



**CITY COUNCIL REGULAR SESSION AGENDA**  
**Monday, May 02, 2016 - 6:00 PM**

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The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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**1. CALL TO ORDER AND ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENT**

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

**4. PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS**

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

**4.A. Oath of Office: New Police Officer, Calvin Davis**

**4.B. Proclamation - Police Week - Mark Miranda**

[Police Week Proclamation.pdf](#)

**4.C. Proclamation- Older Americans Month - Peggy O'Callaghan**

[Older Americans Month.pdf](#)

**4.D. Recognition of Completion of the Community Emergency Response Team (C.E.R.T.) Certification - Dean Sawyer**

**5. CONSENT CALENDAR**

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

**5.A. Approval of City Council Work Session Minutes of April 18, 2016**

[April 18, 2016.docx](#)

**5.B. Approval of City Council Minutes from the Regular Meeting of April 18, 2016**

[April 18, 2016.docx](#)

**6. PUBLIC HEARING**

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

**6.A. Public Hearing - Ordinance No. 2094 - Repealing and Re-enacting Chapter 12.05 of the Newport Municipal Code Pertaining to Local Improvement Districts**

[City Manager Report and Recommendation-Public Hearing-Ordinance 2094](#)

[Comprehensive Plan.pdf](#)

[Agenda Summary](#)

[Ordinance No. 2094](#)

[Exhibit A - Ordinance No. 2094.pdf](#)

[LID TAC Roster](#)

[Minutes from the 3-28-16 Planning Commission Meeting](#)

**6.B. Public Hearing - Consideration and Possible Adoption of Ordinance No. 2095, an Ordinance Annexing City Owned Property Surrounding the Big Creek Reservoirs**

[City Manager Report and Recommendation--Ordinance No. 2095-Annexing territories-Big](#)

[Creek Reservoirs.pdf](#)

[Agenda Summary](#)

[Ordinance No. 2095](#)  
[Planning Commission Staff Report](#)  
[3-28-16 PC Meeting Minutes](#)  
[Hearing Notice](#)  
[City - County Memorandum of Agreement](#)

**6.C. Public Hearing on Imposing a 3% Tax on Marijuana within the City of Newport**

[City Manager and Recommendation--3 Percent Tax on Marijuana.pdf](#)  
[Ord. No. 2097 - Imposing a Tax on Marijuana and Marijuana Products.docx](#)  
[Res. No. 3745 - Calling for an Election on the Referral of Ord. No. 2097 - Marijuana Taxation.docx](#)  
[Protiva Email.pdf](#)

**7. COMMUNICATIONS**

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

**7.A. Communication from the Budget Committee -- Adoption of Resolution No. 3748, a Resolution Revising the Financial Policy for the City of Newport Related to Financial Reserves, Contingencies, and Unappropriated Ending Fund Balances**

[City Manager Report and Recommendation -- Financial Policy - Resolution 3748.pdf](#)  
[Res. No. 3748 - Financial Policies.docx](#)  
[Res. No. 3748 - Attachment A - Financial Policies.docx](#)

**8. CITY MANAGER'S REPORT**

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

**8.A. Report on Financial Matters for the quarter ending March 31, 2016**

[City Manager Report and Recommendation--Financial Update for Third Quarter Ending March 31, 2016.pdf](#)  
[Staff Report - 2015-16 3rd Quarter financial report.pdf](#)  
[March 2016 Financials.pdf](#)

**8.B. Report on Financial Status of Capital Projects through March 31, 2016**

[City Manager Report and Recommendation--Capital Projects, Financial Status.pdf](#)  
[Staff Report - 2015-16 3rd Quarter Capital Projects.pdf](#)  
[March 2016 Capital Projects Funds by Projects - MM.pdf](#)

**8.C. Report on Vacation Rentals and Bed and Breakfast Establishments in the City of Newport**

[City Manager Report and Recommendation--Report on Vacation Rentals.pdf](#)  
[VRD Staff Memo w attachments.pdf](#)

**8.D. Ferry Slip Road Slope Adjacent to Parking Alcove near the SE 35th St Intersection**

[City Manager Report and Recommendation--Report on Ferry Slip Road.pdf](#)  
[Council Staff Report - Drainage Swale 4-27-16.docx](#)  
[Council Memo Attachment 4-27-16.doc](#)

**9. REPORT FROM MAYOR AND COUNCIL**

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

**10. PUBLIC COMMENT**

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

**11. ADJOURNMENT**



**POLICE WEEK  
MAY 15 - 21, 2016**

**WHEREAS**, the Congress and the President of the United States have designated May 15, 2016 as Peace Officers Memorial Day, and the week in which it falls as Police Week; and

**WHEREAS**, the members of the Newport Police Department play an essential role in safeguarding the rights and freedoms of the citizens of Newport; and

**WHEREAS**, it is important that all citizens know and understand the problems, duties, and responsibilities of their police department, and that members of the Newport Police Department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception, and the weak against oppression and intimidation; and

**WHEREAS**, the Newport Police Department has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service;

**NOW, THEREFORE**, I Sandra N. Roumagoux, Mayor of the City of Newport, call upon all citizens of Newport and all patriotic, civic, and educational organizations to observe the week of May 15 through 21, 2016 as Police Week, with appropriate ceremonies at which all citizens may join in commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of Newport to observe Friday, May 15, 2016, as Peace Officers Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

Dated: May 2, 2016

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Sandra N. Roumagoux, Mayor



## Older Americans Month 2016

**Whereas**, the City of Newport includes a thriving community of older Americans who deserve recognition for their contributions and sacrifices to ensure a better life for future generations; and

**Whereas**, the City of Newport is committed to helping all individuals live longer, healthier lives in the communities of their choice for as long as possible; and

**Whereas**, since 1965, the Older Americans Act has provided services that help older adults remain healthy and independent by complementing existing medical and health care systems, helping prevent hospital readmissions, and supporting some of life's most basic functions, such as bathing or preparing meals; and

**Whereas**, these programs also support family caregivers, address issues of exploitation, neglect and abuse of older adults, and adapt services to the needs of Native American elders; and

**Whereas**, we recognize the value of community engagement and service in helping older adults remain healthy and active while giving back to others; and

**Whereas**, our community can provide opportunities to enrich the lives of individuals of all ages by: promoting and engaging in activity, wellness, and social inclusion; emphasizing home and community-based services that support independent living; and ensuring community members of all ages benefit from the contributions and experience of older adults.

**NOW, THEREFORE**, I, Sandra N. Roumagoux, Mayor of the City of Newport, do hereby proclaim May 2016, as Older Americans Month in the City of Newport, and I urge every citizen to take time this month to recognize older adults and the people who serve and support them as powerful and vital citizens who greatly contribute to the community.

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Sandra N. Roumagoux, Mayor

April 18, 2016  
Noon  
Newport, Oregon

The Newport City Council met in a work session at the above time in the Conference Room A of the Newport City Hall. On roll call, Saelens, Swanson, Roumagoux, Busby, Engler, and Sawyer were present. Allen arrived at 12:25 P.M.

Staff present was City Manager Nebel, City Recorder Hawker, City Attorney Rich, and Community Development Director Tokos.

### **ROLL CALL AND INTRODUCTIONS**

Roll was called.

### **INTERVIEW APPLICANTS FOR THE PLANNING COMMISSION VACANCY – TERM EXPIRING DECEMBER 31, 2018**

Nebel reported that Council is scheduled to fill one Planning Commission vacancy after conducting interviews of the three applicants. He added that this position will serve through December 31, 2018, and that the appointment will be made by the Mayor subject to confirmation by the City Council.

Council interviewed the following applicants: Marvin Straus, Karmen Vanderbeck, and Jim Hanselman. Each applicant was asked the following questions: 1. Why are you interested in serving on the city's Planning Commission; 2. What has been your personal involvement in serving on any city committee; What do you feel is the number one planning/land use challenge facing the city today; Planning Commission meetings are scheduled for the second and fourth Mondays of every month. Will your schedule allow you to regularly attend these meetings; What makes you stand out among the other candidates; What special attributes, talents, and abilities will you bring to the Planning Commission; What is your experience with development in the city; do you believe you could have a conflict of interest in making land use/planning decisions; and is there anything else you would like us to know. Applicants responded to additional questions from Council that arose during the applicant's responses/presentations.

Following the applicant interviews, Council concurred that Jim Hanselman be formally appointed to the Planning Commission, by the Mayor, and subject to Council confirmation, at this evening's regular City Council meeting.

A discussion ensued regarding the possibility of appointing Straus and Vanderbeck to the Citizen's Advisory Committee to the Planning Commission and/or the Budget Committee. Staff agreed to contact Straus and Vanderbeck to determine interest in either of these positions.

### **LOCAL IMPROVEMENT DISTRICT (LID) IMPLEMENTATION STRATEGIES**

Tokos provided an historical overview of the use of LIDs in the city. He reported that at this work session, Council members will have an opportunity to review and discuss

model policies, codes, and informational materials that have been developed to help make Local Improvement Districts a more effective and publicly acceptable financing tool for needed infrastructure improvements. He noted that this effort was funded by a Transportation Growth Management grant that the city received from ODOT. He noted that the state's consultant, Todd Chase, along with Tim Wood, from the FCS Group, are in attendance to respond to Council questions.

Tokos reported that the packet contains the following information: project overview PowerPoint presentation; draft Comprehensive Plan policies; draft Municipal Code amendments; Implementation Strategy Report; and Local Improvement District FAQ.

Tokos reported that the draft Comprehensive Plan policies are scheduled for a public hearing at tonight's Council meeting. He added that the Municipal Code amendments will be presented at a future Council meeting. He noted that the other materials are provided for context and do not require formal action by Council, although comments are encouraged.

Tokos made a PowerPoint presentation that included: project purpose; what is an LID; project methodology and approach; LID assessment tool; LID case study areas; recommended Comprehensive Plan amendments; and the recommended Municipal Code amendment.

Tokos responded to Council questions. Nebel stated that the city needs to have general policies in place. He asked what information Council needed prior to this evening's meeting. Swanson responded that she would like additional information regarding the \$500 limitation. There were no additional requests for information.

## **ADJOURNMENT**

Having no further business, the meeting adjourned at 2:00 P.M.

### **ROLL CALL**

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

Staff in attendance were: Spencer Nebel, City Manager; Peggy Hawker, City Recorder/Special Projects Director; Steven Rich, City Attorney; Derrick Tokos, Community Development Director; Tim Gross, Public Works Director; Mike Murzynsky, Finance Director; and Mark Miranda, Police Chief.

### **PLEDGE OF ALLEGIANCE**

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

### **PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS**

**Proclamation: April 2016 – Distracted Driving Awareness Month – Brad Purdom.** Hawker introduced the agenda item. Roumagoux proclaimed the month of April 2016 as Distracted Driving Awareness Month in the City of Newport. Newport Police Officer Brad Purdom accepted the proclamation and briefly addressed the issue of distracted driving.

### **AGENDA CHANGES**

Roumagoux requested that the “Communications” section of the agenda be rearranged as follows: 7A will be from ODOT; 7B will be from the Oregon Water Resources Department; 7C will be from the VAC Steering Committee; and 7D will be from Council Engler regarding vacation rental dwellings. Council concurred with the requested changes.

### **CONSENT CALENDAR**

The consent calendar consisted of the following items:

- A. Approval of the April 4, 2016 City Council minutes;
- B. Appointment of Councilor Laura Swanson to serve as the city’s representative on the Lincoln County Solid Waste Advisory Committee;
- C. Confirmation of the Mayor’s appointment of James Hanselman to the Planning Commission for a term expiring December 31, 2018.

Saelens requested that item B. be removed from the consent calendar as he is the Lincoln County staff person responsible for the Solid Waste Advisory Committee.

MOTION was made by Saelens, seconded by Engler, to approve the consent calendar with the exception of Item B. The motion carried unanimously in a voice vote.

MOTION was made by Allen, seconded by Engler, to appoint Councilor Laura Swanson to serve as the city's representative on the Lincoln County Solid Waste Advisory Committee. The motion carried in a voice vote with Saelens abstaining.

## **PUBLIC HEARINGS**

**Public Hearing – Ordinance No. 2093 – Local Improvement District Comprehensive Plan Policies.** Hawker introduced the agenda item. Nebel reported that the Planning Commission appointed a technical advisory committee of internal and external stakeholders to work with the consulting firm of FCS Group to develop model policies and codes for utilizing Local Improvement Districts to fund public infrastructure projects in the city. He stated that this effort was funded by a Transportation Growth Management grant that the city received in 2014. He noted that the Planning Commission has reviewed the public facilities element of the Comprehensive Plan relating to Local Improvement Districts and recommends adoption by the City Council. He added that this would be the first step to guide future uses of this financing tool. He stated that if this language is adopted, the City Council will be asked, at a future meeting, to consider an amendment to the Municipal Code to implement language consistent with the policy and guidance that has been provided through this process. He noted that LIDs are a way in which a portion of the new infrastructure costs can be assessed to properties benefitting by those improvements. He added that the policy provides that LIDs may be initiated by petition or resolution of Council. He stated that the policy statement suggests maximum amounts that could be assessed on any benefitting properties.

Nebel reported that LIDs can be an important part of the city's effort to renew infrastructure over the years. He stated that LIDs must be administered in a fair and consistent fashion for them to be supported in the community. He added that Council reviewed policy aspects of using LIDs at the work session held earlier today.

Roumagoux opened the public hearing, on Ordinance No. 2093, at 6:18 P.M. She called for public comment. There was none. She closed the public hearing at 6:19 PM for Council deliberation.

Allen reiterated his comments from the work session noting that after adoption of the Comprehensive Plan amendment, Council would consider an ordinance to amend the Municipal Code relative to LIDs. He asked about the process and scheduling for moving this issue forward. Nebel reported that a draft ordinance amending the Municipal Code could be brought to the next meeting, or a public hearing could be scheduled on the ordinance at the next meeting, with no action being taken. It was noted that if any controversy is associated with LIDs, it will come at the time of application. Nebel asked Tokos whether the city is under any timeline for adoption. Tokos suggested that Council could consider a discussion at an upcoming work session, or he could notice a public hearing for the next regular Council meeting.

MOTION was made by Allen, seconded by Engler, to read Ordinance No. 2093, an ordinance amending the Public Facilities element of the Newport Comprehensive Plan, relating to Local Improvement Districts, by title only, and place for final adoption. The motion carried unanimously in a voice vote. Hawker read the title of Ordinance No. 2093. Voting aye on the adoption of Ordinance No. 2093 were Allen, Sawyer, Engler, Saelens, Busby, Swanson, and Roumagoux.

**Public Hearing – Consideration and Possible Adoption of Resolution No. 3746, a Resolution Providing for a Supplemental Budget and Making Appropriation/Total Requirement Changes for the 2015/2016 Fiscal Year.**

Hawker introduced the agenda item. Nebel reported that there are a number of budget adjustments that need to be made at this point in the fiscal year as outlined in the report, contained in the packet, from Murzynsky. He stated that the SW Abalone/Brant Street Project is a project that is eligible to use System Development Charges in the amount of \$187,643. He added that this budget amendment will appropriate those funds from the SDC to the project fund. He noted that the supplemental budget then transfers what is anticipated to remain unused in original appropriations for the Ferry Slip Road and Abalone/Brant Street improvement projects over to the SE 35<sup>th</sup> Street and Highway 101 signalization improvement project fund. He added that at this point, it is estimated that \$497,057 of unused Ferry Slip Road Street improvement funding will be available for this transfer, as well as \$592,367 for the SW Abalone/Brant Street improvement projects (which includes the SDC expenses).

Nebel reported that \$275,000 of the \$300,000 gift from the Doerfler Trust has been transferred to the Aquatic Center budget. He stated that the Aquatic Center parking improvements budget is being consolidated with the Aquatic Center budget since this work is being done with one contract, versus the two contracts that were originally contemplated.

Nebel reported that the budget amendment also recognizes the additional funding received from FEMA for the Safe Haven Hill project. He stated that the Schooner Creek Lift Station Force Main replacement project is being combined with the gravity sanitary sewer upgrade for NW 48<sup>th</sup> and Big Creek into a single project called the Agate Beach Wastewater Improvement Project. He noted that this is being done since it is likely that these two projects will be handled as a single project at the time bids are issued for the work. He added that overall, the operational budget is falling within parameters, and that these are the adjustments that are recommended for consideration by the Council at this point in the fiscal year.

Roumagoux opened the public hearing on Resolution No. 3746 at 6:26 P.M. She called for public comment. There was none. She closed the public hearing for Council deliberation at 6:27 P.M.

MOTION was made by Swanson, seconded by Saelens, to adopt Resolution No. 3746 with Attachment A, a resolution adopting a supplemental budget for the 2015/2016 Fiscal Year, and making appropriation increase changes for the current fiscal year. The motion carried unanimously in a voice vote.

**COMMUNICATIONS**

**From ODOT Project Leader, Jerry Wolcott, Regarding US 20 Construction Schedule.** Hawker introduced the agenda item. Nebel reported that ODOT Project Leader, Jerry Wolcott, is present to make a presentation to Council regarding the final phase of the construction of US 20 between Pioneer Mountain and Eddyville. He stated that this final phase of construction will require that US 20 be closed for periods of time on a daily basis. He added that in earlier announcements, ODOT suggested times during which the highway would be closed. He noted that he has participated, along with the Chamber, Port, and County, in discussions regarding the hours that ODOT proposed for closing the road. He added that collectively, the group would like to suggest that these hours be modified in accordance with the letter that is included in the packet. He suggested that Council authorize a letter be sent to ODOT forwarding the City Council's suggestion on closure times for the road.

Nebel reported that from a tourism standpoint, it is important that this be as predictable as possible through the course of the summer. He stated that this would include having the two hour closures from June 1 through July 15 be done at the same time each day, or planned out in advance with good publicity, regarding the times that these two-hour closures are predicted to occur. He added that from July 16 through October 31, ODOT is planning to have ten-hour closures beginning at 6 P.M. He noted that the group is suggesting that the closure time be delayed until 9 P.M. or 10 P.M., and to push back the morning time to 5 A.M. or 6 A.M. He stated that this later timeframe would allow people coming for a day visit to enjoy their day in Newport, have dinner, and head back before the road closure.

Nebel reported that there will be one day a week when there will be no closures on US 20. He stated that ODOT was suggesting that Saturday be the day with no closures. He noted that in discussion with various tourism stakeholders in the community, there is a preference that Friday be the day on which there should be no closures on US 20, as this is an important travel day for tourists spending the weekend in Newport.

Nebel reported that ODOT has provided this presentation to a number of groups in Newport, and will continue to do so to solicit information. He stated that the Destination Newport Committee has pledged to work very closely with ODOT to include the times when US 20 will be open or closed in its marketing efforts through the course of the summer. He added that the DNC is also working with ODOT on better signage from I-5 regarding access to Newport during this construction season. He noted that some of the signage may be permanent signage. He stated that the DNC has offered to work with the public relations firm that ODOT is hiring to work with the various stakeholders through the course of the 2016 construction.

