



AGENDA & Notice of Work Session for City Council

The City Council of the City of Newport will hold a work session on Monday, April 20, 2015, at 5:30 P.M. The work session will be held in Conference Room A at City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

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

CITY COUNCIL WORK SESSION Monday, April 20, 2015 - 5:30 P.M. Council Chambers

- A. Call to Order
- B. Report from Municipal Court Judge Jeff Pridgeon
- C. Adjournment



**CITY COUNCIL AGENDA
Monday, April 20, 2015 - 6:00 P.M.
Council Chambers**

The meetings of the Newport City Council and the Local Contract Review Board will be held on Monday, April 20, 2015, at 6:00 P.M. The meetings will be held in the Council Chambers of the Newport City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

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

**CITY COUNCIL MEETING AGENDA
Monday, April 20, 2015
Council Chambers**

Anyone wishing to speak at a Public Hearing or 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. 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

IV. Proclamations, Presentations, and Special Recognitions

Any formal proclamations or recognitions by the Mayor and Council can be placed in this section. Brief presentations to the City Council of five minutes or less are also included in this part of the agenda.

- A. Oath of Office Firefighter Jonathon Anderson
- B. Life Saving Medal Awarded to Police Department Members - Chief Mark Miranda, Officer Kraig Mitchell, and Officer Brad Purdom
- C. Proclamation - Recognizing the Retirement of Officer Steve R. Kittson
- D. Proclamation - National Library Week - Received by Ted Smith, Library Director
- E. Recognition of Staff

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 City Council Minutes from City Council Work Session of April 6, 2015 and Regular Meeting of April 6, 2015 (Hawker)
- B. Acceptance of Resignation of Eldon Miller for a Term Expiring 12/31/15 from the Senior Citizen Advisory Committee.
- C. Authorization for Administrative Approval of OLCC License Renewals

VI. Public Hearing

This is an opportunity for members of the audience to provide testimony/comments on the specific issue being considered by the City Council. Comments will be limited to three (3) minutes per person.

- A. Public Hearing and Possible Adoption of Ordinance No. 2079 Annexing Property Owned by Newport Memory Care, LLC and Withdrawing Said Property from the Newport Rural Fire Protection District and Lincoln County Library District

VII. Communications

Any agenda items requested by Mayor, City Council Members, City Attorney, or any presentations by boards or commissions, other government agencies, and general public will be placed on this part of the agenda.

- A. From Pacific Communities Health District on Its Bond Issue
- B. From Greater Newport Chamber of Commerce - Annual Report to City Council- Lorna Davis
- C. From Parks and Recreation Advisory Committee - Report on the Pump Track

VIII. City Manager Report

All matters requiring approval of the City Council originating from the City Manager and departments will be included in this section. This section will also include any status reports for the City Council's information.

- A. Approval of Intergovernmental Agreement with ODOT for Shared Lane Markings (Sharrows) on Yaquina Bay Bridge
- B. Approval of Intergovernmental Agreement with State of Oregon for Local Improvement District Implementation Plan
- C. Approval of Amendment No. 1 to Wilder Off-Leash Dog Park License Agreement
- D. Initiate 12-month Extension to Nye Beach Parking District

IX. Report from Mayor and Council

This section of the agenda is where the Mayor and Council can report any activities or discuss issues of concern.

X. Public Comment

This is an additional opportunity for members of the audience to provide public comment. Comments will be limited to five (5) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

XI. Adjournment



**RECOGNIZING STEVE KITTSO
ON HIS WORK AS A NEWPORT POLICE OFFICER
ON HIS RETIREMENT**

WHEREAS, Officer Steve R. Kittson has been employed by the Newport Police Department for twenty-six years; and

WHEREAS, Officer Kittson worked for the City of Newport in the Public Works Department prior to becoming a Police Officer; and

WHEREAS, Officer Kittson served as a detective for many years; and

WHEREAS, Officer Kittson played a critical role in the investigation of a multiple homicide, part of which occurred in Newport; and

WHEREAS, Officer Kittson developed a procedure and a process for the investigation of fraudulent check crimes, and this procedure helped standardize the process, which has been adopted by other police agencies.

NOW THEREFORE, I, Sandra N. Roumagoux, Mayor of the City of Newport, Oregon, recognize and honor Steve R. Kittson on the work he has done for the City of Newport, and wish him the very best on his retirement from the Newport Police Department.

Dated April 20, 2015.

Sandra N. Roumagoux, Mayor



**National Library Week 2015
Proclamation**

WHEREAS, libraries are the heart of their communities, campuses and schools; and

WHEREAS; librarians work to meet the changing needs of their communities, including providing resources for everyone and bringing services outside of library walls; and

WHEREAS, libraries and librarians bring together community members to enrich and shape the community and address local issues; and

WHEREAS, librarians are trained, tech-savvy professionals, providing technology training and access to downloadable content like e-books; and

WHEREAS, libraries offer programs to meet community needs, providing residents with resume writing classes, 24/7 homework help and financial planning services to teens applying for student loans to older adults planning their retirement; and

WHEREAS, libraries continuously grow and evolve in how they provide for the needs of every member of their communities; and

WHEREAS, libraries, librarians, library workers, and supporters across America are celebrating National Library Week.

NOW, THEREFORE, I, Sandra Roumagoux, Mayor of the City of Newport, Oregon, proclaim April 12 - 18, 2015 to be National Library Week in the City of Newport. I encourage all residents to visit the library this week to take advantage of the wonderful library resources available at your library. Communities matter at your library.

Sandra N. Roumagoux, Mayor

April 6, 2015
5:45 P.M.
Newport, Oregon

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

Staff present was City Manager Nebel, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, Parks and Recreation Director Protiva, and Police Chief Miranda.

MOTION was made by Saelens, seconded by Engler, to excuse Busby and Swanson from tonight's meetings. The motion carried unanimously in a voice vote.

Discussion on Freestanding Sign for the Lincoln County Fair at Harney Street and Highway 20 on City Property. Hawker introduced the agenda item. Nebel reported that the Lincoln County Fair Board is requesting that it be allowed to install a freestanding monument sign, with electronic message board, on city-owned property at the northwest corner of US 101 and NE Harney Street. He noted that this work session has been scheduled to gauge whether the City Council might be receptive to such an arrangement.

Nebel reported that Frank Geltner, representing the Lincoln County Fair Board, is in attendance to hear Council's initial thoughts about the proposal and respond to Council questions.

Geltner reported that there has always been a need for signage at/near this location. He stated that he wanted Council input before the project goes too far. He explained that the upper point of the proposed sign is at the bottom point of the Sherwin Williams sign. He added that the first stretch of property to the north belongs to the state. He noted that the current sign will be removed as it has outlived its usefulness. Geltner reviewed maps and photographs contained in the packet and responded to Council questions.

Allen asked whether there had been any thought given to the term of the lease and Municipal Code provisions that must be considered. Nebel reported that the project is possible from a legal standpoint, but noted that when something is done at a particular location, other requests could follow. Saelens noted that the duration of the fair is short, and asked whether the sign could be rented out for other uses. Tokos reported that the city, as property owner, has lots of leeway in what is permitted, i.e., limiting the use of the sign to "not for profit" organizations; reserving the ability to list city-sponsored events; etc. He noted that this would be a land lease, and the city would want clear language in the event it needed to use the property and terminate the lease. Geltner reported that he had given Nebel a spreadsheet that he (Geltner) and Zach Poole had developed for another proposed electronic sign. He stated that he would be happy to be part of further discussions. It was the consensus of Council to take this issue to the next step. Nebel reported that he would return to Council with a draft of the proposed lease terms. Engler stated that she would like to see low maintenance landscaping around the sign or to have the lawn mowed.

ADJOURNMENT

Having no further business, the work session adjourned at 6:04 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

April 6, 2015
6:04 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, Allen, Sawyer, Engler, Saelens, and Roumagoux were present. Swanson and Busby were excused.

Staff present was City Manager Nebel, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, Parks and Recreation Director Protiva, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Marletta Noe addressed Council regarding Councilor Busby's comment that was printed in the newspaper. She noted that it was a comment that occurred at the end of a discussion related to the creation of a new urban renewal district, in which Busby noted that the city might have to make sacrifices such as not purchasing a new firetruck or cutting a police position. She stated that she wants police and fire services as they are essential to livability. Nebel reported that at this point, there are no proposed cuts or plans for cuts.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Proclamation Recognizing Artist Rick Bartow on His 40th Retrospective. Roumagoux provided background information on Rick Bartow's 40th Retrospective. She reported that she was asked to read this proclamation at the opening ceremony of the retrospective on April 17. Roumagoux reported that she has a copy of the catalog that was prepared for this retrospective, and that she will leave it in the Council office for others to review. Roumagoux read a proclamation recognizing artist Rick Bartow on his 40th retrospective: "Rick Bartow: Things You Know But Cannot Explain," that is being held at the Jordan Schnitzer Museum of Art.

Proclamation Honoring Nation Service Recognition Day. Roumagoux proclaimed April 7, 2015, as National Service Recognition Day in the City of Newport. She encouraged residents to recognize the positive impact of national service in the city, and thanked those who give back to the community. Tony Molino accepted the resolution.

AMEND AGENDA

Nebel reported that he may need to travel to Michigan prior to completing the proposed budget. He stated that the budget calendar indicates that the budget will be distributed to the Budget Committee and public on April 20, 2015. He requested that an item be added to the agenda which would amend the date of budget distribution from April 20, 2015 to April 27, 2015. MOTION was made by Allen, seconded by Saelens, to add an item to the agenda amending the budget calendar. The motion carried unanimously in a voice vote.

CONSENT CALENDAR

The consent calendar consisted of the following:

A. Approval of City Council minutes from the March 16, 2015 regular meeting and executive session;

B. Ratification of the Mayor's appointment of Jeff Schrantz to the Parks and Recreation Advisory Committee for a term expiring December 31, 2016.

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

PUBLIC HEARINGS

Public Hearing on Making Newport Parks Smoke-Free Zones. Hawker introduced the agenda item. Nebel reported that at the March 16, 2015 City Council meeting, the Council scheduled a public hearing for the April 6 City Council meeting to hear public comment on a recommendation from the city's Parks and Recreation Advisory Committee to designate city parks as smoke-free zones. He stated that the Parks and Recreation Advisory Committee recommended that smoking be prohibited in the interior of all parks, including all picnic shelters and playgrounds. He added that smoking would be permitted in parking lots, on sidewalks, and the perimeter of parks. He noted that a question was raised at the March 16 City Council meeting as to how this would be enforced, and that Protiva indicated that the rules would be posted in the parks and the smoking restrictions would be handled in the same manner as other violations of parks rules, which typically are enforced by explaining the rule and asking the party to refrain from the activity that violates the rule. He stated that these types of rules are often brought to the attention of people in violation by other parks users. He noted that following any public comment, Council can provide direction as to whether language should be developed to amend Ordinance No. 1917 with provisions adding no smoking zones within the city's parks system for future review and action by the City Council.

Nebel recommended that the City Council hold a public hearing on the whether City Council should consider making Newport parks smoke-free zones.

Roumagoux opened the public hearing at 6:23 P.M. She reported that she had received an e-mail regarding the issue. She read the following e-mail, from Bill Posner, into the record: "I feel in 2015 there is enough evidence concerning the harm first and

second hand smoke can produce. Also, the trash of “butts” that are left in public areas is sometimes very disheartening. Also with the changes in marijuana laws, we would not like to see our parks turn into “doper” hangouts. We live in such a fresh clean area, and would like to keep it that way.”

Roumagoux called for public comment.

Susan Davidson stated that this is not a health issue, but rather an education issue. She reported that she has visited the entire Oregon coast, and the two places at which she has found the most trash are Seaside and Nye Beach. Sue suggested speaking with hotels, restaurants, and other organizations serving tourists about being eco-green.

Gary Lahman, a member of the Lincoln County Public Health Advisory Board, read the following into the record: “Health status data is available for Lincoln County. This information is relevant to Newport as it is the largest city in the county as well as the center of county government. In the county, the percentage of smokers over the age of 18 is 27%. This is ten percent higher than in the state overall. Approximately one-third of all pregnant women smoke. The rate of smoking in young families with children is probably higher. These data indicate a need for improvement, a need to de-normalize smoking wherever possible. I will now quote from the Lincoln County Community Health Improvement Plan, or the CHIP, released in 2014. Regarding healthy lifestyles, the plan states, “The leading causes of preventable death in the State of Oregon are tobacco use, diet, and activity patterns. Tobacco use contributes to heart disease, stroke, cancer, and diabetes,” and other ailments. The CHIP states, “Tobacco use during pregnancy is the single most preventable cause of illness and death among mothers and infants.” Restricting tobacco use in city parks and other public places will contribute to the lessening of these problems. Parks are places for healthy activities for people, especially for young adults and mothers with children. The CHIP states as one of its policy and outcome objectives, “By December 31, 2019, increase the rate of residents who do not smoke by seven percent.” In the HCIP plan one of the stated strategies to meet this goal is to “increase the number of properties, including social service and public parks that are 100% tobacco free.” A no smoking ordinance for parks would be similar to other accepted health practices, such as seat belts, car seats, helmet laws, and restrictions on held-held cellular devices while driving. No smoking in parks would contribute to the well-being of Newport’s citizens and visitors. Lincoln County, with the help of numerous private partner agencies and individuals, expended much effort and expense to produce the Community Health Assessment in 2013 and the CHIP in 2014. It is now time to enact the recommendations in these documents and remove tobacco use from Newport’s parks. “ Lahman also submitted several documents for the record, including the Community Health Improvement Plan 2014; information related to Community Commons, a California non-profit corporations whose mission is to combine advanced research and information management technologies to serve diverse communities - focusing on facilitating community learning and human development, and promotion environmental sustainability; and a copy of the ordinance prohibiting smoking in public parks in Lincoln City.

Rachel Peterson, Health Promotion Program Manager, for the Lincoln County Health and Human Services Department, read the following statement into the record: “For more than 150 years, public health has understood the importance of maintaining a clean environment for protecting the health of the population. Today, we often take for granted the role government plays to assure potable water and sanitation systems that

prevent disease. In recent decades, it has been scientifically proven that like our physical environment, our social environment is an important factor for protecting the public's health. Tobacco is the leading cause of death and illness in Lincoln County and nationally. This is not just an issue of older adult, as 90 percent of all tobacco-users start before the age of 18. Currently, about 13 percent of Lincoln County juniors reported smoking cigarettes in a 30-day period. While this is substantially lower than the 23 percent of Lincoln County adults who smoke, it is still too many. Studies show that by restricting smoking in public places, we can: reduce the number of teenagers who start smoking; prevent young children from seeing tobacco use as an acceptable adult behavior, which leads to higher initiation as teens; reduce the frequency and number of cigarettes people smoke; and promote/support quit attempts. Reducing the visibility of tobacco has become such a highly-recognized concern that the entertainment industry has started to include tobacco use in their rating systems. For example, Disney's policy is to prohibit smoking and tobacco use in any newly-created movie rated PG-13 or under, and to include anti-tobacco public service announcements on re-released films with smoking characters. By passing a smoke-free parks ordinance, the City of Newport will not only improve the health of the physical environment through reduced second-hand smoke exposure and fewer cigarette butts where children play, but will reemphasize the same community values that prohibit public intoxication or nudity in parks. This is about role modeling healthy behaviors for our youth, community members, and visitors, and promoting our parks as healthy, safe places for every member of the community. You are not alone in promoting health through smoke-free environments. An increasing number of communities and college campuses are implementing smoking restrictions in outdoor areas, including Lincoln City parks and all OCCC campuses. The City of Newport has already made this statement by making many of its properties and Literacy Park smoke-free environments. Amending Ordinance No. 1917 to include all city-owned parks is simply an extension of work already done."

Rebecca Austen, Lincoln County Public Health Director, reported that tobacco use is the number one cause of sickness and early death in the community. She noted that one of the best ways to reduce smoking rates is to make policy changes. She urged Council to support making Newport parks smoke-free zones.

Protiva reported that the Parks and Recreation Advisory Committee has been dealing with this issue for approximately six months. He stated that it is his opinion that smoking is not okay and should not be accepted as okay. He added that those opposed to banning smoking in parks would believe this action to be a taking of a right. He stated that while he disagrees with this, it could potentially exclude a family member from participating in a family event within a park. He summarized by stating that not everyone is one hundred percent in favor of this proposed prohibition.

Richard Salazar reported that this is an important issue, and stated that there is no right to smoke. He added that there is a right to have an area where there is no second hand smoke. He noted that most states have robust programs to help people quit smoking. He expressed support for the prohibition of smoking in public parks in the city.

Roumagoux closed the public hearing for Council deliberation at 6:42 P.M.

Allen asked Protiva what the basis of the Park and Recreation Advisory Committee dissenting votes was since the Committee voted eight to two to support a prohibition. Protiva reported that one member is opposed to giving up any rights, and the other was

concerned that someone could be excluded from a family gathering in a park. Protiva reported that signage would cost approximately \$15 - \$20.

Allen asked whether prohibiting smoking in parks without enforcement will move the city in the right direction. Protiva noted that the prohibition would make a statement that this is not an accepted behavior, and that enforcement should come from social responsibility. Rachel Peterson stated that the issue is education rather than enforcement. She added that she would work with the parks staff to eliminate the enforcement issue, adding that her office has some money to help offset the costs of signs.

Sawyer stated that the segregation of smokers happens in everyday life, and does not believe the prohibition will be a big issue. He added that education is the greater component.

Saelens noted that once something is adopted, there is an element of peer pressure involved in enforcement.

Engler asked whether there would be a fine for violation of the ordinance, and Nebel reported that staff will bring specific recommendations to Council for review.

Allen noted that the chapter already has a penalty provision; is a civil infraction; and prohibits parking in various areas of the city. He stated that additional locations could be added to the list, and a violation would be a civil infraction. Rich encouraged Council to include an expansive definition of smoking including the use of nicotine vapor.

MOTION was made by Allen, seconded by Sawyer, to direct the city staff to draft language amending Ordinance No. 1917 to include the addition of City of Newport park property as no smoking zones with this restriction excluding parking lots, and public street sidewalks surrounding park properties. The motion carried unanimously in a voice vote.

COMMUNICATIONS

From the Destination Newport Committee - Recommendation to Approve a Tourism Marketing Grant for the 2015 Flippers, Feathers, and Fins 5K. Hawker introduced the agenda item. Nebel reported that the Destination Newport Committee has reviewed a request for a tourism marketing grant for the 2015 Flippers, Feathers, and Fins 5K. He stated that this event is being sponsored by the Oregon Coast Aquarium, and the funds requested will be used to target runners from the Willamette Valley, Portland, and Bend markets. He noted that in 2014, there were 239 participants in this fun run of which over half travel more than 50 miles to get to Newport. He added that this year, the organizers are targeting 500 participants. He reported that this is the first time that city funding will be used for advertising this event.

MOTION was made by Sawyer, seconded by Saelens, to approve a tourism marketing fund grant, as recommended by the Destination Newport Committee, for assistance with marketing and advertising for the 2015 Flippers, Feathers, and Fins 5K in the amount of \$2,500. The motion carried unanimously in a voice vote.

CITY MANAGER REPORT

Approval of Seismic Rehabilitation Grant Program Contract for the City's Main Fire Station. Hawker introduced the agenda item. Nebel reported that in 2014/2015, the city

conducted a preliminary geotechnical investigation to determine the feasibility of a seismic rehabilitation of the main fire station. He stated that based on the preliminary evaluation, it appears that the fire station would be a candidate for seismic rehabilitation. He added that as a result, an application for funding was made to the Oregon Infrastructure Finance Authority in the amount of \$1,491,223 to proceed with a seismic rehabilitation project for the main fire station. He noted that the city is very pleased that it was awarded this grant, and that the grant will pay 100% of the cost of rehabilitating the main fire station up to the grant amount of \$1,491,223. He thanked Gross, Murphy, and the city's grant consultant for securing this grant funding.

MOTION was made by Sawyer, seconded by Engler, to approve a contract with the Oregon Infrastructure Finance Authority for the seismic rehabilitation grant program for \$1,491,223 of funding for the seismic rehabilitation of the main Newport fire station. The motion carried unanimously in a voice vote.

Approval of Amendment No. 1 to the Intergovernmental Agreement with the State of Oregon for Motor Vehicle Fuel Dealer Tax Collection. Hawker introduced the agenda item. Nebel reported that the city initially entered into an agreement with the State of Oregon to collect the local gas tax from dealers located within the city. He stated that the state collects this tax with the state gas taxes, and then remits the local share to the city. He noted that the changes to the original agreement include changing the termination date from October 1, 2015 to October 1, 2020, and modifications to the liability provisions of the original agreement. He added that the terms of the original agreement otherwise remain in place, and that this has been an effective way for the city to collect the local gas tax it applies to dealers in the city.

Allen asked what the average annual collection is, and Gross reported that it was approximately \$155,000 last year. Gross added that the money is used for the annual overlay program. Nebel reported that an election would be required to change the rate.

MOTION was made by Sawyer, seconded by Saelens, to approve Amendment No. 1 to the Intergovernmental Agreement for Motor Vehicle Fuel Dealer Tax Collection between the State of Oregon and the City of Newport, dated November 5, 2009, and authorize the City Manager to execute the agreement on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Report from the City Manager on a Community Visioning Process. Hawker introduced the agenda item. Nebel reported that he has heard from a number of citizens that Newport is lacking a common vision to guide the community in working toward a common long-term direction, developments, initiatives, and projects that will enhance the livability and sustainability of the city. He stated that these issues go beyond the actual role of the city, and include other public and private stakeholders in the greater Newport area. He added that in reviewing this matter, he discovered that a community visioning process was completed in February 2005. He noted that the city has done a thorough job on comprehensive planning and initiated a complete review of infrastructure needs for the community.

Nebel reported that Council may want to initiate a discussion with other stakeholders about conducting a broad-based community effort to provide guidance, and create a vision that explores opportunities for a viable and growing city in the future. He stated that this type of process typically goes well beyond the city itself, and should include

other major institutional players in the community, as well as city residents. He noted that if there is concurrence about a long-term vision of where people want the city to be in 20 or 30 years, it empowers various stakeholders to work toward the long-term goals that have been accepted by the community.

Nebel reported that prior to embarking on a comprehensive visioning process, it would be very important for the City Council, along with the various stakeholders, to have a common understanding of how the vision is going to be used; not only by the city, but by the various stakeholders that would be involved in developing the vision. He added that it is also very important that a vision be developed that would transcend political changes that may occur on the Council or within other stakeholder organizations for a vision to effectively guide the community.

Nebel reported that once a community vision is adopted, it serves as a guideline for the continued processes of reviewing and adapting the city's Comprehensive Plan to make sure it is consistent with the vision. He stated that it would guide the annual goal setting process for the departments and the Council to continue moving the city toward realizing this vision.

Nebel reported that a community vision needs to be a living document that has flexibility and is easily updated. He added that a community vision should be reviewed annually by the City Council and other key stakeholders, particularly at the time of goal setting and/or budgeting for those organizations to make sure that the direction of those organizations is complementing the vision of where Newport wants to be at some point in the future. He stated that he believes that the final document should not be a highly technical document, but should convey a sense of those areas where there is community buy-in for moving the city in a forward direction. He added that over time, the Comprehensive Plan should provide the roadmap to direct the community toward those concepts that have been accepted through this process.

Nebel reported that the city has a lot of very positive things going for it. He stated that the successful effort of the community to attract the NOAA facility; the announcement last year of OSU creating an undergraduate marine studies program; OMSI establishing a coastal discovery camp in South Beach; the community's effort to retain the U.S. Coast Guard Air Facility; and other efforts show how closely this community can work together on common goals. He noted that Newport can be very proud of fostering this type of culture within the community. He added that he believes that a community vision would foster further direction and cooperation to move the community forward in other areas as well.

Nebel reported that he believes that it would be appropriate for the City Council to establish a work group to address a number of issues that he has outlined so there will be a clear understanding of what we are trying to accomplish through the visioning process, and to ensure there is buy-in from the key stakeholders toward this end. He suggested a working group be appointed which would include a couple of members from the City Council, the Chamber of Commerce, the Port, the Planning Commission, as well as a citizen member. He stated that the charge of the working group would be to bring a report back to the City Council by July 15, 2015 that would clearly outline the expectations of a community visioning process for the city. He added that at that time, the committee could make a recommendation to the City Council regarding whether to proceed with a visioning process during the 2015/2016 fiscal year. He noted that if a recommendation is received to proceed with a visioning process, then the specific goals,

time tables, and preliminary processes could be provided to the City Council for review. He stated that this would be an ambitious project, and if done properly it would be a very exciting project for the city. He noted that the packet contains a report from ICMA on the importance of community visioning matters. Spencer recommended Carla Perry as a citizen member if the Council establishes a work group. Allen suggested that the work group have one City Council member, rather than two, and two citizen members, rather than one.

MOTION was made by Engler, seconded by Allen, that a work group be established that will be staffed by the City Manager and Community Development Director that will include one representative from the City Council, one representative from the Greater Newport Chamber of Commerce, one representative from the Planning Commission, one representative from the Port of Newport, one representative from OCCC, and two citizens named by the City Council, and charge that work group with providing a report and recommendation to the City Council by July 15, 2015, on whether or not to proceed with a comprehensive community visioning process during the 2015/2016 fiscal year and if the recommendation is to proceed outlining the specific goals, parameters, and processes that would be included in a community visioning process for the City of Newport. The motion carried unanimously in a voice vote. MOTION was made by Saelens, seconded by Allen, that Engler be nominated as the City Council representative to the work group with Roumagoux as alternate. Carla Perry recommended that the initial avenue for ideas come from the community, rather than the top down. She added that there is no Hispanic, tribal, or youth representation with the current work group configuration. Nebel noted that the intent is to be as all-encompassing as possible to have meaning for the community. Allen noted that it would be helpful to have different options with associated costs for the work.

Perry stated that years ago, Council decided not to ask for the addresses of people speaking during the public comment periods for security reasons.

Authorizing a Letter of Support for Homeporting Two U.S. Coast Guard Fast Response Cutters in Newport. Hawker introduced the agenda item. Nebel reported that in March, the city, along with a number of other stakeholders, were notified that the U.S. Coast Guard is proposing to homeport two Fast Response Cutters (FRC) within the area of responsibility for District 13, which includes the Washington and Oregon coasts. He stated that as a result of preliminary work, the USCG has identified three potential locations for housing these vessels, including the NOAA facility in Yaquina Bay, and two locations in the Astoria area which includes the City Pier and North Tongue Point. He added that the inclusion of Newport as one of the three finalists for housing the U.S. Coast Guard cutters is in response to an earlier request that was made to various ports between Coos Bay, Oregon, and Neah Bay, Washington about potential locations for housing the vessels. He noted that an environmental assessment is currently being conducted by a consultant for the U.S. Coast Guard to evaluate these three options in detail.

Nebel reported that the packet contains information on the Fast Response Cutter. He stated that the Coast Guard will be replacing the Island Class 110 foot long patrol boats with the Fast Response Cutters, which are 154 feet in length and have a maximum speed of 28 knots. He added that each vessel will have a complement of 24 crew members per ship, and that there will be 20 administrative positions bringing the total

staffing for homeporting these two vessels to 68. He noted that the Fast Response Cutter is slated to conduct missions that include port, waterway, and coastal security, as well as fishing patrols, search and rescue, and national defense. He stated that these vessels appear to play more of a Homeland Security function than other search and rescue vessels operated by the U.S. Coast Guard. He noted that the cost for each of these vessels is reported to be \$73 million.

Nebel reported that the proposed location is consistent with the city development plans for Yaquina Bay, and the upland uses are consistent with the zoning for that site as well. He added that the site has full city services. Nebel reported that it is anticipated that a decision will be made on the homeport location by the summer of 2015, although actual occupation of the site is not scheduled until 2021.

Nebel reported that in addition to general community support, the key factor in the Yaquina Bay location will be working through the various details with NOAA and the Port of Newport to facilitate placing these cutters at this location. He noted that while there are still a number of issues that are not fully known at this time, it is important to note that the Port of Newport will have control over a final decision to house this facility on Port property, if this site is selected by the U.S. Coast Guard as the homeport for these two cutters.

Nebel reported that he believes that it is important to show community support for expanding the U.S. Coast Guard presence in the city. He added that a revised draft letter for Council review was distributed earlier this evening, and he recommended that Council authorize the letter of support.

Kevin Greenwood, General Manager of the Port of Newport, noted that the letters are as much letters of interest as they are letters of support. He added that the Port will continue to pursue the homeporting of the two ships until it does not make sense. He reported that he had received numerous letters from other organizations including: the Confederated Tribe of the Siletz Indians, the Port of Newport, the Oregon Coast Aquarium, the Greater Newport Chamber of Commerce, the Hatfield Marine Science Center, Rogue Brewery, Port of Toledo, Oregon Coast Community College, and the Lincoln County School District. He added that the Coast Guard would like to make a decision this summer regarding which site they would like to focus on.

Allen asked Greenwood whether he had received a letter of support from the Lincoln County Commissioners. Greenwood noted that he had not, and that Commissioner Thompson has some reservations. Allen noted that there were a number of concerns and reservations expressed at the recent FINE meeting. Allen asked Greenwood whether he had checked with the commercial fishing fleet as part of his outreach. Greenwood noted that he has talked with Ginny Goblirsch, and while her tone was not overly excited, her perspective was that they would not necessarily get in the way. He added that he has talked with Commissioner Thompson about it, and that he (Thompson) has lots of questions. He stated that one of questions focuses on exclusion zones around the FRC's, and whether there is an exclusion zone from which other vessels will not be allowed to get close to these vessels. Greenwood noted that Thompson also expressed concern about increased commercial fishing stops. He stated that he has a close relationship with the commercial fishing fleet which will provide an opportunity for education so that the fishermen understand the impacts. Greenwood stated that there are also questions about the quality of the jobs that would be coming with the relocation of the ships. He added that there are also concerns regarding the

impact on the housing inventory with 68 additional employees in Newport. Greenwood stated that there is also some concern regarding the perception that the cost of the FRC's would be pulling funding from the U.S.C.G. Air Facility in Newport and the 52-foot surf boats currently located here. He added that in talking with officials in Washington, D.C., it is his understanding that search and rescue funding is viewed differently than security funding. Greenwood stated that he hopes to have a letter of support from Lincoln County. He added that the homeporting of the FRC's in Newport would add value to keeping the air facility here. Nebel reminded Council that these vessels are going to go somewhere, and asked whether it is appropriate to support the vessels coming here at this time. He added that the Port has the final word. Allen stated that as a Council member, he wants to look at stakeholders, and if the fishing fleet has a concern, that is important to him, and should be acknowledged. Greenwood stated that the fishing fleet is important to the Port. He added that this is also important to NOAA. He noted that to homeport the vessels in Newport would require a sublet or a reduction of the NOAA lease. Nebel asked whether Council supports further exploration of this issue. It was suggested that an addition to the last paragraph to acknowledge the various stakeholders would be appropriate.

MOTION was made by Engler, seconded by Allen, that the city issue a letter of support, with an adjustment for a qualifier for stakeholders, for homeporting two Sentinel-class Fast Response Cutters for the U.S. Coast Guard on the south side of Yaquina Bay in NOAA Marine Operations Center - Pacific and the Port of Newport. The motion carried unanimously in a voice vote.

Amendment to the Budget Calendar. Hawker introduced the agenda item. Nebel reported that he might need to travel to Michigan for a personal issue prior to completing the proposed budget. He noted that the budget calendar shows that the budget will be distributed to the Budget Committee and the public on April 20, 2015. He asked that this date be moved to April 27, 2015, but added that staff will endeavor to get the budget out sooner. MOTION was made by Allen, second by Engler, that the budget schedule be amended moving the date the budget is publically available from April 20, 2015 to April 27, 2015. The motion carried unanimously in a voice vote.

LOCAL CONTRACT REVIEW BOARD

The City Council, acting as the Local Contract Review Board, began meeting at 7:50 P.M.

Notice of Award for the Installation of a Granular Activated Carbon Tank at the Water Treatment Facility to James W. Fowler Company. Hawker introduced the agenda item. Nebel reported that earlier this fiscal year, the City Council authorized the purchase of a gravity activated carbon (GAC) vessel for the water treatment plant to improve the operating conditions at the plant. He stated that the current plant has the capacity of treating up to four million gallons, per day, of fresh drinking water. He noted that under ideal operating conditions, the GAC vessels work most efficiently at 3.2 million gallons per day. He added that any water that is produced over the capacity of the GAC vessels is either bypassed, which reduces water quality, or is run through the vessels significantly reducing carbon life. He noted that the water plant was initially designed for

three vessels, but one vessel was eliminated as part of the cost reduction strategy during the initial construction of the plant.

Nebel reported that proposals have been received for installation of the contract at the water plant site with the low bid coming from James W. Fowler Company of Dallas, Oregon in the amount of \$58, 200.

MOTION was made by Sawyer, seconded by Engler, to issue a notice of award for a Water Filtration Facility Granular Activated Carbon Expansion Project to James W. Fowler Company in the amount of \$58,200, and authorize the City Manager to execute the contract on behalf of the City of Newport. The motion carried unanimously in a voice vote.

RETURN TO CITY COUNCIL MEETING

The City Council returned to its regular meeting at 7:52 P.M.

REPORT FROM MAYOR AND COUNCIL

Roumagoux distributed copies of an article that appeared in the Oregon Mayor's Association quarterly newsletter regarding the retention of the U.S.C.G. Air Facility in Newport.

Roumagoux reported that she attended a recent YBEF meeting with Nebel. She noted that Port Manager, Kevin Greenwood updated the group on the status of the retention of the U.S.C.G. Air Facility.

Roumagoux reported that she participated in a League of Oregon Cities Legislative Action Committee webinar. She noted that Craig Honeyman, Legislative Director for the LOC, presented an update on legislative issues.

Roumagoux reported that she, Gross, Protiva, and Murphy, had lunch at the Angell Job Corps. She noted that the group received an update on the facility and each of its departments.

Allen reported that he attended a recent FINE meeting. He noted that issues discussed, other than the possible homeporting of two U.S.C.G. FRC's, included legislation regarding ocean planning and renewable energy issues.

Allen reported that he attended the preliminary Budget Committee meeting on March 18. He added that the information presented at that meeting will be very useful in subsequent Budget Committee meetings.

Allen reported that he attended the ethics training presented by the Oregon Government Ethics Commission, and the subsequent work session. He added that he found the sessions to be very informative.

Allen reported that there is a very large two-day OPAC meeting to be held on May 7 and 8, 2015, in Bandon. He stated that part of the meetings will include a public forum on the national marine sanctuary process. He added that NOAA is preparing a new nomination process. He noted that the regular OPAC meeting will follow on May 8. He stated that due to these meetings, he will be unable to attend the Retirement Board of Trustees meeting on May 7. He asked whether Saelens would be able to attend the meeting as alternate.

Engler reported that she attended the preliminary Budget Committee meeting.

Engler reported that she attended the ethics presentation and subsequent work session.

Engler reported that she attended a recent meeting regarding the hospital's bond issue.

Engler reported that she received a copy of an article, from Don Davis, on the importance of saving canyons and green spaces.

Engler reported that she had talked with Roumagoux and Gross regarding the Nye Beach Merchants Association utilizing the services of the Angell Job Corps.

Engler reported that the Nye Beach Parking District will be extended for an additional year.

Engler thanked SOLVE for a successful beach clean-up.

Engler reported that there are many vacation rental dwellings in Nye Beach, and added that she would like to address this issue at an upcoming meeting of the Nye Beach Design Overlay group. She added that there is a housing crisis and people are not encouraged to develop residential housing.

