



**AGENDA & Notice of Work Session,  
& Regular Meeting of Newport City Council (CC)  
Including Acting in the Capacity as the  
Local Contract Review Board (LCRB)  
And Urban Renewal Agency (URA)**

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The City Council of the City of Newport, also acting in the capacity as the LCRB and URA, will hold a work session at **12:00 noon**, on **Monday, November 2, 2009**, in Conference Room "A" at City Hall. The regular Council meeting begins at **6:00 P.M.**, on **Monday, November 2, 2009**. The meeting will be held in the Council Chamber, 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the meeting agenda follows.

The work session and meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder (541)574-0613.

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

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**WORK SESSION AGENDA**

**12:00 Noon**

**CC – LCRB – URA**

- I. Questions regarding evening agenda items

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**REGULAR MEETING AGENDA**

**6:00 P.M.**

**CC – LCRB -- URA**

*Any person wishing to speak on any agenda item should complete a Public Comment Form and hand it to the City Recorder, Peggy Hawker. Public Comment Forms are located on a table at the entrance door to the City Council Chamber. If you wish to comment on a subject not on the agenda, the Mayor will call on you under "Public*

*Comments". If you wish to comment on a specific agenda item, the Mayor will call on you when the City Council gets to that item.*

**I. Call to Order and Roll Call**

**II. Public Comments**

*This is an opportunity for members of the audience to bring to the Council's attention any item not otherwise 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.*

**III. Consent Calendar**

*The consent calendar is an area of the meeting agenda where items of a repeating or routine nature can be considered under a single action. Any person who desires to have an item on the consent agenda removed and considered separately could make it so by merely asking.*

A. Approval of minutes from the work session,  
and regular meeting of October 19, 2009.....**Pages 4-11**  
(Hawker)

B. Recommendation from Destination Newport  
Committee for Tourism Marketing Grant  
Application-Newport Storm Basketball.....**Pages 12-16**  
(Voetberg)

**IV. Council Members' Reports and Comments**

**V. Officers' Reports**

A. Mayor's Report  
B. City Manager's Report  
1. Manager's Written Report.....**Pages 17-18**  
C. City Attorney's Report

**7:00 P.M. – Public Hearings**

**VI. Action Items**

*Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. (Action items are expected to result in motions, resolutions, orders, or ordinances)*

A. Public hearing on Zoning Ordinance Update:  
Conditional Uses (File No. 7-Z-09).....**Pages 19-32**  
(Tokos/McCarthy)

- B. Public hearing on Zoning Ordinance  
Update: Variances (File 8-Z-09).....**Pages 33-52**  
(Tokos/McCarthy)
  - C. Public hearing on ordinance establishing  
Nye Beach Parking District.....**Pages 53-73**  
(Tokos/McCarthy)
  - D. Consideration of the FBO Business Plan.....**Pages 74-76**  
(Voetberg)
  - E. Resolution regarding donation of 1971  
Ford Jet Truck to the City of Siletz.....**Pages 77-79**  
(Ritzman)
- VII. **Public Comment**  
(Additional time for public comment – 5 minutes per speaker)
- VIII. **Adjournment**

October 19, 2009  
Noon  
Newport, Oregon

### **CITY COUNCIL WORK SESSION**

Councilors present: Bain, Obteshka, Brusselback, Kilbride, McConnell, and Bertuleit. Patrick was excused.

Staff present: Voetberg, Hawker, McCarthy, Atkinson, Tokos, Ritzman, Smith, Reno, Crook, Schultz, Protiva, and Miranda.

Council discussed the following items:

1. Council discussed the evening agenda.
2. Bain will issue a proclamation declaring October as Disability Awareness Month in the city.
3. The consent calendar was discussed, and it was noted that several of the tourism marketing grant applications may be removed from the consent calendar. It was mentioned that the swim team and the basketball tournament organizers would like additional monies to defer city facility usage fees. It was mentioned that payment/waiver of facility usage fees are not marketing expenses.
4. Obteshka asked about the additional privilege request from the Savory Café. It was noted that this would expand the liquor license currently held by this establishment.
5. Obteshka asked about the expenditures to Crop Production and Enviro Clean. It was noted that the expenditure to Crop Production was for spraying the gravel streets for dust, and the expenditure to Enviro Clean was for equipment.
6. Bertuleit will report on a Bicycle/Pedestrian Committee meeting tonight.
7. Brusselback will report on the progress of the Georgia-Pacific meetings this evening.
8. Obteshka will report on OCZMA, the Senior Center Advisory Committee, the Lincoln County Sustainability Committee, and the upcoming economic development summit this evening.
9. Kilbride reported that he had analyzed SeaPort's weekly ridership information, and he will recommend that something be done to "help stop the bleeding" due to low ridership on the three daily Astoria flights.
10. Bain reviewed SeaPort's upcoming schedule change which will allow for the overnighting of an aircraft in Astoria to help eliminate a dead head flight in the morning. He added that the new schedule will be reviewed after it is in use for several months.
11. Voetberg reported that he would ask Council for direction on the community survey for the proposed aquatic facility. Kilbride reported that he will recommend that the aquatic center survey be placed on hold.
12. Voetberg reported that the city will be hauling contaminated soil from the Bay Boulevard project to Iron Mountain to save money.

13. McCarthy asked McConnell to update Council on the recent meeting of the Air Sustainability Task Force this evening.
14. McCarthy distributed a model media policy for executive sessions. She noted that this policy was the result of the work of a task force that consisted of folks from local governments and media throughout Oregon. Bain suggested creating a task force of City Councilors and media representatives to discuss the policy. He will make this recommendation at the next meeting.
15. Obteshka asked whether material could be hauled from the Bayfront project to Coffin Butte, and Ritzman noted that this was possible.
16. Tera King will make a presentation on Lincoln County's Community Wildfire Protection Plan this evening.
17. A public hearing will be held this evening on revisions to the zoning code to consolidate procedures.
18. A public hearing will be held this evening on updates to the subdivision ordinance.
19. Tokos reviewed the DLCD grant opportunities, including the evaluation of transportation connections in South Beach, a citywide housing needs analysis, and a local wetlands inventory. He also noted that the city had received the TGM quick response grant. Council was in support of all grant opportunities.

Having no further business, the meeting adjourned at 12:53 P.M.

October 19, 2009  
 6:00 P.M.  
 Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Bertuleit, Brusselback, Kilbride, Obtshka, and McConnell were present. Patrick was excused.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Interim Finance Director Schultz, and Police Chief Miranda.

### **PUBLIC COMMENT**

Rick Beasley, representing the Depoe Bay Beacon, asked whether Council was planning to deny access to press during executive sessions. He added that it would be a terrible mistake to deny press access to executive sessions.

### **PROCLAMATIONS AND RECOGNITIONS**

**Proclamation – October 2009 – Disability Employment Awareness Month.**  
 Amanda Waley, Robert Clark, and Chris Schliger addressed Council regarding disability employment. Bain proclaimed the month of October as Disability Employment Awareness Month.

### **CONSENT CALENDAR**

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session, executive session, and regular meeting of October 5, 2009;
- B. Police and Fire Department monthly reports;
- C. Report of accounts paid for September 2009;
- D. OLCC application, The Savory Café, 526 NW Coast Street, Change of Ownership and Additional Privilege;
- E. Recommendation from Destination Newport Committee for Tourism Marketing Grant Application – Newport Swim Team;
- F. Recommendation from Destination Newport Committee for Tourism Marketing Grant Application – Newport Storm Basketball Tournament;
- G. Recommendation from Destination Newport Committee for Tourism Marketing Grant Application – Food Share of Lincoln County for BeJeweled event.

MOTION was made by Bertuleit, seconded by Brusselback to remove the three recommendations from the Destination Newport Committee from the consent calendar. The motion carried unanimously in a voice vote.

MOTION was made by McConnell, seconded by Bertuleit, to adopt the consent calendar as amended. The motion carried unanimously in a voice vote.

**Recommendation from the Destination Newport Committee for Tourism Marketing Grant Application – Newport Swim Team.** Voetberg reported that the Destination Newport Committee had recommended a tourism marketing grant award in the amount of \$3,500, with the provision that the swim team not apply for a special event fee waiver of swimming pool fees. It was reported that a report will be forthcoming recommending a potential increase in parks and recreation fees of possibly up to 25%.

Stephanie Simpson, president of the Newport Swim Team, reported that pool fees are expected to be \$1,450 for this two-day event. She added that the meet is not a fundraiser, and is expected to attract approximately 250 swimmers. She noted that the meet is in March and many participants will have a three day weekend. She requested an amendment of the original application to \$4,500 to include the pool fees. Voetberg noted that there is a discounted pool use fee because this is a youth activity. Bain asked what the rental fee is for both days. It was reported that it is \$1,881. McConnell suggested a fee waiver would be appropriate, as tourism grant money would not apply to pool rental fees. He suggested waiving the difference between the new fee and amount the swim team has budgeted. Voetberg noted that the swim team budget shows positive revenue of \$2,000. He suggested rather than give a fee waiver now the swim team should use excess revenues for pool rental and then come back to Council in the event of a negative budget. Lorna Davis, chair of the Destination Newport Committee, stated that the DNC looked at the overall proposal and thought that \$3,500 adequate to fund the entire event without a fee waiver. MOTION was made by Bertuleit, seconded by Brusselback, to award a tourism marketing grant, in the amount of \$3,500, to the swim team with a fee waiver of \$930 toward pool rental, assuming the team will pay \$950 as budgeted. McConnell suggested providing the fee waiver if the actual meet costs cause the event a negative budget. The motion was amended by Bertuleit, seconded by Brusselback to award the marketing grant, and have the swim team come back to Council if a fee waiver is necessary. The motion carried unanimously in a voice vote.

**Recommendation from the Destination Newport Committee for Tourism Marketing Grant Application – Newport Storm Basketball.** Voetberg reported that the Destination Newport Committee had recommended a tourism marketing grant award in the amount of \$2,000, with the provision that the group not apply for a special event fee waiver of recreation center rental fees. It was reported that a report will be forthcoming recommending a potential increase in parks and recreation fees of possibly up to 25%. He noted that the estimated rec center rental fees are \$1,150.

Dylan McEntee and Angie Richcreek appeared on behalf of the Newport Storm and noted that they thought they would be applying for a fee waiver for the recreation center usage fees. He reported that monies raised are used to replace uniforms. MOTION was made by Kilbride, seconded by Obteshka to refer this matter back to the Destination Newport Committee to consider increasing the amount of the grant. The motion carried in a voice vote with McConnell voting no. McConnell noted that tourism marketing monies should not be used for fee waivers.

**Recommendation from the Destination Newport Committee for Tourism Marketing Grant Application – Lincoln County Food Share – BeJeweled Event.**

Voetberg reported that Lincoln County Food Share had requested \$750, but that the Destination Newport Committee had recommended \$500. Nancy Smith and Linda Neigebauer appeared on behalf of Lincoln County Food Share. Smith reported that this is the third year for this event, and organizers are trying to target out of area visitors. She noted that there is good community support, and that attempts have been made to minimize expenses. McConnell reported that the DNC had selected three items from the list that they thought were marketing expenses for a total of \$500. MOTION was made by McConnell, seconded by Bertuleit, to approve the tourism marketing grant application submitted by Food Share of Lincoln County for their BeJeweled event in the amount of \$500. The motion carried unanimously in a voice vote.

**DISCUSSION ITEMS AND PRESENTATIONS**

**Presentation by Tera King, NW Management on Community Wildfire Protection Plan.** Tera King and Vaden Bloch, consultants with Northwest Management, Inc., who are working with Lincoln County to develop a Wildfire Protection Plan, addressed Council on the status of the project. It was noted that the consultants would create a risk analysis and work with the planning committee to develop projects, proposals, and recommendations to minimize the risk of wildfires in Lincoln County. It was reported that public meetings on the plan would occur throughout Lincoln County this week.

**City Manager's Report.** Lorna Davis, chair of Destination Newport Committee requested Council approval to include a short segment of footage of SeaPort Air, in the upcoming Newport edition of PDXposed, to show viewers additional modes of transportation to and from Newport. Bain reported that DNC rules provide that a single business cannot be promoted without the approval of Council to protect the integrity of the marketing programs. MOTION was made by Bertuleit, seconded by McConnell, to approve this request to utilize a short segment of footage of SeaPort Air in the upcoming Newport edition of PDXposed. The motion carried unanimously in a voice vote.

Voetberg reported that aquatic needs survey questions have been developed, and are at the point where a professional survey firm needs to be retained to refine the questions and conduct the survey. He asked Council whether staff should proceed with the survey that is estimated to cost \$6,000 or hold temporarily. MOTION was made by Kilbride, seconded by Obteshka, to postpone the survey until a new operating budget has been developed, reviewed, and deemed acceptable. The motion and second was amended to include bringing the matter back to Council in 90 days. The motion carried in a voice vote with Bertuleit voting no.

**ACTION ITEMS**

**Public hearing on Zoning Ordinance update: consolidation of procedures (File No. 5-Z-09).** Bain opened the public hearing at 7:13 P.M. He asked for abstentions and declarations of bias and ex parte contact. There were none. He asked whether anyone

objected to any Councilor or the City Council as a whole hearing this matter. There was no objection. Tokos delivered the staff report noting that this proposed ordinance was recommended by the Planning Commission and Citizen's Advisory Committee to clarify ambiguous terms, consolidate various procedural provisions, and to incorporate statutory changes. He summarized the key changes and answered Council questions.

Bain called for opponents. There were none.

Bain closed the public hearing at 7:21 P.M. for Council deliberation.

MOTION was made by McConnell, seconded by Obteshka, to read Ordinance No. 1989, by title only, and place for final passage. The motion carried unanimously in a voice vote, and Voetberg read the title of Ordinance No. 1989. Voting aye on the adoption of Ordinance No. 1989 were McConnell, Kilbride, Brusselback, Obteshka, Bertuleit, and Bain.

**Public hearing on Subdivision Ordinance update.** Bain opened the public hearing a 7:23 P.M. He asked for abstentions and declarations of bias and ex parte contact. There were none. He asked whether anyone objected to any Councilor or the City Council as a whole hearing this matter. There was no objection. Tokos delivered the staff report noting that this proposed ordinance was recommended by the Planning Commission and Citizen's Advisory Committee to clarify ambiguous standards, remove language requiring improvements that are not roughly proportional to the impact of a project, more carefully evaluate potential geologic hazards, and to clarify the type and nature of public improvements that may be required for partitions and minor replats. He summarized the key changes.

Bain called for opponents. There were none.

Bain closed the public hearing at 7:28 P.M. for Council deliberation.

MOTION was made by Brusselback, seconded by McConnell, to read Ordinance 1990, by title only, and place for final passage. The motion carried unanimously in a voice vote, and Voetberg read the title of Ordinance No. 1990. Voting aye on the adoption of Ordinance No. 1990 were Bain, Bertuleit, Obteshka, Brusselback, Kilbride, and McConnell.

**Consideration and approval of Community Development Department grant applications to evaluate transportation connections on the South Beach Peninsula, conduct a citywide housing needs analysis, and to complete a local wetlands inventory.** Tokos explained that three grant opportunities have arisen for projects that are within the scope of Council goals. He reported that the first grant is a TGM quick response grant to study transportation connections in South Beach. The second grant is a General Fund Technical Assistance grant for a citywide housing analysis, and the third grant is a Technical Assistance/Priority Project grant to conduct a Local Wetlands Inventory in the urban growth boundary. He answered Council questions.

MOTION was made by Kilbride, seconded by McConnell, to direct staff to proceed with grant applications to DLCD for the purpose of evaluating transportation connections on the South Beach Peninsula, conducting a citywide housing needs analysis, and completing a local wetlands inventory based on the city manager's discretion that adequate funds are available. The motion carried unanimously in a voice vote.