Nebel suggested that Council formally authorize a letter if it concurs with the recommended revised times that have been reviewed by the Chamber, the Port and the County. He added that the DNC is also looking at ways to formally celebrate the opening of US 20 which could draw visitors to Newport. He stated that it is also very important to focus on the benefit that Newport will have in the long run by having reduced travel times between Newport.

Wolcott made a PowerPoint presentation that included: history of the project; completion of three phases of work; design elements; timeline; the west end curve; the west end curve dirt/rock removal; blasting; phase three photographs; west end curve haul bridge; west end curve dirt/rock removal – Cougar Creek buttress (landslide

mitigation) and log stockpile area; west end curve road relocation; US 20 travel and closure times; feedback from the coast; average traffic on a summer day; detour routes and times; detour route signage; travel planning tips; and ODOT contacts and contact information.

Sawyer reported that he had attended the recent DNC meeting at which the Committee discussed signage and other issues. He stated that ODOT has public relations people who plan to put out lots of information. He requested that Nebel put additional funds in the DNC budget to provide information regarding this project phase. He thanked Wolcott and the other ODOT representatives for attending the DNC meeting.

Nebel reported that on the back of the packet is a draft letter containing specific suggestions. He noted that Council may want to consider sending this letter to ODOT. He added that it appears that the Friday night closure has been addressed. He noted that another suggestion is that the closures occur around the same time daily for planning purposes. He suggested that the closures between June 17 and July 15 should also occur at the same time daily or planned as far in advance as possible to provide sufficient notice. He expressed concern for day trippers in making sure that they have sufficient time to enjoy the day in Newport. Busby asked whether the dates are flexible based on the contractor start dates. Wolcott reported that the dates align with the environmental permits. Busby asked about the opening date of the project. Wolcott reported that the focus date is mid to late October, but has built in some leeway in the event of weather-related issues. He stated that he expects the new alignment to be done by mid-October.

MOTION was made by Sawyer, seconded by Saelens, to authorize the Mayor and City Manager to direct a letter to ODOT conveying the preferred times for US Highway 20 closures in order to minimize the impacts on the Newport business community. The motion carried unanimously in a voice vote.

**Presentation by Oregon Water Resources Department on Place Based Planning Regional Water Study.** Hawker introduced the agenda item. Nebel reported that Chase Park Grants has been working with staff to obtain funding to participate in a place based integrated water resources planning pilot study. He stated that the city was selected to participate in this program, and will be awarded \$135,000 to begin this process. He noted that the intent of this effort is to provide a framework for communities to collaboratively identify their instream and out of stream water resources needs, and then identify solutions and projects that will help them meet those current and future needs. He added that the city will convene this process together with Oregon Water Resources Department, in the hope that this project will foster cooperative working relationships between different water interests, integrate and coordinate related plans and efforts, identify solutions, and develop more competitive proposals for local, state, and federal funding opportunities. He stated that Harmony Burrig, Place Based Planning Coordinator with OWRD, is in attendance to make a presentation to Council describing this pilot initiative, and to answer any questions Council may have regarding this effort. He noted that no action is required on this initiative at this meeting.

Gross reported that in the fall of 2015, staff, with the assistance of Chase Park Grants, submitted a letter of interest to the Oregon Water Resources Department for funding to participate in a Place-based integrated water resources planning pilot study. He stated that the city was awarded \$130,000 to begin participation in this program. He added that the city, together with OWRD, will act as co-conveners during the planning process and will coordinate multiple stakeholders to examine water issues on the central coast. He reported that Place-based planning provides a framework for communities to collaboratively identify their instream and out-of-stream water resources need, and identify solutions and projects that will help meet those needs now and into the future. He added that this is a voluntary, non-regulatory, locally-initiated and led planning effort that brings together a broad representation of interests to work in partnership with OWRD.

Burright made a PowerPoint presentation that included: an update on the project and goals; the need for integrated planning; the need for an integrated water resources strategy; how the Place-based planning program works; water resources development program; 2015 draft guidelines; the five planning steps, including building a collaborative and inclusive process, gathering information to understand current water resources and identify gaps in knowledge, examining current and future water needs for people, the economy, and the environment, developing and prioritizing strategic and integrated solutions to meet water needs, and creating a local integrated water resources plan. She also discussed the grant review and evaluation process, including the place-based planning interest; grant review and evaluation; inter-agency review; evaluation criteria, factors; commission-approved pilots which are the mid-coast, Malheur Lake, Lower John Day, and the Upper Grand Ronde; and pilot phase objectives.

Allen asked about the boundaries of the mid-coast project. Gross reported that the boundary may depend on stakeholder interest. Allen asked whether this would bring up a discussion of Rock Creek, and Gross noted that it could. Burright added that this planning will focus more on the process and that there will be no predetermined outcomes. She noted that this will be a forum for diverse groups to talk about needs. Saelens asked whether there a place where stakeholders are listed. Gross stated that the list will include different water providers, users, and environmental agencies. He added that there are probably 30 entities, and that he has made contact with 10 or 20 of those entities. He noted that the Water Resources Department will be meeting in Newport in May, and that he is preparing a tour for various users and operators at that time. Allen asked about the issue regarding partial versus full funding, and whether funding was in place for completion of this project. Burright reported that there is \$93,000 in reserve funds to assist with the pilot projects. Gross explained the funding needs for the project and how it could be funded.

**From the VAC Steering Committee – Annual Report.** Hawker introduced the agenda item. Nebel reported that at the March 16, 2015 Council meeting, the City Council accepted a report which included a governance model, a financial management plan, and goals to expand the usage of the Visual Arts Center. He stated that one of the requirements of the plan that was adopted was that the Visual Arts Center Steering Committee provide an annual report to Council on achievements during the past year.

Nebel reported that he is very pleased to see the Steering Committee playing a leading role in representing the various stakeholder interests in this facility. He stated that this has given staff a much clearer direction as to priorities from the stakeholder's standpoint relating to future building improvements. He added that the VAC was successful in generating significant grant funds to help make capital improvements to this facility during the course of the past year. He noted that during one of the winter storm events, the new flooring in the Runyon was damaged by storm water that entered the building. He stated that staff is working with the insurance company to address this issue. He added that staff is also looking at steps to address the gutter issues which contributed to the December flooding of the VAC. He stated that he is very pleased to see how this process continues to mature and become a working group to govern the various activities that occur at the VAC.

Mike Kloeck, Chair of VAC Steering Committee, introduced Committee members in attendance, and thanked Council for reviewing the annual report.

Catherine Rickbone, Executive Director of the OCCA, reviewed the VAC's recent accomplishments. She added that a building survey and long-range planning document are in the works.

Tom Webb, VAC Director, reviewed recommendations, outlined the increase to rental rates, provided an update to the five-year financial action plan, and noted that the VAC has met its annual goal for increasing revenue.

MOTION was made by Saelens, seconded by Busby, to formally accept the annual report from the VAC Steering Committee, and place it on file. The motion carried unanimously in a voice vote.

**From Councilor Engler – Discussion about Code Provisions Relating to the Conversion of Residential Properties to Vacation Rentals.** Hawker introduced the agenda item. Nebel reported that Engler has requested that a discussion about the code provisions relating to the conversion of residential properties to vacation rentals be added to this agenda. He stated that the packet contains a copy of the city's ordinance relating to vacation rentals and bed and breakfast facilities. He recommended referring this matter back to staff for a report if Council is interested in moving forward or discussing alternatives.

Engler stated that the city has been under pressure to address the housing shortage at many income levels. She noted that she is concerned when workforce renters are displaced as long-term rentals are converted into short-term rentals. She added that every time a vacation rental dwelling goes on line, another potential long-term rental goes off line. She displayed a slide of vacation rental dwellings in Bend, and the activity over the last few years. She stated that conversion is a critical variable, and if it is ignored, it will be at the city's own peril. She added that vacation rental dwellings are just one part, noting that there is a lot of activity on Air BnB and other on-line vacation rental sites. Engler reported that housing availability and economic development are closely tied, noting that Caroline Bauman has said that if you want to grow jobs; you have got to make sure that housing is not a barrier. She stated that tourism is a significant part of the city's economy, and that the short-term rental business is booming and hopefully contributing a lot to the economy. She added that short-term rentals place burdens on neighborhoods. She reported that several letters have been submitted by

members of the public related to vacation rental dwellings. Engler stated that the current ordinance leaves the door open to convert long-term rentals to short-term rentals, and that the number of short-term rentals is increasing rapidly. She added that many cities have modified short-term rental policies, and that the City of Hood River is taking testimony on how to balance housing needs with short-term rentals. She suggested that Newport do the same, adding that looking at the ordinance now would lay the groundwork for the parking study and visioning effort. Engler proposed placing a temporary moratorium on short-term rental licenses, and sending the ordinance to the Planning Commission to find a solution to balance the long-term and short-term rentals. She recommended reviewing what other communities have done in this area, including, Bend, Hood River, Seaside, Cannon Beach, and Napa, to evaluate the current number of short-term rentals; how many are registered; enforcement; safety issues; and recommended changes. She added that this needs to be done soon as it is an urgent need. She stated that she hopes this can be discussed and moved forward.

Gus Willemin spoke in support of Engler's suggestion for a moratorium on short-term rentals. He stated that he lives on a small street on which only 50 percent are long-term residents. He added that he understands the economic impact of visitors. He stated that, with proper planning, a mutually agreeable solution can be found. He recommended that areas not be saturated with vacation rental dwellings; the size of the dwellings be regulated; and that safety and community be stressed. He reiterated his support for a moratorium noting that there is value in looking at this issue now.

Jeff Bertuleit spoke in support of Engler's suggestion for a moratorium on short-term rentals. He noted that this item was discussed when he served on the City Council years ago, and that he was against allowing vacation rental dwellings. He added that every time a vacation rental dwelling happens, it is not a family house any longer. He suggested discussing ratio and encouraging small hotels in R-1 zoning districts.

Terry Obtshka spoke in support of Engler's suggestion for a moratorium on short-term rentals. He noted that it is better, cheaper, and easier to prevent a problem than to create one. He added that the R-1 and R-2 zoning districts should be off limits for vacation rental dwellings. He stated that Newport is a special place, and he wants to keep it that way. He recommended developing a reasonable and enforceable ordinance that prevents this issue from getting out of control. He added that he hopes Council examines the issue thoroughly and comes up with a workable solution.

Eileen Obtshka spoke in support of Engler's suggestion for a moratorium on short-term rentals. She stated that she was led to believe that Nye Beach was a mix of commercial and residential uses. She noted that a lot of vacation rental dwellings evolved with the crash of the economy. She added that the city has the power and time to do what Engler is proposing in a positive way.

Marletta Noe spoke in support of Engler's suggestion for a moratorium on short-term rentals. She stated that vacation rental dwellings should be in commercially-zoned areas where they do not bother residents. She recommended several areas of discussion including parking and mandatory garbage service.

CM Hall, a new resident of the city, asked whether the moratorium would be effective this evening. It was noted that Engler has proposed a temporary moratorium until the Planning Commission reviews the issue.

Nebel recommended a staff report at the next Council meeting that would outline options on how to proceed with this issue. He expressed concern regarding the potential lack of public process if a moratorium was imposed this evening.

Busby suggested treading lightly with this issue before moving too far. He reported that he came from a community where 75% of the dwellings were short-term rentals, and the only industry in town was tourism. He stated that housing prices were three to four times what they are in Newport. He added that there were no regulations or permits required. He noted that there were problems with parking and noise, but these issues were regulated with the existing ordinances. He stated that vacation rental dwellings hurt workforce housing, but increase property values. He noted that it is difficult to compromise, and that vacation rental dwellings are the wave of the future.

Allen stated that he would like to move slowly on these kinds of issues. He added that to do anything quickly would not be a good idea for purposes of transparency. He noted that this issue is not an emergency and that taking additional time should not be an issue. He inquired as to the issue to be solved, adding that there may be two substantive issues: one is the potential decrease in affordable workforce housing created by converting long-term rentals to VRDs; and the other issue is enforcement. He noted that these are different objectives with different goals. He added that if the city is interested in a policy to make affordable housing through long-term rentals, it needs to enforce what it has. He stated that he would like a report to acknowledge the procedural and substantive issues.

Engler suggested that the Planning Commission could review this issue without a moratorium. She stated that housing and enforcement are very different issues which is why she suggested looking at other cities to determine whether they have found a balance.

Sawyer agreed with Allen, noting that the city has laws that cover most livability issues. He stated that Lincoln City has mandated trash removal. He added that he has a problem with using Bend as an example, as most VRDs are on the Deschutes River and that there is plenty of land near Highway 97 for workforce housing construction. He requested information on the numbers of conversions of long-term housing units to VRDs, and the number of housing units that are owner-occupied. He added that some subdivisions will never have VRDs. Allen asked how many housing units are nightly rentals. Sawyer noted that he has utilized Air BnB several times, and all were owner-occupied. Tokos reported that the city has conducted one VRD audit and is set to conduct another one to determine what units are being advertised, and contact those unit representatives which do not have appropriate licensing.

Roumagoux reported that her neighbor purchased his house ten years ago as a second home, and cannot afford to keep it without renting it long-term or as a VRD. She added that he will do one or the other to keep the house. She noted that he would not be happy to find a moratorium limiting his ability to rent his house.

Saelens agreed that this matter cannot be addressed quickly. He asked about the value of neighborhoods, and what short-term rentals do to a neighborhood.

Engler noted that some communities allow the current VRD owners to keep the VRD designation, but when the property sells, the VRD designation ends.

Allen noted that it would be helpful to know which areas of the city are most affected by the VRD change. He asked whether it is just Nye Beach or other areas of town. He

asked whether Lincoln City waited until the issue hit its tipping point and whether the city is reacting rather than being proactive. He stated that he believes the city should be proactive but that does not mean overextending itself. He added that government cannot solve every problem, and that sometimes a limited government is better than too much government.

Busby noted that this is not a win/win situation, and a third alternative is to let the economy take its own way.

Saelens noted that there has to be a housing balance, but that he is not ready to tie the entire economy to tourism.

Sawyer suggested using care in comparing the city to Lincoln City. He added that a lot of tourists go to Lincoln City from Portland, and that Lincoln City has more oceanview properties due to the geography, and that Newport has more large subdivisions on the east side of the city. He suggested obtaining data to show the owner-occupied units and the rental units. Tokos reported that he could provide a map and statistics, but that there are limitations.

Engler stated that she has noticed a lot of VRDs in Nye Beach. She added that there has not been a revised plan for Nye Beach in some time, and the city is relying on zoning. She noted that when the Glick Plan was prepared, and Don Davis envisioned Nye Beach, it was to be a mix of residential and commercial properties similar to Sausalito. She stated that without a plan, development has been chaotic. She suggested returning to the neighborhood plan through the visioning efforts.

Nebel noted that Council has provided a fair amount of input, and added that at Council direction, staff will provide a report for consideration at the next meeting. He added that the attempt will be to address these issues feasibly. He stated that Newport is different from Lincoln City in many ways, primarily in that Newport is not just a tourist community. He noted that Newport has a diverse economy that includes fishing, tourism, research, and other areas that create jobs in the community. He stated that he believes this issue needs to be approached openly, transparently, and thoughtfully.

It was the consensus of Council that staff prepare a report on this issue for the next meeting, and that it include the legal ramifications of each alternative.

## **CITY MANAGER'S REPORT**

**Discussion on Next Steps for Affordable/Workforce Housing.** Hawker introduced the agenda item. Nebel reported that on March 7, Council had a discussion on various types of initiatives that could be pursued to facilitate workforce housing in the city. He stated that at that time, Council was hesitant to act on any specific actions relating to the next steps regarding workforce housing. He added that on April 5, he participated in a two-hour presentation on workforce housing issues that was coordinated by the Lincoln County Economic Development group along with Roumagoux, Busby, Engler, and Tokos and heard presentations from a number of organizations that are involved in various housing issues on a regional basis. He noted that it was clear that the focus of those in attendance at this meeting, was on workforce housing more than other forms of affordable housing.

Nebel reported that last month, he and Allen had a discussion with a Councilor Dick Anderson of Lincoln City regarding the possibility of bringing together the elected

officials from the various Lincoln County cities along with the county commissioners and key staff to discuss approaches to affordable housing/workforce housing on a county-wide scale. He stated that both Allen and Councilor Anderson thought this could be a useful discussion to share perspectives from the local government's standpoint on how to work together on certain issues.

Nebel reported that it appears that local governments throughout Lincoln County are trying to sort through this issue. He stated that it makes sense to invite the various city and county officials to discuss common approaches that could be utilized collectively to move forward with some aspects of affordable housing policies, that could be consistent, in certain cases, across the county. He added that he believes it is appropriate to discuss this option and if there is consensus to go forward with this type of a meeting, then he would be happy to work with his colleagues to schedule and develop an agenda for this meeting.

Allen reported that he was going to try to touch bases with Dick Anderson as he has been proactive on affordable housing. He added that Anderson thought it would be good idea to set up an initial meeting.

Nebel reported that the issued was discussed at the Lincoln County manager's meeting, and there was general support to discuss a meeting of this type with the various jurisdictions. He added that when a meeting is established, it will comply with the Oregon Public Meetings Law in the event a quorum of Council wishes to attend. Council concurred with Nebel's recommendation.

**Report on Placing a 3% Tax on the Sale of Recreational Marijuana on the November Ballot.** Hawker introduced the agenda item. Nebel reported that under House Bill 3400, local governments may adopt an ordinance, which must be referred to the voters, imposing a tax or fee up to 3% on the sale of recreational marijuana items by a retail licensee. He stated that this ordinance must be referred to voters in a general election.

Nebel reported that if Council wishes to have this question placed on the ballot, an ordinance and resolution calling for an election on this issue would need to be adopted by the Council in June. He stated that Hawker and Rich have developed drafts of an ordinance and a resolution that could be used for this purpose. He noted that it may also be appropriate for Council to schedule a public hearing on this matter to obtain feedback prior to considering approval of the ordinance or resolution.

Nebel reported that he understands that during the recent legislative session, the Department of Revenue was authorized to collect the local tax. He stated that this would be accomplished similarly to how the local gas taxes are collected and remitted by the state to local governments. He noted that this would facilitate this process.

Nebel reported that it would also be appropriate for Council to consider whether this tax would be imposed only on recreational marijuana. He noted that there is currently no apparent prohibition on the city levying a local tax on medical marijuana, but that during previous discussions with Council, the focus of local taxation appeared to be strictly geared toward recreational marijuana products.

