



**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 on **Monday, February 7, 2011, at 12:00 Noon**, with a regular Council meeting beginning at **6:00 P.M.** on **Monday, February 7, 2011**. The work session will be held in Conference Room A at City Hall, and the regular meeting will be held in the Council Chamber, City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the 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.

Members of the media, not having attended a City of Newport executive session, may be asked to present credentials prior to attendance at an executive session.

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**WORK SESSION AGENDA**

**12:00 Noon**

**CC – LCRB - URA**

**Conference Room A**

- I. Continued Discussion on Council Rules
- II. Discuss retirement, pension, health benefits, collective bargaining and reserves policies

**1:00 PM**

- III. Executive session per ORS 192.660 (2)(d) labor negotiations.
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## **REGULAR MEETING AGENDA**

**6:00 P.M.**

**CC - LCRB – URA**

**Council Chamber**

*Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the City Council Chamber. Anyone commenting on a subject not on the agenda will be called upon during the Public Comment section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.*

**I. Pledge of Allegiance**

**II. Call to Order and Roll Call**

**III. Additions/Deletions and Approval of Agenda**

**IV. Proclamations & Recognitions**

**V. 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.*

**VI. 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, regular meeting and executive session of January 18, 2011, work session of January 31, 2011, and joint work session with Lincoln County Commissioners of February 2, 2011.

(Hawker)

B. OLCC License Approval– Ch'Boogie Jazz & Wine Bar

(Miranda)

**VII. Officers' Reports**

A. Mayor's Report

1. Parks & Recreation Advisory Committee Recommendation to fill two vacancies: Nancy Steinberg & Jimmy Rodriguez

B. City Manager's Report

C. City Attorney's Report

**VIII. Discussion Items and Presentations**

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

- A. Finance Department Presentation  
(Marshall)
- B. Police Presentation on Senate Bill 111 – Use of Force  
(Miranda)

**IX. Action Items**

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

- A. Initiate legalization of N.W. 68<sup>th</sup> Street (*Issue: Whether or not the City wants to Initiate proceedings to legalize NW 68<sup>th</sup> Street as provided in Oregon Revised Statute (ORS) 223.935 to 223.950.*)  
(Tokos)
- B. Replacement of the Performing Arts Center roof (*Issue: Authorization to proceed with bidding a project to replace the Performing Arts Center roof*)  
(Voetberg)
- C. Consideration of purchasing a 30-minute promotional Newport TV episode by Digital Video with a new show called “Next Step.”  
(Voetberg)

**X. Councilor’s Reports and Comments**

**XI. Public Comment**

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

**XII. Adjournment**

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# City of Newport

## COUNCIL RULES

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EFFECTIVE JUNE 1, 2009

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These rules are authorized by the City Charter. The Council shall review these rules periodically. Amendments shall be adopted by a majority of the entire Council. The Council rules are not intended to replace or supersede any applicable federal or state laws or regulations, city ordinances or policies, or provisions of the City Charter.

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If an interpretation of Council Rules is necessary, the interpretation will be provided by the City Council in consultation with city staff.

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## RULES GOVERNING COUNCIL MEETINGS

### *TYPES OF MEETINGS*

The Council may hold regular, special or emergency meetings. A regular meeting is one held on the Council's normal meeting schedule. A special meeting is one held at a time other than a regularly scheduled meeting time, but with at least 24 hours notice. An emergency meeting is one held on less than 24 hours notice.

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The Council has chosen to characterize some of its meetings as business sessions and some of its meetings as work sessions. The anticipation is that most formal actions (ordinances, resolutions, orders and motions) will occur at business sessions. All meetings, including work sessions, shall be held in compliance with Oregon public meeting law.

All Council meetings shall be open to the public, except executive sessions authorized by state public meeting law. The Council may, by motion, go into executive session at any regular, special or emergency meeting.

### *Regular Meetings*

The Council will meet regularly on the first and third Mondays of each month in the Council Chambers. If a regularly scheduled Council meeting time is on a city holiday, the meeting will be held on the first day that is not a city holiday. ~~The meetings will start at 6:00 P.M.~~ In addition, the Council will hold a ~~pre-meeting~~ work session ~~at noon~~ on the day of each regular Council session. The Council may from time to time hold additional work sessions to address major matters, ~~at 5:00 P.M. on the day of a Council meeting.~~ Nothing in this section prevents the City Council or City Manager from calling a special or emergency session to be held at any time, consistent with state law.

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### *Special Meetings*

The Mayor, or in the Mayor's absence the President of the Council, may, or at the request of two or more members of the Council shall, call a special meeting of the Council. The City Manager may also call a special meeting of the Council.

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A. Written notice of a special meeting shall be directed to each member of the Council at least 24 hours in advance of the meeting. The notice shall be served on each

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member personally, telephonically, or or electronically, or if the Council member is not found, left at his or her place of residence or business. ~~All notice requirements of state law shall be satisfied before any special meeting can be conducted.~~

- B. Special meetings of the Council may also be held at any time by common consent of all members of the Council subject to notice requirements being met. ~~Council Members shall keep the City Manager informed of their current telephone numbers.~~
- C. Because of the possibility of special and emergency meetings, Council Members should normally advise the City Manager if they will be absent from the city for more than 24 hours. ~~Advising the City Manager of absences is particularly important if the Council member will be in a location or involved in an activity that limits electronic communication.~~

### ***Emergency Meetings***

In the case of an emergency, an emergency meeting may be called by the City Manager, the Mayor, or two Councilors, consistent with state law. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours notice. The city shall attempt to contact the media and other interested persons to inform them of the meeting.

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### ***Regular Meetings ~~Business Sessions~~ and Work Sessions***

~~Business sessions include any R~~regular meetings are regular, special, or emergency sessions at which the Council is expected to take formal action. Work sessions are any regular, special or emergency sessions used to present information to Council, to allow the Council to prepare for ~~regular business~~ sessions or to allow preliminary discussion on upcoming Council items. The Council may take formal action at a work session, but formal action items will not normally be scheduled for work sessions.

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### ***Executive Sessions***

An executive session (meeting closed to the public) may be held in accordance with state law. Care will be taken to ensure that proper and timely notice is made in accordance with statutory requirements. Executive sessions may be held during regular, special or emergency meetings, so long as appropriate statutory requirements are met.

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- A. No formal actions can be taken during an executive session. When the Council reconvenes in open session, formal action may be taken. Only the Council, City Manager, City Attorney, news media representatives and others invited by the Council or City Manager may attend an executive session.
- B. A major reason for allowing members of the news media to attend executive sessions is to ensure that the issues discussed are proper subjects and actions under the state laws related to executive sessions and to keep the media informed concerning the background of deliberations so they have a better understanding of

any decisions made as a result of the meeting. Members of the press shall be told that they may not report the substance of an executive session.

- C. Minutes or a recording of executive sessions are required.
- D. Information discussed during an executive session and other privileged communications should not be disclosed to persons other than Council Members, the City Manager, City Recorder or City Attorney outside the executive session.

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## **MEETING PROCEDURE**

### **Requirements of all Meetings**

All notice requirements of state law shall be satisfied before any special meeting can be conducted

Council Members shall keep the City Manager informed of their current telephone numbers.

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Advising the City Manager of absences is particularly important if the Council member will be in a location or involved in an activity that limits electronic communication.

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### ***Adjournment, Continuance, and Breaks***

In order to give fair consideration to all matters, if a meeting is still in progress at 10:00 P.M.~~pm~~, the Council may consider whether it should adjourn and continue unfinished agenda items to a future meeting. The decision whether to adjourn before the agenda has been completed should normally be made between agenda items, rather than in the middle of consideration of an item. If any hearings are postponed to a future meeting, the Council normally will give an opportunity to speak to anyone who wishes to participate in the hearing and is unable to attend the rescheduled hearing. Any member of the Council may request a short break at any time during a Council meeting.

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### ***Agenda***

The City Manager shall prepare a written agenda for all regular Council meetings, including work sessions and business sessions. A packet including the agenda and materials on agenda items will normally be available to the Council at least three days before each regularly scheduled Council meeting. The City Manager or Mayor may change the agenda at any time prior to the start of the Council meeting, and the presiding officer may change the agenda after the start of the meeting. A change in the agenda after the start of the Council meeting is a procedural decision.

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- A. A Councilor who wishes an item to be placed on the written Council agenda shall advise the City Manager and/or the Mayor~~at least one week prior to the meeting.~~

The City Manager [and/or the Mayor](#) shall determine whether the item is to be placed on the agenda as an action item or as a discussion item.

B. A Council member who wishes staff to undertake major research or drafting to prepare an action item shall raise the issue at a Council meeting, and the City Manager shall take direction from the Council as a whole. ~~The Council should consider requests from individual Council Members in light of Council goals and priorities and staff workload and availability.~~ Direction to proceed with an item does not commit the Council or any individual Council member to supporting an action when it comes before Council for a final decision.

C. The agenda shall be in any form chosen by the City Manager, subject to direction by the Council.

### ***Broadcasting Council Meetings***

The Council wishes to have regular meetings of the Council broadcast on a public access cable television channel and anticipates possible radio broadcasts of Council meetings.

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The Council intends any broadcasting of Council meetings be unbiased and even-handed. Any televising of Council meeting should use camera shots that are appropriate for the Council, witnesses and audience members and are relevant to the discussion.

Video and audio shall be deleted only for the purpose of conforming with applicable laws governing public broadcasts. Editing for the above purpose and for the insertion of informational titles and graphics will be allowed. Portions of recorded Council meetings may be used in other news and informational broadcasts provided they are not portrayed out of context.

Any time a Council meeting is broadcast under the control of the city, it shall be simultaneously recorded and may be rebroadcast.

### ***Cell Phones and Pagers***

Cell phones, pagers, and other communications shall be silenced during Council meetings.

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### ***Consent [Calendar Agenda](#)***

In order to make more efficient use of meeting time, the City Manager shall place all items of a routine nature on which no debate is expected on a consent [calendar agenda](#). Any item placed on the consent [calendar agenda](#) shall be disposed of by a single motion "to adopt the consent [calendar agenda](#)" which shall not be debatable. Any Councilor or the Mayor can remove an item from the consent [calendar agenda](#) by voice request prior to the vote to adopt the consent [calendar agenda](#). Any matter removed from the consent

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[calendaragenda](#) may be considered immediately after the consent [calendaragenda](#) or may be discussed and considered as an action item at the meeting.

***Decorum.***

All persons at Council meetings shall behave appropriately, considering the importance of Council meetings and the need to proceed with Council business. Except in case of injury, persons shall not rest their feet on chairs or tables, or stand on chairs or tables.

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***Exhibits***

Exhibits presented before the Council in connection with its deliberations on a legislative, quasi-judicial or other substantive matter shall be accepted by the Council and made part of the record. The exhibit or a copy thereof shall be provided to the meeting recorder.

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***Meeting Procedure***

The presiding officer shall make all initial procedural decisions. The Council by majority vote may overrule the procedural ruling of the presiding officer.

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***Meeting Staffing***

The City Manager will attend all Council meetings unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in all Council discussions but shall have no vote. The City Attorney will attend all regular Council meetings unless excused, shall have the right to take part in Council discussion, and will, upon request, give an opinion, either written or oral, on legal questions. The City Attorney, if requested, shall act as the Council's parliamentarian, but will have no vote. The city recorder or designee shall attend all Council meetings, keep the official minutes, and perform such other duties as may be needed for the orderly conduct of meetings. Department directors or other staff will attend Council meetings upon request of the City Manager or Council through the City Manager.

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***Minutes***

Minutes shall be prepared with sufficient detail to meet their intended uses. Verbatim minutes are not required.

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A. Council meeting minutes shall contain:

1. The name of Council Members and staff present.

2. All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition.
  3. The result of any votes, including ayes and nays and the names of the Council Members who voted.
  4. The substance of the discussion on any matter.
  5. Reference to any document discussed at the meeting.
- B. The Council may amend the minutes to more accurately reflect what transpired at a meeting. Upon receipt of the minutes in the Council agenda packet, the Council Members should read them and if possible submit any changes, additions or corrections to the city recorder in order that a corrected copy can be prepared prior to the meeting for approval. Under no circumstances shall the minutes be changed following approval by the Council, unless the Council authorizes the change by majority vote.

### ***Motions***

When a motion is made, it shall be clearly and concisely stated by its mover. Council Members are encouraged to exercise their ability to make motions and to do so prior to debate in order to focus discussion on an issue and speed the Council's proceedings. The presiding officer will state the name of the Council member who made the motion and the name of the Council member who made the second. When the Council concurs or agrees to an item that does not require a formal motion, the presiding officer will summarize the agreement at the conclusion of discussion. The following rules shall apply to motions during proceedings of the Council:

- A. A motion may be withdrawn by the mover at any time without the consent of the Council.
- B. If a motion does not receive a second, it dies. ~~Certain motions can proceed without a second, including nominations, withdrawal of motion and agenda order.~~
- C. A motion that receives a tie vote fails.
- D. A call for the question is intended to close the debate on the main motion and does not require a second and is not debatable. A call for the question fails without a majority vote. Debate on the main subject resumes if the motion fails.
- E. A motion to amend can be made to a motion that is on the floor and has been seconded. An amendment is made by inserting or adding, striking out, striking out and inserting, or substituting.
- F. A motion to adjourn cannot be amended.

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- G. A motion to amend an amendment is in order.
- H. Amendments are voted on first, then the main motion as amended.
- I. Council will discuss a motion only after the motion has been moved and seconded. Nothing in this section prevents general discussion or expression of opinions before a motion is made.
- J. The motion maker, presiding officer, meeting recorder, City Manager or City Attorney should repeat the motion prior to voting.
- K. A point of order, after being addressed by the presiding officer, may be appealed to the body.

***News Media***

The Council recognizes the important role of the news media in informing the public about the decisions, activities and priorities of government. Workspace shall be reserved for members of the press at Council meetings so that they may observe and hear proceedings clearly. The terms “news media” “press” and “representative of the press” for the purpose of these rules are interchangeable and mean someone who:

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- A. Represents an established channel of communication, such as a newspaper or magazine, radio or television station, or other electronic media; and either
- B. Regularly reports on the activities of government or the governing body; or
- C. Regularly reports on the particular topic to be discussed by the governing body in executive session.

***Order***

A law enforcement officer of the city may be sergeant-at-arms of the Council meetings. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purposes of maintaining order and decorum at the Council meeting.

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- A. Any of the following shall be sufficient cause for the sergeant-at-arms to, at the direction of the presiding officer, or by a majority of the Council present, remove any person from the Council chamber for the duration of the meeting:
  - 1. Use of unreasonably loud or disruptive language or noise.
  - 2. Engaging in violent or disruptive action, including any violence towards any person.
  - 3. Willful damage to city or private property.

- 4. Refusal to obey these rules or other applicable regulations, including limitations on occupancy and seating capacity.
- 5. Refusal to obey an order of the presiding officer or an order issued by a Councilor that has been approved by a majority of the Council present.

B. Before the sergeant-at-arms is directed to remove any person from a Council meeting for conduct described in this section, that person shall normally be given a warning by the presiding officer to cease his or her conduct. A warning is not required in case of immediate threat to person or property. If a meeting is disrupted by one or more members of the audience, the presiding officer or a majority of the Council present may declare a recess and/or order that the Council chamber be cleared.

**Order of Business**

The City Manager shall arrange the order of business to achieve an orderly and efficient meeting. In general, the order of business will be as follows:

I. Roll Call

II. Additions/Deletions to the Agenda

III. Public Comment (Normal maximum per person 3 minutes, but may be adjusted based on number of persons wishing to comment. ~~Any person who does not get an opportunity to comment will be allowed to comment during Agenda Item VIII.~~)

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~~IV.~~ Proclamations, Recognitions, Special Presentations

~~IV.~~ Consent Calendar

~~V. Council Members' Reports and Comments~~

~~VI. Officers' Reports~~ will consist of reports from the Mayor, City Manager, and City Attorney.

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~~VII.~~ Discussion Items (Items that do not require immediate Council action, such as presentations, discussion of potential future action items)

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~~IV/VIII.~~ Action Items (Items expected to result in motions, resolutions, orders or ordinances)

Each action item that requires a public hearing shall be clearly identified as a public hearing. Public hearings shall be set before other items in this section of the agenda. Hearings will be noticed for 7 P.M.

~~IX.~~ Public Comment (Additional time for public comment - 5 minutes per speaker)

X. Unfinished Items from IV, V or VI

[XI. Councilor's Reports and Comments](#)

XII. —Adjournment

### ***Ordinances and Resolutions***

All ordinances and resolutions shall be prepared under the supervision of the City Manager or City Attorney. Any ordinance or resolution not prepared by the City Attorney shall be reviewed and approved as to form by the City Attorney. Ordinances and resolutions may be introduced by a member of the Council, the City Manager, the City Attorney or any department head.

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A. Unless the motion for adoption provides otherwise, resolutions shall be adopted by reference to the title or number of the resolution and shall be effective upon adoption. A roll-call vote is not required for resolutions unless it is unclear whether a majority favor the resolution.

B. Ordinances shall be adopted as provided by the [City](#) Charter. Failure to comply with post-adoption signature requirements shall not invalidate an ordinance.

C. Non-emergency ordinances shall be effective on the thirtieth day following the date of adoption, unless the ordinance provides that it will become effective at a later time. An emergency ordinance which includes a provision that the ordinance is necessary for immediate preservation of the public peace, property, health, or safety may provide that it will become effective upon adoption or other time less than 30 days after adoption.

D. Ordinances shall be adopted by roll-call vote.

### ***Planning Commission Testimony***

The Planning Commission was established in compliance with state statute to make recommendations to the city Council on general land use issues and to act as a hearing body for the city. In an effort to maintain the impartiality of the Planning Commission, especially in cases where issues can be remanded by the City Council back to the planning commission for review, the following rules are established. For legislative land use matters before the Council, commissioners may testify as a commissioner, as a commission representative if so designated by the commission, or as a citizen.

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### ***Presiding Officer***

The Mayor shall be the presiding officer and conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council, subject to these rules. The Council President shall preside in the absence of the Mayor. The Mayor may ask the Council President to preside over all or part of a meeting at any time to provide the Council President with experience in presiding over Council meetings. The presiding officer shall not be deprived of any of the rights and privileges of a Council member. In case of the absence of the Mayor and the Council President, the City Manager shall call the meeting to order and the Council shall elect a chairperson for the meeting by majority vote. The Mayor or Council President shall not be considered present if they are disqualified from participation in a matter.

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### ***Public Comment at Council Meetings***

The Council shall allow a general public comment period at each regularly scheduled meeting, but need not allow public comment at emergency and special meetings. Comments at the general public comment period should normally be limited to matters related to city government and that are properly the object of Council consideration. The presiding officer shall exercise discretion in controlling public comment. Comments relating to a public hearing that has been closed but not finally resolved are not properly the object of Council consideration. Any comments on an item on the Council agenda should be made during the discussion of the specific agenda item, rather than in the general Council session. The Council may allow comment on any Council action item other than an item on which comments have been received and the public testimony portion of the hearing or other agenda item has been closed. Comments on any item that are expected to come before the Council as a quasi-judicial land use matter shall not be permitted outside the scope of the land use hearing on the matter.

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### ***Public Hearings and Participation.***

Except when a public hearing is expressly required by applicable law, members of the public do not have the right to speak on items on the Council agenda. Nevertheless, the Council will normally allow public comment on action items, but is not required to do so. The Council may limit public comment and may disallow further public comment.

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Different public hearings have different standards. If applicable law provides for a public hearing but does not regulate the type of hearing, the Council will allow any person with a right to a hearing to present written and oral testimony and argument. The Council may limit the time of oral testimony and argument.

Some public hearing law provides a right to a hearing to certain persons, but not to others. The Council shall allow persons with a right to a hearing to speak, but may prohibit or limit participation by others.

### ***~~Land Use Public Hearings~~***

#### ***~~A. Legislative Hearings:~~***

- ~~1. The presiding officer shall announce the nature of the matter to be heard as it is set forth on the agenda.~~
- ~~2. Discussion of conflict of interest of Council Members.~~
- ~~3. The presiding officer will then declare the hearing to be open and invite members of the audience to be heard in the following order:
  - ~~a. Staff report of topic, including any material added to the record.~~
  - ~~b. Persons wishing to speak on the matter.~~
  - ~~c. Additional staff comments.~~
  - ~~d. Close of public hearing.~~
  - ~~e. Council deliberation and vote.~~~~

~~B. Quasi-Judicial Hearings: Conduct of quasi-judicial hearings shall conform to the requirements of state law and applicable ordinances. The procedure shall normally be as follows:~~

- ~~1. Announcement of the matter to be heard.~~
- ~~2. Statement of the procedure to be followed.~~
- ~~3. Notice that failure to address a criterion or raise any other issue with sufficient specificity precludes an appeal to the Land Use Board of Appeals on that criterion or issue.~~
- ~~4. Discussion of jurisdiction, impartiality, conflict of interest, ex parte contacts.~~
- ~~5. Staff introduction of appeal, including discussion of additional items included in the record.~~
- ~~6. Appellant's presentation.~~
- ~~7. Other testimony in support of the appeal.~~
- ~~8. Applicant's testimony, if not the appellant.~~
- ~~9. Testimony in opposition to the appeal.~~
- ~~10. Neutral testimony.~~
- ~~11. Staff response, if necessary.~~

~~12. Appellant's rebuttal testimony.~~

~~13. Applicant's rebuttal testimony (If not the appellant).~~

~~14. Questions from the Council to staff and others for clarification, with opportunity for rebuttal.~~

~~15. Closure of public hearing, no further information from the audience.~~

~~16. Initial discussion by Council.~~

~~17. Motion~~

~~18. Further discussion.~~

~~19. Decision.~~

~~The Council has the discretion to adopt findings or direct the staff or prevailing party to submit proposed findings for Council consideration and adoption at a future meeting.~~

~~C. If there are objections to the jurisdiction of the City Council to hear a matter, the presiding officer may terminate or continue the hearing if the Council determines it lacks jurisdiction or the procedural requirements of any code or ordinance provision were not met, or take other action as appropriate under the circumstances.~~

~~D. For quasi-judicial review hearings, all written arguments or other documents presented to Council for consideration must be submitted to the community development department by 5:00 P.M. on the date of the scheduled hearing. All other written materials must be presented in person at the hearing.~~

### ***Public Members Addressing the Council***

Each person addressing the Council shall submit a completed testimony form to the City Recorder. A separate form must be completed for each item desiring to be addressed.

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A. When called by the presiding officer, those wishing to address the Council shall come to the designated area and state their name. They shall limit their remarks to the time allocated by the presiding officer or Council. They should address all remarks to the Council as a body and not to any member thereof.

B. No person, other than the Council, the City Manager, the City Attorney, appropriate staff person, and the person having the floor, shall be permitted to enter into any discussion, without the permission of the presiding officer. Questions from the public shall be asked of a Councilor or staff through the presiding officer. No public member will be allowed to speak more than once on a particular agenda item, except where rebuttal is required or authorized by law or leave to do so is granted by the Council.

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C. Except when public testimony is allowed by right, the presiding officer will determine whether public comments will be allowed on specific agenda items. The decision whether to allow public testimony will be based on the subject matter, prior opportunity for comment, and the length of the particular agenda. Any person making personal, offensive, or slanderous remarks, or who becomes threatening or personally abusive while addressing the Council may be requested to leave the meeting. The presiding officer has the authority to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct, and to enforce the ~~rules of the~~ Council Rules. The presiding officer may request the assistance of a sergeant-at-arms to restore order at any meeting.

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D. Testimony shall be relevant to the topic of the agenda item and not redundant. The presiding officer may terminate redundant and/or irrelevant testimony. Pre-hearing testimony on quasi-judicial land use actions that may come before the Council will not be permitted.

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E. The intent of this section is not to stifle public debate, but to provide guidelines to allow meaningful and productive comment and debate.

### ***Quorum***

The quorum requirement for the conduct of Council business is four Council Members.

### ***Reconsideration of Actions Taken***

A member who voted with the majority may move for a reconsideration of an action at the same or the next regular meeting. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Council. However, nothing in this section precludes a new motion on the same subject matter as a previous decision with the possibility of a different result.

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### ***Suspension of Rules***

These rules may be suspended upon an affirmative vote of 75 percent of those voting when a quorum of the Council is present. Suspension of the rules should only occur in cases of extreme necessity.

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### ***Voting***

Every Council member who may legally vote on a motion shall vote on a motion unless a majority of the Council present, for special reason, allows the Council member to abstain. The Council member must declare the intent to abstain prior to the vote and explain the reason for the abstention.

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- A. No Council ~~o-member~~ shall be permitted to vote on any subject in which he or she has a conflict of interest or is otherwise disqualified from participation.
- B. The concurrence of a majority of the Council ~~o-Members~~ voting when a quorum is present at a Council meeting shall be necessary to decide any question before the Council.

## MISCELLANEOUS GENERAL COUNCIL RULES

### *Annual Report of Boards, Commissions, ~~and~~ Committees, and Task Forces*

At the request of the Council, boards, commissions, and committees will report to the Council on their activities.

### *Appointed Positions*

The Council appoints and can remove the City Manager, the City Attorney, and the Municipal Judge. The Council shall evaluate the City Manager and the City Attorney in accordance with their respective contracts, but no less frequently than once a year. The Council may meet with the Municipal Judge once annually, but will not interfere with the Municipal Judge's exercise of judicial authority and discretion.

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### *Attendance and Presence in the City*

Councilors will inform the Mayor and/or City Manager if they will be unable to attend any meetings. If the Mayor will be absent, the Mayor will inform the City Manager and the Council President. Under the Charter, a Council position becomes vacant if the Council member is absent from the city for more than 30 days without Council permission. The permission to be absent from the city must be requested before the absence, or in the case of a family illness or other unforeseen event, prior to the end of the 30-day absence.

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### *Communication with Staff*

All Council Members shall respect the separation between the Council's role and the City Manager's responsibilities by:

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A. Not interfering with the day-to-day administration of city business, which is the responsibility of the City Manager.

B. Working together as a team within a spirit of mutual confidence and support.

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C. Respecting the administrative functions of the City Manager, the City Attorney, and department heads and refraining from actions that would undermine the authority of the City Manager or department heads. The Council will abide by the City Charter in its dealings with the City Manager and City Attorney.