## COUNCILOR'S REPORTS AND COMMENTS

Bertuleit reported on a recent meeting of the Bicycle/Pedestrian Committee. Issues discussed including grant opportunities for sidewalks. The committee has suggested looking at the corner of Harney and 7<sup>th</sup> Streets where the bike lanes go into the street. He noted that a recommendation for a three-way stop would be forthcoming.

Obtshka reported on a recent meeting of the Senior Center Advisory Committee. He reported that the committee would like to make report to Council at an upcoming work session. Issues discussed included usage fees; remodel will begin in April 2010; October 27 health fair; Monday acupuncture for \$10; and the possibility of an Elderhostel tour, that would include Newport, in October of 2010.

Obtshka reported on a recent meeting of the Lincoln County Sustainability Committee. Issues discussed included recycling programs; composting; "Pump it Up" program for car health; and no idle zones at schools. McCarthy spoke about a recent sustainability conference at the University of Oregon.

Obtshka reported on a recent meeting of OCZMA. Issues discussed included HB3013; and the ODF&W hearing on October 22 at Inn at Otter Crest to discuss new regulations, ocean mapping, and other related matters. He asked the status of the memorandum of understanding on marine reserves, and it was suggested that it be reviewed by legal counsel.

Obtshka reported on the upcoming Lincoln County Economic Development Summit.

Brusselback spoke of Lake Oswego's sustainability efforts, and reported that he had called that city's sustainability coordinator, who would be willing to make a presentation to the City Council on starting a sustainability program. He added that Mark Saelens might also be available to make a presentation on county sustainability efforts.

McConnell reported that the OCCA board had met, and revised VAC rental rates will be coming to the City Council in the future.

McConnell reported on a recent meeting of the Air Service Sustainability Task Force, noting that a proposal will be coming to Council to change the membership of the task force. He added that staff will serve as support, and other community members will be recommended as task force members. It was noted that PDX has identified a person to act as an advisor, and a request has been made to Seaport Air to present a sustainability option. He recommended looking at airport upgrades relative to air service sustainability.

McConnell encouraged voters to vote for the library district and animal shelter.

McConnell reported that Bloch house events are being planned, with an open house to occur on November 4.

Bain reported on a recent meeting of the Air Service Consortium meeting. Issues discussed included marketing efforts; survey card and associated information; e-ticketing; interline ticketing agreement; Astoria's offer to have an engineer look at Newport's minimums; expenses of Consortium members and administrative costs incurred by the City of Newport; discounts for SeaPort employees and friends; new customer service agent at Newport; status of the ordinances ratifying the intergovernmental agreement creating the Consortium; frequency of meeting; annual meeting; and scheduling.

Kilbride requested that he be appointed Council liaison to the city's employee pension board. Bain made the appointment.

Brusselback reported that a meeting has occurred between city officials and representatives of Georgia-Pacific. He noted that the city is waiting to hear from GP.

### **OFFICER'S REPORTS**

**City Manager's Report.** Voetberg reported that the Bay Boulevard project is going well, businesses are open, and the public is encouraged to visit. He added that a good working relationship exists between businesses, city staff, and the contractor.

**City Attorney's Report.** McCarthy reported that a draft media policy was distributed during the noon work session. She noted that this was a topic discussed by the city attorneys during the recent League of Oregon Cities Conference. She added that no other states allow media to attend executive sessions. She reported that the model policy was spearheaded by the Lake Oswego city attorney, and that a number of municipalities are considering adopting the policy.

Bain appointed a task force to bring a recommendation to Council regarding this model policy. Appointees included Councilors Brusselback and McConnell, and media representatives Keira Morgan and Steve Card. Bain asked for ratification of the task force members, and that a task force recommendation is sent to Council for review at the next Council meeting. MOTION was made by Kilbride, seconded by Obteshka, to ratify the Mayor's appointments. The motion carried in a voice vote with Bertuleit voting no.

### **PUBLIC COMMENT**

Walter Sherman, representing the Depoe Bay Beacon, stated that the last motion was not on the agenda, and there was no public comment. McConnell noted that public comment will occur at the task force meeting(s). Sherman asked whether there has been a problem that this policy is planned to address. McCarthy explained that, during the city attorney's session at the LOC Conference, it was recommended that city attorneys present this policy to councilors for review. She noted that it is under review by a number of municipalities.

Walter Sherman asked whether any other governmental entity has adopted this policy with experience that could benefit Newport.

### **ADJOURNMENT**

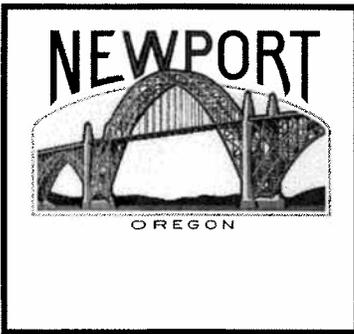
Having no further business, the meeting adjourned at 8:25 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor

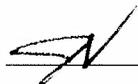


Agenda Item #  
Meeting Date

III.B.  
November 2, 2009

**CITY COUNCIL AGENDA ITEM SUMMARY**  
City Of Newport, Oregon

Issue/Agenda Title Consent Calendar—Tourism Marketing Grant Request-Newport Storm Basketball for their January 23 and 24, 2010 basketball tournament.

Prepared By: JV Dept Head Approval: \_\_\_\_\_ City Mgr Approval:  \_\_\_\_\_

**Issue Before the Council:** Consideration of a tourism marketing grant award in the amount of \$2,000 to Newport Storm Basketball for their January 23 and 24, 2010 basketball tournament.

**Staff Recommendation:** At its meeting of October 19, 2009, the Council by motion referred back to the Destination Newport Committee (DNC) a request by Newport Storm Basketball for a tourism marketing grant in the amount of \$2,000 for their January 23 and 24, 2010 basketball tournament. In question was whether to include a condition that Newport Basketball would not request a fee adjustment for use of the Recreation Center facility. In querying DNC, a majority indicated they would have no problem removing the second part of the recommendation *“with the condition that the recreation center fees not be waived for this event,* and simply recommend the \$2,000 be awarded for tourism marketing. Staff has no objections with DNC, recommendation.

A revised motion has been prepared for Council consideration.

**Proposed Motion:** I move to approve the tourism marketing grant request by Newport Storm Basketball, in the amount of \$2,000, for their January 23 and 24, 2010 basketball tournament.

**Key Facts and Information Summary:** This event will be held January 23/24, 2010, and is a basketball tournament for middle school grades 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>, and teams will be recruited from all over Oregon. The tourism marketing funds recommended for Newport Storm Basketball are aimed at attracting approximately 1,000 tourists to the community.

**Other Alternatives Considered:** None

**City Council Goals:** The request complies with Council Goal A, which states “continue to provide a full range of services including: water, sewer, storm drainage, transportation, planning, police and fire services, parks & recreation, library, airport, economic and tourism development.

**Attachment List:** See attached application

**Fiscal Notes:** If approved, this funding would come from the transient room tax funds that have been budgeted for this use.

**General Information:**Name of Applicant Organization: Newport Storm Basketball Pnc.Mailing Address: 2026 NW Oceanview DR.City, State, Zip: Newport, OR 97365Telephone: 265-6970/270-2255 Fax: 574-8914E-Mail Address: Newportstorm@charter.netPrincipal Contact (If different from Applicant): David RichcreekMailing Address (If different from Applicant): Same

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Date(s) and Time(s) of Event: January 23 and 24 2010Description of Event or Activity\*: Basketball tournament  
for middle school grades (6<sup>th</sup>/7<sup>th</sup>/8<sup>th</sup>)  
for teams from all over Oregon

Nature of Event or Activity:

Single Day Event \_\_\_\_\_

Multi-night local lodging event 2 days

Extended calendar event. \_\_\_\_\_ days

Amount of Funding Requested: \$ 2,000Total Event/Activity Budget: \$ 6,000

What specific marketing expenditures will the granted funds be used for?\*

Event insurancePrinting cost - ProgramsLodging for officials (refs)AwardsList event/activity supporters or partners\*: all listed below were sponsors in progr  
MO'S, Figaros, Shear Sensations, Pacific Shrimp, bookThompson sanitary, tallmark, Pig & Pancake,Neje Beach Market, Hair expressions, Cafe StephanieArtic Circle, Abby's, Idea Screen Print, andNewport middle & Newport High Schools.

\*Use additional sheets as necessary.

F/V CoisairF/V Raven 2F/V marathonKlete Luther ConstructHedonistic Resort, LePSI

Applicant/organization must be a non-profit corporation. Attach a copy of the IRS determination letter.

Has applicant received funding in prior years from the city for this event/activity? If yes, when:

NO

**Projected Event/Activity Impact:**

Describe how the event/activity will affect the Newport economy (e.g., room nights, number of visitors/attendees, restaurant sales, retail sales, etc.):

There will be approx. 1000 people in town sleeping in our Hotels, eating at our restaurants shopping and buying gas to get here. This will be our 4<sup>th</sup> Annual Newport Storm tournament. Our tournament is in Mid January when things slow down in Newport. Last year we had 35 teams that travelled here with siblings and families eating, shopping and staying here in Newport at our local businesses. we have had positive feedback from both Mark Watkins (Subway) and Dave Turner (Artcircle) and Celeste McEntee (Nye beach market) that it was a great weekend for their business. one even said most he generated in 6 wks during winter. It is a

**Financial Reporting Requirements:** tremendous boost to Newport economy during January  
Please provide a proposed budget of revenues and expenditures in a form similar to the following:

**PROPOSED REVENUES**

Source #1	Tourney Entry fee's	Amount	\$ 4,200
Source #2	Program Ad's	Amount	\$ 1,100
Source #3	Gate & concessions	Amount	\$ 4,900
Source #4	_____	Amount	\$ _____
Source #5	_____	Amount	\$ _____
<b>TOTAL REVENUES</b>			<b>\$ 10,200</b>

\*Use additional sheets as necessary.





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NEWPORT STORM BASKETBALL  
% DAVID RICHCREEK  
2026 NW OCEANVIEW DR  
NEWPORT OR 97365

Date of this notice: 01-17-2008

Employer Identification Number:  
30-0457274

Form: SS-4

Number of this notice: CP 575 E

For assistance you may call us at  
1-800-829-4933IF YOU WRITE, ATTACH THE  
STUB OF THIS NOTICE.**WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER**

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 30-0457274. This EIN will identify your business account, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, please use the label we provided. If this isn't possible, it is very important that you use your EIN and complete name and address exactly as shown above on all federal tax forms, payments and related correspondence. Any variation may cause a delay in processing, result in incorrect information in your account or even cause you to be assigned more than one EIN. If the information isn't correct as shown above, please correct it using tear off stub from this notice and return it to us so we can correct your account.

To receive a ruling or a determination letter recognizing your organization as tax exempt, you should complete Form 1023 or Form 1024, Application for Recognition of Exemption and send to:

Internal Revenue Service  
PO Box 192  
Covington, KY 41012-0192

Publication 557, Tax Exempt for Your Organization, is available at most IRS offices or you can download this Publication from our Web site at [www.irs.gov](http://www.irs.gov). This Publication has details on how you can apply.

**IMPORTANT REMINDERS:**

- \* Keep a copy of this notice in your permanent records.
- \* Use this EIN and your name exactly as they appear above on all your federal tax forms.
- \* Refer to this EIN on your tax related correspondence and documents.

If you have questions, you can call or write to us at the phone number or address at the top of the first page of this notice. If you write, please tear off the stub at the end of this notice and send it along with your letter. Thank you for your cooperation.



Jim Voetberg  
City Manager  
CITY OF NEWPORT  
169 S.W. Coast Hwy.  
Newport, OR 97365  
[j.voetberg@thecityofnewport.net](mailto:j.voetberg@thecityofnewport.net)  
enjoyment excitement

## Manager's Report Meeting of November 2, 2009

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Following is the Manager's Report for the City Council meeting of November 2, 2009:

Abby Street Pier Building Lease: By letter received October 21, 2009 (attached), Richard Welton has given notice of his intent to terminate and vacate his Abby Street Pier Building, lease with the City. The City appreciates the long relationship we have had with Mr. Welton and wish him well in his retirement.

After Mr. Welton has vacated the property, building maintenance personnel, Jerry Sabanskas, will evaluate the building for any needed repairs or other changes. Concurrently, City staff will begin seeking a new tenant for the building.

Bay Boulevard Project: The City and Bay Boulevard Project Contractor continue to hold weekly meetings with business owners on Bay Boulevard. These weekly meetings have been very productive in notifying the business owners of construction progress and has helped the Contractor work around specific needs of the businesses. Public Works, the Contractor, C&M Construction, and the business owners should be recognized for working together on the complex project.

Sewer System Smoke Testing: Through an earlier report, Public Works updated the Council on results of this year's sewer system smoke testing project. After hearing the report, the Council inquired about additional testing this year utilizing remaining funds in the project budget. Due primarily to required weather conditions and the predictability of weather conditions necessary to perform the work, additional smoke testing will not be completed this year. Contingent upon budget approval by the Council, additional testing will be completed next year.



# COUNTRY COUSINS GIFTS

Seaview Bazaar—Yaquina Bay Gifts—Old Bayfront Bazaar—Sea Chest—Grey Whale—Country Cousins—Paradise Gifts

**RICHARD WELTON, Owner**

**North Hwy 101, P.O. Box 44, Depoe Bay, Or. 97341**

**Voice (541) 765-2820 Fax (541) 765-2440**

**E-mail: [dwelton@cablespeed.com](mailto:dwelton@cablespeed.com)**

**RECEIVED**

OCT-21 2009

CITY OF NEWPORT

October 10, 2009

City Of Newport  
169 S.W. Coast Hwy  
Newport, OR 97365

RE: Abbey Street Pier Building Lease

Dear Sirs,

After 18 years of leasing space in the Abbey Street Pier building, I have finally decided that now is the perfect time to start downsizing business operations as I slowly approach retirement. I have certainly appreciated the excellent relationship I have had with the City of Newport over the years and I especially thank you for all of your quick and courteous responses to each and every Pier Building problem. From my end, I believe I have been a low key but strong tenant for the City with over 18 years of timely payments.

So, after all of these years and with a great degree of sadness, I hereby give to the City of Newport a 30 day notice, effective October 15, 2009, of my intention to terminate the tenancy and vacate the Abbey Street Pier building. We will turn our keys in on or before November 15, 2009. Thank you again---it was a wonderful 18 years on the pier.

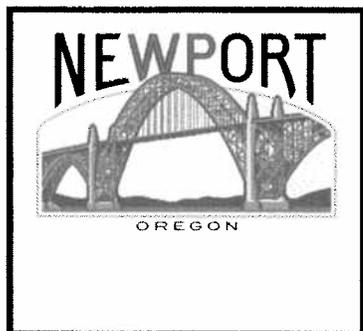
Sincerely,

Richard C. Welton

Lessee

Abbey Street Pier Building

cc: Don and Fran Mathews



Agenda Item #  
Meeting Date

VI . A .  
November 2, 2009

## CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Public hearing on an ordinance amending the Conditional Use section of the Newport Zoning Ordinance (File No. 7-Z-09)

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

**ISSUE BEFORE THE COUNCIL:** Consideration of whether or not it is in the public interest to amend the Conditional Use section of the Zoning Ordinance (Section 2-5-3) to clarify terms, relocate definitions, and remove procedural requirements that have been consolidated into a single chapter.

At their October 12, 2009 meeting, the Planning Commission voted unanimously to recommend adoption of the changes.

**STAFF RECOMMENDATION:** Staff recommends the Council accept the Planning Commission's recommendation and adopt the ordinance.

**PROPOSED MOTION:** I move for reading by title only of an ordinance amending the Conditional Use section of the Newport Zoning Ordinance and for adoption by roll call vote.