Sawyer reported that he saw a recent Bend City Council meeting, and that the City of Bend has the same vacation rental dwelling issue as the City of Lincoln City. He added that the population of Bend is projected to be 140,000 within the next ten years.

Saelens reported that he has been a zone captain for the SOLVE beach clean-up for nearly seven years. He added that there was a record turnout this year and the event was quite successful.

Saelens reported that he attended a recent meeting of the Wayfinding Committee, noting that it has adapted well to the formality of making motions. He added that there is continued interest in potentially identifying, through signage, unique trees around Newport, and how to get people around town to find them.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:08 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda #: V.B.
Meeting Date: April 20, 2015

Agenda Item: Acceptance of Resignation from Boards and Committees

Background:

The city has received a letter of resignation from Eldon Miller from the Senior Citizen Advisory Committee for a term expiring 12/31/15. Upon acceptance of the resignation a letter will be sent thanking him for his service to the Senior Citizen Advisory Committee.

Recommended Action:

I recommend that the City Council accept the resignation of Eldon Miller from the Senior Citizen Advisory Committee for a term expiring 12/31/15 as part of the consent calendar.

Fiscal Effects:

None.

Alternatives:

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager

Cindy Breves

From: Peggy O'Callaghan
Sent: Thursday, April 02, 2015 11:30 AM
To: Cindy Breves
Cc: mjrickus@gmail.com
Subject: FW: Advisory Committee

From: Eldon Miller [mailto:ejmiller2@charter.net]
Sent: Tuesday, March 31, 2015 8:54 PM
To: Peggy O'Callaghan
Subject: Advisory Committee

Greetings Peggy,

With great regret, I must tender my resignation from the Advisory Committee. Due to my wife's current health situation I need to devote 100% of my energy to her care. At some point in the future I hope to be able to serve again.

Sincerely,
Eldon



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: V.C.
Meeting Date: April 20, 2015

Agenda Item:

Authorization for Administrative Approval of the 2015 OLCC License Renewals

Background:

Historically, the City Council has authorized staff to approve the OLCC license renewals administratively. This authority is conditioned on Council review and approval of any licensee, deemed by the Police Department, to have particular issues/problems.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to authorize staff to approve the 2015 OLCC license renewals, conditioned on specific Council review and approval of any licensee, deemed by the Police Department to have particular issues/problems.

Fiscal Effects:

The city collects \$35 annually for each renewed OLCC license. This fee is set by the state and is the maximum allowable at this time.

Alternatives:

None.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Spencer R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item # V.C.

Meeting Date 4/20/15

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Authorization for Administrative Approval of 2015 OLCC License Renewals

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

Issue Before the Council: Historically, the City Council has authorized staff to approve the OLCC license renewals administratively. This authority is conditioned on Council review and approval of any licensee, deemed by the Police Department, to have particular issues/problems.

Staff Recommendation: Past practice has worked well, and staff is recommending approval to process OLCC renewals administratively.

Proposed Motion: I move to authorize staff to approve the 2015 OLCC license renewals, conditioned on specific Council review and approval of any licensee, deemed by the Police Department to have particular issues/problems.

Key Facts and Information Summary: OLCC licenses are renewable by June of each year. Council has historically delegated the approval process to staff with the condition that any problem licensees are brought before Council for review.

Other Alternatives Considered: None.

City Council Goals: None.

Attachment List: List of OLCC Licensees in the City of Newport that are subject to renewal.

Fiscal Notes: The city collects \$35 annually for each renewed OLCC license. This fee is set by the state and is the maximum allowable at this time.

Dist. License #	Tradename	Participant	License	Premises Address
Local Government: NEWPORT				
3	202884	ABBY'S PIZZA INN OF NEWPORT	ABBY'S INC	L 932 N COAST HWY, NEWPORT, OR
	202849	AGATE BEACH GOLF COURSE	AGATE BEACH GOLF COURSE INC	L 4100 N COAST HWY, NEWPORT, OR
	207053	AGATE BEACH MARKET	NAVA GUILLERMO, ISMAEL N NAVA, CHANDA L	O 4852 N COAST HWY, NEWPORT, OR
	204669	AMERICAN LEGION POST #116 NEWPORT	AMERICAN LEGION POST#116 NEWPORT	F-CLU 424 W OLIVE ST, NEWPORT, OR
	205404	APOLLOS RESTAURANT & NIGHTCLUB	D & B ENTERTAINMENT INC	F-COM 836 SW BAY BLVD, NEWPORT, OR
	204670	APRIL'S AT NYE BEACH	A & K INC	L 749 NW 3RD ST, NEWPORT, OR
	205737	ARR PLACE	ROMINES, AYMEE ROMINES, ROBERT	O 143 SW CLIFF ST, NEWPORT, OR
	205738	ARR PLACE	ROMINES, AYMEE ROMINES, ROBERT	F-COM 143 SW CLIFF ST, NEWPORT, OR
	206241	ASIATICO WATERFRONT FUSION AND SUSHI	ASIATICO SUSHI BAR INC	L 875 SW BAY BLVD UNIT E, NEWPORT, OR
	206244	ASIATICO WATERFRONT FUSION AND SUSHI	ASIATICO SUSHI BAR INC	O 875 SW BAY BLVD UNIT E, NEWPORT, OR
	204268	BARGE INN	PATRICK E WITHAM LLC	L 358 SW BAY BLVD, NEWPORT, OR
	204269	BARGE INN	PATRICK E WITHAM LLC	O 358 SW BAY BLVD, NEWPORT, OR
	206310	BAY 839	BAY 839 LLC	F-COM 839 SW BAY BLVD, NEWPORT, OR
	203776	BAY HAVEN INN	LEWTON, LINDA P	O 608 SW BAY BLVD, NEWPORT, OR
	205381	BAY HAVEN INN	LEWTON, LINDA P	F-COM 608 SW BAY BLVD, NEWPORT, OR
	214954	BAYFRONT MARKET & DELI	BAYFRONT MARKET LLC	O 644 SW BAY BLVD, NEWPORT, OR
	210596	BEVEN'S MARKET & DELI	BY CORPORATION	O 960 SW COAST HWY, NEWPORT, OR
	205883	BIER ONE	SHUNK'S LLC	BP 424 SW COAST HWY, NEWPORT, OR
	204129	BREWER'S ON THE BAY	OREGON BREWING COMPANY	F-COM 2320 OSU DR, NEWPORT, OR
	205467	CAFE MUNDO	CARD, LAURIE A CARD, GREGORY C	F-COM 711 NW 2ND CT, NEWPORT, OR
	205460	CANYON WAY RESTAURANT	CANYON WAY FOOD SERVICE INC	F-COM 1216 SW CANYON WY, NEWPORT, OR
	205524	CARL'S	JOHNSON ENTERPRISES AND VINEYARDS LLC	L 715 NW BEACH DR, NEWPORT, OR
	205574	CARL'S	JOHNSON ENTERPRISES AND VINEYARDS LLC	O 715 NW BEACH DR, NEWPORT, OR
	206730	CECIL'S DIRTY APRON	POLK ENTERPRISES LLC	F-COM 912 N COAST HWY, NEWPORT, OR
	202988	CHALET RESTAURANT & BAKERY	CHALET RESTAURANT OF NEWPORT INC	L 2026 N COAST HWY N, NEWPORT, OR
	202977	CHOWDER BOWL AT NYE BEACH	CHOWDER BOWL AT NYE BEACH INC	L 728 NW BEACH DR, NEWPORT, OR

Dist. License #	Tradename	Participant	License	Premises Address
Local Government: NEWPORT				
3	202976	COBBLESTONE PIZZA CO	COBBLESTONE PIZZA CO LLC	L 130 NW 19TH SUITE B, NEWPORT, OR
	205479	EAGLES LODGE #2817 NEWPORT	EAGLES LODGE #2817 NEWPORT	F-CLU 106 E OLIVE ST, NEWPORT, OR
	203334	ELKS LODGE #2105 NEWPORT	ELKS LODGE #2105 NEWPORT	F-CLU 45 SE JOHN MOORE RD, NEWPORT, OR
	207044	FISH PEDDLERS MARKET	PACIFIC CHOICE SEAFOOD COMPANY	L 617 SW BAY BLVD, NEWPORT, OR
	206077	FISHTAILS CAFE	FISHTAILS LLC	L 3101 FERRY SLIP RD, SOUTH BEACH, OR
	214965	FLASHBACKS FOUNTAIN AND GRILL	JEG III INCORPORATED	L 1255 N COAST HWY, NEWPORT, OR
	206922	FORINASH GALLERY	FORINASH, CHARLES A	O 856 SW BAY BLVD, NEWPORT, OR
	203438	FRED MEYER #227	FRED MEYER STORES INC	O 150 NE 20TH ST, NEWPORT, OR
	206916	GEORGIE'S BEACHSIDE GRILL	HALLMARK INNS & RESORTS INC	F-COM 744 ELIZABETH ST, NEWPORT, OR
	206803	GREEN GABLES B & B / ITALIAN CAFE	GREEN GABLES B & B LLC	L 156 SW COAST ST, NEWPORT, OR
	203594	HALLMARK GIFT SHOP	HALLMARK INNS & RESORTS INC	O 744 ELIZABETH ST, NEWPORT, OR
	203547	HOOVERS PUB & GRILL	HOOVER'S PUB AND GRILL LLC	F-COM 3539 S COAST HWY, NEWPORT, OR
	206550	INN AT NYE BEACH	NYE HOTEL LLC	O 729 NW COAST ST, NEWPORT, OR
	205662	IZZY'S PIZZA	CHILAC INC	L 5251 N COAST HWY, NEWPORT, OR
	203712	JC MARKET	J C MARKET INC	O 107 N COAST HWY, NEWPORT, OR
	203765	KAM MENG CHINESE RESTAURANT	KAM MENG CHINESE RESTAURANT INC	L 4424 N COAST HWY 101, NEWPORT, OR
	202960	KUM YON'S RESTAURANT	BRIDGEVIEW KUM YON LLC	L 1006 SW COAST HWY, NEWPORT, OR
	203784	LA ROCA DEL MAR MEXICAN RESTAURANT	SANCHEZ GARCIA, VICENTE LOPEZ HERNANDEZ, CHRISTINA	F-COM 352 SW 9TH ST, NEWPORT, OR
	203803	LEE'S WOK	LEE FAMILY ENTERPRISES INC	F-COM 306 N COAST HWY, NEWPORT, OR
	203887	LOCAL OCEAN SEAFOODS	LOCAL OCEAN SEAFOODS INC	O 213 SE BAY BLVD, NEWPORT, OR
	203888	LOCAL OCEAN SEAFOODS	LOCAL OCEAN SEAFOODS INC	L 213 SE BAY BLVD, NEWPORT, OR
	203859	LUCKY THAI ELEPHANT RESTAURANT	LUCKY THAI ELEPHANT LLC	L 807 SW COAST HWY, NEWPORT, OR
	204073	M & P AUTHENTIC THAI CUISINE	M & P AUTHENTIC THAI CUISINE LLC	L 836 SW BAY BLVD, NEWPORT, OR
	203933	MADE IN OREGON	NAITO CORP	O 342 SW BAY BLVD, NEWPORT, OR
	204264	MAI'S ASIAN MARKET	SHEARER SR, DANNY D SHEARER, MAI H	O 256-A E OLIVE ST, NEWPORT, OR
	205622	MAIN SAIL	JOHNSON, BRUCE W	O 338 SW BAY BLVD, NEWPORT, OR
	205388	MARINE DISCOVERY TOURS	MARINE DISCOVERY TOURS INC	L 345 SW BAY BLVD, NEWPORT, OR
	203536	MAZATLAN MEXICAN RESTAURANT	GALVAN & FUENTES INC	F-COM 404 SW COAST HWY, NEWPORT, OR

Dist. #	License #	Tradename	Participant	License	Premises Address
Local Government: NEWPORT					
3	206886	MO'S ANNEX	MO'S ENTERPRISES INC	L	657 SW BAY BLVD, NEWPORT, OR
	206887	MO'S ANNEX	MO'S ENTERPRISES INC	O	657 SW BAY BLVD, NEWPORT, OR
	206888	MO'S RESTAURANT	MO'S ENTERPRISES INC	L	622 SW BAY BLVD, NEWPORT, OR
	204101	MOBY DICK'S SEAFOOD & SPIRITS	MOBY DICKS AT NEWPORT LLC	F-COM	448 SW COAST HWY, NEWPORT, OR
	202980	NANA'S IRISH PUB	CUCHULAINN INC	F-COM	613 NW 3RD ST, NEWPORT, OR
	206334	NEW UPTOWN PUB	NEWPORT BLUES INC	F-COM	636 SW HURBERT ST, NEWPORT, OR
	205882	NEWPORT BREWING COMPANY	SHUNK'S LLC	BP	915 SW 11TH ST, NEWPORT, OR
	204685	NEWPORT CAFE	SEE NASH LLC	L	534 N COAST HWY, NEWPORT, OR
	203254	NEWPORT CHEVRON	C & O INC	O	1517 N COAST HWY, NEWPORT, OR
	203948	NEWPORT MARINA STORE	NEWPORT MARINA STORE & CHARTERS INC	O	2128 SE MARINE SCIENCE DR, NEWPORT, OR
	205442	NEWPORT STEAK & SEAFOOD	NEWPORT STEAK & SEAFOOD INC	F-COM	1019 SW COAST HWY, NEWPORT, OR
	202929	NOODLE CAFE	CHENG H LLC	L	837 SW BAY BLVD, NEWPORT, OR
	206257	NYE BEACH MARKET	BUCHKO, GERALD A BUCHKO, JUDY A	L	526 NW COAST ST #B, NEWPORT, OR
	210389	NYE BEACH SWEETS	JAMES 1:27 MINISTRY LLC	O	314 NW COAST ST, NEWPORT, OR
	206640	NYE BEACH WINE CELLAR	GRAPENUTS LLC	O	255 NW COAST, NEWPORT, OR
	206642	NYE BEACH WINE CELLAR	GRAPENUTS LLC	L	255 NW COAST, NEWPORT, OR
	205258	OCEAN BLEU @ GINO'S FISH MARKET & CAFE	OCEAN BLEU SEAFOODS LLC	O	808 SW BAY BLVD, NEWPORT, OR
	206993	OCEAN BLEU @ GINO'S FISH MARKET & CAFE	OCEAN BLEU SEAFOODS LLC	F-COM	808 SW BAY BLVD, NEWPORT, OR
	204146	OCEANA NATURAL FOOD COOPERATIVE	OCEANA NATURAL FOOD COOPERATIVE	O	159 SE 2ND ST, NEWPORT, OR
	204175	OREGON COAST AQUARIUM INC	OREGON COAST AQUARIUM INC	F-COM	2820 SE FERRY SLIP RD, NEWPORT, OR
	205602	OZONE FINE ARTS	JOHNSON, BRUCE W	O	669 SW BAY BLVD, NEWPORT, OR
	206923	PANINI'S WOOD FIRE OVEN	PANINI BAKERY LLC	L	342 SW BAY BLVD SUITE F, NEWPORT, OR
	204252	PORT DOCK ONE	PORT DOCK ONE INC	F-COM	325 SW BAY BLVD, NEWPORT, OR
	205425	RAINDANCE AT NYE BEACH	RAINDANCE AT NYE BEACH LLC	O	316 NW COAST ST, NEWPORT, OR
	204765	RITE AID #5370	THRIFTY PAYLESS INC	O	2336 N COAST HWY, NEWPORT, OR
	206543	ROGUE ALES BREWERY	OREGON BREWING COMPANY	BP	2320 OSU DR, NEWPORT, OR
	204149	ROGUE ALES PUBLIC HOUSE	OREGON BREWING COMPANY	F-COM	748 SW BAY BLVD, NEWPORT, OR
	204151	ROGUE HOUSE OF SPIRITS	OREGON BREWING COMPANY	F-COM	2122 SE MARINE SCIENCE DR, NEWPORT, OR

Dist. #	License #	Tradename	Participant	License	Premises Address
Local Government: NEWPORT					
3	206544	ROGUE HOUSE OF SPIRITS	OREGON BREWING COMPANY	BP	2122 SE MARINE SCIENCE DR, NEWPORT, OR
	204532	SAFEWAY STORE #378	SAFEWAY INC	O	2220 N COAST HWY, NEWPORT, OR
	214051	SAFFRON SALMON	SAFFRON SALMON LLC	L	859 SW BAY BLVD, NEWPORT, OR
	188681	SAIL INN CAFE	SAIL INN CAFE LLC	F-COM	134 SW BAY BLVD, NEWPORT, OR
	205827	SANDBAR & GRILL	SANDBAR & GRILL INC	F-COM	722 NW BEACH DR, NEWPORT, OR
	202963	SAVORY CAFE & PIZZERIA	BOWERS, MICHAEL BOWERS, NANCY K	O	526 NW COAST ST, NEWPORT, OR
	203019	SAVORY CAFE & PIZZERIA	BOWERS, MICHAEL BOWERS, NANCY K	F-COM	526 NW COAST ST, NEWPORT, OR
	205116	SHARK'S SEAFOOD BAR & STEAMER CO	KUHWIL INC	F-COM	852 SW BAY BLVD, NEWPORT, OR
	206515	SHELL 503	ARS FRESNO LLC	O	22 N COAST HWY, NEWPORT, OR
	205195	SHILO CAFE NEWPORT	NEWPORT RESTAURANT CORP	F-COM	614 SW ELIZABETH, NEWPORT, OR
	205196	SHILO RESTAURANT NEWPORT	NEWPORT RESTAURANT CORP	F-COM	538 SW ELIZABETH ST, NEWPORT, OR
	203376	SIZZLER #518	DOUBLE S FOODS LLC	L	2426 N COAST HWY, NEWPORT, OR
	204698	SOUTH BEACH GROCERY	SOUTH BEACH GROCERY INC	O	3650 SW COAST HWY, SOUTH BEACH, OR
	203851	STARFISH GRILL/ROOKIE'S SPORTS BAR	LINCOLN PROPERTIES LLC	F-COM	3019 N COAST HWY, NEWPORT, OR
	205015	STONE CREST CELLARS CATERING	STONE CREST CELLARS BED & BREAKFAST LLC	F-COM	715 SW HURBERT ST #4, NEWPORT, OR
	205044	STONE CREST CELLARS CATERING	STONE CREST CELLARS BED & BREAKFAST LLC	O	715 SW HURBERT ST #4, NEWPORT, OR
	204493	SYLVIA BEACH HOTEL	SYLVIA BEACH HOTEL INC	L	267 NW CLIFF ST, NEWPORT, OR
	204597	SZABO'S STEAKHOUSE & SEAFOOD	SZABO INC	F-COM	5188 NE LUCKY GAP RD, NEWPORT, OR
	205747	THE COFFEE HOUSE	LINGHAM, JUDITH M	L	156 SW BAY BLVD, NEWPORT, OR
	204138	THE DEEP END CAFE	OLIVE STREET LLC	F-COM	740 W OLIVE ST, NEWPORT, OR
	204843	US MARKET #104	US MARKET #104 LLC	O	1445 N COAST HWY 101, NEWPORT, OR
	204885	WALGREENS #15239	WALGREEN CO	O	27 S COAST HWY, NEWPORT, OR
	204950	WALMART STORE #1925	WAL-MART STORES INC	O	160 NW 25TH ST, NEWPORT, OR
	205376	WATERFRONT GRILLE	EMBARCADERO RESTAURANT AND LOUNGE LLC	O	1000 SE BAY BLVD, NEWPORT, OR
	206253	WATERFRONT GRILLE	EMBARCADERO RESTAURANT AND LOUNGE LLC	F-COM	1000 SE BAY BLVD, NEWPORT, OR
	203078	YUMMY BOWL	CHAN & ZHEN INC	L	554 SW COAST HWY, NEWPORT, OR
	205269	ZACH'S BISTRO	IDALICEMARUDY INC	O	614 W OLIVE ST, NEWPORT, OR
	205350	ZACH'S BISTRO	IDALICEMARUDY INC	F-COM	614 W OLIVE ST, NEWPORT, OR



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VI.A.
Meeting Date: April 20, 2015

Agenda Item:

Public Hearing and Possible Adoption of Ordinance No. 2079 Annexing Property Owned by Newport Memory Care, LLC, and Withdrawing said Property from the Newport Rural Fire Protection District and the Lincoln County Library District

Background:

On February 9, 2015, Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized agent) submitted an application to annex property into the city limits, withdraw property from several districts, and to amend the Newport Zoning Map to adopt a city zone designation for the annexed property of R-4/"High Density Multi-Family" zoning designation with an Iron Mountain Impact Area Zoning Overlay.

The applicant is pursuing the annexation so that they can construct a 48-bed, long-term memory care wing adjacent to the existing Oceanview Senior Living facility. The property is located at the northeast end of NE 71st Street. A 50-foot strip of city-owned land along the south border of the property is included so that NE 71st Street can be extended in the future.

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

The Planning Commission held a public hearing on the proposal on March 23, 2015 and voted unanimously to recommend approval. Required notice was provided to the Department of Land Conservation and Development on February 17, 2015. For the Planning Commission public hearing, notification requirements included mailing notice to surrounding property owners, city departments, other public agencies and utilities, and other individuals on February 23, 2015. A corrected notice was mailed on March 4, 2015. The notice of public hearing in the Newport News-Times was published on March 13, 2015.

In accordance with Oregon Revised Statute 222.120(3), notice of the April 20, 2015 City Council public hearing was published in the Newport News-Times once each week for two successive weeks prior to the day of the hearing. Notice of the hearing was also posted at

the Newport City Hall, Lincoln County Courthouse, Newport Public Library, and Newport Recreation Center for this same period of time. No comments have been received in response to this notice.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to read Ordinance No. 2079, an ordinance annexing territory to the City of Newport, withdrawing the annexed territory from the Newport Rural Fire Protection District and Lincoln County Library District, and establishing zoning for the annexed territory, by title only and place for final passage.

Fiscal Effects:

The property owner will be subject to city taxes which will offset the cost of services the city will be providing to the property, so there should be no fiscal impact.

Alternatives:

None.

Respectfully submitted,



Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

VI.A
April 20, 2015

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Public Hearing and Possible Adoption of Ord. No. 2079 Annexing Property Owned by Newport Memory Care, LLC and Withdrawing said Property from the Newport Rural Fire Protection District and Lincoln County Library District

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

ISSUE BEFORE THE COUNCIL: Consideration of whether or not an application filed by Newport Memory Care, LLC conforms with city and state requirements governing the annexation of real property and, if so, whether it is in the public interest to bring the property into the corporate limits of the city with a R-4/“High Density Multi-Family” zoning designation with an Iron Mountain Impact Area Zoning Overlay.

STAFF RECOMMENDATION: Staff recommends the City Council approve the annexation request and zone change by adopting Ordinance No. 2079.

PROPOSED MOTION: I move for reading by title only of Ordinance No. 2079, an ordinance annexing territory to the City of Newport, withdrawing the annexed territory from the Newport Rural Fire Protection District and Lincoln County Library District, and establishing zoning for the annexed territory.

KEY FACTS AND INFORMATION SUMMARY: On February 9, 2015 property owner Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized agent) submitted an application to annex property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property of R-4/“High Density Multi-Family” zoning designation with an Iron Mountain Impact Area Zoning Overlay.

The applicant is pursuing the annexation so that they can construct a 48-bed, long term memory care wing adjacent to the existing Oceanview Senior Living facility. The property subject to the request is located at the northeast end of NE 71st Street (Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1003 (Instrument No. 2014-01030) and Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1002 (Instrument No. 2014-01029)). A 50-foot strip of city-owned land along the south border of the property is included so that NE 71st Street can be extended in the future.

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

The Planning Commission held a public hearing on the proposal on March 23, 2015 and voted unanimously to recommend approval. Required notice was provided to the Department of Land Conservation and Development on February 17, 2015. For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public

agencies and utilities, and other individuals on February 23, 2015. A corrected notice was mailed on March 4, 2015. The notice of public hearing in the Newport News-Times was published on March 13, 2015.

In accordance with Oregon Revised Statute 222.120(3), notice of the April 20, 2015 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on April 8, 2015 and April 15, 2015. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center for this same period of time. No comments have been received in response to this notice.

OTHER ALTERNATIVES CONSIDERED: None.

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

ATTACHMENT LIST:

- Draft Ordinance with exhibits
- March 18, 2015 Planning Staff Report with attachments
- Public Notice of the April 20, 2015 hearing

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

CITY OF NEWPORT

ORDINANCE NO. 2079

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

Summary of Findings:

1. A request (Newport File No. 1-AX-15/1-Z-15) was filed by the owners of real property (Newport Memory Care, LLC, John Pariani of Pariani Land Surveying, LLC, authorized agent) to annex property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property of R-4/"High Density Multi-Family Residential" with the Iron Mountain Impact Area Zoning Overlay. The request includes a 50-foot strip of city-owned land adjacent to the south boundary of the subject property to allow for the future extension of NE 71st Street.
2. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on March 23, 2015, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the property owner's request.
3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on April 20, 2015, on the requested annexation and withdrawal, and the zoning of the property to be annexed.
4. The City Council made a determination after considering the recommendation of the Planning Commission, and the evidence and argument presented at the public hearing and in the record, that each of the requests were in compliance with the applicable criteria and voted to approve the requested annexation, withdrawal, and zoning designations.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. ANNEXATION, WITHDRAWAL, AND ZONING

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

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon, and more particularly described as:

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the

northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records, said point also being the True Point of Beginning; thence North 89°58'05" East, 143.51 feet; thence South 00°09'05" East, 187.85 feet; thence South 49°45'30" West, 191.52 feet, to a point on the west line of that property described in said Book 266, Page 266; thence North 00°24'09" East, along said westerly line, 311.50 feet to the point of beginning.

Parcel area contains 36,112 square feet, more or less.

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

C. **Zoning.** Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the property annexed to the City of Newport by designating the subject property described in Section 1(A) above with the zone designation of R-4/"High Density Multi-Family Residential" with the Iron Mountain Impact Area Zoning Overlay.

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

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

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2015.

Sandra Roumagoux, Mayor

ATTEST:

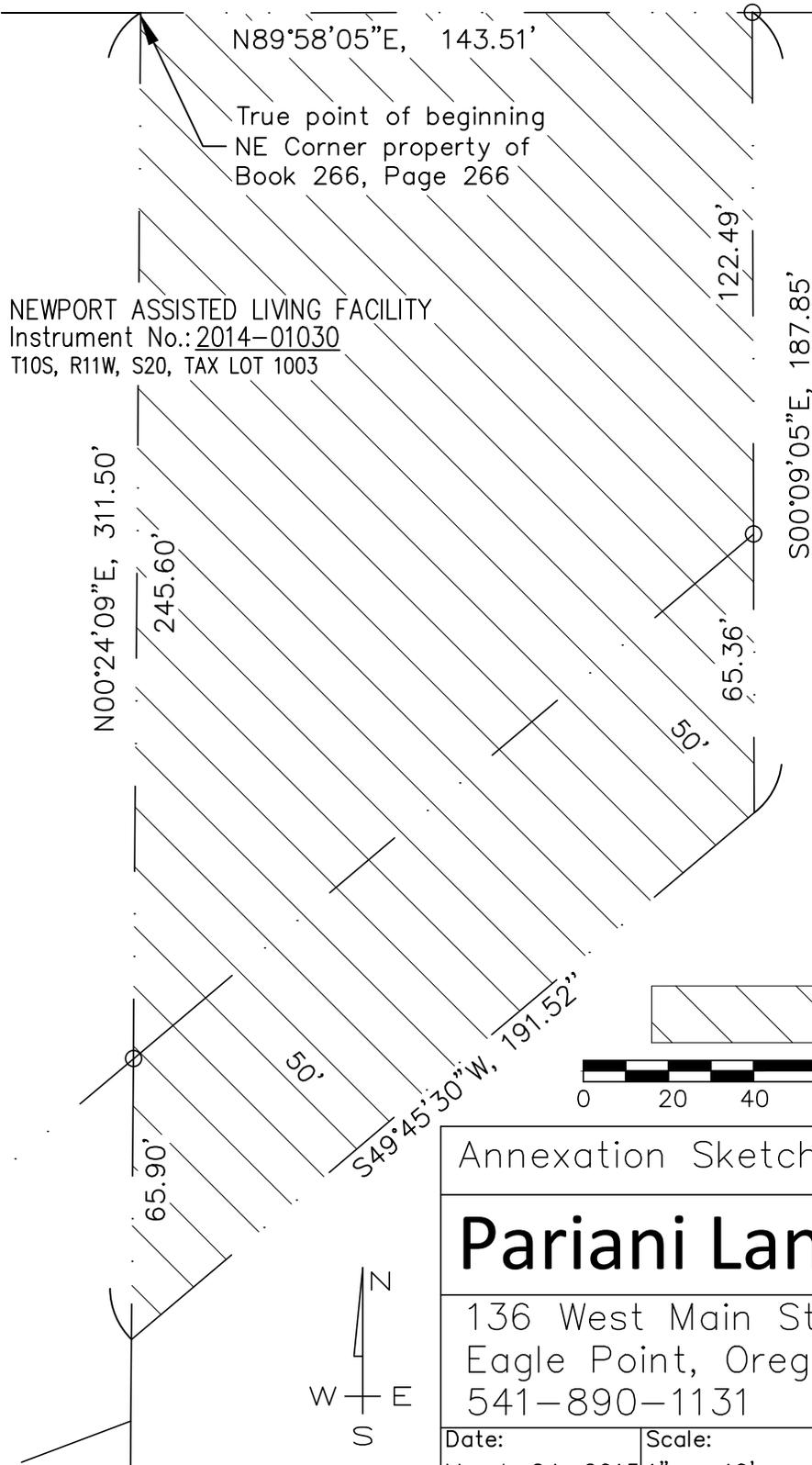
Margaret M. Hawker, City Recorder

Reviewed as to form:

Steve Rich, City Attorney

Exhibit A

Located:
T10S, R11W, NE 1/4 Section 20, W.M.
City of Newport, Oregon



NEWPORT ASSISTED LIVING FACILITY
Instrument No.: 2014-01030
T10S, R11W, S20, TAX LOT 1003

CITY OF NEWPORT
Instrument No.: 2014-01029
T10S, R11W, S20, Tax Lot 1002

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

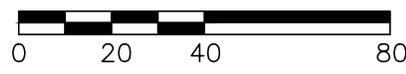
Review Copy

OREGON
July 13, 1999
JOHN R. PARIANI
#51382

Renews: December 31, 2016

Property Corner Set per
○ Lincoln Co. Survey No. 19329

Area of Annexation



Annexation Sketch Map

Pariani Land Surveying

136 West Main Street
Eagle Point, Oregon
541-890-1131

Date: March 24, 2015	Scale: 1" = 40'	Job No.: 2012-095	Sheet: 1 of 1
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T10S, R11W, S20 TL1002 & TL1003

EXHIBIT "B"

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

FINDINGS OF FACT

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 1-AX-15/1-Z-15) was filed by Newport Memory Care. LLC (John Pariani of Pariani Land Surveying, authorized agent) on February 9, 2015. The application included consideration of a request to: (1) annex approximately 36,127 sq. ft. of real property (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor’s Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor’s Tax Map 10-11-20) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-4/“High Density Multi-Family Residential” zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of High Density Residential; (3) apply the Iron Mountain Impact Area Zoning Overlay due to the territory’s proximity to the quarry site; and (4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The applicant is pursuing the annexation so that they can construct a 48-bed, long term memory care addition to the existing Oceanview Senior Living facility.
3. The property subject to the request is located at the northeast end of NE 71st Street (Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1003 (Instrument No. 2014-01030) and Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1002 (Instrument No. 2014-01029)).
4. The legal description of the area to be annexed is as follows:

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon, and more particularly described as:

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records, said point also being the True Point of Beginning; thence North 89o58’05” East, 143.51 feet; thence South 00o09’05” East, 187.85 feet; thence South 49o45’30” West, 191.52 feet, to a point on the west line of that property described in said Book 266, Page 266; thence North 00o24’09” East, along said westerly line, 311.50 feet to the point of beginning.

Parcel area contains 36,112 square feet, more or less.

5. Staff reported the following information regarding the requests:
 - A. Plan Designation: The subject territory is within the Newport Urban Growth Boundary, is designated as “High Density Residential” on the Newport Comprehensive Plan Map, and is inside the Iron Mountain Impact Area.

- B. Zone Designation: City of Newport zoning is established at time of annexation. Either the R-3/“Medium Density Multi-Family Residential,” or R-4/ “High Density Multi-Family Residential” designations are consistent with Comprehensive Plan designation of High Density Residential. The applicant is requesting the R-4 zone designation. The Iron Mountain Impact Area zoning overlay must be applied to the property as well.
- C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity include the Oceanview Senior Living facility to the west, Salmon Run Apartments to the southwest, the Iron Mountain Quarry and forest uses to the north and east, and a City of Newport parcel to the southeast. The city property is an old quarry site that has been remediated and is being developed with a domestic water supply tank.
- D. Topography and Vegetation: The property is moderately sloped and vegetated.
- E. Existing Residences/Buildings: None.
- F. Utilities: Water and sewer service is available. NE 71st Street will need to be extended concurrent with development of the property.
- G. Development Constraints: None known.
- H. Past Land Use Actions:

File No. 5-PLA-13 - Property subject to this annexation was conveyed to Newport Assisted Living, LLC as part of a land exchange that allowed the City to obtain right-of-way for NE 71st Street.

File No. 1-UGB-14 - Expanded the Urban Growth Boundary to include the property Newport Assisted Living obtained and 50-feet along the property frontage to allow NE 71st Street to be extended.

- I. Notification: Required notice to the Department of Land Conservation and Development was mailed on February 17, 2015.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on February 23, 2015. A corrected notice was mailed on March 4, 2015. The notice of public hearing in the Newport News-Times was published on March 13, 2015.

In accordance with Oregon Revised Statute 222.120(3), notice of the April 20, 2015 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on April 8, 2015 and April 15, 2015. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center for this same period of time. No comments have been received in response to this notice.

6. The Planning Commission held a public hearing on the proposed request on March 23, 2015. No testimony was offered at the hearing, and after reviewing the staff report the Commission voted unanimously to recommend approval of the annexation with the property being zoned R-4/“High Density Multi-Family Residential” with the Iron Mountain Impact Area Zoning Overlay.
7. The City Council held a public hearing on the proposed requests on April 20, 2015. A Planning Staff Report, dated March 18, 2015, was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:
 - Attachment "A" – Applicant Request
 - Attachment "B" – Notice of Public Hearing and Map
 - Attachment "C"– Aerial Photo of Area to be Annexed
 - Attachment "D" – Newport Zoning Map
 - Attachment "D-1" – Uses allowed in the R-3 and R-4 zones
 - Attachment "D-2" – Intent of Zoning Districts
 - Attachment "E"– Legal Description of the Area to be Annexed
 - Attachment "F"– Copy of ORS 222.170 through 222.183
 - Attachment "F-1"– Copy of ORS 222.460 through 222.465
8. At the April 20, 2015, public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the proposed requests. Following the close of the public hearing, the Council deliberated and voted to approve the requests. The minutes of the April 20, 2015 public hearing are hereby incorporated by reference into the findings.
9. The applicable criteria for each of the requests are as follows:
 - A. For the annexation/withdrawal portion of the requests, Newport Municipal Code Section 14.37.040 provides *“The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.”*
 - B. For the zoning map amendment portion of the requests, the applicable criteria per Newport Municipal Code Section 14.36.010 are *“Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.”*

CONCLUSIONS

1. In regard to the criteria for approval of the annexation request under Newport Municipal Code Section 14.37.040 the City Council concludes as follows:
 - A. In regard to the first criterion (*The required consents have been filed*), the City Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that

publicly owned real property, such as the 50-foot strip of land that will allow for the extension of NE 71st Street, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above. The applicant Newport Memory Care, LLC and property owner Newport Assisted Living, LLC are managed by Andrew Plant. By signing the application form on behalf of both entities, Mr. Plant has provided the requisite consent that the territory be annexed. See Attachment "A" (Applicant Request).