D. Limiting individual inquiries and requests for information from staff or department heads to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature shall be directed to the City Manager or City Attorney. Questions from individual Council Members requiring significant staff time or resources (two hours or more) should normally require approval of the Council, although the City Manager may determine to follow up on requests from individual Councilors. Written requests for information requested by an

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individual Council member should normally be responded to in writing to the Council as a whole, with a notation as to which Council member requested the information. Council Members should normally share any information obtained from staff with the entire Council. This section is not intended to apply to questions by Council Members acting in their individual capacity rather than as Council Members, or to questions regarding conflict of interest or similar issues particular to the Council member.

- | E. Limiting individual contacts with city officers and employees so as to not influence staff decisions or recommendations, so as to not interfere with staff work performance, and so as to not undermine the authority of the City Manager, department heads, and other managerial and supervisory employees.
- | F. Respecting staff and their roles and responsibilities, even if expressing criticism of an action.
- | Nothing in this section precludes Council Members from obtaining information and asking questions during Council meetings or from evaluating the performance of the City Manager or City Attorney.

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***Conduct of Council Members.***

- | A. *Non-Participation.* A Council~~or member~~ shall not participate in a quasi-judicial decision if the Council member is biased to the extent that the Council~~or member~~ cannot decide the matter by applying the applicable standards and criteria to the facts of the situation as presented to the Council. A Council~~or member~~ shall not participate in any quasi-judicial matter in which the Council~~o member~~ has a personal interest in the outcome, unless that personal interest is shared by a class of persons. A Council~~o member~~ shall not participate in any decision when participation in the decision is contrary to state law. Any person may challenge the participation of a Council~~o member~~ at the start of the proceeding. If a challenge is made, the Council~~o member~~ may choose to withdraw. If the Council~~o member~~ does not withdraw, the remainder of the Council will decide by motion whether the Council~~or member~~ will participate. A Council~~o member~~ who is not participating shall not sit at the Council table.
- | B. *Conflict of Interest.* A Council~~o member~~ shall not participate in any matter where there is a financial conflict of interest. Under state law, an actual conflict of interest is defined as one that would result in the private financial benefit of the Council~~o member~~, a relative or a business with which the Council~~o member~~ is associated. A potential conflict of interest is one that could result in private financial benefit. A Council~~o member~~ must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue unless allowed by state law. A Council~~o member~~ who is not participating because of a conflict of interest shall leave the Council table after declaring the conflict.

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C. *Ex Parte Contacts.* For quasi-judicial hearings, Councilo-Mem~~ber~~s will endeavor to refrain from having ex parte contacts relating to any issue of the hearing. Ex parte contacts are any contacts with persons other than staff outside the formal hearing process relating to the subject matter of the quasi-judicial hearing. Ex parte contacts include both oral and written communication. If a Councilo-m~~ember~~ has an ex parte contact prior to any hearing, the Councilo-m~~ember~~ will reveal the contact at the beginning of the hearing. The Councilo-m~~ember~~ shall describe the substance of the contact. After all declarations of ex parte contacts, the presiding officer shall announce the right of interested persons to rebut the substance of the communication or otherwise challenge the participation of the Councilo-m~~ember~~ who had the ex parte contact.

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D. *Absence for Portion of a Hearing.* For quasi-judicial hearings, a Councilo-m~~ember~~ who was absent during the presentation of evidence cannot participate in any deliberations or decision regarding the matter unless the Councilo-m~~ember~~ has reviewed all the evidence and testimony received.

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E. *Government Ethics Requirements and Reporting.* Councilo-M~~embe~~r~~s~~ shall review and observe the requirements of the State Ethics Law (ORS 244.010 to 244.390) dealing with use of public office for private financial gain. Councilo-M~~embe~~r~~s~~ shall give public notice of any conflict of interest or potential conflicts of interest and the notice will be reported in the meeting minutes. Councilo-M~~embe~~r~~s~~ shall timely file annual statements of economic interest with the Government Ethics Commission.

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F. *Ethical Conduct and Fair Treatment.* In addition to matters of financial interest, Councilo-M~~embe~~r~~s~~ shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Council. This general obligation includes the duty to refrain from:

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1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public.
2. Making decisions involving business associates, customers, clients, and competitors.
3. Repeated violations of these Council R~~u~~les.
4. Promoting relatives, clients, or employees for boards, ~~and~~ commissions, committees, and task forces.
5. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers, or friends.
6. Seeking employment of relatives with the city.
7. Actions benefiting special interest groups at the expense of the city as a whole.

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8. Expressing an opinion contrary to the official position of the Council without so stating.

G. *General Conduct.* In general, Councilo-Membe shall conduct themselves so as to bring credit upon the government of the city by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Council and abiding by all decisions of the Council, whether or not the member voted on the prevailing side.

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H. *Participation in Council Meetings.* Any Councilor desiring to be heard during a Council meeting should normally be recognized by the presiding officer and shall confine his or her remarks to the subject under consideration or to be considered. Councilo-Members will speak one at a time, allowing one another to finish. The presiding officer may allow flexibility in the application of this rule.

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### ***Conferences and Seminars***

Councilo-members are urged to educate themselves about local government. To that end, and as funding allows, Councilo-Members are urged to attend the League of Oregon Cities functions at city expense. Requests to attend other government-related conferences, training, seminars, and meetings will be presented to the Council for approval. Councilo-Member who serve on committees or the boards of the League of Oregon Cities, the National League of Cities, or other similar associations of local governments will be reimbursed for reasonable expenses not covered by the respective body.

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### ***Confidentiality***

Councilo-Membe will keep all written materials provided to them on matters of confidentiality under law in complete confidence to ensure that the city's position is not compromised. No mention of confidential information read or heard should be made to anyone other than other Councilo-Members, the City Manager, the City Attorney, or responsible department heads.

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A. If the Council in executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiation whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Councilo-member will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion, except as authorized by Council.

B. All public statements, information, or press releases relating to a confidential matter will be handled by the City Manager or other person authorized by the Council.

C. The Council, by resolution or motion, may censure a member who discloses a confidential matter.

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***Contacts with Organizations***

The City Council will seek meetings with the Lincoln County Board of Commissioners, the Lincoln County School District Board, the Port of Newport, and other local governments, and groups, as needed to address issues of common interest. The City Council will allow local groups such as the Chamber of Commerce, and local business, neighborhood or citizens groups, to make presentations to the Council on matters of common interest.

***Expenses, Reimbursement and Compensation***

Council Members shall receive no pay or other compensation for serving on the Council. Council Members will follow the same rules and procedures for reimbursement as those which apply to city employees, when seeking reimbursement for attendance at authorized conferences or other authorized reimbursement. The city does not reimburse Council Members for expenses incurred by their spouses and/or guests.

***Gifts by the Council***

On occasion, and within the approved budget, the Council may wish to purchase a gift or memento for someone with city funds. Expenditures of this type shall require consensus approval of the Council.

***Legal Advice***

Requests to the City Attorney for advice requiring extensive legal research shall not be made by an individual Council member except with the concurrence of the majority of the Council.

***Liaison to Boards, Commissions and Committees***

The Mayor may appoint Council Members to act as liaison to boards, commissions, committees, or other bodies that advise the Council. In the event a Council liaison is unable to attend a meeting of the board, commission, or committee, the liaison will either contact another Council member to act as liaison for the meeting or ask the Mayor to find a substitute.

When attending a meeting of a city board, commission, commission, or committee as liaison, Council Members will:

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A. Not attempt to lobby or influence the board, commission, or committee on any item under its consideration. It is important for the advisory body to make objective recommendations to the Council on items before them. However, nothing in this section precludes the Council o-member from asking questions, making comments, explaining what the Council expects from the board, commission or committee, or explaining Council policy.

B. Not vote at the body's meeting on any item.

This rule applies only when the Council o-member is acting as liaison; it does not apply when the Council o-member is a member of the board, commission, or committee and does not apply to non-city bodies when the Council o-member is the representative of the city.

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### ***Litigation***

The Council will meet in executive session with the City Manager and City Attorney within 30 days of the city's receipt of:

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A. A statutory notice of intent to sue, or

B. A summons and complaint for damages.

This requirement does not apply to cases in which the claim is covered by insurance.

The City Manager and City Attorney will provide the Council with a report of all claims filed against the city.

### ***Public Records***

The disposition of public records created or received by individual Council o-Members shall be in accordance with Oregon Public Records Law. Written information incidental to the official duties of a member of the City Council, including electronic mail messages, notes, memos, and calendars (e.g., "Daytimers") are public records and are subject to disclosure under the public records law.

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### ***Representing the City***

When a member of the City Council represents the city before another governmental agency, before a community organization or media, the official should first indicate the majority position of the Council if there is one. Personal opinions and comments may be expressed only if the Council o-member clarifies that those statements do not represent the position of the Council.

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A. The effectiveness of city lobbying in Salem or in Washington, D.C., depends on the clarity of the city's voice. When Council o-Member represent the city in a "lobbying"

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situation, it is appropriate that the Council ~~Members~~ avoid expressions of personal dissent from an adopted Council policy.

B. When Council ~~Members~~ attend meetings of organizations such as the League of Oregon Cities or the National League of Cities and their boards and committees, they do so as individual elected officials and are free to express their individual views. If the City Council has an adopted policy relating to an issue under discussion, the Council ~~member~~ is expected to report that fact.

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C. By resolution, the Council may appoint one or two of its members to act as negotiators with groups, individuals, or other governmental entities. Any agreements made by such negotiators shall require approval of the Council as a whole to take effect.

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#### ***Vacancies on Boards, Commissions and Committees***

The Mayor, ~~subject to ratification by~~ ~~with the consent of~~ the Council, shall appoint all members of boards, commissions, ~~and committees,~~ and task forces, and appoint persons to fill all vacancies. The City Manager will seek applications from interested candidates. The Council may, and normally will, interview applicants for the Planning Commission and Budget Committee.

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#### ***Vacancies on the Council***

Upon declaring a vacancy on the City Council, the Council will fill the vacancy under provisions of the City Charter. The vacancy will be advertised and applications will be accepted. After the filing deadline has passed, the Council will conduct public interviews of all applicants. The Council will make a decision to fill the vacancy in a public meeting.

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January 18, 2011  
Noon  
Newport, Oregon

## CITY COUNCIL WORK SESSION

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

Staff present: Voetberg, Hawker, Atkinson, McCarthy, and Protiva.

McConnell distributed a statement and asked Council to consider supporting it. He also noted that he would like to start each meeting with the Pledge of Allegiance, and that tonight, he plans to ask for a moment of silence for Arizona. It was the consensus of Council that since the distributed statement addresses several Council Rules, the discussion be deferred until after review of the Council Rules. A discussion ensued regarding how to best accommodate large groups of citizens wishing to comment on a particular subject.

McConnell introduced Joey Sewell, an IB student from Newport High School.

Roumagoux stated that she has been on the Lincoln County Ambulance Review Committee for the past 20 years, and wanted to make sure there was no conflict of interest in dealing with fire issues.

McConnell distributed a letter from the Volunteer Fire Department, and noted that Voetberg will report on Volunteer Fire Department issues, in general, this evening. Brusselback asked whether the investigation has been completed, and Voetberg noted that it was complete. Allen asked whether there was a separate OSHA investigation, and Voetberg reported that there were five OSHA complaints, and the OSHA investigators have been here in the course of the investigation. He noted that he will provide the OSHA investigators with the recently completed report.

McConnell reported that all Councilors had received a letter from Dick Bevans regarding rescinding the gasoline tax. He added that he will address the matter this evening, and Council can discuss a direction at that time. It was asked that the amount of monies collected from the gas tax be available this evening.

McConnell reported that Caryn Tilton would be presenting a webinar on city manager evaluations, on January 27, and the cost is \$59 for any number of attendees.

McConnell reported that Chocolate Cake Day is January 27, and that slices of cake will be sold for \$1.00 with proceeds going to assist the City of Aumsville in its post-tornado clean-up.

Allen inquired about a proposed agreement between the city and the Volunteer Fire Department. Voetberg reported that this refers to a personal commitment on behalf of himself and the volunteers, and that there was never an intent to have a formal agreement.

McConnell stated that the executive session would be held in the normal fashion and no one would be asked to sign anything. He noted that he planned to read the requisite executive session script. A discussion ensued regarding designating the city attorney as the city's labor negotiator at this time, noting that the designation could be transferred at a later date.

**RFP's for advertising and fulfillment services.** A discussion ensued regarding the RFP's for advertising and fulfillment services. Voetberg reported that the fulfillment contract is with the Chamber of Commerce, and it is \$150,000 annually. He noted that both the advertising and fulfillment contracts expire this year, and the RFP to award process takes approximately three months. He noted that copies of the previous RFP's are included in the packet for information. He asked Council to review the scope of work. It was noted that the Chamber Director is on the Destination Newport Committee, and she steps down during discussions regarding the Chamber. Voetberg asked whether Council wanted to see the RFP before issuance. Voetberg reported that his wife works for the Chamber of Commerce, and he will not be involved in the decision. It was noted that the Chamber has historically performed fulfillment services, but that the arrangement was formalized three years ago through the RFP and contract award process. It was noted that the second RFP is for advertising/marketing, and the city currently has a contract with Grady Britton in the amount of \$270,000 this year. A discussion ensued regarding the uses of the remainder of the marketing monies, and it was noted that some monies were used this year for PDXposed and the billboard on Highway 18. It was reported that the DNC will meet on February 2, 2011 to discuss the RFP goals and objectives. A discussion ensued on how to control overhead costs and using local vendors. Council concurred that it wants to use local vendors as much as possible. A discussion ensued regarding what account the monies come from, and it was noted that the funding comes from transient room taxes.

**Prioritization of City Council discussion items.** It was agreed that the budget process should include a discussion of the process, retirement/pension, health care, collective bargaining, reserve policies, and the importance of goal setting prior to developing the budget.

Council agreed to discuss the Council Rules at its next work session.

It was noted that there is one vacancy on the Budget Committee, and that the idea is to meet soon with the entire Budget Committee. The discussion will center on how the budget is put together. Allen noted that last year, the pre-budget meeting pertained to budget laws, but failed to address general policies, i.e., reserves, personnel issues, etc. Voetberg asked how much of the overall policy comes from Council and how much from the Budget Committee. Allen suggested that if the vacancy was filled, the Budget Committee could discuss larger issues. The pre-Budget Committee meeting could review laws and reports from staff on how the budget will be developed. Voetberg noted that it is important to begin the process in mid-February with the entire Budget Committee. He noted that goal setting is critical. A discussion ensued regarding staff participation in the process.

It was agreed to schedule a Budget Committee meeting on February 23, 2011, at 6:00 P.M.

A work session on Council Rules will be held January 31, from 9:00 A.M. until noon.

The regular February work sessions, on the 7<sup>th</sup> and 22<sup>nd</sup>, will cover retirement, pension, health benefits, collective bargaining, and reserve policies, and that the agendas should be developed by the staff.

It was noted that the city attorney will present non-executive session materials during her report at the regular meeting this evening.

It was suggested that committees be asked for goals and projects for inclusion in budget discussions.

It was noted that Roumagoux is the liaison to the Parks and Recreation Advisory Committee.

It was agreed to discuss the management of parks and recreation services at the March 7 work session.

McCarthy updated Council on the solid waste issue. She noted that she is working closely with Thompson's, Brusselback and Beemer. She will address the contractor's this Thursday, and bring the matter as an informational item at an upcoming work session.

Discussion regarding evaluating the city manager and city attorney will be scheduled for March 21.

A discussion ensued regarding the evaluation of the municipal judge, and Allen asked whether the former Councilors have been notified. He added that this was an issue in December, and he wants to make sure that no new issues arise. It was agreed to discuss this matter on March 21.

It was reported that the Technical Task Force will hold its first meeting on January 25. McCarthy asked that GP franchise fees be added to the March 7 work session agenda.

It was reported that a discussion on what to do next with the swimming pool would occur on March 7.

Having no further business, the meeting adjourned at 1:38 PM

January 18, 2011  
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, McConnell, Bertuleit, Brusselback, Allen, Beemer, Roumagoux, and Sawyer were present.

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

McConnell requested a moment of silence for the folks involved in the Arizona tragedy. He led in the Pledge of Allegiance.

#### PROCLAMATIONS AND RECOGNITIONS

Voetberg recognized the following employees for their service:

##### 10 Years

Peggy Hawker  
Dustin Kittel  
Kathy Cline

##### 15 Years

Pat Dodson  
Tim Studebaker  
Dann Walker  
Greg Evans

##### 20 Years

Tom Simpson  
Jeff Ingram  
Jim Salisbury

##### 25 Years

Steve Kittson

##### 35 Years

Lanny Schulze

Sawyer spoke about Ron Garrison, the former street superintendent, who recently passed away.

McConnell reported that Don Cohen, radio newsperson, passed away last night.

### CONSENT CALENDAR

The consent calendar consisted of the following:

- A. Approval of City Council minutes from the work session and regular meeting of January 3, 2011, and the work session of January 11, 2011;
- B. Police and Fire Department monthly reports for December 2010;
- C. Report of accounts paid for December 2010.

MOTION was made by Bertuleit, seconded by Brusselback, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

### OFFICER'S REPORTS

Mayor's Report. McConnell reported that January 27 is National Chocolate Cake Day, and restaurants and businesses, including city hall, throughout the community will sell chocolate cake for one dollar per slice. The proceeds will be donated to the City of Aumsville for post-tornado clean-up and restoration.

McConnell reported that Council had received a letter from Dick and Vickie Bevans requesting Council consider rescinding the fuel tax. Allen noted that Council needs to be sensitive to fees that it establishes. He suggested community outreach to determine the impact and whether a mutual resolution can be obtained. It was asked that a motion be made to move this matter forward at the next meeting.

McConnell reported that he had met with the Greater Newport Restaurant and Lodging Association, and its members still wish to participate in discussions on the transient room tax and business license ordinances. It was asked that a discussion regarding how to proceed on these matters be discussed at the beginning of the next work session.

McConnell noted that committee appointments, with the exception of the Planning Commission and Budget Committee, will be referred to individual committees for review and recommendation. He appointed Alisha Kern, Patty Murphy, and Elliott Crowder to the Bicycle/Pedestrian Committee; Karen Smith to the Parks and Recreation Advisory Committee; and Michael Rickus to the Senior Advisory Committee. He noted that there are two vacancies on the Parks and Recreation Committee, and one vacancy on the Budget Committee. MOTION was made by Bertuleit, seconded by Beemer, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

City Manager's Report. Voetberg asked whether Council preferred a written manager's report or a verbal report. It was the consensus of Council that Voetberg review the highlights verbally.

Voetberg reported that the December month-end financial report is included in the packet. He noted that the first page includes highlights of what is going well or not. He asked that specific questions be directed to Marshall. McConnell asked whether there is a way to get the financial information on the website in a more readable format. He added that it would be advantageous to have annotations on other line items. It was agreed that the note space contained in the report could be improved.

Voetberg noted that the updated suggestion/concern/complaint log is included in the packet.

Voetberg reported that the grant application for the Oceanview Drive bike/pedestrian improvements was not recommended for funding.

Voetberg reported that CIS will distribute credits toward property casualty trust, but the dollar amount is unknown at this time.

Voetberg reported that the COG newsletter is included in the packet.

Ritzman reviewed the status of several projects, including the water treatment plant, Naterlin Drive, Nye Beach, and Senior Center.

Ritzman reported that concrete is being poured for the floor sections of the water treatment plant, and it is anticipated that walls will go up during March. He reported that there are no requests for cost increases.

Ritzman reported that the Naterlin Drive sidewalk project is expected to go out to bid after the first of February, and that the 90% plans are due Friday. He noted that the Coast Guard was contacted again today and the city should have the necessary easement by the end of the week. Ritzman reported that based on the current estimate, the project will be very close to the budget.

Ritzman reported that the work requested for the Deco Park is greater than the budget, and that the Deco District has opted to pursue installing the pylon and building the park around it as funds become available in the future.

Ritzman reported that the Coast Park project will be ready to bid around the first of February.

Ritzman reported that the storm drain construction at the Senior Center is underway. He reviewed the storm drainage issue. It was noted that some of the costs will be funded through the CDBG grant, and the General Fund. Voetberg noted that the difference will be divided among the various departments at city hall, and that there are sufficient funds to cover the additional costs.

Ritzman reported that there was no local flooding in Nye Beach during the last storm, but that there were four different slide areas. The slides were in Longview Hills, behind Port Dock 4, and two on Big Creek Road.

Ritzman reported that three sewer lift stations overflowed during the storm, including the Big Creek lift station; Schooner Creek lift station, and the Nye Beach lift station. It was noted that the manhole along the Agate Beach Trail may be too low.

Ritzman reported that a hole had been discovered in a sewer conveyance line, and while it is not creating an immediate problem, it is serious, and his staff will conduct further analysis.

Bertuleit reported that the exterior color of the VAC will be shocking yellow.

Allen requested copies of engineering agreements relative to the water treatment plant. Ritzman reported that he has developed a reporting format that Council will receive monthly that will show how much money has been committed, expended, and under contract on the water treatment plant. McConnell noted that a sizeable payment had been made to WT Construction during December, and asked whether that is part of the final payment from GMP #1. Marshall noted that he believes that is for GMP #2. Marshall reported that he is satisfied with the information from the contractor, so far, but that he needs to conduct an audit in Portland. Ritzman noted that Slayden is in the early stages of work on GMP #2, and has completed 95% of the work on GMP #1. It was noted that there could be a surplus of approximately \$100,000 on GMP #1.

Voetberg reported that he has received calls about NOAA, noting that the growing sand pile is a permitted use. He added that the city will work with the port to dispose of the sand.

Voetberg distributed a report prepared by John Stein on the Longview Hills fire investigation. The report also contained a summary prepared by Voetberg, and an incident report prepared by Rick Crook. He summarized the results of the investigation and its conclusions and observations. He reported that the volunteers indicated a commitment, through a letter, to work toward resolving and healing the internal strife existing within the Fire Department; the City Council has his commitment; and that Toby Cole wants to make this work. Bertuleit suggested an outside person assist in working with the group. Voetberg noted that he is looking at this as an option, but wants to make sure Council, and full-time and volunteer firefighters are on board. Allen noted that it would be beneficial for Al Anton to work with the interim chief, and asked whether the interim chief is willing to participate. Voetberg noted that Anton would not be an employee; simply an advisor. He added that Anton, as a retired firefighter, knows how to talk with firefighters and has a passion for the profession, and has agreed to work with the city at no cost. It was noted that a task force could be useful to oversee some of this, but that it is important that everyone understands the issues. Allen asked whether John Stein is a hired consultant, and Voetberg noted that he is a paid consultant, and that it is important because of procedure problems and unsafe conditions. Voetberg reported that there is also an OSHA investigation on this incident, and that the Stein report would be forwarded to the OSHA investigator. Allen asked about Stein's background and experience, and Voetberg reported that he was a fire chief in Dallas for a number of years, and is involved with the Special District Association of Oregon, and in that capacity, assists lots of fire districts. Allen asked what budget the monies would come from to pay the consultant. Voetberg reported that the cost is \$1,000, and it will come from the Fire Department budget. Sawyer noted that the volunteer and paid fire staffs are all dedicated professionals. Voetberg noted that if the problems cannot be handled internally, Council will have to get involved. Roumagoux asked when Anton's report will be available, and Voetberg noted that the interim chief could have the report in two weeks. Allen noted that Council had received a copy of the January 14, 2011 letter from the Newport Volunteer Firefighters Association. Voetberg reiterated that the letter from the volunteers referenced an agreement; and he noted that this is not an agreement but a personal commitment to make this work. He added that he is hoping to get the volunteers and paid staff to make personal commitments to resolve issues in the Fire Department. He noted that he has not talked with the full-time firefighters, but that it is his belief that they want to make this work. Allen asked that Council be kept apprised of

the resolution of the OSHA complaints. McConnell noted that Council had received letters from paid and volunteer firefighters, and both groups had asked for Council involvement at some level. A discussion ensued regarding having a group comprised of three Councilors, city manager, city attorney, and fire representatives meet to discuss issues. Brusselback questioned Council participation at this level, noting that it is important to wait for the Anton report. Voetberg noted that the report will come from Toby Cole. He added that Cole should be able to identify issues and develop a work plan on how the department can move forward working together within two weeks. Allen noted that it is important for Cole and Anton to work together and engage the volunteers and paid staff to sort out the issues internally and develop a plan they can live with. He added that once a plan is developed, the matter can come back to Council for a public update on how things will proceed. Council concurred.

City Attorney's Report. McCarthy reported that the city has a franchise with Thompson's Sanitary Service, and this agreement allows individuals and the federal government to haul its own refuse. Other trash and recycling must be hauled by Thompson's, and this has created an issue for contractors. She reported that the city had not enforced the agreement relative to contractors until recently, and many contractors were hauling construction debris themselves. She noted that she has been meeting with Thompson's representatives, Brusselback, Beemer, and staff regarding the matters. She noted that she has modified the code for internal review; will be meeting with a contractor's group later this week; and has provided the draft to contractors. She reported that she will bring the matter to Council in the near future.

McCarthy reported that the developer of the Meritage development has decided to provide his own solid waste services to homeowners. She noted that she has been working with Thompson's and the city's community service officer on this matter. She noted that some of the Meritage homeowners want to use Thompson's, and that the developer's provision of solid waste disposal services is a violation of the code. She noted that dumpsters have been placed in the right-of-way of 33<sup>rd</sup> Street, and eight of the homeowners are satisfied with this arrangement. She stated that work on the enforcement issue will continue, and additional information will be provided to Council in the future.

Bertuleit noted that another issue is the cleanliness of the dump. McCarthy reported that the land belongs to the city and the buildings belong to Thompson's, and consequently the land lease is limited regarding the city's enforcement rights. She reported that the community service officer will be looking at the transfer station site and a report will be made to Council.

McCarthy reported that the city has three collective bargaining agreements, with Public Works, Fire, and Police Departments, and all are open this year. She noted that none of the bargaining unit members received a COLA increase last year, and only the Fire Department received a step increase. She noted that the Newport Employee's Association was formed in December, and its members are former AFSCME members. She reviewed the number of individuals in each bargaining unit, and past negotiations. MOTION was made by Allen, seconded by Brusselback, to designate McCarthy as the city's labor negotiator, subject to further changes as the City Council deems appropriate. The motion carried unanimously in a voice vote.

