03, the Employer shall make a Money Purchase contribution of 6 percent of Compensation earned as a Qualified Employee for each Allocation Period. For purposes of this Section, the term Allocation Period shall mean a period of 12 consecutive months or less for which an Employer contribution is made and allocated under the terms of the Plan.

4.02-2 Subject to Section 4.03, the Employer shall make an additional matching Money Purchase contribution, as follows, for each non-collectively bargained Qualified Employee hired on or after March 5, 2012. Such contributions shall be matching contributions and made to this Plan only on account of a Qualified Employee's Elective Deferrals and/or Voluntary Employee Contributions made by such Participant to this Plan or the City of Newport 457(b) Plan.

- (a) **Contribution Formula.** Except as otherwise provided in this Section, the Employer will make a matching contribution for any Allocation Period equal to 100 percent of each Qualified Employee's Elective Deferrals and/or Voluntary Employee Contributions, not to exceed, for any Allocation Period, 3 percent of his or her Compensation.
- (b) **True-ups.** If (1) the Allocation Period for matching contributions is a computation period that is less than the Plan Year, and (2) on the last day of any Plan Year, the dollar amount of the matching contributions made on behalf of a Qualified Employee is less than the dollar amount that would have been made had the matching contributions been contributed for an Allocation Period of a Plan Year, then the Employer may elect, pursuant to the Employer's discretion, for any Plan Year to make an additional matching contribution so that the matching contribution contributed for a Qualified Employee is equal to the matching contribution that would have been made had the matching contribution been contributed for an Allocation Period of the Plan Year.
- (c) **Excess Elective Deferrals and Excess Contributions Not Required to Be Matched.** Notwithstanding the above, to the extent matching contributions are contributed on an annual basis, no matching contributions will be required with respect to that portion of an Elective Deferral which for that Plan Year is determined to be either an Excess Elective Deferral or an Excess Contribution.

4.02-3 Compensation shall be as defined in 4.01-1(b). For a new participant, the contribution shall be based on Compensation for the partial plan year after participation starts.

4.02-4 Employer shall make additional Money Purchase contributions as follows for a Participant who returns from military leave under 3.03-2(c):

- (a) The additional Money Purchase contribution shall be determined separately with respect to each plan year during which the participant was absent on military leave.
- (b) The additional Money Purchase contribution with respect to a year during any period of absence for military leave shall equal the amount of additional Money Purchase contribution that would have

been made on behalf of the participant for the plan year if the Compensation imputed under 4.01-3 had been paid during the period of absence.

- (c) The additional Money Purchase contribution shall be subject to the limit in 4.03 that applied to the plan year for which the additional contribution is made.

2. Section Number 6.01 (Entitlement; Retirement Dates; Participation After Mandatory Benefit Starting Date) is amended by revising section 6.01-1 to read as follows:

6.01-1 Qualified Employees hired before March 5, 2012 shall be entitled to benefits on retirement under this Section 6. Effective March 5, 2012, all non-collectively bargained employees hired on or after March 5, 2012 shall not be entitled to benefits on retirement under this Section 6. Such employees shall continue to be Qualified Employees for the purpose of receiving benefits under Section 4 of this Plan if they meet all other eligibility and participation requirements of the Plan.

3. Section Number 4.01-1(b) is amended to read as follows:

4.01-1(b) For allocation of Money Purchase contributions under 4.02-1 and 4.02-2, the limit on voluntary contributions under 4.06-1, and the determination of Average Monthly Earnings under 6.02-3, Compensation means the amount under (a) above, adjusted as follows:

IN WITNESS WHEREOF, the Employer has caused this Amendment No. 2 to be executed this _____ day of _____, 2012.

CITY OF NEWPORT

By: _____
Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

March 5, 2012

**NOTICE OF AMENDMENT TO THE
CITY OF NEWPORT EMPLOYEES' RETIREMENT PLAN**

This notice is to inform you that the City of Newport Employees' Retirement Plan (the "Plan") has been amended, effective March 5, 2012. The Plan has been amended to provide that certain employees hired on or after March 5, 2012, will not be eligible to participate in the Defined Benefit portion of the Plan.