Nebel reported that there have been suggestions from staff regarding earmarking this funding for a specific purpose (parks, law enforcement or other efforts in the community). He added that the designation of funds may make the ballot issue more

attractive knowing that the revenues are being earmarked for a specific purpose. He noted that this could be done by ordinance if the Council chooses to do that.

Sawyer stated that if this issue is placed on the ballot, it should contain a specific use for the funds.

Busby asked whether, if the measure passes, it becomes mandatory, or simply allows the city to impose the tax if it chooses to do so.

Allen noted that this ballot measure, if it passes, will create an ordinance. He added that a tax is different and cannot be imposed by resolution. He stated that if the measure passes, it will be mandatory to collect the tax because it is an ordinance.

Rich stated that a tax can be imposed with a deferred collection date.

Nebel noted that there would likely need to be an agreement with the state Department of Revenue to collect the tax for the city, and that this agreement may include a fee.

Nebel asked how Council would like to proceed on this issue, noting that it could have a hearing without an ordinance, or a hearing on the draft ordinance. Sawyer stated that he would prefer a public hearing without an ordinance for retailer input.

MOTION was made by Sawyer, seconded by Engler, that a public hearing be scheduled to obtain comment on imposing a 3% tax on the sale of marijuana items by a marijuana retailer in the City of Newport for the May 2, 2016 Council meeting. The motion carried unanimously in a voice vote.

**Approval of a Flag for the City of Newport.** Hawker introduced the agenda item. Nebel reported that during discussions in preparation for the 50<sup>th</sup> Anniversary Celebration of Newport's Sister City relationship with Mombetsu, the issue of city flags came up. He noted that it is quite common for cities to have an official flag that would be on display in the Council Chambers. He stated that the city has a very distinctive logo that is recognizable throughout the state. He added that Swanson spent some time reviewing this matter and has a very clean and basic design for a possible, official city flag. He noted that he believes it is appropriate for Council to formally authorize the creation of a city flag.

Sawyer reported that the Police Department has a flag. Miranda displayed the departmental flag. Sawyer stated that he prefers the previous logo for its historical value.

Allen asked how common city flags are in Oregon.

Busby noted that the city he came from had a flag. He added that most flags are two colors, and that the flag could provide a great opportunity for public input from various constituencies.

Sawyer noted that the Police Department flag is a simple design. He concurred with Busby's idea of public input on the flag design.

Swanson reported that the logo on the flag was used because it is on the city letterhead. She added that the flag production company has a lead time, and there is not time for public input before the upcoming Mombetsu visit. She noted that she would like to see community input at a later date.

MOTION was made by Allen, seconded by Engler to approve the creation of an official city flag for the City of Newport. The motion carried unanimously in a voice vote.

**Consideration and Possible Adoption of Resolution No. 3747 Relating to Minor Amendment Twelve to the South Beach Urban Renewal Plan and Report.** Hawker introduced the agenda item. Nebel reported that as provided in ORS 457.085, the South Beach Urban Renewal Plan and Report must specifically identify projects and provide a financial analysis with sufficient information to determine the plan's feasibility before Urban Renewal funds can be expended. He stated that the plan provides that minor amendments must be approved by the Agency and Council by resolution. He added that minor amendments are shifts of existing Urban Renewal construction funds between various projects as identified in the plan. He noted that this minor amendment reallocates \$405,000 in excess funds from the soon-to-be-completed SW Abalone/SW Brandt Street Projects, with \$25,000 of those funds going to the retrofit of Safe Haven Hill, and \$380,000 to the 35<sup>th</sup> Street and US 101/Ferry Slip Road Project. He stated that this will allow the city to match the additional FEMA funds that were provided to meet the ODOT requirements for a wider sidewalk and retaining wall along US 101.

Nebel reported that staff wants to ensure that there are adequate resources to provide the match for the ODOT signalization and intersection construction at 35<sup>th</sup> Street and U.S. 101, which is scheduled to occur in 2018. He stated that by pushing these previously-allocated funds forward for this project, the city will be better assured to have sufficient match funds to accomplish this project when it occurs.

MOTION was made by Sawyer, seconded by Saelens to adopt Resolution No. 3747, a resolution adopting a Minor Amendment No. 12 to the South Beach Urban Renewal Plan and Report. The motion carried unanimously in a voice vote.

### **REPORT FROM MAYOR AND COUNCIL**

Roumagoux reported that she attended the Housing Forum, at the Library, on April 5. She noted that there was a good crowd, and that the information will be helpful.

Roumagoux reported that she attended the Women's Foundation of Oregon Roundtable on April 6. She reviewed the organization's mission, and noted that she would leave an informational brochure in the Council office.

Roumagoux reported that she attended the April 7 meeting of the Vision 2040 Steering Committee as an alternate. She noted that the Committee reviewed and ranked the RFPs received for a visioning consultant.

Roumagoux reported that she attended a meeting, on April 7, at US Bank to award the Joann Hamilton Scholarships. She noted that Judge Branford has replaced Judge Littlehales on the award committee.

Roumagoux reported that she met with Chuck Forinash on April 8. She reported that he has several ideas and concerns. She added that it was great to see the infrastructure changes near Forinash' business.

Roumagoux reported that she attended the Greater Newport Chamber of Commerce Banquet on April 9. She noted that also in attendance were Derrick Tokos and his wife Jessica, Rob Murphy and his wife Judy, Spencer Nebel and his wife Angela, Swanson, and Jim Protiva and his wife Karen.

Roumagoux reported that she attended the FEMA Crisis Leadership training on April 12 in Gleneden Beach. She displayed the workbook from the class noting that Hurricane Katrina was the case study.

Roumagoux reported that she attended the Bayfront Parking Study meeting, on April 14, at the Pacific Maritime Heritage Center. She noted that the discussion was really helpful, and that the consultant will be developing workable and innovative plans for Bayfront parking.

Roumagoux reported that she attended the Fire Department awards dinner, on April 16, at the Best Western Agate Beach. She noted that it was an enjoyable evening.

Sawyer reported that he attended the recent Oregon Emergency Management Conference at Kah-Nee-Ta.

Sawyer reported that Rick Bartow had passed away. Roumagoux noted that Council honored Bartow with a moment of silence at the previous meeting.

Sawyer reported on a recent meeting of the Destination Newport Committee at which ODOT attended and discussed the proposed closures of Highway 20.

Saelens reported that he will attend the Volunteer Awards Banquet.

Swanson reported on a recent meeting of the Solid Waste Advisory Committee at which there was a presentation on the possibility of a solar program in Lincoln County.

Swanson reported that she attended the Greater Newport Chamber of Commerce banquet and the Fire Department banquet.

Swanson reported that she attended the FEMA Crisis Leadership training where it was reiterated that officials need to be trained.

Swanson reported that she attended the Vision 2040 Steering Committee meeting at which the proposals for a visioning consultant were reviewed and ranked.

Swanson reported that she met with Mark McConnell regarding Mombetsu, and conducted a lot of research at the Newport News-Times.

Busby thanked staff for the monthly capital status report, and noted that he hopes to see this information on the city website.

Busby reported that he attended a recent meeting of the Airport Committee. He noted that the Air National Guard will be holding a training exercise in Newport during the second week of August. He added that this event will bring 70 visitors to the city.

Busby reported that he attended the Fire Department banquet.

Busby reported that he attended the recent Housing Forum. He noted that the discussion gravitated to workforce housing, and added that there are other housing problems besides workforce housing. He stated that there has to be action in the future.

Engler reported that she attended the recent meeting of the Vision 2040 Steering Committee at which the proposals for a visioning consultant were reviewed and ranked.

Engler reported that she attended the recent Housing Forum at the Library.

Engler reported that she participated in the Nye Beach parking meeting and walk about with the parking study consultant.

Engler reported that she attended the recent meeting of the Nye Beach Merchants Association. She noted that there was discussion regarding a bench that appeared at the Turnaround, the proposed OCCA Color Run, and the Public Arts Committee.

Engler reported that she attended the recent Bicycle/Pedestrian Advisory Committee. She noted that the Committee would like to meet with the Public Works Department.

Allen reported that he attended the Fire Department banquet.

Allen reported that he attended the OPAC meeting held in Newport on April 5. He noted that discussions included ocean acidification, hypoxia, marine debris, and other marine related issues.

Allen reported that Representative Schrader was in Newport on April 7 and met with NOAA officials at the Aquarium for a Fishermen's Roundtable. He noted that there were approximately 40 attendees, and regional and national issues were discussed. He stated that it was an interesting meeting.

Allen reported that a recent meeting, on the Oregon Marine Debris Action Plan, was held in Newport. He noted that County Commissioner Thompson and others were in attendance. He added that the plan is to coordinate with local solid waste action plans, and asked whether there is a marine debris component to the Lincoln County debris management plan, and whether there is an opportunity to for cooperation at the county level.

Allen reported that he will be attending the Citizen's Police Academy this session. He noted that it looks like an excellent program.

Roumagoux reminded Council that the Loyalty Days Parade will be held on Saturday, April 30. She invited Council to join her at noon on the reviewing stand at Olive Street and US 101.

Saelens reported that Lincoln County is beginning to investigate the Solarized Oregon Program. He noted that if Councilors have questions regarding the program to let him know.

Saelens addressed the issue of marine debris noting that the County has \$36,000 in this year's budget to hire a contractor to write a new integrated solid waste management plan with a marine debris component.

### **ADJOURNMENT**

Having no further business, the meeting adjourned at 9:30 P.M.

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Margaret M. Hawker, City Recorder

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Sandra N. Roumagoux, Mayor



# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:6.A.  
Meeting Date: 5-2-16

## Agenda Item:

### **Public Hearing and Consideration of Possible Adoption of Ordinance No. 2094, an Ordinance Repealing and Re-enacting Chapter 12.05 of the Newport Municipal Code Pertaining to Local Improvement Districts**

#### **Background:**

At the April 18 City Council meeting, the Council adopted Ordinance No. 2093 which is an ordinance amending the Comprehensive Plan Policies relating to the use of local improvement districts for financing public infrastructure improvements benefiting property owners. With those policies adopted, the City Council can consider approving an ordinance which would amend the Municipal Code pertaining to local improvement districts.

As you are aware from the April 18 meeting, the Planning Commission appointed a technical advisory committee of internal and external stakeholders to work with the consulting firm of FCS Group to develop model policies and codes for utilizing Local Improvement Districts to fund public infrastructure projects in the City of Newport. This effort was funded by a Transportation Growth and Management grant that the city obtained in 2014. The Planning Commission has reviewed the existing code provision relating to Local Improvement Districts and recommends that the ordinance be adopted by the City Council.

LID's are a way in which a portion of the new infrastructure cost can be assessed on properties benefitting by those improvements. The policy provides that LID's may be initiated by petition or resolution of the City Council. The proposed ordinance has been modified from the April 18 agenda to reflect Councilor Swanson's concerns about a small assessment not being eligible to be paid over time. A provision has been added to the ordinance that an exception can be made by the City Manager to authorize a payment plan for assessments under \$500.

The proposed ordinance provides the requirements for various hearings on establishing the district and on the final assessment proposed on property owners relating to eligible improvements. The ordinance provides that districts can be initiated by 75% of the property benefitted by the proposed public improvement or by the City Council. The ordinance places an alternate cap on LIDs in developed residential areas at no more than 10% for the assessed valuation of properties within the boundaries of the proposed district. For undeveloped properties, the LIDs would be limited to 50% of the of the assessed valuation of the effective property. The ordinance provides that if the property owners owning one half or more of the property area within the district to be specially

assessed remonstrate against the improvement, the City Council shall suspend formation of the district for a period not less than six months unless the Council unanimously declares the LID improvement to be needed do to an emergency or to remedy infrastructure in chronic disrepair.

The general intent of LID districts is for individual property owners to pay for that share of a public improvement specifically benefitting their property and for the city to bear the costs that should be supported by the citizens of the city as a whole. The ordinance provides a number of methods in which the Council can assess benefits on properties including front footage, assessed valuation, land area, by water or sewer connections, or other similar methods. The Council has the authority to allocate a portion of any of these costs to be paid by the citizens as a whole as well.

In general, the ordinance provides specific instructions for establishing districts and notifying property owners of assessments in providing various rights of the property owners to remonstrate against the project. The ordinance provides a general framework of determining what part of a project is a direct benefit of the property owners and what part of the project is a benefit of the city as a whole.

I think it will be very important to follow-up the adoption of this ordinance with a general police statement outlining how these provisions would be administered for specific types of projects in the city. This will be very important to do prior to initiating any LIDs. Consistency in how these are handled are key to the success in utilizing LIDs. The districts need to be fair and reasonable both to the effected property owners as well as to the citizens of the city as a whole who finance these projects. It will be our intent to schedule a work session with the City Council to discuss the specific applications of LIDs to specific types of projects at future City Council work session if the ordinance is approved by the City Council.

LID's can be an important part of the city's effort to renew infrastructure over the years. LID's must be administered in a very fair and consistent fashion for them to be supported in the community.

**Recommendation:**

I recommend that the Mayor conduct a public hearing on Ordinance No. 2094, an Ordinance Repealing and Re-enacting Chapter 12.05 of the Newport Municipal Code Pertaining to Local Improvement Districts.

Following the public hearing and considering any comments, I further recommend the City Council consider the following motion:

**I move that Ordinance No. 2094, an Ordinance Repealing and Re-enacting Chapter 12.05 of the Newport Municipal Code Pertaining to Local Improvement Districts by title only and place for final adoption.**

*The Mayor will then ask for a voice vote on whether or not to read the ordinance by title only and placed for final passage.*

*If the motion is approved, the City Recorder will read the title of the ordinance.*

*A roll call vote on the final passage of the ordinance will then be requested by the Mayor, and taken by the City Recorder.*

**Fiscal Effects:**

None by revising the code provisions for local improvement districts. The use of local improvement districts will generate funding to assist in infrastructure replacement and new infrastructure services within the City of Newport.

**Alternatives:**

Delay the adoption of the ordinance if additional information is needed or as suggested by the City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. Nebel", is written over a light blue circular stamp.

Spencer R. Nebel, City Manager





STAFF REPORT  
CITY COUNCIL AGENDA ITEM

**Title:** Consideration and Possible Adoption of Ordinance No. 2094, an Ordinance Repealing and Re-enacting Chapter 12.05 of the Newport Municipal Code Pertaining to Local Improvement Districts

**Prepared by:** Derrick I. Tokos, AICP, Community Development Director

**Recommended Motion:** I move for reading by title only of Ordinance No. 2094, an ordinance repealing and re-enacting Chapter 12.05 of the Newport Municipal Code pertaining to Local Improvement Districts and for adoption by roll call vote.

**Background Information:** This ordinance updates the chapter of the Newport Municipal Code that sets out procedures and criteria for establishing Local Improvement Districts (LIDs). The existing code is outdated and ineffective. The updated language was developed with the assistance of the consulting firm FCS Group, who was hired by the Oregon Department of Transportation (ODOT) to help the City put together model policies and codes, a “Cookbook” of LID Implementation Strategies, case studies, and public informational materials to clarify how LIDs can be effectively used to fund local government transportation projects. The “policy” element of the work was adopted by the City Council on April 18, 2016 (Ord. No. 2093).

This effort was funded by a Transportation Growth Management (TGM) Grant that the City of Newport obtained in June of 2014. The City entered into an intergovernmental Agreement with ODOT to initiate the work in April of 2015 and ODOT hired FCS Group shortly thereafter to assist with the project.

A Technical Advisory Committee (TAC) of internal and external stakeholders was formed to assist the consultant, and the TAC met to review draft LID policies, model code, implementation strategies, and other deliverables on July 6, 2015, September 14, 2015, January 11, 2016 and February 17, 2016. The Planning Commission met in work session to review the draft code amendments on November 9, 2015, November 23, 2015, December 14, 2015, and met in regular session on March 28, 2016 to provide final comments.

Revisions requested by the Planning Commission have been made to the document. A change was also made to address a concern raised by Councilor Swanson at the April 18, 2016 City Council work session where the draft code was discussed. Councilor Swanson asked if the code could be adjusted to allow property owners to make

arrangements for a payment plan for LID assessments that are less than \$500. An allowance has been made for the City Manager to authorize such plans.

**Fiscal Notes:** None. The code amendments put in place procedures and criteria for establishing LIDs. They do not commit the City to establish an LID. Each proposal to establish an LID will include its own individualized assessment of fiscal impacts, so that the Council can make an informed decision as to whether or not the district should be formed.

**Alternatives:** Not adopting the policies. This would leave the existing Newport Municipal Code procedures and criteria for establishing LIDs in place.

**Attachments:**

Ordinance No. 2094

Exhibit A to Ordinance No. 2094

Technical Advisory Committee Roster

Minutes from the 3/28/16 Planning Commission Meeting

CITY OF NEWPORT

ORDINANCE NO. 2094

AN ORDINANCE REPEALING AND RE-ENACTING  
CHAPTER 12.05 OF THE NEWPORT MUNICIPAL CODE  
PERTAINING TO LOCAL IMPROVEMENT DISTRICTS  
(Newport File No. 4-CP-14)

**Summary of Findings:**

1. The City of Newport Charter provides that the City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant.
2. The above referenced grant of power has been interpreted as affording the City all legislative power under the home rule provisions of the Oregon Constitution.
3. Within the scope of such authority, the Newport City Council has determined that the existing provisions of Chapter 12.05 of the Newport Municipal Code pertaining to the establishment of Local Improvement Districts (LIDs) are in need of revision because they are outdated and ineffective. The existing LID code provisions were adopted on June 18, 2007 with Ordinance No. 1924.
4. City secured a Transportation Growth Management (TGM) Grant from the Oregon Department of Transportation (ODOT) in June of 2014 to, among other things, obtain technical assistance in evaluating and updating its LID code.
5. An intergovernmental agreement between the City of Newport and ODOT was executed in April of 2015 and ODOT subsequently hired the consulting firm FCS Group to assist with this effort.
6. A Technical Advisory Committee (TAC) of internal and external stakeholders was formed to assist the consultant, and the TAC met to review draft code amendments on July 6, 2015, September 14, 2015, January 11, 2016 and February 17, 2016.
7. The Newport Planning Commission met in work session to review the draft code amendments on November 9, 2015, November 23, 2015, and December 14, 2015 and met in regular session on March 28, 2016 to provide their final comments.
8. On balance, the code amendments address deficiencies in the existing code and provide a clear, understandable process for how LIDs are to be administered and implemented. Further, the amendments are in line with policies the City adopted into its Comprehensive Plan with Ordinance No. 2093 that provide guidance on how LIDs can be best utilized as an infrastructure financing tool.

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

**Section 1.** Chapter 12.05 of the Newport Municipal Code, adopted by Ordinance No. 1924, is repealed and re-enacted as shown in the attached Exhibit "A."