- B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), The City Council concludes that the property is currently within the Urban Growth Boundary by virtue of City of Newport Ordinance No. 2065 and Lincoln County Ordinance No. 478.
 - C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the City Council concludes that the west side of the subject territory, adjacent to the Oceanview Assisted Living facility, is contiguous to the city limits. See Attachment "C" (Aerial Photo of Area to be Annexed).
- 2. In regard to the withdrawal request, the City Council finds that there are no applicable criteria and the withdrawal of the property from the Newport Rural Fire Protection District and the Lincoln County Library District occur during annexation when the City of Newport becomes the service provider within the city limits.
 - 3. In regard to the establishment of a City of Newport zone designation upon annexation, the City Council concludes as follows for establishment of an R-4/“High Density Multi-Family Residential” zoning designation with the Iron Mountain Impact Area Zoning Overlay with regard to the applicable criteria from Newport Municipal Code Section 14.36.010 (*Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*):
 - A. The Comprehensive Plan designation of High Density Residential is implemented by either the R-3/“Medium Density Multi-Family Residential,” or R-4/“High Density Multi-Family Residential” zoning designations. The applicant intends to construct an assisted living facility, which is a permitted use in both districts. Property immediately to the west is zoned R-4. There is no R-3 zoned property in the surrounding area (See Planning Staff Report Attachment "D"). The uses permitted outright and conditionally in the R-3 and R-4 zones are included as Planning Staff Report Attachment "D-1". The intent of the R-3 and R-4 zoning districts is included as Planning Staff Report Attachment "D-2".
 - B. The High Density Residential Comprehensive Plan Map designation for this property provides additional land for multi-family development, which is an area of need identified in the housing element of the Comprehensive Plan and the City’s 20-year buildable land inventory. The Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.
 - C. The property is within the Iron Mountain Impact Area. Applying the Iron Mountain Impact Zoning Overlay will require the applicant/owner to put in place restrictive

covenants at the time of development acknowledging the rights of the quarry operator to operate and that such operation necessarily includes dust, noise and vibrations attributed to heavy industrial use. This promotes the general welfare by ensuring that those who purchase or rent units at this location are informed of nearby industrial activity and that the quarry operator is protected from nuisance claims attributed to normal operational practices so that they can continue to provide aggregate to those agencies or businesses that have need of the resource.

OVERALL CONCLUSION

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

PLANNING STAFF REPORT
Case File No. 1-AX-15 / 1-Z-15

- A. **APPLICANT:** Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC and City of Newport, property owners).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 36,127 sq. ft. of real property** (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor's Tax Map 10-11-20) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows for either R-3/"Medium Density Multi-Family Residential," or R-4/ "High Density Multi-Family Residential"); **(3) apply the Iron Mountain Impact Area Zoning Overlay** due to the territory's proximity to the quarry site; and **(4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** NE 71st Street (Lincoln County Assessor's Map 10-11-20, portion of Tax Lot 1003 (Instrument No. 2014-01030) and Lincoln County Assessor's Map 10-11-20, portion of Tax Lot 1002 (Instrument No. 2014-01029)).
- D. **PROPERTY SIZE:** Approximately 36,127 sq. ft.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
- a. **Plan Designation:** The subject territory is within the Newport Urban Growth Boundary, is designated as "High Density Residential" on the Newport Comprehensive Plan Map, and is inside the Iron Mountain Impact Area.
- b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the R-3/"Medium Density Multi-Family Residential," or R-4/ "High Density Multi-Family Residential" designations are consistent with Comprehensive Plan designation of High Density Residential. The applicant is requesting the R-4 zone designation. The Iron Mountain Impact Area zoning overlay must be applied to the property as well.
- c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include the Oceanview Senior Living facility to the west, Salmon Run Apartments to the southwest, the Iron Mountain Quarry and forest uses to the north and east, and a City of Newport parcel to the southeast. The city

property is an old quarry site that has been remediated and is being developed with a domestic water supply tank.

- d. **Topography and Vegetation:** The property is moderately sloped and vegetated.
- e. **Existing Residences/Buildings:** None.
- f. **Utilities:** Water and sewer service is available. NE 71st Street will need to be extended concurrent with development of the property.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:**

File No. 5-PLA-13 - Property subject to this annexation was conveyed to Newport Assisted Living, LLC as part of a land exchange that allowed the City to obtain right-of-way for NE 71st Street.

File No. 1-UGB-14 - Expanded the Urban Growth Boundary to include the property Newport Assisted Living obtained and 50-feet along the property frontage to allow NE 71st Street to be extended.

- i. **Notification:** Required notice to the Department of Land Conservation and Development was mailed on February 17, 2015.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on February 23, 2015. A corrected notice was mailed on March 4, 2015. The notice of public hearing in the Newport News-Times was published on March 13, 2015.

- j. **Attachments:**

Attachment "A" – Applicant Request
Attachment "B" – Notice of Public Hearing and Map
Attachment "C" – Aerial Photo of Area to be Annexed
Attachment "D" – Newport Zoning Map
Attachment "D-1" – Uses allowed in the R-3 and R-4 zones
Attachment "D-2" – Intent of Zoning Districts
Attachment "E" – Legal Description of the Area to be Annexed
Attachment "F" – Copy of ORS 222.170 through 222.183
Attachment "F-1" – Copy of ORS 222.460 through 222.465

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

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

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

3. Evaluation of the Request:

a.) **Comments:** Notices of the proposed annexation and Zoning Map amendments were mailed on March 4, 2015, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of March 18, 2015 no comments have been received.

b.) **Applicable Criteria:**

(1) **Annexation/Withdrawal:**

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

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

(2) **Zone Map Amendment:**

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

c.) **Staff Analysis:**

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

A. The required consents have been filed:

Pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as the 50-foot strip of land that will allow for the extension of NE 71st Street, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above.

The applicant Newport Memory Care, LLC and property owner Newport Assisted Living, LLC are managed by Andrew Plant. By signing the application form on behalf of both entities, Mr. Plant has provided the requisite consent that the territory be annexed. See Planning Staff Report Attachment "A" (Applicant Request).

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

The property was added to the Urban Growth Boundary with City of Newport Ordinance No. 2065 and Lincoln County Ordinance No. 478.

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

The west side of the subject territory, adjacent to the Oceanview Assisted Living facility, is contiguous to the existing city limits. See Planning Staff Report Attachment "C" (Aerial Photo of Area to be Annexed).

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

The Comprehensive Plan designation of High Density Residential is implemented by either the R-3/"Medium Density Multi-Family Residential," or R-4/"High Density Multi-Family Residential" zoning designations. The applicant intends to construct an assisted living facility, which is a permitted use in both districts. Property immediately to the west is zoned R-4. There is no R-3 zoned property in the surrounding area (See Planning Staff Report Attachment "D"). The uses permitted outright and conditionally in the R-3 and R-4 zones are included as Planning Staff Report Attachment "D-1". The intent of the R-3 and R-4 zoning districts is included as Planning Staff Report Attachment "D-2".

The High Density Residential Comprehensive Plan Map designation for this property provides additional land for multi-family

development, which is an area of need identified in the housing element of the Comprehensive Plan and the City's 20-year buildable land inventory. The Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

Additionally, the property is within the Iron Mountain Impact Area. Applying the Iron Mountain Impact Zoning Overlay will require the applicant/owner to put in place restrictive covenants at the time of development acknowledging the rights of the quarry operator to operate and that such operation necessarily includes dust, noise and vibrations attributed to heavy industrial use. This promotes the general welfare by ensuring that those who purchase or rent units at this location are informed of nearby industrial activity and that the quarry operator is protected from nuisance claims attributed to normal operational practices so that they can continue to provide aggregate to those agencies or businesses that have need of the resource.

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

F. STAFF RECOMMENDATION: Based on the information received as of March 18, 2015, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment.



Derrick Tokos
Community Development Director/City of Newport

March 18, 2015

City of Newport Land Use Application

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

Applicant Name(s): NEWPORT MEMORY CARE, LLC	Property Owner Name(s): NEWPORT ASSISTED LIVING, LLC
Applicant Mailing Address: 7660 FAY AVE, SUITE N LA JOLLA, CA 92037	Property Owner Mailing Address: 7660 FAY AVE, SUITE N LA JOLLA, CA 92037
Applicant Telephone No.: 858-729-6720	Property Owner Telephone No.: 858-729-6720
E-mail: APLANTEWESTMONTLIVING.COM	E-mail: APLANTEWESTMONTLIVING.COM
Authorized Representative(s): JOHN PARIANI, PARIANI LAND SURVEYING, LLC	
Authorized Representative Mailing Address: PO BOX 551 SHADY COVE, OR 97539	
Authorized Representative Telephone No.: 541-890-1131	E-Mail: ParianiLS@YAHOO.COM

Project Information

Property Location: NE 71ST STREET	
Tax Assessor's Map No.: 105 11W 20	Tax Lot(s): 1003
Zone Designation:	Legal Description: 2014-01030
Comp Plan Designation:	
Brief Description of Land Use Request(s): ANNEX IN EAST PORTION TL1003, ASSISTED LIVING FACILITY PLANNED ON EAST PORTION OF TL1003. PARTITION THAT EAST PORTION OFF SEPARATE TAX LOT.	
Existing Structures: 1 - ASSISTED LIVING	
Topography and Vegetation: SLOPING W/BRUSH	

APPLICATION TYPE (please check all that apply)

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

FOR OFFICE USE ONLY

Date Received: 2/9/15	File No. Assigned: 1-AX-15 / 1-Z-15	Date Accepted as Complete: _____
Received By: wh	Fee Amount: 718⁰⁰ / 708⁰⁰	Accepted By: _____
	Receipt No.: 1.022417	

(SEE REVERSE SIDE)

Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

CITY OF NEWPORT

FEB 09 2015

RECEIVED

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development & Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

<u>Newport Memory Care, LLC</u> <u>Andrew Plant, Managing member</u> Applicant Signature(s)	<u>January 22, 2015</u> Date Signed
<u>Andrew Plant, Managing member</u> Property Owner Signature(s)	<u>January 22, 2015</u> Date Signed
<u>[Signature]</u> Authorized Representative Signature(s)	<u>JAN 22, 2015</u> Date Signed

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

CITY OF NEWPORT
FEB 09
RECEIVED



Andy Plant <aplant@westmontliving.com>

Our Entity that Will Own Land

2 messages

Andy Plant <aplant@westmontliving.com>
To: John Pariani <Parianils@yahoo.com>

Thu, Jan 22, 2015 at 11:01 AM

Newport Memory Care, LLC (an Oregon LLC)

-

Andrew S. Plant
President
7660 Fay Ave, Suite N La Jolla CA 92037
D 858 729 6720 F 858 456 1179 C 619 846 2900
E aplant@westmontliving.com WestmontLiving.com

[Click Here to Follow Us On Facebook: Westmont Living Facebook Page](#)

WESTMONT LIVING | inspired retirement living

Statement of Confidentiality: The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify Andrew Plant immediately at aplant@westmontliving.com and destroy all copies of this message and any attachments. Thank you for your cooperation.

John Pariani <parianils@yahoo.com>
Reply-To: John Pariani <parianils@yahoo.com>
To: Andy Plant <aplant@westmontliving.com>

Fri, Jan 23, 2015 at 11:03 AM

Andy,
Attached is the application, for your approval and signature. Please sign and return.

With regards to the submittal requirements for this annexation, all items are prepared for the application, except for one. Item 7, requires a findings of fact address several criteria.
Will you please provide that missing document?

Once I receive that document and the check for \$708.00 I will deliver to the City of Newport.

Best regards,
John R. Pariani, PLS
PO Box 551
Shady Cove, OR 97539
(541) 890-1131
ParianiLS@Yahoo.com

From: Andy Plant <aplant@westmontliving.com>
To: John Pariani <Parianils@yahoo.com>
Sent: Thursday, January 22, 2015 11:01 AM
Subject: Our Entity that Will Own Land

[Quoted text hidden]

CITY OF NEWPORT
FEB 09 2015
RECEIVED

The intent of this letter is to address the annexation requirements under Item 7. Of the Annexation/Rezone application for the property identified as Tax Lot 1002, Township 10 South, Range 11 West, Section 20, Willamette Meridian, Lincoln County Oregon.

- It is my understanding that the required consents have been filed with the City of Newport, acknowledging that more than one-half of the owners of the land, who also have more than half of the land and more than half of the assessed value; or the consents of more than one-half of the owners and more than half of the electorate in the territory to be annexed.
- The territory to be annexed has been included into the current urban growth boundary
- The area to be annexed is contiguous with the existing city limits.
- *The Transportation Planning Rule (TPR) has been determined to be not applicable as the annexed territory is not affected by traffic and roads. And no change in traffic patterns are anticipated.*
- The adjacent properties to the territory to be annexed is currently zoned High Density Residential/High Density Multi-Family, which is consistent with the proposed development and useage of this territory to be annexed.

CITY OF NEWPORT

FEB 0 2015

RECEIVED

PARCEL –

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; and being a portion of that property described in that Warranty Deed to Newport Assisted Living, LLC, an Oregon limited liability company, recorded August 27, 1996 as Book 324, Page 105 of Lincoln County Official Records and depicted on Partition Plat 1996-28, Parcel 2 as filed in the Lincoln County Surveyor's Office;

Also including the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence South 89°50'16" East, 700.00 feet; thence North 00°24'09" East 428.92 feet to the southeast corner of Parcel 2 of Partition Plat 1996-28; thence continuing North 00°24'09" East, along the easterly line of said Parcel 2, 330.62 feet to the northeast corner of said Parcel 2, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records and the true point of beginning; thence North 89°58'05" East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South 00°09'05" East, 122.49 feet; thence South 49°45'30" West, 190.69 feet to a point on the easterly line of said Parcel 2, said point also being on the west line of that property described in said Book 266, Page 266; thence North 00°24'09" East, along the easterly line of said Parcel 2, 245.60 feet to the point of beginning.

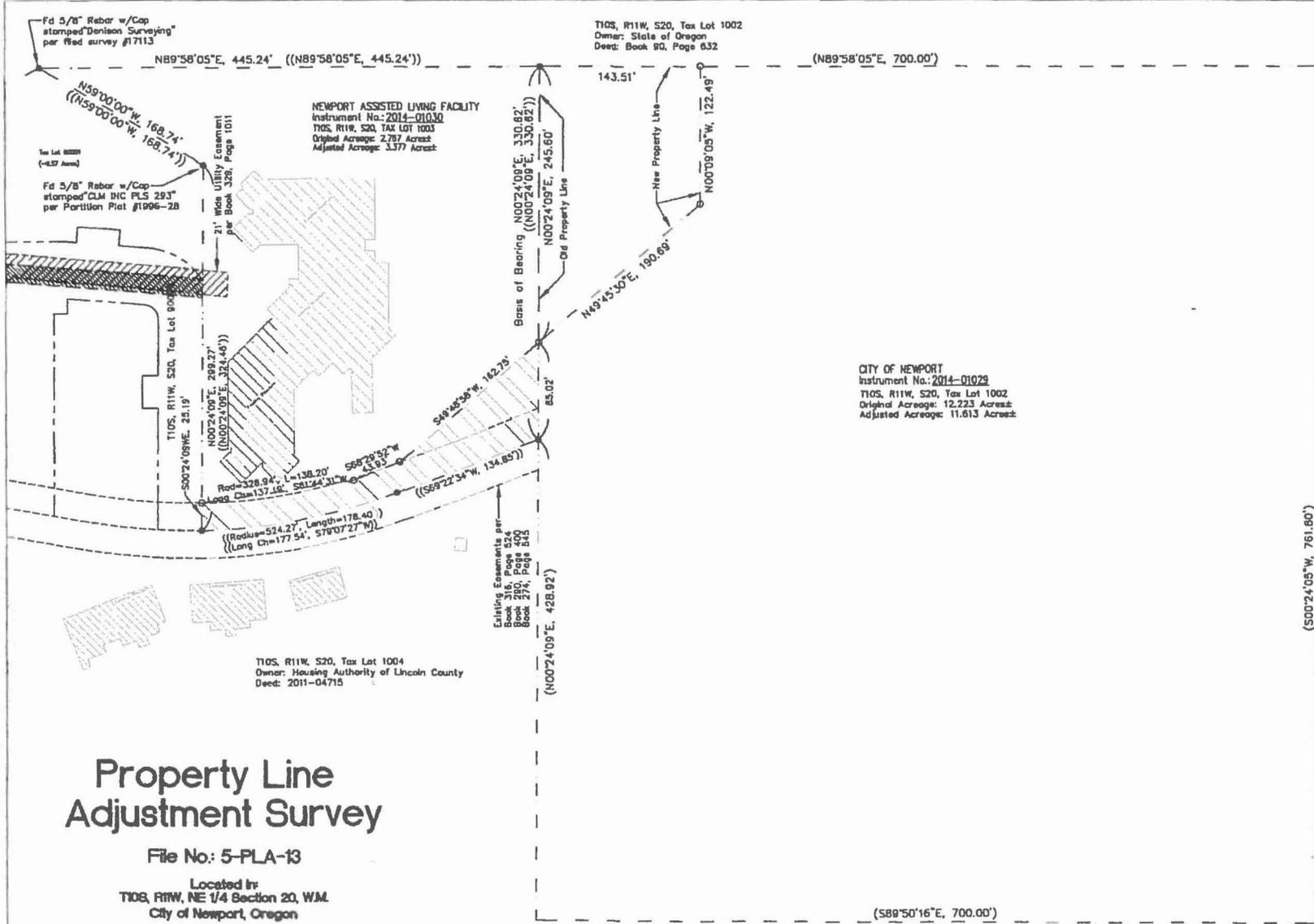
Excepting the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence North 42°11'22" East, 467.37 feet to the true point of beginning; thence along the curve of a 524.27 foot arc, concave to the north, (the long chord of which bears North 79°07'27" East, 177.54 feet) 178.40 feet, thence North 69°22'34" East, to a point on the easterly line of said Parcel 2, 134.85 feet; thence North 00°24'09" East, along said easterly line of Parcel 2, 85.02 feet; thence leaving said easterly line South 49°48'58" West, 162.75 feet; thence South 68°29'52" West, 43.93 feet; thence along the arc of a 328.94 foot radius curve to the right, (the long chord of which bears South 81°44'31" West, 137.19 feet) 138.20 feet to a point on the westerly line of said Parcel 2; thence South 00°24'09" West, along said westerly line 25.19 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John P. Pariani
JOHN P. PARIANI
1003 T10S R11W S20
LINCOLN COUNTY, OREGON

C-54 19329
 FILED 30 March 2014
 LINCOLN COUNTY SURVEYOR



CITY OF NEWPORT
 Instrument No.: 2014-01029
 T10S, R11W, S20, Tax Lot 1002
 Original Acreage: 12.223 Acres
 Adjusted Acreage: 11.613 Acres

T10S, R11W, S20, Tax Lot 1004
 Owner: Housing Authority of Lincoln County
 Deed: 2011-04715

Property Line Adjustment Survey

File No: 5-PLA-13
 Located In:
 T10S, R11W, NE 1/4 Section 20, WM
 City of Newport, Oregon

Narrative
 The purpose of this survey is to adjust the lines common to tax lots 1002 and 1003 as depicted on this map, per the Owner's request. Additionally, right of way was dedicated along the southerly portion of tax lot 1003. Utilizing Lincoln County Surveyor's filed survey 14381, and deed records, the lines were calculated for tax lot 1002, their record positions are shown on this map. Boundary lines for tax lot 1003 were determined by found monumentation per Partition Plat 1996-28 and filed survey 14381. The monuments found per Partition Plat 1996-28 were in good condition and held. Monuments set on the adjusted property corners as depicted on this map.

Equipment used: Trimble 5603, DR200+, fully robotic total station, with 360° prism. Monuments were set in February, 2014.

Legend

- Adjusted Property Line
- - - Existing Property Lines
- () Record Data per filed survey 14381
- (()) Record Data per Partition Plat 1996-28
- Found Monument per filed survey 14381 Unless Noted Otherwise
- Set 5/8" x 3/32" Rebar w/ Orange Plastic Cap Marked "PLS 51382"
- Area Dedicated to the City of Newport per Instrument No. 2014-01032

0 30 60 120
 REGISTERED PROFESSIONAL LAND SURVEYOR
 JOHN R. PARIANI
 OREGON
 July 14, 1988
 JOHN R. PARIANI
 #51382
 Renewed: December 31, 2014

Property Line Adjustment Survey
Pariani Land Surveying
 136 West Main Street
 Eagle Point, Oregon
 541-890-1131
 Date: March 17, 2014 Scale: 1" = 60' Job No.: 2012-095 Sheet: 1 of 1

Survey By:
 Pariani Land Surveying
 136 W. Main Street
 Eagle Point, OR 97524

Survey For:
 Newport Assisted Living, LLC
 Andrew Plant, CEO
 7650 Foy Avenue, Suite N
 La Jolla, CA 92037

Basis of Bearing:
 Partition Plat 1996-28

References
 Book 290, Page 400
 Book 274, Page 545
 Book 316, Page 524
 Book 108, Page 898
 Filed Survey 6678
 Filed Survey 14381
 Filed Survey 15469
 Filed Survey 17113
 Partition Plat 1996-28

CITY OF NEWPORT
***CORRECTED** NOTICE OF A PUBLIC HEARING ¹**
 (*original notice had incorrect year for hearing date)

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, March 23, **2015**, to review the following request for annexation, zone designation, and withdrawal and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

File No. 1-AX-15 / 1-Z-15

Applicants: Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC, property owner).

Request: Consideration of requests to: **(1) annex approximately 0.61 acre of real property** (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows for either R-4/"High Density Multi-Family Residential", or R-3/"Medium Density Multi-Family Residential"); and **(3) apply Iron Mountain Impact Overlay; and (4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**

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

Location: NE 71st St. (Lincoln County Assessor's Map 10-11-20 portion of Tax Lot 1003).

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

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

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

Time/Place of Planning Commission Hearing: Monday, March 23, 2015; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

MAILED: February 23, 2015/correction mailed March 4, 2015

PUBLISHED: March 13, 2015/News-Times.

¹ This notice is being sent to the applicant, the applicant's authorized agent (if any), affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.



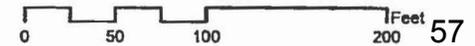
City of Newport
 Community Development Department
 169 SW Coast Highway Newport, OR 97365
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

**Newport Assisted Living, LLC - Urban Growth Boundary
 Expansion and Comprehensive Plan Map Amendment**

Image Taken July 2013

City Council Agenda April 20, 2015
 David Smith & Associates, Inc. Portland, OR

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



Annexation and Zone Change Application by Newport Memory Care, LLC

File No. 1-AX-15 / 1-Z-15



Printed 03/18/2015

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user.

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.

City Council Agenda April 20, 2015





City of Newport
 Community Development Department
 189 SW Coast Highway
 Newport, OR 97385
 Phone: 1.541.574.0829
 Fax: 1.541.574.0644

**Newport Memory Care, LLC Annexation
 Zoning Map**

Image Taken July 2013

City Council Agenda April 20, 2015



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**CITY OF NEWPORT
USES IN THE RESIDENTIAL DISTRICTS**

**R-1/"LOW DENSITY SINGLE-FAMILY
RESIDENTIAL":**

Permitted Uses:

Single-Family Dwellings
Vacation Rental Dwellings
Bed and Breakfast Facilities
Accessory Uses
Home Occupations
Parks
Child Care Facilities
Residential Care Homes

Conditional Uses:

Publicly-Owned Recreational Facilities
Libraries
Utility Substations
Public and Private Schools
Day Care Facilities
Churches
Colleges and Universities
Golf Courses
Necessary Public Utilities and Public
Services Uses or Structures

**R-2/"MEDIUM DENSITY SINGLE-FAMILY
RESIDENTIAL":**

Permitted Uses:

Single-Family Dwellings
Two-Family Dwellings
Vacation Rental Dwellings
Bed and Breakfast Facilities
Mobile Home Parks
Accessory Uses
Home Occupations
Parks
Child Care Facilities
Residential Care Homes
Condominiums

Conditional Uses:

Publicly-Owned Recreational Facilities
Libraries
Utility Substations
Public or Private Schools
Day Care Facilities
Churches
Colleges and Universities
Golf Courses
Necessary Public Utilities and Public
Services Uses or Structures
Assisted Living Facilities

R-3/"MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL":

Permitted Uses:

Single-Family Dwellings
 Two-Family Dwellings
 Multi-Family Dwellings
 Vacation Rental Dwellings
 Bed and Breakfast Facilities
 Mobile Home Parks
 Accessory Uses
 Home Occupations
 Parks
 Child Care Facilities
 Residential Care Homes
 Condominiums
 Residential Facilities
 Assisted Living Facilities

Conditional Uses:

Publicly-Owned Recreational Facilities
 Libraries
 Utility Substations
 Public or Private Schools
 Day Care Facilities
 Churches
 Nursing Homes
 Rooming and Boarding Houses
 Colleges and Universities
 Golf Courses
 Necessary Public Utilities and Public
 Services Uses or Structures

R-4/"HIGH DENSITY MULTI-FAMILY RESIDENTIAL":

Permitted Uses:

Single-Family Dwellings
 Two-Family Dwellings
 Multi-Family Dwellings
 Vacation Rental Dwellings
 Bed and Breakfast Facilities
 Mobile Home Parks
 Accessory Uses
 Home Occupations
 Parks
 Public or Private Schools
 Child Care Facilities
 Residential Care Homes
 Nursing Homes
 Rooming and Boarding Houses
 Hospitals
 Membership Organizations
 Museums
 Condominiums
 Residential Facilities
 Assisted Living Facilities

Conditional Uses:

Publicly-Owned Recreation Facilities
 Libraries
 Utility Substations
 Day Care Facilities
 Churches
 Motels and Hotels
 Professional Offices
 Beauty and Barber Shops
 Colleges and Universities
 Hostels
 Recreational Vehicle Parks
 Necessary Public Utilities and Public
 Services Uses or Structures
 Movie Theaters
 Bicycle Shops

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

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

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

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

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

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

residential district and higher density residential districts.

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

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

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

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

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

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

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

PARCEL –

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; and being a portion of that property described in that Warranty Deed to Newport Assisted Living, LLC, an Oregon limited liability company, recorded August 27, 1996 as Book 324, Page 105 of Lincoln County Official Records and depicted on Partition Plat 1996-28, Parcel 2 as filed in the Lincoln County Surveyor's Office;

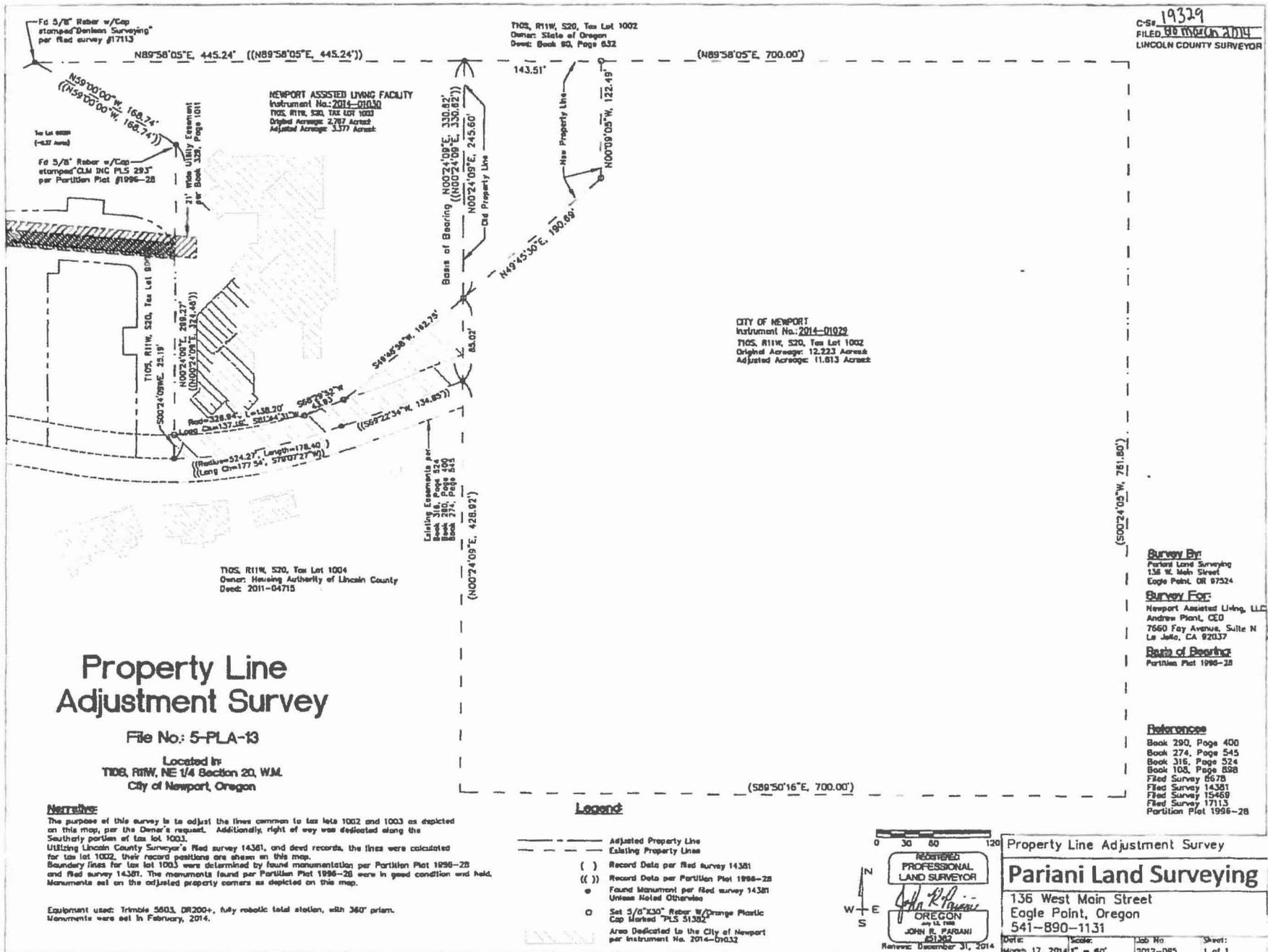
Also including the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence South 89°50'16" East, 611.44 feet; thence North 00°24'09" East 428.92 feet to the southeast corner of Parcel 2 of Partition Plat 1996-28; thence continuing North 00°24'09" East, along the easterly line of said Parcel 2, 330.62 feet to the northeast corner of said Parcel 2, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records and the true point of beginning; thence North 89°58'05" East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South 00°09'05" East, 122.49 feet; thence South 49°45'30" West, 190.69 feet to a point on the easterly line of said Parcel 2, said point also being on the west line of that property described in said Book 266, Page 266; thence North 00°24'09" East, along the easterly line of said Parcel 2, 245.60 feet to the point of beginning.

Excepting the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence North 42°11'22" East, 467.37 feet to the true point of beginning; thence along the curve of a 524.27 foot arc, concave to the north, (the long chord of which bears North 79°07'27" East, 177.54 feet) 178.40 feet, thence North 69°22'34" East, to a point on the easterly line of said Parcel 2, 134.85 feet; thence North 00°24'09" East, along said easterly line of Parcel 2, 85.02 feet; thence leaving said easterly line South 49°48'58" West, 162.75 feet; thence South 68°29'52" West, 43.93 feet; thence along the arc of a 328.94 foot radius curve to the right, (the long chord of which bears South 81°44'31" West, 137.19 feet) 138.20 feet to a point on the westerly line of said Parcel 2; thence South 00°24'09" West, along said westerly line 25.19 feet to the point of beginning.





T10S, R11W, S20 T190000

PARCEL 50' Wide Road Allowance—

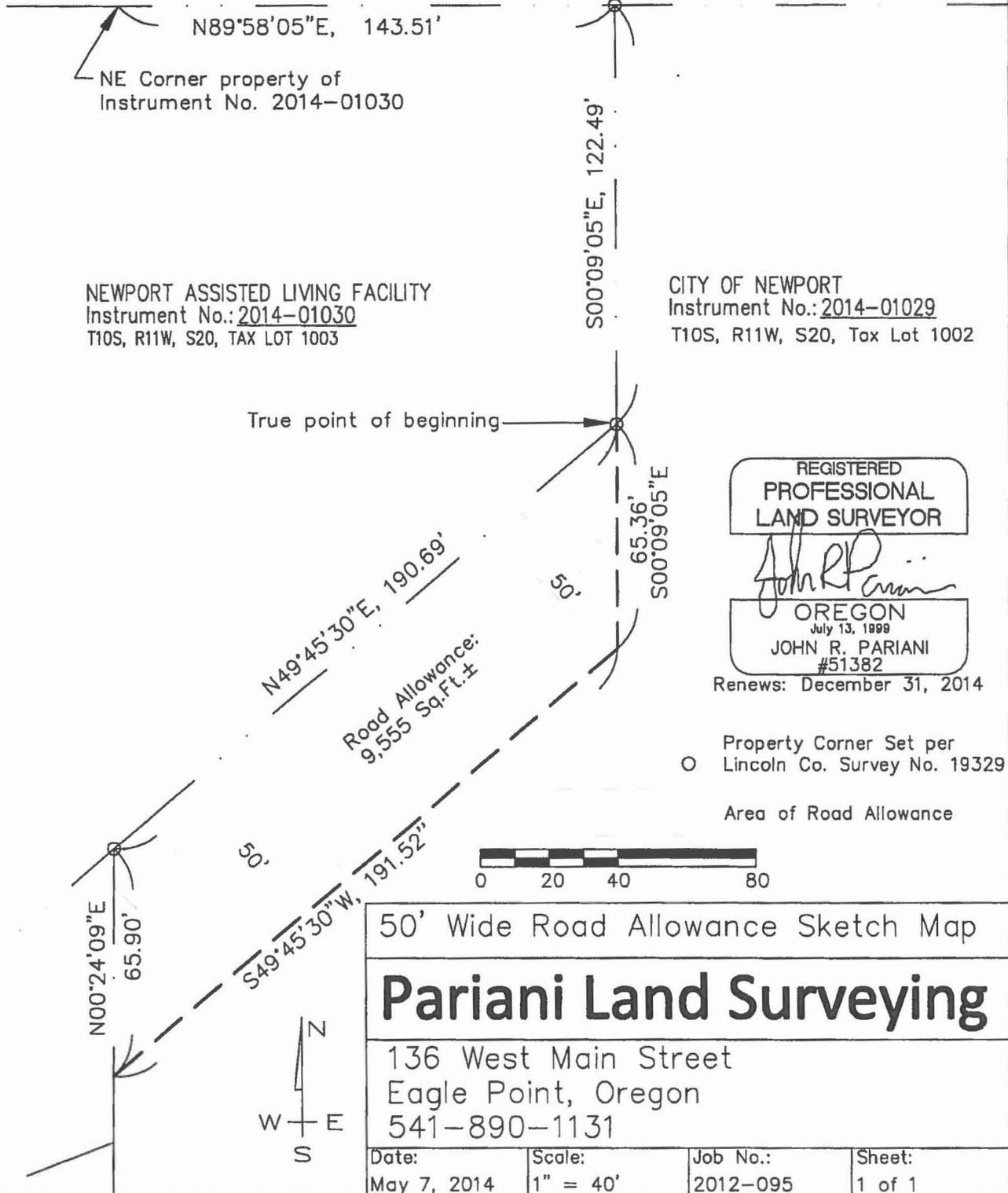
A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon and more particularly described as:

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records; thence North 89°58'05" East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South 00°09'05" East, 122.49 feet to the true point of beginning; thence South 00°09'05" East, 65.36 feet; thence South 49°45'30" West, 191.52 feet, to a point on the west line of that property described in Instrument 2014-01029, Lincoln County Official Records; thence North 00°24'09" East, along said westerly line, 65.90 feet, said point also being a southerly corner to the property described in Instrument No. 2014-01030, Lincoln County Official Records; thence North 49°45'30" East, along southerly line of last said Instrument, 190.69 feet to the point of beginning.