**KEY FACTS AND INFORMATION SUMMARY:** The City of Newport Zoning Ordinance (No. 1308, as amended) contains standards for certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "conditional uses." The Conditional Use section of the Zoning Ordinance contains the terms, criteria, and procedures by which conditional uses may be permitted, enlarged or altered.

As part of the City's effort to comprehensively update and streamline its Zoning Ordinance, the City of Newport Planning Commission and its Citizens Advisory Committee have reviewed the Conditional Use section and suggest that amendments be adopted to (a) remove procedural provisions that have been consolidated into a single procedures chapter; (b) add language clarifying the purpose of conditional use reviews; (c) specify that approvals are limited to the specific use or uses sought and that conditions imposed by the approval authority must be related to the criteria; (d) eliminate unneeded definitions, consolidate them into a single chapter, and incorporate them into approval criteria where appropriate; (e) clarify submittal standards and approval criteria; and (f) remove the "type" distinction for conditional uses to avoid confusion with the "type" distinction used in the new decision making process.

The Planning Commission and Citizens Advisory Committee reviewed the proposed changes at work sessions on April 13, 2009, June 8, 2009, and July 27, 2009. DLCD was provided notice of the subject amendments on August 26, 2009, in accordance with their requirements. Notice was also provided to various agencies and City departments on September 22, 2009. Notice of the Planning Commission and City Council hearings was published in the Newport News-Times on October 2, 2009 and October 23, 2009, respectively. No comments were received.

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

**OTHER ALTERNATIVES CONSIDERED:** None.

**CITY COUNCIL GOALS:** The proposed changes are part of the comprehensive update to the Zoning Ordinance, which the Council set as a goal to complete this fiscal year.

**ATTACHMENT LIST:**

Proposed Ordinance

Attachment A - Markup Copy of Amendments to Section 2-5-3 of the Zoning Ordinance

Planning Commission Minutes for October 12, 2009

**FISCAL NOTES:** Proposed changes clarify standards, which should make it easier for the public and staff to understand what is needed for a successful application. However, the process and criteria will remain the same so the revisions should not materially impact costs the City incurs in evaluating land use actions.

**CITY OF NEWPORT**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE  
(ORDINANCE NO. 1308, AS AMENDED) TO UPDATE THE TERMS,  
CRITERIA, AND PROCEDURES FOR CONDITIONAL USES**

**Findings:**

1. The City of Newport Zoning Ordinance (No. 1308, as amended) requires that certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review analysis. Such uses are considered "conditional uses."
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of the Conditional Use section of the Zoning Ordinance (NZO Section 2-5-3) and determined that the terms and criteria need to be clarified; unneeded definitions should be deleted; remaining definitions should be consolidated into the definitions section of the Zoning Ordinance or combined with criteria; and that the procedures should be clarified and redundant procedures deleted.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed changes to the Conditional Use section (Newport File No. 7-Z-09) at work sessions on April 13, 2009, June 8, 2009, and July 27, 2009. Following a public hearing on October 12, 2009, the Planning Commission voted unanimously to recommend adoption of the proposed amendments.
4. The City Council of the City of Newport held a public hearing on November 2, 2009, regarding the question of the proposed revisions (Newport File No. 7-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
5. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** Section 2-5-3 of Ordinance No. 1308 (as amended), Conditional Uses, is deleted in its entirety and replaced with a new Section as shown in Exhibit "A".

**Section 2.** The following definition is added to Section 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions:

Public Facilities. Sanitary sewer, water, streets (including sidewalks), storm water, and electricity.

**Section 3.** This ordinance shall take effect on January 1, 2010.

Date adopted on initial vote and read by title only: \_\_\_\_\_

Date adopted on final roll call vote: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2009.

\_\_\_\_\_  
William D. Bain, Mayor

ATTEST:

\_\_\_\_\_  
Margaret M. Hawker, City Recorder

**Section 2-5-3. CONDITIONAL USES\***

**2-5-3.005. Purpose.** There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses.” It is the purpose of this section to establish the terms, criteria, and procedures by which Conditional Uses may be permitted, enlarged or altered. It is further the purpose of this section to supplement the other sections of this Code and the Comprehensive Plan. Nothing in this section guarantees that a Conditional Use permit will be issued.

**2-5-3.010. General Provisions.**

- A. Application for approval of a Conditional Use may be processed and authorized under a Type II or a Type III decision making procedure as provided by Section 2-6-1, Procedural Requirements, as well as the provisions of this Section.
- B. A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the approval authority.
- C. The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationship between the proposal and the approval criteria listed in subsection 2-5-3.025, in the underlying zoning district, and any applicable overlay zones.
- D. An application shall be approved if it satisfies the applicable criteria or can be made to meet the criteria through imposition of reasonable conditions of approval. If findings or data or reasonable conditions cannot bring an application into compliance with the criteria, then the application shall be denied.

**2-5-3.015. Approval Authority.**

- A. Application for approval of a Conditional Use shall be processed and authorized using a Type II decision-making procedure where specifically identified as eligible for Type II review elsewhere in this Code or when characterized by the following:
  - (1) The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
  - (2) Involves a piece(s) of property that is less than one (1) acre in size. For an application involving a condominium unit, the determination of the size of the property is based on the condominium common property and not the individual unit.
- B. All other applications for Conditional Uses shall be processed and authorized as a Type III decision-making procedure.

**2-5-3.020. Application Submittal Requirements.** Requests for a Conditional Use Permit shall be filed with the Community Development Department on forms prescribed for this purpose. In addition to a land use application form with the information required in Section 2-6-1.020, the petition shall be accompanied by:

- A. A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the applicant's lot; and
- B. A signing plan (if applicable); and
- C. Building elevations (if the building is existing, photographs documenting the building elevations are sufficient if no exterior changes are proposed); and
- D. The applicant's proposed findings of fact; and
- E. A list of affected property owners described in Section 2-6-1.030(C); and
- F. For commercial activities that are conditional, a proposed plan of business operation.

**2-5-3.025. Criteria for Approval of a Conditional Use.** The approval authority must find that the application complies with the following criteria:

- A. The public facilities can adequately accommodate the proposed use.
- B. The request complies with the requirements of the underlying zone or overlay zone.
- C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.

For the purpose of this criterion “adverse impact” is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality

- D. A proposed building or building modification is consistent with the overall development character of the area with regard to building size, and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

(Language ~~stricken~~ is deleted; double underlined language is new.)

**Section 2-5-3. CONDITIONAL USES\***

**2-5-3.005. Purpose.** There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses.” It is the purpose of this section to establish and define the conditional use terms, criteria, and procedures by which Conditional Uses may be permitted, enlarged or altered. It is further the purpose of this section to supplement the other sections of this Ordinance Code and the Comprehensive Plan. Nothing in this section guarantees that a conditional Conditional use-Use permit will be issued.

**2-5-3.010. General Provisions.**

A. Application for approval of a Conditional Use may be processed and authorized under a Type II or a Type III decision making procedure as provided by Section 2-6-1, Procedural Requirements, as well as the provisions of this Section.

B. A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the approval authority.

C. The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationship between the proposal and the approval criteria listed in subsection 2-5-3.025, in the underlying zoning district, and any applicable overlay zones.

D. An application shall be approved if it satisfies the applicable criteria or can be made to meet the criteria through imposition of reasonable conditions of approval. If findings or data or reasonable conditions cannot bring an application into compliance with the criteria, then the application shall be denied.

**2-5-3.010. Definitions.** For purposes of this section, the following definitions shall apply:

~~Conditional Use. A use defined as conditional in the permitted use matrix of this Ordinance.~~

~~Conditional Use Permit. The right to a conditional use, subject to the provisions of this section.~~

~~Impact. The effect of a nuisance on a neighborhood or the city.~~

~~Nuisance. The use of property or course of conduct that causes damage or annoyance, or which unlawfully interferes with or obstructs or renders unsafe other persons in the enjoyment of life or in the use of property. Nuisances include dust, smoke, noise, glare, vibration, safety, and odors.~~

~~Planning Director. The Planning Director or designate for the City of Newport.~~

~~Public Facilities. Sanitary sewer, water, streets, and electricity.~~

~~Special Requirements. Any additional development or review criteria contained in an underlying~~

zone, an overlay zone, or an adopted urban design plan.

Type I Decision. A conditional use permit that is reviewed by the Planning Commission consistent with provisions of this section and is not a Type II Decision as hereinafter defined.

Type II Decision. A conditional use permit that is reviewed by the Planning Director consistent with the provisions of this section. A Type II Decision is one that complies with the following:

- (a) ~~The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and~~
- (b) ~~Involves a piece(s) of property that is less than one (1) acre in size.~~

#### **2-5-3.015. Type I Decisions Approval Authority.**

A. Application for approval of a Conditional Use shall be processed and authorized using a Type II decision-making procedure where specifically identified as eligible for Type II review elsewhere in this Code or when characterized by the following:

- (1) The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
- (2) Involves a piece(s) of property that is less than one (1) acre in size. For an application involving a condominium unit, the determination of the size of the property is based on the condominium common property and not the individual unit.

B. All other applications for Conditional Uses shall be processed and authorized as a Type III decision-making procedure.

Type I conditional use permits may be granted by the Planning Commission after notice and public hearing as outlined in this section:

~~A. In reviewing a Type I Decision, the Planning Commission must find that the request complies with the following criteria:~~

- ~~(1) The public facilities can adequately accommodate the proposed use.~~
- ~~(2) The request complies with any special requirements of the underlying or overlay zone.~~
- ~~(3) The proposed use does not have an adverse impact, or impacts can be ameliorated through conditions.~~
- ~~(4) The proposed use is consistent with the overall development character of the neighborhood with regard to building size, height, color, material, and form.~~

~~B. Filing of Petition 2-5-3.020. Application Submittal Requirements.~~

Requests for a ~~Type I~~ Conditional Use Permit shall be filed with the ~~Planning Director~~ Community Development Department on forms prescribed for this purpose. In addition to a land use application form with the information required in Section 2-6-1.020, The the petition shall be accompanied by:

- (1)~~A.~~ A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the applicant's lot; and
- (2)~~B.~~ A signing plan (if applicable); and
- (3)~~C.~~ Building elevations (if the building is existing, photographs documenting the building elevations are sufficient if no exterior changes are proposed); and
- (4)~~D.~~ The applicant's proposed findings of fact; and
- (5)~~E.~~ A list of affected property owners described in Section 2-6-1.030(~~BC~~); and-
- F. For commercial activities that are conditional, a proposed plan of business operation.

~~C. Public Hearing Required. See Section 2-6-1.~~

~~D. Appeals. See Section 2-6-1.~~

**2-5-3.02025. Type II Decisions Criteria for Approval of a Conditional Use.** ~~Type II conditional use permits may be granted by the Planning Director after notice has been given and public comment obtained as outlined in this section.~~

~~A. In reviewing a Type II Decision, the Planning Director~~ The approval authority must find that the request application complies with the following criteria:

- (1)~~A.~~ The public facilities can adequately accommodate the proposed use.
- (2)~~B.~~ The request complies with ~~any special~~ the requirements of the underlying zone or overlay zone.
- (3)~~C.~~ The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.

For the purpose of this criterion "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality

- (4)~~D.~~ A The proposed building or building modification use is consistent with the overall development character of the neighborhood area with regard to building size, and height, color, material, and form considering both existing buildings and potential buildings allowable as uses permitted outright.

~~B. Filing of Petition. Requests for a Type II Conditional Use Permit shall be filed with the Planning Director on forms prescribed for that purpose. The petition shall be accompanied by:~~

- ~~(1) A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the applicant's lot; and~~
- ~~(2) A signing plan (if applicable); and~~
- ~~(3) Building elevations; and~~
- ~~(4) The applicant's proposed findings of fact; and~~
- ~~(5) A list of affected property owners, as described in Section 2-6-1.030(B).~~

~~C. **Review Procedure.** Upon receipt of a request for a Type II Conditional Use Permit, the Planning Director shall determine if the application is complete within five (5) days. If the application is found to be incomplete, the Planning Director shall return the application to the applicant along with an explanation of why the application is incomplete. If the application is found to be complete, it shall be accepted.~~

~~Upon acceptance of the application, the Planning Director shall notify property owners within 100 feet of the subject property for comment. Any party subject to the notice may file written comments within a 20-day period, and those comments will be considered in the decision making process.~~

~~If the Planning Director finds that the request complies with the standards, then the application shall be approved. The Planning Director may attach conditions to the approval. If additional findings or data or reasonable conditions cannot bring the application into compliance with this section, the application shall be denied.~~

~~After reaching a decision, the Planning Director shall notify the applicant and any person filing comments in writing of such decision. Any party given notice of the decision who is aggrieved by such decision shall have the right to appeal such decision to the Planning Commission of the City of Newport in the time and manner provided for an appeal of a conditional use permit. If notice of such appeal, together with the required filing fee, is not filed with the City of Newport within such period of time, the decision of the Planning Director shall become final.~~

~~**2-5-3.025. Time Limit On a Conditional Use Permit.** Authorization of Type I and Type II conditional use permit shall be void 18 months after final approval unless substantial construction has taken place. A conditional use permit will also expire if the use for which such approval was granted has ceased to exist or has been suspended for one (1) year or more.~~

~~**2-5-3.030. Conditions Which May Be Attached to Conditional Use Permits.** The approving authority for Type I and Type II conditional use permits may attach conditions in connection with the conditional use permit as it deems necessary to secure the purpose of this Ordinance, the Comprehensive Plan, or any other applicable ordinance or plan and to mitigate impacts. Such conditions may include, but are not limited to, the following:~~

- ~~A. Limit the manner in which the use is conducted, including restricting the time a certain activity may take place.~~
- ~~B. Establish a special yard or other open space.~~

- ~~C. — Limit the height, size, or location of structures.~~
- ~~D. — Designate the size, number, and location of vehicle access points.~~
- ~~E. — Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.~~
- ~~F. — Designate the size, location, screening, drainage, surfacing, or other improvements of parking or truck loading areas.~~
- ~~G. — Limit the number, size, location, height, lighting, materials, color, and shape of signs.~~
- ~~H. — Limit the location, direction, shielding, and number of outdoor lighting fixtures.~~
- ~~I. — Require landscaping and maintenance thereof.~~
- ~~J. — Require screening, landscaping, fencing, or other facilities to protect adjacent or nearby property.~~
- ~~K. — Limit the size, height, location, and materials for fencing.~~
- ~~L. — Such other conditions that will make possible the development of the city in an orderly and efficient manner, that will be in conformity with the intent and purpose set forth in this section and Ordinance, and that will minimize impacts.~~

~~**2-5-3.035. Revocation of a Conditional Use Permit.** The Planning Commission may, after holding a public hearing, revoke any Type I or Type II conditional use permit for any of the following reasons:~~

- ~~A. — Noncompliance with conditions set forth in granting said permit.~~
- ~~B. — Approval being obtained by fraud or misrepresentation.~~
- ~~C. — That the permit granted is being, or recently has been, exercised in violation of any statute, ordinance, law, or regulation.~~

Draft Minutes  
**City of Newport Planning Commission Regular Session**  
**Monday, October 12, 2009**

**Commissioners Present:** Jim Patrick, John Rehfluss, Glen Small, Gary East, Mark Fisher, and Melanie Sarazin.

**Commissioners Absent:** Dawn Newman (excused).

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

Commissioner Rehfluss had stepped away and had not yet joined the meeting; but with a quorum present, Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:10 p.m.

**A. Approval of Minutes.**

1. Approval of the work session and regular session Planning Commission meeting minutes of September 28, 2009.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner East, to approve the minutes of the Planning Commission meetings of September 28, 2009, as presented. The motion carried unanimously in a voice vote.