## PUBLIC HEARINGS

Public hearing on proposed amendments to the accessory use and home occupation sections of the zoning code. McConnell asked Council to declare any actual or potential financial interest that they might have related to this agenda item. Bertuleit, Roumagoux, and Brusselback reported that they work out of their homes. There was no objection to individual Councilors or the City Council as a whole in hearing this matter. McConnell read the public hearing procedure and opened the public hearing at 7:35 P.M. McConnell asked for public testimony. There was none. Tokos reported that the issue before Council is the consideration of whether it is in the public interest to amend the accessory use, home occupation, and enforcement sections of the zoning code. He noted that the Planning Commission had voted unanimously to recommend adoption of the changes. Tokos noted that these amendments are a part of the complete review of the zoning code. He added that the Planning Commission and its Citizen's Advisory Committee had determined that amendments are needed to clarify the process for determining when a structure is accessory to a primary use, provide for placement of accessory structures on parcels or lots adjacent to a primary use, and allow for larger structures if they meet setbacks. The updates to the home occupation rules include the elimination of outdated requirements, clarification of standards, and the addition of revocation provisions if standards are not followed. Changes to the enforcement language clarify that code enforcement staff may inspect properties at reasonable times. Tokos reported that there are several minor changes to the citation reference under Section 5 of the ordinance, and to the subsection numbering for Exhibit A of the ordinance. He noted that these corrections would be made to the final version of the ordinance, and prior to signature. A discussion ensued regarding the height of an accessory building not exceeding that of the primary structure. Tokos noted that staff would have some discretion in this situation. Allen asked about the section related to appeal to the City Council, and whether this change had been reviewed and recommended by the Planning Commission. Tokos noted that this change was made after the Planning Commission review and in consultation with the city attorney. Allen noted that he would prefer having the input of the Planning Commission on this issue. Tokos noted that the Planning Commission generally does not get involved in enforcement issues. Tokos noted that the Planning Commission will be reviewing three or more sections of the code, and suggested that this particular issue could be vetted by the Planning Commission, and if changed, included in the final adopting ordinance of the overall code. McConnell closed the public hearing at 7:52 P.M. MOTION was made by Allen, seconded by Bertuleit, to read Ordinance No. 2011, amending the accessory use, home occupation, and enforcement sections of the Newport Zoning Ordinance, by title only, and place for final passage, with the final version subject to the one change, in 2-6-8, changing the City Council to the Planning Commission, and the citation corrections that staff brought to our attention. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2011. Voting aye on the adoption of Ordinance No. 2011 were Allen, Beemer, Bertuleit, Brusselback, McConnell, Roumagoux, and Sawyer.

## ACTION ITEMS

Appoint Oregon Coastal Zone Management Association, Oregon Cascades West Council of Governments, and Cascades West Area Commission on Transportation representative and alternate. MOTION was made by Bertuleit, seconded by Brusselback, to appoint Allen as representative, and Roumagoux as alternate to the OCZMA; appoint Sawyer as representative, and McConnell as alternate to COG, and Sawyer as representative, and McConnell as alternate to the CWACT. The motion carried unanimously in a voice vote.

Recommendation from the Destination Newport Committee regarding a marketing grant application from Jazz at Newport. Hawker explained that the issue before Council is a request for tourism marketing grant funding, from the Oregon Coast Council for the Arts, for \$5,000 for assistance with national/regional marketing and graphic services for Jazz at Newport. Catherine Rickbone and David Jones appeared in support of the request. MOTION was made by Roumagoux, seconded by Bertuleit, to approve the tourism marketing grant fund application, submitted by the Oregon Coast Council for the Arts, for assistance with national/regional marketing and graphic services for Jazz at Newport, in the amount of \$5,000. The motion carried unanimously in a voice vote.

Recommendation from the Destination Newport Committee regarding a marketing grant application from the Celtic Festival and Highland Games. Hawker explained that the issue before Council is a request for tourism marketing grant funding, from the Newport Parks and Recreation Department for \$5,000 for assistance with marketing the first Newport Celtic Festival and Highland Games, scheduled for the second weekend of June 2011. MOTION was made by Roumagoux, seconded by Bertuleit, to approve the tourism marketing grant fund application submitted by the Newport Celtic Festival and Highland Games, for assistance with marketing the first annual Newport Celtic Festival and Highland Games, in the amount of \$5,000. The motion carried unanimously in a voice vote.

Termination of utility easements on property located at 160 NW 25<sup>th</sup> Street. Tokos reported that the issue before Council is whether it is in the public interest to terminate utility easements that were reserved over portions of NW 26<sup>th</sup>, NW 27<sup>th</sup>, and NW Nye Street when those streets were vacated through Ordinance No. 1668. He noted that a consultant for Wal-Mart has requested the release of these utility easements, noting that they do not contain any public utilities and contain no infrastructure. He added that the 15-foot wide water line easement that crosses the easements requested to be vacated will be retained. MOTION was made by Brusselback, seconded by Allen, to terminate the utility easements reserved by City of Newport Ordinance No. 1668, and authorize the city manager to execute a quit claim deed transferring the city's rights to the easements over to the property owner, Wal-Mart Real Estate Business Trust. The motion carried unanimously in a voice vote.

Repair/replacement of sewer line in Highway 101 between NW 12<sup>th</sup> and 13<sup>th</sup> Streets. Ritzman reported that the issue before Council is the authorization for staff to seek a minimum of three informal bids and award a contract to replace the eight-inch sewer line

in the westerly side of Highway 101 between NW 12<sup>th</sup> and NW 13<sup>th</sup> Streets. He reported that the sewer line was constructed in 1957, and is immediately upstream from the section of pipe that recently collapsed. He noted that this line has failed, but the overlying soils remain bridged over the areas of failure, but the soil could easily collapse at any time. A discussion ensued regarding the use of the infrastructure fees. Ritzman reported that the city has been using the infrastructure monies for sewer projects, and that if there are insufficient funds, sewer construction money is available. MOTION was made by Beemer, seconded by Roumagoux, to authorize the city staff to seek a minimum of three informal bids, and to award a contract to the lowest qualified bidder for replacement of the sanitary sewer line in the westerly side of Highway 101 between NW 12<sup>th</sup> and NW 13<sup>th</sup> Streets. The motion carried unanimously in a voice vote. Ritzman reported that the work would be completed prior to the Seafood and Wine Festival if the weather holds.

### COUNCIL COMMENTS

McConnell reported that the Destination Newport Committee had met and discussed the advertising and fulfillment RFP's, along with the two tourism marketing grants that appeared on this evening's agenda.

Brusselback reported that the Bicycle/Pedestrian Committee had met and identified three priority projects: upgraded bike route signs along designated bike routes; lighted crosswalks; and high visibility crosswalk signs. A discussion ensued regarding the participation of ODOT in crosswalk changes at signalized intersections. Ritzman reported that he could write to ODOT regarding the crosswalk issues.

Allen reported that the OPAC working group will be meeting Friday to discuss issues including the siting of wave energy devices, fishing ground mapping, habitats, and non-fishing recreation uses. He will keep Council apprised.

McConnell reported that he had a call last from an aide to the Canadian ambassador on shared fisheries, who is planning to be in Newport on January 25. He will keep Council apprised.

### ADJOURNMENT

Having no further business, the meeting adjourned to an Urban Renewal Agency meeting at 8:25 P.M.

Council reconvened at 8:59 P.M.

MOTION was made by Brusselback, seconded by Bertuleit, to enter executive session pursuant to 192.660(2)(d) and (h) to discuss labor negotiations and to consult with legal counsel. The motion carried unanimously in a voice vote, and Council entered executive session at 9:00 P.M.

Council reconvened at 10:29 P.M.

MOTION was made by Beemer, seconded by Brusselback, to allow the city attorney to proceed with LGPI, and talk with them about which is the best negotiator; look at

alternatives to LGPI, and move forward with LGPI unless additional information indicates otherwise, and to keep Council apprised. The motion carried unanimously in a voice vote.

Council agreed to hold a work session on January 31, 2011, from 9:00 A.M. until noon.

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Margaret M. Hawker, City Recorder

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Mark McConnell, Mayor

January 31, 2011  
9:00 A.M.  
Newport, Oregon

## CITY COUNCIL WORK SESSION

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

Staff present: Voetberg, Hawker, McCarthy, Ritzman, Marshall, and Miranda.

Others in attendance: Dave Morgan, Walter Sherman, Woody Ouder Kirk, Lee Hardy, Patricia Patrick, Greg Stanton, and Steve Schuster.

McConnell reported that McCarthy had submitted a letter of resignation effective March 15, 2011, and that the replacement of the city attorney will need to be discussed at a work session.

### APPOINT LABOR NEGOTIATOR FOR CITY

McCarthy reported that research into collective bargaining agreement negotiators had resulted in the following:

Akin Blitz, from the firm of Bullard, Smith, Jernstead, and Wilson - \$300 hour/\$30 discount potential; 20 years in public employment law; worked successfully with Garrettson, Gallagher law firm.

Bruce Zagar, from the firm of Garrett, Hermann, Robertson - \$190 hour, but will match LGPI rate (\$150 hour); most of work in school districts; no experience with Garrettson negotiator.

LGPI - \$150 per hour; municipal experience; worked successfully with Garrettson firm.

She recommended the city use LGPI for collective bargaining negotiations. She noted that Frank, from LGPI, would be the city's negotiator. She suggested not having LGPI at the table during IAFF negotiations since IAFF does not plan to retain a negotiator.

Allen asked when the agreements would be signed, and McCarthy noted that the city would agree to use LGPI, and LGPI would bill the city. Allen suggested having a written agreement so there is no miscommunication. It was noted that Council had passed a motion to move forward with LGPI unless additional information indicates otherwise.

McConnell reported that a solicitation letter had been received from Ray Taylor Consulting Services.

McCarthy reported that February 15 is the deadline to begin negotiation with the Newport Employees Association.

A discussion ensued regarding staggering the contracts so that they do not expire at once. Allen stated that if the city moves forward with LGPI, he would like to have something in writing, and the name and background of the proposed negotiator. McConnell noted that there is general agreement to move forward with LGPI, and that the relationship could be formalized at the next meeting. MOTION was made by Roumagoux, seconded by Allen, to move forward with LGPI, and formalize the relationship at the regular meeting of February 7, 2011. The motion carried unanimously in a voice vote. Allen stated that he has questions that he would like to raise, and that the meeting of February 7 might be appropriate. McCarthy suggested that some of these discussions occur in executive session. It was asked that an executive session on this matter be scheduled for February 7, 2011.

#### **DISCUSS BUDGET COMMITTEE SELECTION PROCESS**

It was reported that five or six applications had been received for the Budget Committee vacancy. It was the consensus of Council to interview all applicants.

#### **DISCUSS A POLICY REGARDING FUEL TAX**

Voetberg displayed slides showing street conditions throughout the community. He noted that in some cases, if something is not done soon, a total street replacement may be necessary. Marshall distributed a handout regarding financing. It was noted that the city should be spending approximately \$470,000 annually on road repair to keep the streets in good condition. Voetberg recommended going through the budget process to see how the fuel tax revenue works with the street fund. He noted that he would be nervous recommending a repeal of the fuel tax at this time. McConnell noted that at issue is a desire to reply to the request Council received regarding repeal of the local fuel tax. It was noted that the letter writer is aware of the budget process. Voetberg noted that the answer will be the adopted budget.

#### **DISCUSS EVENT CENTER MONIES, BUSINESS LICENSES, AND ROOM TAX REWRITES**

McConnell noted that the Greater Newport Restaurant and Lodging Association has requested Council consider what to do with the event center monies that are set aside in the budget. The group has also requested that Council form a task force to work on the business licensing and transient room tax ordinances.

McConnell suggested developing criteria on how to use the event center monies. Marshall distributed room tax information. McConnell asked for volunteers interested in working on this issue. Brusselback asked how the money was being budgeted, and Marshall noted that it was unappropriated last year. It was suggested that in the proposed budget, these monies be placed in contingency so they could be used next

fiscal year. Roumagoux asked how the event center is defined, and it was noted that it is a tourism facility. Bertuleit suggested placing \$100,000 in a fund every year, and developing guidelines for use. Bertuleit volunteered to work on this issue. Bertuleit and McConnell will determine how to move forward and return to the full Council for formalization.

A discussion ensued regarding the request to form a task force to work on the business licensing and room tax ordinance revisions. It was agreed to establish the task force by, or at, the meeting of February 22. Patrick noted that it would be beneficial to include Marshall in these discussions. McConnell suggested that the business licensing ordinance be discussed first, followed by the transient room tax ordinance. Ouderkirk noted that both ordinances dovetail in the zoning ordinance. It was noted that the Planning Commission is setting up an ad hoc group to review the vacation rental code. McConnell suggested establishing work groups before moving to a more formal group such as a task force.

### **REVIEW COUNCIL RULES**

McConnell noted that the discussion on Council Rules could be the most important discussion this year, and that it emphasizes how Council works together and wants to work together. He added that if Council cannot discuss and abide by the rules, it cannot do a good job for the city. Roumagoux stressed that to build a level of trust, individual Councilors need to be able to say what they really think, in the context of being heard, and in a respectful manner. Allen agreed noting that it is healthy when people are not afraid to express opinions.

Allen noted that if an interpretation of a Council Rule is needed, it should be the Council, in consultation with city staff that provides the interpretation.

It was agreed to remove the times of meetings from the Council Rules.

Voetberg reported that if anyone suggests an agenda item to him, he will bring it to the City Council as a whole. It was requested that an item approving the agenda, and allowing additions and deletions, be included at the beginning of each agenda.

Morgan suggested including on the agenda a brief informational piece on each agenda item. It was suggested that the verbiage from the "issue before Council" from the staff report could be used for this purpose.

No changes were recommended to the sections on "Broadcasting of City Council Meetings," "Cell Phones and Pagers,"

It was agreed to change all references in the section entitled "Consent Agenda," to "Consent Calendar." It was agreed to remove the second sentence of B., under the "Agenda" section.

No changes were suggested to the following sections: "Decorum," "Exhibits," "Meeting Procedure," "Meeting Staffing," and "Minutes".

It was agreed to remove the second sentence of B. under the "Motions" section.

It was agreed that the reference to "business sessions" should be changed to "regular meetings."

It was agreed that staff should categorize the sections of the Council Rules.

A discussion ensued regarding special meetings, and it was suggested to include "and/or telephonically," as a method of notice, and to add that notice can be made to the Councilor's place of business as well as residence. It was suggested that the last sentence of each paragraph under "special meetings" should be moved to another section as they are not specifically related to special meetings.

It was suggested that the first four words of the first sentence of the section entitled "Business Sessions and Work Sessions," be deleted.

There was no change suggested to the section entitled "Order."

The section entitled "Order of Business" was discussed, and it was suggested that after roll call, a section be added on additions and deletions to the agenda. It was further suggested that the last sentence in the verbiage after "Public Comment" be deleted. It was noted that the "Officer's Reports" would consist of reports from the Mayor, City Manager, and City Attorney.

Roumagoux asked whether it is standard procedure for committee liaisons to present verbal reports rather than written reports.

There were no suggested changes to the section on "Ordinances and Resolutions."

Allen suggested that executive session minutes show the times the Council left the regular meeting and entered executive session and then returned to the regular meeting.

It was requested that A. of the "News Media" section be amended to add electronic media.

Staff will streamline the section on Planning Commission testimony.

It was asked whether the Mayor asks the Council President to run the meetings to provide experience. A discussion ensued regarding the possibility of utilizing a volunteer "greeter" to let citizens know how to sign up for public comment, or generally, what to expect procedurally.

It was suggested that if there are multiple people who wish to express a mutual opinion on an item, that a recess be taken so the group could select spokespersons. A discussion ensued regarding having the public comment rules stapled to the public comment sign-up forms.

After a brief discussion, it was the consensus of Council to remove all sections on land use, legislative, and quasi-judicial hearings from the Council Rules.

No change was recommended to the sections on "Public Hearings and Participation," "Quorum," Reconsideration of Actions Taken," "Suspension of Rules," and "Voting." A discussion ensued regarding abstentions and whether public testimony can be taken from a Councilor who has abstained.

It was agreed to add "Task Force" to the section entitled "Annual Report of Boards, Commissions, and Committees."

A discussion ensued regarding evaluation of the Council-appointed positions. It was noted that a meeting needs to be arranged with the Municipal Judge.

No change was recommended to the section entitled, "Attendance and Presence in the City."

A discussion ensued regarding the section entitled "Communication with Staff." Roumagoux noted that having been in both a staff and board position, there is no worse experience than to have someone on the board checking on an employee. Allen stated that if he has questions of staff, he usually likes to let everyone know what he's thinking to allow time to check into a matter. McConnell noted that the City Charter clearly states that all personnel, other than the City Manager, City Attorney, and Municipal Judge, are the responsibility of the City Manager. It was suggested that one or two Councilors could be asked to work with the executive team. It was noted that it is important to have a forum to be heard and a cloak of confidentiality. It was also noted that if an issue is with the City Manager or City Attorney, this could allow a comfortable exchange.

McConnell noted that expressing criticisms of staff actions should not occur in a public forum. A brief discussion ensued regarding the workshop given by Caryn Tilton. McConnell will share the code of conduct distributed at that workshop, and the conversation can then continue.

Voetberg noted that being elected to the City Council is similar in ways to being promoted as an employee to a supervisory position. He noted that "you are no longer part of the gang." He added that once a Councilor is elected, the group they previously worked with must be separated, as once elected, there is a new role. He added that part of the responsibility is to gracefully listen, but advise that there is a process and urge the person to follow the process. He noted that he speaks individually with each department head on a regular basis. He added that he prefers to share information with all Councilors rather than individually, but noted that it is good to have a sounding board.

McConnell noted that when there is a contentious issue, and he has expressed his opinion, he supports the final Council decision. It was agreed to continue this discussion to the first part of the February 7 work session. He added that once this discussion concludes, a benefits discussion could begin with a discussion on the retirement policy.

McCarthy noted that a discussion needs to continue regarding telephonic and electronic meetings. She noted that there is also nothing about the responsibilities of Council liaisons to non-city committees, and this matter needs to be discussed.

### ADJOURNMENT

At 12:05 P.M., Council adjourned to a road trip to view the flooding sites in Nye Beach.

February 2, 2011  
6:00 P.M.  
Newport, Oregon

JOINT WORK SESSION  
NEWPORT CITY COUNCIL  
And  
LINCOLN COUNTY COMMISSIONERS

Councilors present: McConnell, Brusselback, Allen, Sawyer, and Roumagoux

Commissioners present: Thompson, Hall, and Lindly.

Staff present: Voetberg, Hawker, McCarthy, Tokos, Miranda, Belmont, Yuille, Valerie Soilihi, and Miller.

Others in attendance: Caroline Bauman, Keira Morgan, John Baker, Linda Neigebauer, and others.

Thompson called the meeting to order at 6:02 P.M.

**WAVE ENERGY**

A discussion ensued regarding the status of wave energy projects in the territorial sea. Allen distributed a handout related to "Part Five - Oregon Territorial Sea Plan," and "Options for Oregon's Coastal Local Governments: Participation in Planning for Ocean Alternative Energy." A discussion ensued regarding the impact of wave energy devices on the viewshed.

**LINCOLN COUNTY'S NON-PROFIT SOCIAL SERVICE AGENCY GRANTS**

A discussion ensued regarding the process used by Lincoln County for awarding grants to non-profit social service agencies. A copy of the process was included in the packet. It was noted that the amount of monies distributed is determined by the budget process; the project is supported by the general fund; funds are distributed on a quarterly basis; and there are reporting requirements.

**UPDATE ON LINCOLN COUNTY'S 10-YEAR PLAN ON HOMELESSNESS**

Hall discussed the 10-year plan to deal with homelessness in Lincoln County. The packet contained the "Report to the Community: Year 3," which Hall reviewed.

### PROPOSED COMMUNITY "CONTACT" CENTER

Hall explained that the idea is for a possible day center for homeless and folks in transition. It was noted that several local churches have discussed the possibility of rotating the center among churches on a monthly basis, although no final decisions have been made.

### LINCOLN COUNTY FAIRGROUNDS AND POSSIBLE FACILITY DEVELOPMENT

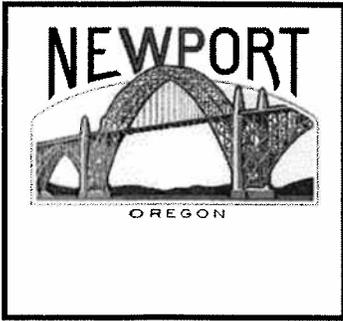
A discussion ensued regarding the Blue Ribbon Committee recommendations to the County Commissioners, which was included in the packet. Specific discussion focused on the use of transient room tax funds to pay for an "expo center" type of facility; potential uses; and possible partners. Thompson and Allen indicated that they preferred the matter go to an election. It was the consensus of the group that the matter requires further discussion.

### ANNEXATION OF POCKETS OF PROPERTY IN SOUTH BEACH

Brusselback noted that he had asked the item be discussed. Tokos reported that the annexation of some of the properties may ultimately facilitate development of the area.

### ADJOURNMENT

The meeting adjourned at 7:02 P.M.



Agenda Item # VI.B.  
Meeting Date 2-7-11

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

Issue/Agenda Title OLCC License Approval

Prepared By: Newport Police Dept Head Approval: Chief Mark J. Miranda City Mgr Approval: [Signature]

**Issue Before the Council:**

Shall the City Council recommend approval of the liquor license application for Ch' Boogie Jazz and Wine Bar?

**Staff Recommendation:**

The Police Department recommends favorable action by the City Council

**Proposed Motion:**

Handled as a consent calendar item

**Key Facts and Information Summary:**

Ch' Boogie Jazz and Wine Bar, 836 SW Bay Blvd., has made application to the Oregon Liquor Control Commission for a "Full On-Premises Sales" license with a "Caterer" endorsement and an Off Premises Sales license. Such a license allows for the applicant to sell 'by the drink' wine, malt beverages, cider and distilled liquor. These beverages must be consumed on the premises. Partially consumed bottles of wine that had been served with a meal may also be taken from the premises. The Licensee may also cater a temporary event at a location other than the licensed premises if the event is not open to the public. The Off Premises Sales license allows for the applicant to sell factory sealed containers of wine, malt beverages and cider. Containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

A background check of the applicant revealed no disqualifying information. Ch' Boogie is located on the Bayfront, in the location recently vacated by the Pacific Breeze Seafoods. It is in the same building at the Apollo's Night Club. There have been many police calls at Apollo's, but none at Pacific Breeze.

ORS 471.166 requires an applicant to obtain a recommendation from the local governing body in the city where the business is located. The City Council may make a "Favorable Recommendation" or an "Unfavorable Recommendation" to OLCC. The Commission will then decide if granting a license is appropriate.

**Other Alternatives Considered:**

Not applicable.

**City Council Goals:**  
Public Safety related.

**Attachment List:**  
License Application

**Fiscal Notes:**  
There is no fiscal impact on the City other than time to process the application





# OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

### LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
  - Commercial Establishment
  - Caterer
  - Passenger Carrier
  - Other Public Location
  - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
  - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: \_\_\_\_\_

### ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other \_\_\_\_\_

RECEIVED

JAN 19 2011

NEWPORT POLICE

### CITY AND COUNTY USE ONLY

Date application received: 1/19/11

The City Council or County Commission:

(name of city or county)

recommends that this license be:

- Granted
- Denied

By: \_\_\_\_\_  
(signature) (date)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

### 90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

### APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

### OLCC USE ONLY

Application Rec'd by: OLG

Date: 1-19-11

90-day authority:  Yes  No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

- ① Craig L. Joubert ③ \_\_\_\_\_
- ② \_\_\_\_\_ ④ \_\_\_\_\_

2. Trade Name (dba): Ch'Boogie JAZZ and Wine Bar

3. Business Location: 836 SW Bay Blvd, Newport, Lincoln city, OR 97131  
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 836 SW Bay Blvd Newport, OR 97131  
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 541-270-6621  
(phone) (fax)

6. Is the business at this location currently licensed by OLCC?  Yes  No

7. If yes to whom: N/A Type of License: N/A

8. Former Business Name: N/A

9. Will you have a manager?  Yes  No Name: N/A  
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Newport  
(name of city or county)

11. Contact person for this application: Craig L. Joubert 541-867-6621 or 270-6621  
(name) (phone number(s))  
9556 S. Coast Hwy, S. Beach 541-867-6622 bengalkhan@charter.n  
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

- ① Craig Joubert Date 1/3/11 ③ \_\_\_\_\_ Date \_\_\_\_\_
- ② \_\_\_\_\_ Date \_\_\_\_\_ ④ \_\_\_\_\_ Date \_\_\_\_\_



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

## Manager's Report Meeting of February 7, 2011

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Following is the Manager's Report for the City Council meeting of February 7, 2011:

Correspondence From Oregon Cascades West Council of Governments: Attached is an e-mail I received from Mark Volmert, Transportation Planner for Oregon Cascades West Council of Governments/Cascades West Area Commission on Transportation.

Department Monthly Reports: Attached are monthly reports prepared by each department head briefly listing various activities that have occurred in their department over the past month. The reports are not intended to be overly detailed, but provides general activities that have recently occurred. These reports will be provided to Council the first meeting of each month.

Street naming Process: At a previous meeting the Council discussed the potential of naming a city street after an individual. Attached is an e-mail sent by Community Director Tokos regarding the City's process.

Request From The Siletz Watershed Council: Attached is a copy of a letter sent to the Mayor and Council from the Siletz Watershed Council asking Council's support of putting the City of Newport's name on signs discouraging use of boat motor gas. Since the City utilizes water from the Siletz for our water system, staff sees no reason not to include our name on the signs since they carry no regulatory authority. Don Larsen from the Siletz Water Council has indicated he will attend the meeting of February 7<sup>th</sup> to address the Council on this request.

Fire Department Update: Attached for Council information is a brief report on steps Acting Chief Toby Cole will be taking to advance the working relationships within the Fire Department. Acknowledgements go to Toby as well as to all the individuals within the department, both paid and volunteer, to bringing a positive and "let's get things done" attitude to this effort.

## Jim Voetberg

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**From:** Mark Volmert [MVolmert@ocwcog.org]  
**Sent:** Tuesday, February 01, 2011 4:49 PM  
**Subject:** CWACT: Shortfall in funding HB 2001 earmarked projects  
**Attachments:** Regon 2 JTA Master Project List.pdf

### To City Managers/Administrators/Recorders:

The Oregon Legislative Assembly, in approving HB 2001 (2009 State Jobs and Transportation Act), allocated almost all of the state's share of increased revenues (the split is 50% ODOT, 30% counties and 20% cities) to specific highway projects. This allocation bypassed the long-standing partnership of local agencies and ODOT in the selection on highway modernization projects.

CWACT has previously noted that the \$1 billion for earmarked projects, however, would not fully fund the projects. As noted in the attachment, the shortfall in Region 2 (the CWACT area, Salem area and Eugene-Springfield area) totals more than \$85 million and could be well over \$100 million.