Parcel area contains 9,555 square feet, more or less.



Located:
 T10S, R11W, NE 1/4 Section 20, W.M.
 City of Newport, Oregon



NEWPORT ASSISTED LIVING FACILITY
 Instrument No.: 2014-01030
 T10S, R11W, S20, TAX LOT 1003

CITY OF NEWPORT
 Instrument No.: 2014-01029
 T10S, R11W, S20, Tax Lot 1002

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

John R. Pariani
 OREGON
 July 13, 1999
 JOHN R. PARIANI
 #51382

Renews: December 31, 2014

Property Corner Set per
 O Lincoln Co. Survey No. 19329

Area of Road Allowance



50' Wide Road Allowance Sketch Map

Pariani Land Surveying

136 West Main Street
 Eagle Point, Oregon
 541-890-1131

Date: May 7, 2014	Scale: 1" = 40'	Job No.: 2012-095	Sheet: 1 of 1
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T10S, R11W, S20 TL1002-1003

ANNEXATION OF CONTIGUOUS TERRITORY

(Temporary provisions relating to annexation of certain industrial lands)

Note: Sections 3 and 10, chapter 737, Oregon Laws 1987, provide:

Sec. 3. (1) Notwithstanding any other provision of law, when property:

- (a) Is property on which no electors reside;
- (b) Is zoned for industrial uses;
- (c) Has sewer and water lines paid for and installed by the property owner; and
- (d) Has an assessed valuation, including improvements, of more than \$7 million

that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.

(2) Property described in subsection (1) of this section shall not be included with other territory as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to the annexation in the form of a petition for annexation.

(3) This section applies to property that, on September 27, 1987, was within the jurisdiction of a local government boundary commission. [1987 c.737 §3; 1997 c.516 §14]

Sec. 10. Section 3, chapter 737, Oregon Laws 1987, is repealed on June 30, 2035. [1987 c.737 §10; 1989 c.226 §1; 1997 c.226 §1; 2005 c.844 §8]

Note: Sections 7, 8 and 11, chapter 539, Oregon Laws 2005, provide:

Sec. 7. Section 8 of this 2005 Act is added to and made a part of ORS 222.111 to 222.180. [2005 c.539 §7]

Sec. 8. (1) A lot, parcel or tract may not be included in territory proposed to be annexed unless the owner of the lot, parcel or tract gives written consent to the annexation, if the lot, parcel or tract:

- (a) Is zoned for industrial use or designated for industrial use zoning in an acknowledged comprehensive plan;
- (b) Is land on which no electors reside, unless one or more electors living on-site are employed or engaged to provide security services for the industrial user of the land;
- (c) Has an assessed value of more than \$2 million, including improvements; and
- (d) Is in unincorporated Jackson County, either:
 - (A) Within the urban unincorporated community of White City, west of Oregon Route 62; or
 - (B) Within the urban growth boundary of the City of Medford, west of Oregon Route 99.

(2) After annexation of a lot, parcel or tract described in subsection (1) of this section, the development rights that apply to the lot, parcel or tract under the industrial zoning classification applicable to the lot, parcel or tract when it is annexed are retained and run with the lot, parcel or tract.

(3) As used in this section, "urban unincorporated community" means an unincorporated community that:

- (a) Includes at least 150 permanent residential dwelling units;
- (b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;
- (c) Includes areas served by a community sewer system; and
- (d) Includes areas served by a community water system. [2005 c.539 §8]

Sec. 11. Sections 2, 4, 6, 8 and 10 of this 2005 Act are repealed June 30, 2016. [2005 c.539 §11]

Note: Sections 5, 6, 7, 9 (2) and 11, chapter 844, Oregon Laws 2005, provide:

Sec. 5. (1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111 to 222.180, 222.750 and 222.840 to 222.915, property described in subsection (2) or (3) of this section may not be annexed by or to a city unless the city receives consent to the annexation from the owner of the property in the form of a petition for annexation.

(2) Property for which annexation is limited by subsection (1) of this section is property:

(a) That is composed of one or more lots, parcels or tracts that:

(A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;

(B) Are contiguous or are separated from each other only by a public right of way, a stream, a bay, a lake or another body of water; and

(C) Together comprise at least 150 acres;

(b) On which no electors reside;

(c) That was zoned for industrial, employment or transit-oriented employment uses on December 31, 2004;

(d) That has private, on-premises security services; and

(e) That has an assessed valuation, including improvements, of more than \$12 million.

(3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same individual or entity, including an affiliate or a subsidiary of the entity, that owns the property described in subsection (2)(a) of this section if the lot, parcel or tract:

(a) Is within two miles of the property described in subsection (2)(a) of this section; and

(b) Contains 10 or more acres that are contiguous or separated from each other only by a public right of way, a stream, a bay, a lake or another body of water.

(4) A city may not obtain approval of an owner for annexation under this section by requiring or requesting that the owner waive remonstrance or agree to annexation in order to receive utility service or other city services located in the city right of way at the same price the city charges an owner of similar property that is within the city. [2005 c.844 §5]

Sec. 6. An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than seven acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation, either directly or through a predecessor, for at least 60 years; and

(3) The business entity employs more than 500 individuals on the land. [2005 c.844 §6]

Sec. 7. An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than 14 acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation on a portion of the land for at least 40 years; and

(3) The business entity employs more than 300 individuals on the land. [2005 c.844 §7]

Sec. 9. (2) Sections 5, 6 and 7 of this 2005 Act apply to an annexation of territory approved on or after March 1, 2005, and to an annexation of territory proposed on or after the effective date of this 2005 Act. [2005 c.844 §9(2)]

Sec. 11. (1) Sections 5, 6 and 7 of this 2005 Act are repealed on June 30, 2035.

(2) Notwithstanding subsection (1) of this section, unless this section is amended, sections 5 and 6 of this 2005 Act are repealed five years after June 30, 2035. [2005 c.844 §11]

222.110 [Repealed by 1957 c.613 §1 (222.111 enacted in lieu of 222.110)]

222.111 Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of

territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13; 1985 c.702 §7]

222.115 Annexation contracts; recording; effect. A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

- (1) Must be recorded; and
- (2) When recorded, is binding on successors in interest in that property. [1991 c.637 §4; 2012 c.46 §§1,2]

222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

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

(7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.130 Annexation election; notice; ballot title. (1) The statement summarizing the measure and its major effect in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect may not exceed 150 words.

(2) The notice of an annexation election shall be given as provided in ORS 254.095, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(3) Whenever simultaneous elections are held in a city and the territory to be annexed, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. [Amended by 1967 c.283 §1; 1979 c.317 §4; 1983 c.350 §33; 1995 c.79 §80; 1995 c.534 §10; 2007 c.154 §60]

222.140 [Repealed by 1979 c.317 §26]

222.150 Election results; proclamation of annexation. The city legislative body shall determine the results of the election from the official figures returned by the county clerk. If the city legislative body finds that the majority of all votes cast in the territory favors annexation and the city legislative body has dispensed with submitting the question to the electors of the city, the city legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [Amended by 1983 c.83 §23; 1983 c.350 §34; 1985 c.702 §9]

222.160 Procedure when annexation is submitted to city vote; proclamation. This section applies when the city legislative body has not dispensed with submitting the question of annexation to the electors of the city. If the city legislative body finds that a majority of the votes cast in the territory and a majority of the votes cast in the city favor annexation, then the legislative body, by resolution or ordinance, shall proclaim those annexations which have received a majority of the votes cast in both the city and the territory. The proclamation shall contain a legal description of each territory annexed. [Amended by 1983 c.350 §35; 1985 c.702 §10]

222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

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

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

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

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

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

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

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem

taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505. [1985 c.702 §20; 1987 c.737 §5; 1987 c.818 §8]

Note: 222.173 to 222.177 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c.818 §9]

Note: See note under 222.173.

222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

Note: See note under 222.173.

222.179 Exempt territory. The amendments to ORS 222.210, 222.230, 222.240 and 222.270 made by chapter 702, Oregon Laws 1985, do not apply in territory subject to the jurisdiction of a local government boundary commission. [1985 c.702 §27]

Note: 222.179 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 222 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

222.183 Notice of annexation when effective date delayed for more than one year. (1) If the effective date of an annexation is more than one year after the date of a proclamation of annexation, the city, through its recorder or other city officer or agency performing the duties of recorder under this section, shall send notice to the county clerk of each county within which the city is located. The notice shall be sent not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

(2) The notice described in subsection (1) of this section shall be in addition to any other notice or filing required under ORS 222.010 to 222.750. [1995 c.607 §67]

WITHDRAWAL OF TERRITORY

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

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

(3) The resolution shall:

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

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

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

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

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

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

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

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

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

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

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

222.465 Effective date of withdrawal from domestic water supply district, water control district or sanitary district. Notwithstanding any provision of this chapter or ORS chapter 199 which provides a different effective date, when territory is withdrawn by a city from a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved after March 31 in any year, the effective date of the withdrawal of territory shall be July 1 in the following year. However, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved before April 1 in any year, the effective date of the withdrawal of territory shall be July 1 in the same year. When less than the entire area of a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450 is annexed by or incorporated into a city, the district shall, for purposes of administration, operation and the collection of service charges, continue to operate that portion of the district separately until the effective date of the withdrawal of territory as determined under this section. This section does not limit any agreement between a city and a district under ORS 222.530 (5), 222.540 (4) or 222.560 (4). [1985 c.702 §4a]

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

The City of Newport City Council will hold a public hearing on Monday, April 20, 2015, at 6:00 p.m. in the Council Chambers at City Hall to review File No. 1-AX-15/1-Z-15; a request for annexation, zone designation, and withdrawal submitted by Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC and the City of Newport, property owners). The request is to (1) annex approximately 36,127 sq. ft. of real property located on NE 71st Street (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor's Tax Map 10-11-20) into the Newport city limits; (2) Amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows either R-3/"Medium Density Multi-Family Residential" or R-4/"High Density Multi-Family Residential"); (3) Apply Iron Mountain Impact Area Zoning Overlay due to the territory's proximity to the quarry site; and (4) Withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the request described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the City Council in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the request, and questions and deliberation by the City Council. The staff report may be purchased for reasonable cost at the Newport Community Development (Planning) Department (address above). The application materials, applicable criteria, and other file material are available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (address above).

(For publication once on Wednesday, April 8, 2015 & once on Wednesday, April 15, 2015)

Wanda Haney

From: Wanda Haney
Sent: Tuesday, March 24, 2015 10:35 AM
To: Jim Protiva; Joseph Lease; Mark Miranda; Mike Murzynsky; Rob Murphy; Spencer Nebel; Ted Smith; Tim Gross; Victor Mettle
Subject: Notice - File 1-AX-15/1-Z-15
Attachments: Notice-CC_1-AX-15--1-Z-15.pdf

Attached is a public notice concerning a land use request. The Planning Commission held a public hearing on this matter & now the City Council will hold a hearing. The notice contains an explanation of the request, a property description and map, and the date of the public hearing. If you would like to make any comments on this action, we should receive them at least 10 days prior to the hearing. **Should no response be received, a "no comment" will be assumed.**

Thanks,

Wanda Haney

City of Newport

Community Development Department

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

FAX: 541-574-0644

w.haney@newportoregon.gov

AFFIDAVIT OF MAILING OF NOTICES OF LAND USE ACTION

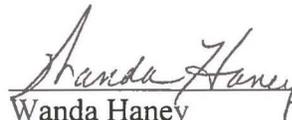
STATE OF OREGON)

)ss.

County of Lincoln)

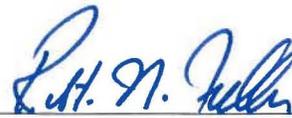
File No(s). 1-AX-15/1-Z-15

I, Wanda Haney, duly appointed Executive Assistant of the City of Newport, do hereby certify that the notice of a land use action attached hereto and by this reference made a part hereof is a true and complete copy of the original of such notice, and that said original was deposited in the United States mails at Newport, Oregon, with first-class postage thereon prepaid, addressed to each of the persons owning property and entitled to receiving notice, as said persons are named in Exhibit "A", attached hereto and by this reference made a part of hereof, at the last known address of each person as shown by the records of the Lincoln County Assessor at Newport, Oregon, on the *24th* day of *March*, *2015*.

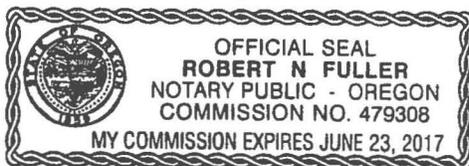


Wanda Haney
Executive Assistant

SUBSCRIBED AND SWORN to before me this *24th* day of *March*, 20*15*.



Notary Public of Oregon



My Commission Expires: *6/23/2017*

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING ¹

NOTICE IS HEREBY GIVEN that the City Council of the City of Newport, Oregon, will hold a public hearing on Monday, April 20, 2015, to review the following request for annexation, zone designation, and withdrawal:

File No. 1-AX-15 / 1-Z-15

Applicants: Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC and City of Newport, property owners).

Request: Consideration of requests to: **(1) annex approximately 36,127 sq. ft. of real property** (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor's Tax Map 10-11-20) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows for either R-3/"Medium Density Multi-Family Residential" or R-4/"High Density Multi-Family Residential"); and **(3) apply the Iron Mountain Impact Area Zoning Overlay** due to the territory's proximity to the quarry site; and **(4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**

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

Location: NE 71st St. (Lincoln County Assessor's Map 10-11-20, a portion of Tax Lot 1003 and a portion of Tax Lot 1002).

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department (address below in "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing or must be submitted to the City Council in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the City Council.

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

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

Time/Place of Planning Commission Hearing: Monday, April 20, 2015; 6:00 p.m. or shortly thereafter; City Hall Council Chambers (address above in "Reports/Application Materials").

MAILED: March 24, 2015.

PUBLISHED: April 8, 2015 & April 15, 2015/News-Times.

¹ This notice is being sent to the applicant, the applicant's attorney (if any), affected public/private utilities/agencies within Lincoln County, affected city departments, and affected city residents within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.

NEWPORT MEMORY CARE LLC
NEWPORT ASSISTED LIVING LLC
NEWPORT COTTAGES LLC
7660 FAY AVE STE N
LA JOLLA CA 92037

JOHN PARIANI
PARIANI LAND SURVEYING LLC
PO BOX 551
SHADY COVE OR 97539

OREGON DEPT OF TRANSPORTATION
TECHNICAL LEADERSHIP CTR
RIGHT-OF-WAY SECTION MS #2
4040 FAIRVIEW IND DR SE
SALEM OR 97302

HOUSING AUTHORITY OF LINCOLN
COUNTY
PO BOX 1470
NEWPORT OR 97365

71ST ST OCEANVIEW COTTAGES
CONDO OWNERS ASSN
ATTN: YAQUINA BAY PROPERTY MGT
146 SE 1ST ST
NEWPORT OR 97365

ELAINE J STARK
TRUSTEE
525 NE 71ST ST APT 224
NEWPORT OR 97365

WAYA R & PATRICIA G HAIL
505 NE 71ST ST UNIT O
NEWPORT OR 97365

EULA MAXINE LIVINGSTON
TRUSTEE
ATTN: JAIMIE M SEUFERT
1036 NE 7TH DR
NEWPORT OR 97365

GARY D & CHERYL LYNN LLOYD
505 NE 71ST ST UNIT 4-B
NEWPORT OR 97365

SUSAN & MATTEO C COSTAMAGNA
1005 NE LAKEWOOD DR
NEWPORT OR 97365

JACK D & GRETA A PRINCE
505 NE 71ST ST #K
NEWPORT OR 97365

VQ1 LLC
ATTN: JOHN VANDERBECK
854 SE CRESCENT PL
NEWPORT OR 97365

KATHLEEN HEAP
505 NE 71ST ST UNIT H
NEWPORT OR 97365

ERNA G BENJAMIN
505 NE 71ST ST UNIT G
NEWPORT OR 97365

MARY ANN LEE
6518 40TH AVE SW
SEATTLE WA 98136

VICKIE A STEEN
505 NE 71ST ST UNIT E
NEWPORT OR 97365

Mailing Labels
Properties

NW Natural
Account Services
ATTN: Annexation Coordinator
220 NW 2nd Ave
Portland, OR 97209

DLCD
810 SW Alder St Ste B
Newport OR 97365

CenturyLink
ATTN: Mr. Corky Fallin
740 State St
Salem OR 97301

Lincoln County Assessor
Lincoln County Courthouse
225 W Olive St
Newport OR 97365

Lincoln County Surveyor
880 NE 7th St
Newport OR 97365

WVCC
911 Emergency Dispatch
555 Liberty St SE Rm P-107
Salem OR 97301-3513

Lincoln County Clerk
Lincoln County Courthouse
225 W Olive St
Newport OR 97365

Central Lincoln PUD
ATTN: Randy Grove
PO Box 1126
Newport OR 97365

Charter Communications
ATTN: Jim Leeth/Jackie Emmons
521 NE 136th Ave
Vancouver, WA 98684

Lincoln County School District
ATTN: Superintendent
PO Box 1110
Newport OR 97365

Lincoln County Commissioners
Lincoln County Courthouse
225 W Olive St
Newport OR 97365

US Post Office
ATTN: Postmaster
310 SW 2nd St
Newport OR 97365

ODOTR2PLANMGR@ODOT.STATE.US

Joseph Lease
Building Official

Lincoln County Planning Dept
210 SW 2nd St
Newport OR 97365

OREGON DIVISION OF STATE
LANDS
775 SUMMER ST NE
SALEM OR 97310-1337

Victor Mettle
Code Administrator/Planner

Lincoln County Library District
PO Box 2027
Newport OR 97365

ATTN: PLAN AMENDMENT SPECIALIST
DEPT OF LAND CONSERVATION &
DEVELOPMENT
635 CAPITOL ST NE STE 150
SALEM OR 97301-2540

Rob Murphy
Fire Chief

Newport Rural Fire Protection
District
PO Box 923
Newport OR 97365

Mark Miranda
Police Chief

Ted Smith
Library

Tim Gross
Public Works

Spencer Nebel
City Manager

EXHIBIT 'A'
(Affected Agencies)
Annexations

Mike Murzynsky
Finance Director



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VII.A
Meeting Date: April 20, 2015

Agenda Item:

Communications from the Pacific Communities Health District on Its Bond Issue

Background:

Representatives from the Pacific Communities Health District will attend the City Council meeting to discuss its bond issue that will be on the May 2015 ballot. The District is seeking voter approval to issue general obligation bonds not exceeding \$57,000,000 for new and updated hospital facilities.

The following information was obtained from the Pacific Communities Health District website: "If the bond measure is approved, the District reports that the proceeds would finance capital costs, including: construct a modern hospital building to provide inpatient and outpatient services; construct modern offices to accommodate additional specialty and primary care physicians, more clinical services and additional imaging and treatment capabilities; remodel and update existing buildings to provide additional and improved clinical and support functions and to comply with ADA, seismic, and safety standards; make other site improvements, including demolition of older structures, and pay issuance costs.

The District expects the proposed projects to: provide space for increased services, modern medical technology, increased patient privacy through more private rooms, and improved safety; improve the efficiency of and access to services by co-locating inpatient, outpatient and physician offices in a single structure; and optimize building energy use, which will lower building operational costs.

The District estimates the tax impact to result in a tax of \$0.98 per \$1,000 of assessed value per year, or approximately \$147 per year on property assessed at \$150,000."

Additional printed information, provided by the Pacific Communities Health District, and entitled, "Pacific Communities Health District General Obligation Bond Authorization for Hospital - Measure 21 - 163 - Frequently Asked Questions," is included in the packet.

Recommended Action:

No action is required as this is informational.

Fiscal Effects:

None directly to the city.

Alternatives:

Please note that according to the City Attorney, elected bodies may take positions, for or against, ballot measures. However, staff, by state law, can only perform ministerial functions related to any actions taken by elected bodies related to ballot measures. Ministerial duties are limited to efforts such as recording the minutes, etc. Staff cannot be directed to perform or speak on behalf of the City Council on these types of actions.

Respectfully submitted,

Spencer R. Nebel
City Manager

**Pacific Communities Health District General Obligation Bond Authorization for Hospital
Measure 21-163 – Frequently Asked Questions**

Q: How will a bond measure benefit patients? The Hospital has no room for growth – making it difficult to add physicians or treatments to meet the diverse health needs of the community. Already patients are experiencing long wait times and are challenged to find a new doctor. The original hospital is more than 60 years old and the physical plant is such that new health care technologies cannot be installed, resulting in patients not receiving the most advanced care possible. The hospital also needs to be updated to current seismic, ADA and energy efficiency standards – making it safer for patients.

Q: Who is the Pacific Communities Health District (District)? A taxing authority with a five-member elected board that was organized in 1972 as a special district under Chapter 440, Oregon Revised Statutes. The District was established to provide health care to residents along the coast from the middle of Lincoln Beach to Yachats. A portion of the property taxes paid in those communities are administered by the District, which owns the hospital buildings and land. Visit their website at www.pchdistrict.org.

Q: What does the bond measure include and when is the election? In the May 19 election, you will be asked if the District shall issue 20-year general obligation bonds not exceeding \$57 million for new and updated hospital facilities.

Q: How much will it cost me? The levy is for no more than 0.98 cents per \$1,000 of property assessed value, providing approximately \$57 million in funding. For the owner of property with an assessed value of \$150,000, this bond measure equals an additional \$147 annually. The new facility, with greater service capabilities and more clinical specialists, will mean residents won't need to travel to the valley, saving the cost of travel, which can be more than \$100 per trip.

Q: Why is this cost paid by the community? Doesn't Samaritan Health Services pay anything? The buildings are a public asset, owned and overseen by the District. Facility additions are funded by the District. Samaritan Health Services pays for the equipment used in patient care. Since 2002, Samaritan has invested more than \$11 million in new equipment and has budgeted \$10 million more to equip the new structure. In addition, Samaritan pays ongoing maintenance costs for the hospital (\$430k in 2014).

Q: Why isn't East County included in the District? Because Toledo had its own hospital until the mid 1980s, it was in a separate health district. When the hospital closed, that health district dissolved. It will take a public election to annex East County into the Pacific Communities Health District. Construction costs and interest rates will continue to rise, negating any gains we might realize by spending time to annex East County now. Once the bond passes, we can work with those communities to join the District.

Q: How will the money be used? If approved, this measure will finance capital costs to: construct a modern hospital building to provide inpatient and outpatient services; construct modern offices to accommodate additional specialty and primary care physicians, more clinical services and additional imaging and treatment capabilities; remodel and update existing buildings to provide additional and improved clinical and support functions and to comply with ADA, seismic, and safety standards; and make other site improvements, including demolition of older structures, and improve parking.

Q: Why did you build the Center for Health Education on Hwy. 101 instead of a new hospital? The Center for Health Education is a \$2.8 million building and the hospital project will be \$57 million. The Foundation and the Health District are paying for the Center without a bond measure and using donated funds. Because the focus of health care reform is on prevention and chronic medical condition management, new hospital campuses are now including space for health education. Therefore, we are ahead of the curve and will not have to include one, or its cost, in the bond measure.

Q: How can I help? Neighbors for a New Hospital, a citizen-led political action committee, has been organized to help inform voters about the need for additional funding for the hospital campus, and to encourage support of the bond measure. For more information visit www.NeighborsForNewHospital.org and . You can make a financial contribution, write a supportive letter to the editor, invite a member of our committee to speak to your club or organization, agree to lend your name to a newspaper ad in support of the effort, be sure you are registered to vote (register or confirm at www.co.lincoln.or.us/clerk), and vote "YES" on Measure 21-163 on May 19.



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VII.B
Meeting Date: April 20, 2015

Agenda Item:

Communications from the Greater Newport Chamber Commerce - Annual Report to the City Council on Tourism Promotion Services

Background:

Lorna Davis, Executive Director of the Greater Newport Chamber of Commerce, will attend to present the Chamber's annual report on tourism promotion services. She plans to make a PowerPoint presentation outlining the services provided by the Chamber over the past year.

The current agreement with the Chamber for tourism promotion services will expire on July 1, 2015. The agreement allows for two one-year extensions of the agreement by mutual agreement of the parties.

Recommended Action:

No action is required as this is a communication.

Fiscal Effects:

The annual contract amount is \$172,500 and was budgeted in the FY2014/2015 budget.

Respectfully submitted,

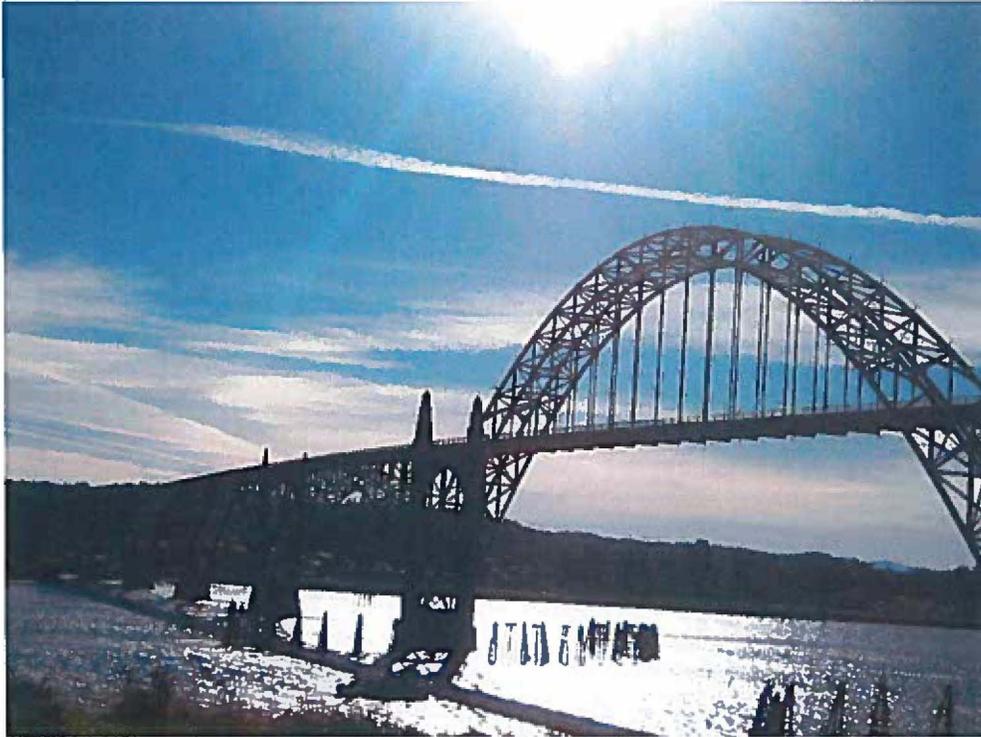
A handwritten signature in blue ink, appearing to read "Spencer R. Nebel".

Spencer R. Nebel
City Manager



Greater Newport Chamber of Commerce
Contract for Services
Tourism Promotion, Fulfillment and Development
REPORT FOR CITY COUNCIL
April 20, 2015





The Greater Newport Chamber of Commerce has provided Tourism Promotion, Fulfillment and Development services for the City of Newport for many years.

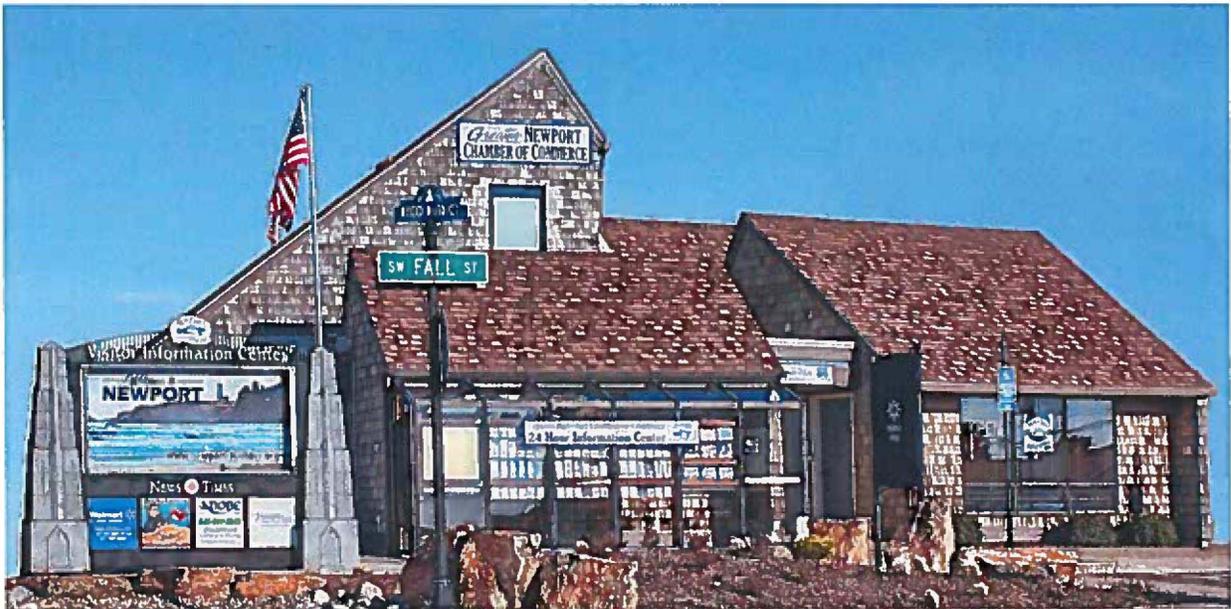
This report is for the 2014-2015 fiscal year, which is the first year of a three year contract.

The current contract for services between the City of Newport and the Greater Newport Chamber of Commerce is set at \$172,500.

The Chamber's Tourism Program of Work is partially funded through the contract. The partnership and program is fulfilled by an additional 177,297 (app annual) Chamber investment.



Our Program



Visitor Center and Visitor Information **We are recognized by the State Tourism Commission as the** **DMO for Newport.** **(Destination Marketing Organization)**

The Visitor Center is operated by trained professional staff and open Monday through Friday from 8:30am to 5:00pm, and on Saturday from 10:00am to 2:00pm May through September.

The outdoor Visitor Kiosk is available 24/7.

A new Community Event Sign was completed in Fall of 2013.

*We respond to requests for information generated from a variety of sources such as:
Domestic and International Trade Show and Sales Mission,
Destination Newport Marketing,
Direct Chamber Promotion Leads, Trade and Travel Industry Leads,
Media and Journalist Requests, and Website, Social Media, E-Newsletter and Contest Leads.*

We respond via phone, email, social media and face to face by providing the most up to date information about Newport including maps, visitor guides, travel publications and other printed and digital collateral.



Visitor Center and Visitor Information continued...

At A Glance....

Visitor Information:

- Newport Visitor Brochure and Map
- Comprehensive Community Calendar of Events-Printed and Online
- Map "Exploring Newport A-Z"
- Laminated local information (2x) yearly
 - Provided to Local Businesses for at your fingertips info
- Oregon Calendar of Events advertising
- Community Tourism DVD
- Facility Guide-Online
- Travel Newport Guide
- Discover Newport Community Profile Guide
- Passport to Newport Coupon Booklet

Visitor Kiosk and Community Event Sign

- Maintain 24 hour Information Kiosk
- Provide information about Newport to other regional kiosk centers
- New Community Event Sign

Visitor Web Page-Social Media

At a Glance...

Visitor Web Page, Social Media

- Calendar of Events-with RSS feed to Northwest Media (New!)
- Photo Library
- Press Release Page
- Group Tour Information
- Facility Information
- Shuttle Maps and Business Information
- Attraction Information
- Business Information
- Response to e-mail and social networking
- Content development as necessary to keep websites up to date and compliment rather than compete with one-another
- Maintaining three websites and five Social Media accounts



Visitor Web Page-Social Media continued....

The Chamber maintains and manages 3 websites

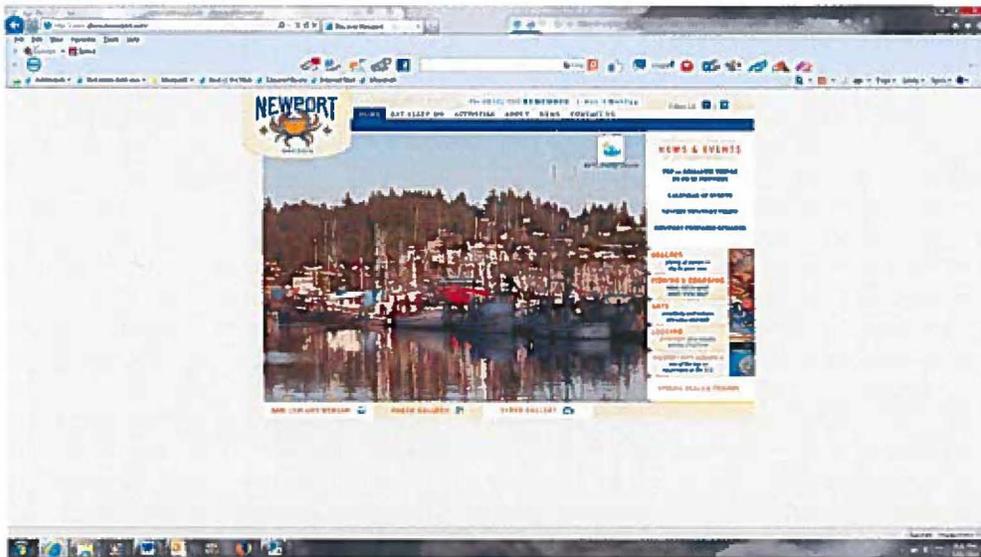
- *Newportchamber.org*
- *Discovernewport.com*
- *Seafoodandwine.com*

We also manage the Social Media channels for each of these including Facebook and Twitter

Each houses a vast amount of information about Newport, and each have their own unique function. The Chamber website is designed to serve a number of needs from economic, business, visitor and member resource including a comprehensive calendar of events, photo library, press release page, group tour information page, facility information, shuttle maps, business information, attraction information, and more. The website is updated as often as daily to ensure content is fresh, accurate and informative. When this contract was renewed three years ago, the Chamber was asked to maintain and host the Destination Newport website-discovernewport.com since there was no longer an agency providing the service. During the transfer of the site it became apparent that the platform in which it had been constructed was neither compatible nor functional and it would need to be rebuilt. The entire site was built to full functionality maintaining brand integrity, and it is updated regularly, providing fresh, accurate and useful information for visitors.

The Chamber maintains a database through the site, delivering a quarterly e-newsletter to subscribers, while also creating online contests and promotions to generate interest in visiting Newport.

We engage an audience through Facebook, with postings as often as daily to attract visitors to Newport and keep us at the top of mind for travel planning. We utilize a vast photo library and post boosting to help broaden our reach.



Destination Newport Committee Support and Participation

At a Glance...