**Section 2.** This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2016.

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Sandra Roumagoux, Mayor

ATTEST:

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

**CHAPTER 12.05 LOCAL IMPROVEMENT DISTRICTS**

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**12.05.005 Definitions:**

The following definitions apply unless inconsistent with the context:

"Benefitted Property" means a property that is expected to be enhanced in value after an LID improvement is constructed, including: properties that are adjacent to an LID improvement; and properties that are proximate to an LID improvement. Benefiting properties will experience enhanced property value from improved accessibility, and improved urban services that result from an LID project.

"Chronic Disrepair" means a failing condition of public infrastructure that is deemed by the city to be beyond its useful life or failing in a manner that has necessitated unplanned public investment exceeding two times per year.

"Emergency condition" means public infrastructure that is failing and poses imminent risk to the health and safety of

residents, visitors, and/or businesses, including infrastructure conditions deemed by the city to be in a state of chronic failure.

“Local Improvement” has the meaning given under ORS 310.140 (9) (a) means a capital construction project or part thereof, undertaken by a local government, pursuant to ORS 223.399, or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or part of the improvement:

- 1) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties; and
- 2) The costs of which are assessed against those properties in a single assessment upon the completion of the project.

“Local Improvement District (LID)” means the area determined by the council to be specially benefited by a local improvement, within which properties are assessed to pay for the cost of the local improvement.

“Lot” means a lot, block or parcel of land.

“Non-Remonstrance Agreement” means a written agreement with the city, executed by a property owner or the owner’s predecessor in title, waiving the right of an owner to file a remonstrance against formation of an LID to fund identified public infrastructure improvements.

“Owner” means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment role in the office of the County Assessor.

“Remonstrance” means a written objection to the formation of an LID filed by an owner of property within a proposed LID.

#### **12.05.010 Initiation of Local Improvement Districts**

A. The council by motion or on petition of the owners of 75 percent of the property benefited by the proposed public improvement may direct that a preliminary engineering report be prepared to assist the council in determining whether a local improvement district should be formed to pay all or part of proposed street, sewer, sidewalk, drainage and/or other public improvements.

B. When initiating an LID without petition by property owners, the city council shall consider the following factors:

1. Nature of the area benefited, including its existing condition and the extent to which the affected properties will benefit from the proposed public improvements.
2. The percentage of properties within the benefit area that have prerecorded non-remonstrance agreements or have owners that favor formation of an LID.
3. Whether or not the public improvements address existing or potential health and safety risk to city residents, businesses, employees or visitors; and/or addresses infrastructure in a state of chronic failure.
4. Ability to leverage alternative methods of funding from existing sources. For LIDs in developed residential areas, the aggregate assessment amount within a prospective LID should be no more than 10% of the assessed value of properties within the boundaries of the proposed district. The aggregate assessed value may be higher for other types of LIDs, such as developer initiated districts; however, in no case should it exceed 50% of the assessed value of the affected property.
5. Project cost contingencies and related construction risk factors, such as the need to acquire new public right-of-way, topographic challenges, or environmental issues.
6. The priority of the project per adopted public facility plans or capital improvement programs.

C. In the consideration of any of the above mentioned factors, a council initiated LID should have a reasonable chance of being self-financing, with adequate reserves to ensure that payments are made on bonds/loans, regardless of the property owners repayment.

D. When a potential LID project is deemed by the city engineer or community development director to meet one or more of the factors listed in this section, a council initiated district may be advanced by the council through a resolution requesting that a preliminary engineering report on LID formation be prepared.

### **12.05.015 Preliminary Engineer's Report**

- A. The preliminary engineer's report shall contain:
1. A full description of the project and its boundaries.
  2. A description of each parcel of land specially benefited, including the name of the record owner of the parcel.
  3. An estimate of the probable cost of the project, including property acquisition, design, construction, engineering, legal, administrative, interest or other costs.
  4. A recommendation as to what portion of the total costs of the project should be paid by specifically benefited property.
  5. A recommendation of a method of assessment, together with an estimate of the cost per unit to specially benefited property.
  6. A recommendation whether to proceed with formation of the local improvement district.

### **12.05.020 Council's Action on Engineer's Report**

- A. After the engineer's report has been filed with the city recorder, the council may thereafter by motion approve the report, request that staff reassess elements of the report, require the engineer to supply additional or different information for such improvements, or it may abandon the improvement.

### **12.05.025 Notice of Hearing on District Formation**

- A. Unless all owners of specially benefited property have petitioned for formation of the local improvement district and waived the right of remonstrance, the city shall provide notice to property owners of a council hearing on the proposed district by submitting a notice in a newspaper of general circulation within the town and by mailing notice to the owner's address listed in the county tax records. The city may provide additional notice.
- B. Within ten (10) business days of the filing of the report required by NMC 12.05.015 the recorder shall cause a

notice to be published twice in a newspaper of general circulation within the city setting out the following:

1. That a written project report for a proposed LID is on file and is available for examination at City Hall;
  2. The date said report was filed;
  3. The estimated probable cost of the proposed local improvement or the actual cost of the improvement if it has been completed;
  4. A description of the proposed improvement district and that a map of the proposed district is available for examination at City Hall;
  5. The time and place of the hearing required by NMC 12.05.030;
  6. A statement that written and oral testimony submitted by any person will be considered at such hearing; and
  7. That property owners wishing to remonstrate against the formation of the proposed district must submit their remonstrance in writing and file the remonstrance with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.
- C. Not less than ten (10) days prior to the hearing required by NMC12.05.030, mail to each property owner designated in the written engineering report a notice stating:
1. The information set forth in Subsection B of this section;
  2. The proposed method of assessment;
  3. The estimated amount of the assessment for each lot or portion thereof owned by the owner and whether the assessments are being levied prior to construction based upon estimates of project cost or after construction based upon known costs; and
  4. A statement that all remonstrances must be in writing and filed with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.

- D. Post a copy of the preliminary map of the proposed improvement district at City Hall.

#### **12.05.030 Hearing on District Formation**

- A. After the engineer's report, as submitted or modified, has been approved or accepted by city council resolution, the council shall hold a public hearing on the proposed improvement and formation of the district and consider oral and written testimony, as well as remonstrances. Such hearing shall be held after the receipt of the engineering report described in NMC 12.05.015 but not less than fifteen (15) days after the date of the second publication of notice.
- B. If property owners owning one half or more of the property area within the district to be specially assessed remonstrate against the improvement, the council shall suspend formation of the district for a period of not less than six (6) months. This provision shall not apply if the council unanimously declares the LID improvement to be needed because of an emergency or to remedy infrastructure in chronic disrepair. If a property has multiple owners, a remonstrance by an owner shall be considered a fraction of a remonstrance to the extent of the interest in the property of the person filing the remonstrance.
- C. All remonstrances must be in writing and filed with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.
- D. If insufficient remonstrances are filed to prevent the formation of the local improvement district, the council shall have discretion whether or not to form the district and proceed with the public improvement.
- E. Based on testimony at the hearing, the council may modify the scope of the improvements and/or the district boundary. The council may use any reasonable method of determining the extent of the local improvement district based on the benefits of the proposed local improvement(s). If any modifications approved by council include additional property or result in a likely increase in assessments on any property, the city shall hold another hearing and provide notice of the additional hearing in the same manner as it provided notice of the initial hearing.

- F. A decision to accept the engineer's report, form the local improvement district and proceed with making the local improvements shall be by resolution. This resolution shall at a minimum address the following:
1. Create the local improvement district and establish its boundaries;
  2. Determine generally the time for commencing and the manner of construction;
  3. Establish an account for the receipt and disbursement of monies relating to the project; and
  4. Establish the method for allocating the costs associated with the project.

#### **12.05.035 Final Plan and Specifications**

- A. After a council decision to form the district and proceed with the local improvement(s), the city shall obtain necessary rights-of-way and easements and for development of a final plan and specifications prior to publishing contract solicitation documents.
- B. After developing the final plan and specifications, the city engineer shall prepare a new estimate of costs. If the new estimate exceeds the original cost estimate by 10% or more at the time of its hearing or if the city engineer deems there to be significant changes in the project as a result of the additional unanticipated work, a supplemental engineer's report shall be prepared and submitted to the council which shall hold a hearing on the revised engineer's report. The hearing shall be noticed in the same manner as the original hearing, and property owners shall have the right to submit a remonstrance based on the revised engineer's report. The council shall follow the same procedure and standards applicable to the original hearing.

#### **12.05.040 Construction**

- A. Construction work on the local improvement(s) may be by the city, by another government agency, by contract with a private contractor, or by any combination of those entities. Any contracting shall be in accordance with the city's public contracting rules.

- B. Construction may proceed if the contract with a private contractor, or the final scope and budget for projects constructed by a governmental agency, or any combination of the above, varies less than 10% from the final plan and specifications. If the scope and budget vary more than 10%, an additional hearing must be held. If an additional hearing is held, construction may proceed after a council decision accepting the revised engineer's report and directing that the local improvement(s) be constructed.

#### **12.05.045 Costs Included in Assessment**

The costs and expenses that may be assessed against specially benefited property include but are not limited to:

- A. The costs of property, right-of-way or easement acquisition, including the cost of any condemnation proceedings.
- B. Engineering and survey costs.
- C. Costs of construction and installation of improvements, including but not limited to: streets, curbs, sidewalks gutters, catch basins, storm water improvements, driveways, accessways, lighting, traffic control devices, painting, and striping, surface water management facilities, water and sewer lines, lift stations, and fire hydrants.
- D. Costs of preliminary studies.
- E. Advertising, legal, administrative, notice, supervision, materials, labor, contracts, equipment, inspection and assessment costs.
- F. Financing costs, including interest charges.
- G. Attorney fees.
- H. Any other necessary expenses.

#### **12.05.050 Method of Assessment**

- A. The Council shall:
  - 1. Use a fair and reasonable method for determining the extent of the improvement district boundaries that is consistent with the benefits derived.

2. Consider fair and reasonable methods for apportioning the actual or estimated costs of the improvement among benefited properties including but not limited to those methods identified in NMC 12.05.050(D).
- B. The Council may:
1. Authorize payment by the City of all or any part of the cost of such improvements; provided that the method selected creates a reasonable relation between the benefits derived by the property specially benefited and the benefits derived by the City as a whole.
  2. At any time prior to the effective date of the resolution levying the assessments for any improvement district, modify the method adopted in the resolution forming the improvement district if the Council determines that a different method is a more just and reasonable method of apportioning the cost of the project to the properties benefited.
  3. Use any other means to finance improvements, including federal or state grants-in-aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance to pay either all or any part of the cost of the improvements.
- C. In establishing a fair and reasonable method for apportioning the actual or estimated cost of local improvements among benefited properties, the Council shall rely upon the following guidelines:
1. Individual property owners shall pay for public improvements specially benefiting their property. The determination of benefit shall be made irrespective of whether the property is vacant or the owner elects to connect to the local improvements. Special costs or features of the improvement that benefit a particular parcel of property in a manner peculiar to that parcel shall, together with a share of the overhead for the improvement, be assessed separately against the parcel.
  2. Costs of the improvement to be borne by the City shall be excluded from the assessment before apportionment. The City will pay the cost of:

- i. Extra capacity improvements when the size of the public improvements required exceed the minimum standards established in the Specifications and Standards for Construction of Public Improvements adopted in accordance with local transportation plans or public facility plans, and the project has been included in the City budget document for the fiscal year during which construction of the improvement is scheduled; or
    - ii. Special and unusual costs when the Council determines that circumstances exist which warrant City payment of all or a portion of the cost of the public improvements.
- D. In establishing a fair and reasonable method for apportioning actual or estimated costs of local improvements among benefited properties, the Council may, but in no way is required to, rely upon the following guidelines (as summarized in Exhibit 12.05.050-1) and described below:
1. Improvement Costs of Streets.
    - i. Street improvement costs may include all improvements required or as established by the improvement district within the public right of way. Such improvements shall meet the minimum standards adopted under the Newport Transportation System Plan and may include any of the elements identified in Section 12.05.045.
    - ii. Costs shall be applied on a per linear foot basis, or other methods identified in the engineer's report. Where a property owner requests or requires supplemental approach construction (i.e., widened driveway aprons that access individual properties), the costs associated with that additional construction shall be assessed to the individual property owner benefitting from this supplemental construction.
  2. Improvement Costs of Sidewalks. Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalks, based on the front footage of the parcel abutting the sidewalk. Where, however, the Council finds that construction of a sidewalk on

both sides of the street is unnecessary or not feasible; the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the parcels on the opposite side of the street from the sidewalk.

3. Improvement Costs of Surface Water Management.  
The cost to be assessed shall be apportioned to each parcel within the improvement district on the basis of its land area that contributes to or otherwise directly benefits from the City's drainage system.

Exhibit 12.05.050-1 Assessment Method	LID Improvement Type			
	Street/ Sidewalk	Sewer	Water	Stormwater
Existing Assessed Value	✓	✓	✓	✓
Expected Change in Assessed Value	✓	✓	✓	✓
Gross Land Area	✓	✓	✓	✓
Linear Frontage Along Improvement	✓	✓	✓	✓
Existing Trip Generation	✓	-	-	-
Expected Change in Trip Generation	✓	-	-	-
Existing Sewer Connections	-	✓	-	-
Expected Change in Sewer Connection	-	✓	-	-
Existing Water Meter Connections	-	-	✓	-
Expected Change in Water Meter Connections	-	-	✓	-
Existing Impervious Surface Area	-	-	-	✓
Expected Change in Impervious Surface Area	-	-	-	✓
<b>Legend</b>				
<ul style="list-style-type: none"> <li>✓ Primary Assessment Method</li> <li>✓ Secondary Assessment Method</li> <li>- Tertiary Assessment Method</li> </ul>				

4. Improvement Costs of Water and Sewer Lines.
  - i. The properties specially benefited by a sewer main or water pipe shall bear the cost of the system up to and including eight inches of pipe diameter. These costs shall be apportioned to each parcel on the basis of a cost per square foot of service area, determined by dividing the total system cost by the total service area.
  - ii. In addition to main or pipe costs, each property benefited by a sewer main or water pipe shall be considered to have at least one service line connection point. If more than one service line connection point is provided for a benefited parcel, it shall be assessed for the actual number of service line connection points. All costs related to the service lines, including overhead costs, shall be divided by the total number of service line connection points, to determine the cost per service line connection point.
5. Corner Lots. For street, sewer, water and/or stormwater project LIDs that assess costs to properties based upon linear frontage, corner lots may be exempted from an assessment for the first 100 feet of frontage on the side abutting a local improvement, or for the full length of the side abutting the improvement, whichever is shorter, if one or more of the following conditions exist and the City Council grants an exemption:
  - i. The local improvement is required to serve a new subdivision or new development, the corner lot is located outside the subdivision or development, and the corner lot will receive no benefit from the local improvement for which the assessment is levied; or
  - ii. The corner lot has two sides abutting the local improvement for which the assessment is levied and is being assessed for the full frontage of one side abutting the improvement; or
  - iii. The Council determines the Corner Lot receives no benefit from the local improvement for which the assessment is levied and the property has been previously assessed for the same type of local improvement on the side not abutting the local improvement for which the assessment is levied.

The City Council need not grant a Corner Lot exemption if the Council determines the property will receive a benefit from the local improvement for which the assessment is being levied.

6. Minimum Frontage. All lots may be assessed for an equivalent front footage of no less than 60 feet.
7. Benefited Property. A benefited property may be defined as one which is adjacent to any street, easement or right of way on which a local improvement is installed or which reasonably is capable of connecting to, or directly benefiting from, the improvement.
8. Assessment Alternative. Assessment alternatives that vary from those listed in this section may be identified within the engineer's report. A weighting method may be considered among multiple alternatives to determine a hybrid alternative assessment.
9. Equal Assessments. If property owners of all or part of the benefited properties within the improvement district are in unanimous agreement, and so request, then their share of the improvement costs may be apportioned in equal amounts.

#### **12.05.055 Alternative Methods of Financing**

A. The Council may allocate a portion of the cost of such improvement from the funds of the city. The council may base this on topographic concerns, the physical layout of the improvement, unusual or excessive public use of the improvement, or other characteristics. The amount assessed against all property specially benefited will be proportionately reduced.

B. The council may use other means to finance, in whole or in part, the improvements, including but not limited to: federal or state grants-in-aid, sewer or other types of utility charges, urban renewal funds, revenue or general obligation bonds.

#### **12.05.060 Final Assessment**

A. After final acceptance of the public improvements by the city, the city engineer shall prepare a final report that describes the completed improvement, lists the total costs with a breakdown of the components of the total cost, and proposes a method of assessment. The city engineer shall prepare the proposed assessments for each lot within the improvement district, file the assessments with the finance director, and submit a proposed assessment resolution to the city council. The city engineer shall provide an explanation of any difference in the proposed cost allocation or method of assessment previously proposed.

- B. The city council shall hold a hearing on the final engineer's report and at that hearing shall establish by resolution the method of assessment and amount to be assessed against each specially benefited property.
- C. The council in adopting a method of assessment of the costs of the improvement(s) may use any method of apportioning the sum to be assessed that the council determines to be just and reasonable among the properties in the local improvement district.
- D. After the council adopts the assessment resolution, the city will schedule a council hearing and mail notice of the proposed assessments to each owner of assessed property within the district at least 10 days before the hearing. The notice shall contain:
  - 1. The name of the owner and a description of the property to be assessed.
  - 2. The amount of the assessment.
  - 3. The proposed allocation and method of assessment.
  - 4. The date, time and place of the council hearing on objections to the assessment, and the deadline to submit written objections before the hearing.
  - 5. A statement that the assessment as stated in the notice or as modified by the council after the hearing will be levied by the council, charged against the property, and be due and payable.
- E. Any mistake, error, omission or failure relating to the notice shall not invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been provided to the property owner, or if owner cannot be located, notice is published once a week for two consecutive weeks in a newspaper of general circulation in the city.
- F. The council shall hold the public hearing and consider oral and written objections and comments. After the hearing, the council shall determine the amount of assessment to be charged against each property within the district according to the special benefits to each

property from the improvement(s). The final decision spreading the assessment shall be by resolution.

- G. If the initial assessment has been made on the basis of estimated cost, and, upon completion of the work, the cost is found to be greater than the estimated cost, the council may make a deficit assessment for the additional cost, provided, however, the council may not make a deficit assessment for more than ten (10) percent of the initial assessment. Proposed assessments upon the respective lots within the special improvement district for a proportionate share of the deficit shall be made, notices shall be sent, opportunity for objections shall be given, any objections shall be considered, and a determination of the assessment against each particular lot, block, or parcel of land shall be made in the same manner as in the case of the initial assessment, and the deficit assessment shall be spread by resolution.
  