**B. Citizen/Public Comment.** There was no public comment.

**C. Consent Calendar.**

1. Final Order for File No. 4-VAR-09. Denial of a request submitted by Gerald Willett (Sam & Carol Isom, Paul & Nellie Fitch, and Bettye Willett, property owners) for property located at 510 SW Alder St for the following variances in order to replace an existing single story nonconforming detached garage with a new two-story garage/storage building: (1) a variance to the 15-foot height limitation for detached accessory structures to allow the building to be 24' 6" high; (2) a variance to the 10-foot rear yard setback requirement to allow the rear yard setback to be 4' 4 1/2"; and (3) a variance to allow the proposed garage/storage building to be 1200 sq. ft. rather than the 625 sq. ft. limitation for an accessory structure. The Planning Commission held a public hearing on this matter on September 28, 2009.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Small, to approve the Final Order denying the request in File No. 4-VAR-09 as presented. The motion carried unanimously in a voice vote. At this point, Commissioner Rehfluss joined the meeting.

**D. New Business.** There was no new business to discuss.

**E. Public Hearings.**

Legislative Actions:

1. Policy Recommendation on Planning & Building Fees – Newport Comprehensive User Fee Study. The Planning Commission will review this matter and make a recommendation to the City Council.

Chair Patrick opened the public hearing regarding policy recommendation on Planning & Building fees at 7:17 p.m. He asked for the staff report. Tokos noted that the Planning Commission had reviewed the user fee study at a work session a couple of weeks ago. A comprehensive user fee study was undertaken citywide looking at for-fees services. Tokos said that what is attached to the packets was the portion of that study that pertains to the Community Development planning and building fees. At the work session, the Planning Commission had asked for the comparative matrix that other jurisdictions charge presented in January 2009 when this was being considered prior to the City's decision to do this study to look at all fees. Tokos noted that the City Council is likely to review this study in November, and is looking for recommendations from all commissions on how to approach changes to fees. They are looking for a philosophy for how much should be collected through fees versus what should be addressed with general fund dollars. Tokos added that the Commissioners had also asked for a recommendation, which he did. His recommendation would be that 50% of direct costs should be collected through permits. He explained why. The study has a discussion about public versus private benefit. If the benefit is largely private, costs should be collected through fees; but if the benefit is largely public, then costs should come from the general funds. Tokos looks at indirect costs such as customer service, long-range planning, and code compliance as benefitting the public at large, so they should be supported by the general fund. For developer permits, there is a private benefit. They benefit by due process built into the codes. They can do certain development provided they meet the standards. The general public also benefits because they get the development they are looking for through these rules, and they have an opportunity to participate and influence the outcome. Tokos felt that 50/50 is a reasonable way to

break this up. The fees we now have were never set for a cost recovery basis. They haven't been adjusted much over time, and are at about a 15% recovery rate. Tokos' recommendation would be to phase it in over a series of years. He set four years, then take a look at it on the fifth year to see how it is going. Tokos said that the increase is not going to put Newport so much out in front of others that it will have an impact compared to the other communities. If someone is looking to develop in Newport, it does not have to do with the fees. Tokos said that he did send this information out to the members of the system development community. Tokos met with Don Huster and the Landwaves folks, who will be pulling a lot of permits. He didn't get a read that they were totally against it. They understand why the City is doing this. They understand there are costs, but they just want to be treated fairly through this. Tokos also ran this by the City Manager, who was on board. Tokos said that he didn't have time to look at what this would mean dollar wise given traffic, but he will try to pull numbers together for the City Council hearing on whatever the Commission's recommendation is. Rehffuss had no objections. Patrick thought the philosophy of 50% is fine as long as we are trying to be reasonable. The Commissioners wanted to see certainty and fairness with developers. They were comfortable with using the direct costs. Sarazin asked if numbers would be tracked on each case for review in five years. Tokos said that was not something he had implemented, but that it is something to keep on the table. Sarazin said in that way we would have a more precise cost of what we are collecting. There was discussion about using today's direct costs. Tokos said that we might want to set it up to be 52% or 53%. Patrick said that built-in step increases should cover that, and he would recommend an inflation adjustment each year. Tokos said that the City Council will consider indirect costs as well, but his recommendation is that those should be appropriately funded through the general fund. The others felt the same way.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Rehffuss, seconded by Commissioner East, to forward to the City Council the recommendation of the Community Development Director for increasing fees 50% of the direct costs phased in over a 4-year period. The motion carried unanimously in a voice vote.

2. File No. 7-Z-09. A request initiated by the City of Newport involving legislative text amendments the Newport Municipal Code adopting comprehensive updates to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Section 2-5-3 ("Conditional Uses") by removing procedural provisions and consolidating them into a single procedures chapter and consolidating and clarifying other provisions. The Planning Commission will review this matter and make a recommendation to the City Council.

Patrick opened the public hearing for File No. 7-Z-09 at 7:30 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos explained that this is a consolidation of provisions in the conditional use section of the zoning ordinance. The Planning Commission met to consider these on several occasions at work sessions in the past. He read from his staff memo describing the changes. Also with the memo, was an example of the ordinance, a draft code showing strikethroughs, and a clean copy showing the finished product.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner East, to recommend to the City Council approval of the proposed amendments in File No. 7-Z-09. The motion carried unanimously in a voice vote.

3. File No. 8-Z-09. A request initiated by the City of Newport involving legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Section 2-5-2 ("Variances"). Procedural provisions are being removed and consolidated into a single procedures chapter. The concept of an adjustment is introduced as an alternative to a traditional variance to a numerical standard, and thresholds are set for when a deviation qualifies for an adjustment or a variance. The request also includes legislative text amendments to the variance provisions for signage contained in the Newport Municipal Code under Title X ("Signs") Chapter 10.10.140 ("Variance Requirements"). Amendments to the sign variance section of the Code adopt new criteria for sign adjustments or variances. The Planning Commission will review this matter and make a recommendation to the City Council.

Patrick opened the public hearing for File No. 8-Z-09 at 7:33 p.m. by reading the summary from the agenda and asked for the staff report. Tokos noted that, as outlined, the proposal includes two amendments to the zoning ordinance variance section, provides standards and criteria, and evaluates deviations from numerical standards. The existing criteria require the demonstration of a practical difficulty and hardship, which is a high bar. The Planning Commission expressed interest in breaking that up so that for minor deviations, an applicant didn't have to show practical difficulties and hardship. As long as they were consistent with the purpose of the district, that should suffice. Tokos said that is how this section was structured with variances and adjustments. Adjustments are for smaller deviations. He set up the standard review process. Adjustments of 10% or less will be decided by the Community Development Director, and the same for variances. Over 10% goes to the Planning Commission currently. As this is set up, 10-40% still goes to the Planning Commission, but the criteria for an adjustment are applied. If it is over 40%, then it is a typical variance and must meet the standards showing practical difficulties to warrant the deviation. The adjustment criteria don't require hardship or practical difficulties. The other amendment is to the signs variance section. The Planning Commission was interested in standards that were actually crafted with signage in mind. They didn't believe that criteria that uses hardship or practical difficulties as used for building heights or setbacks worked for signage. Under the amended code, there are three criteria

for signage shown on page 2 of 2 on the strikeout draft. An adjustment or variance must be consistent with the sign code purpose statement, must have exceptional design or be more consistent with the architecture and development, and will not add to street level sign clutter or be a traffic safety hazard. The concept of adjustments and variances were carried over to signs. For code consistency he kept adjustments as deviations less than 40%, and variances are for more than 40%. Fisher thought that by redefining the sign ordinance, it makes it a much more useable tool for all parties involved. Patrick agreed that the concept of adjustments and variances in both sections were useful.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Rehfuss, to approve and forward to the City Council the amendments in File No. 8-Z-09. The motion carried unanimously in a voice vote.

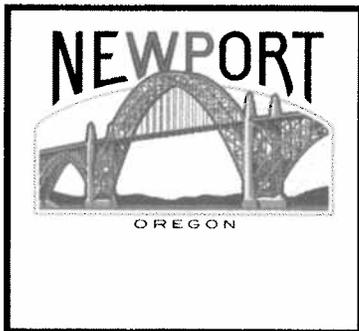
**F. Unfinished Business.** Tokos informed the Commission that a draft Nye Beach parking district could go before the City Council at their November 2<sup>nd</sup> meeting, which is the last stage of the process. He said that a Nye Beach district is close to being adopted. Tokos said that at the work session he had mentioned that the zoning ordinance amendment regarding trailer parks was continued by the City Council on October 5<sup>th</sup>, but they didn't set a date certain to continue. It is up to the applicant whether to bring the request back to the Planning Commission with their City Council presentation or go back to the City Council. We will have to re-notice one way or the other. Lastly, Tokos said that for the October 26<sup>th</sup> Planning Commission meeting, there is nothing on the regular agenda; but there will probably be a work session. Patrick suggested that since there wasn't a regular session, to hold a longer work session. Rehfuss noted that he will not be at the November 23<sup>rd</sup> meeting.

**G. Adjournment.** There being no further business to come before the Planning Commission, the meeting adjourned at approximately 7:45 p.m.

Respectfully submitted,

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Wanda Haney  
Senior Administrative Assistant



Agenda Item #  
Meeting Date

VI . B .  
November 2, 2009

**CITY COUNCIL AGENDA ITEM SUMMARY**  
City of Newport, Oregon

Issue/Agenda Title Public hearing on an ordinance amending the Newport Zoning Ordinance and Newport Municipal Code to update criteria and procedures for variances to numerical zoning and sign code standards (File No. 8-Z-09)

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

**ISSUE BEFORE THE COUNCIL:** Consideration of whether or not it is in the public interest to amend the Variance sections of the Zoning Ordinance (Section 2-5-2) and Municipal Code (Section 10.10.140) to clarify and consolidate procedures and provide alternative criteria, in the form of an Adjustment review, for minor deviations to numerical standards.

At their October 12, 2009 meeting, the Planning Commission voted unanimously to recommend adoption of the changes.

**STAFF RECOMMENDATION:** Staff recommends the Council accept the Planning Commission's recommendation and adopt the ordinance.

**PROPOSED MOTION:** I move for reading by title only of an ordinance amending the Variance section of the Newport Zoning Ordinance and variance provisions for signage contained in the Newport Municipal Code and for adoption by roll call vote.

**KEY FACTS AND INFORMATION SUMMARY:** The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria and procedures for evaluating requests to deviate from the numerical zoning standards that apply to structural development. Similarly, the Newport Municipal Code contains criteria and procedures for requests to deviate from numerical standards that apply to construction of signs. Such deviations are known as "Variances."

As part of the City's effort to comprehensively update and streamline its Zoning Ordinance, the City of Newport Planning Commission and its Citizens Advisory Committee have reviewed the Variance section of the ordinance and suggest that amendments be adopted to (a) remove the procedural provisions that have been consolidated into a single procedures chapter; and (b) incorporate into the ordinance the concept of an Adjustment as an alternative to a traditional variance, which allows approval of minor deviations to numerical standards without evidence of a hardship or practical difficulty. In addition, the Planning Commission and its Citizens Advisory Committee recommend text amendments to the variance provisions for signage contained in the Newport Municipal Code that create criteria for adjustments and variances to the numerical standards of the sign code in order to provide flexibility while still fulfilling the purpose of the code.

The Planning Commission and Citizens Advisory Committee reviewed the proposed changes at work sessions on July 27, 2009 and August 24, 2009. DLCD was provided notice of the subject amendments on August 26, 2009, in accordance with their requirements. Notice was also provided to various agencies and City departments on September 22, 2009. Notice of the Planning Commission and City Council hearings was published in the Newport News-Times on October 2, 2009 and October 23, 2009, respectively. No comments were received.

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

**OTHER ALTERNATIVES CONSIDERED:** None.

**CITY COUNCIL GOALS:** The proposed changes are part of the comprehensive update to the Zoning Ordinance, which the Council set as a goal to complete this fiscal year.

**ATTACHMENT LIST:**

Proposed Ordinance

Attachment A – Markup Copy of Amendments to Section 2-5-2 of the Zoning Ordinance

Attachment B – Markup Copy of Amendments to Section 10.10.140 of the Municipal Code

Planning Commission Minutes for October 12, 2009

**FISCAL NOTES:** An Adjustment review is a new type of land use action that will replace a Type I Variance review. Staff will need to bring a resolution to Council amending the fee schedule to account for the new process and changes that are being made to the variance requirements.

## CITY OF NEWPORT

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE  
(ORDINANCE NO. 1308, AS AMENDED) AND NEWPORT MUNICIPAL CODE  
TO UPDATE CRITERIA AND PROCEDURES FOR VARIANCES TO  
NUMERICAL STANDARDS OF THE ZONING ORDINANCE AND SIGN CODE**

**Findings:**

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria and procedures for evaluating requests to deviate from the numerical zoning standards that apply to structural development. Similarly, the Newport Municipal Code contains criteria and procedures for requests to deviate from numerical standards that apply to construction of signs. Such deviations are known as Variances.
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of the Variance section of the Zoning Ordinance and Variance section of the Newport Municipal Code, relative to signage, and determined that the procedures need to be clarified and consolidated and that greater flexibility, in the form of an Adjustment review, is needed to allow minor deviations to numerical standards without requiring evidence of hardship or practical difficulty.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed changes to the Variance sections of the Zoning Ordinance and Newport Municipal Code (Newport File No. 8-Z-09) at work sessions on July 27, 2009 and August 24, 2009. Following a public hearing on October 12, 2009, the Planning Commission voted unanimously to recommend adoption of the proposed amendments.
4. The City Council held a public hearing on November 2, 2009 regarding the question of the proposed revisions (Newport File No. 8-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
5. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** Section 2-5-2 of Ordinance No. 1308 (as amended), Variances, is deleted in its entirety and replaced with a new Section as shown in Exhibit "A".

**Section 2.** Section 10.10.140 of the Newport Municipal Code, Signs, is deleted in its entirety and replaced with a new Section as shown in Exhibit "B".

**Section 3.** This ordinance shall take effect on January 1, 2010.

Date adopted on initial vote and read by title only: \_\_\_\_\_

Date adopted on final roll call vote: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2009.

\_\_\_\_\_  
William D. Bain, Mayor

ATTEST:

\_\_\_\_\_  
Margaret M. Hawker, City Recorder

## **Section 2-5-2. ADJUSTMENTS AND VARIANCES**

**2-5-2.005. Purpose.** The purpose of this section is to provide flexibility to numerical development standards in recognition of the wide variation in property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property.

### **2-5-2.010. General Provisions.**

A. Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision making procedure as provided by Section 2-6-1, Procedural Requirements, in addition to the provisions of this section.

B. No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located, or to increase densities in any residential zone.

C. In granting an Adjustment or Variance the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

**2-5-2.015. Approval Authority.** Upon receipt of an application the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this sub-section. There shall be no appeal of the Director's determination as to the type of application and decision making process, but the issue may be raised in any appeal from the final decision on the application.

A. A deviation of less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision making procedure.

B. A deviation of greater than 10% but less than or equal to 40% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision making procedure.

C. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as determined by the Planning Commission using a Type III decision making procedure.

**2-5-2.020. Application Submittal Requirements.** In addition to a land use application form with the information required in Section 2-6-1.020, the petition shall include a site plan prepared by a registered surveyor that is drawn to scale and illustrates proposed development on the subject property

A. For requests to deviate from required setbacks, the site plan shall also show survey monuments along the property line subject to the Adjustment or Variance.

B. For requests to deviate from building height limitations, the application shall include exterior architectural elevations, drawn to scale, illustrating the proposed structure and adjoining finished ground elevations.