Please be assured that the Plan amendment described above only affects employees hired on or after March 5, 2012. If you were hired before March 5, 2012, and are currently accruing benefits under the Defined Benefit portion of the Plan, you will continue to accrue these benefits. If you were hired before March 5, 2012, and you are not currently accruing benefits under the Defined Benefit portion of the Plan because you have not met the Plan's eligibility requirements, you will enter the Defined Benefit portion of the Plan as a participant once you have met the eligibility requirements of the Plan and will begin accruing benefits at that time.

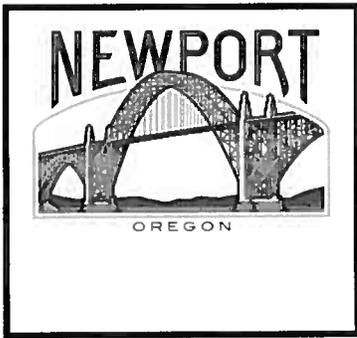
If you have any questions concerning this notice, please contact David Marshall, Finance Director at 541.574.0610. In the event of any discrepancy between this notice and the Plan document, the Plan document will govern. In addition, the City of Newport reserves the right to amend, curtail or terminate any portion or portions of the Plan at any time.

Plan Number: 001

Plan Sponsor: City of Newport

Employer Identification Number: 93-602222

Plan Administrator: City Finance Director
169 SW Coast Hwy
Newport, Oregon 97365
541-574-0603



Agenda Item # _____
Meeting Date March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Resolution No. 3581 Supporting the Formation of a Lincoln County Animal Services District

Prepared By: Peggy H. Dept Head Approval: ph City Manager Approval: [Signature]

Issue Before the Council: The issue before Council is consideration of Resolution No. 3581 supporting the formation of a Lincoln County Animal Services District.

Staff Recommendation: This is entirely a City Council decision.

Proposed Motion: I move to adopt Resolution No. 3581 supporting the formation of a Lincoln County Animal Services District.

Key Facts and Information Summary: The City Council and Lincoln County Board of Commissioners discussed animal services at its joint meeting held on January 11, 2012. At that meeting, the possibility of creating an animal services district was discussed. At the February 21, 2012 City Council meeting, Wayne Belmont, Lincoln County Counsel, presented information on the creation of an animal services district. He noted that each city in Lincoln County would need to adopt a resolution of support for the district to move forward. There is currently a local option tax of \$0.11 per \$1,000 of assessed value. This tax will expire after five years. If the animal services district is approved by the voters in November, the local option tax would be canceled, and the district levy would not exceed \$0.11 per \$1,000 of assessed value. The county has concluded that the service district is the only mechanism available to provide a permanent dedicated funding base for animal services. At the February 21, 2012 City Council meeting, the Newport City Council voiced support of the proposed district and directed staff to bring forth a resolution of support.

Other Alternatives Considered: None.

City Council Goals: None.

Attachment List: Resolution No. 3581
FAQ Memo from the Lincoln County Board of Commissioners
Lincoln County Order of Initiation of Proceedings to form an animal services district

Fiscal Notes: None.

CITY OF NEWPORT
RESOLUTION NO. 3581

A RESOLUTION SUPPORTING
THE FORMATION OF A
LINCOLN COUNTY ANIMAL SERVICES DISTRICT

Findings:

1. ORS 41.010(1)(q) permits the establishment of a county service district to provide animal services which includes, but is not limited to, animal shelter and animal control services; and
2. Lincoln County voters approved, and are currently providing funding for, these services through a local option tax at the rate of \$0.11 per \$1,000 of assessed value. This levy was started in fiscal year 2010-11 and runs through fiscal year 2014-15. After extensive public input around operation of the Lincoln County Animal Shelter, the Lincoln County Board of Commissioners determined that it would seek to form a permanent district for these services and seek voter approval of a permanent rate limit tax of no more than \$0.11 per \$1,000 of assessed value to provide stable financial support for these services beyond the expiration of the local option tax. If approved, the tax base will replace the local option tax; and
3. The City Council of the City of Newport supports the desire of the Lincoln County Board of Commissioners to initiate proceedings to form a county-wide animal services district and establish a permanent tax pursuant to ORS 198.835(3);