Support the Goals of the City's Destination Newport Committee:

- Support all Destination Newport Committee Programs
- Forward marketing opportunities to the Committee for consideration
- Participate on the Destination Newport Committee
- Fulfill Destination Newport Committee Requests related to Tourism or Relocation Marketing
- Demonstrate intimate knowledge of Newport

We provide support and response for all Destination Newport promotions and advertising from print, radio, online or otherwise through email and our call center. Lorna Davis is a member of the Destination Newport Committee, has taken the responsibility at the Chamber to represent the committees' recommendations before council, carry out actions including coordinating media, artwork, photography, production for television and video, online promotions and media relations. The 7 member committee is all-volunteer, however the Chamber has been responsible for all of the "hands on" work that is required.

Tourism Development and Sales Mission Collaboration, Media Support and Research

At a Glance....

Tourism Development and Sales Mission and Support

- Collaborate with local, regional and state tourism opportunities
- Support Familiarization and Research visitations with Media and Travel Trade Professionals
- Develop working relationships within the Travel Trade Industry to further market Newport both domestically and globally
- Support local events and activities that attract overnight visitors to Newport

We have developed partnerships with local, regional and state visitor organizations and provide sales presence and representation at domestic and international trade and travel shows. We meet with product managers, travel agents and journalists from a variety of media outlets providing up to date information about Newport. We facilitate and participate in familiarization visits for travel trade and media professionals to Newport which are individual and group research tours. We develop and arrange press and publicity for these and other events and engage in building relationships within the industry, which is a conduit to an increase in awareness of our area and our community amenities. The Chamber is continually called on to provide support for other community events that occur throughout the year.



Statistics

We maintain reports on visitor statistics in a number of areas. The reports that are attached include:

- Visitor Statistic Report-emails, phone, walk in and Chamber website stats
- Newport Room Occupancy Report
- Dean Runyon Travel Impact Study

We also track room tax collections that allow us to identify trends in room tax ebb and flow compared to occupancy and average daily rates.

Other Tourism Activities:

Hospitality Training: *We provide a program of Hospitality Training for front line tourism staff that involves customer service training, and a comprehensive platform of training on Newport's attractions, activities and amenities as part of our annual "Know Your Newport" Tradeshow and Seminar.*

We have a Newport Employee of the Month and Employee of the Year program that recognizes outstanding customer service in the workplace, and encourages skill and service with our workforce.

Value Season Promotion: *This program is designed to enhance the support of Tourism during the shoulder season months. We have a "Treasures of the Sea" program, and regular online contests. We produce a "Passport" savings book for the shoulder months*

Additional Chamber Programs Related to Tourism Promotion:

- **Beautification Program**
- **Seafood and Wine Festival**
- **Chamber Ambassador Program**



Program Allocations:

The Tourism Program as outlined in this report is funded by both the Chamber and the and the City through our Contract for Services. The allocation of those funds for the programs of work listed here are as follows:

- 1) **Visitor Center Program**
Visitor Center/Visitor Information -Visitor Web Page-Social Media
 Contract for Services Allocation..... \$38,210 Chamber Funding Match.....\$38,210 Total..... \$76,420

- 2) **Tourism Development Program**
Destination Newport Committee Support/Sales Mission/Trade Shows/ Industry Collaboration/ Media Support
 Contract for Services Allocation..... \$34,500 Chamber Funding Match.....\$31,053Total.....\$65,553

- 3) **Tourism Fulfillment Program**
Research/Statistics/Training/Staffing/Postage/Fulfillment/Program Maintenance
 Contract for Services Allocation..... \$99,790 Chamber Funding Match.....\$108,034 Total.....\$207,824

OTHER CHAMBER TOURISM PROGRAM COSTS NOT INCLUDED ABOVE

- **Beautification Program** **\$1800**
- **Seafood and Wine Festival** **\$498,000**(CASH AND IN-KIND)
- **Chamber Ambassador Program** **\$7600**

In Summary:

The Chamber of Commerce has developed and maintains a multifaceted program of work for Tourism Development, Promotion and Fulfillment that is designed to attract visitors to Newport and increase the frequency and duration of those visits. The investment made by the City is leveraged by a similar investment of the Chamber, which is unique to other City contracts, providing a more comprehensive approach and an increased opportunity for success of carrying out the scope of work and achieving goals.

Total City Contract	\$172,500
Total Chamber Investment/Leverage	\$177,297(app-annual)
Total Tourism Promotion and Development	\$349,797
<small>(NOT INCLUDING OTHER RELATED TOURISM PROGRAMS)</small>	





GREATER NEWPORT CHAMBER OF COMMERCE

555 SW Coast Highway • Newport, Oregon 97365-4934
(541) 265-8801 • FAX: (541) 265-5589 • 1-800-262-7844
www.newportchamber.org
E-mail: Lorna@newportchamber.org

April 14, 2015
City Manager Spencer Nebel
City of Newport
169 SW Coast Hwy
Newport, Oregon 97365

Dear Spencer,

The Greater Newport Chamber of Commerce is pleased to have provided Tourism Promotion, Fulfillment and Development Services through our contract with the City of Newport this year.

The contract, as you are aware, is an extendable contract for the period of three years. The 2015-2016 fiscal year will be the second year of the contract. At this time we would like to respectfully ask for the extension of the contract at the same level of funding set at \$172,500 for the 2015-2016 fiscal year.

Attached are documents that we would like to share with Council to support our request to continue offering sustained quality service for the City of Newport. The presentation shows how the money is allocated and demonstrates that in addition to the \$172,500 contract for services with the City, that the Chamber leverages an approximate additional \$177,297 to complete the scope of work required.

The Greater Newport Chamber of Commerce has been a loyal partner with the City for many years. We appreciate the opportunity we are given and the confidence the City has in our ability to provide these services.

Please do not hesitate to contact me if you have any further questions.

Sincerely,
Lorna Davis
Lorna Davis
Executive Director
Greater Newport Chamber of Commerce
lorna@newportchamber.org



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VII.C
Meeting Date: April 20, 2015

Agenda Item:

Communications from the Parks and Recreation Advisory Committee -
Proposed Bicycle Pump Track

Background:

Parks and Recreation Director Jim Protiva will be in attendance to update Council on the efforts of the bicycling community to obtain a suitable piece of property for the installation of a bicycle pump track for public use.

Many different locations have been explored with various levels of issues or concerns raised by neighbors. While there is still considerable interest in the Harney and 7th Streets parcel, it appears that the Public Works Department will be utilizing that area for some time.

The search for an accessible location has now focused on the Wilder subdivision. The principals of Wilder are very open to providing this opportunity under the same type of agreement as the disc golf course. A preliminary location is being explored in the proximity of the dog park and disc golf course. The challenges have been that the site may cross PUD right-of-way and Lincoln County property. Currently, all parties have been contacted and have agreed to the installation of a bicycle pump track at this location. The Yaquina Wheels Bike Club is contacting the contractor constructing the new coffee shop to see if they can clear some brush and make sure the ground is level. The Yaquina Wheels Bike Club has agreed to construct and maintain the track in the future. This location is ideal because of the proximity to the start/finish line of the Coast Hills Classic Mountain Bike Race that occurs in early May.

If this project proves feasible, then a follow-up report, including a preliminary agreement, will be developed, and a public hearing, with notice to adjacent property owners, will be requested on this matter.

Recommended Action:

None at this time.

Fiscal Effects:

The fiscal impacts to the city will be limited to staff time and equipment if the bicycle pump track is ultimately constructed.

Alternatives:

If the Council does not feel that this site should be pursued, then alternate plans will be made regarding the siting of the proposed bicycle pump track.

Respectfully submitted,

Spencer R. Nebel
City Manager



Agenda Item # VII.C.
Meeting Date April 14, 2015

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Pump Track Update

Prepared By: Protiva Dept. Head Approval: JAP__ City Manager Approval: _____

Issue before the Council:

COMMUNICATION ON THE PROGRESSION OF INSTALLING A PUMP TRACK FOR PUBLIC USE IN NEWPORT.

Staff Recommendation:

Staff will continue dialog with the principals at Wilder and all other parties interested in the construction of a pump track. If there appears to be no opposition to the project, staff will prepare a draft agreement for council's consideration at a later meeting.

Proposed Motion:

No motion is necessary at this time

Key Facts and Information Summary:

The bicycling community has been working on obtaining a suitable piece of property for installation of the Pump Track for public use. Many different parcels and locations have been explored with various levels of issues or concerns by neighbors. While there is still considerable interest in the Harney and 7th street parcel, it appears that the Public Works will be occupying and monitoring the infrastructure in that area for a considerable amount of time.

The search for an accessible location without immediate neighbors or impacts lead us to explore the Wilder Subdivision. That resulted in a favorable outcome with the principals at Wilder. They are very open to providing this opportunity under the same type of agreement as the Disc Golf Course. A preliminary location is being explored close to the Disc Golf Course and Dog Park. The challenges have been that it may cross PUD right of way and Lincoln County jurisdictions. Currently all parties have been contacted and have given the go ahead. The Yaquina Wheels Bike Club is making contact with the contractor who will be constructing the new coffee shop to see if they can clear some brush and make sure the ground is level. The Bike Club has also agreed to construct and maintain the track moving forward. This location also appears to be ideal because of the location to the start/finish line of the Coast Hills Classic Mountain Bike Race that occurs early in May.

Other Alternatives Considered:

Several other locations have been considered including property at the Airport and Big Creek Park. Those location appear to be adequate in size, but are currently being used for other purposes or are physically not advantageous for local youth to access.

City Council Goals:

To provide meaningful opportunities and amenities within our park system.

Attachment List:

None provided

Fiscal Notes:

The fiscal impacts to the City will be limited to staff time and equipment



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VIII.A
Meeting Date: April 20, 2015

Agenda Item:

Consideration of an Intergovernmental Agreement with ODOT for Shared Lane Markings (Sharrows) on the Yaquina Bay Bridge

Background:

City staff, at the request of the Bicycle and Pedestrian Advisory Committee, has been working with ODOT to install shared lane markings, or sharrows, on the Yaquina Bay Bridge. There are currently flashing lights on either end of the bridge that, when activated by a button, flash to indicate that cyclists are on the bridge. Often cyclists either do not press the button, or vehicles do not see the signs, causing hazards to cyclists crossing the bridge. Since the Yaquina Bay Bridge is the only viable means for cyclists to cross the bay, and the sidewalks across the bridge are too narrow to ride on, cyclists are forced to share the traffic lane. The purpose of sharrows is to indicate to cyclists where it is appropriate to ride and to indicate to motorists that cyclists are sharing the lane.

The state will be performing the initial installation of the sharrows. The city will perform maintenance on the lane markings thereafter for the life of the markings, estimated at 20 years. The markings will be thermoplastic which is highly wear resistant, and should be straddled by the vehicle tires, and maintenance should be fairly minimal.

The IGA has been reviewed by the City Attorney with no comments.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to approve the intergovernmental agreement, number 30509, with the Oregon Department of Transportation to install shared lane markings (sharrows) on the Yaquina Bay Bridge, and authorize the City Manager to execute the agreement on behalf of the City of Newport.

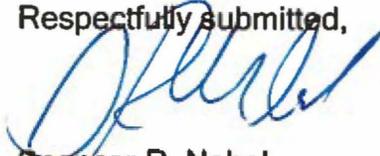
Fiscal Effects:

None.

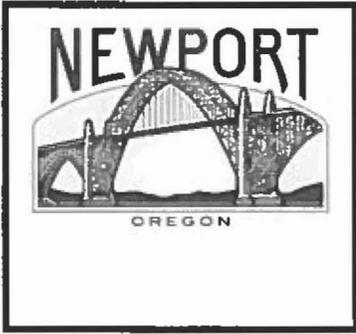
Alternatives:

None.

Respectfully submitted,



Spencer R. Nebel
City Manager



Agenda Item # VIII.A.
Meeting Date April 20, 2015

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Approval of IGA with ODOT for Shared Lane Markings (Sharrows) on Yaquina Bay Bridge

Prepared By: TEG Dept Head Approval: TEG City Manager Approval: _____

Issue Before the Council:

Approval of intergovernmental agreement with Oregon Department of Transportation to install shared lane markings (Sharrows) on the Yaquina Bay Bridge

Staff Recommendation:

Approve the intergovernmental agreement with Oregon Department of Transportation to install shared lane markings (Sharrows) on the Yaquina Bay Bridge

Proposed Motion:

I move to approve the intergovernmental agreement number 30509 with Oregon Department of Transportation to install shared lane markings (Sharrows) on the Yaquina Bay Bridge and authorize the City Manager to execute the agreement on behalf of the City of Newport

Key Facts and Information Summary:

The City of Newport, upon request by the Bike and Pedestrian Committee, has been working with ODOT to install shared lane markings, or Sharrows, on the Yaquina Bay Bridge. There are currently flashing lights on either end of the bridge that when activated by a button, flash to indicate that cyclists are on the bridge. Often cyclists either do not press the button, or vehicles do not see the signs, causing hazards to cyclists crossing the bridge. Since the Yaquina Bay Bridge is the only viable means for crossing the bay for cyclists, and the sidewalks across the bridge are too narrow to ride on, cyclists are forced to share the traffic lane. The purpose of Sharrows are to indicate to cyclists where it is appropriate to ride and to indicate to motorists that cyclists are sharing the lane.

The State will be doing the initial install of the Sharrows. The City will do maintenance on the lane markings thereafter for the life of the markings, estimated at 20 years. The markings will be done in thermoplastic which is highly wear resistant, and should be straddled by the vehicle tires. Maintenance should be fairly minimal.

The IGA has been reviewed by the City Attorney with no comments.

Other Alternatives Considered:

None.

City Council Goals:

None

Attachment List:

- INTERGOVERNMENTAL AGREEMENT No. 30509 - Yaquina Bay Bridge Shared Lane Markings

Fiscal Notes:

N/A

INTERGOVERNMENTAL AGREEMENT
Yaquina Bay Bridge Shared Lane Markings
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 the CITY OF NEWPORT, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. Yaquina Bay Bridge and Oregon Coast Highway (US 101) are part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
2. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
3. By the authority granted in Oregon Revised Statutes (ORS) 366.514, funds received from the State Highway Trust Fund are to be expended by the State and the various counties and cities for the establishment of footpaths and bicycle trails. For purposes of Article IX, Section 3(a), of the Oregon Constitution, the establishment and maintenance of such footpaths and bicycle trails are for highway, road, and street purposes when constructed within the public right of way.
4. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic work on this Project will conform to the current State standards and specifications.
5. State established a Bicycle and Pedestrian Program fund in the Statewide Transportation Improvement Program (STIP) to meet the minimum requirement of one (1) percent of State Highway funds to be spent on Pedestrian and Bicycle facilities. The 2012-2015 STIP programs \$29 million for the Bicycle and Pedestrian Program, allocated to three (3) programs: Grants, Sidewalk Improvement Programs and Quick Fixes.

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. Under such authority, State and Agency agree State shall install shared lane markings on US 101 (Yaquina Bay Bridge) from approximately mile point 141.35 to mile point 142.02, hereinafter referred to as "Project." Expenses for Project shall not exceed a maximum amount of \$3,500 in state funds. State shall be responsible for any Project costs beyond the maximum amount.
2. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within one (1) calendar year following the date of final execution of this Agreement by both Parties.

AGENCY OBLIGATIONS

1. Agency shall, upon completion of Project, maintain the Project at its own cost and expense, and in a manner satisfactory to State.
2. Agency shall obtain a miscellaneous permit to occupy State right of way through the State District 4 Office prior to the commencement of maintenance activities.
3. Agency shall perform the maintenance service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individual's to perform the work under this Agreement, including but not limited to, retirement system contributions, workers compensation, unemployment taxes, and state and federal withholdings.
4. All employers, including Agency, that employ subject workers who work under this Agreement 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 contractors complies with these requirements.
5. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or

subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.

6. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
7. 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.
8. Agency's Project Manager for this Project is Tim Gross, Public Works Director, City of Newport, 169 SW Coast Highway, Newport, Oregon 97365; phone (541) 574-0603; email: t.gross@newportoregon.gov, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. State shall, with its own forces and at its own expense, install shared lane markings in accordance with the State Traffic Engineer's approval memo attached hereto marked "Exhibit A," and by this reference made a part hereof.
2. State grants authority to Agency to enter upon State right of way for the maintenance of this Project and as provided for in miscellaneous permit to be issued by State's District 4 Office.
3. 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.
4. State's Project Manager for this Project is Kendal Weeks, Interim District Manager, ODOT, District 4, 3700 SW Philomath Boulevard, Corvallis, Oregon 97333; phone: (541) 757-4211; email: Kendal.j.weeks@odot.state.or.us, or assigned designee upon

individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. 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.
 - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. 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 State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of

expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. 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.
9. 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.

CITY OF NEWPORT, by and through its designated officials

By _____
Title:

Date _____

By _____
Title:

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Counsel

Date _____

Agency Contact:
Tim Gross, Public Works Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
(541) 574-0603
t.gross@newportoregon.gov

STATE OF OREGON, by and through its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Maintenance and Operations Manager

Date _____

By _____
District 4 Manager

Date _____

State Contact:
Kendal Weeks, Interim District Manager
ODOT District 4
3700 SW Philomath Boulevard
Corvallis, Oregon 97333
Kendal.j.weeks@odot.state.or.us

EXHIBIT A



INTEROFFICE MEMO

TECHNICAL SERVICES
Traffic-Roadway Section
Office Phone: (503) 986-3568
Fax Number: (503) 986-3749

DATE: January 7, 2015

TO: Dorothy Upton, P.E.
Region 2 Traffic Engineer File Code: Hwy. 9 MP 141.35-142.02

FROM: Bob Pappé, P.E., P.L.S.
State Traffic/Roadway Engineer

SUBJECT: **Request to Install Shared Lane Markings
Oregon Coast Highway (US 101) MP 141.35 – 142.02
City of Newport**

We have reviewed your request to install shared lane markings on the Yaquina Bay Bridge (US 101) in the City of Newport. With a roadway width that is constrained by the bridge structure, I concur that shared lane markings are an appropriate treatment. The pavement markings are expected to assist bicyclists with lateral positioning in the roadway. The markings are also expected to raise motorists' awareness of bicyclists on the roadway and of the lateral position that a bicyclist will likely take in the lane. In accordance with Oregon Administrative Rule (OAR) 734-20-0410, I approve your request with the following stipulations:

1. The shared lane markings shall be installed in accordance with Section 9C.07 of the 2009 MUTCD.
2. Shared lane markings shall be installed in the uphill direction on the bridge at a spacing of approximately every 500 feet.
3. Shared lane markings shall also be installed in the downhill direction on the bridge at a spacing of approximately every 1000 feet.

The shared lane markings in the downhill direction are intended to remind road users that the roadway may still be too narrow for a motorist to safely pass a bicyclist within the same lane. If you have any questions or concerns regarding this approval, please contact Gary Obery at 503-986-4062.

Electronic Courtesy Copies:

Jamie Schmidt, Region 2 Traffic Investigator
David Warren, Interim District 4 Manager
Kevin Haas, Traffic Investigations Engineer
Doug Bish, Traffic Eng. Services Manager
Kendall Weeks, Assistant District 4 Manager

Amy Ramsdell, Area 4 Manager
Angela Kargel, Region 2 Traffic Manager
Mark Friesen, Region 2 Striping Manager
Gary Obery, Active Modes Traffic Engineer

GRO/tc

Agency/State
Agreement No.



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VIII.B.
Meeting Date: April 20, 2015

Agenda Item:

Approval of Intergovernmental Agreement with the State of Oregon for Local Improvement District Implementation Plan

Background:

On June 14, 2014, the Newport City Council adopted Resolution No. 3678, seeking assistance from the TGM program to help the city review the use of LIDs as a tool for financing some of its infrastructure needs. The city was successful in getting the project funded, and a consultant has been selected and a statement of work has been prepared. The project will focus on (a) developing effective policy language for how the city can best utilize LIDs as a financing tool for funding planned transportation improvements; (b) preparing "model code" language to ensure the city's LID financing strategies are properly integrated with the land use and transportation standards it uses to evaluate new development; (c) developing a framework for cost effective administration of an LID program; (d) conducting financial analysis of two "case study" candidate areas to position needed transportation improvements in those areas for future LID financing; and (e) developing informational materials that can be used for public education and outreach regarding the benefits, costs, and mechanics of forming a local improvement district. Deliverables listed in the IGA are in line with the statement of work that was presented to the City Council for discussion on March 2, 2015. The project will kick-off once this agreement is in place and must be completed no later than June 30, 2016. A technical advisory committee will be formed to assist the consultants.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to approve the intergovernmental agreement with the State of Oregon for a Local Improvement District Implementation Plan, as presented, and authorize the Mayor to sign the agreement.

Fiscal Effects:

The budget for the project is \$99,000 with the city's share being \$13,500. The city has budgeted the match funds for FY 14/15.

Alternatives:

None.

Respectfully submitted,

Spencer R. Nebel
City Manager



Agenda Item # VIII.B
Meeting Date April 20, 2015

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Intergovernmental Agreement for the Newport Local Improvement District Implementation Plan

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

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest for the City of Newport to enter into an Intergovernmental Agreement with the State of Oregon Transportation Growth Management (TGM) Program to develop effective policies and an implementation program for using Local Improvement District's (LIDs) as a financing tool for funding capital infrastructure needs.

STAFF RECOMMENDATION: Staff recommends that the City Council approve the agreement.

PROPOSED MOTION: I move that the City Council authorize the Mayor to sign the agreement, as presented.

KEY FACTS AND INFORMATION SUMMARY: On June 14, 2014, the Newport City Council adopted Resolution No. 3678, seeking assistance from the TGM program to help the City take a fresh look at using LIDs as a tool for financing some of its infrastructure needs. The City was successful in getting the project funded, a consultant has been selected and a statement of work has been prepared. The project will focus on (a) developing effective policy language for how the City can best utilize LIDs as a financing tool for funding planned transportation improvements; (b) preparing "model code" language to ensure the City's LID financing strategies are properly integrated with the land use and transportation standards it uses to evaluate new development; (c) developing a framework for cost effective administration of an LID program; (d) conducting financial analysis of two "case study" candidate areas to position needed transportation improvements in those areas for future LID financing; and (e) developing informational materials that can be used for public education and outreach regarding the benefits, costs, and mechanics of forming a local improvement district. A technical advisory committee will be formed to assist the consultants.

Deliverables listed in the IGA are in line with the statement of work that was presented to the City Council for discussion purposes on March 2, 2015. The project will kick-off once this agreement is in place and must be completed no later than June 30, 2016.

OTHER ALTERNATIVES CONSIDERED: None.

CITY COUNCIL GOALS: Exploring opportunities to utilize Local Improvement Districts as a tool for financing the construction of critical infrastructure is a FY 14/15 Council goal.

ATTACHMENT LIST:

Draft Intergovernmental Agreement No. 30661

FISCAL NOTES: The budget for the project is \$99,000 with the City's share being \$13,500. The City has budgeted the match funds for FY 14/15.

INTERGOVERNMENTAL AGREEMENT
City of Newport, Local Improvement Districts Implementation Plan

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation (“ODOT” or “Agency”), and the City of Newport (“City” or “Grantee”).

RECITALS

1. The Transportation and Growth Management (“TGM”) Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.

2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.

3. This TGM Grant (as defined below) is financed with federal Moving Ahead for Progress in the 21st Century (“MAP-21”) funds. Local funds are used as match for MAP-21 funds.

4. By authority granted in ORS 190.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.

5. City has been awarded a TGM Grant which is conditional upon the execution of this Agreement.

6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

A. “City's Amount” means the portion of the Grant Amount payable by ODOT to City for performing the tasks indicated in Exhibit A as being the responsibility of City.

B. “City's Matching Amount” means the amount of matching funds which City is required to expend to fund the Project.

C. “City's Project Manager” means the individual designated by City as its project manager for the Project.

D. “Consultant” means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

E. “Consultant’s Amount” means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

F. “Direct Project Costs” means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

G. “Federally Eligible Costs” means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by City and Consultant during the term of this Agreement.

H. “Grant Amount” or “Grant” means the total amount of financial assistance (including City's Matching Amount) disbursed under this Agreement, which disbursements consist of the City's Amount and the Consultant’s Amount. ODOT may use any of the City’s Matching Amount to substitute for an equal amount of federal MAP-21 funds used for the Project or use such funds as matching funds.

I. “ODOT’s Contract Administrator” means the individual designated by ODOT to be its contract administrator for this Agreement.

J. “PSK” means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

K. “Project” means the project described in Exhibit A.

L. “Termination Date” has the meaning set forth in Section 2.A below.

M. “Total Project Costs” means the total amount of money required to complete the Project.

N. “Work Product” has the meaning set forth in Section 5.I below.

SECTION 2. TERMS OF AGREEMENT

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. Further, ODOT’s obligation to make any disbursements under this Agreement is subject to payment of the City's Matching Amount by City to ODOT. This Agreement terminates on June 30, 2016 (“Termination Date”).

B. Grant Amount. The Grant Amount which includes City's Matching Amount of \$13,500 shall not exceed \$99,000.

C. City's Amount. The City's Amount shall not exceed \$0.

D. Consultant’s Amount. The Consultant’s Amount shall not exceed \$99,000.

E. City's Matching Amount. The City's Matching Amount is \$13,500. City shall pay ODOT the City's Matching Amount at time of the signing of this Agreement

SECTION 3. RESERVED

SECTION 4. CITY’S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION

A. City represents and warrants to ODOT as follows:

1. It is a municipality duly organized and existing under the laws of the State of Oregon.

2. It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of City.

4. This Agreement has been executed and delivered by an authorized officer(s) of City and constitutes the legal, valid and binding obligation of City enforceable against it in accordance with its terms.

5. The authorization, execution and delivery of this Agreement by City, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which City or its property is bound.

6. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of City.

B. As federal funds are involved in this Grant, City, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

C. City understands and agrees that ODOT's obligation hereunder is contingent on ODOT having received funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

SECTION 5. GENERAL COVENANTS OF CITY

A. City shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. City shall complete the Project; provided, however, that City shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant.

B. City shall, in a good and workmanlike manner, perform the work on the Project, and provide the deliverables for which City is identified in Exhibit A as being responsible.

C. City shall perform such work identified in Exhibit A as City's responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. City shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including City, that employ subject workers who work under this Agreement 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(2). Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall require each of its subcontractors, if any, to comply with, and shall ensure that each of its subcontractors, if any, complies with these requirements.

E. City shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

F. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

G. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, City expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

H. City shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this Agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

City shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

I. (1) All of City's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and City intend that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. City forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT hereby grants to City a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) City shall ensure that any work products produced pursuant to this Agreement include the following statement:

"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21st Century ("MAP-21"), local government, and State of Oregon funds.

"The contents of this document do not necessarily reflect views or policies of the State of Oregon."

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its "home page".

J. Unless otherwise specified in Exhibit A, City shall submit all final products produced in accordance with this Agreement to ODOT's Contract Administrator in the following form:

- (1) two hard copies; and
- (2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

K. Within 30 days after the Termination Date, City shall provide to ODOT's Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:

- (a) The permanent location of Project records (which may be subject to audit);
- (b) A summary of the Total Project Costs; and
- (c) A list of final deliverables.

SECTION 6. CONSULTANT

If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than City is the party to the PSK with the Consultant, ODOT and City agree that as between themselves:

- A. Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of City;
- B. ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from City;
- C. City shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (A) and (B) above; and
- D. City will appoint a Project Manager to:
 - (1) be City's principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
 - (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and City personnel, as necessary;
 - (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
 - (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

SECTION 7. ODOT'S REPRESENTATIONS AND COVENANTS

reserved

B. ODOT represents that the statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.

C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.

D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

SECTION 8. TERMINATION

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. City fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. Consultant fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

C. 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 ODOT is prohibited from paying for such work from the planned funding source.

D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable

administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A, B, C or D above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

SECTION 9. GENERAL PROVISIONS

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or City at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and City are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons (including but not limited to any Consultant) unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(H), 5(I), and 9 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. The parties agree as follows:

(a) Contribution.

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or Grantee ("Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the

Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which ODOT is jointly liable with the Grantee (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

(b) Choice of Law; Designation of Forum; Federal Forum.

(1) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including,

without limitation, its validity, interpretation, construction, performance, and enforcement.

(2) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(3) Notwithstanding Section 9.E (b)(2), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 9.E(b)(3) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 9.E(b)(3) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

(c) Alternative Dispute Resolution.

The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding mediation or non-binding arbitration) to resolve the dispute short of litigation.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) 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 modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments from the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK. No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. 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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

G. 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.

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

City

City of Newport

By: _____
(Official's Signature)

(Printed Name and Title of Official)

Date: _____

ODOT

STATE OF OREGON, by and through
its Department of Transportation

By: _____
Jerri Bohard, Division Administrator
Transportation Development Division

Date: _____

Contact Names:

Derrick Tokos
City of Newport
169 SW Coast Highway
Newport, OR 97365
Phone: 5415740626
Fax: 541-574-0609
E-Mail: D.Tokos@thecityofnewport.net

David Helton, Contract Administrator
Transportation and Growth Management Program
644 A Street
Springfield, OR 97477
Phone: 541-726-2545
Fax: 541-744-8088
E-Mail: David.I.Helton@odot.state.or.us

**EXHIBIT A
STATEMENT OF WORK
TGM 2C-14
CITY OF NEWPORT
LOCAL IMPROVEMENT DISTRICT IMPLEMENTATION PLAN**

Name:	<u>Agency Project Manager</u> David Helton	Name:	<u>Consultant Project Manager</u> Carl Springer, Principal
Address:	ODOT Region 2, Area 5 644 A Street Springfield, OR 97477	Address:	DKS Associates 720 SW Washington Street, Suite 500 Portland, OR 97205
Phone:	(541) 726-2545	Phone:	(503) 243-3500
Fax:	(541) 726-2509	Fax:	(503) 243-1934
Email:	David.I.Helton@odot.state.or.us	Email:	cds@dksassociates.com
Name:	<u>City Project Manager</u> Derrick Tokos	Name:	
Address:	City of Newport 169 SW Coast Highway Newport, OR 97365	Address:	
Phone:	(541) 574-0626	Phone:	
Fax:	(541) 574-0644	Fax:	
Email:	d.tokos@newportoregon.gov	Email:	

Definitions

Agency/ODOT	Oregon Department of Transportation
APM	Agency Project Manager
City	City of Newport
GIS	Geographic Information Systems
LID	Local Improvement District
PAC	Project Advisory Committee
Project	Newport Local Improvement District Implementation Plan Project
SOW	Statement of Work
TPAU	Transportation Planning Analysis Unit
TSP	Transportation System Plan

Key Personnel

Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key people. In particular, Agency through this Contract is engaging the expertise, experience, judgment, and personal attention of Todd Chase of FCS Group (collectively "Key Personnel" or individually "Key Person"). Contractor's Key Person shall not delegate performance of the management powers and

responsibilities he/she is required to provide under this Contract to another (other) Contractor employee(s) without first obtaining the written consent (email acceptable) of Agency. Further, Contractor shall not re-assign or transfer a Key Person to other duties or positions such that a Key Person is no longer available to provide Agency with his/her expertise, experience, judgment, and personal attention, without first obtaining Agency's prior written consent to such re-assignment or transfer. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person. Any approved substitute or replacement for a Key Person shall be deemed a Key Person under this Contract.

Project Purpose and Transportation Relationship and Benefit

The Newport Local Improvement District Implementation Plan Project (“Project”) will assist the City of Newport (“City”) in making Local Improvement Districts (“LIDs”) an effective and publicly acceptable funding source and financing tool for needed transportation system improvements.

Project Study Area

The Project Study Area lies entirely within the City of Newport Urban Growth Boundary.

Background

Developing strategies to secure financing to pay for planned transportation system improvements is critical for implementation of a Transportation System Plan (“TSP”). Unfortunately, Newport’s 2012 TSP provides little in the way of direction or guidance for how the City should fund transportation improvements. Nonetheless, the City has been creative in developing local funding sources, including urban renewal, local gas taxes, and transient room taxes, and the City actively leverages available state and federal resources. These resources fall well short of being able to adequately fund needed transportation projects.

A funding source that the City has been hesitant to explore is the use of LIDs to fund and finance transportation projects. This is in part due to the perceived complexity of implementing an LID program and the real concern that if done poorly, an LID program could compromise the City’s overall financial position. There is also a general lack of understanding amongst the public, staff, and policy makers about what is involved in forming an LID and how this financing tool can be a cost effective solution to funding transportation projects. Consequently, City has only basic LID enabling legislation on its books and has not initiated an LID in many years.

The Project will develop policies, methods, and strategies for the City’s use of LIDs to fund and finance needed transportation system improvements.

Project Objectives

Key objectives of the Project include the following:

1. Resolve issues hindering the City’s use of LIDs as a funding source and finance tool for transportation improvements.

2. Availability of LIDs as a viable source of funds for needed transportation improvements in the development of improvement plans for existing and developing neighborhoods.

Project Approach

Project Management and Roles

City's Project Manager shall manage the Project by providing guidance and direction to Consultant for development of Project deliverables. City's Project Manager shall review and comment on Project deliverables, participate in Project committees, and encourage involvement of City staff and officials throughout the Project to help ensure final products have the City's support. City shall distribute Consultant deliverables to City staff and advisory committee members for their review and comment. City shall compile all comments on draft deliverables from City and advisory committee members, and provide these to Consultant for consideration during development of revised deliverables. City shall report local match expenditures every two months to ODOT's Agency Project Manager ("APM").

City shall provide Consultant with data and materials available to the City, and obtain data available to Lincoln County that is needed for the Project, including transportation models, land use data, and Geographic Information System ("GIS") layers. Consultant shall collect other data needed for this Project, consistent with tasks assigned to the Consultant in this statement of work ("SOW").

Consultant shall perform work necessary to produce Project deliverables unless otherwise specified in this SOW. Consultant shall prepare Project deliverables and provide these to the City in a format suitable for distribution by e-mail unless hardcopy is specified in a subtask.

Consultant shall maintain regular communication with the City's Project Manager and APM to ensure satisfactory completion of deliverables in accordance with project schedule. Consultant shall arrange and facilitate regularly scheduled conference calls for participation by the City, Consultant, and the APM to discuss project progress, issues, and coordination.

Written and Graphic Deliverable Requirements

All written (text) and graphic deliverables must be submitted in electronic versions. Electronic versions of written (text) deliverables must be in Microsoft Word-compatible (.doc) format. Written deliverables must include the project name, a title that refers to the contract deliverable, version number (if applicable), and date of preparation.

Graphic deliverables may be developed in ArcMap, Adobe Illustrator, Auto CAD, PCMaps, or other applications appropriate to the deliverable. Graphic deliverables submitted for review must be converted to Portable Document (.pdf) format for readability. Electronic files of final graphics submitted to the City and Agency may be in the native application but must also be converted to Portable Document (.pdf) format. All graphic deliverables must be well documented, with

project name, a title that corresponds to the contract deliverable, version number (if applicable), a legend, and the date of preparation.

Maps, aerial photos, and other graphic material prepared for Project deliverables must be suitable for enlargement to create wall displays for Project meetings and presentations. Display-sized maps for Project meetings must be printed in color when color is important to public comprehension and must be mounted on foam core to allow display on an easel or wall; display of all graphics by projector only is not acceptable.

Final plans, codes, and Plan / Code amendments must be prepared as adoption-ready final policy statements of the local government and shall not include language such as “it is recommended ...” or “City should ...” Final plan, plan amendments, code, and code amendments must include all necessary amendments or deletions to existing local government plans or code to avoid conflicts and enable full integration of proposed plan with existing local government documents.