**2-5-2.025. Criteria for Approval of an Adjustment.** The approval authority may grant an Adjustment using a Type I or Type III decision making process when it finds that the application complies with the following criteria:

A. Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

B. Any impacts resulting from the Adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

C. The Adjustment will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access; and

D. If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zoning district.

**2-5-2.030. Criteria for Approval of a Variance.** The approval authority may grant a Variance using a Type III decision making process when it finds that the application complies with the following criteria:

A. A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

- (1) The size, shape, natural features and topography of the property, or
- (2) The location or size of existing physical improvements on the site, or
- (3) The nature of the use compared to surrounding uses, or
- (4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district, or
- (5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.
- (6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

B. The circumstance or condition in (A) above is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

C. There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

D. Authorization of the Variance will not result in substantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.

E. The Variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.

F. Any impacts resulting from the Variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

#### 10.10.140 Sign Adjustment and Variance Requirements

A. Purpose. Adjustments and Variances to the numerical standards of the sign code are intended to allow flexibility while still fulfilling the purpose of the Code.

B. Procedure.

1. Any person may seek an Adjustment or Variance to the numerical provisions of this chapter or of Chapter 10.15 by filing an application with the Community Development Director or designate on a form prescribed for that purpose. Upon receipt of an application the Director or designee shall determine if the request shall be processed as an Adjustment or as a Variance according to the procedure provided in §2-5-2.015 of the Zoning Ordinance.
2. The fee shall be the same as for a zoning Adjustment or Variance. No Adjustment or Variance shall be permitted that would negate the provisions of 10.10.045, Prohibited Signs.
3. In addition to the application submittal requirements of Section 2-5-2 of the Zoning Ordinance, the applicant must provide an inventory of all signs including the location, type, and size of each sign on the property.
4. Approval criteria in (C) below are to be used when evaluating applications for Adjustments or Variances to the sign code, rather than those provided in Section 2-5-2 of the Zoning Ordinance.

C. Criteria. The approval authority must find that the application for an Adjustment or Variance complies with the following criteria:

1. The Adjustment or Variance is consistent with the purposes of the sign code, as provided in §10.10.010; and
2. The Adjustment or Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
3. The Adjustment or Variance will not significantly increase or lead to street level sign clutter, nor will it create a traffic or safety hazard.

(Language ~~stricken~~ is deleted; double underlined language is new.)

**Section 2-5-2. ADJUSTMENTS AND VARIANCES** ~~Variances\*~~

**2-5-2.005. Purpose.** The purpose of this section is to provide flexibility to numerical development standards in recognition of the wide variation in property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property.

~~**2-5-2.005. Authorization To Grant or Deny Variances.** Subject to the criteria and procedures established in this Section, the appropriate approving authority may authorize variances from those requirements of this Ordinance as are expressed in numerical quantities, such as size, height, setback distance, and so forth. No variance may be granted to allow a use of property that is not allowed in the zone in which the property is located, or to increase densities in any residential zone. In granting a variance, the approving authority may attach conditions that it finds appropriate to preserve and protect the beneficial use and enjoyment of other property in the vicinity, which may be adversely affected by the granting of the variance, and/or to further or protect a public purpose or public project provided for in the Comprehensive Plan, the Zoning Ordinance or the Subdivision Ordinance which may be adversely affected by granting of the variance, and/or to otherwise implement the requirements, purposes and objectives of the Comprehensive Plan.~~

**2-5-2.010. General Provisions.**

A. Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision making procedure as provided by Section 2-6-1, Procedural Requirements, in addition to the provisions of this section.

B. No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located, or to increase densities in any residential zone.

C. In granting an adjustment or Variance the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

~~**2-5-2.010. Approving Authority.** The approving authority is the Planning Commission for Type I variances and the Planning Director or designate for Type II variances. The Planning Director shall, based on the standards established in this Section, determine if a request is a Type I or Type II variance and process it accordingly. There shall be no appeal from the decision of the Planning Director as to the type of variance applied for, but the issue may be raised in any appeal from the final decision on the variance. If a Type II variance has incorrectly been decided by the Planning Commission as a Type I variance, the variance shall be re-characterized for the purposes of the substantive provisions of this ordinance, but no procedural remedy shall exist, unless such issue was raised on appeal in accordance with section 2-5-2.030.C., in which case the Council may hear the matter as a de novo public hearing or, in the alternative, may remand the matter to the Planning Commission to commence proceedings in the manner appropriate to a Type I variance.~~

~~**2-5-2.015. Definitions.** For purposes of this subsection, the following shall apply:~~

~~A. **Type I variance.** A variance greater than 10% of the numerical requirements contained in this Ordinance.~~

~~B. **Type II variance.** A variance no greater than 10% of the numerical requirements contained in this Ordinance.~~

**2-5-2.015. Approval Authority.** Upon receipt of an application the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this sub-section. There shall be no appeal of the Director's determination as to the type of application and decision making process, but the issue may be raised in any appeal from the final decision on the application.

A. A deviation of less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision making procedure.

B. A deviation of greater than 10% but less than or equal to 40% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision making procedure.

C. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as determined by the Planning Commission using a Type III decision making procedure.

~~**2-5-2.020. Initiation of a Variance Request.** A property owner or an authorized agent may initiate a request for a variance. If an authorized agent applies for the permit, the property owner must sign the application, a letter of authorization or other affidavit giving the authorized agent permission to make application.~~

**2-5-2.020. Application Submittal Requirements.** In addition to a land use application form with the information required in Section 2-6-1.020, the petition shall include a site plan prepared by a registered surveyor that is drawn to scale and illustrates proposed development on the subject property

A. For requests to deviate from required setbacks, the site plan shall also show survey monuments along the property line subject to the Adjustment or Variance.

B. For requests to deviate from building height limitations, the application shall include exterior architectural elevations, drawn to scale, illustrating the proposed structure and adjoining finished ground elevations.

**2-5-2.025. Criteria for Approval of an Adjustment.** The approval authority may grant an Adjustment using a Type I or Type III decision making process when it finds that the application complies with the following criteria:

A. Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

B. Any impacts resulting from the Adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

C. The Adjustment will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access; and

D. If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zoning district.

**2-5-2.030. Criteria for Approval of a Variance.** The approval authority may grant a Variance using a Type III decision making process when it finds that the application complies with the following criteria:

A. A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or

(2) The location or size of existing physical improvements on the site, or

(3) The nature of the use compared to surrounding uses, or

(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district, or

(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

B. The circumstance or condition in (A) above is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

C. There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

D. Authorization of the Variance will not result in substantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but

are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.

E. The Variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.

F. Any impacts resulting from the Variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

~~2-5-2.025. **Type I Variances.** The Planning Commission may grant a Type I variance, after a public hearing, based on the criteria and procedures contained in this subsection.~~

~~A. **Criteria.** The Planning Commission may grant a Type I variance when they find that the request complies with the following criteria:~~

~~1. That there are exceptional or extraordinary circumstances or conditions applying to the land, related to physical characteristics of the land such as lot size, shape or topography, which circumstances or conditions do not apply generally to other similarly zoned land in the surrounding neighborhood and are beyond the control of the applicant. The exceptional or extraordinary circumstances or conditions found result in practical difficulties which can be relieved only by modifying the literal requirements of this Ordinance. Practical difficulties are defined as being prevented from making a reasonable use of the property, similar to that enjoyed by other properties in the neighborhood.~~

~~2. That granting the variance will not cause substantial adverse physical impacts to the neighborhood in which the property is located. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because this ordinance contains a separate section dealing with geologic limitations.~~

~~3. That granting the variance will not interfere in the provision of sewer, water, storm drainage, streets, electricity, natural gas, telephone or cable television or any other public utility.~~

~~B. **Filing of Petition.** In addition to the requirements of Section 2-6-1.020 of this Ordinance, the applicant or authorized agent shall file with the Planning Director or designate all requests for a Type I variance on forms prescribed for that purpose. The petition shall also contain a site plan, prepared by a registered surveyor, drawn to scale and showing the dimensions and arrangement of the proposed development on the subject property. For setback variance requests the site plan shall also show survey monuments along the property line subject to the variance. For height variance requests, architectural elevations shall accompany the application.~~

~~C. **Public Hearing Required.** A public hearing before the Planning Commission is required per Section 2-6-1.040 of this Ordinance. Notice of the public hearing shall be provided as specified in Section 2-6-1.030 of this Ordinance.~~

~~D. Appeals.~~ All appeals shall follow the procedures contained in Section 2-6-1.045 of this Ordinance.

~~E. Time Limit on a Permit for a Type I Variance.~~ Authorization of a Type I variance shall expire and thereupon become void after 18 months unless substantial construction has begun, unless extended as hereafter provided. For purposes of this section, substantial construction shall be work (including site preparation and/or construction) having a reasonable cost equal to at least 10% of the reasonably estimated cost of completion of the proposed improvements. An extension of six months may be granted by the Planning Director upon a finding that (1) circumstances beyond the control of the applicant caused a delay that prevented construction; and (2) the Comprehensive Plan or Zoning Ordinance have not changed in a way that would substantially affect the original approval. Such decision shall be carried out in the manner of a Type II variance, but the only criteria shall be the foregoing. Notice of the decision shall be given provided for a Type II variance decision. A second, additional extension of six months may be granted by the Planning Commission, only upon the finding that (1) extraordinary circumstances beyond the control of the applicant caused a delay that prevented construction; (2) the Comprehensive Plan or Zoning Ordinance have not changed in a way that would substantially affect the original approval. Such decision shall be made in the same manner and with the same notice as for a Type I variance. Any application for an extension must be submitted, with the required application, documentation and fees, not later than 10 days following the date on which the initial 18 month period, or a prior extension (in the case of a second extension) expired. No further extensions shall be allowed. The initial 18 month time period, and the period of any extension, shall not commence to run until the variance decision is judicially final as provided in Section 2-6-1.045(F) of this Ordinance.

**2-5-2.030. Type II Variances.** The Planning Director may grant Type II variances based on the criteria and procedures contained in this subsection.

~~A. Criteria.~~ The Planning Director may grant a Type II variance when found that the request complies with the following criteria:

1. That granting the variance will not interfere in the provision of appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone or cable television.
2. That granting the variance is reasonably necessary in order to permit a reasonable use of the property, consistent with other uses in the immediate neighborhood, giving reasonable consideration to setbacks, height, orientation and bulk of such uses.

~~B. Filing the Petition.~~ In addition to the requirements of Section 2-6-1.020 of this Ordinance, the applicant or authorized agent shall file with the Planning Director or designate all requests for a Type II variance on forms prescribed for that purpose. The petition shall also contain a site plan, prepared by a registered surveyor or licensed professional civil engineer, drawn to scale and showing the dimensions and arrangement of the proposed development on the subject property. For setback variance requests, the site plan shall also show survey monuments along the property line subject to the variance. For height variance requests, architectural elevations shall accompany the application.

~~C. Review Procedure. Upon receipt of a request for a Type II variance, the Planning Director or designate shall determine if the application is complete within five working days. If the application is found to be incomplete, the Planning Director or designate shall return the application to the applicant or authorized agent along with an explanation of why the application is not complete. If the application is found complete, the Planning Director or designate shall accept the application.~~

~~Upon acceptance of the application, the Planning Director or designate shall make a decision based on the criteria. After the decision, the Planning Director or designate shall notify the property owners within 200 feet of the subject property. Any party subject to the notice may file an appeal within 15 days after the date the notifications were mailed. If the fifteenth day falls on a weekend or legal holiday, the appeal period shall extend to the next working day.~~

~~The Planning Director or designate may approve the request if found to comply with all the criteria. The Planning Director or designate may attach conditions to the final approval. If the Planning Director or designate finds that the request does not comply with the criteria, the application shall be denied.~~

~~D. Time Limit on a Permit for a Type II Variance. Authorization of a Type II variance shall expire and thereupon become void after 18 months unless substantial construction has begun, unless extended as hereafter provided. For purposes of this section, substantial construction shall be work (including site preparation and/or construction) having a reasonable cost equal to at least 10% of the reasonably estimated cost of completion of the proposed improvements. An extension of six months may be granted by the Planning Director upon a finding that (1) circumstances beyond the control of the applicant caused a delay that prevented construction; and (2) the Comprehensive Plan or Zoning Ordinance have not changed in a way that would substantially affect the original approval. Such decision shall be carried out in the manner of a Type II variance, but the only criteria shall be the foregoing. Notice of the decision shall be given provided for a Type II variance decision. A second, additional extension of six months may be granted by the Planning Commission, only upon the finding that (1) extraordinary circumstances beyond the control of the applicant caused a delay that prevented construction; (2) the Comprehensive Plan or Zoning Ordinance have not changed in a way that would substantially affect the original approval. Such decision shall be made in the same manner and with the same notice as for a Type I variance. Any application for an extension must be submitted, with the required application, documentation and fees, not later than 10 days following the date on which the initial 18 month period, or a prior extension (in the case of a second extension) expired. No further extensions shall be allowed. The initial 18 month time period, and the period of any extension, shall not commence to run until the variance decision is judicially final as provided in Section 2-6-1.045(F) of this Ordinance.~~

~~2-5-2.035. Conditions Which May Be Attached to Type I or Type II Variance Permits. The approving authority for Type I and Type II variances may attach conditions in connection with the variance permit as it deems necessary to secure the purpose of this Ordinance or the Comprehensive Plan and to mitigate adverse impacts on the surrounding neighborhood or further a public purpose, as provided above. Such conditions may include, but are not limited to, the following:~~

~~A. Special yards and open spaces.~~

- ~~B. Increased setbacks.~~
- ~~C. Public improvements, that further a public facilities plan, related to the property in question.~~
- ~~D. Additional landscaping or buffer.~~
- ~~E. Construction of fences, walls, or berms.~~
- ~~F. Access to and from a lot.~~
- ~~G. Engineers, surveyors, or architects drawings, studies or reports.~~

~~2-5-2.040. **Revocation of Variance Permits.** The Planning Commission may, upon receiving the recommendation of the Planning Director that it proceed to consider the matter, and only after conducting a public hearing in the same manner as is provided for determining a Type I variance, revoke any Type I or Type II variance permit, for any of the following reasons:~~

- ~~A. Noncompliance with any conditions imposed in connection with the granting of said permit.~~
- ~~B. Obtaining approval by fraud or misrepresentation.~~
- ~~C. Exercise of the variance permit granted in violation of any statute, ordinance, law or regulation.~~

(Language ~~stricken~~ is deleted; double underlined language is new.)

## CHAPTER 10.10 SIGNS (Included for Context Only)

### 10.10.010 Purpose

The purposes of the Newport Sign Code are:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

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### 10.10.140 ~~Variance Requirements~~ Sign Adjustment and Variance Requirements

A. Purpose. Adjustments and Variances to the numerical standards of the sign code are intended to allow flexibility while still fulfilling the purpose of the Code.

#### B. Procedure.

1. Any person may seek a ~~variance~~ an Adjustment or Variance to the numerical provisions of this chapter or of Chapter 10.15 by filing a ~~written application~~ an application with the Community Development Director or designate on a form prescribed for that purpose. Upon receipt of an application the Director or designee shall determine if the request shall be processed as an Adjustment or as a Variance according to the procedure provided in §2-5-2.015 of the Zoning Ordinance. The procedure and process applicable to zoning (including but not limited to the notification process, public hearing process, conditions of approval, time limitations, and revocation of permits as applicable for the type of variance requested) shall be followed.

2. The fee for a variance shall be the same as for a zoning Adjustment or Variance. No Adjustment or Variance shall be permitted that would negate the provisions of 10.10.045, Prohibited Signs.

3. The criteria for sign variance shall be as specified below. In addition to the application submittal requirements of Section 2-5-2 of the Zoning Ordinance, for submitting a zoning variance, a sign inventory the applicant must provide an inventory of all signs including the location, type, and size of each sign on the property.