The CWACT Chair and Vice Chair raised this issue with the Oregon Transportation Commission in September 2009. The CWACT message was clear: additional funds to cover the earmarked shortfall should not pre-empt the funding of long-standing projects in the STIP (and in the list of high priority projects not yet included in the STIP due to the lack of available funds).

This is a difficult item and not all local communities view it the same way. Many communities (and some legislators) that have an HB 2001 earmarked project consider the allocation of funds to cover the shortfall to be a higher priority than other STIP projects. Many communities (and some legislators) that do not have an HB 2001 earmarked project consider the other STIP projects to be a higher funding priority.

The 2011 Legislative Assembly will be asked to address this item. The current conventional wisdom is that the Legislative Assembly is unlikely to reduce the number of earmarked projects in order to match the \$1 billion in funds available or to significantly delay the projects. Since the Legislative Assembly is also unlikely to increase revenues, the remaining alternative is to direct ODOT "to find the money to cover the shortfall". This would impact the funds available for other STIP projects. As a reminder, with anticipated reductions in federal highways revenue and other revenues, ODOT has already decided not to budget modernization funds for 2014 and 2015.

Please let me know if you have any questions, comments or suggestions.

Mark Volmert  
Transportation Planner  
Oregon Cascades West Council of Governments/  
Cascades West Area Commission on Transportation

(541) 924-8430

**From:** Mark Volmert  
**Sent:** Tuesday, February 01, 2011 4:02 PM  
**Subject:** CWACT: Shortfall in funding HB 2001 earmarked projects

### To: CWACT Members and Alternates

At last Thursday's CWACT meeting Interim Region 2 Manager Eryca McCartin noted that the funding shortfall in the Region 2 highway projects earmarked by the Legislative Assembly in HB 2001 (the 2009 State Jobs and Transportation Act) is nearly \$90 million.

Attached is a spreadsheet for the Region 2 projects earmarked in HB 2001. (Thank you Vivian Payne for obtaining this information.)

**The current estimated shortfall is \$85 million** (all numbers are rounded down in this e-mail):

- The current estimated cost of construction is \$528 million.
- JTA provides \$363 million.
- ODOT has received federal earmark commitments totaling \$22 million.
- The current STIP provides \$29 million for these projects.
- Budgeted local funds total \$28 million.
- **“Requested federal earmarks”** total \$82 million and the (other) **“un-funded”** amount is listed as \$3 million. \$82 million + \$3 million = \$85 million.

As we've often read, the future of federal earmarks is unclear. The President and some Congressional leaders have indicated their opposition to budget earmarks. The current conventional wisdom is that earmarks, if allowed in some portions of the federal budget, will be dramatically less than in recent years.

Although local funds are budgeted at \$28 million most of this money has not yet been secured. In the event some of the local money listed on this spreadsheet is not available when a project moves forward, the amount would need to be added to the \$85 million shortfall.

Please let me know if you have any questions.

Mark Volmert  
Transportation Planner  
Oregon Cascades West Council of Governments/  
Cascades West Area Commission on Transportation

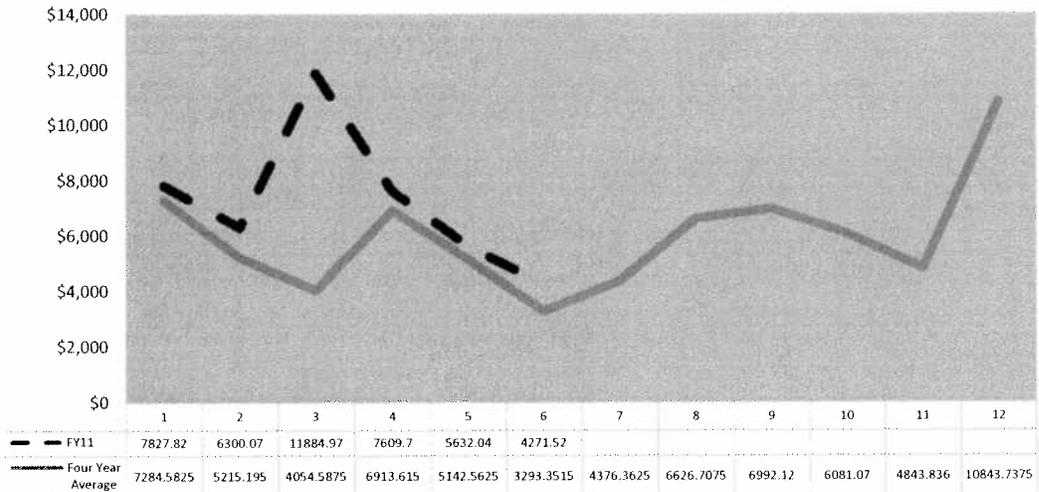
(541) 924-8430

## Parks and Recreation Report – January 2011

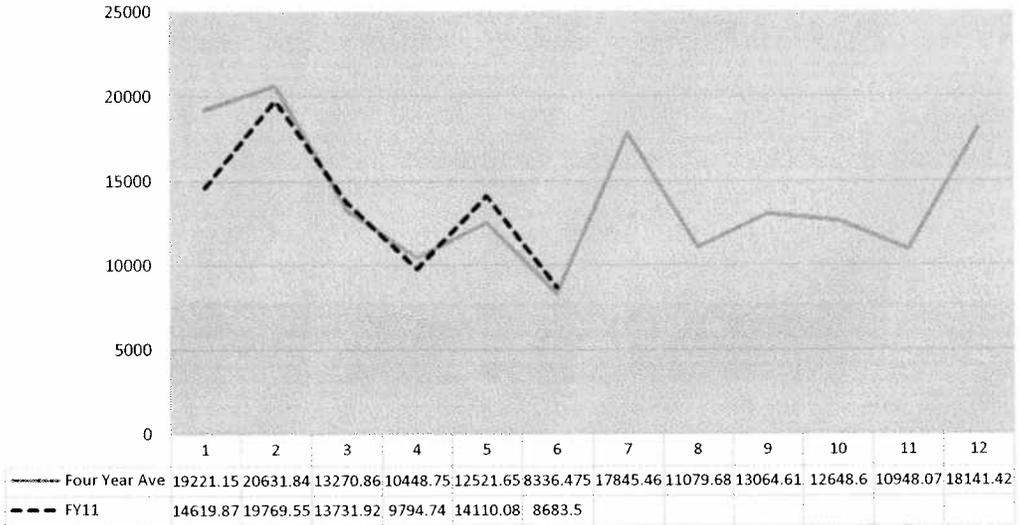
Please note the following are highlights which occurred during January.

- Two new Park and Rec advisory members we selected for consideration
- The storm water flooding issue was corrected at the Senior Activity Center
- OSU-FCU awarded the sports program a grant of \$500. for programs
- Fred Myers donated and help plant a truck load of bulbs at the Rec Center
- The Highland Games event was granted use of the Fair grounds for no cost
- The Highland Games event was awarded a grant of \$5,000. by the DNC
- The event B'Jewelled was held at the Rec Center and raised over \$14,000
- Safety nets were installed at the Rec Center to correct a soccer ball problem
- The Big Creek Park flooded causing mud deposits and wood chip loss
- The 11<sup>th</sup> Aloha swim event was held on the 29<sup>th</sup> with 88 in attendance
- The High School held a major invitational swim meet with 280 swimmers in attendance

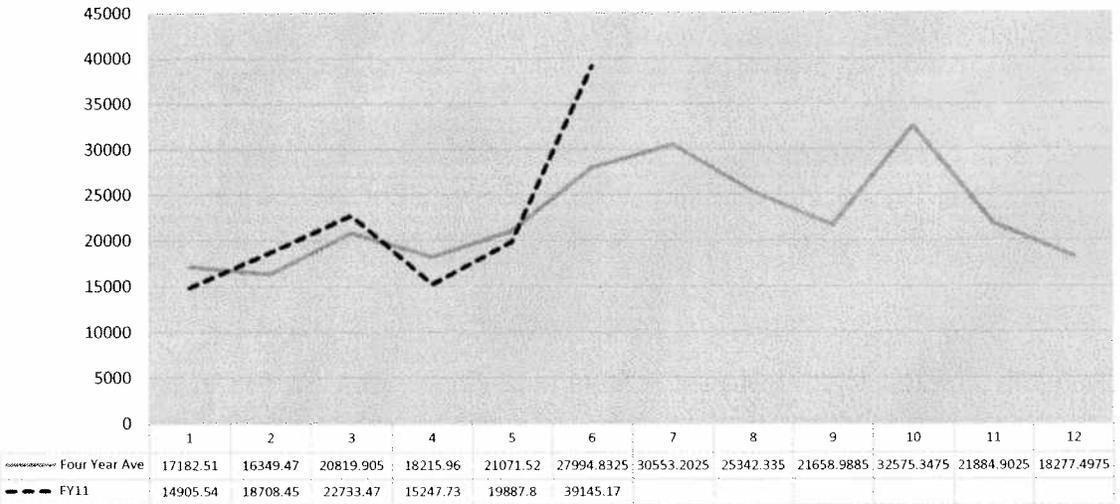
**Swimming Pool: Compare FY11 Receipts to Previous Four-Year Average**



**Rec Programs: Compare FY11 to Four-Year History**



**Rec Center: Compare FY11 Receipts to Four Year Average**





**Noble  
Professional  
Dedicated**

Newport Police Department

## **Memorandum**

*One Team - One Future*

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**Date:** January 31, 2011

**To:** Jim Voetberg, City Manager

**From:** Mark J. Miranda, Chief of Police

**Subject:** **City Manager's Report**

1. Ofcr. Andy Bailey resigned this month to go to work for the Albany Police Department as a police officer. We now have two open police officer positions. A recruitment process is underway. We have received over 60 applications so far. The closing date is Monday, February 7<sup>th</sup> and the written test is scheduled for Saturday, February 19<sup>th</sup>.
2. An officer continues to be on medical leave due to a work related injury. He has had surgery and is on the mend. It will probably still be several months before he is back to full duty. We also have another employee on family leave (FMLA) and is not expected to return until the end of February.
3. Last week a Lincoln City police officer was shot and our officers found and pursued the suspect. The following is a "Chief's Log" that I sent to the entire Department:

This last week has been a roller coaster ride. I am happy that none of our officers are hurt and that Steve Dodds is on the mend. I am proud of what I saw and heard Sunday night. Kraig Mitchell and Keith Garrett did an outstanding job spotting Durham when he entered Newport. During the chase Tony Garbarino joined in, and they all stuck with it, even though taking fire from the suspect. Having the foresight to call ahead kept the chase from going on and on; thus reducing the chance of someone getting hurt in a crash.

The tactics used after the crash by our guys were spot on. They didn't rush head long into an extremely dangerous situation, but took stock on what was going on and coordinated the other police units who were arriving in the area.

The rest of the Department jumped in and helped out when called upon. Working outside one's comfort zone (patrolling Waldport) was a challenge we took on. Even covering

<p>The mission of the Newport Police Department is to consistently invest available resources toward our City's reputation as a safe place to live, work, play, learn and visit.</p>
--

patrol shifts here in town helped the cause. The enthusiasm to get the job done was awesome.

Even though Durham avoided capture, he only actually delayed it. He will be caught and brought to justice. As I said above, I'm proud of you all. I feel privileged to work with a great group of people.

With our three officers being shot at, we are concerned with Critical Incident Stress Management (CISM) and the emotional welfare of the officers and their families. Plans are in place to have the officers and their families participate in CISM debriefings.

Newport Public Library  
Librarian's Report to the Board  
January 19, 2011

During the month of December, the Library Director prepared and submitted a grant to the Oregon Humanities on behalf of the Newport Library Foundation. The grant, if awarded, will help fund the Foundation's annual Newport Reads program. Newport Reads is an annual community reading program designed to get the entire community reading and discussing one book. The book chosen for Newport Reads 2011 is William Stafford's Down in My Heart.

During the month of December, the Library Director prepared and submitted the Library's annual statistical report to the Lincoln County Library District. The annual report is part of the requirement for receiving funding from the Library District. This year, Newport will receive over \$300,000 from the District.

Circulation for December was 21,859 items. Our interlibrary loan borrowing and lending to and from Coastal Resource Sharing Network members was 4,524. We had 1,249 reference interactions, 3,904 internet uses and 19,584 patron visits in December.

As chair of the Coastal Resource Sharing Network, the Library Director spent some time in December and January taking care of consortium business. On December 9, the Library Director met with the director of the Toledo Public Library to discuss aspects of the Consortium's 2011-2012 Budget. On January 13, the Library Director met with the directors of Driftwood Public Library and Tillamook County Library to talk about issues regarding the governance and budget of the Coastal Resource Sharing Network.

On December 29, a gas leak was discovered at the library. Northwest Natural was called immediately and they promptly turned off gas to the building. The leak was fixed within a couple of days, but it was determined that the buried pipe delivering gas to the building should be scheduled for replacement. The pipe used when the building was remodeled in 2000 no longer meets code and it is probable that we'll have other leaks in the future.

On January 7, the Library Director took part in a teleconference of the Public Library Division Board of the Oregon Library Association. The Public Library Division has four main duties: to promote public library service and development, to promote the potential for increasing cooperation among public libraries, to represent the interests and concerns of public libraries in relation to the Oregon Library Association and the Oregon State Library, and to develop legislative priorities for public libraries and other issues as may be pertinent to the Division.

During the week beginning January 10, the Library began recruiting for two recently vacated positions. We are filling one full-time Youth Services Assistant position and one part-time Library Clerk position. Both positions should be filled by mid to late February. Interest in both positions is extremely high.

On January 10, the Library Director prepared the agenda and scheduled the monthly meeting of the Coastal Resource Sharing Network.

On January 14, the Library Director gave a short presentation to the Mayor and City Council as part of an overall Council Orientation day sponsored by the City. The Mayor and Council visited the Library on the afternoon of the 14<sup>th</sup>.

Respectfully submitted,

*Ted Smith*

# Memo

To: Jim Voetberg, City Manager  
From: Derrick Tokos, Community Development Director  
Date: February 2, 2011  
Re: January Community Development Department Project Update

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Here is a summary of January activities. At the Council orientation I provided an overview for calendar year 2010. Land use actions were up slightly over last year with 76 requests filed. This is above our 10 years average. Building permits were up 29% percent over last year, with a total construction value of \$46.6 million.

January permit numbers are as follows:

Building Permits	Electrical Permits	Plumbing Permits	Land Use Actions
7	20	10	1

Building activity included a couple of remodels to commercial properties (Gold Motors and Grove Veterinary), residential alterations, a residential accessory structure, new signs, and landslide repair work at Port Dock 4 Condos. The land use action is a conditional use permit request for vacation rental at Meritage.

### **Status of Significant Construction Projects**

NOAA Pacific Fleet Headquarters: The two buildings have been framed and drywalled and finishing work is underway. The dock is under construction and the decking is being put in place. The next round of our work will be final inspections.

Port Terminal Project: Sheet pile is being installed to form a perimeter around the SS Pasley so that it can be removed.

Wal-Mart Expansion: Construction plans have been reviewed and approved. Owner has yet to submit the fees and pull permits. They are looking at beginning construction in March.

Aquarium Science Building: Framing work is underway. Rough inspections have yet to be requested.

Newport Water Treatment Plant: Work on the foundation is ongoing (Tying steel and pouring concrete).

Newport Senior Center: Insulated and ready for drywall.

### **Significant Projects**

Scanning of Building Permit Records: All documents have been organized and shipped to the contractor. 50% of the scanning work has been completed, with balance due by the end of February.

Housing Needs and Buildable Lands Study: Methodology for buildable lands assessment has been developed and preliminary maps reviewed for accuracy. Interviews are underway of key individuals in the area with housing expertise. TAC to meet on February 10<sup>th</sup> to review draft housing inventory and to confirm assumptions used in developing maps. On target to be completed by the end of May.

Transportation System Plan Update: ODOT is managing and funding the project. Set to restart process with February 28<sup>th</sup> joint city/County Planning Commission meeting. Product will be a new mobility standard for the amount of congestion allowed on the highway. City will need to update its Comprehensive Plan and land use concessions may be required. Draft materials for the meeting and a briefing paper for the City Council and Board of Commissioners are being prepared and will be available in draft form by February 14<sup>th</sup>. This project will not be completed by the end of the fiscal year.

Marine Science Drive Improvements: Coordinating with stakeholders through the construction phase of the project. Center of the roundabout will be vegetated with water and power consistent with the approved design. The concept of putting an RFP out for an art centerpiece has been shelved for the time being.

Coho/Brant Neighborhood Plan: This is a budgeted urban renewal project. It will map out right-of-way and needed improvements for areas west of Highway 101 from the bridge south to SE 40<sup>th</sup> Street. Staff is preparing an RFP.

Newport Local Wetlands Inventory: Mapping component has been completed. Assessment of the quality of wetland features will be wrapped up by the end of February. DSL review and approval is required. Project to be completed by the end of April.

Comprehensive Zoning Code Update: Planning Commission has about 3-4 more sections to work through before the entire ordinance can be rolled into the Municipal Code. Should be substantially complete by the end of the fiscal year.

Agate Beach Street and Recreation Enhancements: Three design options with cost estimates are being developed based upon feedback from initial charrette. To be presented at charrette #2 on February 9<sup>th</sup>. Final design and estimates are to be finished by the end of February.

### **Committee Work**

Planning Commission: Held a work session on January 24<sup>th</sup> to discuss remand by Council of the Geologic Hazards code update. Staff has worked this into a recommendation to Council for the Commission to consider at its February 14<sup>th</sup> meeting.

Parking Districts: Nye Beach has developed a priority project list. Staff is pulling together cost estimates for the Committees consideration at its February 16<sup>th</sup> meeting. City Center is trying to come up with representatives for its committee. Staff is holding off on preparing a resolution for Council consideration until applications are received from at least three candidates.

Bike/Ped Committee: Identified three priorities for the coming year; sharrow marking for identified bike routes, lighted crosswalks, and installation of high visibility crosswalk signs. Working on developing events for national bike month in May (to be discussed further at its Feb. 8<sup>th</sup> meeting).

# Memorandum

**To:** Jim Voetberg, City Manager  
**CC:**  
**From:** Gene Cossey, Airport Director  
**Date:** 2/2/2011  
**Re:** Airport Update – January, 2011

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## **Airport and FBO Operations**

Airport staff conducts daily operations including daily safety inspections, airport maintenance, fuel system inspections and maintenance, overseeing airport operations, conducting fuel sales, and assisting airport users and tenants. In January, the Airport recorded:

Operations – 450 Takeoffs and landings  
Fuel Sold:  
    Jet A                   -- 5,003 Gallons  
    AV Gas                 -- 799 Gallons

## **Airport Improvement Project – Beacon and Electrical Improvements**

Our Airport Improvement Project (AIP) was on hold during the month of January while the contractor waited for the fabrication of the new beacon tower. The AIP consists of replacing the airport rotating beacon, replacing airport guidance sign faces, and conducting repairs and upgrades to the airport electrical system. In December the contractor poured the foundation for the new beacon tower which. During the time the project has been on hold for the fabrication of the new tower, the concrete poured for the foundation has cured and has passed all quality assurance tests.

## **Airline Operations**

SeaPort Airlines continues to operate three round trips from Newport to Portland. During the month of January, the average one-way fare was \$76.16. This January, there were approximately 12.6% more passengers using SeaPort than last year. However, this January there has been one more daily flight than last year, so the actual load factor for January is less than last year.

Currently it is anticipated that the grant for the airline subsidy will be finished in March of this year and the Airport is in negotiations with SeaPort for continued service past this subsidy life time.



# Memo

**To:** Jim Voetberg, City Manager City Council  
**From:** Timothy Gross, Senior Project Manager  
**Date:** February 3, 2011  
**Re:** Capital Projects Status Update

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## **SW Naterlin Drive Sidewalk and Bicycle Improvements**

The City has completed review of the 90% design plans and has sent them back to David Evans and Associates (DEA) for revisions. A draft of the US Coast Guard easement has been received and is being reviewed by the City Attorney. City staff have scheduled meetings with the stakeholders on the project including the Coast Guard, Bay-Front Business Association and the Bike and Pedestrian Committee this coming week. The project will be bid according to the following tentative schedule:

Advertise Project	February 23; March 2 and 9, 2011
Pre-Bid Conference	March 15, 2011
Bid Opening	March 17, 2011
Notice of Intent to Award to Council	March 21, 2011
Notice to Proceed/Preconstruction Meeting	March 28, 2011
Start Construction	April 1, 2011
Tentative Construction Completion (60 days)	June 1, 2011

## **Nye Beach Local Flooding/Nye Creek Watershed Assessment**

City staff and DEA are preparing a presentation for a future council workshop on storm water issues and the flooding in Nye Beach.

## **South Beach Transportation Improvement Project**

The Contractor is proceeding with construction which includes installing utility conduits and vaults, installing the irrigation system, and preparing the bike trail sub-grade. Cost overruns of approximately \$75,000 have occurred due to the need for additional trenching quantities, and to perform a water connection for the irrigation system. Even with these additional costs, the project is still within the approved project budget.

## **Hwy 101 Sanitary Sewer Repairs Between NE 12<sup>th</sup> & 13<sup>th</sup> Streets**

The City has signed a contract with W.W Construction of Newport, OR to do the repairs to the sewer. The repair will be started Monday, February 28<sup>th</sup>, following the Seafood and Wine Festival. The southbound lanes of Hwy 101 will be closed in this area for approximately 1 week during the construction.

## **Water Filtration Facility**

The water treatment plant is progressing on schedule and within the allocated costs. The attachments have been provided by the Construction Manager/General Contractor (CM/GC). The schedule of activities for the next three months is attached. Also attached is a Construction Cost Tracking spread sheet that shows individual construction items. The major headings are "Budget," "Encumbrances," and "Costs." The Budget includes the project estimates that were used to determine how much the construction will cost at the time of approval of the Guaranteed Maxim Price (GMP)#2. The encumbrances are obligations that have been made by contract

(items already ordered or contractors selected), and the costs columns have to do with payments. The Costs To-Date, for example includes items that have already been paid.

In the third column, the items marked LS (Lump Sum) have already been bid and the quoted price is fixed. The items marked ALL (Allowance) are tasks that have not yet been bid or that the CM/GC is planning to do with his crews. Without having a firm bid, the CM/GC has established an allowance that he knows he can complete these tasks without exceeding. The items marked MOS (Months) are monthly payments that go for general management expenses allowed to the CM/GC.

The Construction Cost Tracking table also includes \$260,252 in contingency (line 18000). Based on the costs in this table, the project, so far, is \$129,000 under budget – not including the contingency.

The CM/GC has also provided a summary of approved and pending items that have or may result in a change in costs. So far, the net effect of the changes is a savings of \$2,719.

### **Deco Park**

City staff have met with the City Center Association and consensus was reached to solicit proposals to construct only the pylon at this time due to budget constraints. The remainder of the park would be constructed under separate contract when additional funds become available. City staff plan to advertise the project by RFP the week of February 7, 2011. See attached renderings.