The following text must appear in the final version of all final deliverables:

This project is partially funded by a grant from the Transportation and Growth Management (“TGM”) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21st Century (“MAP-21”), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

Consultant name or logos may not appear on final documents, with the exception of the acknowledgement page.

Consultant shall provide any GIS layers used for inventory and graphic deliverables (i.e. volumes, Level of Traffic Stress) to both ODOT’s Transportation Planning Analysis Unit (“TPAU”) and the Geographic Information Services Unit.

Meeting Requirements

City shall schedule meeting dates and times with meeting participants, distribute agendas and meeting materials in advance of the meeting, reserve a suitable meeting location, place advertisements in local media, and post notices in public locations (such as city hall). City shall provide notice for Public Hearings as required.

Consultant shall prepare agendas and meeting materials, lead meetings, and facilitate discussion of relevant issues. Within one week of each Project meeting or public event, Consultant shall provide the City with a brief memo that summarizes key issues discussed at the meeting and implications, if any, for Project schedule, budget, methods, or deliverables.

City shall arrange for public hearings, including legal notice, staff reports, and staff presentations for the Planning Commission and City Council. City shall reproduce copies of materials needed for distribution for the public hearings.

Public Involvement

City shall perform work to support Project, including mailings (including e-mails) to project advisory committee members and interested parties,

City shall distribute press releases, place advertisements in media, write articles and announcements for placement in City publications, identify stakeholders, and conduct similar activities to support public involvement efforts for the Project. Consultant shall prepare text and graphics for all other public involvement material, including the press releases, advertising materials, and mailing/flyer materials as directed by this SOW.

The City shall provide to the Consultant any public comments received by the City. Consultant shall maintain a compilation of public comments received during the Project, and provide an updated compilation of comments to the City.

Public involvement must allow the community an opportunity to provide input into the transportation planning process. City shall consider environmental justice issues, which is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Fair treatment means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Meaningful involvement means that: (1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.

The public involvement program must include specific steps to provide opportunities for participation by federal Title VI communities. City and consultant shall utilize the ODOT Title VI (1964 Civil Rights Act) Plan guidance to identify Title VI populations, formulate public involvement strategies, and report outreach efforts to and participation by Title VI communities.

Statement of Work

Task 1: Project Kickoff and Data Review

1.1 Background Data Request

Consultant shall prepare data request to facilitate acquisition of required data from the City. City shall provide Consultant with relevant data and documents available to the City, and acquire data and documents needed for the project from Lincoln County and the Oregon Cascades West Council of Governments. Data provided to the Consultant must include, but are not limited to, the following items:

- City of Newport Comprehensive Plan
- City of Newport Transportation System Plan
- Newport Pedestrian and Bicycle Plan
- South Beach Transportation Refinement Plan
- Urban Renewal District plans
- Capital Improvement Plans
- Zoning and LID-related City ordinances
- City standards for street, sidewalk, trail, and other transportation facilities
- Non-remonstrance Agreements and City's analysis of those agreements
- Mapping or GIS layers showing existing transportation facilities by functional class, tax lot boundaries, extent of existing pavement, properties with non-remonstrance agreements, and other pertinent characteristics to the extent they are available

Consultant shall provide City with request for additional data and documents within three working days after receiving Notice to Proceed on the Project from the APM. City shall strive to provide as much of the information as possible at least one week before the Project Kickoff / Advisory Committee Meeting.

Consultant shall review plans, existing City code/ordinances, pre-existing non-remonstrance agreement information and other data provided by the City to prepare for the Project Kickoff / Advisory Committee Meeting.

1.2 Project Kickoff / Advisory Committee Meeting

City shall form a Project Advisory Committee ("PAC") by inviting stakeholders such as City Finance Director, City Public Works Director, local developers, elected and appointed government officials, citizen or neighborhood association members, business owners, chamber of commerce leaders, County government staff and others. The City shall maintain an Interested Parties List that includes PAC members and other parties expressing interest in the Project for notification of Project progress, meetings, and presentations.

Consultant shall lead a Project Kickoff / Project Advisory Committee Meeting with City and PAC members. Consultant shall make a presentation at the Project Kickoff Meeting that provides an overview of the project objectives, schedule, and deliverables. Consultant shall facilitate a discussion at the Project Kickoff Meeting of issues related to the use of LIDs as a funding source for transportation projects.

Consultant and City shall participate in a tour of the City's transportation system and sites related to LID implementation in Newport. City will arrange tour logistics including transportation and selection of the routes and sites for the tour. The tour must occur on the same day as the Project Kickoff Meeting.

City Deliverables

- 1.1 Background Data and Documents
- 1.2 PAC Roster and Interested Parties List
- 1.3 Project Kickoff / Advisory Committee Meeting and Tour Logistics

Consultant Deliverables

- 1.A Background Data Request
- 1.B Project Kickoff / Advisory Committee Meeting and Tour

Task 2: LID Policy Development

2.1 LID Policy Issues Paper

Consultant shall prepare LID Policy Issues Paper that identifies key LID policy issues hindering the City's use of LIDs. The LID Policy Issues Paper must be based on the Consultant's review of background information and from input by City, PAC members, and interested parties. Categories of issues identified in the LID Policy Issues Paper must include the following:

- administrative cost/staffing
- capital cost of needed facilities
- potential local or non-local funding sources to be used to match LID funds
- methods for LID financing
- consideration of pre-existing non-remonstrance agreements
- determining geographic benefit area
- determining benefit to properties

2.2 Best Practices Issue Paper

City shall provide Consultant with a review of the existing LID ordinance and suggestions for improvement. Consultant shall prepare a Best Practices Issue Paper that presents proven and effective ways to gain support for LID implementation, with a focus on practices from cities with limited staffing. For development of the Best Practices Issue Paper, Consultant shall research statutory authority for guiding and implementing LIDs in Oregon, and conduct interviews with

selected local governmental staff and Oregon League of Cities staff to identify innovative and proven practices and lessons learned regarding LID implementation, outreach techniques, and methods for prioritizing transportation projects.

City Deliverables

- 2.1 Review and comment on Consultant deliverables
- 2.2 Circulate Consultant deliverables to City staff and PAC
- 2.3 Legal review of the City's existing LID ordinance

Consultant Deliverables

- 2.A LID Policy Issues Paper
- 2.B Best Practices Issue Paper

Task 3: LID Implementation Strategies

3.1 Round 1 Stakeholder Meetings

Consultant shall conduct Round 1 Stakeholder Meetings in Newport. The purpose of these small group stakeholder meetings is to gather additional input regarding the LID policy issues, strategies and best practices and how they relate to Newport's transportation system improvement needs. City shall identify stakeholder meeting participants and arrange meeting logistics. Consultant shall prepare meeting agenda and meeting materials and facilitate Stakeholder Meetings over the course of one day.

3.2 PAC Meeting #2

Consultant shall lead PAC Meeting #2 in Newport. Consultant shall present a summary of findings in the LID Policy Issues Paper and Best Practices Issues Paper. Consultant shall facilitate a discussion at PAC Meeting #2 to gather input and direction regarding the LID policy issues, strategies and best practices and how they relate to Newport's transportation system improvement needs.

3.3 LID Implementation Strategies Paper

Based on the feedback received from Round 1 Stakeholder Meetings and the PAC, Consultant shall prepare a LID Implementation Strategies Paper that describes recommended techniques and strategies for implementation of LIDs in Newport. The LID Implementation Strategies Paper will focus strategies on the policy issues identified previously (Task 2) and must address items including:

1. Methods to be used to evaluate the benefit and cost of LIDs.
2. Items to be included with the Engineer's Report on LID formation.

3. Transportation project evaluation and selection criteria to be used when considering new LIDs.
4. Criteria to determine the eligibility of transportation projects for other types of funding sources (e.g., street funds, local gas tax, utility fees, franchise fees, system development charge revenues, etc.)
5. Strategies to leverage existing non-remonstrance agreements.
6. Guidance on the use of future non-remonstrance agreements in lieu of requiring transportation improvements at the time of construction.
7. A draft prototypical non-remonstrance agreement.
8. Guidance on how to effectively administer LIDs given modest City staffing and resources.
9. Guidance on how to mitigate risk to local jurisdictions when financing LIDs.
10. Effective property owner and stakeholder outreach techniques.

City Deliverables

- 3.1 Round 1 Stakeholder Meetings
- 3.2 PAC Meeting #2

Consultant Deliverables

- 3.A Round 1 Stakeholder Meetings
- 3.B PAC Meeting #2
- 3.C LID Implementation Strategies Paper

Task 4: Model Code

4.1 Draft LID Ordinance and Plan / Code Amendments

Consultant shall prepare Draft LID Ordinance and Plan / Code Amendments. The Draft LID Ordinance and Plan / Code Amendments must include municipal code and Comprehensive Plan amendments that implement strategies in the LID Implementation Strategies Paper identified by the City as suitable for adoption.

4.2 PAC Meeting #3

Consultant shall lead a discussion at PAC Meeting #3 to gather input and direction regarding the LID Implementation Strategies Paper and the Draft LID Ordinance and Plan / Code Amendments.

4.3 Revised LID Ordinance and Plan / Code Amendments

City shall coordinate with City attorney and City staff to obtain legal review of Draft LID Ordinance and Plan / Code Amendments. City shall provide Consultant with electronic version of LID Ordinance and Plan / Code Amendments with legal review input in track changes format.

Consultant shall prepare the Revised LID Ordinance and Plan / Code Amendments based on input from legal review, City, and PAC members. Revised municipal code and Comprehensive Plan amendments must be consistent with existing City plans and policies and implement strategies in the LID Implementation Strategies Paper.

City Deliverables

- 4.1 Identification of Implementation Strategies for development of Draft LID Ordinance and Plan / Code Amendments
- 4.2 PAC Meeting #3
- 4.3 Review and comment on Project deliverables

Consultant Deliverables

- 4.A Draft LID Ordinance and Plan / Code Amendments
- 4.B PAC Meeting #3
- 4.C Revised LID Ordinance and Plan / Code Amendments

Task 5: Case Study Analysis

5.1 Round 2 Stakeholder Meetings

Consultant shall conduct Round 2 Stakeholder Meetings in Newport. Purpose of these small group stakeholder meetings is to gather input regarding potential LID pilot case study areas and how the proposed improvements translate into measurable benefits to properties and how they relate to Newport's transportation system improvement needs. City shall identify stakeholder meeting participants and arrange meeting logistics. Consultant shall prepare meeting agenda and meeting materials and facilitate meetings over the course of one day.

5.2 Case Study Analysis and LID Model

Consultant shall develop and utilize a LID Cost Allocation and Benefit Model ("LID Model") to conduct a preliminary assessment of the LID costs and benefits for two pilot case study areas selected by the City. Consultant shall identify all existing tax lots and summarize existing and planned development levels, for each case study area. Consultant shall identify transportation facility improvement costs, LID assessments, and existing and future changes in vehicle and person trip generation by tax lot. Consultant shall provide City with an Excel-based LID Model that can be used to analyze LID assessment benefits, costs and individual allocations among properties in Newport. Consultant shall summarize results of the preliminary assessment of LID costs and benefits using the LID Model in a Case Study Analysis.

5.3 PAC Meeting #4

Consultant shall lead PAC Meeting #4 in Newport. Consultant shall present an overview of the LID Cost Allocation and Benefit Model and a summary of findings in the Case Study Analysis. Consultant shall facilitate a discussion at PAC Meeting #4 to gather input and direction regarding the preliminary assessment of LID costs and benefits for the two pilot case study areas.

City Deliverables

- 5.1 Round 2 Stakeholder Meetings
- 5.2 Selection of Study Areas for Case Study Analysis
- 5.3 PAC Meeting #4

Consultant Deliverables

- 5.A Round 2 Stakeholder Meetings
- 5.B Case Study Analysis and LID Model
- 5.C PAC Meeting #4

Task 6: Final Plan

6.1 City Work Session

Consultant shall attend a Work Session in Newport for City Council, Planning Commission, and City staff. Consultant shall provide a presentation that summarizes Project findings and recommendations in the LID Implementation Strategies Paper, Revised LID Ordinance and Plan / Code Amendments, and the Case Study Analysis. Consultant shall provide the City with presentation slides for the City's use for future presentations. City shall make arrangements for the City Work Session, including room reservation, inviting participants, and providing notice as required.

6.2 Draft LID Implementation Plan

Consultant shall prepare a Draft LID Implementation Plan that summarizes Project goals and objectives, findings and recommendations. The Draft LID Implementation Plan must include final municipal code and plan amendments needed to implement LIDs as a funding source for transportation projects. Consultant shall provide an electronic version of the Draft LID Implementation Plan to the City for review by staff, officials, and PAC members.

6.3 Public Meeting or Public Hearing

Consultant shall assist City in leading a Public Meeting or Public Hearing in Newport to present and discuss the Draft LID Implementation Plan findings and recommendations. Consultant shall prepare meeting agenda and meeting materials and facilitate the Public Meeting or Public

Hearing over the course of one evening. City shall provide any required legal notice for a Public Hearing and any required staff report including findings.

6.4 Final LID Implementation Plan

City shall compile one set of edits and comments on the Draft LID Implementation Plan in track changes format and provide this electronically to the Consultant. Consultant shall prepare the Final LID Implementation Plan based on edits provided by the City.

City Deliverables

- 6.1 Arrangements for City Work Session
- 6.2 Review and comment on Project deliverables
- 6.3 Legal Notice and logistics for Public Meeting or Public Hearing
- 6.4 Edits to Draft LID Implementation Plan

Consultant Deliverables

- 6.A City Work Session
- 6.B Draft LID Implementation Plan
- 6.C Public Meeting or Public Hearing
- 6.D Final LID Implementation Plan

Consultant Deliverable Amounts and Schedule

Task / Deliverable	Consultant Amount
Task	
1 Project Kickoff and Data Review	\$7,600
1.A Background Data Request	\$3,400
1.B Project Kickoff / Advisory Committee Meeting and Tour	\$4,200
Task	
2 LID Policy Development	\$18,200
2.A LID Policy Issues Paper	\$7,500
2.B Best Practices Issue Paper	\$10,700
Task	
3 LID Implementation Strategies	\$15,600
3.A Round 1 Stakeholder Meetings	\$5,400
3.B PAC Meeting #2	\$2,800
3.C LID Implementation Strategies Paper	\$7,400
Task	
4 Model Code	\$14,500
4.A Draft LID Ordinance and Plan / Code Amendments	\$8,200
4.B PAC Meeting #3	\$3,300
4.C Revised LID Ordinance and Plan / Code Amendments	\$3,000
Task	
5 Case Study Analysis	\$25,100
5.A Round 2 Stakeholder Meetings	\$5,200
5.B Case Study Analysis and LID Model	\$17,200
5.C PAC Meeting #4	\$2,700
Task	
6 Final Plan	\$18,000
6.A City Work Session	\$3,000
6.B Draft LID Implementation Plan	\$7,200
6.C Public Meeting or Public Hearing	\$5,500
6.D Final LID Implementation Plan	\$2,300
TOTAL	\$99,000

Project Schedule

	Task	Schedule
Task 1	Project Kickoff and Data Review	April-May 2015
Task 2	LID Policy Development	May-July 2015
Task 3	LID Implementation Strategies	July-October 2015
Task 4	Model Code	October-December 2015
Task 5	Case Study Analysis	January-March 2016
Task 6	Information Materials and Final Plan	March-June 2016

EXHIBIT B (Local Agency or State Agency)

CONTRACTOR CERTIFICATION

Contractor certifies by signing this contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

AGENCY OFFICIAL CERTIFICATION (ODOT)

Department official likewise certifies by signing this contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

EXHIBIT C

Federal Provisions
Oregon Department of Transportation

I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this contract that to the best of its knowledge and belief, it and its principals:

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency; criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
- 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.

4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

IV. EMPLOYMENT

- 1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- 2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
- 3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be

entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

- 1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
- 2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
- 3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment,

without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such

direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this contract.

Required Statement For USDOT Financial Assistance Agreement. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Obligations. The Oregon Department of Transportation (ODOT) and its contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither ODOT nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to

influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FOR INQUIRY CONCERNING ODOT'S DBE PROGRAM REQUIREMENT CONTACT OFFICE OF CIVIL RIGHTS AT (503)986-4354.

EXHIBIT D
ELIGIBLE PARTICIPATING COST
DESCRIPTION
PERSONNEL SERVICES
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.
SERVICES AND SUPPLIES
In-State Travel - Per Rates Identified in State Travel Handbook
<i>Meals & Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.
<i>Lodging & Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon. Fares, Taxi, Bus, Air, Etc.
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.
Office Expense
<i>Direct Project Expenses Including:</i>
<i>Photo, Video & Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.
<i>Printing, Reproduction & Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.
<i>Postage</i> - Payment for direct project postage.
<i>Freight & Express Mail</i> - Payment for direct project freight services on outgoing shipments.
Telecommunications
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.
Publicity & Publication
<i>Publish & Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.
<i>Conferences</i> (costs to put on conference or seminars)
Equipment \$250 - \$4,999
NOT ELIGIBLE
Employee Training, Excluding Travel
NOT ELIGIBLE
Training In-State Travel
NOT ELIGIBLE
CAPITOL OUTLAY
NOT ELIGIBLE



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VIII,C
Meeting Date: April 20, 2015

Agenda Item:

License Agreement Amendment for the Relocation of the Off-Leash Dog Park in South Beach

Background:

The City of Newport entered into a Park License Agreement with Landwaves, Inc. on August 20, 2010 for an off-leash dog park in the Wilder Planned Development. The agreement called for Landwaves to construct the park with the City of Newport responsible for maintaining the facility. The park is located on commercially zoned property at the northwest corner of SE Harborton Street and SE College Way. Both parties recognized that the location would be temporary, and provisions were drafted into the agreement that Landwaves could move the park, at its expense, once plans were in place to develop the commercial property. The agreement identified an alternate site, on the opposite side of SE Harborton Street underneath the high-voltage power lines, as the future location of the dog park.

Landwaves is now ready to develop the commercial property and they have determined that they would like to relocate the dog park to a new location that was not identified in the original agreement. The new location is the southwest corner of the intersection of SE College Way and SE Harborton Street. This necessitates an amendment to Section 5 of the original agreement, which spells out the terms for relocating the park.

The new location of the dog park is commercially zoned, and it is likely that the dog park will have to be relocated again in the future so that the property can be developed as planned. The proposed amendment will allow the City Manager to approve future changes to the park's location. Landwaves is covering the cost of moving the park fencing and other appurtenances. The city will continue to be responsible for maintaining the facility.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to approve Amendment No. 1 to the Park License Agreement, dated August 20, 2010, with Landwaves, Inc., and authorize the City Manager to sign the document as presented.

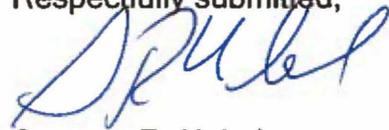
Fiscal Effects:

The Newport Parks and Recreation Department is responsible for maintaining the dog park. Funds have been budgeted for this purpose.

Alternatives:

None. This amendment is necessary for the relocation of the dog park, a popular and well-used facility in the City of Newport.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Spencer R. Nebel", written over the typed name.

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

VIII.C
April 20, 2015

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Amendment No. 1 to Wilder Off-Leash Dog Park License Agreement

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

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest to amend the Wilder Dog Park License Agreement to facilitate relocation of the park to the southwest side of the intersection of SE College Way and SE Harborton Street. This is necessary so that the space where the dog park is currently located can be commercially developed.

STAFF RECOMMENDATION: Staff recommends the City Council adopt the amendment.

PROPOSED MOTION: I move that the City Council adopt Amendment No. 1 to the Park License Agreement, dated August 20, 2010 with Landwaves, Inc., and authorize the City Manager to sign the document as presented.

KEY FACTS AND INFORMATION SUMMARY: City of Newport entered into a Park License Agreement with Landwaves, Inc. on August 20, 2010 for an off-leash dog park in the Wilder Planned Development. The agreement called for Landwaves to construct the park with the City of Newport responsible for maintaining the facility. The park is located on commercial zoned property at the northwest corner of SE Harborton Street and SE College Way. Both parties recognized that the location would be temporary, and provisions were drafted into the agreement that Landwaves could move the park, at its expense, once plans were in place to develop the commercial property. The agreement identified an alternate site, on the opposite side of SE Harborton Street underneath the high-voltage power lines, as the future location of the dog park.

Landwaves is now ready to develop the commercial property and they have determined that they would like to relocate the dog park to a new location that was not identified in the original agreement. The new location is the southwest corner of the intersection of SE College Way and SE Harborton Street. This necessitates an amendment to Section 5 of the original agreement, which spells out the terms for relocating the park.

The new location of the dog park is commercially zoned and it is likely that the dog park will have to be relocated again in the future so that the property can be developed as planned. The proposed amendment will allow the City Manager to approve future changes to the park's location. Landwaves is covering the cost of moving the park fencing and other appurtenances. The City will continue to be responsible for maintaining the facility.

OTHER ALTERNATIVES CONSIDERED: None.

CITY COUNCIL GOALS: None are directly applicable.

ATTACHMENT LIST:

- Amendment No. 1 to Park License Agreement
- Original Park License Agreement

FISCAL NOTES: The Newport Parks and Recreation Department is responsible for maintaining the dog park. Funds have been budgeted for this purpose.

AMENDMENT NO. 1
PARK LICENSE AGREEMENT
Dated August 20, 2010

That certain Park License Agreement between LANDWAVES, INC., and the City of Newport, a municipal corporation of the State of Oregon, effective August 20, 2010 is amended as follows:

- 1) Section 5. Relocation. is amended, in its entirety to read:
 5. Relocation.
 - (a) The parties acknowledge that the existing Wilder Dog Park may be relocated from its current location depicted on Exhibit "A", to the Southwest corner of the intersection of SE Harborton Street and SE College Way, depicted on Exhibit "B", attached to this Amendment No. 1.
 - (b) If Licensor desires to further amend this agreement and relocate the dog park license area, Licensor shall advise Licensee. If the parties are unable to agree upon the relocated dog park license area, then either party may terminate this agreement by providing written notice in accordance with Section 1(b).
 - (c) If the parties agree upon such further and future relocation, the parties shall execute such documents as Licensee reasonable requires, and Licensor shall be solely responsible, at its own cost and expense, for relocating any and all improvements to the dog park license area. For purposes of relocation of the dog park license area, the City Manager may execute amendments on behalf of Licensee
 - (d) Neither party shall be required or obligated to relocate the dog park license area absent agreement to do so.
- 2) Original Agreement: Except as expressly amended above, all other terms and conditions of the original license agreement remain in full force and effect. The parties certify that all representations in the original License Agreement are true and correct as of the date of this Amendment and with the same effect as though made at the time of this Amendment.

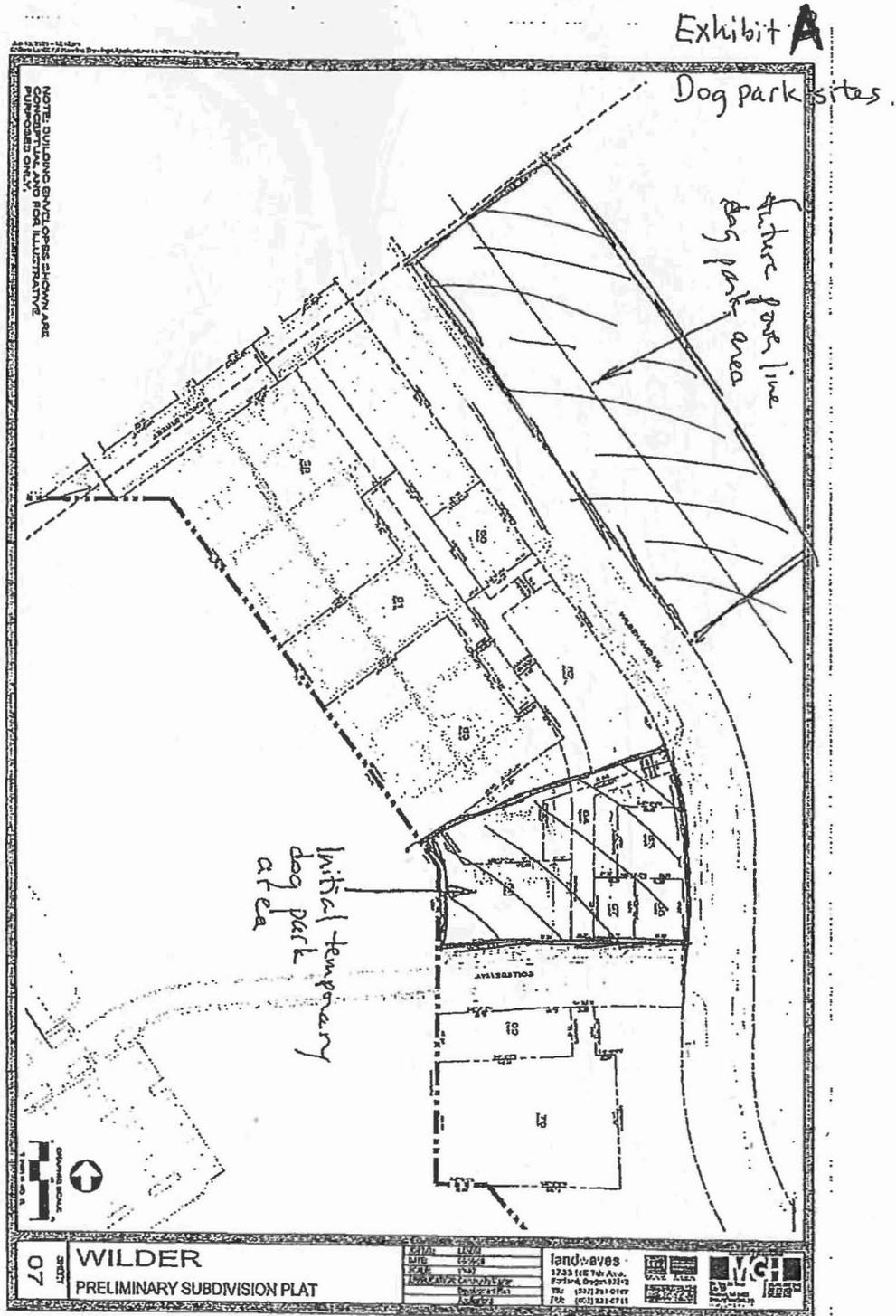
THE PARTIES by execution of this Amendment acknowledge that their signing representatives have read this Amendment, understand it and agree to be bound by its terms and conditions.

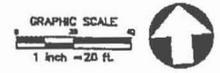
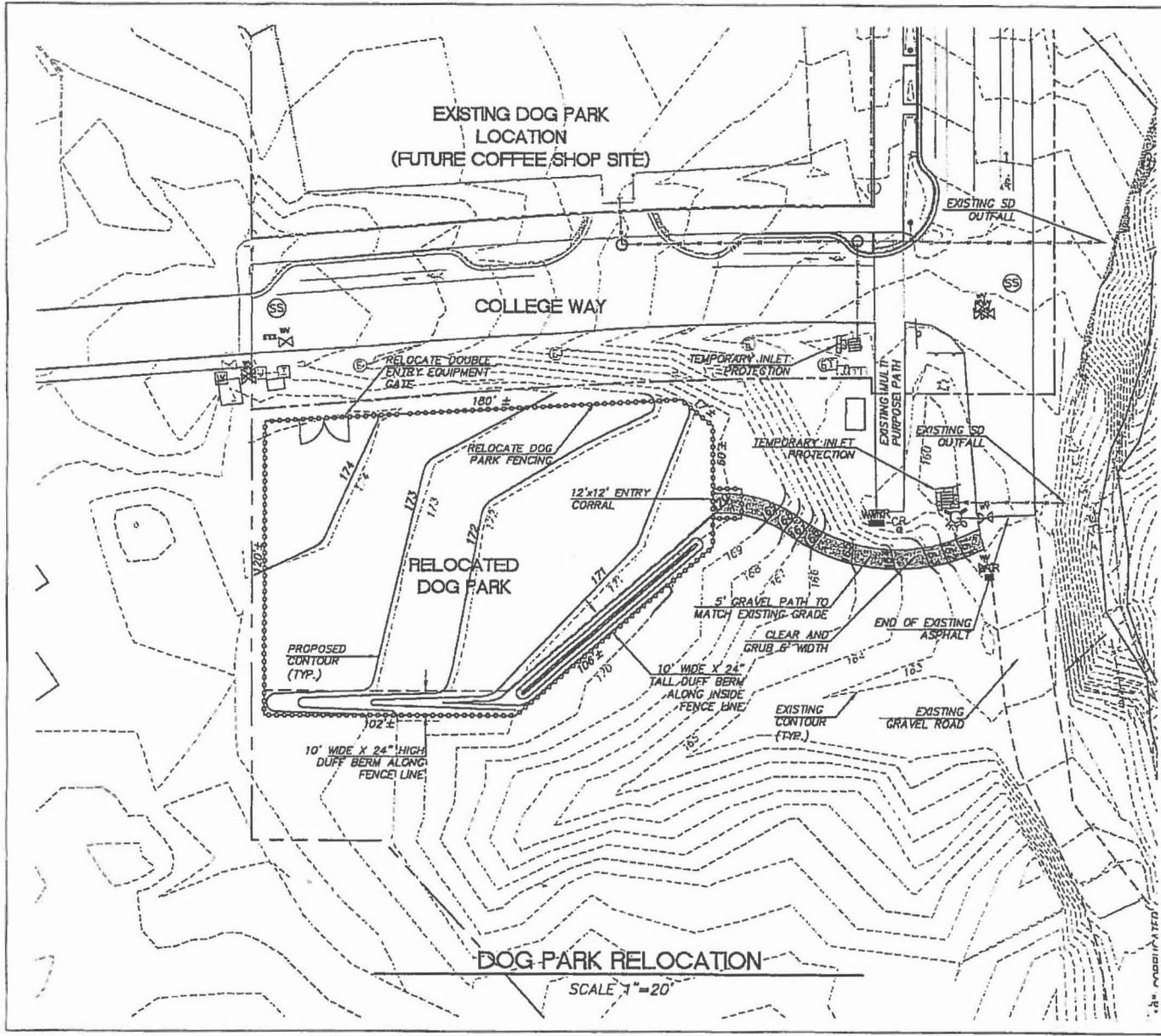
Licensor
LANDWAVES, INC., an Oregon Corporation

By: _____
Title: _____
Date: _____

Licensee
CITY OF NEWPORT, a Municipal corporation of Oregon

By: _____
Title: _____
Date: _____

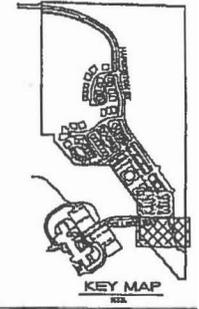




FENCE LENGTH = 574'±
 FENCED AREA = 20,149± SF
 ACCESS PATH LENGTH = 118'±
 ACCESS PATH AREA = 935± SF

SHEET NOTES

1. INSTALL TEMPORARY INLET PROTECTION PRIOR TO CLEARING AND GRADING.
2. CLEAR AREA WITHIN PROPOSED FENCE AND 5- FEET OUTSIDE OF PROPOSED FENCE OF TREES, BRUSH, GRASS, AND WEEDS.
3. ALL AREAS WHICH HAVE BEEN CLEARED OF VEGETATION WILL BE SURFACED WITH BARK SHAVINGS OR RE-SODED AND COVERED WITH AN EROSION CONTROL BLANKET.
4. NO GRADING BEYOND STANDARD CLEARING AND GRADING IS ANTICIPATED TO OCCUR WITH THE RELOCATION OF THE DOG PARK.
5. AREAS 5- FEET OUTSIDE THE PROPOSED FENCE LINE ARE NOT ANTICIPATED TO BE DISTURBED BY CONSTRUCTION ACTIVITIES ASSOCIATED WITH THE RELOCATION OF THE DOG PARK OR WITHIN TWO FEET OF OUTSIDE EDGE OF GRAVEL ACCESS PATH.
6. 5' GRAVEL PATH FROM EXISTING PARKING AREA TO DOG PARK WILL BE THREE INCH CRUSHED ROCK PAD PLACED OVER NATIVE GROUND. PATH TO MATCH EXISTING GRADES.
7. ALL AREAS DISTURBED WILL BE COVERED WITH 4" TO 6" OF BARK CHIPS, EXCEPT GRAVEL PATH AREA.



400 COLUMBIA STREET
 SUITE 100
 VANOCUMER, WA 98666
 ASSOCIATES
 LANDSCAPE ARCHITECTS



DOG PARK RELOCATION
 WILDER COFFEE SHOP
 SITE IMPROVEMENTS
 LANDSCAPE ARCHITECTS
 2712 SE 20TH AVE. - PORTLAND, OREGON 97202

Mar 24, 2015 - 3:04pm
 m:\working\dog park_relocation\04000-0500-0500-dog park.swg

Exhibit B
 Amendment No. 1
 park license Agreement

PARK LICENSE AGREEMENT

THIS PARK LICENSE AGREEMENT (this "Agreement") is dated as of August __, 2010, by and between LANDWAVES, INC., an Oregon corporation ("Licensor"), and the CITY OF NEWPORT, OREGON, a municipal corporation ("Licensee").

1. License.

(a) Grant. In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, Licensor hereby grants to Licensee a non-exclusive license (the "License") over and across an approximately .75 acre piece of real property located in the Wilder development in the South Beach area of Newport, Lincoln County, Oregon generally depicted on the attached **Exhibit A** (the "License Area") for recreation use by the public as an off-leash dog park ("Dog Park") in accordance with the terms of this Agreement.

(b) Term. This Agreement shall be effective upon full execution by both parties. Either party may terminate this Agreement for any reason by providing not less than ninety (90) days advance written notice to the other party in accordance with Section 13 below. Upon the effective date of termination under this Section 1(b), this Agreement and the License shall be automatically terminated and the parties released from any and all obligations hereunder except for those provisions, which by their terms, survive termination of this Agreement.

(c) Termination for Breach. In addition, in the event of Licensee's breach of the terms of this Agreement, Licensor shall have the right to terminate this Agreement by providing Licensee not less than thirty (30) days written notice of Licensor's election to terminate, which shall describe the breach and which shall give Licensee thirty (30) days in which to cure the breach. If Licensee fails to cure the breach within the 30-day period, the License shall be automatically terminated. In the event that Licensee, after receipt of the written notice of breach from Licensor, does not promptly begin curing of the breach and the breach is of such a nature that it presents a dangerous or unsafe situation for the public, Licensor may elect to perform maintenance or repair so that the dangerous or unsafe situation is remediated.

(d) Removal of Improvements. Upon termination, improvements made to the Dog Park may be kept in place or removed at the option of Licensor. Licensor shall be responsible for the cost of removing the improvements.

2. Installation. Licensor has cleared and graded the License Area to make it suitable for an off-leash dog park. Licensor has installed the following improvements on the License Area at Licensor's sole cost and expense: a perimeter cyclone fence between 40 and 50 inches tall; a small entry/exit corral to prevent dogs from escaping when gates are open; wood chips on the surface; a drinking water spigot for dogs (including a water meter for the water service); a waste bag dispensing station; at least one waste container; and signage explaining use rules. Licensor shall have the option of planting the surface with grass rather than creating a wood chip surface. Licensor reserves the right, but shall not be obligated, to install future improvements within the License Area. No dedicated parking for the Dog Park is required to be provided by Licensor or Licensee.