4. Approval criteria in (C) below are to be used when evaluating applications for Adjustments or Variances to the sign code, rather than those provided in Section 2-5-2 of the Zoning Ordinance.

C. Criteria. The approval authority must find that the application for an Adjustment or Variance complies with the following criteria:

A. All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type I Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

B. All sign variance applications based on a change in a sign or signs that decreases but does not eliminate an existing nonconformity shall be determined by the Community Development (Planning) Director using a Type II Variance procedure, based on a determination that the proposed variance will result in a reduction of the nonconformity without increasing any aspect of nonconformity.

1. The Adjustment or Variance is consistent with the purposes of the sign code, as provided in §10.10.010; and

2. The Adjustment or Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

3. The Adjustment or Variance will not significantly increase or lead to street level sign clutter, nor will it create a traffic or safety hazard.

Draft Minutes  
**City of Newport Planning Commission Regular Session**  
**Monday, October 12, 2009**

**Commissioners Present:** Jim Patrick, John Rehfuss, Glen Small, Gary East, Mark Fisher, and Melanie Sarazin.

**Commissioners Absent:** Dawn Newman (excused).

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

Commissioner Rehfuss had stepped away and had not yet joined the meeting; but with a quorum present, Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:10 p.m.

**A. Approval of Minutes.**

1. Approval of the work session and regular session Planning Commission meeting minutes of September 28, 2009.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner East, to approve the minutes of the Planning Commission meetings of September 28, 2009, as presented. The motion carried unanimously in a voice vote.

**B. Citizen/Public Comment.** There was no public comment.

**C. Consent Calendar.**

1. Final Order for File No. 4-VAR-09. Denial of a request submitted by Gerald Willett (Sam & Carol Isom, Paul & Nellie Fitch, and Bettye Willett, property owners) for property located at 510 SW Alder St for the following variances in order to replace an existing single story nonconforming detached garage with a new two-story garage/storage building: (1) a variance to the 15-foot height limitation for detached accessory structures to allow the building to be 24' 6" high; (2) a variance to the 10-foot rear yard setback requirement to allow the rear yard setback to be 4' 4 1/2"; and (3) a variance to allow the proposed garage/storage building to be 1200 sq. ft. rather than the 625 sq. ft. limitation for an accessory structure. The Planning Commission held a public hearing on this matter on September 28, 2009.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Small, to approve the Final Order denying the request in File No. 4-VAR-09 as presented. The motion carried unanimously in a voice vote. At this point, Commissioner Rehfuss joined the meeting.

**D. New Business.** There was no new business to discuss.

**E. Public Hearings.**

**Legislative Actions:**

1. Policy Recommendation on Planning & Building Fees – Newport Comprehensive User Fee Study. The Planning Commission will review this matter and make a recommendation to the City Council.

Chair Patrick opened the public hearing regarding policy recommendation on Planning & Building fees at 7:17 p.m. He asked for the staff report. Tokos noted that the Planning Commission had reviewed the user fee study at a work session a couple of weeks ago. A comprehensive user fee study was undertaken citywide looking at for-fees services. Tokos said that what is attached to the packets was the portion of that study that pertains to the Community Development planning and building fees. At the work session, the Planning Commission had asked for the comparative matrix that other jurisdictions charge presented in January 2009 when this was being considered prior to the City's decision to do this study to look at all fees. Tokos noted that the City Council is likely to review this study in November, and is looking for recommendations from all commissions on how to approach changes to fees. They are looking for a philosophy for how much should be collected through fees versus what should be addressed with general fund dollars. Tokos added that the Commissioners had also asked for a recommendation, which he did. His recommendation would be that 50% of direct costs should be collected through permits. He explained why. The study has a discussion about public versus private benefit. If the benefit is largely private, costs should be collected through fees; but if the benefit is largely public, then costs should come from the general funds. Tokos looks at indirect costs such as customer service, long-range planning, and code compliance as benefitting the public at large, so they should be supported by the general fund. For developer permits, there is a private benefit. They benefit by due process built into the codes. They can do certain development provided they meet the standards. The general public also benefits because they get the development they are looking for through these rules, and they have an opportunity to participate and influence the outcome. Tokos felt that 50/50 is a reasonable way to

break this up. The fees we now have were never set for a cost recovery basis. They haven't been adjusted much over time, and are at about a 15% recovery rate. Tokos' recommendation would be to phase it in over a series of years. He set four years, then take a look at it on the fifth year to see how it is going. Tokos said that the increase is not going to put Newport so much out in front of others that it will have an impact compared to the other communities. If someone is looking to develop in Newport, it does not have to do with the fees. Tokos said that he did send this information out to the members of the system development community. Tokos met with Don Huster and the Landwaves folks, who will be pulling a lot of permits. He didn't get a read that they were totally against it. They understand why the City is doing this. They understand there are costs, but they just want to be treated fairly through this. Tokos also ran this by the City Manager, who was on board. Tokos said that he didn't have time to look at what this would mean dollar wise given traffic, but he will try to pull numbers together for the City Council hearing on whatever the Commission's recommendation is. Rehffuss had no objections. Patrick thought the philosophy of 50% is fine as long as we are trying to be reasonable. The Commissioners wanted to see certainty and fairness with developers. They were comfortable with using the direct costs. Sarazin asked if numbers would be tracked on each case for review in five years. Tokos said that was not something he had implemented, but that it is something to keep on the table. Sarazin said in that way we would have a more precise cost of what we are collecting. There was discussion about using today's direct costs. Tokos said that we might want to set it up to be 52% or 53%. Patrick said that built-in step increases should cover that, and he would recommend an inflation adjustment each year. Tokos said that the City Council will consider indirect costs as well, but his recommendation is that those should be appropriately funded through the general fund. The others felt the same way.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Rehffuss, seconded by Commissioner East, to forward to the City Council the recommendation of the Community Development Director for increasing fees 50% of the direct costs phased in over a 4-year period. The motion carried unanimously in a voice vote.

2. File No. 7-Z-09. A request initiated by the City of Newport involving legislative text amendments the Newport Municipal Code adopting comprehensive updates to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Section 2-5-3 ("Conditional Uses") by removing procedural provisions and consolidating them into a single procedures chapter and consolidating and clarifying other provisions. The Planning Commission will review this matter and make a recommendation to the City Council.

Patrick opened the public hearing for File No. 7-Z-09 at 7:30 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos explained that this is a consolidation of provisions in the conditional use section of the zoning ordinance. The Planning Commission met to consider these on several occasions at work sessions in the past. He read from his staff memo describing the changes. Also with the memo, was an example of the ordinance, a draft code showing strikethroughs, and a clean copy showing the finished product.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner East, to recommend to the City Council approval of the proposed amendments in File No. 7-Z-09. The motion carried unanimously in a voice vote.

3. File No. 8-Z-09. A request initiated by the City of Newport involving legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Section 2-5-2 ("Variances"). Procedural provisions are being removed and consolidated into a single procedures chapter. The concept of an adjustment is introduced as an alternative to a traditional variance to a numerical standard, and thresholds are set for when a deviation qualifies for an adjustment or a variance. The request also includes legislative text amendments to the variance provisions for signage contained in the Newport Municipal Code under Title X ("Signs") Chapter 10.10.140 ("Variance Requirements"). Amendments to the sign variance section of the Code adopt new criteria for sign adjustments or variances. The Planning Commission will review this matter and make a recommendation to the City Council.

Patrick opened the public hearing for File No. 8-Z-09 at 7:33 p.m. by reading the summary from the agenda and asked for the staff report. Tokos noted that, as outlined, the proposal includes two amendments to the zoning ordinance variance section, provides standards and criteria, and evaluates deviations from numerical standards. The existing criteria require the demonstration of a practical difficulty and hardship, which is a high bar. The Planning Commission expressed interest in breaking that up so that for minor deviations, an applicant didn't have to show practical difficulties and hardship. As long as they were consistent with the purpose of the district, that should suffice. Tokos said that is how this section was structured with variances and adjustments. Adjustments are for smaller deviations. He set up the standard review process. Adjustments of 10% or less will be decided by the Community Development Director, and the same for variances. Over 10% goes to the Planning Commission currently. As this is set up, 10-40% still goes to the Planning Commission, but the criteria for an adjustment are applied. If it is over 40%, then it is a typical variance and must meet the standards showing practical difficulties to warrant the deviation. The adjustment criteria don't require hardship or practical difficulties. The other amendment is to the signs variance section. The Planning Commission was interested in standards that were actually crafted with signage in mind. They didn't believe that criteria that uses hardship or practical difficulties as used for building heights or setbacks worked for signage. Under the amended code, there are three criteria

for signage shown on page 2 of 2 on the strikeout draft. An adjustment or variance must be consistent with the sign code purpose statement, must have exceptional design or be more consistent with the architecture and development, and will not add to street level sign clutter or be a traffic safety hazard. The concept of adjustments and variances were carried over to signs. For code consistency he kept adjustments as deviations less than 40%, and variances are for more than 40%. Fisher thought that by redefining the sign ordinance, it makes it a much more useable tool for all parties involved. Patrick agreed that the concept of adjustments and variances in both sections were useful.

No proponents, opponents, or interested parties wishing to testify were present.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Reh fuss, to approve and forward to the City Council the amendments in File No. 8-Z-09. The motion carried unanimously in a voice vote.

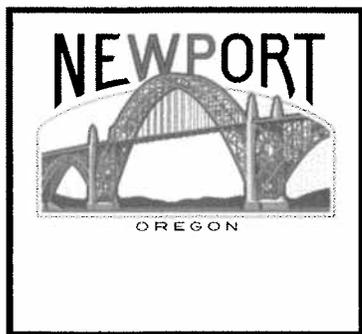
**F. Unfinished Business.** Tokos informed the Commission that a draft Nye Beach parking district could go before the City Council at their November 2<sup>nd</sup> meeting, which is the last stage of the process. He said that a Nye Beach district is close to being adopted. Tokos said that at the work session he had mentioned that the zoning ordinance amendment regarding trailer parks was continued by the City Council on October 5<sup>th</sup>, but they didn't set a date certain to continue. It is up to the applicant whether to bring the request back to the Planning Commission with their City Council presentation or go back to the City Council. We will have to re-notice one way or the other. Lastly, Tokos said that for the October 26<sup>th</sup> Planning Commission meeting, there is nothing on the regular agenda; but there will probably be a work session. Patrick suggested that since there wasn't a regular session, to hold a longer work session. Reh fuss noted that he will not be at the November 23<sup>rd</sup> meeting.

**G. Adjournment.** There being no further business to come before the Planning Commission, the meeting adjourned at approximately 7:45 p.m.

Respectfully submitted,

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Wanda Haney  
Senior Administrative Assistant



Agenda Item #  
Meeting Date

VI . C .  
November 2, 2009

**CITY COUNCIL AGENDA ITEM SUMMARY**  
City of Newport, Oregon

Issue/Agenda Title Public hearing on an ordinance establishing an Economic Improvement District in the Nye Beach area for parking system improvements and the assessment of a surcharge on business license fees for businesses within the District

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

**ISSUE BEFORE THE COUNCIL:** An ordinance creating an Economic Improvement District (a.k.a Commercial Parking District) in the Nye Beach area for parking system improvements. The District will be financed through a surcharge on business license fees.

**STAFF RECOMMENDATION:** The Council should consider testimony and determine whether or not the proposed ordinance adequately addresses issues raised through the public hearings process and puts in place an appropriate framework through which Nye Beach businesses can address parking deficiencies in the area.

**PROPOSED MOTION:**

MOTION TO ADOPT: I move for reading by title only of an ordinance establishing an Economic Improvement District in the Nye Beach area for parking system improvements and for adoption by roll call vote.

MOTION TO STOP THE PROCESS: I move to terminate the process of forming a Nye Beach Commercial Parking District as identified in Ordinance No. 1979.

**KEY FACTS AND INFORMATION SUMMARY:** 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. This option was put in place in the 1980’s and the annual fee has not changed over time. This is notwithstanding that the Ordinance also requires that the fee be based upon a reasonable estimate of the cost of providing one surface parking space plus a proportionate share of other requirements such as driveways, isles, and landscaping (Section 2-3-6.050).

The Mayor appointed a Payment in Lieu of Parking Taskforce, confirmed by City Council, to evaluate the fee charged with the payment in lieu of parking program. The taskforce 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. Businesses currently paying “in lieu” could apply what they have paid to the onetime fee, and “grandfathered uses” that pre-date the establishment of the payment in lieu option would remain grandfathered. The Planning Commission and City Council held hearings on the taskforce recommendations, and the Council adopted the recommendations in February of 2008.

During the hearings, a number of individuals expressed an interest in forming parking districts as an alternative to the existing system, which they view as outdated, and the Taskforce recommendations, which they see as untenable for many businesses. Council directed staff to assist them in developing concepts and temporarily set the

Taskforce recommendations aside to allow the work to proceed. The City sponsored workshops on the basics of forming parking districts on April 27, 2008 and July 29, 2008, and met with interested individuals in the Nye Beach area through the balance of 2008 and early 2009 to answer questions and assist in preparing materials. An Economic Development Plan has been prepared by area business owners and staff describing the types of parking system improvements that are needed. The Plan incorporates potential signage, sidewalk, lighting, and parking upgrades identified in the past by the Nye Beach Merchants Association and more recently by Dale Shaddox, City Manager pro tem, when touring the area with interested business owners. On May 18, 2009, the Council adopted Ordinance No. 1979 to initiate the process of forming a parking district.

Two public hearings are required to create a parking district (ref: ORS 223.141 et. seq.) On July 6, 2009, the City Council held the first hearing at which they took testimony on whether or not a district should be formed for Nye Beach. The Council determined that there is interest in the community to proceed and set a business license fee surcharge as a means of paying for improvements, as recommended in the Economic Development Plan. At the second hearing, held on August 17, 2009, the Council took testimony regarding the appropriateness of the surcharge, made some modifications, and directed staff to prepare an implementing ordinance for Council consideration.

Businesses within the boundary of the proposed district received 30 day advance notice of each of the above referenced hearings. Notice to businesses was also provided for the subject hearing and staff prepared an informational flyer, with the assistance of the Nye Beach Merchants Association, that was mailed on July 28, 2009 and hand delivered by Nye Beach Merchants to area businesses.

Under the statute, only commercial and industrial zoned properties can be included in a district. If at any time prior to establishment of the district, the City receives written objections from 33 percent or more of the businesses then the process of forming a district will terminate.

**OTHER ALTERNATIVES CONSIDERED:** Different alternatives were discussed at the meetings of individuals interested in forming a parking district in Nye Beach. The Council also accepted recommendations of the Payment in Lieu of Parking Task Force in February 2008 but have postponed implementing those recommendations until August 4, 2010 to give the three affected districts (Nye Beach, Bay Front, and City Center) an opportunity to form parking districts.

**CITY COUNCIL GOALS:** Under Community Livability: Transportation/Streets: "Assist neighborhood business associations to identify opportunities to expand parking capacity and implement agreed upon strategies."

**ATTACHMENT LIST:**

- Public Notice, mailed October 19, 2009
- Written letters received as of October 28, 2009, regarding district formation

**FISCAL NOTES:** If the district is formed, there will be costs involved including staff time to assist in the operation of the district. If the Council exempts commercial uses from the payment in lieu of parking program, there will be a decrease in the amount of revenue that the public parking fund receives from those exempted uses. The City may be asked to have city property utilized for parking improvements and to provide funding from either the transient room tax or the public parking fund to assist in the development of improvements (although these requests have occurred in the past and are likely to occur in the future regardless of whether a district is formed).