Based on these findings,

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. The City Council of the City of Newport supports the Order of the Lincoln County Board of Commissioners initiating the formation of a Lincoln County Animal Services District and seeking a permanent rate limit tax not to exceed \$0.11 per thousand dollars of assessed value; and

Section 2. A certified copy of this resolution shall be sent to the Lincoln County Board of Commissioners; and

Section 3. The effective date of this resolution is March 5, 2012.

Adopted by the Newport City Council on March 5, 2012.

Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

FROM: Lincoln County Board of Commissioners
TO: Mayors, City Councils and City Managers
RE: Animal Services District Proposal
DATE: February 2, 2012

The goals of this memo are to explain the proposal for the Animal Services District, provide some historical context, and answer some frequently-asked questions.

We are requesting the approval of your council for your city to be included in a proposed Lincoln County Animal Services District. The Board of County Commissioners plans to submit a measure or measures to the voters in the November 6, 2012 general election. The measure would establish the district under ORS Chapter 451. It would also cancel the remainder of the current five-year animal services levy of 11 cents per thousand dollars of assessed valuation and replace it with a permanent rate limit tax (commonly referred to before as a tax base) of no more than 11 cents per thousand dollars of assessed valuation. This rate is likely to be reduced before the final measure is placed before the voters.

Why create the service district? The service district is the only mechanism available to provide a permanent dedicated funding base for animal services.

Why do cities have to approve being included in the district? Oregon law governing formation of new districts requires that if any part of the territory of a proposed new district falls within a city, the city must approve the order to include the city.

Does the formation impact the city under Measures 5 and 50? Under Measures 5 and 50, total property taxes are limited to five dollars per thousand dollars of assessed valuation for education and ten dollars per thousand dollars of assessed value for general government services. If the total of all authorized levies exceed this amount, all levies are reduced proportionally—a process known as compression. Compression is not currently an issue in most of the county. If this measure is approved, it will not increase the likelihood of compression, since it is actually replacing a current levy with a tax base no greater than and possibly lesser than the current amount.

What will these funds buy? The money will pay for the Animal Services, which includes Animal Shelter, Control and Welfare services as well as facilities, utilities, supplies, vehicles, maintenance and other operating expenses.

Isn't the county legally required to provide animal control and an animal shelter? No. The Oregon Revised Statutes do not require counties to employ dedicated animal services officers. ORS 609.090 only requires that the county provide an "adequate and sanitary" facility for impounded dogs. There is no requirement to provide a full-service animal shelter.

Isn't this creating a new layer of government? On paper yes, but in practice, no. This is the same model that was used to create the Lincoln County Extension Service District in 1988 and the Lincoln County Transit District in 1995-6. In each case, the Board of County Commissioners serves as the governing board of the district. County staff provides the same service delivery and support functions as other county departments. Functionally, this will not trigger a change from current practices.

What happens if our city chooses not to be included in the district? How this would impact services to your city would have to be evaluated by the Sheriff and the BOC. By way of historical background, the City Council of Toledo initially voted not to be included in the Lincoln County Transit District, and bus service within the city ceased. The city voted to join the district the following year.

What has led us to this point? The current animal shelter, located adjacent to the county Fairgrounds and Public Works facilities, was built circa 1967. It was operated by the county until 1977. At that point, the county contracted with the non-profit Central Coast Humane Society to manage the shelter, an arrangement that continued until 1987, when the Humane Society chose to terminate the contract. Since that time, the shelter has operated as a division of the Sheriff's office.