3. Maintenance; Operation. The on-site signage installed by Licensor shall advise users that they are responsible for picking up after their own animals and for using an on-site

wood chip supply to fill in holes created by their animals. Licensee shall have the obligation to maintain the License Area in good condition and repair at its sole cost and expense, including the regular emptying of trash receptacles, the re-stocking of wood chips for surface maintenance (or mowing grass regularly if Licensor has elected to plant grass in lieu of creating a wood chip surface) and weekly removal and replacement of soiled wood chips. Maintenance shall be performed in a good and workmanlike manner, and solely by persons working under contract with Licensee or under the supervision and control of Licensee, including, without limitations, any contractors or volunteers of Licensee. Licensee shall not make any changes or alterations to the License Area without the written consent of Licensor, which consent may be granted or withheld in Licensor's sole discretion. Licensee shall be responsible for the cost of water usage in the Dog Park.

The City?

4. Scope of Use. The License is granted to provide authority to the Licensee to maintain and operate a public off-leash dog park for recreational purposes. The only use of the License Area that may be made by the general public is non-vehicular pedestrian and dog access for recreational purposes consistent with ORS 105.682. All activities of Licensee and/or the general public other than those allowed by this Section 4 are prohibited in the License Area, including, without limitation, commercial activities, loitering, vehicle access or parking, public assemblies or any activity that would be a constitutionally protected activity if performed on public property.

5. Relocation. Licensor intends that the License Area be developed in the future for other uses. Development of the License Area is anticipated to begin in the summer of 2011, depending on market conditions. At that time, Licensor shall advise Licensee in writing that it wishes to relocate the License Area to the area generally depicted on the attached **Exhibit B** (the "Future License Area"). If the parties are unable to agree upon such relocation within thirty (30) days, then either party may terminate this Agreement by giving written notice in accordance with Section 1(b) above. If the parties agree upon such relocation in writing, (a) Licensor and Licensee shall execute and deliver such documents as Licensor reasonably requires to reflect such relocation; and (b) Licensor shall be solely responsible, at its own cost and expense, for relocating all improvements to the Future License Area. If the Future License Area is developed, the parties may, but neither shall be obligated, to relocate the License Area to another location on property owned by Licensor or one of its affiliates.

6. Reservation of Rights by Licensor; Closure. For so long as this Agreement remains in effect, Licensor and its authorized users shall have the right to use the License Area for activities related to preparation for development, including without limitation surveys and due diligence studies. The parties acknowledge that Central Lincoln Peoples' Utility District has an easement for transmission lines and poles under which it may have access rights to the Future License Area. Licensee shall not damage or cause interference with the operations of any improvements or facilities installed by Licensor or other authorized users of the License Area. Licensor shall be entitled to temporarily close access to the License Area for any reason. If reasonably possible, Licensor will provide to Licensee notice and other relevant details related to the closure prior to closure of the License Area.

7. Liens. Licensee shall not permit any claim, lien or other encumbrance arising from Licensee's use of the License Area to accrue against or attach to the License Area or the interest of Licensor in adjacent lands.

8. Insurance. Licensee shall keep in force at Licensee's expense, a commercial general liability insurance including bodily injury, property damage, personal injury and contractual liability with limits of not less than a combined single limit of Two Million and No/100 Dollars (\$2,000,000.00) with standard (ISO) cross liability and a separation of insureds provision to be adjusted from time to time for inflationary purposes. Such insurance policy shall name Licensor as an additional insured and shall be primary and non-contributory. Licensee shall deposit the policy or policies of such insurance or a certificate or certificates thereof with Licensor no less than five (5) days after the full execution of this Agreement and evidence of all renewals of same shall contain a cancellation notification of not less than thirty (30) days before such policy is to be terminated.

9. Indemnity. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, Licensee shall also indemnify, protect, defend (and, if permitted by Licensee's insurer, with counsel selected by Licensor and reasonably acceptable to Licensee) and hold harmless Licensor, its successors and assigns for, from and against any and all actual or threatened claims, liabilities, liens, injuries, actions, damages, costs, expenses (including attorney fees) and losses to persons or property or to natural resources to the extent directly or indirectly arising out of, or resulting from: (a) the use by Licensee (and its respective agents, employees, contractors, or any others working under its supervision and control) and/or the general public of the License Area; or (b) the failure of Licensee to comply with the terms and provisions of this Agreement including, without limitation, as a result of any violation of Section 7 relating to liens. Notwithstanding the foregoing, in no event shall Licensee be obligated to indemnify Licensor from any liability, claim, action, damage or loss arising from the gross negligence or misconduct of Licensor or its respective agents, employees or contractors. The terms of this Section 9 shall survive termination of this Agreement.

10. Exculpation. Except as otherwise set forth herein, Licensor shall have no liability to Licensee or the public arising out of the condition, improvement, operation, maintenance, repair or replacement of the License Area, the improvements or landscaping located thereon, or the use thereof, except to the extent arising from the gross negligence or misconduct of Licensor. Licensee accepts the License Area in its "AS IS" condition, with all faults, and hereby releases and waives any and all claims that Licensee, its employees, invitees, contractors or agents may have or hereafter acquire in connection with use of the License Area as set forth in this Agreement. This exculpation is in addition to immunity conferred upon Licensor by ORS 105.682 for recreational use of the License Area by the general public. The terms of this Section 10 shall survive termination of this Agreement.

11. Compliance With Laws. Licensee shall cause its use of the License Area to be in accordance with all applicable laws, rules and regulations, *provided, however*, in the event Licensee's obligations to comply with laws violates any other term or provision of this Agreement, the parties will cooperate in using reasonable efforts to modify this Agreement so that Licensee may comply with all laws. If the parties are unable to modify this Agreement after making reasonable efforts to do so, this Agreement shall automatically terminate.

12. Assignments. Licensee may not assign or transfer its interest in the License Area without Licensor's prior written consent. Licensor shall have the right at any time to delegate any of Licensor's rights and remedies under this Agreement to its successors and assigns.

13. Notices. All notices given under this Agreement shall be sent in writing to the following addresses with applicable delivery or postage charges prepaid by personal delivery, overnight courier service, registered or certified United States mail (return receipt requested), facsimile or email and such notices shall be deemed received on the earlier to occur of actual delivery or refusal of a party to accept delivery thereof:

Licensor: Landwaves, Inc.
Attn: Bonnie Serkin
PO Box 12085
Portland, Oregon 97212
Phone: 503-221-0167
Email: bonnie@eenw.com

Licensee: City of Newport
Attn: City Manager
169 SW Coast Highway
Newport, Oregon 97365 –
541.574.0604/
Email: c.atkinson@thecityofnewport.net

14. Time is of the Essence. The time of the performance of all covenants, conditions and agreements of this Agreement is of the essence in this Agreement.

15. Entire Agreement; Amendment. This Agreement and the Exhibits attached hereto constitute the sole and exclusive agreement between the parties with respect to the Agreement. This Agreement may not be modified or amended except by the written agreement of the parties.

16. Waiver. One or more waivers of any covenant or condition by Licensor shall not be construed as a waiver of a subsequent breach of the same or any other covenant or condition, and the consent or approval by Licensor to or of any act by Licensee requiring Licensor's consent or approval shall not be construed to waive or render unnecessary Licensor's consent or approval to or of any subsequent similar act by Licensee.

17. Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

18. Survival. The provisions of this Agreement with respect to any indemnity obligation or exculpation shall survive the termination of this Agreement. In addition, Termination of this Agreement shall not diminish the immunity provided to Licensor under ORS 105.682.

19. No Third Party Beneficiaries. There are no intended third party beneficiaries of this Agreement, and no party, other than Licensor and Licensee, shall be entitled to enforce or claim reliance on this Agreement.

IN WITNESS whereof Licensor and Licensee herein have executed this Agreement as of the date first indicated above.

LICENSOR: LANDWAVES, INC., an Oregon Corporation

By: [Signature]
Name: WILL FURUY
Title: President
Date: 8/26/10

LICENSEE: CITY OF NEWPORT, OREGON

By: [Signature]
Name: Jim Voetberg
Title: City Manager
Date: 8/18/10

APPROVED AS TO FORM FOR THE CITY:

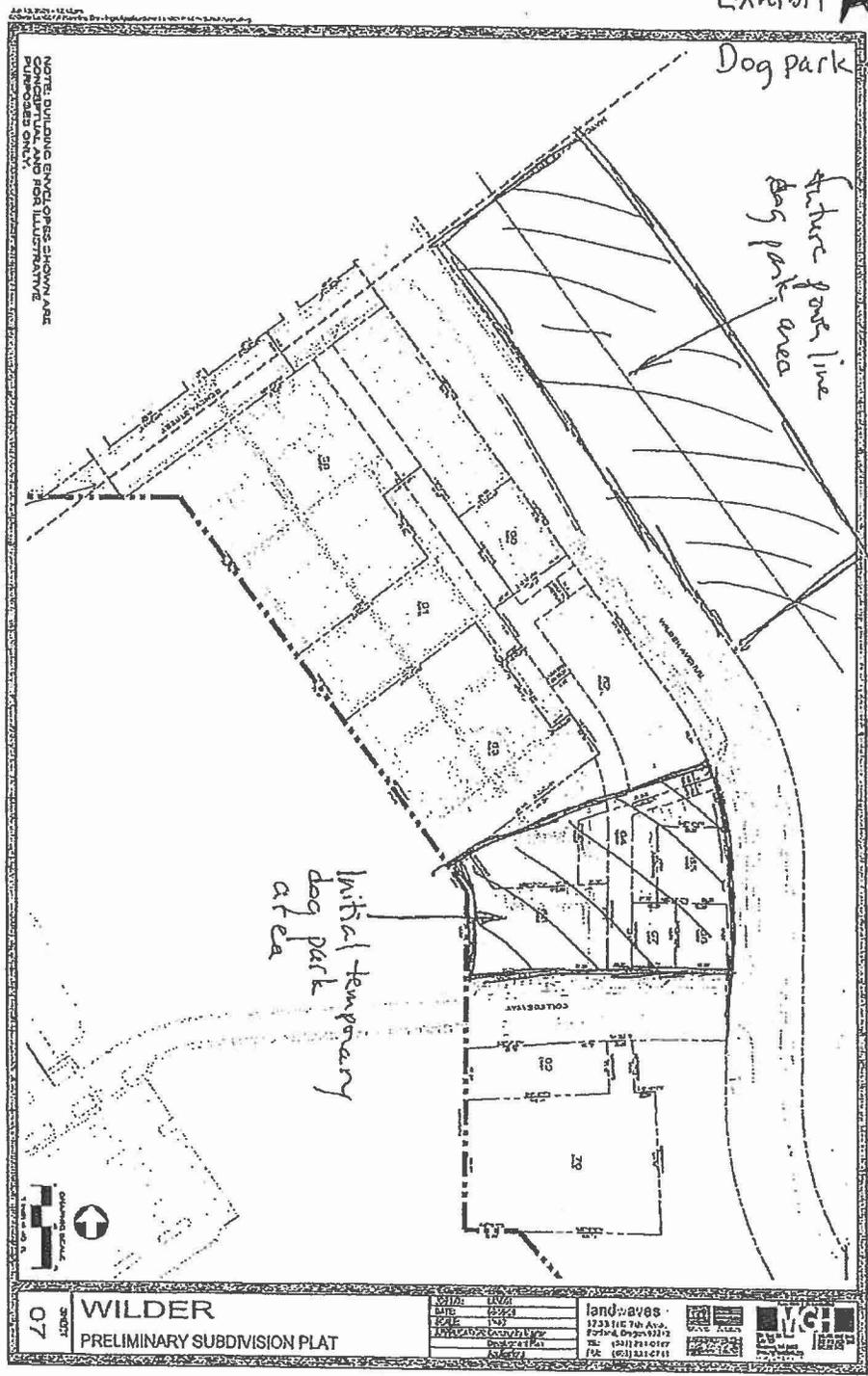
By: [Signature]
Name: Penelope McCarthy
Title: City Attorney
Date: 8-19-10

Exhibit A

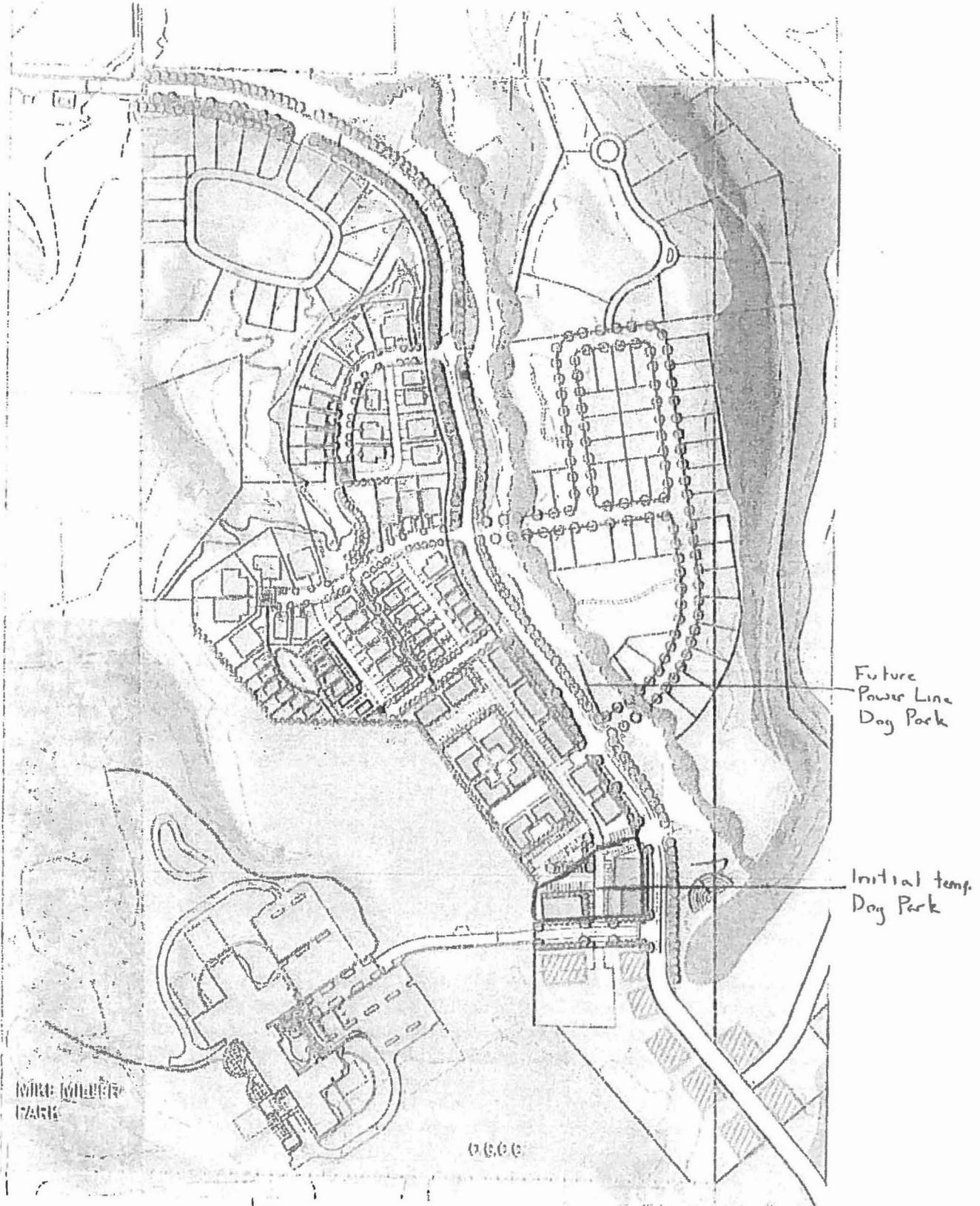
Dog park sites.

Further zone line
dog park area

Initial temporary
dog park
area



NOTE: BUILDING ENVIRONMENT SHOWN ARE PURPOSES ONLY



landwaves™



WILDER COMMUNITY MASTER PLAN
PHASE 1A SUBDIVISION PLAN

JULY 2009

Exhibit B

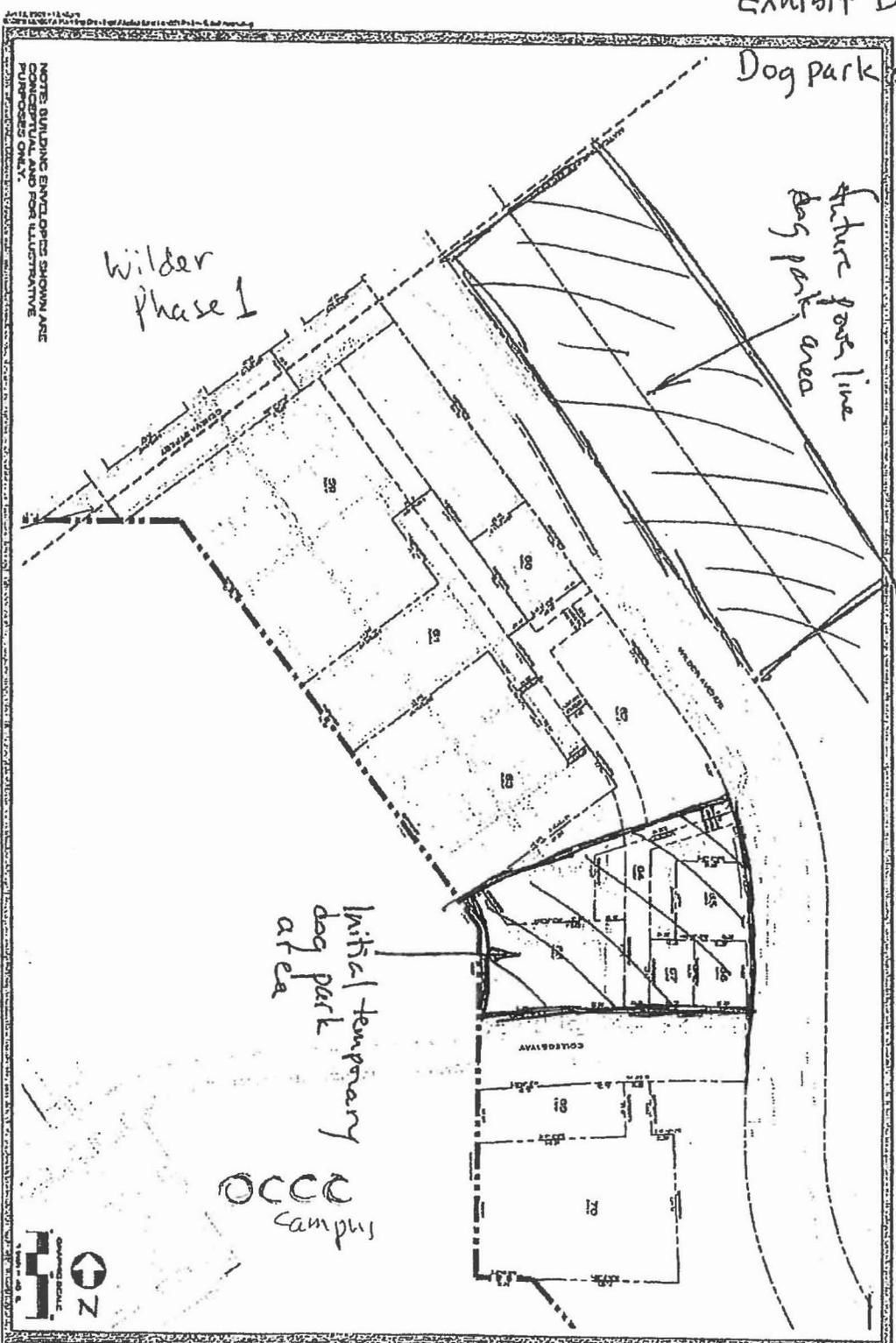
Dog park sites

future pass line
dog park area

wilder
Phase 1

Initial temporary
dog park
area

occc
campus



NOTES: SURROUNDING STREET PAVEMENT SHOWN ARE CONCEPTUAL AND FOR ILLUSTRATIVE PURPOSES ONLY.





CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda #: VIII.D.
Meeting Date: April 20, 2015

Agenda Item:

Consideration of a 12-Month Extension of the Nye Beach Commercial Parking District

Background:

At the request of area business owners, the City Council adopted Ordinance No. 1993 establishing the Nye Beach Commercial Parking District to generate funding to pay for parking system improvements. The parking district is an economic improvement district, funded through a business license surcharge, and was authorized for a five-year period beginning July 1, 2010.

Many of the businesses in Nye Beach rely upon public parking assets to meet their parking needs, and there is no dedicated source of funding to maintain or enhance these facilities. The parking district was created as an alternative to a program that allowed developers to pay a fee in lieu of providing new off-street parking spaces to address the impacts attributed to their projects - a program that proved to be unwieldy. If the parking district expires, the "payment in lieu" option would become available again. The Planning Commission is taking steps to eliminate that option from the zoning code with such an amendment being subject to City Council approval at a future meeting. Without a parking district of some sort or a payment in lieu option, development in Nye Beach will be restricted to those projects that can provide the parking they need outside of the public rights-of-way.

A citizen advisory committee provides oversight regarding the use of parking district funds and a memo is included in the packet showing the improvements that have been funded since the district was established. Also, included is an outline of the scope of work for the parking study.

An economic improvement district that is funded through a business license surcharge may be extended by ordinance provided the affected business owners are given an opportunity to testify in favor or opposition to the proposal (ORS 223.147(2)(b) to (d)). The notice must be provided at least 30 days prior to the date of the public hearing. If more than 33 percent of the affected businesses object, then the district will not be extended and will expire effective July 1, 2015.

Council is being asked, at this meeting, to consider whether or not to set a date for a public hearing to consider an ordinance that would extend the Nye Beach Commercial Parking

District for a period of 12-months. This would allow the business license surcharge established with Ordinance No. 1993 to be collected for the sixth consecutive year.

The Parking District Advisory Committee supports the extension as it will provide sufficient time for a parking study to be performed to establish whether the parking district should continue in its current form or whether an alternative approach should be pursued to address the areas parking needs. It will also provide additional funding to pay for a portion of the cost of reconstructing and enhancing the Nye Beach turnaround should that project be funded next year.

Recommended Action:

I recommend that the City Council consider the following motion:

I move to set June 1, 2015, at 6:00 P.M. or soon thereafter, as the date and time for a public hearing at which the City Council will consider an ordinance that will extend the Nye Beach Commercial Parking District for a period of 12-months and further direct staff to provide the affected business owners with notice of the hearing as provided in ORS 223.154.

Fiscal Effects:

Extending the district for 12-months will generate approximately \$8,700 in additional revenue. There is a cost to the city in preparing the required notices, conducting hearings, and putting together informational materials. Those costs are anticipated in the existing budget. Should the district be extended, there will also be a cost to the city in providing staff support to the district.

Alternatives:

None.

Respectfully submitted,

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

VIII.D
April 20, 2015

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Potential 12-month Extension to the Nye Beach Commercial Parking District

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

ISSUE BEFORE THE COUNCIL: Consideration of whether or not the City Council should set a date for a public hearing to consider an ordinance that would extend the Nye Beach Commercial Parking District for a period of 12-months. This would allow the business license surcharge established with Ordinance No. 1993 to be collected for a 6th consecutive year. State law requires that a hearing on such an ordinance be set at least 30-days out to provide affected business owners an opportunity to appear in support or opposition to the proposal.

The Parking District Advisory Committee supports the extension as it will provide sufficient time for a parking study to be performed to establish whether or not the parking district should continue in its current form or whether an alternative approach should be pursued to address the areas parking needs. It will also provide additional funding to pay for a portion of the cost of reconstructing and enhancing the Nye Beach turnaround should that project be funded next year.

STAFF RECOMMENDATION: Staff recommends the Council set June 1, 2015 as the date for consideration of the 12 month extension.

PROPOSED MOTION: I move that the Council set June 1, 2015 at 6:00 pm or soon thereafter as the date and time for a public hearing at which the Council will consider an ordinance that will extend the Nye Beach Commercial Parking District for a period of 12-months and further direct staff to provide the affected business owners with notice of the hearing as provided in ORS 223.154.

KEY FACTS AND INFORMATION SUMMARY: At the request of area business owners the City Council adopted Ordinance No. 1993 establishing the Nye Beach Commercial Parking District to generate funding to pay for parking system improvements. The Parking District is an economic improvement district, funded through a business license surcharge, and was authorized for a 5 year period beginning July 1, 2010.

Many of the businesses in Nye Beach rely upon public parking assets to meet their parking needs. There is no dedicated source of funding to maintain or enhance these facilities. The Commercial Parking District was put in place as an alternative to a program that allowed developers to pay a fee in lieu of providing new off-street parking spaces to address the impacts attributed to their projects. That program proved to be unwieldy in the past. If the parking district expires, the “payment in lieu” option would become available again. The Planning Commission is taking steps to eliminate that option from the Newport Zoning Ordinance with such an amendment being subject to City Council approval at a future meeting. Without a parking district of some sort or a payment in lieu option, development in Nye Beach will be restricted to those projects that can provide the parking they need outside of the public rights-of-way.

A citizen advisory committee provides oversight regarding the use of parking district funds and a memo is attached showing the improvements that have been funded since the district was established. Also, enclosed is an outline of the scope of work for the parking study.

An economic improvement district that is funded through a business license surcharge may be extended by ordinance provided the affected business owners are given an opportunity to testify in favor or opposition to the proposal (ORS 223.147(2)(b) to (d)). The notice must be provided at least 30 days prior to the date of the public hearing. If more than 33 percent of the affected businesses object then the district will not be extended and will expire effective July 1, 2015.

OTHER ALTERNATIVES CONSIDERED: None.

CITY COUNCIL GOALS: This is not related to a specific Council goal.

ATTACHMENT LIST:

- Ordinance No. 1993
- Parking District update, dated June 12, 2014
- Outline for Parking Management Plan scope of work, dated March 31, 2015
- Applicable provisions of ORS Chapter 223
- Minutes from the April 1, 2015 Nye Beach Parking District meeting

FISCAL NOTES: Extending the district for 12-months will generate approximately \$8,700 in additional revenue. There is a cost to the City in preparing the required notices, conducting hearings, and putting together informational materials. Those costs are anticipated in the existing budget. Should the district be extended, there will also be a cost to the City in providing staff support to the district.

CITY OF NEWPORT
ORDINANCE NO. 1993

AN ORDINANCE AMENDING ORDINANCE NO 1979, ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT PURSUANT TO ORS 223.144 IN THE NYE BEACH AREA FOR PARKING SYSTEM IMPROVEMENTS AND ASSESSMENT OF A SURCHARGE ON BUSINESS LICENSE FEES FOR BUSINESSES WITHIN THE DISTRICT

WHEREAS, the Newport Zoning Ordinance allows businesses in the Nye Beach, Bayfront, and City Center areas to pay an annual fee of \$175 per space “in lieu” of providing an off-street parking space that would otherwise be required (Section 2-3-6.050).

WHEREAS, the payment in lieu option was put in place in the 1980’s and the annual fee has not changed over time.

WHEREAS, the Mayor appointed a Payment in Lieu of Parking Task Force, confirmed by City Council, to evaluate the fee charged with the payment in lieu of parking program. The Task Force held a series of public meetings in 2006 and 2007, which resulted in a recommendation to change the annual fee of \$175 per space to a one time charge of \$7,500 per space. The Planning Commission and City Council held hearings on the Task Force recommendations, and the Council adopted the recommendations in February of 2008.

WHEREAS, during the hearings, a number of individuals expressed an interest in forming parking districts as an alternative to the existing payment in lieu approach, which they viewed as outdated, and the Task Force recommendations, which they viewed as untenable for many businesses. Council directed staff to assist them in developing concepts and on February 4, 2008, set the Task Force recommendations aside for 18 months to allow the work to proceed. On September 8, 2009, the Council extended the 18 month period for an additional 12 months, to August 4, 2010.

WHEREAS, the City sponsored workshops on the basics of forming a parking district on April 27, 2008. On July 29, 2008 City staff met with interested individuals in the Nye Beach area regarding the potential formation of a parking district in Nye Beach. City Staff continued to meet with individuals interested in forming a parking district in Nye Beach through the balance of 2008 and early 2009 to answer questions and assist in preparing materials, which culminated in an Economic Development Plan for Nye Beach parking system improvements. The Plan included a business license surcharge as a proposed method of financing the improvements.

WHEREAS, the City Council met on May 18, 2009 to consider the Economic Development Plan and associated business license surcharge fee and chose to initiate the process of forming the Nye Beach Commercial Parking District by adopting Ordinance No. 1979.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1: Findings: The City Council adopts the following findings of fact:

- (a) The City Council held public hearings on July 6, 2009 and August 17, 2009 regarding the establishment of an economic improvement district for parking improvements in Nye Beach;
- (b) Written notice to the affected property owners was mailed no less than thirty (30) days prior to each hearing announcing the Council's intent to form the district and to impose a business license fee upon persons conducting business within the district to pay for the improvements;
- (c) Notice of said hearings included the amount of the proposed surcharge and time and place of the hearing at which affected persons could appear to support or object to the formation of a district and proposed business license fee;
- (d) Fewer than 33 percent of persons conducting business within the boundaries of the proposed district who will be subject to the business license surcharge submitted written objections to the fee;
- (e) The area within the boundaries of the proposed district is zoned commercial;
- (f) A preliminary estimate of the probable cost of the economic improvements to be funded pursuant to Section 2 of this Ordinance is \$7,500 to \$10,000 per year, and the proposed schedule for apportioning costs is set forth in Section 3 of this Ordinance;
- (g) The business license surcharge to be assessed is in proportion to the benefit that each business may derive from the district.

Section 2: Establishment of a Nye Beach Commercial Parking District (NBCPD).

- (a) The City Council hereby approves and creates the "Nye Beach Commercial Parking District" ("District").
- (b) The District is created for the purpose of making economic improvements as defined in ORS 223.141(4), and in particular, for the purpose of the improvement in parking systems in the Nye Beach commercial area as allowed under ORS 223.141(4)(e). The economic improvement projects to be undertaken or constructed include:
 - i. Parking improvements on available public or private land and undeveloped public rights-of-way;
 - ii. Sidewalk improvements that provide connectivity between areas of available parking and Nye Beach commercial areas;

- iii. Leasing of private parking lots for public or employee use with a focus on private parking lots that are not fully utilized by the existing property owners during peak summer weekends. Such leases are subject to Section 4(e) below;
- iv. Parking system improvements such as signage, stripping, parking time limitations and similar improvements;
- v. Support of transportation alternatives such as bicycle facilities or bus shuttle service.

(b) The boundaries of the District are depicted on Exhibit A to this ordinance.

Section 3: Enactment of a Business License Surcharge Fee.

- (a) Businesses within the District shall be assessed a business license surcharge in accordance with the following schedule:
 - i. \$250 per business license where no off-street parking spaces are provided; or
 - ii. \$150 per business license where 1-3 off-street parking spaces are provided for the business; or
 - iii. \$100 per business license for all other businesses operating within the district.
- (b) Surcharges shall be assessed annually on a fiscal year basis, commencing July 1 and ending June 30 of the following year, or such other timeframe as provided in the Newport Municipal Code.
- (c) The amount each business is required to pay under the schedule in (a) above shall be established by the District's Advisory Committee on an annual basis.
- (d) City shall establish a separate account into which shall be paid all revenues from the business license surcharge, and such monies shall be reserved and managed for exclusive use of the District.
- (e) Annual surcharges shall apply to businesses that are otherwise exempt from business license fees.

Section 4: Establishment of a District Advisory Committee.

- (a) Council shall establish an advisory committee to develop a plan for the completion of improvements and to allocate expenditure of monies for activities within the scope of the plan. An association of persons conducting business within the District may be designated to serve in the capacity of an advisory committee.
- (b) In appointing members to a committee, the Council shall include persons conducting business within the District.

- (c) An association of persons conducting business within the District (“Association”) may be designated to serve in the capacity of an advisory committee. If this occurs the City and the Association will execute an agreement describing each party’s respective responsibilities regarding the District. After entering into an agreement with the City, the Association may enter into agreements with third parties to perform improvements.
- (d) The advisory committee or Association may request that the City perform improvements. Should the City elect and be allowed under law to perform improvements, such services will be charged in the amount and manner allowed by law and will be paid for through revenues from the business license surcharge.
- (e) Lease arrangements, as envisioned in this ordinance, may only be executed between an Association serving as an advisory committee, and a willing party. The City will not be signatory to, or participate in the preparation or implementation of lease agreements nor any improvements made on, to, or involving private property.

Section 5: Reporting Requirements: An Association or advisory committee shall maintain records of all expenditures made towards the completion of economic improvements and shall provide such records to the City when requested.

Section 6: Availability of Parking Fund Revenues:

- (a) In addition to monies generated through a business license surcharge, an Association or advisory committee may develop an improvement plan and make a recommendation on the expenditure of funds the City specifically budgets for use by parking districts. Authorization for the use of such funds shall be subject to City Manager approval and public contracting requirements.
- (b) The City Manager is authorized to provide an Association appointed by the Council to serve as the advisory committee, with up to \$1000 of parking fund revenues, to prepare the Association to perform its advisory responsibilities.

Section 7: Payment in Lieu of Parking Fees.

- (a) As allowed under NZO Section 2-3-6.050, businesses within the District that pay a business license surcharge shall not be subject to payment in lieu of parking fees for up to five (5) off-street parking spaces per business. Businesses that require more than five (5) off-street parking spaces shall provide the additional spaces in accordance with applicable provisions of the Newport Zoning Ordinance. The City shall determine the amount of off-street parking a business must provide.
- (b) All agreements between the City and businesses within the district for payment in lieu of parking fees shall terminate as of the effective date of this ordinance.
- (c) City shall provide a final invoice to each business with a balance due for payment in lieu fees prior to the effective date of this ordinance. Notwithstanding the termination

of any agreement as set forth in subsection (b) above, the City reserves the right to collect all sums due to the City as reflected on the invoice.

Section 8: City Approval Required: City approval is required for economic improvements within public rights-of-way.

Section 9: Exemptions. The provisions of this Ordinance shall not apply to the following:

- (a) Residential real property or any portion of a structure used primarily for residential purposes; or
- (b) Businesses operated on an occasional basis for not more than one or two days per week or one month a year.

Section 10: Duration. The District shall be in effect for five (5) consecutive years, commencing upon the effective date of this ordinance. Council may extend the duration of the District, after following the public notice procedure outlined in ORS 223.147. In the event the District is not renewed, then payment in lieu of parking shall apply to the extent provided for in the Newport Zoning Ordinance in effect at the time the District is dissolved.

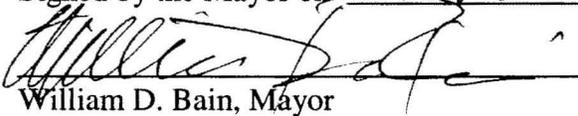
Section 11: Severability. The sections of this ordinance are severable. The invalidity of a section or part of a section shall not affect the validity of the remaining sections or parts of sections.

Section 12: Effective Date: This ordinance shall become effective on July 1, 2010.

Date adopted on initial vote and read by title only: November 2, 2009

Date adopted on final roll call vote: November 2, 2009

Signed by the Mayor on November 5, 2009.