**CITY OF NEWPORT**

**ORDINANCE NO. \_\_\_\_\_**

**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:

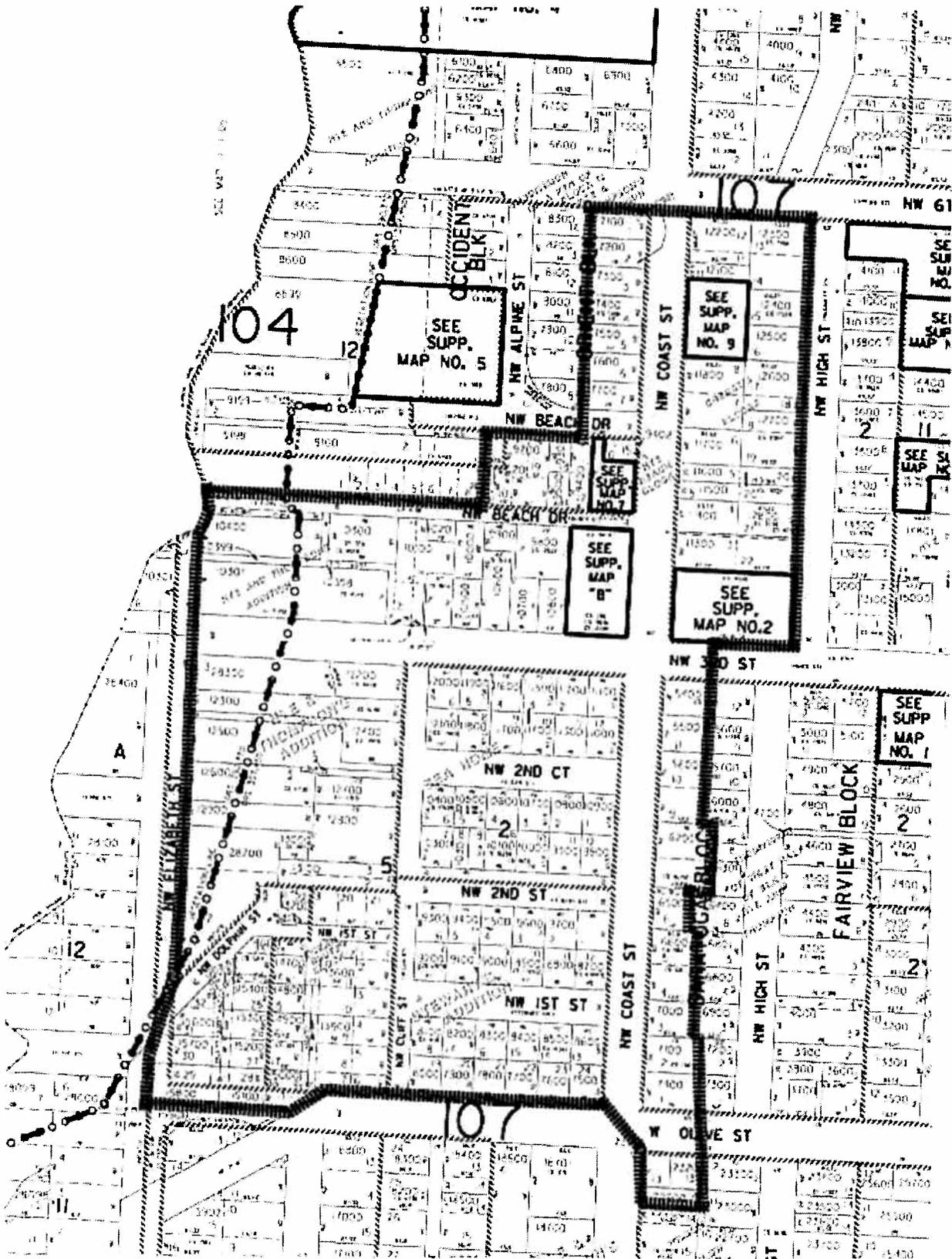
- (a) Residential real property or any portion of a structure used primarily for residential purposes; or
- (b) Businesses operated on an occasional basis for not more than one or two days per week or one month a year.

**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.

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



CITY OF NEWPORT  
 169 SW COAST HWY  
 NEWPORT, OREGON 97365



phone: 541.574.0629  
 fax: 541.574.0644  
 thecityofnewport.net

COAST GUARD CITY, USA

mombetsu, japan, sister city

## **NOTICE OF A PUBLIC HEARING ON ORDINANCE TO CREATE A NYE BEACH COMMERCIAL PARKING DISTRICT**

### PUBLIC HEARING ON NOVEMBER 2, 2009

On July 6, 2009 and August 17, 2009, the Newport City Council conducted public hearings on the question of whether or not a Commercial Parking District should be formed for Nye Beach. A parking district is a type of economic improvement district under ORS 223.141 that a city can create to promote commercial activity and development within a specific area. In this case, the objective is to improve the vitality and livability of Nye Beach by enhancing the availability and functionality of its parking facilities and related improvements. A citizen advisory committee will be appointed to develop a plan for completing improvements and allocating expenditures of moneys within the scope of the plan. The types of improvements that can be made are noted on the attached page. The district will be financed through a surcharge on business license fees for businesses within the proposed boundary of the district. The amount of the surcharge and boundary map is also depicted on the attached page. After the hearing on August 17, 2009, Council directed staff to prepare an ordinance to implement the District. The purpose of this hearing is for the Council to consider that ordinance.

The Newport City Council will hold a public hearing on Monday, November 2, 2009, at 7:00 p.m. in the Council Chambers of the Newport City Hall (169 SW Coast Highway) at which affected persons may appear to testify. The Council will consider the testimony and may adopt, correct, modify, or revise the proposed ordinance. Pursuant to ORS 223.147 (2)(d), if written objections from more than 33% of those who will be subject to the business license fee surcharge are received, the fee cannot be imposed and the district as proposed will not be formed. Written comments may be sent to: Community Development Department, Attn: Wanda Haney, City of Newport, 169 SW Coast Hwy, Newport, OR 97369.

### ADDITIONAL INFORMATION OR QUESTIONS?

Background information on parking districts is available on the City of Newport website at: [www.thecityofnewport.net](http://www.thecityofnewport.net) under the City Council Agenda material for the August 17<sup>th</sup>, agenda packet beginning on page 63 of the packet material.

For further information or questions, please contact Derrick Tokos, Community Development Director, at 574-0626 or [d.tokos@thecityofnewport.net](mailto:d.tokos@thecityofnewport.net)



**PROPOSED IMPROVEMENT PLAN: An Economic Development Plan  
for the Nye Beach Commercial Area to Address Parking System Improvements**

This Plan is developed pursuant to ORS 223.141 to 223.161 authorizing the creation of an Economic Improvement District and Providing Procedures.

(1) The Nye Beach Commercial Parking District (NBCPD) is dedicated to improving the vitality and livability of the Nye Beach commercial area. To achieve this goal, the NBCPD is proposing the establishment of an economic improvement district to undertake the following improvements related to improving the availability and functioning of the parking facilities in Nye Beach in a sustainable manner:

- (A) Providing funding for the creation of parking on available public or private land and undeveloped public right-of-way;
- (B) Providing funding for sidewalk improvements that provide connectivity between areas of available parking and the Nye Beach commercial area;
- (C) Providing funding for the potential lease of private parking lots for public or employee use with a focus on private parking lots that are not fully utilized by existing property owners during the peak summer weekends;
- (D) Providing funding for improvements in the parking system such as signage, stripping, parking time limitations and other types of improvements;
- (E) Providing funding to support transportation alternatives such as bus shuttle systems and bicycle facilities.

(2) The NBCPD estimates that the probable annual cost of the proposed economic improvements will be \$7,500-\$10,000.

(3) The NBCPD is proposing an assessment through a fee on business licenses that are specifically benefited by the economic improvements at the following schedule:

\$250.00 per business license operating within the district where no off-street parking spaces are provided.

\$150.00 per business license operating within the district where 1-3 off-street parking spaces are provided for the business.

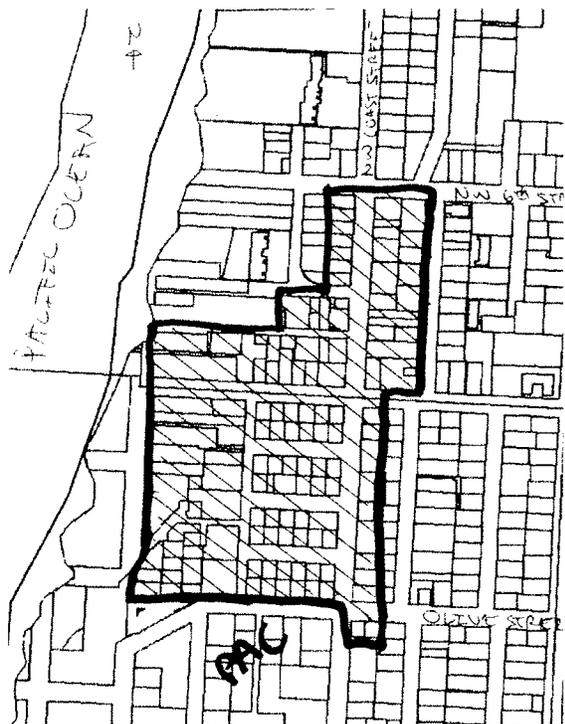
\$100.00 per business license for all others operating in the district.

(4) The NBCPD proposes that the boundaries of the proposed economic improvement district be as shown on the tax lot map attached to this plan titled "Proposed Nye Beach Economic Improvement District Boundary". [Note: By state statute can only include those areas zoned for commercial or industrial uses].

(5) The NBCPD proposes that the economic improvement district be established for a period of five years commencing on July 1, 2010.

(6) The NBCPD proposes that businesses paying the fee on the business license for parking improvements be exempted from the requirement under the Newport Zoning Ordinance from either providing off-street parking or paying the payment-in-lieu of parking fee as provided under NZO Section 2-3-6.050 during the duration of the economic improvement district.

**Proposed Nye Beach Economic Improvement District Boundary (for businesses located in the cross-hatched area):**



Notice is being mailed to both businesses and property owners within the area.

Date Mailed: October 19, 2009

*Toujours*  
soft dressing naturally

October 23, 2009

Mayor Bain  
Newport City Council Members  
Derrick Tokos

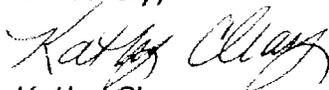
Unfortunately I am unable to attend this evenings Council meeting. I do, however, want to voice my support of the proposed formation of the Nye Beach Parking District as presented this evening by Mr. Tokos.

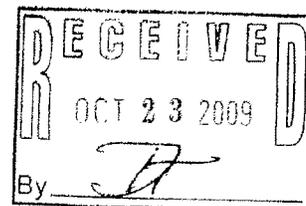
Much effort has gone into the process of forming this district for the benefit of the Nye Beach area of Newport. I feel it is a very well thought out approach to solving some issues in a timely and responsible manner.

Therefore, please accept this letter in support of the formation of the Nye Beach Parking District.

Thank you,

Sincerely,

  
Kathy Cleary



**Wanda Haney**

---

**From:** Susan Trombetta [proteger@peak.org]  
**Sent:** Tuesday, October 20, 2009 3:13 PM  
**To:** Wanda Haney  
**Subject:** Fw: Nye Beach Parking District

*Wanda Haney  
City Of Newport  
169 SW Coast Hwy.  
Newport, OR 97369*

*Dear Ms. Haney,*

*I am not socially active, and do not plan on attending discussions for the creation of a Commercial Parking District for Nye Beach. I've lived in Nye Beach for 36 years and am an elder in this community. The following is communication, which has been sent earlier, regarding my position on additional charge being made on my business license. I do not support a plan to increase the cost of my business license.*

----- Original Message -----

**From:** Susan Trombetta  
**To:** Derrick Tokos  
**Sent:** Thursday, July 16, 2009 2:06 PM  
**Subject:** Re: Nye Beach Parking District

*Thank you Derrick, I do appreciate it. The problem with parking is real. If the City doesn't have any plans, except collecting more money, than a more solid solution needs to be found. You can't sell parking on the street, if it doesn't exist.*

*Susan Trombetta*

----- Original Message -----

**From:** Derrick Tokos  
**To:** Susan Trombetta  
**Sent:** Thursday, July 16, 2009 12:56 PM  
**Subject:** RE: Nye Beach Parking District

Thank you Susan,

I have included a copy of your email in the record and will look into the concerns you have raised.

10/20/2009

Derrick I. Tokos, AICP  
Community Development Director  
City of Newport  
ph: 541-574-0626  
fax: 541-574-0644  
[d.tokos@thecityofnewport.net](mailto:d.tokos@thecityofnewport.net)

---

**From:** Susan Trombetta [mailto:proteger@peak.org]  
**Sent:** Wednesday, July 15, 2009 2:02 PM  
**To:** Derrick Tokos  
**Subject:** Fw: Nye Beach Parking District

----- Original Message -----

**From:** [Susan Trombetta](#)  
**To:** [James Bassingthwaite](#)  
**Sent:** Wednesday, July 08, 2009 9:11 AM  
**Subject:** Nye Beach Parking District

*Dear James,*

*I am the owner of Key Books, which is also my place of residence for the past 26 years. I obtained my business license 14 years ago, with guidance from Victor, who allowed my business license under the Home Occupation rules. Victor, @ planning department helped me to obtain this. Only a very small portion, 2 rooms, of my home is now used for Metaphysical study and Astrological readings. Victor assured me that this license did not require me to provide parking, even though there is parking available. My main area of activity is esoteric study, and does not bring many people into Nye Beach for this work. I basically live on my SS, as I'm 68 years old. . Most of my books are spiritually related, used Metaphysical subjects. My monthly earnings doing this service, as an ordained Minister and Spiritual advisor, is very minimal. I welcome people into my home and share the Wisdom obtained through many years in this field of study. There is a long driveway, 2 car, to the west of my business. This driveway shares a property line with the retired parking lot of now defunct Nye Beach Hotel. The people that come into my home very seldom drive here. They mostly walk over from the Sylvia Beach Hotel which is across the street, 1/4 of a block North.*

*It would be a hardship for me to be paying more than the \$75 a*

year, which is the business license charge, now in affect. I have no more activity here than a normal family. My contribution to the neighborhood is well known and accepted. I'm more known as Nye Beach Metaphysical Center than Key Books. Often clergy from all faiths come in to have an exchange of ideas, or to study the Bible.

Again, they usually walk here from the Hotel where parking is provided. Most of the overflow from closing the parking lot, at the turn around, is now parking @ the Nye Beach hotel parking area. If they build there, a proposed 30 rooms, with cars for 6 or 8 employees, I'll never be able to leave my home. Then you've allowed the Cafe Mundo to build a place that seats 20 to 30 people, and they have no parking. What's up with that? I spoke to the Mayor when the new owners, of Nye Beach Hotel, were getting there plans approved. "I'm a Residential/Business and feel like I'll be squashed between the businesses on both ends of my street. What will you do about the parking?" Now, the City wants me to pay for more parking, when none is available?

I wish to be exempt from future increases on my business license, as I can't afford it. I don't feel, that creating a burden on my life, will benefit the parking situation in Nye Beach.

It would help all the Nye Beach Businesses understand the thinking of the City Planning Department, if they tell us what property will be purchased to provide this parking. If you're selling the street, there are no spots left to sell. That idea has been exhausted for over 20 years. Having people pay for what does not exist.

Thank You,

Susan Trombetta  
541-265-5711

**Derrick Tokos**

---

**From:** liz@chamberscable.com  
**Sent:** Monday, August 17, 2009 11:18 AM  
**To:** Derrick Tokos  
**Subject:** Nye Beach Parking District

Chowder Bowl @ Nye Beach, INC  
742 NW Beach Drive  
Newport, Oregon 97375  
541-265-3153 TEL  
541-265-6248 FAX

City Council  
Newport, Oregon

RE: August 17, 2009 Council Meeting  
Nye Beach Parking District

Mayor and City Council,

I thank you in advance for your time and energy that you devote to our beautiful community.