During the past quarter-century, the shelter has faced the prospect of closure twice. In both instances, this was precipitated by sharp downturns in county revenues, and both times, a major public outcry ensued. In the early 1990s, in addition to closure of the shelter, the elimination of both Animal Control officer positions was proposed. Although the county was able to keep the shelter open, both animal control positions were eliminated. The cities of Lincoln City and Newport both stepped forward to pick up half the cost of one of the positions and some of the shelter operating costs, and for approximately 15 years, that officer provided services within the limits of those two cities only.

The second fiscal crisis that led to closure of the shelter being put on the table occurred in 2009. A new community non-profit, Friends of the Lincoln County Animal Shelter (FOLCAS) was established. FOLCAS worked with the BOC and Sheriff to craft a proposal for a five-year levy at the 11 cents per thousand rate to continue operating the shelter, fund the two current animal control (now animal services) officer positions, and add a third animal services officer. That measure, also supported by the Central Coast Humane Society (CCHS), was approved by 71 percent of the voters participating in the November 2009 election.

The BOC had approved a one-year funding package to keep the shelter open during the 2009-10 fiscal year; revenues from the levy began with the 2010-11 fiscal year.

During the campaign, FOLCAS had indicated an interest in contracting to operate the shelter at some point. Earlier, the CCHS board had indicated it was not interested in taking this step. The BOC encouraged the FOLCAS board to submit a business plan

when it felt ready to take that step; at the same time, the BOC requested a business plan from the Sheriff's office for continued operation of the shelter.

After receiving both plans, the BOC decided in late 2010 to begin negotiations with FOLCAS to develop a proposed contract for managing the shelter. A proposed contract was presented at three public hearings in the fall of 2011. After hearing strong support for keeping the shelter as a county-operated facility, the BOC decided to move ahead with the proposal for the Animal Services District. During those same hearings, there was overwhelming support voiced to establish a permanent funding base for the District. That brings us to the proposal in front of the city today.

DRAFT

BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

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In the Matter of:)
) **ORDER #** _____
THE INITIATION OF PROCEEDINGS)
TO FORM A LINCOLN COUNTY)
ANIMAL SERVICES DISTRICT)

WHEREAS Lincoln County provides animal services, including but not limited to operation and activities of the Lincoln County Animal Shelter and Lincoln County Animal Control. These services are provided throughout Lincoln County including within the incorporated limits of its cities; and

WHEREAS continued provision of these animal services faced and continues to face funding challenges. To address those challenges the County has worked with private nonprofits organized around animal welfare and shelter support and sought and received voter approval of a local option tax to fund services through fiscal year 2014-15; and

WHEREAS following extensive public meetings and with public input the Board has determined that providing continued stable funding for these services can best be accomplished through formation of a county service district with a tax base that will work with the private nonprofits dedicated to animal welfare and shelter support; and

WHEREAS ORS 451.010(1)(q) permits the establishment of a county service district to provide animal services, which includes but is not limited to animal shelter and animal control and welfare operations, equipment, facilities and services; and

1 WHEREAS the governing body for [each incorporated city in Lincoln County] has
2 entered a resolution indicating that they approve of this Order and asking the Board of
3 Commissioners to initiate these formation proceedings a certified true copy of each resolution
4 is attached to and incorporated into this Order: [City of Newport, Exhibit "1;" City of Lincoln
5 City, Exhibit "2;" City of Waldport, Exhibit "3;" City of Yachats, Exhibit "4;" City of Depoe
6 Bay, Exhibit "5;" and City of Siletz, Exhibit "6"); and

7 WHEREAS the proposed district, subject to voter approval, will provide funding for
8 animal services in the form of a proposed permanent rate limit tax; therefore, pursuant to ORS
9 198.835, 451.010(1)(q) and 451.435,

10 **IT IS HEREBY ORDERED THAT:**

11 (1) Proceedings are initiated to form a county service district to provide animal services
12 to Lincoln County, including but not limited to animal shelter, control and welfare operations,
13 equipment, facilities and services;

14 (2) The principal act for the proposed district will be ORS chapter 451;

15 (3) The name of the proposed district is the "Lincoln County Animal Services District;"

16 (4) The boundaries of the proposed district are the entirety of Lincoln County (ORS
17 201.210).