### **Coast Park**

Final plans have been received for the Coast Park Project. City staff are completing the bidding documents. The project will be bid according to the following tentative schedule:

Advertise Project	February 8,16, and 23, 2011
Pre-Bid Conference	March 1, 2011
Bid Opening	March 3, 2011
Notice of Intent to Award to Council	March 7, 2011
Notice to Proceed/Preconstruction Meeting	March 14, 2011
Start Construction	March 16, 2011
Tentative Construction Completion (90 days)	June 16, 2010

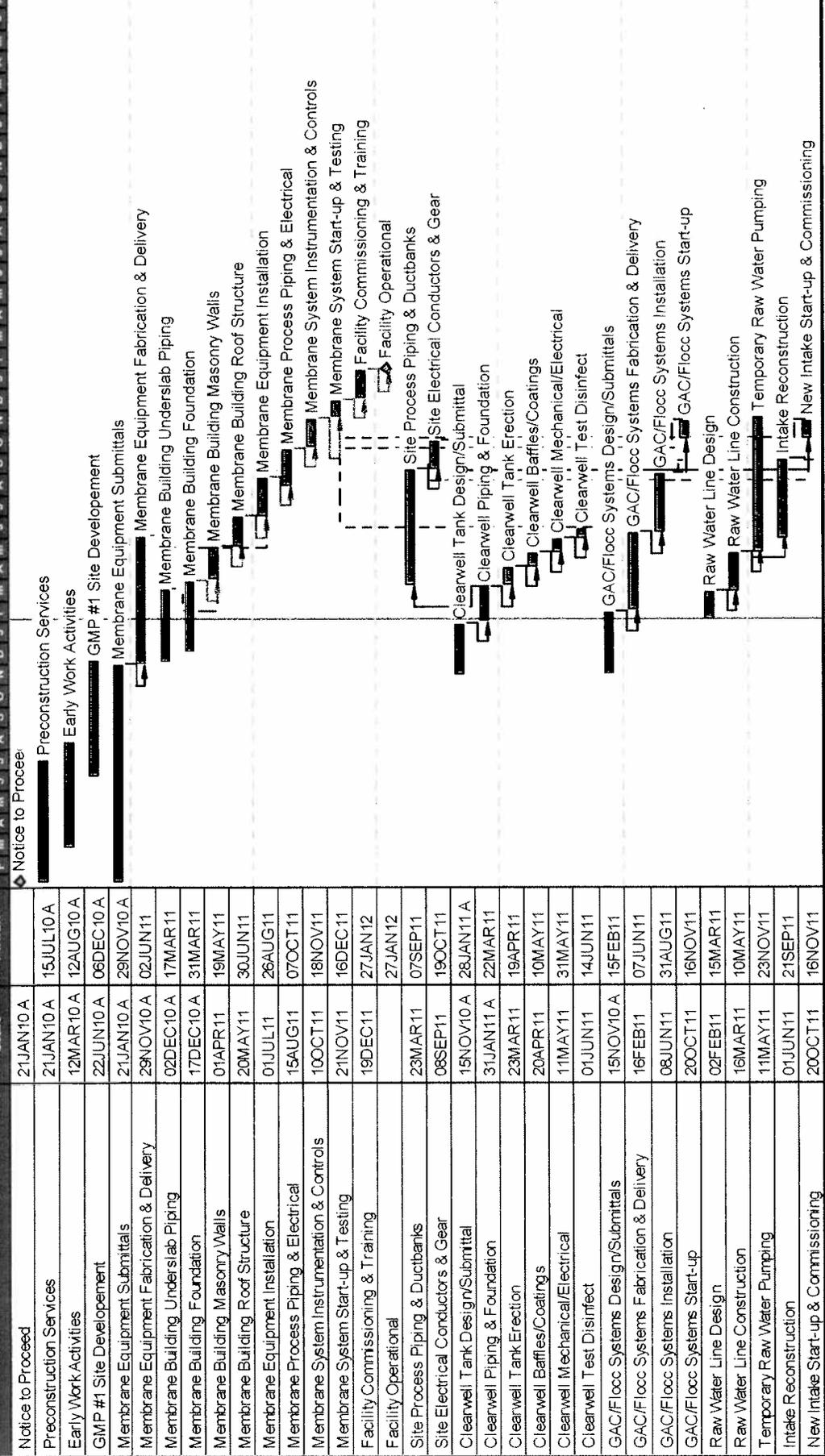
Newport Water Treatment Plant  
Construction Cost Tracking

Costs through: 1/31/11  
Report Date: 1/31/11

A	B	C	←-----BUDGET-----→				←--ENCUMBRANCES--→				←-----COSTS-----→			
			D	E	F	G=D+E+F	H	I	J	K	L=J+K	M=L-G		
Item	Description	UM	Project Budget	Budget Adjustments	Change Orders	Current Budget	Encumbrances to date*	Encumbrances to complete	Costs To-Date	Costs To Complete	Forecast Cost at Completion	Variance		
001003	Preconstruction Services		98,260.00	0.00	0.00	98,260.00	98,260.00	0.00	98,260.00	0.00	98,260.00	0.00		
1001	Early Work Amendment #1 Allowance	ALL	225,335.74	0.00	0.00	225,335.74	221,995.87	0.00	221,995.87	0.00	221,995.87	(3,339.87)		
100	General Conditions	MOS	90,000.00	0.00	0.00	90,000.00	90,000.00	0.00	90,000.00	0.00	90,000.00	0.00		
101	GMP #1 Mobilization	LS	130,000.00	0.00	0.00	130,000.00	130,000.00	0.00	130,000.00	0.00	130,000.00	0.00		
102	Advertising	LS	21,730.00	0.00	0.00	21,730.00	21,730.00	0.00	21,730.00	0.00	21,730.00	0.00		
103	Reproduction Costs	ALL	12,500.00	0.00	0.00	12,500.00	0.00	0.00	0.00	0.00	0.00	(12,500.00)		
104	General Housekeeping	MOS	10,086.00	0.00	0.00	10,086.00	10,086.00	0.00	10,086.00	0.00	10,086.00	0.00		
105	Material Hoisting/Distribution	MOS	27,536.34	0.00	0.00	27,536.34	27,536.34	0.00	27,536.34	0.00	27,536.34	0.00		
106	Temp Fencing/Barricades/Signs	LS	11,560.00	0.00	0.00	11,560.00	11,560.00	0.00	11,560.00	0.00	11,560.00	0.00		
107	Temp Lay Down Area / Roads	LS	19,921.00	0.00	0.00	19,921.00	19,921.00	0.00	19,921.00	0.00	19,921.00	0.00		
108	Waste Management	MOS	3,000.00	0.00	0.00	3,000.00	3,000.00	0.00	3,000.00	0.00	3,000.00	0.00		
109	Surveying	ALL	5,000.00	0.00	0.00	5,000.00	1,500.00	1,500.00	1,500.00	1,500.00	3,000.00	(2,000.00)		
2000	Soldier Pile Retaining Wall	LS	299,500.00	0.00	0.00	299,500.00	299,500.00	0.00	299,500.00	0.00	299,500.00	0.00		
2001	Concrete Facia	LS	176,500.00	0.00	0.00	176,500.00	176,500.00	0.00	176,500.00	0.00	176,500.00	0.00		
2002	Excavation	LS	62,100.00	0.00	0.00	62,100.00	62,100.00	0.00	62,100.00	0.00	62,100.00	0.00		
3003	Concrete Drainage Swale	LS	21,000.00	0.00	0.00	21,000.00	21,000.00	0.00	21,000.00	0.00	21,000.00	0.00		
2004	4 FT Vinyl Coated Chain Link Fence	LS	8,900.00	0.00	0.00	8,900.00	8,900.00	0.00	8,900.00	0.00	8,900.00	0.00		
2005	Force Main Sewer Line & HPPE Conduit	LS	79,710.21	0.00	0.00	79,710.21	83,751.93	0.00	83,751.93	0.00	83,751.93	4,041.72		
3020	Relocate Existing Piping at Clearwell	ALL	59,107.00	0.00	0.00	59,107.00	87,811.93	0.00	87,811.93	0.00	87,811.93	28,704.93		
2006	Rammed Aggregate Piers	ALL	400,000.00	0.00	0.00	400,000.00	287,925.70	0.00	287,925.70	0.00	287,925.70	(112,074.30)		
2072	Garage Demo	ALL	28,598.78	0.00	0.00	28,598.78	10,800.00	0.00	10,800.00	0.00	10,800.00	(17,798.78)		
01001	GMP #2 General Conditions	MOS	300,000.00	0.00	0.00	300,000.00	60,000.00	240,000.00	60,000.00	240,000.00	300,000.00	0.00		
01002	GMP #2 Reproduction Costs	ALL	7,500.00	0.00	0.00	7,500.00	0.00	5,000.00	0.00	5,000.00	5,000.00	(2,500.00)		
0110	GMP #2 General Housekeeping	MOS	40,244.00	0.00	0.00	40,244.00	8,048.86	32,195.20	8,048.86	32,195.20	40,244.00	0.00		
0111	GMP #2 Material Hoisting/Distribution	MOS	110,045.00	0.00	0.00	110,045.00	22,009.00	88,036.00	22,009.00	88,036.00	110,045.00	0.00		
0120	GMP #2 Temp Fence Maintenance/Signs	LS	1,500.00	0.00	0.00	1,500.00	1,500.00	0.00	1,500.00	0.00	1,500.00	0.00		
0122	Remove addn Restoration of laydown areas	LS	7,570.00	0.00	0.00	7,570.00	0.00	7,570.00	0.00	7,570.00	0.00	0.00		
0130	Temporary Weather Protection	ALL	15,000.00	0.00	0.00	15,000.00	0.00	15,000.00	0.00	15,000.00	0.00	0.00		
0133	GMP #2 Waste Management	MOS	12,000.00	0.00	0.00	12,000.00	2,400.00	9,600.00	2,400.00	9,600.00	12,000.00	0.00		
0135	GMP #2 Surveying	ALL	7,000.00	0.00	0.00	7,000.00	0.00	7,000.00	0.00	7,000.00	7,000.00	0.00		
0222	Membrane Bldg Encasements	LS	84,355.00	0.00	0.00	84,355.00	84,355.00	0.00	84,355.00	0.00	84,355.00	0.00		
0223	Site Piping Material	LS	245,583.00	0.00	0.00	245,583.00	245,583.00	0.00	245,583.00	0.00	245,583.00	0.00		
0224	Structural Fill Placement & Grading	LS	360,389.27	0.00	0.00	360,389.27	360,389.27	0.00	360,389.27	0.00	360,389.27	0.00		
0250	Earthwork Allowance	ALL	23,596.00	0.00	0.00	23,596.00	81,038.00	0.00	81,038.00	0.00	81,038.00	0.00		
0272	Gravel Surfacing Allowance	ALL	24,750.00	0.00	0.00	24,750.00	0.00	23,596.00	0.00	23,596.00	23,596.00	0.00		
0284	Chain Link Fence	LS	16,259.00	0.00	0.00	16,259.00	16,259.00	0.00	16,259.00	0.00	16,259.00	0.00		
0300	Landscaping Allowance	ALL	2,500.00	0.00	0.00	2,500.00	0.00	2,500.00	0.00	2,500.00	2,500.00	0.00		
0310	Form Materials	LS	44,971.00	0.00	0.00	44,971.00	44,971.00	0.00	44,971.00	0.00	44,971.00	0.00		
0320	Concrete Reinforcement	LS	133,866.00	0.00	0.00	133,866.00	133,866.00	0.00	133,866.00	0.00	133,866.00	0.00		
0330	Concrete & Concrete Pumping	LS	160,038.00	0.00	0.00	160,038.00	160,038.00	0.00	160,038.00	0.00	160,038.00	0.00		
0310	Sidewalks	LS	52,378.00	0.00	0.00	52,378.00	52,378.00	0.00	52,378.00	0.00	52,378.00	0.00		
0320	Membrane Bldg Concrete Placement	LS	138,912.00	0.00	0.00	138,912.00	138,912.00	0.00	138,912.00	0.00	138,912.00	0.00		

08330	Cleanwell Concrete Placement	LS	30,389.00	0.00	0.00	30,389.00	0.00	0.00	30,389.00	30,389.00	0.00	0.00
08350	GAC/Flocc Concrete Placement	LS	26,325.00	0.00	0.00	26,325.00	0.00	0.00	26,325.00	26,325.00	0.00	0.00
04200	Masonry	LS	349,677.00	0.00	0.00	349,677.00	35,890.00	0.00	349,677.00	349,677.00	0.00	0.00
05211	Steel Joists & Decking	LS	182,790.00	0.00	0.00	182,790.00	0.00	0.00	182,790.00	182,790.00	0.00	0.00
05500	Fabricated Metals	LS	167,393.00	0.00	0.00	167,393.00	38,775.00	0.00	167,393.00	167,393.00	0.00	0.00
07210	Building Insulation	LS	7,500.00	0.00	0.00	7,500.00	0.00	0.00	7,500.00	7,500.00	0.00	0.00
07412	Metal Roofing	LS	147,662.00	0.00	0.00	147,662.00	0.00	0.00	147,662.00	147,662.00	0.00	0.00
08110	Metal Doors & Frames	LS	37,388.00	0.00	0.00	37,388.00	8,784.00	0.00	37,388.00	37,388.00	0.00	0.00
08220	FRP Doors & Frames	LS	28,066.00	0.00	0.00	28,066.00	5,034.00	0.00	28,066.00	28,066.00	0.00	0.00
08332	Overhead Doors	LS	16,675.00	0.00	0.00	16,675.00	0.00	0.00	16,675.00	16,675.00	0.00	0.00
08410	Storefront Windows & Glazing	LS	7,950.00	0.00	0.00	7,950.00	0.00	0.00	7,950.00	7,950.00	0.00	0.00
08790	Finish Hardware	LS	22,326.00	0.00	0.00	22,326.00	0.00	0.00	22,326.00	22,326.00	0.00	0.00
09110	Interior Framing	LS	15,677.00	0.00	0.00	15,677.00	0.00	0.00	15,677.00	15,677.00	0.00	0.00
09130	Acoustical Ceiling	LS	11,544.00	0.00	0.00	11,544.00	0.00	0.00	11,544.00	11,544.00	0.00	0.00
09250	Drywall	LS	31,353.00	0.00	0.00	31,353.00	0.00	0.00	31,353.00	31,353.00	0.00	0.00
09310	Ceramic Tile	LS	5,693.00	0.00	0.00	5,693.00	0.00	0.00	5,693.00	5,693.00	0.00	0.00
09400	Resilient Flooring & Base	LS	3,209.00	0.00	0.00	3,209.00	0.00	0.00	3,209.00	3,209.00	0.00	0.00
09500	Painting & Protective Coatings	LS	105,700.00	0.00	0.00	105,700.00	0.00	0.00	105,700.00	105,700.00	0.00	0.00
10000	Miscellaneous Specialties	LS	12,174.00	0.00	0.00	12,174.00	0.00	0.00	12,174.00	12,174.00	0.00	0.00
11000	Equipment Hoisting & Accessories	LS	28,000.00	0.00	0.00	28,000.00	0.00	0.00	28,000.00	28,000.00	0.00	0.00
11002	Chemical Hoisting & Accessories	LS	5,200.00	0.00	0.00	5,200.00	0.00	0.00	5,200.00	5,200.00	0.00	0.00
11062	Floating Submersible Pump Station	LS	15,800.00	0.00	0.00	15,800.00	0.00	0.00	15,800.00	15,800.00	0.00	0.00
11072	Vertical Turbine Line Pumps	LS	108,000.00	0.00	0.00	108,000.00	0.00	0.00	108,000.00	108,000.00	0.00	0.00
11073	Vertical Turbine Can Pumps	LS	146,300.00	0.00	0.00	146,300.00	0.00	0.00	146,300.00	146,300.00	0.00	0.00
11076	Submersible Non-Cog pumps	LS	11,500.00	0.00	0.00	11,500.00	0.00	0.00	11,500.00	11,500.00	0.00	0.00
11082	Peristaltic Pumps	LS	69,900.00	0.00	0.00	69,900.00	2,500.00	0.00	69,900.00	69,900.00	0.00	0.00
11182	Chemical Storage Tanks	LS	59,200.00	0.00	0.00	59,200.00	0.00	0.00	59,200.00	59,200.00	0.00	0.00
13348	GAC System	LS	326,934.00	0.00	0.00	326,934.00	0.00	0.00	326,934.00	326,934.00	0.00	0.00
13359	Flocculation System	LS	109,500.00	0.00	0.00	109,500.00	0.00	0.00	109,500.00	109,500.00	0.00	0.00
13500	Storage Totes	LS	11,600.00	0.00	0.00	11,600.00	0.00	0.00	11,600.00	11,600.00	0.00	0.00
13601	Laboratory Accessories	LS	10,500.00	0.00	0.00	10,500.00	10,000.00	0.00	10,500.00	10,500.00	0.00	0.00
13346	Laboratory Casework & Fumehood	LS	36,323.00	0.00	0.00	36,323.00	0.00	0.00	36,323.00	36,323.00	0.00	0.00
12500	Furnishings	LS	2,731.00	0.00	0.00	2,731.00	855.00	0.00	2,731.00	855.00	0.00	(1,876.00)
13122	Prefabricated Wood Building	LS	40,855.00	0.00	0.00	40,855.00	0.00	0.00	40,855.00	40,855.00	0.00	0.00
13216	Glass Fused Steel Reservoir	LS	279,700.00	0.00	0.00	279,700.00	0.00	0.00	279,700.00	279,700.00	0.00	0.00
13400	Install Pall Equipment	LS	79,400.00	0.00	0.00	79,400.00	0.00	0.00	79,400.00	79,400.00	0.00	0.00
13440	Instrumentation & Controls	LS	197,506.00	0.00	0.00	197,506.00	0.00	0.00	197,506.00	197,506.00	0.00	0.00
14200	Hydraulic Elevator	LS	43,750.00	0.00	0.00	43,750.00	0.00	0.00	43,750.00	43,750.00	0.00	0.00
15000	Process Mechanical Installation	LS	245,420.00	0.00	0.00	245,420.00	0.00	0.00	245,420.00	245,420.00	0.00	0.00
15001	Process Mechanical Materials	LS	417,815.00	0.00	0.00	417,815.00	0.00	0.00	417,815.00	417,815.00	0.00	0.00
15005	Mechanical Supports	LS	71,554.00	0.00	0.00	71,554.00	0.00	0.00	71,554.00	71,554.00	0.00	0.00
15100	Valves	LS	92,620.00	0.00	0.00	92,620.00	(2,399.00)	0.00	90,221.00	90,221.00	0.00	(2,399.00)
15300	Fire Protection	LS	37,102.00	0.00	0.00	37,102.00	0.00	0.00	37,102.00	37,102.00	0.00	0.00
15400	Plumbing	LS	129,550.00	0.00	0.00	129,550.00	0.00	0.00	129,550.00	129,550.00	0.00	0.00
15605	HVAC	LS	439,500.00	0.00	0.00	439,500.00	16,199.75	0.00	439,500.00	439,500.00	0.00	0.00
16000	Electrical	LS	1,433,094.00	0.00	0.00	1,433,094.00	0.00	0.00	1,433,094.00	1,433,094.00	0.00	0.00
17100	Intake Mechanical	LS	297,612.00	0.00	0.00	297,612.00	297,612.00	0.00	297,612.00	297,612.00	0.00	0.00
17200	Electrical Creek Crossing	LS	128,289.00	0.00	0.00	128,289.00	0.00	0.00	128,289.00	128,289.00	0.00	0.00
17300	Raw Water Line Replacement	LS	200,000.00	0.00	0.00	200,000.00	0.00	0.00	200,000.00	200,000.00	0.00	0.00
18000	Owners Contingency	LS	260,252.00	0.00	0.00	260,252.00	0.00	0.00	260,252.00	260,252.00	0.00	0.00
20000	GMP #1 Fee	LS	102,672.45	0.00	0.00	102,672.45	94,987.03	0.00	94,987.03	94,987.03	0.00	(250,252.00)
20002	GMP #2 Fee	LS	633,100.00	0.00	0.00	633,100.00	38,701.05	0.00	38,701.05	633,100.00	0.00	(6,957.42)
Totals			10,940,609.79	0.00	0.00	10,940,609.79	8,714,770.92	1,856,888.15	2,330,538.76	8,221,120.31	10,551,659.07	(388,950.72)

\* Expenses include indirect charges embedded in equipment, work for cost and equipment work orders.

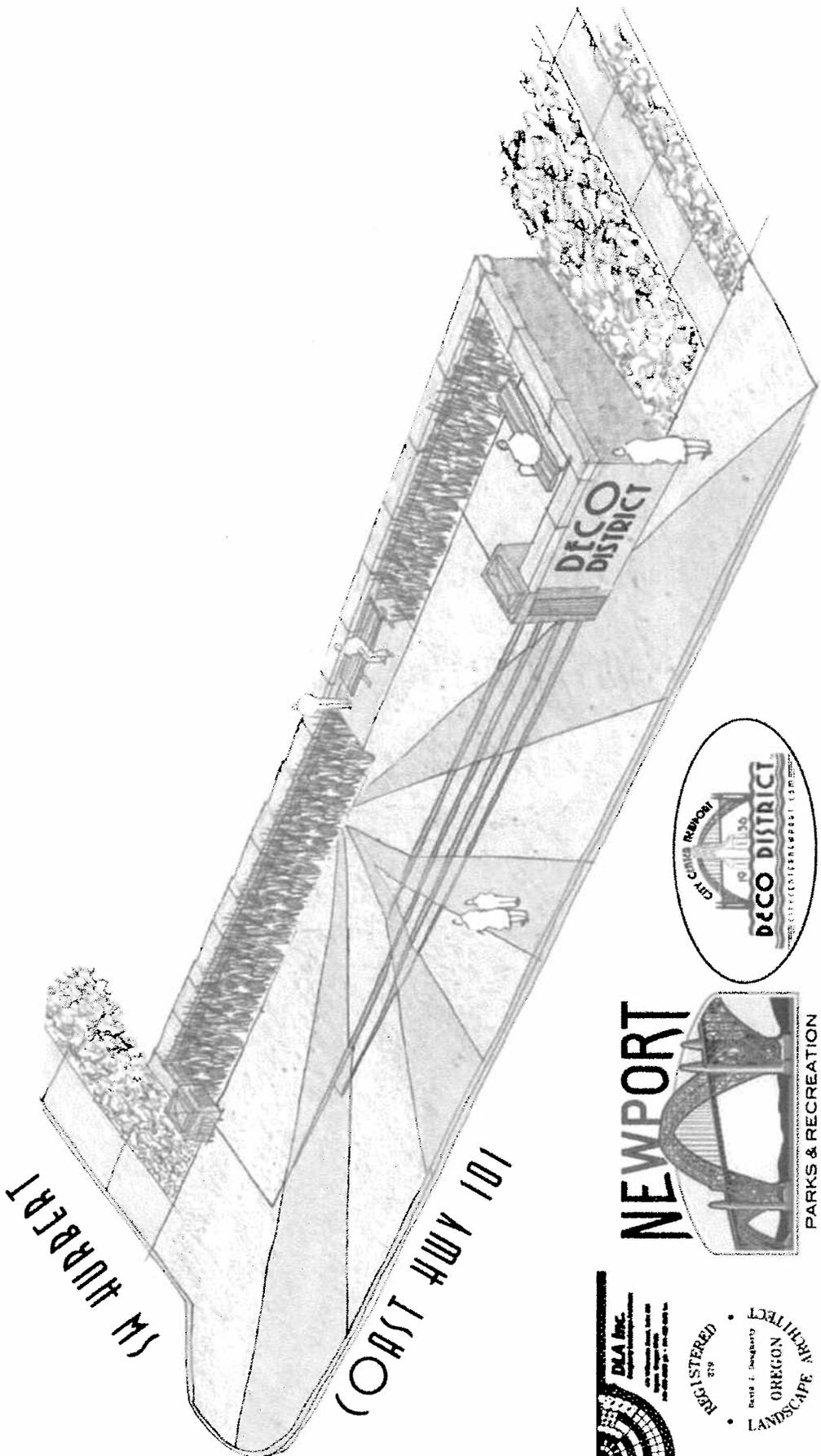


Description	Early Start	Early Finish
Notice to Proceed	21JAN10 A	
Preconstruction Services	21JAN10 A	15JUL10 A
Early Work Activities	12MAR10 A	12AUG10 A
GMP #1 Site Development	22JUN10 A	06DEC10 A
Membrane Equipment Submittals	21JAN10 A	29NOV10 A
Membrane Equipment Fabrication & Delivery	29NOV10 A	02JUN11
Membrane Building Under-slab Piping	02DEC10 A	17MAR11
Membrane Building Foundation	17DEC10 A	31MAR11
Membrane Building Masonry Walls	01APR11	19MAY11
Membrane Building Roof Structure	20MAY11	30JUN11
Membrane Equipment Installation	01JUL11	26AUG11
Membrane Process Piping & Electrical	15AUG11	07OCT11
Membrane System Instrumentation & Controls	10OCT11	18NOV11
Membrane System Start-up & Testing	21NOV11	16DEC11
Facility Commissioning & Training	19DEC11	27JAN12
Facility Operational		27JAN12
Site Process Piping & Ductbanks	23MAR11	07SEP11
Site Electrical Conductors & Gear	08SEP11	19OCT11
Clearwell Tank Design/Submittal	15NOV10 A	28JAN11 A
Clearwell Piping & Foundation	31JAN11 A	22MAR11
Clearwell Tank Erection	23MAR11	19APR11
Clearwell Baffles/Coatings	20APR11	10MAY11
Clearwell Mechanical/Electrical	11MAY11	31MAY11
Clearwell Test Disinfect	01JUN11	14JUN11
GAC/Floc Systems Design/Submittals	15NOV10 A	15FEB11
GAC/Floc Systems Fabrication & Delivery	16FEB11	07JUN11
GAC/Floc Systems Installation	08JUN11	31AUG11
GAC/Floc Systems Start-up	20OCT11	16NOV11
Raw Water Line Design	02FEB11	15MAR11
Raw Water Line Construction	16MAR11	10MAY11
Temporary Raw Water Pumping	11MAY11	23NOV11
Intake Reconstruction	01JUN11	21SEP11
New Intake Start-up & Commissioning	20OCT11	16NOV11

Early bar  
 Progress bar  
 Critical bar  
 Summary bar  
 Start milestone point  
 Finish milestone point

**Slayden Construction Group Inc.  
Newport Water Filtration Facility**

Start date	21JAN10
Finish date	27JAN12
Data date	02FEB11
Run date	01FEB11
Page number	1A
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SW HUBBERT

COAST HWY 101

DECO DISTRICT

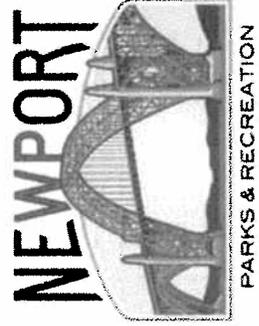
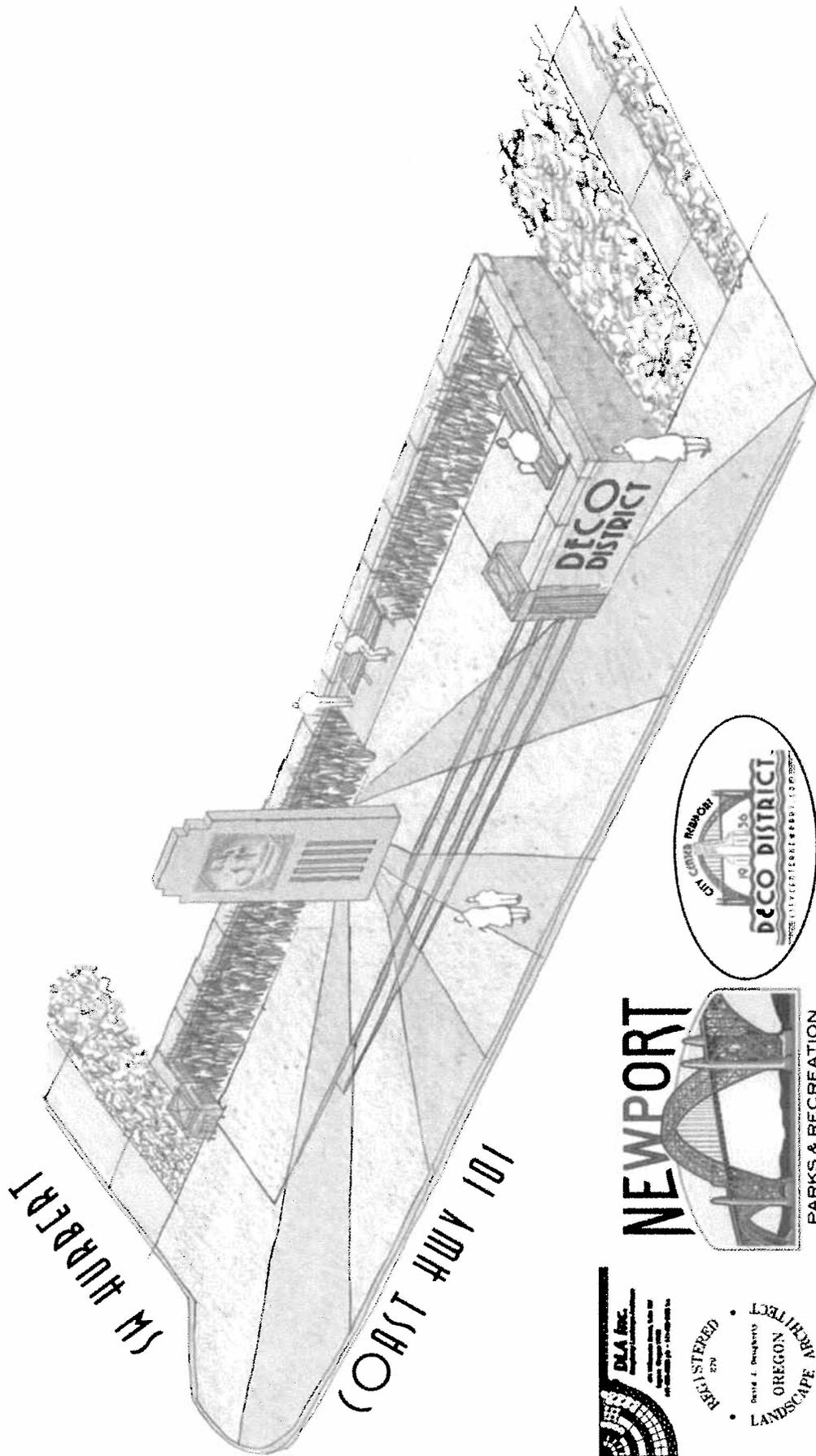


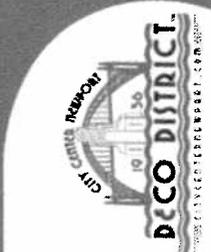
NEWPORT



PARKS & RECREATION







## Jim Voetberg

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**From:** Derrick Tokos  
**Sent:** Thursday, February 03, 2011 11:43 AM  
**To:** Jim Voetberg  
**Cc:** Penelope McCarthy; Peggy Hawker  
**Subject:** Renaming Streets

Jim,

We have an ordinance (Ord. 665) that sets out parameters for street naming. It is specific regarding how street suffixes are to be used, but does not restrict the names that can be applied to streets. We have stuck with numbers on east/west street segments and try to follow the alphabet on the north/south legs. This provides a frame of reference for the public and emergency providers. Exceptions have been made in a few areas.