- H. If assessments have been made on the basis of estimated cost and upon completion of the improvement project the cost is found to be less than the estimated cost, the council shall ascertain and declare the same by resolution, and when so declared the excess amounts shall be entered on the city lien record as a credit upon the appropriate assessment. Thereafter, the person who paid the original assessment, or that person's legal representative or successor, shall be entitled to repayment of the excess amount. If the property owner has filed an application to pay the assessment by installment, the owner shall be entitled to such refund only when such installments, together with interest thereon, are fully paid. If the property owner has neither paid such assessment nor filed an application to pay in installments, the amount of the refund shall be deducted from such assessment, and the remainder shall remain a lien on the property until legally satisfied.

#### **12.05.065 Notice of Assessment**

Within 10 days after the effective date of the resolution levying the assessments, the finance director shall send by first-class mail to the owner of the assessed property a notice containing the following information:

- A. The date of the resolution levying the assessment, the name of the owner of the property assessed, the amount

of the specific assessment and a description of the property assessed.

- B. A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this chapter.
- C. A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within 30 days of the date of the notice and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

Supplementary notice of assessment in form and content to be determined by the finance director may also be published or posted by the finance director.

#### **12.05.070 Financing of LID Program**

- A. The City will account for the payment of LID formation costs, construction costs and the retirement of debt incurred by the City in connection with local improvement projects on which the payment of assessments has been deferred under this Ordinance.
- B. The initial funds for the LID program will be taken from fund transfers and/or debt approved by the City Council and shall be allocated to LID projects in a manner that takes into account expenditure restrictions. LID program financing by the City will be secured by property liens using debt instruments such as revenue bonds, loans, inter-fund loans, etc. with a debt reserve that equates to 12-months of combined interest/principal obligations on outstanding LID fund balances.
- C. Deferments shall be granted on a pro rata or otherwise equitable basis, depending upon individual assessment amounts for applications received within the time period set under Section 12.05.075(A) for submittal, to the extent that Program funds are available.

#### **12.05.075 Payment**

- A. Unless an application is made for payment in installments as provided by this section, assessments shall be due and payable in full within 30 days after the date the notice of assessment is mailed, and if not so paid, shall bear interest

at the rate of 9 percent per year. The city may proceed to foreclose or enforce collection of the assessment lien if the amount is not paid in full within 90 days of the date the notice of assessment is mailed.

- B. Any time within 30 days after the notice of assessment is mailed or within 30 days of resolution of any writ of review proceeding challenging the assessment, the owner of the property may apply to pay the assessment in ten equal annual installments, with the first payment to be paid within 30 days of the determination by the finance director of the amount of the annual payment. This option for an owner to make installment payments is limited to assessments in excess of \$500, unless a payment plan for a smaller amount is authorized, in writing, by the city manager. The installment payment application shall state:
  - 1. That the applicant waives all irregularities or defects, jurisdictional or otherwise, in any way relating to the assessment.
  - 2. State that the applicant understands the terms and conditions of the city's payment policies including the penalties for nonpayment.
- C. On receipt of an application for payment in installments, the finance director shall determine whether the city will finance the payments internally or issue a bond or obtain a loan for the amount financed. The interest rate will be set at the interest rate charged to the city for the bond or the loan, plus 2%. If the city finances the payments internally, the interest rate shall be at the interest rate payable to the city if it had invested the money in a local government pool account, plus 3%. The finance director shall then notify the property owner of the payment amounts and due dates.
- D. If any installment payment is not paid within one year of the due date, the council shall adopt a resolution declaring the entire amount of principal and interest due and payable at once.
- E. The entire amount of principal and accrued interest shall be payable on any sale of the specially assessed property or change in its boundaries.
- F. There shall be no penalty for early payment or early retirement of LID principal amounts.

### **12.05.080 Lien and Foreclosure**

- A. The finance director shall enter in the city lien docket:
  - 1. A statement of the amounts assessed upon each particular lot, parcel of land or portion thereof;
  - 2. A description of the improvement;
  - 3. The names of the owners; and
  - 4. The date of the assessment resolution.
- B. On entry in the lien docket, the amount entered shall become a lien and charge upon the properties that have been assessed for such improvement.
- C. All assessments liens of the city shall be superior and prior to all other liens or encumbrances on property in accordance with ORS 94.709.
- D. The city may collect any payment due and may foreclose the liens in any manner authorized by state law.

### **12.05.085 Errors in Assessment Calculations**

Claimed errors in the calculation of assessments shall be called to the attention of the finance director who shall determine whether there has been an error. If the finance director determines that there has been an error, the matter shall be referred to the council for an amendment of the assessment resolution. On amendment of the resolution, the finance director shall make necessary corrections in the city lien docket and send a correct notice of assessment by certified mail.

### **12.05.090 Abandonment of Proceedings**

The council may abandon and rescind proceedings for improvements at any time prior to the final completion of the improvements. No assessment shall be imposed if improvements are not completed.

### **12.05.095 Curative Provisions**

No improvement assessment shall be rendered invalid by a failure of any incompleteness or other defect in any

engineer's report, resolution, notice, or by any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps required by this chapter, unless the assessment is unfair or unjust. The council shall have the authority to remedy or correct any matter by suitable proceedings and action.

#### **12.05.100 Reassessment**

A. Whenever all or part of an assessment or reassessment for any local improvement is declared void, set aside for any reason, not enforced by a court or the council determines the assessments should be adjusted, the council may make a new assessment but shall not be required to repeat any portion of the procedure properly completed.

B. The reassessment procedures for making the new assessment will follow the same procedures used for the initial assessment under NMC12.05.050 and 12.05.085. The new assessment is not limited to the amounts included in the original assessments or to the property included within the original assessment if the council finds that additional property is specially benefited and subject to assessment.

C. Credit must be allowed on the new assessment for any payments made on the original assessment as of the date of payment. Interest on the original assessments must be included in the new assessment to the extent the new assessment includes amounts also included in the original assessment. The council will include interest as part of the overall assessable project cost. The amount will be based on the construction financing interest rate in effect and applicable to the district at the time of the original proceedings on moneys paid on the construction or financing of the project.

#### **12.05.105 Remedies**

Actions of the council under this chapter are reviewable only by writ of review.

#### **12.05.110 Interpretation and Coordination with State Law**

The provisions of this chapter shall be interpreted consistent with state law relating to local improvement districts and Bancroft bonding. When state law authorizes local governments to adopt standards and procedures different from those specified in the statutes, the city may comply with

either this chapter or state statutes. To the extent that any standard or procedure is not governed by this chapter, the city shall comply with state statutes.

#### **12.05.115 Confidentiality**

To the maximum extent possible under the law, the applications, records and other information relating to deferments shall be kept confidential by the City.

#### **12.05.120 Appeals**

Owners of property against which an assessment or reassessment for local improvements has been imposed may seek a review of any council decision under the circuit court writ of review provisions of ORS 34.010 to 34.102.

**City of Newport  
Local Improvement District (LID) Initiative  
ODOT/TGM Project**

**Technical Advisory Committee**

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<b>Adam Denlinger</b>	<b>Seal Rock Water District</b>
<b>Mike Franklin</b>	<b>Planning Commission Small Business Owner</b>
<b>Tim Gross</b>	<b>Newport City Engineer</b>
<b>Lee Hardy</b>	<b>Planning Commissioner Yaquina Bay Property Management</b>
<b>David Helton</b>	<b>Oregon Dept. of Transportation</b>
<b>Don Huster</b>	<b>Private Developer</b>
<b>Mike Murzynsky</b>	<b>Newport Finance Director</b>
<b>Linda Pilson</b>	<b>Lincoln County Treasurer</b>
<b>Steve Rich</b>	<b>Newport City Attorney</b>

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, March 28, 2016**

**Commissioners Present:** Jim Patrick, Rod Croteau, Lee Hardy, Bob Berman, Mike Franklin, and Bill Branigan.

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Franklin, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session and regular session meeting minutes of March 14, 2016.

Berman noted a correction he felt needed to be made to some wording on the first page of the work session minutes. **MOTION** was made by Commissioner Berman, seconded by Commissioner Branigan, to approve the Planning Commission work session minutes as amended. The motion carried unanimously in a voice vote. **MOTION** was made by Commissioner Berman, seconded by Commissioner Franklin, to approve the regular session minutes as presented. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.** No action items.

5. **Public Hearings.** Chair Patrick opened the public hearing portion of the meeting at 7:04 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman and Croteau declared site visits to the reservoir property. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File No. 4-CP-14:** Revisions to the Goals and Policies section of the Public Facilities Element of the Newport Comprehensive Plan to provide policy direction on how the City should utilize Local Improvement Districts as a source of funding capital infrastructure projects. The Commission will forward a recommendation on this matter to the City Council.

Patrick opened the hearing for File No. 4-CP-14 at 7:05 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that at a prior meeting the Commission had a chance to look at the draft ordinance along with policy language for this item. He made some corrections based on the Commissioner's feedback at that time. He noted that this is something the Commission has been working on for a while. He said it's kind of a retooling of the City's Local Improvement District (LID) code. He said what the Commissioners have before them tonight are new policies that provide the City Council some direction as to how to approach forming Local Improvement Districts, when it should be a priority in terms of including LIDs as a piece of the funding puzzle, considerations for when the Council should initiate LIDs and some of the factors there, and some policy direction with respect to handling petitions to form LIDs. Tokos noted that we've had a consultant by the name of FCS Group working on this under a grant funded by ODOT and DLCD through a transportation growth management (TGM) program. This is the culmination of that work. He noted that there are a number of other documents that they have been working on that the Commission has had a chance to look at in the past. The draft code is included, but is not before the Commission for action because it's not a land use code, and it's not policies that are going into the Comprehensive Plan. So, the code itself will just go to the Council as an amendment to the Municipal Code. He said that the Commissioners are welcome to pass on any observation that they would like to share with respect to that, and he will be happy to share those with the Council. He said there's also a couple of other pieces of information; a strategies document that the Commission has had a chance to see, a FAQ flyer that we'll have available to the public,

and an Excel spreadsheet model that will be very useful for us for calculating out what an LID would actually look like on the ground; what the cost would be for each owner based on a myriad of factors that we can program into the spreadsheet. He said what the Commission has tonight is a draft ordinance that would add a Policy 6 to the Goals and Policies section of the Public Facilities element of our Comprehensive Plan and is really directed at providing some guidance for how the City should be approaching and handling Local Improvement Districts.

Croteau had a question on page 6 of Attachment “B” related to part B of 12.05.030 where it speaks about a declaration in case of emergency requires the unanimous vote of the City Council. He asked if we intentionally set the bar that high; that’s fairly high. Tokos said he believes that was intentional. The other question Croteau had was on page 21 where it deals with appeals. It references ORS 34.010 to 34.102. He asked if that’s limited to appeals on LIDS, or is that a general means of resolving conflicts with this sort of legislation. He wondered if we need to specify anything more than just an ORS number. Tokos said he hasn’t looked at this particular language probably since it was originally drafted. His suspicion is that that Statute is specific to appeals of Local Improvement Districts because it’s not a land use appeal, which is covered under different Statutes. He thinks it’s pretty targeted to LIDs; but he can certainly take a look at it. He asked what Croteau’s concern would be. Croteau said only if it needed further specification. He was curious whether it was very specific or not. Tokos said his sense is that it is specific; and he can confirm that before it goes to Council. Patrick said if it is an appeal, it might be nice to pull into our code what the structure of that appeal is rather than referring people to go off to the ORS and figure out how you’re supposed to appeal this. Tokos will take a look at that and see if we can’t be more specific about it in the code. His suspicion is that when we do that, and it’s an appeal of the Council decision, you’re talking about something that’s going to Circuit Court. Patrick said it would be nice even if it just outlined how we’re doing it. Tokos said that’s a good point. We can put some language in there to at least provide some clarity what those provisions refer to.

Berman noted a typo in the third line down on page 18 of Attachment “B” under 12.05.075 that starts on the previous page. He said that it should be either “the” assessment or “any” assessment. On that same page, under item C, he wondered what the rationale is for the different percentage increments depending on where the money is coming from; one is rate plus 2%, and the other one is rate plus 3%. He asked if that’s standard language. Tokos said his suspicion is that this was pulled by the consultant from other comparable LID codes. When he reads the language, it strikes him that the additional 3% is just because of the exposure of self-financing. He said that would be the rationale to have 3% as opposed to 2%, because of the self-financing nature of that approach. He suspects FCS pulled this from other codes and was using it as model language. Berman said it seems more logical to have whatever the cost is plus “x” percent, regardless of where it comes from. Patrick said it’s apples and oranges. In one case you’re using a rate of interest that’s paid to you when you had your money in the bank, 3%. The other is 2% on top of what interest you had to pay. He said the 3% is going to be a lot lower than the 2% rate. You don’t want to lend your money out; you’re setting it to a savings rate, not to a lending rate. If it’s a lending rate, it would be one thing; but it’s not, it’s a savings rate. Croteau agreed that they are different.

Berman’s next question was on the next paragraph, item D. He asked if it’s customary for the Council to have to adopt a resolution just to essentially foreclose on somebody that’s a year overdue; the Finance Department can’t just take those kinds of actions? Hardy said that’s an enforcement action; so she doesn’t think the Finance Director has that authority. Tokos said that he doesn’t have an answer whether or not that’s been structured differently in other context such as the payment of utility fees or something like that. He would have to look into that. Berman asked, if he hasn’t paid his utility bill in over a year, does the Council have to say that he’s in default. Tokos thought that by and large the City Council has the ability to structure the code in the manner that it sees fit. This language could have been codified such that if payments haven’t been paid within one year of due date, the total amount due will automatically be due and payable. Berman said if you’re trying to allow some discretion by the Council, and they have to take positive action to have that come due and payable; it seems like an administrative burden on the Council. Tokos said you could view it that way. Another way to view it is that staff would be compelled to share that information with the Council; and it’s a way for the Council to be kept apprised of the delinquent accounts. You can handle that administratively as well. This is saying administratively, Finance Director, any time you have an account that is delinquent more than twelve months, you provide it on a roster and document it with the Council as a consent item or some sort of report. This certainly is a way to make sure it gets in front of the City Council, and they would take some affirmative action. He said the one thing that’s a little bit different with LIDs than with utilities is that he could see a circumstance where there’s a developer-initiated LID where the Council may want to provide some flexibility if they feel that at the end of the day that means they are going to get paid, and it’s not going to go belly-up. He can’t think of all circumstances, but he could think of some circumstances where based on an economic

downturn or whatever, the Council may want to carry something with some amendments as opposed to force it as payable. Because if they force it and the person defaults, the City could be left with the property and if it's in bad shape, that may not be enough to cover the debt. He said that would be one way this language as structured gives the Council the flexibility of an alternative approach if they think it's appropriate. Berman agreed that's a rationale for doing it this way. Tokos said on the flip side, if the Council started seeing those things on a regular basis and were uncomfortable with it, we adjust the code. Patrick agreed we could change it if they don't like it.

Berman asked, what if somebody just simply walks away from their property; say there was a total loss in a fire, and they didn't have adequate insurance, and they say the land is near a landslide anyway, so they just move away. Tokos said we lien the property. Berman said the City would probably just end up eating it. Tokos said if they walk away, the property gets foreclosed, it gets sold; and then the proceeds are used to pay off the liens and other encumbrances on the property. So, the City would get something out of it. He said the strategy we were taking was let's at least for residential properties target LIDs so they don't exceed 10% of the assessed value. We don't want them to be so large that the exposure to the owner is such that they're at risk of default because it's too much of a burden for them to pay. He said or, on the flip side, if it's developer-initiated, that it's no more than 50% of the assessed value so that the City's not hanging out there if the developer can't pull it off. We also have language in here for when we fund an LID and it's done through some sort of phased borrow; and we'll probably roll it in with our program borrows against our utility fees that we use for water, sewer, and storm drainage type capital projects. We'd probably bundle it so it's more efficient for us. When we do the LID ones, they would be their own independent element, and we would want to make sure there's enough reserve in there to account for odd circumstances such as what Berman brought up, which is somebody loses their home because of a fire and didn't have adequate insurance and had to walk away from that particular property. Patrick said most of the time even with 10%, you'll get your land cost covered. Berman asked if anyone had a sense of what that land cost to improvement ratio typically is. Tokos said that will vary considerably. We have lots of properties here where the land is considerably more valuable than the improvements. He said one of the things we talked about on the economic development side is when your land to improvement value is considerably lower such that your land is considerably more valuable than the improvement, that tends to be a commercial property that's ripe for redevelopment.

Berman noted that in the third paragraph on page 2 of Attachment "B" it has numbers 1 and 2; and at the end of number 2 there's the word "and" that shouldn't be there. Tokos said he would get that fixed. He said that he needs to go back through the code one more time thoroughly to make sure there's nothing else like that.

Franklin noted on Attachment "A", Ordinance No. 2093, on the second page under number 9 bullet point c in the second line the letter "t" is missing in the word street. Tokos said he's actually seeing the "t" on his copy. He thinks that it's either a copying issue or sometimes that "draft" watermark covers it up. He will make sure that's clean; especially when that "draft" comes off.

Hardy said that she still takes issue with the use of the term "benefited properties." Although, she thanked Tokos for "the term benefited properties means properties that are expected to be enhanced." She said properties don't benefit, people do. Those who experience benefits have a cost on the other side. She said, let's not obscure the fact that this enhancement is going to cost these people something. She said if you're taking a look at who really benefits from an LID, it's typically not just the neighborhood. Her feeling is that the entire municipality benefits in terms of enhanced public safety and welfare and enhanced overall consistency of value. She said what you have in this town is a mixture of older and newer neighborhoods that have been acquired or developed at different times. She thinks that issue of whether it really is a citywide benefit versus a localized benefit needs to be carefully handled with each LID that may come up. Tokos said that's a fair point. He thinks that spreadsheet model is going to come in handy in giving us the capacity to do that reasonably; to be able to adjust the different approaches to the assessment and also the different percentages of contribution. He said Hardy's point is well-taken; particularly with respect to street improvements because they are more visible. He thinks not quite as much with say septic conversions to sewer; although there's certainly a broader general health benefit to decommissioning those. That's a little harder to quantify. There's a little bit more direct benefit to property owners there. Storm drainage and streets are visible improvements that improve the overall quality of the neighborhood, which clearly has a broader public benefit. Hardy said, which improves the consistency of the value of the entire town. Tokos said his suspicion is that by capping it and really targeting LIDs at no more than 10% of the assessed value, by and large for any kind of a street project we're going to be bringing in a substantial number of other funds to the table. So, it's just a piece of the puzzle. The ones where he thinks the LIDs would be the primary funder would be those small sewer ones.

Patrick closed the public hearing at 7:24 p.m. There was no deliberation.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to recommend adoption of the amendments described in File No. 4-CP-14. The motion carried unanimously in a voice vote.