18 (5) The proposed district, subject to voter approval, will establish a permanent rate
19 limit tax not to exceed \$0.11 per \$1,000 of assessed value.

20 (5) The Board will conduct a public hearing regarding formation of the proposed
21 district on _____, at 9:30 a.m., in the Board of Commissioners' Hearing Room,
22 which is Room 108 of the Lincoln County Courthouse located at 225 West Olive Street in

1 Newport, Oregon. All persons may appear and be heard. The hearing will be conducted in
2 accordance with ORS 198.805; and

3 (6) In accordance with ORS 198.730, 198.800 and 198.840, the Board directs the
4 Office of Lincoln County Legal Counsel to post notice of the hearing set by this Order in three
5 public places and also to cause notice of the hearing to be published in the "News Times" and
6 the "News Guard," each a newspaper of general circulation in Lincoln County, on
7 _____, and _____.

DATED this ____ day of _____, 2012.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Don Lindly, Chair

Terry N. Thompson, Commissioner

Bill Hall, Commissioner

CITY OF NEWPORT
CITY COUNCIL GOALS
FISCAL YEAR 2012/2013

DRAFT

FIRE DEPARTMENT

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

5+ Year Goals

- A. Implement strategic plan

POLICE DEPARTMENT

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Add school resource officer

5+ Year Goals

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

PUBLIC SAFETY

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

AIRPORT

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

LIBRARY

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

5+ Year Goals

- A. Expand or relocate the library

FINANCE AND BUDGETING

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

PARKS AND RECREATION DEPARTMENT

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

ECONOMIC DEVELOPMENT

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Implement measures from the EOA and the Economic Development Plan

- B. Develop strategies for annexing property in the Urban Growth Boundary

COMMUNITY DEVELOPMENT

Ongoing Goals

- A. Involve citizens in every aspect of planning

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

WATER

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

5+ Year Goals

- A. Plan for future raw water supply

WASTEWATER

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

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

STORMWATER

Ongoing Goals

- A. Update and maintain mapping of systems

Fiscal Year 2012/2013 Goals

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

1 - 5 Year Goals

- A. Develop Stormwater Master Plan

5+ Year Goals

- A. Plan for funding of major construction projects

STREETS AND TRANSPORTATION

Ongoing Goals

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

Fiscal Year 2012/2013 Goals

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

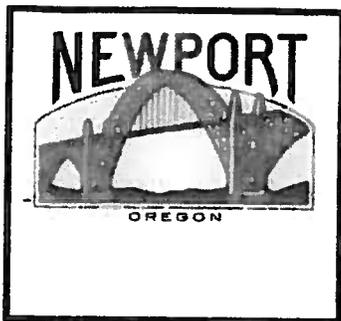
1 - 5 Year Goals

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

COMMUNICATIONS

Ongoing Goals

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



Agenda Item # _____
Meeting Date March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title ODOT Fund Exchange Agreement No. 28345

Prepared By Greg Schaecher Dept Head Approval: Tim Gross City Mgr Approval: [Signature] Jim Voetberg

Issue Before the Council:

Passage of a resolution authorizing the mayor to sign the State of Oregon's (acting by and through the Oregon Department of Transportation) 2012 Fund Exchange Agreement (Misc. Contracts and Agreements No. 28345).

Staff Recommendation:

It is recommended that City Council pass the attached resolution.

Proposed Motion:

I move for the passage of Resolution No. _____ authorizing the mayor to sign ODOT's Fund Exchange Agreement No. 28345.

Key Facts and Information Summary:

The city has submitted to the Oregon Department of Transportation (ODOT), a request to use State Fund Exchange monies to overlay various city streets scheduled for this summer. ODOT has approved the request subject to the City Council approval of the Local Agency Fund Exchange Agreement.