State law provides that a recommendation must be obtained from the Planning Commission to rename a street (or portion thereof). The Council would then need to hold a public hearing. Here is the provision (ORS 227.120).

**227.120 Procedure and approval for renaming streets.** *Within six miles of the limits of any city, the commission, if there is one, or if no such commission legally exists, then the city engineer, shall recommend to the city council the renaming of any existing street, highway or road, other than a county road or state highway, if in the judgment of the commission, or if no such commission legally exists, then in the judgment of the city engineer, such renaming is in the best interest of the city and the six mile area. Upon receiving such recommendation the council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing published in a newspaper of general circulation within the municipality and the six mile area not less than once within the week prior to the week within which the hearing is to be held. After such opportunity for hearing has been afforded, the city council by ordinance shall rename the street or highway in accordance with the recommendation or by resolution shall reject the recommendation. A certified copy of each such ordinance shall be filed for record with the county clerk or recorder, and a like copy shall be filed with the county assessor and county surveyor. The county surveyor shall enter the new names of such streets and roads in red ink on the county surveyor's copy of any filed plat and tracing thereof which may be affected, together with appropriate notations concerning the same. The original plat may not be corrected or changed after it is recorded with the county clerk. [Amended by 2001 c.173 §4]*

Let me know if we need to get something scheduled with the Planning Commission. The earliest they can consider the matter is February 14<sup>th</sup>.

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

Siletz Watershed Council  
181 camp 12 lp  
Toledo, Oregon 97391  
541-444-2846  
1-31-2011

Mayor and City Council  
City of Newport  
169 sw coast highway  
Newport, Oregon 97365

Dear Folks;

The Siletz Watershed Council and the City of Siletz are looking for your continued support to improve drinking water quality pumped from the Siletz River for the City's of Siletz, Toledo, Seal Rock and Newport.

The Siletz Watershed Council and the City of Siletz would like to include the City of Newports name on our gas boat motor discouraged signs placed presently at boat ramps and strategically placed along the river.

This effort will help be a deterrent to the usage of outboard motors. Up to 25 to 30% of the exhausted unburned fuel into the water from them come out as volatile organic compounds, which can be harmful to human and aquatic health.

Please put us on the Monday night, February 7th council meeting docket for your approval.

Thank you,  
Don Larsen



Phone: 541-444-2521 Fax: 541-444-7371  
P.O. Box 318, Siletz, , 215 W. Buford Avenue, OR 97380

January 31, 2011

Dear Sirs:

Currently there are no rules or laws prohibiting the use of gas powered boats on the Siletz River above the City of Siletz intake at Hee Hee Iallahee Park. The Siletz City Council has previously requested that the Marine Board prohibit gas-powered boats on the Siletz River above Mill Park in Siletz. That request was denied by the marine board so the city has supported the Siletz Watershed Council in posting signs that encourage boaters not to use gas powered boats on the Siletz River.

The City of Siletz has no other source of water but the Siletz River so naturally the council is very concerned not only about the water supply of our city and the health and safety our citizens, but also the supply and health of the citizens in the other communities. Therefore we would encourage the City of Toledo and Newport to join us in supporting the Siletz Watershed Council by allowing them to add your name to the signs they have posted on the Siletz River discouraging the use of gas powered motors on the Siletz River.

If you have any questions in regards to this matter please call me at 541-444-2521.

Sincerely,

Sheryl Simmons  
City Recorder



*FIRE PREVENTION*

To: The Mayor and City Council Persons

Re: Newport Fire Department Review

In response to the City Manager's statement to council on January 18, 2011 the following report is respectfully submitted to you.

I have reviewed the reports listed at the bottom of this page and have identified an action plan that will address the issues identified in the reports.

- A. The first step we must take is to improve and expand our current Standard Operating Procedures /Guidelines (SOPs /SOGs) and Administrative SOPs/SOGs. A **policy committee will be formed** to perform these tasks.
  - 1) Members: The committee will be composed of 2 paid staff, 2 volunteers and the fire chief.
  - 2) SOPs/SOGs to be reviewed/revise or created:
    - a. Organizational structure
    - b. Safety Committee structure and responsibilities
    - c. Discipline Policy
    - d. Volunteer agreement with the City of Newport (will include the City Attorney)
    - e. Response to Incidents
    - f. Training
    - g. Code of Conduct (If the volunteers do not have an agreement with the city)
  - 3) Paid staff and volunteers will be encouraged to review and comment on any changes to existing policies or new policies recommended by the committee. Final approval will be made by the Fire Chief and, if appropriate, the City Manager.
  - 4) All paid and volunteer staff will be required to familiarize themselves with the approved policies.
  - 5) Failure to adhere to established policies may be grounds for discipline and or dismissal (Discipline Policy).

**CORRESPONDENCE REVIEWED:**

- 1) Rick Crook: Memo to Jim Voetberg; Subject: Longview Hills Fire; dated 1/3/2011
- 2) John Stein: Newport Fire Department-Review of Incident #101008-6039 NE Evergreen-12/20/10 dated 1/14/2011
- 3) Jim Voetberg: Memo to Mayor and Council; Subject: Longview Hills Fire Investigation; dated 1/18/2011
- 4) Al Anton: Memo to Jim Voetberg: Subject Newport Fire Department; dated 2/3/2011

*Toby Cole*  
*Assistant Chief / Fire Marshal*  
[t.cole@thecityofnewport.net](mailto:t.cole@thecityofnewport.net)  
[www.thecityofnewport.net](http://www.thecityofnewport.net)

245 NW 10<sup>TH</sup> ST, NEWPORT OR 97365 – (541)-265-9461 – FAX (541) 265-9463

# **NEWPORT FIRE DEPARTMENT**

**REVIEW OF INCIDENT #101008**

**6039 NE EVERGREEN**

**12/20/10**

**Prepared By: John Stein**

TO: City of Newport, City Council

FROM: John Stein, Senior Consultant

DATE: January 14, 2011

SUBJECT: Fire Incident #101008 12/20/2010

Let me begin by acknowledging the cooperation that was given to me by the individuals that contributed to the development of this report. Special thanks go to City Manager Jim Voetberg, Fire Chief Rick Crook, Assistant Fire Chief Toby Cole, and especially the volunteer and career members of the Newport Fire Department.

I begin by briefly commenting on an observation I made concerning the Newport Fire Department. As part of my report it was my privilege to interview both career and volunteer members of the department. One attitude came across very strongly...passion. The members of this department are passionate about what they do and the service that they provide. This passion serves them well in the performance of their duties. This same passion has also created strong feelings that have allowed unresolved issues to blossom into serious conflicts between members. The incident that this report references did present issues that need to be addressed by the organization, however those issues should not have evoked the wide range of emotion and finger pointing that was presented by many of the individuals I interviewed.

As I present my findings in this report it is important to understand that operating at an emergency incident is a dynamic and ever changing experience. Trying to find that one size fits all approach to emergency operations is difficult at best. It is my belief that to achieve perfection on any emergency response is not easily attained and may not even be possible. There will always be opportunity for improvement. Having said that it is rarely acceptable to allow unsafe actions or deviate from established protocols and so a department must always review the actions it takes. As you review this report please acknowledge those considerations. All information contained in this report is a direct result of interviews with individuals that participated on this call and department documentation that I reviewed.

**Incident Background:** An alarm was received on 12/20/2010 at 2114 hours with a report of smoke in a structure. Following arrival of Incident Commander a second tap out for a structure fire was requested. Tactics and strategies designed to mitigate the incident were employed by the Newport Fire Department command and staff on scene.

**Incident Issues:** One of the issues that I have been asked to review is the accusation that two members of the department entered an IDLH (immediately dangerous to life or health) atmosphere without proper qualifications/internal check offs. The department has established basic training requirements

that must be attained prior to allowing members to use self-contained breathing apparatus in IDLH atmospheres. The department also has adopted a respiratory protection program that requires, among other things, training, fit testing and medical/physical evaluations. This accusation and my review of existing NFD training standards created two major questions that I will respond to. One, did non-certified firefighters enter into an IDLH atmosphere and were appropriate actions taken to prevent entry by non-qualified personnel from happening?

**The Process:** As previously stated, I interviewed individuals who participated in this incident. I have included a separate page with the names of those individuals that took part in these interviews. I also spent a great deal of time researching the following department documents:

1. City of Newport Personnel Handbook (section K1-4)
2. Newport Volunteer Fire Department Bylaws
3. Chief Crook's Report concerning the incident to the City Manager
4. The Incident Report
5. Newport Fire Department Fire Ground Organization Guidelines
6. Department Standard Operating Procedures /Guidelines
7. The NFD Respiratory Protection Plan
8. January 7, 2011 News Times Article

**Findings:** Firefighter 1 entered the structure as part of the first in attack crew. Firefighter 1 was wearing a black helmet at the time. In the Newport Fire Department system, helmet color is a method of identifying rank; black helmet indicates non entry personnel. A black helmet signifies that the firefighter is not qualified for IDLH entry work. It is unclear to me what qualifications he lacked for entry. Firefighter 1 was out of town and not available to be interviewed. At this point why he was not cleared for entry is really irrelevant as his helmet color clearly identified him as non-entry. This brings me to the next issue, why was he allowed to enter and was anyone aware that he did? This is where conflicting accounts make it difficult to determine what really happened. It would seem that during the initial attack phase personnel were very busy carrying out their individual assignments. With a response method that has engines responding with an engineer only or occasionally with a volunteer that happens to be in the station at the time of the alarm and volunteers arriving POV, accountability would be challenging at best. First arriving volunteers must don protective gear, seek command for an assignment and "buddy up" with another firefighter. As a result, no one could tell me how or why Firefighter 1 was able to be part of the first in crew. Shortly after entry it was recognized that Firefighter 1 had entered the structure and he was replaced immediately by another member on scene. My interviews also failed to identify if anyone had knowledge of Firefighter 1's intentions to enter the IDLH or if anyone identified the black helmet prior to entrance into the structure. There was clear consensus by everyone that I talked to that Firefighter 1 was in fact in the structure but how and why he got there could not be determined by any of the individuals I spoke with.

Firefighter 2 was a totally different situation. Firefighter 2 did not arrive until later into the incident. Upon arrival Firefighter 2 attempted to don an air pack but found that all of them were currently being used. Firefighter 2 was then assigned to accountability and collected personnel "chips" that had been

placed at the front door entry. At one point Firefighter 2 was told she was too close to the entry point and was asked to move back. Firefighter 2 was wearing a yellow helmet and believed that she was cleared for entry. After initial knock down of the fire, Firefighter 2 put on an SCBA and assisted with overhaul. Again this is where some confusion exists. Firefighter 2 appears to have completed all of the requirements and qualifications for entry personnel. It appears that various department members had their own theories on why Firefighter 2 should not have been allowed to enter the structure. Here are three of those reasons:

1. Firefighter 2 had not completed her medical evaluation.
2. The investigation committee of the department had told Firefighter 2 that upon her return to the department, after a lengthy absence, that one must meet with the Training Officer prior to responding on calls.
3. Paperwork indicating that Firefighter 2 had both fit tested and received medical clearance was either missing, not submitted or not completed.

Newport Fire Department also produces a list of those members that are not eligible for entry. It is my understanding that this list is to be carried on the apparatus as well as posted in the station. I was not able to see a copy of the list posted prior to the incident. I was shown an updated list after the incident by one individual who was unaware that they had been placed on the list. Firefighter 2 also indicated to me that she did not know that her name was listed and believed that she had been cleared for entry.

**Conclusions/Recommendations:** As a result of the interviews that were conducted and written testimonies I received, I offer the following conclusion and recommendations:

1. Firefighter 1 should be held accountable for his actions. Each individual is ultimately responsible for their own safety. Firefighter 1 had to be known by the simple fact he was wearing a black helmet that he was not cleared to enter into IDLH atmospheres. It would appear that members of the department have spent a great deal of time and energy trying to find fault with one another, rather than focusing on this obvious fact.
2. Firefighter 2 had fulfilled all of the written criteria for entry personnel. Documentation needs to be produced validating the instructions of the investigation committee and the meeting with the Training Officer.
3. Actions on scene were taken quickly to remove Firefighter 1 from the structure once he was identified as being inside.
4. Actions following the incident were made to try and reduce the chances of this occurring again. Those actions included:
  - a. Updating the entry list.
  - b. Posting the list in the station and on the accountability boards of each engine.
  - c. Review the practices and protocols for entry at the following business meeting of the department (12/22/10).

5. Communication avenues must be improved and developed. The current system seems to allow for misinformation to easily circulate within the department. Water cooler chatter needs to be replaced by factual information that everyone is aware of. Besides meeting announcements, email, individual mail boxes, newsletters and other forms of communication should be implemented to distribute department information.
6. Existing policies need review and revision. Policies and procedures exist for operational matters but very little can be found concerning personnel issues. There are models available for adopting and editing in addition to assistance from various fire associations.
7. Review current response procedures. During my limited time I do not have sufficient understanding to provide input into alternative methods, responding to emergencies POV presents many organizational challenges for both the firefighter and those in command positions.
8. This incident should have been handled internally. The very fact that outside agencies have been notified and individuals outside the department had to be brought in indicates that some misplaced priorities, by both the career staff and volunteers, exist within the department.

**Summary:** It is obvious that the Newport Fire Department is experiencing a period of uncertainty and mistrust among its members. Prior to the incident these feelings have remained within the station and not spilled onto the emergency scene. As one member put it, "we get along great during the calls it is in between calls where we struggle." The allegations and finger pointing that I was witness to during my nine hours with members of the department will soon begin to affect the ability of the department to function at its best on the emergency scene if not corrected. There were policy violations that occurred at the NE Evergreen fire. Policy violations must be taken care of immediately with clearly defined remedies that are known by all and consistently applied. Individual agendas, quarreling and selfishness is damaging this department. My final finding (#8) is the most dangerous and damaging fact that I have included in this report. Efforts to heal this division must be treated as quickly and with the same clarity that violations of policy require.

## MEMBERS INTERVIEWED

Stacy Mathis  
Richard Giles  
Lucy Gibson  
Andy Parker  
Tom Jackson  
Rob Murphy  
Rachel Beck  
Tom Beck  
Jim Salisbury  
Tonia Warren  
Steven Donaldson  
Kevin Naegli  
Doyle Helmricks  
Debbie Helmricks

January 3, 2011

To: Jim Voetberg, City Manager

From: Rick Crook, Fire Chief

Subject: Longview Hills fire

Upon my return from vacation I received your memorandum dated 12/22/2010. In it, you directed me to conduct an investigation of Newport Fire Department's response to a fire in Longview Hills and to implement corrective action. The investigation is completed. It is based on interviews and written narratives from those that would give them.

Two people entered a hazardous environment not authorized to do so. The fire had been knocked down from the door. One person entered following knockdown with an overhaul crew. His disqualification for entry work was not due to lack of protective gear, fit testing or medical condition. He is a previously trained firefighter who has not completed his field training and probation periods. After entry he was recognized and ordered out of the structure and assigned outside duties. The other firefighter entered during overhaul but before air quality testing was completed. This was a firefighter with appropriate protective gear, fit testing and training, but did not have a current medical clearance. She thought she was current.

Prior to my return the Incident Commander and Training Officer updated the non-entry list, posted them in the training office and on the accountability boards on each engine, and held a review of practices and protocols for entry at the business meeting of the department on 12/22/2010. All of these actions were conducted within 48 hours of the event.

It is my feeling that the actions taken were appropriate and adequate.

During the course of the investigation, it was reported that the actions of certain individuals has greatly contributed to the deterioration of the working and trust relationships so necessary in this work environment.

These issues or actions should be investigated as well. I would recommend that the further investigation be conducted by someone other than I.

That two persons employed as firefighters, Andy Parker and Stacy Mathis, apparently knew that these non-entry people were entering and took no direct action to stop them, did not report I directly to IC but told another firefighter to tell IC that these persons had entered. Due to the dynamic nature of an evolving emergency scene, it is our practice to look out for one another, and to stop unsafe actions before anyone is at risk. That hardly appears to be the case here.

Contrary to agreed upon department practice, did not report the matter to IC, company officers or safety committee, but reported it directly to City Manager.

The order of succession of command at emergency incidents and for day to day operations in my absence was announced at drill on 12/15/10 and again at staff meeting on 12/16/10. There was no concern or discussion on either of those occasions. On the day I left, it has been reported by witnesses, an employee in the presence of volunteers and other employees, criticized me, the choices that I had announced and the credentials and qualifications of those assuming responsibility. This lack of respect for the chain of command must be construed as insubordination.

Additionally, I am including in this review some correspondence you should be aware of.



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

## MEMO

DATE: January 18, 2011  
TO: Mayor and Council  
FROM: Jim Voetberg, City Manager  
SUBJECT: Longview Hills Fire Investigation

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Attached please find two reports on the December 22, 2010 Longview Hills Fire, one conducted by Fire Chief Richard Crook and one conducted by John Stein of Special Districts Association of Oregon. The reports are self explanatory and the following overview is provided.

Specific to a concern that a non-entry qualified firefighter entered a hazardous environment, the report by John Stein indicates that this did occur. Through his investigation, Mr. Stein reported that once it was determined the unqualified firefighter was in a hazardous area, the firefighter was immediately removed. In his conclusions/recommendations, Mr. Stein states that, *"Firefighter 1 should be held accountable for his actions. Each individual is ultimately responsible for their own safety. Firefighter 1 had to of known by the simple fact he was wearing a black helmet that he was not cleared to enter into IDLH atmospheres. It would appear that members of the department have spent a great deal of time and energy trying to find fault with one another, rather than focusing on this obvious fact"*.

Specific to a concern that a second non-entry qualified firefighter entered a hazardous area, Mr. Stein believes that this firefighter appears to have completed all of the requirements and qualifications for entry. Mr. Stein notes that various department members had their own theories on why this firefighter should not be allowed to enter hazardous areas.

Specific to a concern that other firefighters observed entry by non-qualified firefighters, Mr. Stein states that there were conflicting accounts as to what really happened and no conclusions could be made. Mr. Stein states in his conclusions/recommendations that, *"Actions on scene were taken quickly to remove Firefighter 1 from the structure once he was identified as being inside"*. In addition, Mr. Stein points out, as did the report by Chief Crook, actions were quickly taken (within 48 hours) to reduce the chances of unqualified fighters entering hazardous areas. These actions include:

- Updating the entry list.
- Posting the list in the station and on the accountability boards of each engine, and
- Held a review of practices and protocols for entry at the following volunteer business meeting.

In summary, the investigation of this specific fire has resulted in the following conclusions/observations.

1. All firefighters need to be reminded that safety is the number one priority when responding to an incident and that it is each firefighter's responsibility to follow and adhere to established policies.
2. The Fire Department Safety Officer needs to have discussion with Firefighter 1 to ensure he understands the Department's policies and the importance of following them.
3. The on-scene actions to remove a firefighter from a dangerous condition were made quickly and appropriately.
4. The actions taken to reduce the chances of this from happening in the future was done quickly and appropriately.
5. The chain of command, whether on-scene or how issues are identified and resolved needs to be more clearly established and enforced.
6. The underlying issue within the Fire Department is not about this specific incident but about the on-going working relationship issue between the full-time firefighters and the volunteers. An issue that has seen improvements, setbacks and improvements over the past several years, this one incident seems to have caused a serious setback that needs immediate attention. To that end, I have been in discussions with Al Anton, a retired fighter who was the Director of Emergency Services in Stockton California who has 35 years of experience working with and for a fire department. Al believes that by his working with soon to be Interim Chief Toby Cole (Chief Crook will be taking vacation leave beginning the first of February prior to his March 15<sup>th</sup> retirement date) that Toby will be

able to produce a report within two weeks that outlines the issues needing to be addressed and a recommended course of action.

7. All parties and individuals including the volunteers, fulltime firefighters and management have to be committed to working together in resolving any working differences.
8. The solution to a better working relationship needs come internally from the volunteers and fulltime staff and must have their buy-in.

To: Jim Voteberg, Newport City Manager

From: Al Anton

Date: February 3, 2011

Subject: Newport Fire Department

Thank you for allowing me to be involved with the issues concerning the Newport Fire Department. Working with Chief Toby Cole presented a sense of uncertainty due to my misconception of the relationship between Chief Cole and Chief Crook. After initial meetings it was evident that Chief Cole is a man of honesty and integrity faced with issues he inherited and did not create. Chief Cole was very open and provided interviews with documentation necessary to address the negative issues facing his department.

After a thorough review of the critical issues surrounding the Fire Department, I have come to the conclusion that the City of Newport Fire Department personnel, whether volunteer or paid, have one common goal summed up in two words " WE CARE ". The personnel are dedicated men and women who unselfishly provide, whether volunteer or paid, a professional well trained level of operational firefighting, emergency medical response, water rescue, and hazardous material mitigation for the City of Newport.

The Newport Fire Department is in need of Administrative Standard Operating Procedures. At the present time there are Operational SOP's in place which are consistent with the volunteer and paid member's operational duties. The administrative SOP's can become part of this document after input and ratification of the entire department.

A major issue within the Department was the lack of communication in the chain of command. Issues were addressed at the firefighter levels and were sent to the Chief for review. This is where the lines of communication broke down due to the chief's office not being consistent with deliberations. The following would resolve this and other major issues. The union firefighter's have a grievance process in place as part of their working agreement with the City of Newport. The volunteer's need a similar process in place for grievances they may bring forward within the department. This can be accomplished by the Chief forming a committee consisting of the Chief or his designee, members from the volunteer's, and a union member to define the current contract language which would allow the volunteer's process to be consistent with the paid personnel's. The volunteers would ratify the process and it would become a fire department administrative SOP. This process will adhere to the chain of command and allow the Fire Department to bring solution to issues within the department or " in- house " following true fire department methodology.

The Newport Fire Departments organizational structure should be reorganized. This organizational structure should be balanced between the volunteers and the paid personnel. The training officer, now the rank of lieutenant, should immediately be promoted to the rank of captain. The volunteer ranks should be realigned to sufficiently handle the span of control of officers to firefighters. To efficiently reorganize the volunteer's organizational structure the Fire Chief must have the ability and latitude to promote, demote, or remove any member he deems necessary for the betterment of the Fire Department. This would enhance the safety, training, operations, and enhance the morale of the Fire Department.

The Fire Chief must promote the understanding of the chain of command as it pertains to the Newport Fire Department. The department is well versed and trained in the incident command system / incident management system for fire ground management. The chain of command must now be followed during all aspects of the department, The City of Newport, and the community. Within the Administrative SOP's it should be addressed that paid firefighter's, with the exception of the processes outlined in their working agreement with the City of Newport, and Volunteers within the department shall not take department issues or business to the upper City Management, City Council, or the community without the permission of the Fire Chief. This administrative SOP will circumvent any department issues, positive or negative, that should be resolved within the department.

The department safety committee should be reorganized consisting of two volunteers, two paid personnel, and the Chief or his designee. Safety issues should be handled immediately, documented, findings forwarded to the department training officer, and to the Chief. The Chief, consistent with the safety committee's findings and recommendations, shall acknowledge to the firefighters involved correction, training, or discipline consistent with operational and administrative SOP's necessary to resolve the safety issue. All safety issues are time sensitive and should be addressed accordingly.

Public image in the community was reviewed, the Newport Fire Department has a great public image in the community. To this I'm a firm believer that firefighters are involved with all types of people. They are appreciated by the majority and scorned by others. Basically being a public servant you are expected to calmly evaluate the problem and bring it to a successful conclusion. Firefighters are not super hero's they just tend to find themselves in extraordinary situations. Firefighters cannot do everything at once so we as firefighters and the public as well must accept this fact. Bringing any emergency situation to a safe conclusion or ending requires knowledge and extensive training. It requires ability, skill and the right person for the task. My personal and professional opinion concludes the City of Newport Fire Department volunteer and paid firefighters have the personal skills, firefighting knowledge, training, and ability to provide the community they protect a safe environment through pride and professionalism.



Penelope McCarthy, City Attorney  
CITY OF NEWPORT  
169 S.W. Coast Hwy.  
Newport, OR 97365  
p.mccarthy@newportoregon.gov  
541-574-0607

February 7, 2011  
City Council Meeting  
City Attorney Report

1. **Collective Bargaining Agreements.** All three agreements open this year:

**Newport Employee Association** (Public Works) 20 employees

**IAFF** (Fire) 8 employees

**Newport Police Association** (Police) 19 employees

The Council discussed the City's collective bargaining agreements on January 18, 2011 and again at a work session on January 31, 2011. On January 18, the Council provided an interim designation to the City Attorney to act as the City's bargaining agreement negotiator with direction to the City Attorney to conduct brief research regarding negotiators. The Council was subsequently provided with the City Attorney's research

**I move the Council designate Frank Forbes, a consultant for the Local Government Personnel Institute, to conduct labor negotiations on behalf of the City, in the City's 2011 collective bargaining negotiations and that the Council authorize the City Manager to execute an agreement between the City and the Local Government Personnel Institute, related to such representation**

2. **Newport Municipal Code – Solid Waste – Chapter 7.05**

As previously reported to the Council, the City Attorney has been working with Councilors Brusselback and Beemer regarding issues raised by local contractors related to the City's solid waste code, and specifically, the hauling and disposing of construction debris. Currently, there are limited exceptions in the City's code for the hauling and disposing of solid waste, other than by the City's exclusive franchisee, Thompson's Sanitary. There is no exception for the hauling and disposing of construction debris, which means that contractors must contract with Thompson's Sanitary for the hauling and disposing of construction debris.