**B. File No. 1-AX-14/2-Z-14:** Consideration of requests to 1) annex approximately 320 acres of real property (currently identified as Tax Lots 201, 600 & 900 of Assessor's Tax Map 10-11-33 and Tax Lot 100 of Map 10-11-34 and adjoining portions of the Big Creek Road right-of-way within the existing Urban Growth Boundary) into the city limits; 2) amend the City of Newport Zoning Map to establish a P-1/"Public Structures" zoning designation for the subject property; 3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Commission will forward a recommendation on this matter to the City Council.

Patrick opened the hearing for File No. 1-AX-14/2-Z-14 at 7:25 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that before the Commission was the file record for the reservoir annexation. He said this is something that had been in the works for some time. We went through a full UGB expansion for a little bit larger piece. That process was a multi-year process; it had to go through the City, the County, and ultimately had to be acknowledged by the State. We then embarked on annexing just the City-owned properties within the expanded UGB. The City Council initiated this some time ago, but it had to be put on the shelf until the County finished legalizing Big Creek Road since in at least two locations the annexation keys off where that boundary is. They wrapped that up in September of last year. Because we did a Memorandum of Understanding with the County on the sequencing of these things, we moved to a discussion about a maintenance agreement for Big Creek Road. There was some back and forth in discussion between our respective Public Works Departments, and ultimately our Public Works Department decided to accept it as is. The primary reason for that is our City Engineer Tim Gross anticipates that we'll be doing work near-term that at some point will require us to relocate or reconstruct portions of that road to ensure access to the private property owners that rely upon that road. So, to have the County do any major work in certain areas where we will turn around and possibly tear it up, we decided it's not worth it; we will just take it as is. That's the rationale for that. So, we were able to reinstate the annexation; and that was what was before the Commission at tonight's hearing.

On the overhead screen, Tokos had the map displayed. It showed the actual area that's being annexed, which is Exhibit "A" to the legal description. That showed in orange the boundary of the UGB expansion, then the hatched line showed the city ownership, and what was in purple is what we are actually annexing. There are little bits of privately-owned properties that are not being annexed at this time. We don't want to annex them at this time because if they were annexed we would be compelled to put them under Public zoning, and that's inappropriate. We don't need to bring them in at this point in time. The pieces that we're not annexing at this time will stay under the County's Timber Conservation zoning, and they'll have that palette of uses available to them. Tokos said it's about 320 acres when you add up the City's ownership, which is just almost 310 acres, and another 10 acres more or less that is tied up in Big Creek Road right-of-way. We're only bringing in those portions of Big Creek Road that are adjoining City-owned property. He noted that it does extend a little bit further to the east off this map; there were other exhibits in the packet. When the County legalized it, they legalized it well past where it actually stops being a physical road. There will be a stretch of Big Creek Road right-of-way that's still in the unincorporated county that we're not responsible for.

Tokos explained that the standards for annexation are spelled out in Statute and in the Municipal Code, and are included in the staff report. He said the primary issue before the Commission is whether the annexation is a public necessity and will promote the general welfare. He provided some rationale for that in the staff report; namely, you can rely upon the fact that if you apply a P-1 Public zoning designation your action would be upon its face consistent with the Comprehensive Plan. The other is that the primary reason we did this was to make it easier procedurally for us to institute changes to our water infrastructure. That's a public necessity. The domestic water supply is critical to the health and welfare of our community and ensuring that the processes are such that they don't necessarily impede whatever solution is determined to be appropriate through public vetting processes. He thinks that's a very important consideration, which he put in the staff report and thinks the Commission can also rely on as meeting the bar for being public necessity and consistent with the public welfare. Tokos said he doesn't want it to be lost that one of the reasons we also did the UGB expansion was to facilitate regional park improvements at some point with a trail system. Putting in a P-1 zone facilitates both; the recreational and utility aspect. It's the only zoning designation we have that allows for both and why that's being applied in this case. Tokos said that he thought the Commissioners have sufficient

information in the record to forward a favorable recommendation to the City Council should you believe that's an appropriate action.

Branigan asked on the map on the screen, what the white patch above the purple was. He asked, that's not in the UGB? Tokos said there is City-owned property that's outside the UGB. That's a large City-owned parcel, and a good chunk of that parcel is outside the UGB. He noted that our initial approach with the State was to include that; and that was way more acreage than they were comfortable with. So through negotiation, we pulled that back. From the audience, Robert Etherington noted that if the City is planning on rerouting that County road around the new dam, we may have to get up there with road right-of-way. Tokos said if we have to do that, then we will have to go through a County review process at that point. The UGB is set; we're really not in a position to revisit that at this point in time. If we have to, for example, relocate Big Creek Road such that some small portion of that extends outside our UGB, then we're into a review process with the County. But there is a process to make that happen. We would just have to go through it with the County.

**PROPOSERS, OPPOSITORS, OR INTERESTED PARTIES:** Robert C. Etherington, who along with his wife owns the property at 3249 NE Big Creek Road, Newport. Etherington asked where that section of the County road that the County controls was located. He said the property line kind of runs down the middle of the road. Tokos said we will be taking Big Creek Road all the way over to that far corner where the last of the City property is. All of that will be transferred to the City after the annexation is complete.

Patrick closed the public hearing at 7:36 p.m. There was no deliberation.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Franklin, to recommend approval of the request described in parts 1, 2, and 3 of File No. 1-AX-14/2-Z-14 with the zone designation of P-1. The motion carried unanimously in a voice vote.

6. **New Business.** No new business.
7. **Unfinished Business.** No unfinished business.
8. **Director Comments.** Tokos noted that we do now have two applications for Planning Commission, and he will be talking to the Mayor about getting interviews set up and getting the vacancy filled. We just did receive a second application for the Citizen Advisory Committee, so now we have enough to actually fill the slots. Tokos will get that scheduled for the Commission's consideration at an upcoming meeting.
9. **Adjournment.** Having no further business, the meeting adjourned at 7:37 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant

# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:6.B.  
Meeting Date: 5-2-16

## Agenda Item:

### **Public Hearing on Consideration and Possible Adoption of Ordinance No. 2095, an Ordinance Annexing City Owned Properties surrounding the Big Creek Reservoirs**

#### **Background:**

Almost two years ago, the Newport City Council initiated the annexation of City owned land which surrounds the Big Creek Reservoirs. The territory to be annexed was brought into the Newport Urban Growth boundary in 2014 with this process being placed on hold until Lincoln County legalized the alignment for Big Creek Road. This fall Lincoln County completed the legalization process. All property proposed for annexation is City owned property. In preparation for the Planning Commission hearing, a required notice was provided to the Department of Land Conservation and Development, as well as surrounding property owners, city departments and other public agencies and utilities, and other individuals. A notice of a public hearing was also published in the "Newport News-Times" twice. March 28, 2016, the Planning Commission held a public hearing voting unanimously to recommend approval by the City Council of the annexation. Proper notice has been placed for the City Council's public hearing on annexation. If the City Council authorizes the annexation, Lincoln County will initiate a jurisdictional transfer of those portions of Big Creek Road that abut the City properties. This will certainly simplify any future developments that occur in the reservoir property relating to the road. Please note, that the annexation includes approximately 323 acres of land. The proposed zoning for this land would be P-1-Public Structures.

#### **Recommendation:**

I recommend the Mayor conduct a public hearing on Ordinance No. 2095, an ordinance annexing City owned territories in and around the Big Creek Reservoirs and withdrawing of said property from the Newport Rural Fire Protection District and the Lincoln County Library District.

After considering any comments made,

I further recommend the City Council consider the following motion:

**I move to read by title only, Ordinance No. 2095, an Ordinance annexing territory to the City of Newport, withdrawing the annexed territory from the Newport Rural Fire Protection District and Lincoln County Library District, and establishing zoning for the annexed territory.**

*The Mayor will then ask for a voice vote on whether or not to read the ordinance by title only and*

*placed for final passage.*

*If the motion is approved, the City Recorder will read the title of the ordinance.*

*A roll call vote on the final passage of the ordinance will then be requested by the Mayor, and taken by the City Recorder.*

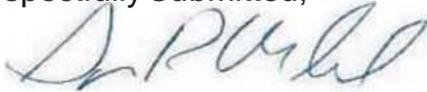
**Fiscal Effects:**

Since the property being annexed is owned by the City and does not pay any taxes, the annexation will not generate additional revenues for the City. Furthermore, the City will be responsible for maintaining Big Creek Road as a City street.

**Alternatives:**

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. Nebel", is written over a faint, light blue circular stamp or watermark.

Spencer R. Nebel, City Manager



STAFF REPORT  
CITY COUNCIL AGENDA ITEM

**Title:** Public hearing and possible adoption of Ordinance No. 2095, annexing city-owned territory in and around the Big Creek Reservoirs and withdrawing said property from the Newport Rural Fire Protection District and Lincoln County Library District

**Prepared by:** Derrick I. Tokos, AICP, Community Development Director

**Recommended Motion:** I move for reading by title only of Ordinance No. 2095, an ordinance annexing territory to the City of Newport, withdrawing the annexed territory from the Newport Rural Fire Protection District and Lincoln County Library District, and establishing zoning for the annexed territory.

**Background Information:** On July 7, 2014 the Newport City Council initiated the annexation of city owned territory surrounding the Big Creek Reservoirs along with adjoining portions of Big Creek Road and directed staff to amend the Newport Zoning Map to adopt a zone designation for the annexed territory of P-1/"Public Structures. The annexation includes approximately 323 acres of land.

The territory to be annexed was brought into the Newport Urban Growth Boundary (UGB) in 2014 for the purpose of streamlining the land use processes that will apply to future development and redevelopment of the City's domestic water storage and distribution system, and to facilitate a future reservoir trail project.

After the City Council initiated the annexation process, the proposal was placed on hold until Lincoln County legalized the alignment for Big Creek Road. This is because there are several locations where the legal description for the annexed area follows the boundary of Big Creek Road. Lincoln County completed the legalization process in September of 2015.

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

The Planning Commission held a public hearing on the proposal on March 28, 2016 and voted unanimously to recommend approval. Required notice was provided to the Department of Land Conservation and Development. For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on March 15, 2016. The notice of public hearing in the Newport News-Times was published on March 18, 2016 and March 23, 2016.

Oregon Revised Statute 222.120(3) requires that notice of the City Council hearing be published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on April 22, 2016 and April 27, 2016. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center.

Once the annexation is complete, the County will initiate a jurisdictional transfer of those portions of Big Creek Road that abut the city properties as outlined in an April 2014 Memorandum of Agreement between Lincoln County and the City of Newport. City Engineer Tim Gross has assessed the condition of the road and is prepared to accept it as currently improved.

**Fiscal Notes:** Territory subject to this annexation is city owned and is; therefore, not subject to taxation. There should be no fiscal impacts.

**Alternatives:** None.

**Attachments:**

Ordinance No. 2095 with exhibits  
March 22, 2016 Planning Commission Staff Report with attachments  
Minutes from the March 28, 2016 Planning Commission meeting  
Notice for the May 2, 2016 City Council meeting  
Memorandum of Agreement with Lincoln County on the transfer of Big Creek Road

CITY OF NEWPORT

ORDINANCE NO. 2095

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

Summary of Findings:

1. On July 7, 2014 the Newport City Council initiated the annexation of city owned territory surrounding the Big Creek Reservoirs along with adjoining portions of Big Creek Road and directed staff to amend the Newport Zoning Map to adopt a zone designation for the annexed territory of P-1/"Public Structures (Newport File No. 1-AX-14/2-Z-14). The annexation includes approximately 323 acres of land.
2. Territory subject to the annexation includes all, or a portion of, real property identified by the Lincoln County Assessor's Office as Tax Lots 201, 600 and 900 of Assessor's Map 10-11-33 and Tax Lot 100 of Assessor's Map 10-11-34.
3. The territory to be annexed was brought into the Newport Urban Growth Boundary (UGB) with a "Public" Comprehensive Plan designation in 2014 for the purpose of streamlining the land use processes that will apply to future development and redevelopment of the City's domestic water storage and distribution system, and to facilitate a future reservoir trail project. That UGB expansion included 350 acres of public and privately owned land. Only the publically owned property is being annexed at this time. The UGB amendment was approved by the City of Newport on May 6, 2013 (Ord. #2050) and by Lincoln County on April 16, 2014 (Ord. #476). The Department of Land Conservation and Development accepted the city and county decisions on July 10, 2014.
4. After the City Council initiated the annexation process in July of 2014, the proposal was placed on hold until Lincoln County legalized the alignment for Big Creek Road. This is because there are several locations where the legal description for the annexed area follows the boundary of Big Creek Road. Lincoln County completed the legalization process in September of 2015.
5. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on March 28, 2016, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the annexation.
6. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on May 2, 2016, on the requested annexation and withdrawal, and the zoning of the property to be annexed.

7. After considering the recommendation of the Planning Commission and the evidence presented at the public hearing and in the record, the City Council determined that the proposal complies with the applicable criteria and voted to approve the requested annexation, withdrawal, and zoning designation.

## THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

### Section 1. ANNEXATION, WITHDRAWAL, AND ZONING

A. Annexation. The following described territory, graphically depicted on Exhibit "A" to this ordinance, is hereby annexed to and incorporated within the City of Newport, Oregon:

Beginning at the Southeast corner of the Southwest quarter of Section 33, Township 10 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon; thence west along the South line of said Section 33, a distance of 20 chains, to the Southeast corner of that tract of land conveyed to Tonia K. Warren, by deed, recorded July 18, 2000, in mf405-0166, Microfilm Records for Lincoln County Oregon, thence continuing west along said South line of Section 33, a distance of 7 chains, to the Southwest corner of said Warren Tract; thence north along the West line of said Warren Tract, a distance of 10 chains, to the Northwest corner of said Warren Tract, said Northwest corner of the Warren Tract lying on the South line of the North half of the Southwest quarter of said Southwest quarter of Section 33, and said Northwest corner of the Warren Tract also being the **True Point of Beginning**; thence continuing north along the north extension of said West line of the Warren Tract, a distance of 720 feet, more or less, to its intersection with the easterly annexation line established by City of Newport, Oregon Ordinance No. 966, approved by the City Council on May 6th, 1974 and adopted by the Mayor on May 6th, 1974; thence northeasterly along said easterly annexation line, a distance of 880 feet, more or less, to the most southerly corner of that tract of land conveyed to Robert N. Etherington and Winifred K. Etherington, husband and Wife, and Robert C. Etherington and Linda A. Etherington, husband and wife, by deed, recorded March 17, 2011, in DOC 2011-02743, Book of Records for Lincoln County, Oregon, said point also being at center line station 58+86.99 on the north line of Big Creek Road Legalization Survey per filed survey number 20411 at the Lincoln County Surveyor's office; thence northeasterly along said survey 20411 to the approximate center line station of 69+35 at the intersection with the southwest corner of that property described in DV 211-0263, Book of Records for Lincoln County; thence northerly along the west line of that property described in DV 211-0263, 136 feet more or less to a point on the south line of the northwest quarter, northwest quarter, Section 33; thence easterly along said south line 40.00 feet; thence northeasterly along the northerly line of that property described in said DV 211-0263 48.5 feet more or less, to the most southerly corner of that property described in Doc. 2008-11669; thence North 34°48'50" West, 181.37 feet to a 1" iron pipe; thence South 86°02'00" West, 85.42 feet to a 1" iron pipe; thence North 25°57'30" West, 106.87 feet to a 1" iron pipe; thence North 46°31'25" East, 192.76 feet to a 1" iron pipe; thence South 34°48'50" East, 335.48 feet, more or less to a point on the northerly line of said DV 211-0263; thence Northeasterly along the northerly line thereof, 102 feet, more or less to a point on the West line of the Northeast quarter of said Section 33; thence north along said West line of the Northeast quarter of Section 33, a distance of 280 feet, more or less, to its intersection with a line that is 480.00 feet north of and parallel to the South line of said Northeast quarter of Section 33; thence east along said line that is 480.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 2570 feet, more or less, to its intersection with a line that is 85.00 feet west of and parallel to the East line of said Section 33; thence north along said line that is 85.00 feet west of and parallel to the East line of Section 33, a distance of 340 feet, more or less, to its intersection with a line that is 820.00

feet north of and parallel to said South line of the Northeast quarter of Section 33; thence east along said line that is 820.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 85 feet, more or less, to said East line of Section 33; thence north along said East line of Section 33, a distance of 1800 feet, more or less, to the common corner of Sections 27, 28, 33, and 34, said Township 10 South, Range 11 West of the Willamette Meridian; thence east along the North line of said Section 34, a distance of 1280 feet, more or less, to the north-south centerline of the Northwest quarter of said Section 34; thence south along said north-south centerline of the Northwest quarter of Section 34, a distance of 2565 feet, more or less, to a point that is 50.00 feet north of the Southwest corner of the Southeast quarter of said Northwest quarter of Section 34; thence southeasterly, a distance of 680 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 170.00 feet south of and parallel to the North line of the Southwest quarter of said Section 34, and the second being a line that is 645.00 feet east of and parallel to the north-south centerline of the Southwest quarter of Section 34; thence northeasterly, a distance of 800, more or less, to a point that is the intersection of two lines, the first being a line that is 550.00 feet north of and parallel to said South line of said Northwest quarter of Section 34, and the second being a line that is 280.00 feet west of and parallel to the East line of said Northwest quarter of Section 34; thence east 280 feet along said line that is 550.00 feet north of and parallel to said South line of the Northwest quarter of Section 34, to a point that is on the East line of the Southwest quarter of Section 34; thence south along the east line of the southwest quarter of Section 34 to the Southeast corner of the northwest quarter of Section 34; thence south along the West line of the Southeast quarter of Section 34, to a point at the southwest corner of that property described in Document 2004-12180 Lincoln County Records; thence South 68°48'26" East, 424.24 feet, more or less, to a point on the north line of said Big Creek Road Survey number 20411 at approximate center line station 139+21; thence southeasterly along the north line of said Big Creek Road Survey to approximate center line station of 146+00 to the intersection with the southwesterly corner of property described in DV 147-349 Lincoln County Records; thence leaving north line of Big Creek Road, North 06°31'40" East, 248 feet more or less, along the westerly line of property described in said DV 147-349; thence North 19°58'20" East, 198.18 feet; thence North 57°42'40" East, 205.49 feet, more or less to a point on the west line of the northeast quarter, southeast quarter Section 34; thence south along the last said east line 661 feet more or less, to the southeast corner of the northeast quarter, southeast quarter Section 34; thence south along the west line of the southeast quarter, southeast quarter, Section 34 20 feet; thence west along a line that is parallel with and 20 feet south of the south line of the northwest quarter, southeast quarter, Section 34, 170 feet, more or less; thence North along a line parallel with and 170 feet westerly of the west line of the southwest quarter, southeast quarter Section 34, 8'; thence South 53°43' West, 217 feet, more or less; thence South 08°01' West, 171 feet; thence South 77° West, 80.00 feet more or less; thence North 04°16' West, 173 feet; thence North 54°06' West, 280 feet to a point on the north line of the southwest quarter, southeast quarter, Section 34; thence westerly along the last said north line 600 feet, more or less, to a point on the east line of the southwest quarter, section 34; thence west along the north line of the south half, southwest quarter section 34, 2562 feet, more or less to a point on the east line of said Section 33; thence west along the along the north line of the south half, southeast quarter Section 33, a distance of 2630 feet, more or less, to the East line of said Southwest quarter of Section 33; thence west along the east-west centerline of said Southwest quarter of Section 33, a distance of 910 feet, more or less, to the Northeast corner of that third tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 409, Deed Volume Records for Lincoln County, Oregon; thence south along the East line of said third City of Newport Tract, a distance of 660 feet, more or less, to the Southeast corner of the third City of Newport Tract, said Southeast corner of said third City of Newport Tract lying on said South line of the North half of the Southeast quarter of said Southwest quarter of Section 33; thence west along said South line of the North half of the Southeast quarter of said Southwest quarter of the Southwest quarter of Section 33, a distance of 400 feet, more or less, to the East line of the Southwest quarter of the

Southwest quarter of Section 33; thence west along the South line of the North half of said Southwest quarter of the Southwest Quarter of Section 33, a distance of 458 feet, more or less, to the true point of beginning.