The federal government allocates the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETY-LU, enacted August 10, 2005, by Public Law 109-59) monies to the transportation departments of all 50 states. ODOT sets aside a percent of this money and gives it to various counties and cities in the state. The Local Agency Fund Exchange Agreement allows ODOT to exchange these federal SAFETA-LU funds at an exchange rate of \$94 of state money for every \$100 of federal money. The state money does not have Federal restrictions attached to it. Newport's share of the 2011 Fiscal Year dollars, through ODOT, is \$110,278.00. At the present exchange rate, Newport would receive \$103,661.32 of state dollars.

Other Alternatives Considered:

Other alternatives are not recommended. Although the Fund Exchange Program monies could be used for other street related items, it is recommended that the City continue to use these funds for the purpose of street overlays only due to the fact that there is a backlog of streets needing to be overlaid.

City Council Goals:

Streets and Transportation. Fiscal Year 11/12. – B. Prioritize projects and provide funding where possible.

Attachment List:

Resolution.

Fiscal Notes:

If this resolution is not passed, the City will not receive this state fund. This fund greatly helps with the maintenance of the City's streets by the implementation of its street overlays program.

RESOLUTION NO. _____

A Resolution Approving an Agreement with the State of Oregon Regarding Administration of Federal Funds and Authorizing Execution of the Agreement

WHEREAS, the City of Newport and the State of Oregon have in the past agreed to Local Agency Fund Exchange Agreements that exchange federal funds granted to the City for state funds as a means of expeditious administration of the funds and record-keeping, and

WHEREAS, the City and the State wish to enter into a similar agreement to exchange \$110,278.00 of 2012 Federal funds for \$103,661.32 of state funds for improvements to various city streets, which consist of various street overlays, and

WHEREAS, the State of Oregon, acting by and through its Department of Transportation, has submitted a form of agreement, 2012 Fund Exchange Agreement (Misc. Contracts & Agreements No. 28345), for approval and execution by the City of Newport.

NOW, THEREFORE, THE CITY OF NEWPORT RESOLVES AS FOLLOWS: 2012 Fund Exchange Agreement (Misc. Contracts & Agreements No. 28345) in the form of the attached Exhibit A is approved.

This Resolution will become effective immediately upon its passage.

Approved by the Mayor of the City of Newport, Oregon on March 5, 2012.

Adopted by the Council of the City of Newport, Oregon on March 5, 2012.

CITY OF NEWPORT

Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

**Oregon Department of Transportation
2012 FUND EXCHANGE AGREEMENT
Various City Street Overlay Projects
City of Newport**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and CITY OF NEWPORT, acting by and through its designated officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572, and 366.576, State may enter into cooperative agreements with counties, cities, and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of Various City Street Overlay Projects, hereinafter referred to as "Project."
2. State has reviewed Agency's prospectus and considered Agency's request for the fund exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange 2012 federal funds which have been allocated to Agency, for state funds based on the following ratio:

\$94 state for \$100 federal
4. Based on this ratio, Agency wishes to trade \$110,278 federal funds for \$103,661.32 state funds.
5. The term of this Agreement will begin upon execution and will terminate two (2) calendar years later, unless extended by an executed amendment.

6. The Parties agree that the exchange is subject to the following conditions:
 - a. The federal funds transferred to State may be used by State at its discretion.
 - b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase or Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
 - c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations, and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
 - d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$103,661.32. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.
 - e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
 - f. Agency, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
 - g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to

the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a monthly basis for actual costs incurred by Agency on behalf of the Project directly to State's Project manager for review and approval. Such invoices will be in a form identifying the Project, the agreement number, the invoice number or account number (or both), and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$103,661.32, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers in the state of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.
- l. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State

fails to correct such failures within ten (10) days or such longer period as State may authorize.

- ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 - m. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
7. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
 8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
 9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

*City of Newport / State of Oregon – Dept. of Transportation
Agreement No. 28345*

10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on December 16, 2010 as part of the 2010-2013 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on February 9, 2012.