A meeting was held at City Hall on Tuesday, February 1<sup>st</sup> which was publicly noticed to provide a forum for contractors to speak with Councilors Brusselback and Beemer regarding this issue. That meeting was attended by 19 individuals. City staff and Councilors Brusselback and Beemer continue to work with Thompson's Sanitary in addressing this issue. It is anticipated that the Council will be presented with an amendment to the solid waste code regarding this issue on February 22<sup>nd</sup>. The amendment will be posted on the City's website prior to that date for public view.

### **3. Public Meetings, Public Records & Ethics**

The City Recorder and City Attorney held trainings for volunteer boards, commissions, committees and task forces on Wednesday, February 2<sup>nd</sup> and Thursday, February 3<sup>rd</sup>. City staff that support the different volunteer groups were asked to provide information about the training to the group(s) they support. The trainings were well attended.



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[www.lgpi.org](http://www.lgpi.org) [asklgpi@lgpi.org](mailto:asklgpi@lgpi.org)

# **LGPI Labor Negotiations Representation**

**LGPI offers complete representation  
in your union labor negotiations.**

## **Labor Negotiations Representation**

- Review of all CBA articles for:
- Current legal requirements
- Ambiguous language issues
- Compatibility with personnel policies
- Language resolution to address previous grievances
- Develop, draft, and present all Employer CBA proposals
- Develop, draft, and present all counter-proposals to Union's proposals
- Analyze insurance plans and cost (employee and employer)
- Statutory comparator recommendations
- Serve as chief spokesperson in negotiations
- Prepare and present updates to City Council  
or County Commissioners
- Representation at mediation and Interest Arbitration
- Consultation regarding any threatened strike activity
- Analyze cost of proposals using LGPI's costing model

## **Interest Arbitrations**

- Preparation and analysis of your "last best offer" and final cost summary
- Presentation of case at hearing, including exhibits, witness testimony and closing legal briefs
- Expert witness testimony on comparables and costing
- Assistance with implementation and enforcement of the arbitration award

## **Our Consultants**

### **Diana Moffat**

Diana has represented public employers in countless arbitration proceedings, including both disciplinary and contractual language disputes. She has more than 20 years of litigation experience. She has bargained over 150 Collective Bargaining Agreements with everyone from AFSCME to Teamsters.

### **Steven Schuback**

Steven specializes in public-sector labor and employment law, with 15 years of litigation experience. He has handled countless labor relations cases and has litigated complex employment matters. He is an experienced contract negotiator with a penchant for promoting effective labor/management relations.

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## 2010-2011 Fee Schedule

*Rates are per hour unless otherwise noted*

	<b>LGPI Member</b>	<b>Non-Member</b>
Arbitration / Hearing Representation	<b>\$170</b>	<i>LGPI members only</i>
Labor Relations Consulting	<b>\$150</b>	\$200
Human Resources Consulting	<b>\$130</b>	\$170
Investigations / Background Checks	<b>\$130</b>	\$160
Travel Time	<b>\$85</b>	\$105
Mileage	IRS rate	IRS rate
Meals / Lodging / Parking	actual cost	actual cost
Compensation Technician	<b>\$70</b>	\$90
Clerical	<b>\$50</b>	\$70
Printing - per page, 50 sheet minimum	<b>15¢</b>	15¢

*Consulting rates are in addition to any clerical, copying, mileage, meals, lodging & parking charges.*



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## **Frank Forbes**

*Labor Relations Consultant*

Frank brings to the table more than 30 years of experience in public-sector labor relations and human resource management. Most recently, he was the Employee and Labor Relations Manager for Lane County. The County has 1,500 employees and seven bargaining units covering 85% of the employees. He was responsible for preparing, negotiating, and helping administer all seven contracts. Two units were strike prohibited: deputies and parole and probation officers. Five units are strike permitted: AFSCME general, AFSCME nurses, prosecuting attorneys, technical and professional public works employees, and skilled blue-collar employees in public works.

Frank was able to lead the County to voluntary agreements within the parameters established by the Board of County Commissioners while maintaining the County's ability to manage. Additionally, he conducted numerous supervisory training programs on various aspects of labor relations and represented the County in grievance arbitrations and proceedings before the Employment Relations Board. Frank believes that management must retain the rights to manage in order to meet the ever-changing public demands for service.

He also has worked for counties and cities as a labor negotiator and/or human resource director in states including Wisconsin, Minnesota, and Florida. He has been active in various professional associations and has served as president of the National Public Employer Labor Relations Association as well as serving on the Board of Directors for both the Oregon and Wisconsin Public Employer Labor Relations Association.

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**AGREEMENT FOR SERVICES  
BETWEEN  
The City of Newport  
AND  
Local Government Personnel Institute**

This Agreement is made between the Local government Personnel Institute, PO Box 908, Salem OR 97308 (hereinafter "LGPI") and City of Newport, 169 SW Coast Hwy, Newport, OR 97365 (hereinafter "City").

**ARTICLE 1 – SCOPE OF SERVICES**

Upon request, LGPI will provide labor relations services to City as an agent of City. Labor Relations services include assistance with:

- Contract negotiations and consultation, which may include mediation factfinding, and/or interest arbitration
- Labor contract administration, which may include grievance arbitration
- Unfair labor practice charges
- Representation issues and petitions
- Contract review and analysis
- Bargaining team training

**ARTICLE II – FEES AND TERMS OF PAYMENT**

The services described above will be performed for the fees adopted by LGPI for the time at which the services are performed. City shall remit payment within thirty (30) days of receipt of monthly billing from LGPI.

**ARTICLE III – TERM OF AGREEMENT**

This Agreement shall commence February 1, 2011 and shall continue in full force and effect until either party shall serve written notice upon the other of a desire to terminate or modify its terms.

---

Diana Moffat, Executive Director  
Local Government Personnel Institute

James Voetberg, City Manager  
City of Newport

Date 2/2/11

Date \_\_\_\_\_



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award

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PERSONNEL INSTITUTE

*Your Resource for Labor Relations and HR Assistance*

PO Box 908 Salem, OR 97308  
www.lgpi.org (503) 588-2251 (503) 485-5900 fax

## 2010-2011 Fee Schedule

*Rates are per hour unless otherwise noted*

	<b>LGPI Member</b>	<b>Non-Member</b>
Arbitration / Hearing Representation	<b>\$170</b>	<i>LGPI members only</i>
Labor Relations Consulting	<b>\$150</b>	\$200
Human Resources Consulting	<b>\$130</b>	\$170
Investigations / Background Checks	<b>\$130</b>	\$160
Travel Time	<b>\$85</b>	\$105
Mileage	IRS rate	IRS rate
Meals / Lodging / Parking	actual cost	actual cost
Compensation Technician	<b>\$70</b>	\$90
Clerical	<b>\$50</b>	\$70
Printing - per page, 50 sheet minimum	<b>15¢</b>	15¢

*Consulting rates are in addition to any clerical, copying, mileage, meals, lodging & parking charges.*



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**LOCAL GOVERNMENT  
PERSONNEL INSTITUTE**

PO Box 908 Salem, OR 97308  
(503) 588-2251 (503) 485-5900 fax

www.lgpi.org asklgpi@lgpi.org

**AGREEMENT FOR SERVICES  
BETWEEN  
The City of Newport  
AND  
Local Government Personnel Institute**

This Agreement is made between the Local government Personnel Institute, PO Box 908, Salem OR 97308 (hereinafter "LGPI") and City of Newport, 169 SW Coast Hwy, Newport, OR 97365 (hereinafter "City").

**ARTICLE 1 – SCOPE OF SERVICES**

Upon request, LGPI will provide labor relations services to City as an agent of City. Labor Relations services include assistance with:

- Contract negotiations and consultation, which may include mediation factfinding, and/or interest arbitration
- Labor contract administration, which may include grievance arbitration
- Unfair labor practice charges
- Representation issues and petitions
- Contract review and analysis
- Bargaining team training

**ARTICLE II – FEES AND TERMS OF PAYMENT**

The services described above will be performed for the fees adopted by LGPI for the time at which the services are performed. City shall remit payment within thirty (30) days of receipt of monthly billing from LGPI.

**ARTICLE III – TERM OF AGREEMENT**

This Agreement shall commence February 1, 2011 and shall continue in full force and effect until either party shall serve written notice upon the other of a desire to terminate or modify its terms.

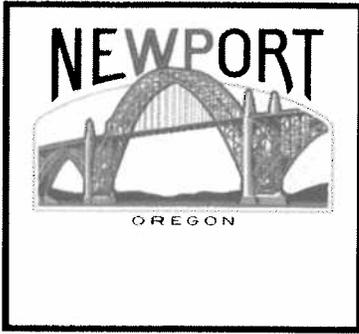
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Diana Moffat, Executive Director  
Local Government Personnel Institute

James Voetberg, City Manager  
City of Newport

Date 2/2/11

Date \_\_\_\_\_



Agenda Item # IX.A.  
Meeting Date February 7, 2011

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

Issue/Agenda Title Initiation of a Process to Legalize NW 68<sup>th</sup> Street

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

**ISSUE BEFORE THE COUNCIL:** Whether or not the City wants to initiate proceedings to legalize NW 68<sup>th</sup> Street as provided in Oregon Revised Statute (ORS) 223.935 to 223.950.

**STAFF RECOMMENDATION:** Staff recommends the Council initiate the street legalization process.

**PROPOSED MOTION:** I move to direct staff to initiate the statutory process to legalize NW 68<sup>th</sup> Street.

**KEY FACTS AND INFORMATION SUMMARY:** In 2005 the city received a request from owners of property along NW 68<sup>th</sup> Street to address discrepancies between the mapped road right-of-way and physical location of the road. The deeded road right-of-way courses through improved residential lots complicating the title on those properties. The actual roadway lies further to the south and is substantially outside of the right-of-way. The city has a sewer pump station and related infrastructure along the as travelled roadway. These improvements were installed before the discrepancy was discovered. This problem can be corrected through a process for legalizing roads outlined in state law. At a November 7, 2005 meeting the Newport City Council directed its staff to initiate the legalization proceeding; however, that never happened. The city periodically receives requests from the affected property owners to address the situation. Enough time has passed without action that this question is being brought to the City Council again to see if there is interest in moving forward.

Legalizing NW 68<sup>th</sup> Street clarifies title for the neighboring properties and provides the city with clear authority to make future improvements to the road and sewer infrastructure. This is critical, in the event the city, for example, needs to repair its sewer infrastructure. For that reason alone, the Council has a compelling reason to proceed with the legalization process, as it is unlikely that easements or right-of-way could be put in place in a timely manner should this be put off until there is an imminent need to work in the area.

Pursuant to ORS 223.935(3) a city may initiate proceedings to legalize a city road within its corporate limits if the road as travelled for 10 years or more does not conform to the location of a road described in city records. Such is the case for NW 68<sup>th</sup> Street. As depicted on County Assessment Maps (Attachment A), the physical location of NW 68<sup>th</sup> is identified with a notation "as traveled." The same map shows the right-of-way as "road as deeded" in a different location. A 1979 topographic map shows that NW 68<sup>th</sup> Street has existed for more than 10 years (Attachment B).

If a road legalization proceeding is initiated, the city governing body shall cause the road to be surveyed to determine its location and width, prepare a report that includes the survey and any other relevant information, and provide notice to the owners of abutting properties that the city will hold a hearing to determine whether or not the road should be legalized. Persons may submit their own information and testimony prior to, or at the hearing (ORS 223.940).

After considering the testimony, the city shall determine whether or not legalization of the road is in the public's interest and shall enter an order abandoning or completing the legalization procedure. When legalizing the road, a survey must be prepared and filed with the County Surveyor and the road centerline and right-of-way must be monumented. A copy of the order must also be filed with the courts (ORS 223.950).

The statute includes rules for determining compensation a city must pay when structures have to be removed because they encroach onto a roadway (ORS 223.945). While there are some structures in the vicinity of NW 68<sup>th</sup> street, a survey can be completed in a manner that avoids placing existing structures within a road right-of-way.

The County Surveyor is prepared to undertake the required survey work should the City choose to legalize the road. He has indicated that the preliminary survey work can be completed within about a month.

**OTHER ALTERNATIVES CONSIDERED:** The alternative is to do nothing at this point. The situation has been this way for some time and if not resolved will continue to be an issue for neighboring owners when they choose to sell or obtain financing on their properties. It will also be an issue should the city have need to maintain portions of the road or utilities that are outside of the existing right-of-way.

**CITY COUNCIL GOALS:** There are no Council goals that directly apply.

**ATTACHMENT LIST:**

Attachment A - Assessment and Taxation Map of NW 68<sup>th</sup> Street

Attachment B – 1979 Topographic Survey of NW 68<sup>th</sup> Street

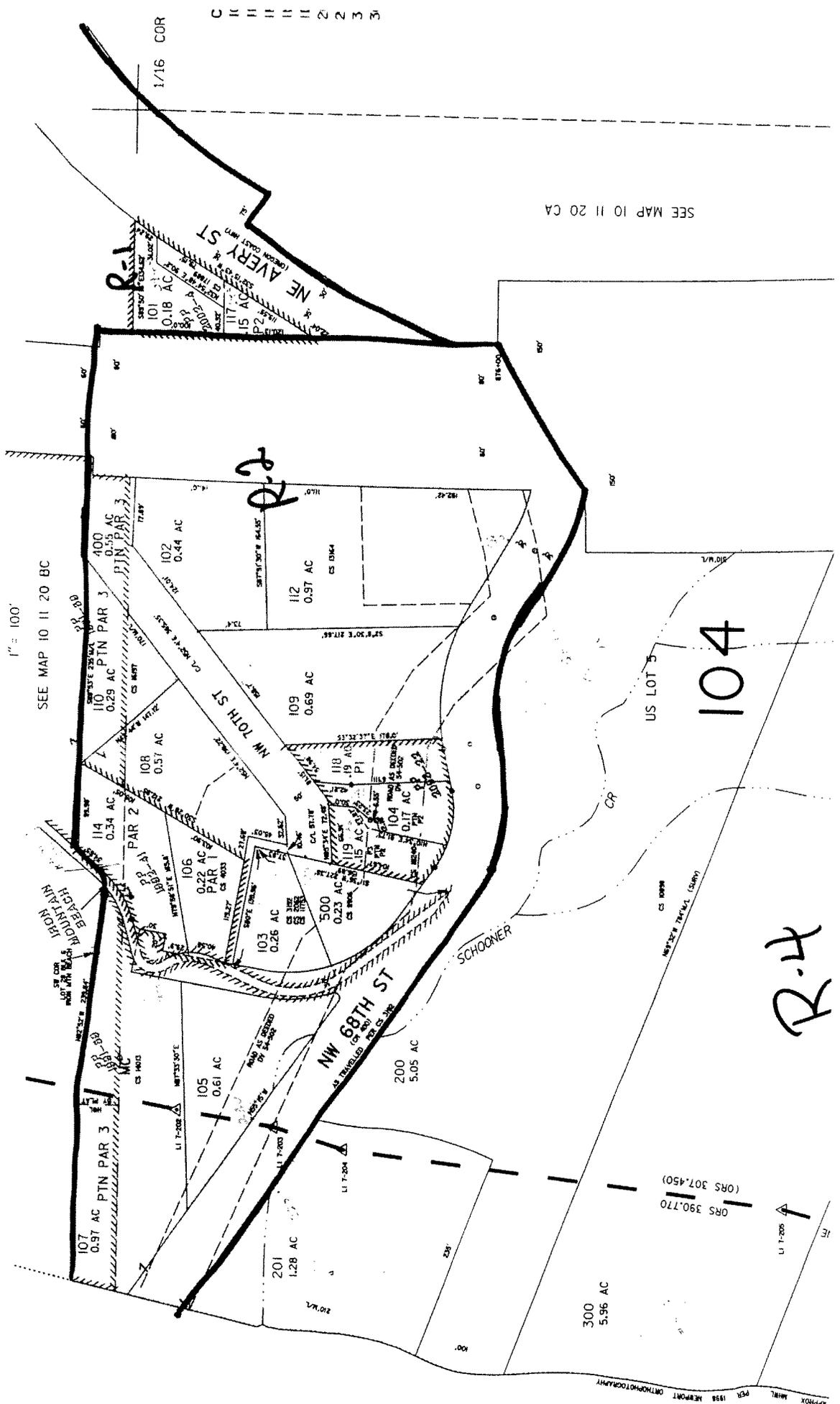
Attachment C – Staff Memo, Letters and Council Motion from November 7, 2005 Council Meeting

Attachment C – Copy of ORS 223.935 to 223.950

**FISCAL NOTES:** The County Surveyor will charge \$4,000 to complete the required survey. Some title work may also be needed; however, it should be a nominal cost. The Public Works Department is prepared to cover these expenses with budgeted funds.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

NW 1/4 SW 1/4 SECTION 20 T10S R11W WM LINCOLN COUNTY



SEE MAP 10 11 20 CA

SEE MAP 10 11 20 BC

1" = 100'

LI T-200

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

LI T-200

SEE MAP 10 11 20

ATTACHMENT "A"

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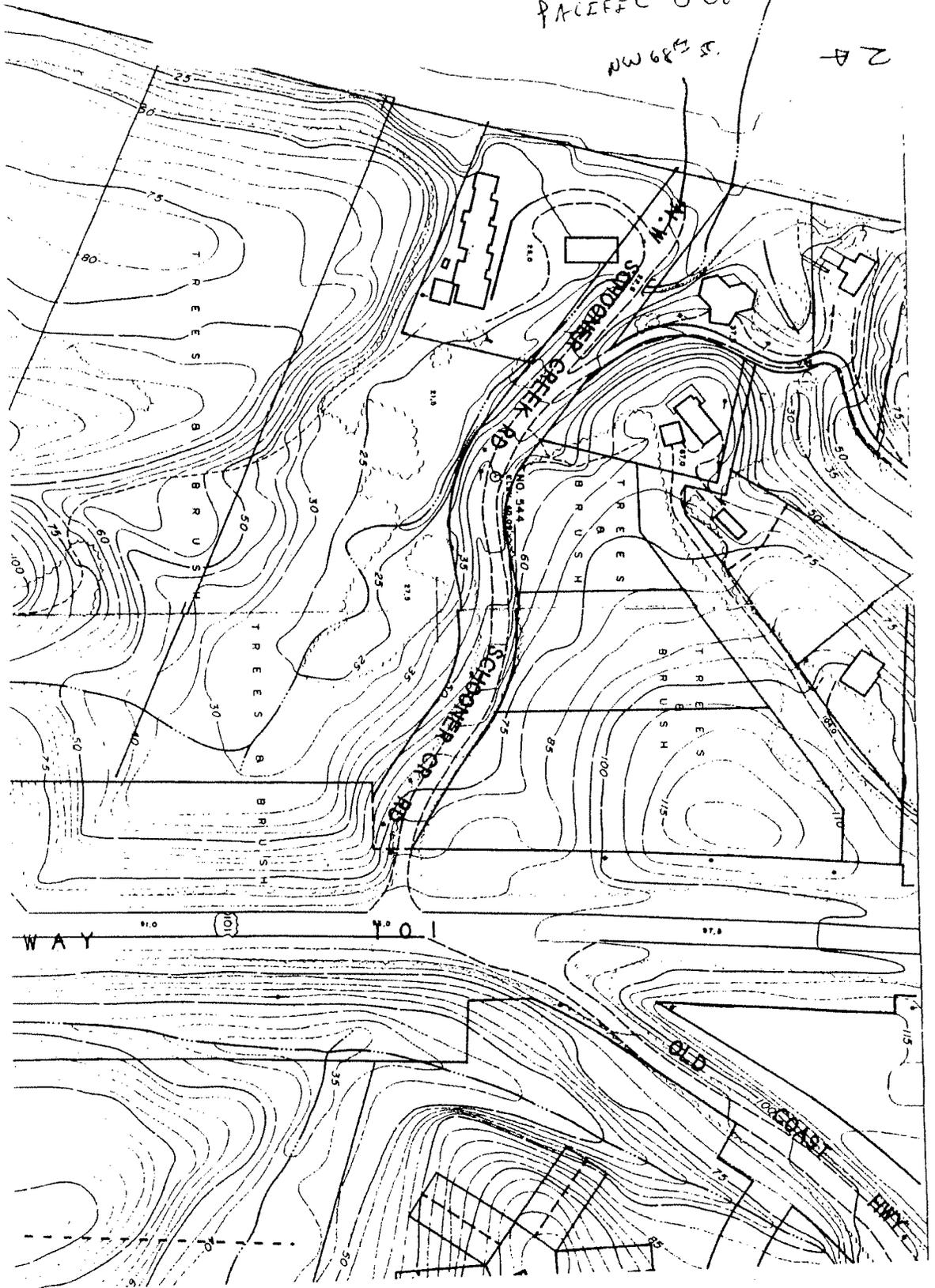
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ATTACHMENT "B"

PACIFIC OCEAN

NW 68<sup>th</sup> ST.

2A



TOPOGRAPHIC MAP COMPILED FROM AERIAL PHOTOGRAPHY  
DATED MARCH 1979

MAP REDUCED FOR PHOTOCOPY PURPOSES AND NOT TO SCALE

# Memo

To: City Council  
From: James Bassingthwaite, Community Development Director  
Date: October 31, 2005  
Re: Consideration of initiation of proceedings for legalization of a portion of NW 68<sup>th</sup> Street

---

A recent update to the Lincoln County Assessor's Map 10-11-20-CB in 2003 has brought to light what appears to be a discrepancy in the NW 68<sup>th</sup> Street (also previously known as NW Schooner Creek Road) right-of-way such that the NW 68<sup>th</sup> Street right-of-way as dedicated appears not to be located in the same place as the physical road location of NW 68<sup>th</sup> Street as traveled. See attached copy of Lincoln County Assessor's Map 10-11-20-CB, an enlargement of that area of the Assessor's Map, and a topographic map based on aerial photography dated March 1979. The City has also received three written letters from property owners impacted by the issue requesting that the City address the situation. See attached letters. The Oregon Revised Statutes (ORS) contain a provision (attached) for addressing this type of issue under ORS 223.935 to ORS 223.950. I have also previously talked with another property owner and a title company earlier this year about addressing the road legalization issue and whether or not the property owner or title company would be willing to pay for the costs associated with the legalization process (primarily the survey work required). At that time, no one indicated a willingness to do so.

In addition to the property owners impacted by the NW 68<sup>th</sup> Street right-of-way issue, the City of Newport has a sewer pump station located in what was considered the NW 68<sup>th</sup> Street right-of-way until the apparent discrepancy with the dedicated right-of-way of NW 68<sup>th</sup> Street was discovered and noted on the Assessor's Map in 2003.

Lee Ritzman (Newport Public Works Director) and I met with Tom Hamilton (Lincoln County Surveyor) in September 2005 regarding the survey work needed for the NW 68<sup>th</sup> Street legalization and his office is willing to complete the necessary survey work (as they do for Lincoln County) needed for the road legalization without charge to the City of Newport. Mr. Hamilton, however, does not wish to proceed until the City has completed the legalization of portions of NE 57<sup>th</sup> Street and NE Lucky Gap previously initiated by the City Council. It is my understanding that the City Attorney is working on the final order for the road legalization of NE 57<sup>th</sup> Street and NE Lucky Gap Street and will hopefully have it available for consideration of the Council at one of the November 2005 Council meetings.

August 11, 2005

City of Newport  
Attn: City Manager  
169 SW Coast Highway  
Newport OR 97364

COPY FOR YOUR  
INFORMATION

Re: **Resolving problems with 68<sup>th</sup> Street**

As an owner of real property that abuts NW 68<sup>th</sup> Street (West of Hwy 101), I am requesting the City of Newport take immediate and appropriate action to bring resolution to the problem of NW 68<sup>th</sup> Street as constructed traveling a course other than that area intended for roadway and described in Quitclaim Deed to Lincoln County recorded June 7, 1928. The need to resolve this issue is immediate. There are proposed sales of parcels that can not move ahead unless this issue is resolved and there are problems with the development of adjacent parcels that will result in less than highest and best use of parcels unless this issue is cured.

NW 68<sup>th</sup> Street (West of Highway 101), as constructed, does not travel the same course as the 60-foot strip as originally deeded to Lincoln County, by Quitclaim Deed recorded June 7, 1928. Said another way, the road was built in the wrong location. In 1981, the road (NW 68<sup>th</sup> St. aka County Road #400) was withdrawn from the County road inventory by resolution Book 25, Page 299, CCJ, and declared to be a "road of public easement" and is now under the jurisdiction of the City of Newport. Lincoln County has indicated that the County no longer has jurisdiction over this issue and therefore can not help resolve it.

**Solution:** The land Owners that abut NW 68<sup>th</sup> Street believe the remedy is a two-part solution: (1) NW 68<sup>th</sup> St. as built would need to be formally accepted by the City of Newport in its current "as built" location, (2) the roadway area as originally deeded to the County in 1928 (now under City jurisdiction) would need to be vacated. We request that this matter be brought before the appropriate City authorities for resolution. It is our hope that the City Planning Commission will give high priority to this issue. Additionally, for the good of all parties involved, we request that the formal acceptance of the street as constructed and the vacation of the street as deeded be done in a simple and expedient administrative order issued by the City Planning commission and approved by all authorities.

I would appreciate your best effort to bring resolution to this problem.

Sincerely,

*Steven G. Johnston*  
STEVEN G. JOHNSTON  
OWNER OF LOT #119 & HOME.

*Rec'd from  
City manager  
8/15/05  
JB*

August 11, 2005

City of Newport  
Attn: City Manager  
169 SW Coast Highway  
Newport OR 97364

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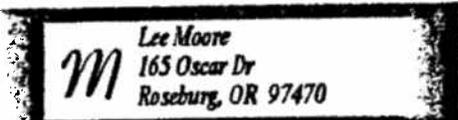
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I would appreciate your best effort to bring resolution to this problem.

Sincerely,

*Lee Moore*

A rectangular business card with a dark border. On the left side, there is a large, stylized letter 'M'. To the right of the 'M', the text reads: "Lee Moore", "165 Oscar Dr", "Roseburg, OR 97470".

*Dec 11  
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(from memo)*

RECEIVED  
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CITY OF NEWPORT

August 11, 2005

City of Newport  
Attn: City Manager  
169 SW Coast Highway  
Newport OR 97364

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I would appreciate your best effort to bring resolution to this problem.