William D. Bain, Mayor

ATTEST:

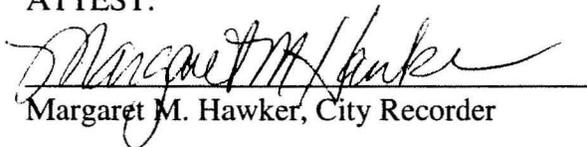
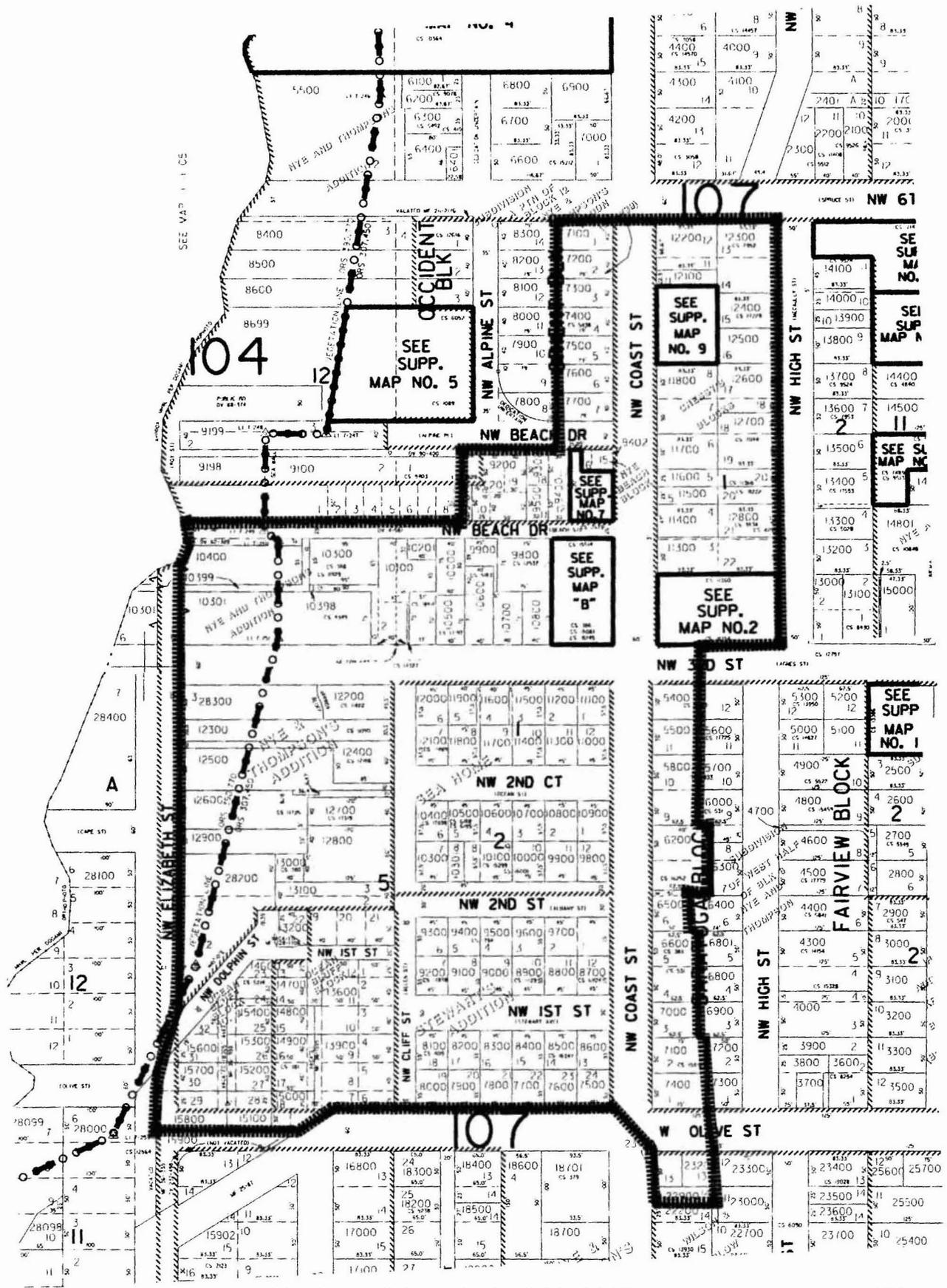

Margaret M. Hawker, City Recorder

Exhibit A to Ordinance No. _____, Amending Ordinance No. 1979, Establishing an Economic Improvement District Pursuant to ORS 223.144 In the Nye Beach Area for Parking System Improvements and Assessment of a Surcharge on Business License Fees for Businesses within the District



Memorandum

To: Newport City Council
From: Derrick Tokos, Community Development Director
Date: June 12, 2014
Re: Parking District Update

The following is a brief overview and list of accomplishments associated with each of the City's three parking districts (Bay Front, City Center, and Nye Beach). General observations are included at the end of the memo. Implementing ordinances for each of the three districts are enclosed, and advisory committee members have been invited to attend the Council work session and share their observations as well.

Bay Front District

Created with Ord. No. 2020, effective October 19, 2011

Advisory Committee Members: Gary Ripka, Janet Webster, Cris Torp, Gabrielle McEntee-Wilson, Mike Pettis and Kevin Greenwood.

Resources: FY 14/15 beginning fund balance of \$33,782. Annual revenue from business license surcharge and fixed contribution from the Port of Newport in the amount of \$18,900. District also has \$231,646 available to it from the old "payment-in-lieu" parking fund.

Accomplishments: Assessed the viability of expanding the Lee Street parking lot; made targeted improvements to pedestrian crossings, sidewalks, and ADA ramps to improve safety; funded striping of additional parking spaces at Port Dock 7; assessed and funded construction of a section of sidewalk on Bay Street and is exploring opportunities for seasonal shuttle service and funding requirements for structured parking.

City Center District

Created with Ord. No. 2009, effective January 5, 2011

Advisory Committee Members: Bill Bain, Frank Geltner, and Tom McNamara.

Resources: FY 14/15 beginning fund balance of \$5,051. Annual revenue from business license surcharge in the amount of \$3,368.

Accomplishments: Funded the resurfacing and striping of the 9th and Hurbert parking lot, adjusted the location of timed parking and loading zones to improve the availability of parking spaces, and identified and corrected barriers to pedestrian movement within the district.

Nye Beach District

Created with Ord. No. 1993, effective July 1, 2010

Advisory Committee Members: Jody George, Kathy Cleary, Linda Neigebauer, Wendy Engler, Dave Teem.

Resources: FY 14/15 beginning fund balance of \$23,525. Annual revenue from business license surcharge in the amount of \$8,700.

Accomplishments: Partially funded improvements to 3rd Street sidewalks with the district's share of the "payment-in-lieu" parking funds. Instituted changes to timed parking limitations in the district by standardizing limits at 3-hours and adjusting the type and location of signage and loading areas. Additionally, the district instituted a parking sticker program, extended striping for parallel parking on NW Coast and NW 3rd Streets, secured changes to parking lot location and directional signage, addressed pedestrian obstructions, and funded streetscape enhancements at the entrance to the Nye Beach Turnaround. Existing funds are being reserved as potential contributions towards resurfacing the Nye Beach turnaround, sidewalk improvements in the vicinity of the old dry cleaners, or improving lighting along NW 3rd Street.

Observations: Nye Beach has been the most active district, at times meeting as frequently as every 6-weeks to review the status and provide feedback and general direction on projects. The district has been inactive this year, with a majority of the members volunteering time on the Planning Commission's Nye Beach design review ad-hoc committee. Bay Front and City Center districts have typically met once or twice a year. Districts could be more active and might potentially accomplish more in the way of projects if they had additional staff resources. This has been a limiting factor.

With that said, the amount of funding generated within each district is not sufficient to pay for major improvements to the parking system. This limits the scope of projects that the parking districts can undertake to those associated with maintenance of existing parking and pedestrian improvements, correcting and adjusting signage and striping to improve efficiencies, and addressing gaps in the system such as missing sidewalk connections. New or alternate funding sources will need to be pursued if more substantial improvements are desired, such as a structured parking lot in the Bay Front or Nye Beach areas.

Forming economic improvement or "Parking Districts" that use a business license surcharge to collect funds for parking system improvements has proven to be more effective than the previous approach of customized "payment-in-lieu" agreements with property owners who could not provide off-street parking that would otherwise have been required with new development. It has been far easier to administer, and business owners appear to be satisfied that this approach is ensuring that they are all participating in an equitable manner. By ordinance, the payment-in-lieu system will become the norm again if the districts are not extended at the end of the 5 year term, and there should be some thought as to whether or not there might be a better alternative.

Creating advisory committees has led to greater involvement from area business owners in the management of public parking assets and they have proven to be a very helpful sounding board for city staff on projects. The 3rd Street sidewalk work is a good example, with Public Works staff regularly vetting design issues with the committee and committee members participating in public outreach efforts. Achieving quorums has been an issue at times with the City Center and Bay Front Districts. This is due to the small size of the City Center Advisory Committee (just three members) and the Bay Front Advisory Committee having an even number of representatives from fishing and tourist-oriented business interests.

Like the prior "payment-in-lieu" program, parking districts provide relief from a limited number of off-street parking spaces for new development or redevelopment. This has been somewhat helpful, facilitating the leasing of vacant retail space in the Bay Front area for example; however, by in large it hasn't been a significant factor. Providing wholesale relief from off-street parking standards would have a more meaningful impact. This would likely need to be coupled with some sort of funding package sufficient to support the construction of new spaces, such as structured parking, in order for it to be feasible given the limited supply of parking in Nye Beach and the Bay Front.

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MARCH 31, 2015

**PARKING MANAGEMENT PLAN
BAYFRONT, NYE BEACH, CITY CENTER BUSINESS DISTRICTS**

PURPOSE: Develop an effective parking management strategy for the Bay Front, Nye Beach and City Center areas that will maximize the available parking supply to support a vibrant working waterfront and retail-oriented, tourist commercial businesses.

The study is being timed to inform policy-makers on whether or not to extend the existing commercial parking districts. The Newport Planning Commission is moving ahead with changes to the City's zoning ordinance that will eliminate the option of making a payment in-lieu of providing off-street spaces for new development should the districts expire. Off-street parking requirements for new development could be reduced or eliminated based upon the results of the study.

SCOPE OF WORK: This outline provides general parameters for a scope of work. A detailed scope of work would be developed prior to a Request for Proposals being issued.

Existing Conditions Assessment: Confirm boundaries of the study areas. Inventory available parking spaces and regulatory practices.

Opportunity and Constraints: Engage stakeholders to identify desired outcomes through a strategic visioning process. Solicit input on opportunities for improving access and the availability of parking, and key challenges "constraints" that are hampering business access.

Parking Demand Analysis: Conduct field surveys of parking assets during peak and off-peak periods to establish percentage utilization and turnover rates.

Capital Needs Assessment: Identify maintenance and capital improvement needs, with planning level cost estimates for each. Projects will also be prioritized for the short, medium, and long term periods (20-year planning horizon).

Financial Strategies: Assess potential funding tools or combinations thereof needed to implement capital program. Identify where metering could be utilized and calibrate meter charges considering equipment payback period, capital needs, and parking demand analysis. Gap analysis will be performed for large capital projects (e.g. a parking structure on the Bay Front) and how the gap could be filled with alternative funding sources.

Policy Recommendations: Outline recommended parking management strategies and implementation measures to put them into effect.

SCHEDULE: Eight (8) month implementation schedule, with field work in August/September and December/January. Recommendations to be completed in March 2016 to inform FY 16/17 budget process. Advisory committee to provide oversight and the process must be customer driven.

COST: \$30,000 - \$45,000 depending upon the level of public outreach.

ECONOMIC IMPROVEMENT DISTRICTS

223.112 Definitions for ORS 223.112 to 223.132. As used in ORS 223.112 to 223.132, unless the context requires otherwise:

- (1) "Council" means the city council or other controlling body of a city.
- (2) "Economic improvement" means:
 - (a) The planning or management of development or improvement activities.
 - (b) Landscaping or other maintenance of public areas.
 - (c) Promotion of commercial activity or public events.
 - (d) Activities in support of business recruitment and development.
 - (e) Improvements in parking systems or parking enforcement.
 - (f) Any other economic improvement activity for which an assessment may be made on property specially benefited thereby. [1985 c.576 §1; 1991 c.902 §4]

223.114 Economic improvement; assessment ordinance. (1) A council may enact an ordinance establishing a procedure to be followed by the city in making assessments for the cost of an economic improvement upon the lots which are specially benefited by all or part of the improvement.

- (2) In any ordinance adopted under subsection (1) of this section, a city shall not be authorized to:
 - (a) Levy assessments in an economic improvement district in any year that exceed one percent of the real market value of all the real property located within the district.
 - (b) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.
 - (c) Levy assessments on residential real property or any portion of a structure used for residential purposes. [1985 c.576 §2; 1989 c.1018 §3; 1991 c.459 §350; 1991 c.902 §5]

223.115 [Repealed by 1971 c.741 §38]

223.117 Requirements of assessment ordinance. (1) An ordinance adopted under ORS 223.114, shall provide for enactment of an assessment ordinance that:

- (a) Describes the economic improvement project to be undertaken or constructed.
 - (b) Contains a preliminary estimate of the probable cost of the economic improvement and the proposed formula for apportioning cost to specially benefited property.
 - (c) Describes the boundaries of the district in which property will be assessed.
 - (d) Specifies the number of years, to a maximum of five, in which assessments will be levied.
 - (e) Contains provision for notices to be mailed or delivered personally to affected property owners that announce the intention of the council to construct or undertake the economic improvement project and to assess benefited property for a part or all of the cost. The notice shall state the time and place of the public hearing required under paragraph (f) of this subsection.
 - (f) Provides for a hearing not sooner than 30 days after the mailing or delivery of notices to affected property owners at which the owners may appear to support or object to the proposed improvement and assessment.
- (2) The ordinance shall also:
- (a) Provide that if, after the hearing held under subsection (1)(f) of this section, the council determines that the economic improvement shall be made, the council shall determine whether the property benefited shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost of the economic improvement, the amount of assessment on each lot in the district.
 - (b) Require the city recorder or other person designated by the council to prepare the proposed assessment for each lot in the district and file it in the appropriate city office.

(c) Require notice of such proposed assessment to be mailed or personally delivered to the owner of each lot to be assessed, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice. The notice shall state the time and place of a public hearing at which affected property owners may appear to support or object to the proposed assessment. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

(d) Provide that the council shall consider such objections and may adopt, correct, modify or revise the proposed assessments.

(e) Provide that the assessments will not be made and the economic improvement project terminated when written objections are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessments is levied. [1985 c.576 §3; 1989 c.1018 §4]

223.118 Remonstrance against assessment; exclusion of property. (1) In addition to the requirements listed in ORS 223.117 (2), an assessment ordinance adopted under ORS 223.114 and 223.117 may, at the discretion of the council, provide that:

(a) When the council receives written objections at the public hearing only from owners of property upon which less than 33 percent of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that assessments shall not be levied on any lot or parcel of property if the owner of that property submitted written objections at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.

(b) The council, after excluding from assessment property belonging to such owners, shall determine the amount of assessment on each of the remaining lots or parcels in the district.

(c) Notice of such proposed assessment be mailed or personally delivered to the owner of each lot to be assessed, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice.

(2) When assessments are levied against property within an economic improvement district in accordance with an assessment ordinance that contains the provisions described in subsection (1) of this section:

(a) Any new owner of benefited property in the district or any owner of benefited property who excluded the property from assessment by submitting written objections to the council may subsequently agree to the assessment of the owner's property in the district. The council shall apportion the costs to the property for the remaining time in which assessments will be levied.

(b) The assessed property may not be relieved from liability for that assessment.

(c) If the council considers it necessary to levy assessments upon property in the district for longer than the period of time specified in the assessment ordinance, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in ORS 223.117 (2)(b) to (e) and subsection (1)(a) to (c) of this section. [1991 c.773 §2]

223.119 Advisory committee; functions. An ordinance adopted under ORS 223.114, may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of moneys for economic improvement activities within the scope of ORS 223.112 to 223.132. If an advisory committee is created, the council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of

property owners or tenants may enter into an agreement with the city to provide the proposed economic improvement. [1985 c.576 §4; 1989 c.1018 §5]

223.120 [Repealed by 1971 c.741 §38]

223.122 Effect of urban renewal districts or local improvement districts. The existence of local improvement districts or urban renewal districts in a city does not affect the creation of economic improvement districts under ORS 223.112 to 223.132. [1985 c.576 §5]

223.124 Extension of assessment period. When the council considers it necessary to levy assessments upon property in an economic improvement district for longer than the period of time specified in the assessment ordinance that created the district, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in ORS 223.117 (2)(b) to (e). [1985 c.576 §6]

223.125 [Repealed by 1971 c.741 §38]

223.127 Application of certain assessment statutes to economic improvement districts. (1) ORS 223.387 and 223.391 to 223.395 apply to economic improvement districts created by a city in accordance with ORS 223.112 to 223.132.

(2) The rights and duties accorded local governments and the owners of property for financing assessments under ORS 223.205 and 223.210 to 223.295 apply to assessments levied upon property in an economic improvement district for financing all or part of the cost of an economic improvement. [1985 c.576 §7; 1991 c.902 §6; 2003 c.802 §3]

223.129 Expenditure of assessment revenues; liability for unauthorized expenditures. (1) A city council shall not expend any moneys derived from assessments levied under ORS 223.112 to 223.132 for any purpose different from the purpose described in the ordinance adopted under ORS 223.114.

(2) Any public official who expends any moneys derived from assessments levied under ORS 223.112 to 223.132 for any purpose different from the purpose described in an ordinance adopted under ORS 223.114 shall be civilly liable for the return of the moneys by suit of the district attorney of the county in which the city is located or by suit of any taxpayer of the city. [1985 c.576 §8]

223.130 [Repealed by 1971 c.741 §38]

223.132 Formation of economic improvement districts as additional power of cities. The authority granted to cities by ORS 223.112 to 223.132, is in addition to any other authority a city may have under state law, its charter or its ordinances to create or finance economic improvement districts. [1989 c.1018 §2]

223.135 [Repealed by 1971 c.741 §38]

223.140 [Repealed by 1971 c.741 §38]

223.141 Definitions for ORS 223.141 to 223.161. As used in ORS 223.141 to 223.161, unless the context requires otherwise:

(1) “Business license fee” means any fee paid by a person to a city for any form of license that is required by the city in order to conduct business in that city.

(2) “Conducting business” means to engage in any business, trade, occupation or profession in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person’s own behalf.

(3) “Council” means the city council or other controlling body of a city.

(4) “Economic improvement” means:

(a) The planning or management of development or improvement activities.

(b) Landscaping or other maintenance of public areas.

(c) Promotion of commercial activity or public events.

(d) Activities in support of business recruitment and development.

(e) Improvements in parking systems or parking enforcement.

(f) Any other economic improvement activity for which an assessment may be made on property specially benefited thereby. [1991 c.698 §1]

223.144 Economic improvement district; business license ordinance. (1) A council, on its own motion or after receiving a petition for the formation of an economic improvement district signed by 33 percent or more of persons conducting business within the proposed district, may enact an ordinance establishing a procedure to be followed by the city in imposing a business license fee to raise revenue for the cost of an economic improvement. The business license fee authorized under this subsection may be in the form of a surcharge on an existing business license fee imposed by the city on any business, trade, occupation or profession carried on or practiced in the economic improvement district.

(2) In any ordinance adopted under subsection (1) of this section, a city shall not be authorized to:

(a) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(b) Impose a business license fee to raise revenue for an economic improvement that does not primarily benefit persons conducting business within the economic improvement district. [1991 c.698 §2]

223.145 [Repealed by 1971 c.741 §38]

223.147 Requirements of business license fee ordinance. (1) An ordinance adopted under ORS 223.144, shall provide for enactment of a business license fee ordinance that:

(a) Describes the economic improvement project to be undertaken or constructed.

(b) Contains a preliminary estimate of the probable cost of the economic improvement.

(c) Describes the boundaries of the district in which property will be assessed.

(d) Specifies the number of years, to a maximum of five, in which business license fees for the economic improvement will be imposed.

(e) Contains provision for notices to be mailed or delivered personally to affected persons that announce the intention of the council to construct or undertake the economic improvement project and to impose a business license fee upon persons conducting business within the district for a part or all of the cost. The notice shall state the time and place of the public hearing required under paragraph (f) of this subsection.

(f) Provides for a hearing not sooner than 30 days after the mailing or delivery of notices to affected persons at which the persons may appear to support or object to the proposed improvement and business license fee.

(2) The ordinance shall also:

(a) Provide that if, after the hearing held under subsection (1)(f) of this section, the council determines that the economic improvement shall be made, the council shall determine whether the businesses benefited shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost of the economic improvement, the amount of the business license fee.

(b) Require notice of such proposed business license fee to be mailed or personally delivered to each person conducting business within the proposed economic improvement district, which notice shall state the amount of the business license fee. The notice shall state the time and place of a public hearing at which affected persons may appear to support or object to the proposed business license fee. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

(c) Provide that the council shall consider the objections of persons subject to the proposed business license fee and may adopt, correct, modify or revise the proposed business license fee.

(d) Provide that the business license fee will not be imposed and the economic improvement project terminated when written objections are received at the public hearing from more than 33 percent of persons conducting business within the economic improvement district who will be subject to the proposed business license fee. [1991 c.698 §3]

223.150 [Repealed by 1971 c.741 §38]

223.151 Advisory committee; functions. An ordinance adopted under ORS 223.144, may require creation, for each economic improvement district, of an advisory committee to develop a plan and to allocate expenditure of moneys for economic improvement activities within the scope of ORS 223.141 to 223.161. If an advisory committee is created, the council shall appoint persons conducting business within the economic improvement district to the advisory committee. An existing association of persons conducting business within an economic improvement district may enter into an agreement with the city to provide the economic improvement. [1991 c.698 §4]

223.154 Extension of business licensing period. When the council considers it necessary to impose business license fees upon persons conducting business in an economic improvement district for longer than the period of time specified in the ordinance that created the district, the council shall enact an ordinance that provides for continued business license fees for a specified number of years and grants to persons conducting business in the district the notice and right of remonstrance described in ORS 223.147 (2)(b) to (d). [1991 c.698 §5]

223.155 [Repealed by 1971 c.741 §38]

223.157 Expenditure of business license revenues; liability for unauthorized expenditures.

(1) A city council shall not expend any moneys derived from business license fees levied under ORS 223.141 to 223.161 for any purpose different from the purpose described in the ordinance adopted under ORS 223.144.

(2) Any public official who expends any moneys derived from business license fees levied under ORS 223.141 to 223.161 for any purpose different from the purpose described in an ordinance adopted under ORS 223.144 shall be civilly liable for the return of the moneys by suit of the district attorney of the county in which the city is located or by suit of any taxpayer of the city. [1991 c.698 §6]

223.160 [Repealed by 1971 c.741 §38]

223.161 Effect of urban renewal districts or local improvement districts. (1) The existence of local improvement districts or urban renewal districts in a city does not affect the creation of economic improvement districts under ORS 223.141 to 223.161.

(2) The authority granted to cities by ORS 223.141 to 223.161 is in addition to any other authority a city may have under state law, its charter or its ordinances to create or finance economic improvement districts. [1991 c.698 §7]

MINUTES
Nye Beach Commercial Parking District
Advisory Committee Meeting
City Hall Conference Room “A”
Wednesday, April 1, 2015

Advisory Committee Members Present: Kathy Cleary, Linda Neigebauer, Wendy Engler.

Advisory Committee Members Absent: Jody George

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

Call to Order. The meeting came to order at 10:35 a.m.

Review of ordinance for parking district renewal. Tokos said that he has discovered that this process is more straightforward and easier than he originally thought. He has talked to the City Attorney, who will put together a memo confirming that this will work. The requirements for Economic Districts are in Statute, it's just that we don't work with them on a day-to-day basis. There is a provision that provides for an extension of the business licensing period. It will be one hearing instead of two hearings. We won't be able to change the boundary at this point.

Tokos met with the Bay Front Parking District, and they are on board with the Parking Management study. Tokos was thinking when their district expires in 2016, it makes sense to try to run this as a one- or two-year extension so they're all on the same timeframe. Let the study go through to see if it provides a recommendation to extend the district for a longer period or go to different ways; metering or whatever. Then we can form all three districts at the same time. Engler asked then if the businesses will do their regular business licenses. Tokos said one more year. This would be an extension to the Nye Beach district for a 12-month period. As a regular agenda item at their April 20th meeting, the City Council would initiate the extension process. An ordinance would be thirty days out; he's thinking at their June 1st meeting. The Council would give instructions to staff to send out letters to all affected business owners that the Council will consider the ordinance for an extension of 12 months. The notice will explain why this is being done; it was originally authorized for five years, we have identified certain improvements, and these are all that have been done. It will note that there will be a parking study performed to inform whether or not this model should be continued, and this provides enough time for that study to be completed. The businesses then have an opportunity to remonstrate. It's just one year, but if 33% of the businesses are against that, the district expires and there's no 12-month extension. The Planning Commission has already initiated changes that are making their way to the City Council before July 1st eliminating payment-in-lieu-of. Off-street parking requirements have to be met. You wouldn't get five credited spaces; that goes away. Whoever is there is there; we can't go back retroactively. For zoning purposes only, it applies to new development. If they do an expansion and that kind of thing, they have to be in accordance with the zoning ordinance.

Tokos said that the study will give us an organized way to make the next transition. Engler agreed that it will make it more equal and will make more sense. Tokos said it will be an improvement over what we had prior. This study will be a further step in further improvements. Metering will be a big conversation as part of that, which is an entirely different revenue. It may be done in lieu of a business license surcharge possibly; or it could be in addition to a surcharge to generate revenue. That's all part of the discussion. You will get tangible information from the study. There will be an opportunity to weigh different options. The City Council will have tangible information to base a decision on. Cleary wondered if each district will get a percentage of the metering funds collected as income for each district in addition to the City taking part.

Scope of work. Tokos handed out a draft scope of work, which provided an outline of what the study would look like. In trying to keep it brief, he kept it to one page. As it states, it's about developing an effective parking management strategy for the three areas that will maximize the available parking supply to support a vibrant working waterfront and retail-oriented, tourist commercial businesses. It's timed so its recommendations will roll out about the time the districts expire, assuming there's a 12-month extension in Nye Beach. The payment-in-lieu-of option will not come back. That's what the Planning Commission is taking care of. That option was burdensome with customized agreements for every property owner. Straightforward and simple works best. There would be an existing conditions assessment. That's important to confirm that everybody is on the same page in terms of the boundaries of the study areas. They will inventory available parking spaces and regulatory practices. There will be some outreach with stakeholders upfront to make sure that we know what the opportunities are that people see and what the constraints are in terms of parking and access. When Tokos was talking to the Bay Front folks, from their perspective, what they hope to discover is if a parking structure is what everybody feels is needed down there to add additional parking. But this isn't a full-type envisioning. It's more about parking and maybe some transit components. Then they'll do a parking demand analysis during the peak and off-peak periods. Then a capital needs assessment just as we do for the transportation system plan, but this would be on the parking side. That will talk about the maintenance needs and the capital improvements needs. If it's the consensus that additional surface parking needs to be constructed, then it will cover what it's going to cost to do it. The study

will include that kind of thing. That gets outlined and then there's a financial study. Field studies will include turnover rates, capital needs, and how to pay for it. And if it's metering, then what's our payback on purchasing metering equipment. What should the rates be in terms of hourly to pay for the project cost estimates? It's done more expertly than the current parking district. This process will identify a program of projects to pay for, prioritize them through this, and identify funding strategies. Metering possibly won't be the end-all be-all. Room taxes may possibly be tapped. There may be some discussion about continuing the business license surcharge to be used to pay for capital projects.

There will be an 8-month implementation schedule, assuming it gets budgeted. We are looking at the field surveys in August/September and December/January. Recommendations would be completed by March 2016 to inform us for the upcoming budgeting process. The decision can then be made if the existing districts would expire or if there's the desire to renew them in some capacity. The cost of the study is in the \$30-\$45 thousand range depending on the outreach. This will go through a formal RFP process. Once responses come in, a group will be put together to rate them. The thought is that the group will have somebody to represent each parking district so we have a half dozen raters to rate the proposals and select a consultant. That will be fleshed out in more detail when the RFP is put out. We have specific criteria for rating those proposals.

Tokos said, in talking with the Bay Front, they wondered where the transit is in this. It's just how explicit we want it to be; but their thought is that transit is a piece of the puzzle. We can't draft this into a full-out transportation study. Tokos will get some transit reference in here; but it needs to stay parking-focused. If it's targeted at calibrating metering that's because a lot of this information is important if metering is going to be considered as a funding tool. This work would have to be done for that. People will want to know where the money is going to go. It helps if they can see something. And it helps by having an advisory committee to ride herd on that over the years to make sure that happens.

Engler asked if someone from the Port has been attending the Bay Front Meetings. Tokos said that Port Manager Kevin Greenwood was there. Tokos said another piece of this for discussion and part of the study is on the Bay Front to look at having sticker parking for fishermen; and the Port would pay for that. There would be that type of arrangement being made; which is typical. Employers and employees parking there on a monthly basis will all be part of the conversation. This also could be considered for Nye Beach. Then determine what those pieces should cost. Tokos noted that some members of the Bay Front will get together to see if they can't get a 12-person van and get some sort of courtesy car running in the summer to help people get down from the different lots. They will put a proposal together and do it as a pilot with some of their funds. We will see how that goes. He said those sorts of programs can be effective if employees are faced with having to pay for parking; especially in the summer. That's the concept. Engler said hopefully the parking study is going on during the time they are having that transit. Tokos said they are concerned that employees will find spots; especially those who show up early before the parking is full. Then it's ineffective. They will run the pilot this summer. Metering may make it more viable down the road. Cleary asked if the Canyon Way lot is city-owned; and that was confirmed. Engler said and the one up on the next block. Tokos said that the lot at 9th and Hurbert is one of the only lots that doesn't fill up because of the distance from the Bay Front. Cleary wondered if that lot isn't more for the Deco District. Engler thought that would be a really good lot for the Recreation Center and the Pool. It's relatively flat, it's nearby, and it's visible.

Tokos summed up that on April 20th there will be an agenda item for the City Council to initiate a 12-month extension to the Nye Beach Parking District. Engler said then the business licenses would be due at the same time as usual. Tokos said the Council can docket consideration on a specific date, say June 1st, with instructions to staff to provide notice. Then our department would provide notice to all affected businesses so they have an opportunity to remonstrate. There is specific language required by Statute. The group members felt that made sense. Engler said it's good to have it laid out and clear; to have goals and objectives. She said the Bay Front is on Board, but asked about City Center. Tokos hasn't had a chance to meet with them yet. There are only three members. He doesn't expect any issues with it. City Center expires close to when the Bay Front does. The funding for the study as it's budgeted is \$15 thousand from General Fund, \$15 thousand from Bay Front, \$10 thousand from Nye Beach, and \$5 thousand from City Center. Cleary asked if Nye Beach had \$10 thousand; and Tokos said there's quite a bit more actually.

Draft Budget for FY 15/16. Tokos handed out the preliminary budget. He said essentially what it shows is that the \$8700 if collected is assuming the 12-month extension. Right now the district has about \$32 thousand available. Assuming the extension happens, that's about \$40 thousand. There's \$1500 budgeted for incidentals; sidewalk work and things of that nature (modest-cost things). Office supplies covers permitting; and Tokos has spent about \$137 already just in buying more door hangers and stickers. That's largely what that is. We could have close to \$30 thousand in contingency should something more substantial come up you want to contribute towards.

Engler asked if the \$10 thousand professional services is for enforcement. Tokos explained that's the study. Engler asked how much it costs to have the company that does parking enforcement. Tokos said it is supported by the fines. It's a fine-supported contract. He noted that the Bay Front Committee asked that TCB come in and talk to them about enforcement priorities and how it's working. If metering comes in, the revenue would not pay for enforcement; the fines pay. Any revenue would pay for capital projects identified and prioritized; not TCB, which would be covered with parking tickets. Engler said that she would like to see that contract. Tokos said it's handled through the Police Department; and he doesn't have the details. It is sustainable that way.

That will come into the conversation if we create parking metering. There's an expectation that enforcement will be active enough to ensure those meters are respected. Cleary said she never sees TCB in Nye Beach. Neigebauer sees them, and she saw them down on the Bay Front the other day.

Other topics. Tokos said that was all he had to share but wondered if anyone had anything else. Cleary said that we talked about changing the boundary and wondered if we would pick up that conversation. Tokos said we can't for twelve months. Cleary asked if once we get through the twelve months, we might. Tokos said part of that may come through the study itself. If the study says the business license surcharge is something that still should be done, then that is something that needs to be discussed a bit. We can tweak where that applies.

Neigebauer said that she went to the meeting about the expansion of the Inn at Nye Beach. She said that looking at their parking, even during the week, there's no parking up there on the street even with just the number of existing rooms. Engler noted that a block away north of the skate park is a lot; a flat space. Tokos said that's city-owned. Engler said it's not being used for anything; although it would take some money to improve it. She wondered if that's too far away. Neigebauer said it's a dangerous turn all the way through there, and there are no sidewalks and no crosswalks. Engler said it would be nice to get sidewalk on the south side of 8th. Also there's a free right turn that could be a stop. It's dangerous for pedestrians. Maybe some lighting is needed. Neigebauer said there probably needs to be a 3-way stop right there. Cleary said that lot Engler mentioned is a thought. Engler said also it would look good to have it improved. Neigebauer said that could be a plan for the parking district. Tokos said we could take a look at that as part of the study; but noted that the group had mentioned Don Davis Park area for improvements, and it doesn't make sense to look at the skate park as well.

Neigebauer wondered about the low-income apartments (the three-story building at 8th and Oceanview where they just put on peaked roofs) and if their parking is adequate for that use. She doesn't know if they have adequate parking for apartments. Engler said they won't be in the parking district. Neigebauer said it should be regulated by the apartments. Tokos said if a new development comes in, they have to meet the parking ratios. The Inn at Nye Beach needed one space per unit. They had thirteen new units and put in fifteen. They exceeded the ratio. Neigebauer said part of it is that the people don't want to park down there. Tokos said we can't enforce that. Metering will change that. It's not an issue for people visiting. They are accustomed to paying for parking. If they want to go there, they will. They will enjoy the shops and restaurants. But it will be a deterrent for employees wanting to take that space every day when they will be faced with paying a fee. Cleary agreed that it will impact the locals.

Engler said that maybe in the winter, the meters wouldn't be active. Tokos said we can look at that or scale them. Tokos said this winter the Bay Front has been hammered because the weather has been nice. Nye Beach, too. He believes that scaling is a better approach. He said the trick with turning off meters is behavior. You have the meters turned off and then on for a period of time, and people flip out. Cleary thought that scaling is a good idea. Tokos said much like the local gas tax. It's still something; you have to feed the meters. Engler thought that if there were very specific projects funded by metering, it would help with the locals a lot. Payment-in-lieu-of funds were always slipping into a void. Tokos said an advisory committee will be formed to oversee this; not ad hoc. This study will help program it better. Engler said like you get out of all studies. The merchants did that. They had identified projects. They spent a long time brainstorming. They even counted spaces. Cleary said we have a list from when we started the district. We did a walk-around and listed things like uneven pavers in crosswalks. Engler said they had all driveways marked that are on vacant lots. Neigebauer said but for some that's the off-street for that dwelling.

Next Meeting. Tokos thought it makes sense to wait and see how the reauthorization goes. When asked, he said it wouldn't hurt if the committee members went to the City Council meeting. He said it never hurts for the members to say that you think this is a reasonable thing to do. Engler said or even just write a letter. Cleary asked what if the Council says yes. Tokos said then the ordinance is scheduled at least 30 days out; he's thinking the first meeting in June. That gives us time for the notice. It gives the business owners 30 days to respond. Tokos said he will send it by email so the committee knows it's going out. Then you can go door to door to talk to folks. Tokos will try to write the notice in such a manner so that the business owners won't flip out. Although we have to put mandatory language in there that's fairly strong. Cleary thought it's best to wait until after that to schedule another meeting and see how to go forward. Tokos will schedule the next meeting by email.

Adjournment. Having no further business to discuss, the meeting adjourned at 11:17 a.m.

Respectfully submitted,

Wanda Haney
Executive Assistant