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

C. Zoning. Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the territory annexed to the City of Newport by designating the subject territory described in Section 1(A) above with the zone designation of P-1/"Public Structures."

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

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

Date adopted and read by title only: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Sandra Roumagoux, Mayor

ATTEST:

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

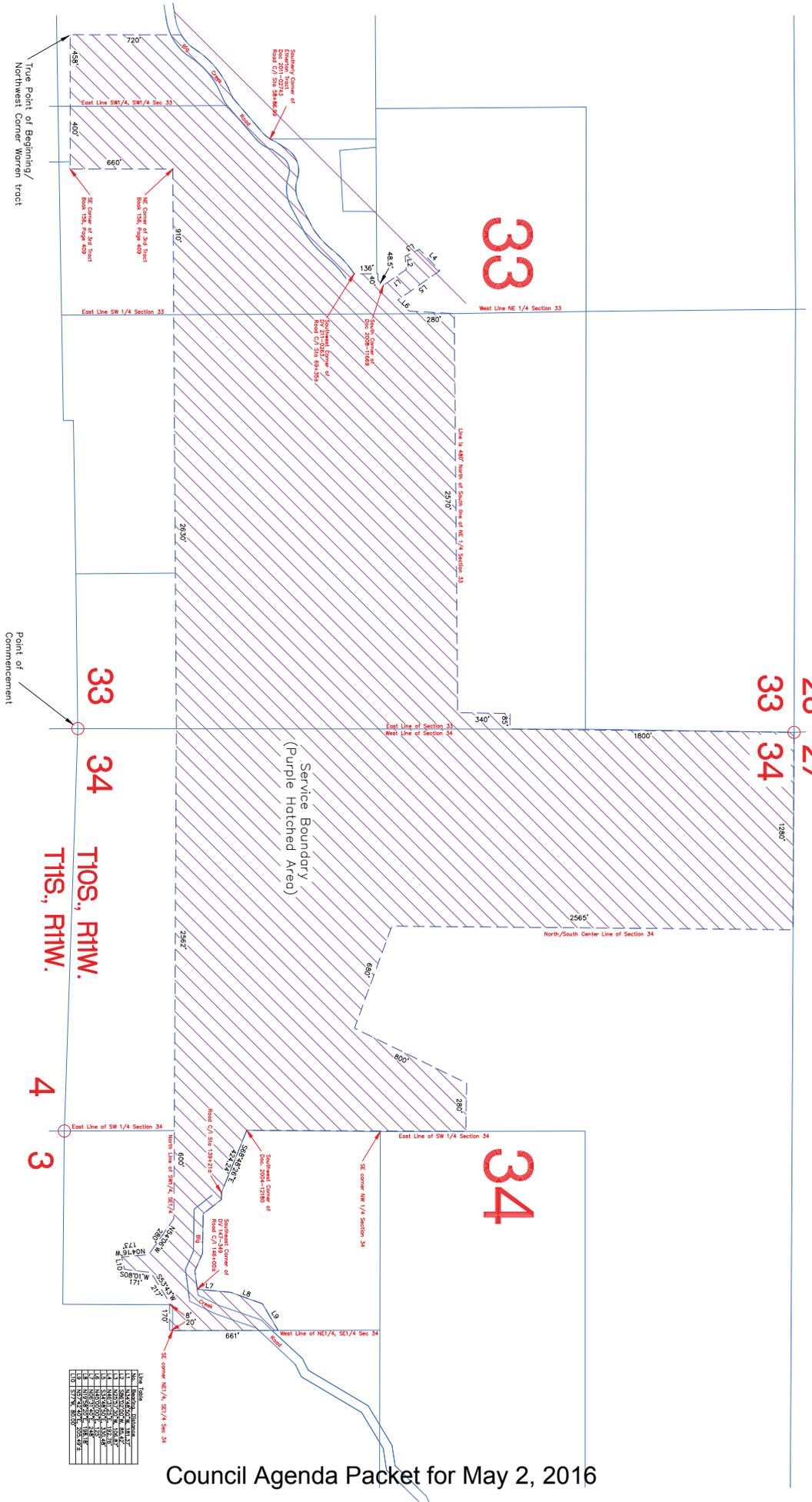
Reviewed as to form:

\_\_\_\_\_  
Steve Rich, City Attorney

# Exhibit Sketch Map

Location:  
T10S, R11W, W14  
City of Newport, Lincoln County, Oregon

Exhibit "A"  
Ordinance No. 2095



2562' Bearing/Distance  
City of Newport Amended Area

PRELIMINARY  
LAND SURVEY  
CITY OF NEWPORT

City of Newport Aménagement  
Pariani Land Surveying  
10558 Highway 62, Suite B-1  
Eugene, Oregon 97403  
541-680-1131  
JOHN E. PARIANI  
Surveyor  
March 21, 2016

## EXHIBIT "B"

### **Findings for Proposed Annexation of Territory, Withdrawal from the Newport Rural Fire Protection District and the Newport Library District, and Establishment of a Zoning Designation**

#### FINDINGS OF FACT

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 2-AX-15/4-Z-15) was initiated by the Newport City Council on July 7, 2014. The application included consideration of a proposal to: (1) annex approximately 323 acres of territory (including real property currently identified as Tax Lots 201, 600 and 900 of Assessor's Tax Map 10-11-33, Tax Lot 100 of Assessor's Map 10-11-34, and adjoining portions of Big Creek Road into the Newport city limits; (2) amend the City of Newport Zoning Map to establish a P-1/"Public Structures" zoning designation for the subject territory consistent with the existing Newport Comprehensive Plan designation of Public; and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The territory to be annexed was brought into the Newport Urban Growth Boundary (UGB) in 2014 for the purpose of streamlining the land use processes that will apply to future development and redevelopment of the City's domestic water storage and distribution system, and to facilitate a future reservoir trail project. That UGB expansion included 350 acres of public and privately owned land. Only the publically owned property is being annexed at this time.
3. The legal description of the area to be annexed is as follows:

Beginning at the Southeast corner of the Southwest quarter of Section 33, Township 10 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon; thence west along the South line of said Section 33, a distance of 20 chains, to the Southeast corner of that tract of land conveyed to Tonia K. Warren, by deed, recorded July 18, 2000, in mf405-0166, Microfilm Records for Lincoln County Oregon, thence continuing west along said South line of Section 33, a distance of 7 chains, to the Southwest corner of said Warren Tract; thence north along the West line of said Warren Tract, a distance of 10 chains, to the Northwest corner of said Warren Tract, said Northwest corner of the Warren Tract lying on the South line of the North half of the Southwest quarter of said Southwest quarter of Section 33, and said Northwest corner of the Warren Tract also being the True Point of Beginning; thence continuing north along the north extension of said West line of the Warren Tract, a distance of 720 feet, more or less, to its intersection with the easterly annexation line established by City of Newport, Oregon Ordinance No. 966, approved by the City Council on May 6th, 1974 and adopted by the Mayor on May 6th, 1974; thence northeasterly along said easterly annexation line, a distance of 880 feet, more or less, to the most southerly corner of that tract of land conveyed to Robert N. Etherington and Winifred K. Etherington, husband and Wife, and Robert C. Etherington and Linda A. Etherington, husband and wife, by deed, recorded March 17, 2011, in DOC 2011-02743, Book of Records for Lincoln County, Oregon, said point also being at center line station 58+86.99 on the north line of Big Creek Road Legalization Survey per filed survey number 20411 at the Lincoln County Surveyor's office; thence northeasterly along said survey 20411 to the approximate center line station of 69+35 at the intersection with the southwest corner of that property described in DV 211-0263, Book of Records for Lincoln County; thence northerly along the west line of that property described in DV 211-0263,

136 feet more or less to a point on the south line of the northwest quarter, northwest quarter, Section 33; thence easterly along said south line 40.00 feet; thence northeasterly along the northerly line of that property described in said DV 211-0263 48.5 feet more or less, to the most southerly corner of that property described in Doc. 2008-11669; thence North 34°48'50" West, 181.37 feet to a 1" iron pipe; thence South 86°02'00" West, 85.42 feet to a 1" iron pipe; thence North 25°57'30" West, 106.87 feet to a 1" iron pipe; thence North 46°31'25" East, 192.76 feet to a 1" iron pipe; thence South 34°48'50" East, 335.48 feet, more or less to a point on the northerly line of said DV 211-0263; thence Northeasterly along the northerly line thereof, 102 feet, more or less to a point on the West line of the Northeast quarter of said Section 33; thence north along said West line of the Northeast quarter of Section 33, a distance of 280 feet, more or less, to its intersection with a line that is 480.00 feet north of and parallel to the South line of said Northeast quarter of Section 33; thence east along said line that is 480.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 2570 feet, more or less, to its intersection with a line that is 85.00 feet west of and parallel to the East line of said Section 33; thence north along said line that is 85.00 feet west of and parallel to the East line of Section 33, a distance of 340 feet, more or less, to its intersection with a line that is 820.00 feet north of and parallel to said South line of the Northeast quarter of Section 33; thence east along said line that is 820.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 85 feet, more or less, to said East line of Section 33; thence north along said East line of Section 33, a distance of 1800 feet, more or less, to the common corner of Sections 27, 28, 33, and 34, said Township 10 South, Range 11 West of the Willamette Meridian; thence east along the North line of said Section 34, a distance of 1280 feet, more or less, to the north-south centerline of the Northwest quarter of said Section 34; thence south along said north-south centerline of the Northwest quarter of Section 34, a distance of 2565 feet, more or less, to a point that is 50.00 feet north of the Southwest corner of the Southeast quarter of said Northwest quarter of Section 34; thence southeasterly, a distance of 680 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 170.00 feet south of and parallel to the North line of the Southwest quarter of said Section 34, and the second being a line that is 645.00 feet east of and parallel to the north-south centerline of the Southwest quarter of Section 34; thence northeasterly, a distance of 800, more or less, to a point that is the intersection of two lines, the first being a line that is 550.00 feet north of and parallel to said South line of said Northwest quarter of Section 34, and the second being a line that is 280.00 feet west of and parallel to the East line of said Northwest quarter of Section 34; thence east 280 feet along said line that is 550.00 feet north of and parallel to said South line of the Northwest quarter of Section 34, to a point that is on the East line of the Southwest quarter of Section 34; thence south along the east line of the southwest quarter of Section 34 to the Southeast corner of the northwest quarter of Section 34; thence south along the West line of the Southeast quarter of Section 34, to a point at the southwest corner of that property described in Document 2004-12180 Lincoln County Records; thence South 68°48'26" East, 424.24 feet, more or less, to a point on the north line of said Big Creek Road Survey number 20411 at approximate center line station 139+21; thence southeasterly along the north line of said Big Creek Road Survey to approximate center line station of 146+00 to the intersection with the southwesterly corner of property described in DV 147-349 Lincoln County Records; thence leaving north line of Big Creek Road, North 06°31'40" East, 248 feet more or less, along the westerly line of property described in said DV 147-349; thence North 19°58'20" East, 198.18 feet; thence North 57°42'40" East, 205.49 feet, more or less to a point on the west line of the northeast quarter, southeast quarter Section 34; thence south along the last said east line 661 feet more or less, to the southeast corner of the northeast quarter, southeast quarter Section 34; thence south along the west line of the southeast quarter, southeast quarter, Section 34 20 feet; thence west along a line that is parallel with and 20 feet south of the south line of the northwest quarter, southeast quarter, Section 34, 170 feet, more or less; thence North along a line parallel with and 170 feet westerly of the west line of the southwest quarter, southeast quarter Section 34, 8'; thence South 53°43' West, 217 feet, more or less; thence South 08°01' West, 171 feet;

thence South 77° West, 80.00 feet more or less; thence North 04°16' West, 173 feet; thence North 54°06' West, 280 feet to a point on the north line of the southwest quarter, southeast quarter, Section 34; thence westerly along the last said north line 600 feet, more or less, to a point on the east line of the southwest quarter, section 34; thence west along the north line of the south half, southwest quarter section 34, 2562 feet, more or less to a point on the east line of said Section 33; thence west along the along the north line of the south half, southeast quarter Section 33, a distance of 2630 feet, more or less, to the East line of said Southwest quarter of Section 33; thence west along the east-west centerline of said Southwest quarter of Section 33, a distance of 910 feet, more or less, to the Northeast corner of that third tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 409, Deed Volume Records for Lincoln County, Oregon; thence south along the East line of said third City of Newport Tract, a distance of 660 feet, more or less, to the Southeast corner of the third City of Newport Tract, said Southeast corner of said third City of Newport Tract lying on said South line of the North half of the Southeast quarter of said Southwest quarter of Section 33; thence west along said South line of the North half of the Southeast quarter of said Southwest quarter of the Southwest quarter of Section 33, a distance of 400 feet, more or less, to the East line of the Southwest quarter of the Southwest quarter of Section 33; thence west along the South line of the North half of said Southwest quarter of the Southwest Quarter of Section 33, a distance of 458 feet, more or less, to the true point of beginning.

4. Staff reported the following information regarding the proposal:
  - A. Plan Designation: The subject territory is within the Newport Urban Growth Boundary, and is designated as “Public” on the Newport Comprehensive Plan Map.
  - B. Zone Designation: City of Newport zoning is established at time of annexation. Either the P-1/“Public Structures,” P-2/“Public Recreation,” or P-3/ “Public Open Space” zoning designations are consistent with a Comprehensive Plan designation of Public. A P-1 zone designation is proposed because it allows a range of governmental and recreational uses that will accommodate the City’s need to make improvements to its reservoirs and related water system infrastructure. Regional park uses are also permitted.
  - C. Surrounding Land Uses: Land uses in the immediate vicinity include commercial timber and low density residential development.
  - D. Topography and Vegetation: The properties include moderate to steeply sloped, forested terrain and the two domestic water supply reservoirs.
  - E. Existing Buildings: A portion of the City’s water treatment plant (it straddles the existing city limits) and the reservoir structures.
  - F. Utilities: All are currently available to the water treatment facility.
  - G. Development Constraints: None known.
  - H. Past Land Use Actions: File No. 2-UGB-12/3-CP-12 - City approved a 350-acre Urban Growth Boundary (UGB) expansion with a “Public” Comprehensive Plan designation on May 6, 2013 (Ord. #2050) and the County followed suit on April 16,

2014 (Ord. #476). The Department of Land Conservation and Development (DLCD) accepted the city/county decisions on July 10, 2014. The subject properties are within the area covered by this UGB expansion.

- I. Notification: Required notice to the Department of Land Conservation and Development was mailed on March 22, 2016.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on March 15, 2016. The notice of public hearing in the Newport News-Times was published on March 18, 2016 and March 23, 2016.

In accordance with Oregon Revised Statute 222.120(3), notice of the May 2, 2016 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on April 22, 2016 and April 27, 2016. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center. No comments have been received in response to this notice.

5. The Planning Commission held a public hearing on the proposal on March 28, 2016. Robert Etherington was the only individual that offered testimony. Mr. Etherington wanted to know how much of Big Creek Road would be annexed, and staff responded that the City of Newport would be taking in the entire stretch of the road adjoining the city-owned parcels. After considering the testimony and reviewing the staff report the Commission voted unanimously to recommend approval of the annexation with the territory being zoned P-1/“Public Structures.”
6. The City Council held a public hearing on the annexation proposal on May 2, 2016. A Planning Staff Report, dated March 22, 2016, was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:

- Attachment "A" - Legal description of area to be annexed
- Attachment "B" - Exhibit “A” map of area to be annexed
- Attachment "C"- Comprehensive Plan map of the area
- Attachment "D" - Zoning map of the area
- Attachment "D-1" - Uses allowed in the P-1, P-2, and P-3 zones
- Attachment "E" - Big Creek Road legalization
- Attachment "F"- Memorandum of Agreement between City/County
- Attachment "G"- Notice of Public Hearing and Map
- Attachment "H"- Copy of ORS 222.170 and ORS 222.524

7. At the May 2, 2016 public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the annexation proposal. Following the close of the public hearing, the Council deliberated and voted to approve the proposal. The minutes of the May 2, 2016 public hearing are hereby incorporated by reference into the findings.