I would like to have entered into the public record on 8/17/09 my support, as a Nye Beach business owner, for the formation of a "Nye Beach Parking District."

If I can be of any assistance in the future regarding this matter please feel free to contact me.

Sincerely,

Liz Franklin-Shell  
Owner/Chowder Bowl @ Nye Beach, INC.

FOR ARTSAKE ART GALLERY  
258 NW Coast Street  
Newport, OR 97365  
July 1, 2009

City Council Members  
City Hall  
169 SW Coast Hwy  
Newport, OR 97365

Attention Council Members:

Our business has been notified of the proposal for a Nye Beach Parking District. Some of us attended the information meeting held on June 23<sup>rd</sup> to find out how this might affect our business. After much discussion, we DO NOT feel that a Parking District in this area is necessary at this time for the following reasons.

We are a new business and are just getting our feet on the ground. We are an art co-op with ten members who equally support the business operations. What with the present economic situation, we are not eager to pay out additional monies for non-essential purposes.

Since the destruction of the Nye Beach Hotel, the parking problem around NW Cliff St., NW 2<sup>nd</sup> Ct. and NW 3<sup>rd</sup> St. has eased.

The diagonal parking spaces on NW 3<sup>rd</sup> St. have provided additional parking. Plus making NW 3<sup>rd</sup> from Coast St. west and Cliff St. a one-way street has helped the situation.

The Performing Arts Center has recently been designated for PUBLIC PARKING with appropriate signage. This is within walking distance to most of the Nye Beach area. When the new public park that is right next to the PAC is completed, people will be more encouraged to utilize these parking spaces.

The Turn Around Parking area provides a lot of parking spaces and is not overly crowded on most days.

Additional marked parking spaces could continue north along Coast Street up the hill past NW 6<sup>th</sup>. Also, NW 3<sup>rd</sup> street could accommodate diagonal parking spaces, or additional regular spaces.

Nye Beach is a very walkable neighborhood. Visitors should be encouraged to walk the area and take advantage of what the neighborhood has to offer.

Rec'd  
7/6/09

For all of the above reasons, we do not feel it is necessary to have a Nye Beach Parking District at this time.

Sincerely,

Three handwritten signatures in cursive script. The first signature is 'Tash Wesp', the second is 'Juergen Eckstein', and the third is 'Frances Van Wert'.

Tash Wesp, President  
Juergen Eckstein, Treasurer  
Frances Van Wert, Secretary

Rec'd  
6/17/09

Dear Wanda -

I am opposed to the formation of a commercial parking district for Nye Beach. Parking is not a real problem - we have hours posted on the signs + people have never expressed a problem.

Our taxes are so high and we don't have extra for this - we are in real trouble in Nye Beach - we have little signage + the city doesn't help us at all -

Please be advised of my stand -  
Thank you -

Jacquelyn Brown,  
Helen



Community Development Department  
 Att'n Wanda Haney  
 City Of Newport  
 169 SW Coast Hwy  
 Newport, OR 97369

14<sup>th</sup> June 2009

Proposed Nye Beach Economic Improvement District

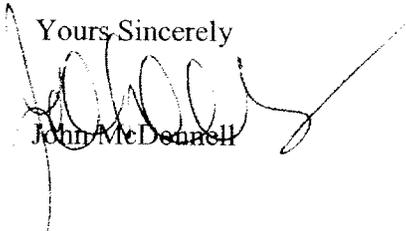
Dear Council,

I am the owner of a business, The Dapper Frog, that operates within the proposed Nye Beach Economic Improvement District and have recently received the notice mailed on June 5<sup>th</sup>, 2009.

I strongly object to the formation of a Nye Beach Commercial Parking District that imposes yet another level of taxation or fees on the local businesses. Please add my dissent and objection to others you receive and I can only hope that we reach the 33% level of objection.

We need less, not more taxation to encourage business.

Yours Sincerely

  
 John McDonnell

*Our Treasures Make You Smile!!*

The Dapper Frog • PO Box 550, Pacific City • OR 97135  
 www.dapperfrog.com • Call: 503-965-6502  
 Salishan • Pacific City • Dundee • Nye Beach

*Red:  
6/14/09*



Linen & Industrial Supply • Paper Products

*Big Enough to Do the Job - Small Enough to Care*

P.O. Box 1404, Newport, Oregon 97365

June 10, 2009

Re: Nye Beach Parking District

Dear Councilpersons:

I am writing this letter on behalf of Newport Property Management, Inc., a corporation which owns the property on the enclosed tax map. I am also writing on behalf of West Coast Linen, Inc., which operates the commercial laundry on the east side of Coast Street and the Coast Street Dry Cleaners on the west side of Coast Street.

We presently have more parking off street than is required. The retail portion of our business has adequate on-street access and then some.

We have dedicated portions of our bare land to parking as opposed to development so as to comply with the City Parking Code.

With this new proposed Nye Beach Parking District, we are being asked to give up our historic rights and are going to be asked to pay money to allegedly facilitate parking improvements in the area.

First, there is significant on-street parking in the area. Secondly, there is a great deal of off-street parking in the area although not all necessarily visible from Coast Street.

Furthermore, we businesses and owners in the Nye Beach area have cooperatively worked to lessen any parking concerns. For example, I provide off-street parking for our neighbor, Café Stephanie.

It is inappropriate and unfair to seek to impose additional governmental regulation and costs on private property owners, particularly in these difficult economic times.

It is difficult enough for us to provide the commercial and retail laundry and dry cleaning services, which are a benefit to the entire Central Oregon Coast, without having assessed against us additional operating expenses.

I respectfully request we be left out of the district or the district not be formed in the first place.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Flaming".

Bruce Flaming, President of  
West Coast Linen, Inc. &  
Newport Property Management, Inc.

To : Parking Committee

From : Café Stephanie

Over the past 6 plus years we have paid over \$3500.00 in parking fees to the City of Newport. I currently provide the specified number of parking spaces off street that I have been paying for, working out a solution with West Coast Linen.

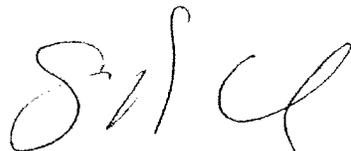
With this new proposal (Nye Beach Parking District) I would be asked to pay more when I shouldn't be paying anything.

Times are tough for small businesses and you are reaching into shallow pockets.

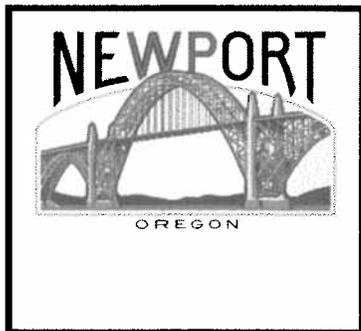
Café Stephanie respectfully oppose this and request we be left out of the district or the district not be formed.

Sincerely

Scott Doll, Owner of  
Café Stephanie



6/10/09



Agenda Item #  
Meeting Date

VI . D .  
November 2, 2009

**CITY COUNCIL AGENDA ITEM SUMMARY**  
City Of Newport, Oregon

Issue/Agenda Title Consideration of the FBO Business Plan

Prepared By: Voetberg/Schultz Dept Head Approval: \_\_\_\_\_ City Mgr Approval: [Signature]

**Issue Before the Council:** Consideration of deferring Council consideration of the draft Airport FBO Business Plan until the January 18, 2010, Council meeting with the understanding that the Business Plan will include both the FBO and General Aviation.

**Staff Recommendation:** Staff recommends deferring Council consideration of the draft Airport FBO Business Plan until the January 18, 2010, Council meeting with the understanding that the Business Plan will include both the FBO and General Aviation.

**Proposed Motion:** I move the Council defer Council consideration of the draft Airport FBO Business Plan until the January 18, 2010, Council meeting, with the understanding that the Business Plan will include both the FBO and General Aviation.

**Key Facts and Information Summary:** At its meeting of October 5, 2009, the Council adopted a motion to forward the draft Airport FBO Business Plan to the Airport Advisory Committee for review, with a request that the Committee submit comments to the Airport Director by November 6, 2009. At the subsequent Airport Committee meeting on October 20, 2009, a good discussion occurred, not only as it relates to the FBO but to the General Aviation services of the airport as well. It was generally agreed that an overall airport business plan should be developed that includes both the FBO and General Aviation. For convenience, a copy of the Airport Committee minutes is attached.

Staff concurs with the Committee's recommendation to defer the business plan until January 2010, with the understanding that the plan will include both the FBO and General Aviation.

**Other Alternatives Considered:**

1. Accept the draft FBO Business Plan.
2. Reject the draft FBO Business Plan and direct staff to resubmit it to the Council.

**City Council Goals:** Pursue opportunities and strategies to achieve a financially sustainable Fixed Base Operator (FBO) function.

**Attachment List:** Draft FBO Business Plan

**Fiscal Notes:** None

# DRAFT

October 20, 2009  
Noon  
Newport, Oregon

The City of Newport Airport Committee met on the above date in Conference Room A of the Newport City Hall. Present were Jim Hawley, Jim Churchwell, Mark Watkins, and Richard Larson.

Staff present was Dennis Reno, Airport Director, Jim Voetberg, City Manager, Penelope McCarthy, City Attorney, and Peggy Hawker, City Recorder.

Audience present was Mark Fisher, Richard Beemer, Greg Stanton, Mark McConnell, Walter Sherman, Jeff Bertuleit, Steve Schuster, and Sheldon Hunt.

## **APPROVAL OF MINUTES OF AUGUST 18, 2009**

MOTION was made by Churchwell, seconded by Hawley to approve the minutes of the meeting of August 18, 2009. The motion carried unanimously in a voice vote.

## **DISCUSSION OF AIRPORT BUSINESS PLAN**

A discussion ensued regarding the airport business plan. Questions included ownership of the fuel farm, the exclusion of hangar rent from the plan, the idea of combining the airport and FBO funds, and how to resolve the anticipated deficit.

Watkins suggested a volunteer organization to determine how to increase the airport's general aviation business. It was suggested that the city contract for government aviation fuel sales, that additional hangars be constructed, and that other revenue streams be developed. Voetberg noted that this could be an excellent opportunity to encourage public/private partnerships.

Beemer asked about the bank service charges in the business plan. It was noted that these are credit card fees. Watkins asked why 50% of the airport director's salary was allocated to the FBO and 50% to the airport. It was noted that while a formula was not used, both the FBO and airport are losing money.

Hunt noted that the end-of-year balance sheet may be offset by the amount of money coming into the local economy. Voetberg noted that the city has many needs, and it cannot continue to pump \$400,000 - \$500,000 into the airport annually. Hunt noted that there is significant missing information. Voetberg reported that, since July, the city has been collection information regarding the number of operations, sales, etc.

McConnell reported that there is no marketing money in the budget. Hawley suggested that the Airport Committee ask the pilots for recommendations on increased revenues. Watkins stated that he would take the lead in this project. Larson stated that the airport needs to increase business as much as general aviation, and should examine infrastructure with an eye toward the future.

Watkins suggested that the Chamber of Commerce could help with these efforts. Voetberg noted that the City Council is looking for input from the Airport Committee,

and that he can incorporate recommended changes, or include them as a separate report to Council.

McConnell suggested looking at combining the accounts and show the overall costs of operating the airport.

MOTION was made by Watkins, seconded by Churchwell, to continue working on the business plan; report to the City Council at their next meeting; and have a final business plan for City Council review in January. The motion carried unanimously in a voice vote.

### **AIRPORT DIRECTOR'S REPORT**

This report was postponed until the next meeting.

### **PUBLIC COMMENT**

Voetberg and Reno were thanked for their work on the draft business plan.

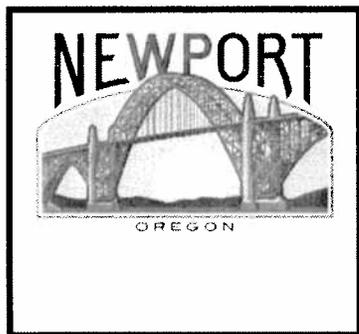
Hawley thanked the audience for their input.

### **ADJOURNMENT**

Having no further business, the meeting adjourned at 1:59 P.M.

---

Jim Hawley, Chair



Agenda Item #  
Meeting Date

VI . E .  
November 2, 2009

**CITY COUNCIL AGENDA ITEM SUMMARY**  
City Of Newport, Oregon

Issue/Agenda Title **Resolution to transfer surplus jet truck to City of Siletz**

Prepared By: TLT/RG Dept Head Approval: *[Signature]* City Mgr Approval: *[Signature]*

**ISSUE BEFORE THE COUNCIL**

Declare jet truck surplus and consider donation to the City of Siletz

**STAFF RECOMMENDATION**

Recommend declaring our 1971 jet truck surplus and donating it to the City of Siletz

**PROPOSED MOTION**

I move to declare our 1971 jet truck surplus and pass the resolution TRANSFER OF SURPLUS PROPERTY TO CITY OF SILETZ

**KEY FACTS AND INFORMATION SUMMARY**

- ❖ A necessary replacement for our old jetter & 1971 truck (jet truck) has been purchased mutually by Streets and Water divisions - a jetter is a high pressure sewer cleaner
- ❖ Previous jetting work has been donated to the City of Siletz as they do not own jetting equipment
- ❖ The 1971 truck might be sold for less than \$500 and has no trade-in value, parts are no longer available for the old jetting equipment

**OTHER ALTERNATIVES CONSIDERED**

- ❖ Do nothing
- ❖ Auction the jetting equipment and truck

**CITY COUNCIL GOALS**

- ❖ Public Facilities – Replacement of equipment
- ❖ Community Development – Mutual benefit

**ATTACHMENT LIST**

- ❖ City Code 279A.280 pertaining to disposal of surplus property
- ❖ Example Agreement Police Car To Oregon Coast Aquarium
- ❖ Letter from City of Siletz requesting the donation
- ❖ Agreement Ford Jet Truck To City Of Siletz
- ❖ Resolution Transfer Of Surplus Property To City Of Siletz

**FISCAL NOTES**

- ❖ Loss of auction value of probably less than \$500

**RESOLUTION \_\_\_\_\_**  
**Transfer of Surplus Property to City of Siletz**

WHEREAS, the City of Newport purchased a new Jet Truck in October 2009 to replace their 1971 Ford jet truck, with mileage over 75,000 miles, and

WHEREAS, the 1971 jet truck needs to be declared surplus by the Council, and.

WHEREAS, the City of Siletz has shown an interest in having the jet truck donated to their city, with all responsibility of insurance and liability coverage accompanying the transfer to Siletz, and

WHEREAS, the City of Newport will remove all insignia, lettering, license plates and all proprietary markings prior to transfer of title,

NOW, THEREFORE, the City Council of the City of Newport agrees to such a transfer, and directs staff to make all the necessary arrangements for such to occur.

This resolution will become effective on the 2nd day of November, 2009.

Passed and adopted by the City Council of Newport on this 2nd day of November, 2009.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder



P.O. Box 318  
Siletz, OR 97380



Ph. (541) 444-2521  
Fax (541) 444-7371



RECEIVED  
OCT 27 2009  
CITY OF NEWPORT

October 23, 2009

Jim Voetberg, Manager  
City of Newport  
169 S.W. coast Highway  
Newport, Oregon 97365

Dear Jim Voetberg, Manager:

Subject: 1971 Ford Jet Truck

It has been brought to the attention of the City of Siletz that the City of Newport is purchasing a new Jet Truck and declaring their old 1971 Ford Jet Truck surplus. The City of Siletz would like to request that it be donated to them for their use. The city does not have the funds to purchase one so the donation would greatly be appreciated.

If you have any questions in regards to this request please call me at 444-2521.

Sincerely

Daniel Smith  
Council president