Signature page to follow

City of Newport / State of Oregon – Dept. of Transportation
Agreement No. 28345

CITY OF NEWPORT, by and through its
designated officials

By _____
Mayor

Date _____

By _____
City Manager

Date _____

APPROVED AS TO LEGAL FORM

By _____
City Legal Counsel

Date _____

STATE OF OREGON, by and through its
Department of Transportation

By _____
Region 2 Manager

Date _____

By _____
Region 2 Project Delivery Manager

Date _____

By _____
Region 2 Planning and Development
Manager

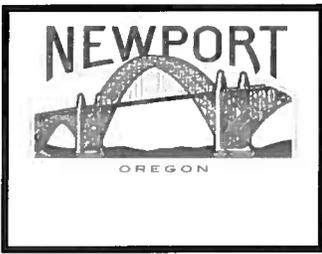
Date _____

Agency Contact:

Gregory L. Schaecher, Asst. City Engineer
City of Newport
169 SW Coast Highway
Newport, OR 97365
Phone: (541) 574-3376
Email: G.Schaecher@NewportOregon.gov

State Contact

Michael Starnes, Local Agency Liaison
ODOT, Highway Division, Region 2
455 Airport Road SE, Bldg. B
Salem, OR 97301-5395
Phone: (503) 986-6920
Email: michael.s.starnes@odot.state.or.us



Agenda Item #: _____
Meeting Date: March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Awarding Tourism Facilities Grants

Prepared By: nc **Dept Head Approval:** ju **City Mgr Approval:** JK

Issue Before the Council: The issue before Council is the consideration of awarding grants for the construction/renovation/upgrades to tourism facilities in Newport.

Staff Recommendation: This is a City Council decision.

Proposed Motion: I move the Council award the following tourism facility grants and direct the City Manager, in consultation with the City Attorney, to develop grant agreements for the disbursement of funds:

- Oregon Coast Council for the Arts for the PAC Remodel and Expansion Project (Phase I), in the amount of \$250,000,
- Lincoln County Historical Society for the Phase III Pacific Maritime & Heritage Center Project, in the amount of \$200,000, and
- Oregon Coast Aquarium, Inc. for the Pinniped (Seal and Sea Lion) Exhibit Expansion, in the amount of \$250,000.

Key Facts and Information Summary: The Tourism Facilities Grant Fund Task Force was established per Resolution Number 3553 and charged with developing an application and recommending award for a tourism facilities grant program. Source of funding for this program is the \$1 Million budgeted the FY11/12 Room Tax Fund budget.

A request for grant applications was publically noticed and a total of five applicants were received. The Task Force reviewed the application, conducted interviews with each applicant on February 17th, and has made a recommendation of award as shown on the attached summary sheet.

Should Council make the awards as recommended by the Task Force, a total of \$300,000 will be carried over in next year's Room Tax Fund budget.

Other Alternatives Considered: None.

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Attached is the Tourism Facilities Fund Grant Recommendations.

Fiscal Notes: \$1 Million has been budgeted in the Room Tax Fund for this program.

City of Newport Tourism Facilities Grant Review Task Force

Actions and Conclusions of the Task Force

The Task Force reviewed each of the proposals, and held interviews with each of the project teams. The interviews were held on February 17, 2012 at City Hall. Each project was provided at least 15 minutes to present, and up to 30 minutes to address questions and answers from the Task Force (total of 45 minutes each). The Task Force then met to review the information provided and make a determination on proposed funding for the City Council. The scores assigned by each Task Force member to the projects is provided in the Attachment.

Motion (passed 6 for/1 against) – to fund projects B, C, and D at the full amount requested, as a recommendation to the Newport City Council.