Sincerely,

  
DAN & PAM McQUOIDY

11/7/05

**Consideration of initiation of proceedings for legalization of a portion of NW 68<sup>th</sup> Street.** Bassingthwaite reported that there is an apparent error in the legal description of the property, as the actual location of the road does not match the legal description. MOTION was made by Bain, seconded by Sabanskas, to initiate the process of street legalization on NW 68<sup>th</sup> Street, and direct staff to prepare the requisite documentation and procedures. The motion carried unanimously in a voice vote.

**223.935 Basis for legalization of road.** A city governing body may initiate proceedings to legalize a city road within the city under ORS 223.935 to 223.950 if any of the following conditions exist:

- (1) If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road.
- (2) If the location of the road cannot be accurately determined due to:
  - (a) Numerous alterations of the road;
  - (b) A defective survey of the road or adjacent property; or
  - (c) Loss or destruction of the original survey of the road.
- (3) If the road as traveled and used for 10 years or more does not conform to the location of a road described in the city records. [1989 c.375 §1]

**223.940 Proceedings for legalization of roads; report; notice.** (1) If proceedings for legalization of a road are initiated under ORS 223.935, the city governing body shall:

- (a) Cause the road to be surveyed to determine the location of the road;
- (b) Cause the city engineer or other city road official to file a written report with the city governing body including the survey required under this section and any other information required by the city governing body; and
- (c) Cause notice of the proceedings for legalization to be provided to owners of abutting land in the manner required by city ordinance or charter.

(2) In a proceeding under this section, any person may file with the city governing body information that controverts any matter presented to the city governing body in the proceeding or alleging any new matter relevant to the proceeding. [1989 c.375 §2]

**223.945 Compensation for property affected by road legalization.** (1) A city governing body shall provide for compensation under this section to any person who has established a structure on real property if the structure encroaches on a road that is the subject of legalization proceedings under ORS 223.935 to 223.950.

(2) To qualify for compensation under this section, a person must file a claim for damages with the city governing body before the close of the hearing to legalize the road. The city governing body shall consider a claim for damages unless the city governing body determines that:

- (a) At the time the person acquired the structure, the person had a reasonable basis for knowing that the structure would encroach upon the road;
  - (b) Upon the original location of the road, the person received damages;
  - (c) The person or the person's grantor applied for or assented to the road passing over the property;
- or

(d) When making settlements on the property, the person found the road in public use and traveled.

(3) The compensation allowed under this section shall be just compensation for the removal of the encroaching structure.

(4) The city governing body may proceed to determine compensation and acquire the structure by any method authorized by law or by the city charter.

(5) If a city governing body determines that removal of the encroaching structure is not practical under this section, the city governing body may acquire property to alter the road being legalized. [1989 c.375 §3]

**223.950 Order under road legalization proceeding.** (1) After considering matters presented in a proceeding to legalize a road under ORS 223.935 to 223.950, a city governing body shall determine whether legalization of the road is in the public interest and shall enter an order abandoning or completing the legalization procedures on the road.

(2) When a city governing body legalizes a road under ORS 223.935 to 223.950, the city governing body shall cause the road to be surveyed and the centerline and right of way to be monumented by a registered professional land surveyor. The survey map and narrative for such survey shall be prepared

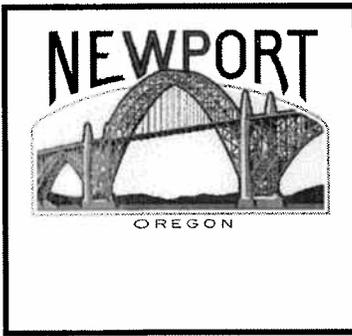
and filed with the county surveyor in accordance with ORS 209.250.

(3) Courts shall receive any order filed under this section as conclusive proof that the road exists as described in the order.

(4) Upon completion of the legalization procedures under ORS 223.935 to 223.950:

(a) Any records showing the location of the road that conflict with the location of the road as described in the order are void; and

(b) The road exists as shown on the order legalizing the road. [1989 c.375 §4]



Agenda Item # IX.B.  
Meeting Date February 7, 2011

**NEWPORT CITY COUNCIL  
ITEM SUMMARY**

Issue/Agenda Title Replacement of Performing Arts Center Roof

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

**Issue Before the Council:** Authorization to proceed with bidding a project to replace the Performing Arts Center roof.

**Staff Recommendation:** Staff recommends the Council adopt a motion authorizing staff to proceed with bidding a project to replace the Performing Arts Center roof, with the understanding that funding will come from the Newport Urban Renewal Agency Fund, and that the project cost will be included in a future supplemental budget.

**Proposed Motion:** I move to authorize staff to proceed with designing and bidding a project to replace the Performing Arts Center roof, with the understanding that funding will come from the Newport Urban Renewal Agency Fund and that the project cost will be included in a future supplemental budget.

**Key Facts and Information Summary:** Leaks in the roof of the Performing Arts Center (PAC) has increased to the point that the number and extent of repairs required to the 13 year-old tile style roof makes the roof no longer cost effective. Given the extent of the leaks and the potential to cause additional damage if not replaced in the near future, staff recommends proceeding with full replacement of the roof.

Cost of the roof replacement is estimated at \$165,000 which includes design, construction cost and a 15% contingency. The contingency is included, in the event that the plywood under the existing roof is unusable due to rot, and needs replacement.

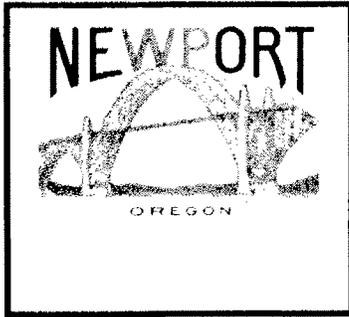
The North Urban Renewal Fund has approximately \$168,000 of unallocated funds that staff recommends be used for this project. As background information to the new Council, on December 6, 2010, the Newport Urban Renewal Agency adopted Resolution 2010-8, approving an Eleventh Amendment to the Newport Urban Renewal Plan, which allows for the rehabilitation and conservation of buildings the Agency funded with Urban Renewal Agency funds. For Council convenience, a copy of the agenda summary, resolution, and IGA between the City and URA is attached. Since the Performing Arts Center was constructed with Newport Urban Renewal Agency funds, replacement of the roof can be funded through this funding source.

**Other Alternatives Considered:** Not proceed with the roof replacement and consider this project as a part of the FY11/12 Urban Renewal Agency budget.

**City Council Goals:** N/A

**Attachment List:** December 6, 2010, Agenda Summary, Resolution 2010-8, and IGA between City and URA.

**Fiscal Notes:** \$165,000 through a future supplemental budget amendment to the FY10/11 Urban Renewal Agency budget.



Agenda Item # VI-UR-B.  
Meeting Date December 6, 2010

**NEWPORT URBAN RENEWAL AGENCY SUMMARY**  
Newport, Oregon

Issue: Resolution to amend North Side UR Plan and IGA between North Side UR District & City to repair & maintain properties constructed with North Side UR funds

Prepared By: P.McCarthy/D.Tokos Dept Head Approval: \_\_\_\_\_ City Mgr Approval: [Signature]

**Issue Before the Agency:** Shall the Agency amend the North Side Urban Renewal Plan and execute an Intergovernmental Agreement with the City of Newport to repair and maintain buildings constructed with North Side Urban Renewal funds?

**Staff Recommendation:** These actions are within the discretion of the Agency.

**Proposed Motion:**

I move that the Newport Urban Renewal Agency adopt Resolution No. <sup>2010-8</sup> \_\_\_\_\_ Approving an Eleventh Amendment to the Newport Urban Renewal Plan which allows for the rehabilitation and conservation of buildings the Agency funded with Urban Renewal Agency funds.

I move that the Agency approve the execution of the Intergovernmental Agreement between the Newport Urban Renewal Agency and the City of Newport to Repair and Maintain Properties Constructed with North Side Urban Renewal Funds.

**Key Facts and Information Summary:**

The Agency intends to make its final debt service payment on previously issued North Side Urban Renewal District borrowings on December 15, 2010. Staff estimates that after final payment is made on previously issued borrowings, approximately \$110,000 will remain in the North Side Urban Renewal fund. Buildings constructed with North Side URD funds have experienced normal wear and tear and because of a lack of funding, the City has deferred maintenance on these buildings. Staff proposes that the Agency direct that funds remaining after final payment is made be used to repair and maintain these buildings.

In order to use the funds for the purpose of rehabilitating and for the conservation of buildings that were previously funded with Newport Urban Renewal Agency funds, the Agency must amend the North Side Urban Renewal Plan. A Resolution approving an eleventh amendment to the Newport Urban Renewal Plan is attached for this purpose. In order for the City to carry out or contract for the rehabilitation and/or conservation of the buildings, the Agency and the City must execute an intergovernmental agreement which creates indebtedness for these activities for the North Side Urban Renewal District. An intergovernmental agreement between the Agency and the City is attached for this purpose.

The intergovernmental agreement also requires that the County Assessor is informed that as of December 15, 2010, a tax levy is no longer required for the North Side Urban Renewal District.

**Other Alternatives Considered:** Continue to defer maintenance on buildings funded with North Side Urban Renewal District funds.

**Mission Statement:** The Newport City Council and staff pledge to provide and manage city services utilizing sustainable practices. To enhance the livability of Newport, we strongly encourage citizen participation through volunteerism on committees and task forces. We will maintain fiscal responsibility and encourage community partners and agencies to achieve economic and sustainable development.”

**Attachment List:**

A Resolution Approving an Eleventh Amendment to the Newport Urban Renewal Plan

Intergovernmental Agreement Between the Newport Urban Renewal Agency and the City of Newport to Repair and Maintain Properties Constructed with North Side Urban Renewal Funds

**Fiscal Notes:** As set forth herein.

**RESOLUTION NO. 2010-8**

**A RESOLUTION APPROVING AN ELEVENTH AMENDMENT  
TO THE NEWPORT URBAN RENEWAL PLAN**

**FINDINGS:**

1. City of Newport adopted the Newport Urban Renewal Plan ("Plan") in May of 1973 by Resolution No. 1685 to provide tax increment funding and urban renewal authority to foster the redevelopment of real property within the Project Area as identified in Exhibit A to this resolution, and the Newport City Council and the Newport Urban Renewal Agency ("Agency") have thereafter approved ten amendments to the Plan.
2. The Plan authorizes Agency to undertake projects that involve the construction, rehabilitation and conservation of buildings, and Agency has undertaken such projects including improvements to the Performing Arts Center (PAC), the renovation of City Hall and construction of a Public Library.
3. As a result of normal wear and tear, and deferred maintenance by the City of Newport, the condition of buildings constructed, rehabilitated or conserved with Agency funds has deteriorated. Examples include the roof at the PAC which has numerous leaks that are causing structural damage, rotted beams supporting the PAC's covered parking area, and air circulation systems at the City Hall and Public Library that no longer operate consistently.
4. Agency desires to makes further investments into buildings it has previously constructed, rehabilitated or conserved to ensure said buildings are in proper working order.
5. Consistent with ORS 457.085 the Urban Renewal Agency must amend the Plan to specifically identify the rehabilitation and conservation of buildings that it has previously funded as a "project" before urban renewal funds can be used for that purpose.
6. Such a change is consistent with requirements for minor amendments set forth in Chapter 457 of the Oregon Revised Statutes and the sixth amendment to the Newport Urban Renewal Plan, dated April 16, 1984, by Ordinance 1372, which contains provisions for amending the Plan. While minor amendments, as opposed to a Substantial Amendments, are not required to be recorded, a copy of this Minor Amendment should nonetheless be filed with the Lincoln County Clerk to maintain a clear record of the amendments to the Plan. Copies of this Minor Amendment should also be provided to taxing entities within the district.
7. The Newport Urban Renewal Agency held a public hearing on Minor Amendment Eleven to the Newport Urban Renewal Plan and Report on December 6, 2010 and voted to approve the Eleventh Amendment.

**NOW, THEREFORE, BE IT RESOLVED:**

Section 1. Minor Amendment Eleven to the Newport Urban Renewal Plan is hereby adopted, specifically identifying the following as a project:

"Rehabilitation or conservation of buildings within the Project Area for which urban renewal funds have been expended in the past."

Section 2. The Executive Director of the Newport Urban Renewal Agency is hereby directed to record Minor Amendment Eleven to the Newport Urban Renewal Plan with the Lincoln County Clerk and shall distribute a copy of the adopted document to the governing bodies of the taxing entities within the district.

Section 3. This resolution shall be effective immediately upon passage.

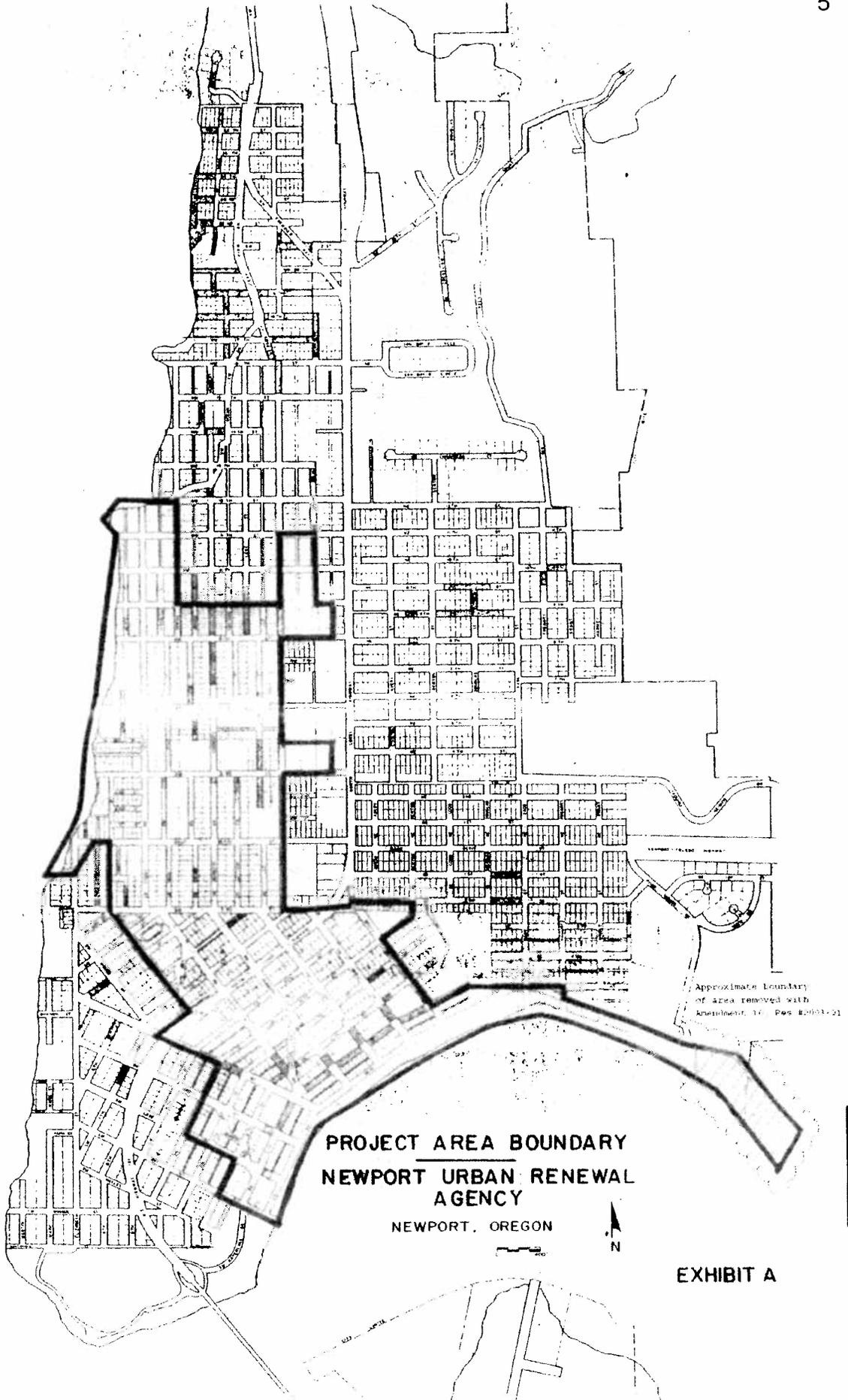
Adopted by Newport Urban Renewal Agency on \_\_\_\_\_, 2010.

Signed on \_\_\_\_\_, 2010.

\_\_\_\_\_  
Patricia Patrick  
Chair, Newport Urban Renewal Agency

ATTEST:

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



**EXHIBIT A**

## INTERGOVERNMENTAL AGREEMENT

### BETWEEN THE NEWPORT URBAN RENEWAL AGENCY AND THE CITY OF NEWPORT TO REPAIR AND MAINTAIN PROPERTIES CONSTRUCTED WITH NORTH SIDE URBAN RENEWAL FUNDS

This Intergovernmental Agreement is entered into by and between the Newport Urban Renewal Agency, Oregon (“Agency”) and the City of Newport, Oregon (“City”). The parties hereby agree as follows:

#### 1. Recitals

- 1.1** The Agency intends to make its final debt service payment on previously issued North Side Urban Renewal District (“North Side URD”) borrowings on December 15, 2010. The Agency enters into this Agreement to create indebtedness for the North Side URD in the amount of the available tax increment revenues for the North Side URD after repayment of all previously issued borrowings for that district (the “Available Revenues”). Staff estimates that after the final payment is made on previously issued borrowings, approximately \$110,000. (one hundred ten thousand dollars) will remain in the North Side URD fund as Available Revenues.
- 1.2** Buildings constructed with North Side URD funds (“North Side URD Buildings”) have experienced normal wear and tear over the years and because of a lack of funds, the City has deferred maintenance on these buildings. Buildings particularly in need of repair, renovation, refurbishment and maintenance include the Performing Art Center, the Public Library (roof and air handling system), and the City Hall (air handling system). Upgrades to City Hall are also required for increased energy efficiency.
- 1.3** The Performing Arts Center (PAC) has several issues of concern. The roof has numerous leaks which are causing damage to the building itself. Attempts to repair the roof have not been successful. Staff recommends that the roof be replaced, the cost of which is estimated to be \$100,000. The smoke doors located on the roof of the PAC also need to be replaced as they are badly corroded. Finally, beams in the covered parking structure are rotting and need to be replaced. The cost of replacement is estimated to be \$10,000.
- 1.4** The Agency has approved a minor amendment to the North Side Urban Renewal Plan which states that North Side URD funds may be used for the repair of North Side URD Buildings. To carry out this purpose, staff recommends the Agency and City execute this Agreement for the City to perform or to contract for the performance of appropriate repairs and maintenance on North Side URD Buildings and to be compensated for such purpose with Available Revenues.

- 1.5 The urban renewal plan for the North Side URD will remain in effect until such time as all indebtedness of the North Side URD is repaid.

## **2. Scope of Agreement**

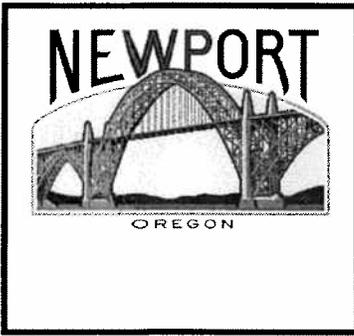
- 2.1 The City will perform or contract for the performance of appropriate repairs and maintenance on North Side URD Buildings pursuant to this Agreement. The Agency will repay the City from Available Revenues for such repairs and maintenance. The City acknowledges that the Agency will only make payments to the City under this Agreement from Available Revenues.
- 2.2 The Agency directs the City to perform or contract for the performance of the following repairs and maintenance to North Side URD Buildings as prioritized by the Executive Director of the Agency and to the extent that Available Revenues are available to repay the City for such project. The priority for repair and maintenance efforts is the Performing Arts Center. Before the City takes action related to any projects, it may require the Agency to provide a certification that Available Revenues are available to repay the City for such repairs or maintenance.
- 2.3 This Agreement creates an indebtedness on behalf of the Agency for North Side URD funds. The repair and maintenance of North Side URD Buildings described in this Agreement is authorized under the urban renewal plan, as amended, for the North Side URD. The Agency is authorized to enter into this indebtedness by execution of this Agreement and the State urban renewal statutes. The urban renewal plan for the North Side URD will remain in effect until such time as all indebtedness of the North Side URD is repaid.
- 2.4 The County Assessor will be informed that as of December 15, 2010, a tax levy is no longer required for the North Side Urban Renewal District.
- 2.5 The maximum indebtedness limit for the North Side URD has not been reached.
- 2.6 The Executive Director and other staff shall take necessary steps to carry out this Agreement.

## **3. Miscellaneous**

### **3.1 Binding Effect**

This Agreement shall inure to the benefit of and shall be binding upon the Agency and the City and their respective successors and assigns.





Agenda Item #  
Meeting Date

IX.C.  
February 7, 2011

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

Issue/Agenda Title Consideration of purchasing a 30 minute promotional Newport TV episode created by Digital Video (PDXposed) with a new show called "Next Stop"

Prepared By: Atkinson/Voetberg Dept Head Approval: Atkinson/Voetberg City Mgr Approval: 

**Issue Before the Council:** Consideration of purchasing a 30 minute promotional Newport TV episode created by Digital Video (PDXposed), with a new show called "Next Stop." This show will play to a much larger audience than PDXposed did. Cost of this episode is \$15,000.

**Staff Recommendation:** Destination Newport Committee recommends the expenditure of \$15,000 for the purchase of a new 30 minute promotional Newport show called "Next Stop" that will be produced by Digital Video. Funding will come from the Room Tax Fund, Advertising and Marketing line item.

**Proposed Motion:** Move that the City enter into an agreement with Digital Video in the amount of \$15,000 for the production of a new 30 minute Newport episode to be aired in the fall of 2011, and authorize the City Manager to execute all necessary documents on behalf of the City.

**Key Facts and Information Summary:** The Destination Newport Committee at their regular meeting of January 13, 2011, reviewed and discussed the request made by Jon Olson of Digital Video. The \$15,000 would be used for the production and airing of a new 30 minute Newport episode that will be aired in September. The City will own the production once produced. The new show "Next Stop" will be reaching a much larger audience than the PDXposed productions did, which will not only include major cities in the Northwest, but also locations in North American, Hawaii and Mexico.

There was \$105,000 budgeted for the Destination Newport Committee to review different forms of advertising and marketing that was outside the Grady Britton contract. The committee would then recommend to the City Council for their approval of these different forms of advertising and marketing. To date for this fiscal year, the Destination Newport Committee has recommended to Council the approval of a different PDXposed Episode for \$15,000; a Newport Tourism DVD for a total of \$10,250; an ad in the COCA Brochure for \$1,693, and an outdoor billboard ad for a year on Hwy; 18 for \$15,000. This leaves \$64,557 available before the new request is considered. If Council approves this expenditure, the total remaining in the unallocated portion of the advertising and marketing fund will be \$49,557.

**Other Alternatives Considered:**

None.

**City Council Goals:**

None

**Attachment List:**

See Website material on "Next Stop"

**Fiscal Notes:**

If approved, this funding would come from the unallocated funds in the Advertising and Marketing line item of the Room Tax Fund. The total unallocated was \$105,000, and of that amount \$64,557 remains for fiscal year 2010-11.





## Where Will We Take YOU Next?



**NEXT STOP** is a new TV travel show featuring the places and the people that make each of our destinations unique. We'll show you where to go, what to do and how to do it. Fun & positive entertainment is the theme of every show, featuring local music, sports & activities, local flavors and much more. **NEXT STOP** not only takes you to fabulous places, but we'll give you an insider's look into each of our featured locations.

The creative team that earned seven Emmy nominations for PDXposed uses their accumulated expertise in the field of travel to bring you a positive travel experience that delivers the true essence and pulse of each locale. Join host and world travel expert Jon Olson as he takes you to

amazing destinations and introduces you to some of each region's local residents who define that area's personality and culture. We're not the news and we're not your average travel show. We'll take the best of our favorite shows and add our own fun and positive spin! ***NEXT STOP is your window to your next vacation!***

### **Each episode will feature:**

**Local Music** (i.e., four-time Grammy Award winner, George Kahumoku from Maui)

**Local Flavors** (i.e., Shopping for local foods w/Conrad Chicago's Exec. Chef Doggett, then preparing a tasty meal together)

**Local Personalities** (i.e., Alaska Brewing's Tony Hand, 28 year brewing veteran and colorful Juneauite)

**Local Sports/In Motion** (i.e., surfing in Hawaii, bike tour of Chicago, helicopter tour over the AK glaciers)



## SERIES SPECIFICS

Format: 1080p/HiDef

Episodes: 13-20

Length: 22:30

Delivery: Beginning in October 2010

Target Audience: 25-54 Females & Males

Target Markets: Portland (confirmed), Honolulu (verbal), Seattle, San Francisco, Anchorage, Phoenix, Las Vegas, Los Angeles, Denver, possible syndication in select markets.

The Deal: Favorable network barter split/weekend evening timeslot preferred, segments/show content may also air on stations' websites.

## LOCATIONS

**NEXT STOP** will expand the target locations outside the Northwest and seek the most alluring locations in North America, Hawaii, Mexico, and possibly beyond.





## HOST

Jon Olson is a four-time Emmy nominated TV Host veteran, actor, voiceover talent, producer and musician.

For the past seven years, Olson has hosted and produced Portland's number one rated arts, entertainment & travel show, PDXposed, which airs regionally on the Fox affiliate, FOX 12 OREGON. As the show's producer, Olson has also garnered three regional Emmy nominations for "Outstanding Entertainment Series."

Although he calls the Pacific Northwest and Hawaii his homes, Olson can still be found traveling and filming his TV series all over the world. With his background in travel, athletics and music, coupled with his easy-going style, sense of humor and quick wit, Olson is sure to willfully and skillfully handle any situation from any location. With Jon, an interview can occur anywhere with anyone and his improvised style is ideal for a road show like this. Jon's fun and positive, interactive personality will make you feel like you're right there with him, on location.

## SPONSORSHIP

**NEXT STOP** has grown from the enormously successful show, PDXposed, that aired for seven seasons on Portland television and accumulated excellent ratings and critical acclaim. "I can't tell you how many people have come up to me and said they booked travel to one of our featured destinations, because they saw it on PDXposed and it looked fun," said host, Jon Olson. **NEXT STOP** will take that same energy to the next level. Sponsorship of **NEXT STOP** is an opportunity for your company to affiliate with a fun and positive TV travel show and it's guaranteed to drive revenue your way. Please contact us today for sponsorship opportunities with this exciting new series.

## CONTACT

**Jon Olson: (503)-702-7895 - [nextstopjon@gmail.com](mailto:nextstopjon@gmail.com) - [nextstop.tv](http://nextstop.tv)**