Recommended Funding

Project	Organization	Amount Requested	Amount Recommended
A - Multi-Purpose Pavilion, Lincoln County Fairgrounds	Lincoln County/ Lincoln County Fair	\$1,000,000	\$0
B – PAC Remodel and Expansion Project (Phase I)	Oregon Coast Council for the Arts	\$250,000	\$250,000
C – Phase III of the Pacific Maritime & Heritage Center Project	Lincoln County Historical Society	\$200,000	\$200,000
D – Pinniped (Seal and Sea Lion) Exhibit Expansion	Oregon Coast Aquarium, Inc.	\$250,000	\$250,000
E – Oregon Coast Aquatic Park	Friends of the Oregon Coast Aquatic Park	\$650,000	\$0

Total recommended distributions: \$700,000

Unappropriated monies from the Tourism Facilities Fund: \$300,000

Two projects were not proposed for funds. While there is significant interest on the part of Task Force members in both of these projects, each was deemed not ready for funding at this time, largely for the reasons provided.

A – Lincoln County Fair Pavilion - No business plan was provided to demonstrate the economic viability of the project. Consequently, there was no plan detailing operations, management, staffing, and marketing.

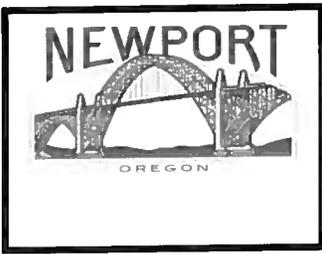
E – Aquatic Park - A business plan was provided, but it lacked sufficient detail to assess construction investments, operational costs and revenues, management and staffing, and marketing strategy. Furthermore, the project team failed to provide the Task Force answers to all of the questions requested.

Attachment

Point Score Summary

The table below is a summary of total scores provided by each of the Task Force members on each of the project proposals.

	A	B	C	D	E
	Fair Pavilion	PAC Remodel	Maritime Museum	Pinniped Expansion	Aquatic Park
Caroline Bauman	50	70	80	90	30
John Lavrakas	50	79	88	87	32
Ann Aronson	45	100	100	100	80
Stan Rowe	0	73	49	73	0
Margaret Dailey	20	75	65	85	30
Randy Getman	44	80	80	76	46
Julie Hanrahan	45	70	60	95	35
Total	254	547	522	606	253



Agenda Item #: _____
Meeting Date: March 5, 2012

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Awarding Community Non-Profit Grants

Prepared By: nc **Dept Head Approval:** ju **City Mgr Approval:** [Signature]

Issue Before the Council: The issue before Council is the consideration of awarding grants to local non-profit community organizations.

Staff Recommendation: This is a City Council decision.

Proposed Motion: I move the Council award the following local non-profit community grants: Lincoln County Children's Advocacy Center, \$1,000; Habitat for Humanity of Lincoln County, \$1,000; Samaritan House, Inc., \$3,000; Progressive Options, \$1,800; and CASA of Lincoln County, \$1,600

Key Facts and Information Summary: A Non-Profit Funding Review Task Force was established per Resolution Number 3556 and charged with developing and recommending awards to a competitive allocation program to help fund private non-profit social service agencies serving Newport. Funding for these grants was budgeted in the FY11/12 budget in the amount of \$10,000. As Council will recall, the Council awarded \$1,586.40 on August 1, 2011 to the Newport Food Pantry to cover SDC expenditures.

A request for grant applications was publically noticed and a total of six applicants were received. The Task Force reviewed the applications, conducted interviews with each applicant on February 22, 2012, and has made a recommendation of award as shown on the attached summary sheet.

Other Alternatives Considered: None.

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Allocation Recommendation List

Fiscal Notes: \$8,413 of the budgeted \$10,000 is available to be spent.

**NON-PROFIT SOCIAL SERVICE AGENCIES
ALLOCATION COMMITTEE RECOMMENDATIONS**

Total Allocation Available \$8,400

AGENCY	Amount Requested	Recommendation
Lincoln County Children's Advocacy Center	\$ 2,000	\$ 1,000
Habitat for Humanity of Lincoln County	\$ 2,500	\$ 1,000
Samaritan House, Inc.	\$ 4,000	\$ 3,000
Progressive Options	\$ 1,800	\$ 1,800
CASA of Lincoln County	\$ 1,600	\$ 1,600
Stepping Stones Recovery Home	\$ 8,000	\$ -
	\$ 19,900	\$ 8,400