8. The applicable criteria for this annexation proposal are as follows:
  - A. For the annexation/withdrawal portion of the proposal, Newport Municipal Code Section 14.37.040 provides *“The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.”*
  - B. For the zoning map amendment portion of the proposal, the applicable criteria per Newport Municipal Code Section 14.36.010 are *“Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.”*

### CONCLUSIONS

1. In regard to the criteria for approval of the annexation under Newport Municipal Code Section 14.37.040 the City Council concludes as follows:
  - A. In regard to the first criterion (*The required consents have been filed*), the City Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as Big Creek Road, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above. The city owns the territory that is to be annexed (i.e. all but the subject portions of Big Creek Road). The City Council authorized the annexation at its July 7, 2014 meeting. The consent requirement has been met.
  - B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), The City Council concludes that city records are sufficient to establish that the subject territory is within the Urban Growth Boundary of the City of Newport.
  - C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the City Council concludes that the subject territory is contiguous to the existing city limits along the west side of Big Creek Road and it adjoins city property in the vicinity of the lower reservoir dam, as graphically depicted on the exhibit map to the annexation legal description (Exhibit “A”).
2. In regard to the withdrawal, the City Council finds that there are no applicable criteria and the withdrawal of the territory from the Newport Rural Fire Protection District and the Lincoln County Library District occur during annexation when the City of Newport becomes the service provider within the city limits.
3. In regard to the establishment of a City of Newport zone designation upon annexation, the City Council concludes as follows for establishment of an P-1/“Public Structures” zoning designation with regard to the applicable criteria from Newport Municipal Code Section 14.36.010 (*Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*):

- A. The Comprehensive Plan designation of “Public” is implemented by the P-1/“Public Structures,” P-2/“Public Recreation,” or P-3/“Public Open Space” zoning designations. The P-1 zoning designation is the most appropriate designation to place on the subject territory because it allows a range of governmental and recreational uses that will accommodate the City’s need to undertake improvements to its reservoirs and related water system infrastructure. It also provides for regional park uses. Both of these future uses were behind the UGB expansion. The uses permitted outright and conditionally in the P-1, P-2, and P-3 zones are included in Planning Staff Report, Attachment "D-1."
- B. Currently, the abutting property within the city limits immediately to the west of the subject territory is designated with a P-1 zone designation. The property to the northwest within city limits is designated R-1, which is a low density residential zone. All other abutting properties are currently in the county and designated T-C, which is a commercial forest zoning designation (ref: Planning Staff Report, Attachment "D").
- C. The subject territory has been designated in the Newport Comprehensive Plan as Public, and the P-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City’s buildable land needs for a 20-year planning period. Therefore, it is reasonable for the City Council to conclude that the application of a zone designation in conformance with the Comprehensive Plan will further a public necessity and promote the general welfare.
- D. The City has conducted extensive analysis of its domestic water supply reservoirs, identified a range of structural deficiencies, and has developed options for resolving those issues. This will require reconstruction of the City’s water infrastructure in the area, and placing the territory into a P-1 zone removes land use and procedural steps that will make it easier to implement needed improvements. The same applies to future construction of a regional park and trail system around the reservoir. Both of these needs are well documented in the supporting materials for the 2014 UGB expansion and, for these reasons, the City Council finds that the annexation promotes the general welfare.
- E. Considering the above, the application of a P-1 zone designation will further a public necessity and promotes the general welfare.

### OVERALL CONCLUSION

Based on the staff report and attachments, the application materials, and other evidence and testimony in the record, the City Council concludes that the annexation, withdrawal, and application of a P-1 zone designation comply with the criteria established for approval of each of the requests under the applicable criteria as explained in the findings. The annexation, withdrawal, and establishment of a P-1 zone designation are hereby **APPROVED**.

**PLANNING STAFF REPORT**  
**Case File No. 1-AX-14 / 2-Z-14**

- A. **APPLICANT:** City of Newport (applicant and owner).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 320 acres of real property** (consisting of property currently identified as Tax Lots 201, 600 and 900 of Assessor’s Tax Map 10-11-33 and Tax Lot 100 of Map 10-11-34 and adjoining portions of the Big Creek Road right-of-way within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish a P-1/“Public Structures” zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Public (which allows for either P-1, P-2/“Public Recreation,” or P-3/ “Public Open Space” zoning designations); and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** Lincoln County Assessor’s Map 10-11-33, Tax Lots 201, 600 and 900 and Lincoln County Assessor’s Map 10-11-34, Tax Lot 100 and adjoining portions of the Big Creek Road right-of-way.
- D. **PROPERTY SIZE:** Approximately 320 acres.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
- a. **Plan Designation:** The subject properties are within the Newport Urban Growth Boundary and are designated as “Public” on the Newport Comprehensive Plan Map.
- b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the P-1/“Public Structures,” P-2/“Public Recreation,” or P-3/ “Public Open Space” zoning designations are consistent with a Comprehensive Plan designation of Public. A P-1 zone designation is proposed because it allows a range of governmental and recreational uses that will accommodate the City’s need to make improvements to its reservoirs and related water system infrastructure. Regional park uses are also permitted.
- c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include commercial timber and low density residential development.
- d. **Topography and Vegetation:** The properties include moderate to steeply sloped, forested terrain and the two domestic water supply reservoirs.
- e. **Existing Buildings:** A portion of the City’s water treatment plant (it straddles the existing city limits) and the reservoir structures.

- f. **Utilities:** All are currently available to the water treatment facility.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** File No. 2-UGB-13/3-CP-12 – City approved a 350-acre Urban Growth Boundary (UGB) expansion with a “Public” Comprehensive Plan designation on May 6, 2013 (Ord. #2050) and the County followed suit on April 16, 2014 (Ord. #476). The Department of Land Conservation and Development (DLCD) accepted the city/county decisions on July 10, 2014. The subject properties are within the area covered by this UGB expansion.
- i. **Notification:** Required notice to the Department of Land Conservation and Development was sent on March 22, 2016.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on March 15, 2016. The notice of public hearing in the Newport News-Times was published on March 18, 2016 and March 23, 2016.

- j. **Attachments:**
  - Attachment "A" – Legal description of area to be annexed
  - Attachment "B" – Exhibit “A” map of area to be annexed
  - Attachment "C" – Comprehensive Plan map of the area
  - Attachment "D" – Zoning map of the area
  - Attachment "D-1" – Uses allowed in the P-1, P-2, and P-3 zones
  - Attachment "E" – Big Creek Road legalization
  - Attachment "F" – Memorandum of Agreement between City/County
  - Attachment "G" – Notice of Public Hearing and Map
  - Attachment "H" – Copy of ORS 222.170 and ORS 222.524

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

On July 7, 2014 the Newport City Council initiated the annexation of city owned properties surrounding the Big Creek reservoirs along with adjoining portions of Big Creek Road, pursuant to ORS Chapter 222. The land to be annexed is within a portion of the City’s Urban Growth Boundary (UGB) that was expanded in 2014 for the purpose of streamlining the land use processes that will apply to future development and redevelopment of the City’s domestic water storage and distribution system, and to facilitate a future reservoir trail project.

The City owns approximately 309 of the 350 acres included in the 2014 UGB expansion, and it is only city property along with adjoining portions of Big Creek Road that are being annexed and zoned at this time. A legal description and map of the affected area is enclosed with this report (ref: Attachments "A" and "B"). A Comprehensive Plan map designation of "Public" was placed on the property at the time the UGB was expanded (Attachment "C"). This Comprehensive Plan map designation allows for either P-1/"Public Structures," P-2/"Public Recreation," or P-3/"Public Open Space" zoning designations. A designation of P-1/"Public Structures" is proposed because it is the only public zoning designation that allows utility and park uses. The P-2/"Public Parks" zone is limited to park uses and the P-3/"Public Open Space" designation is targeted for land that will be used for passive recreational purposes (ref: Attachment "D-1").

After the City Council initiated the annexation process in July of 2014, the proposal was placed on hold until Lincoln County legalized the alignment for Big Creek Road. This is because there are several locations where the legal description for the annexed area follows the boundary of Big Creek Road. The county completed the legalization process in September of 2015 (Attachment "E").

The City and County entered into a Memorandum of Agreement (MOA) on April 23, 2014 spelling out the terms for transferring the road (Attachment "F"). The MOA contemplated that a maintenance agreement would first be prepared; however, after some discussion, the Newport Public Works Department has determined that it is prepared to accept the road in its present condition. Pursuant to the terms of the MOA, Lincoln County will proceed with the jurisdictional transfer of Big Creek Road after the annexation is complete.

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

**3. Evaluation of the Request:**

a.) **Comments:** Notices of the proposed annexation and Zoning Map amendments were mailed on March 15, 2016, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of March 21, 2016, no comments have been received.

b.) **Applicable Criteria:**

(1) **Annexation/Withdrawal:**

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

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

(2) Zone Map Amendment:

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

c.) **Staff Analysis:**

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

A. The required consents have been filed:

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

The city owns the property that is to be annexed (i.e. all but the subject portions of Big Creek Road). The City Council authorized the annexation at its July 7, 2014 meeting. The consent requirement has been met.

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

The subject territory is contiguous to the existing city limits along the west side of Big Creek Road and it adjoins city property in the vicinity of the lower reservoir dam, as graphically depicted on the exhibit map to the annexation legal description (Attachment "B").

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

The Comprehensive Plan designation of "Public" is implemented by the P-1/"Public Structures," P-2/"Public Recreation," or P-3/"Public Open Space" zoning designations. The P-1 zoning designation is proposed

because it allows a range of governmental and recreational uses that will accommodate the City's need to undertake improvements to its reservoirs and related water system infrastructure. It also provides for regional park uses. Both of these future uses were behind the UGB expansion. The uses permitted outright and conditionally in the P-1, P-2, and P-3 zones are included in Attachment "D-1."

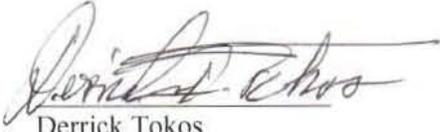
Currently, the abutting property within the city limits immediately to the west of the subject property is designated with a P-1 zone designation. The property to the northwest within city limits is designated R-1, which is a low density residential zone. All other properties are currently in the county and designated T-C, which is a commercial forest zoning designation (ref: Attachment "D").

The subject properties have been designated in the Newport Comprehensive Plan as Public, and the P-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, the Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

The City has conducted extensive analysis of its domestic water supply reservoirs, identified a range of structural deficiencies, and has developed options for resolving those issues. This will require reconstruction of the City's water infrastructure in the area, and placing the property into a P-1 zone removes land use and procedural steps that will make it easier to implement needed improvements. The same applies to future construction of a regional park and trail system around the reservoir. Both of these needs are well documented in the supporting materials for the 2014 UGB expansion and, for these reasons, it is reasonable for the Planning Commission to find that the annexation promotes the general welfare.

4. **Conclusion:** If the Commission finds that the request meets the criteria, then the Commission should recommend approval of the request with any conditions for annexation as the Commission deems necessary for compliance with the criteria. Additionally, the Commission should recommend to the City Council whether or not the zoning designation should be P-1, P-2, or P-3. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should identify the portion(s) of the criteria with which the annexation request is not in compliance.

**F. STAFF RECOMMENDATION:** Based on the information received as of March 21, 2016, this application appears to meet the applicable criteria for the annexation request and zoning map amendment.



Derrick Tokos  
Community Development Director/City of Newport

March 22, 2016

**NE Agate Beach Urban Growth Boundary Adjustment Description**  
**(to include Big Creek Road 3/8/2016 JRP)**

Beginning at the Southeast corner of the Southwest quarter of Section 33, Township 10 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon; thence west along the South line of said Section 33, a distance of 20 chains, to the Southeast corner of that tract of land conveyed to Tonia K. Warren, by deed, recorded July 18, 2000, in mf405-0166, Microfilm Records for Lincoln County Oregon, thence continuing west along said South line of Section 33, a distance of 7 chains, to the Southwest corner of said Warren Tract; thence north along the West line of said Warren Tract, a distance of 10 chains, to the Northwest corner of said Warren Tract, said Northwest corner of the Warren Tract lying on the South line of the North half of the Southwest quarter of said Southwest quarter of Section 33, and said Northwest corner of the Warren Tract also being the **True Point of Beginning**; thence continuing north along the north extension of said West line of the Warren Tract, a distance of 720 feet, more or less, to its intersection with the easterly annexation line established by City of Newport, Oregon Ordinance No. 966, approved by the City Council on May 6<sup>th</sup>, 1974 and adopted by the Mayor on May 6<sup>th</sup>, 1974; thence northeasterly along said easterly annexation line, a distance of 880 feet, more or less, to the most southerly corner of that tract of land conveyed to Robert N. Etherington and Winifred K. Etherington, husband and Wife, and Robert C. Etherington and Linda A. Etherington, husband and wife, by deed, recorded March 17, 2011, in DOC 2011-02743, Book of Records for Lincoln County, Oregon, said point also being at center line station 58+86.99 on the north line of Big Creek Road Legalization Survey per filed survey number 20411 at the Lincoln County Surveyor's office; thence northeasterly along said survey 20411 to the approximate center line station of 69+35 at the intersection with the southwest corner of that property described in DV 211-0263, Book of Records for Lincoln County; thence northerly along the west line of that property described in DV 211-0263, 136 feet more or less to a point on the south line of the northwest quarter, northwest quarter, Section 33; thence easterly along said south line 40.00 feet; thence northeasterly along the northerly line of that property described in said DV 211-0263 48.5 feet more or less, to the most southerly corner of that property described in Doc. 2008-11669; thence North 34°48'50" West, 181.37 feet to a 1" iron pipe; thence South 86°02'00" West, 85.42 feet to a 1" iron pipe; thence North 25°57'30" West, 106.87 feet to a 1" iron pipe; thence North 46°31'25" East, 192.76 feet to a 1" iron pipe; thence South 34°48'50" East, 335.48 feet, more or less to a point on the northerly line of said DV 211-0263; thence Northeasterly along the northerly line thereof, 102 feet, more or less to a point on the West line of the Northeast quarter of said Section 33;

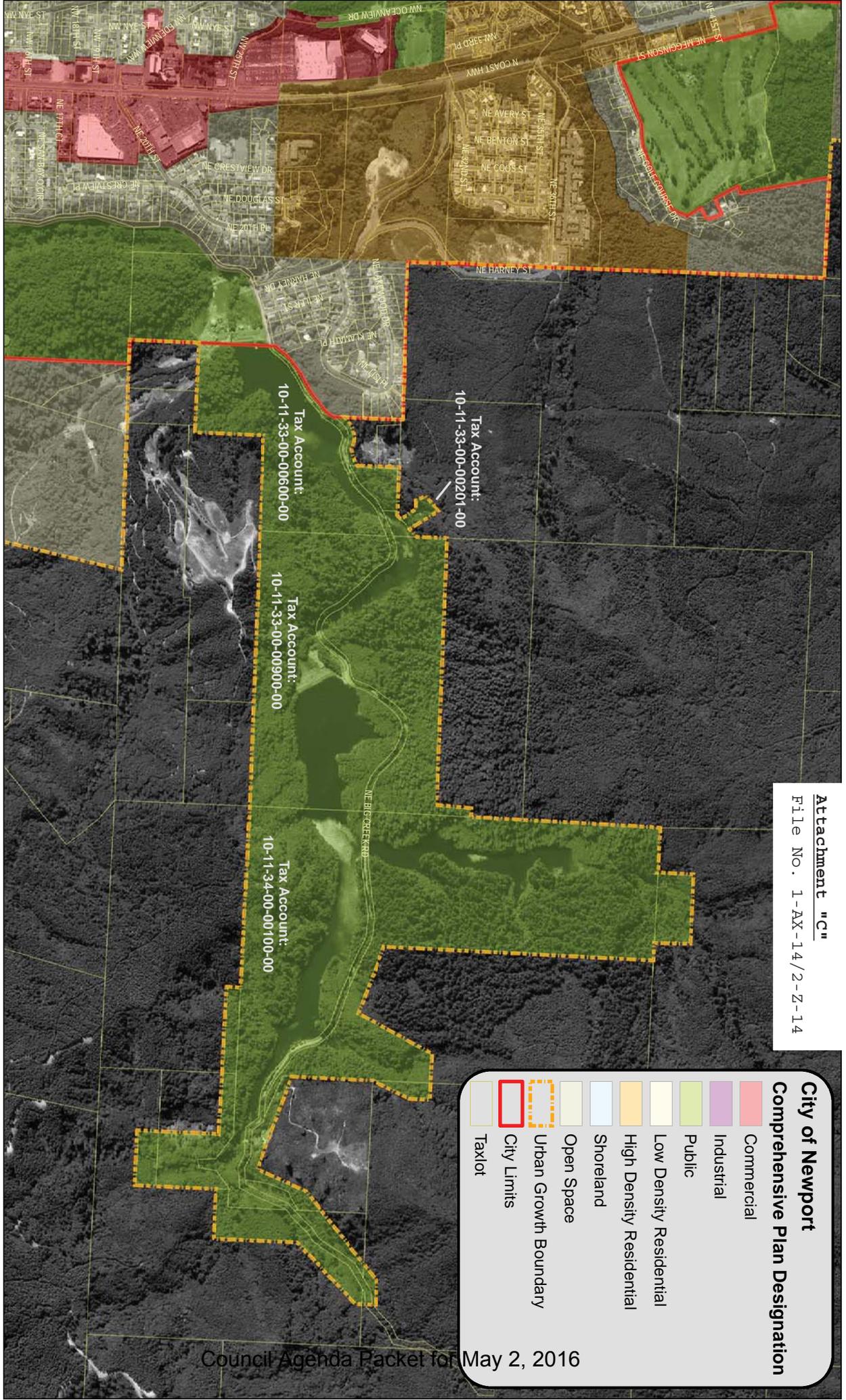
thence north along said West line of the Northeast quarter of Section 33, a distance of 280 feet, more or less, to its intersection with a line that is 480.00 feet north of and parallel to the South line of said Northeast quarter of Section 33; thence east along said line that is 480.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 2570 feet, more or less, to its intersection with a line that is 85.00 feet west of and parallel to the East line of said Section 33; thence north along said line that is 85.00 feet west of and parallel to the East line of Section 33, a distance of 340 feet, more or less, to its intersection with a line that is 820.00 feet north of and parallel to said South line of the Northeast quarter of Section 33; thence east along said line that is 820.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 85 feet, more or less, to said East line of Section 33; thence north along said East line of Section 33, a distance of 1800 feet, more or less, to the common corner of Sections 27, 28, 33, and 34, said Township 10 South, Range 11 West of the Willamette Meridian; thence east along the North line of said Section 34, a distance of 1280 feet, more or less, to the north-south centerline of the Northwest quarter of said Section 34; thence south along said north-south centerline of the Northwest quarter of Section 34, a distance of 2565 feet, more or less, to a point that is 50.00 feet north of the Southwest corner of the Southeast quarter of said Northwest quarter of Section 34; thence southeasterly, a distance of 680 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 170.00 feet south of and parallel to the North line of the Southwest quarter of said Section 34, and the second being a line that is 645.00 feet east of and parallel to the north-south centerline of the Southwest quarter of Section 34; thence northeasterly, a distance of 800, more or less, to a point that is the intersection of two lines, the first being a line that is 550.00 feet north of and parallel to said South line of said Northwest quarter of Section 34, and the second being a line that is 280.00 feet west of and parallel to the East line of said Northwest quarter of Section 34; thence east 280 feet along said line that is 550.00 feet north of and parallel to said South line of the Northwest quarter of Section 34, to a point that is on the East line of the Southwest quarter of Section 34; thence south along the east line of the southwest quarter of Section 34 to the Southeast corner of the northwest quarter of Section 34; thence south along the West line of the Southeast quarter of Section 34, to a point at the southwest corner of that property described in Document 2004-12180 Lincoln County Records; thence South 68°48'26" East, 424.24 feet, more or less, to a point on the north line of said Big Creek Road Survey number 20411 at approximate center line station 139+21; thence southeasterly along the north line of said Big Creek Road Survey to approximate center line station of 146+00 to the intersection with the southwesterly corner of property described in DV 147-349 Lincoln County Records; thence leaving north line of Big Creek Road, North

06°31'40" East, 248 feet more or less, along the westerly line of property described in said DV 147-349; thence North 19°58'20" East, 198.18 feet; thence North 57°42'40" East, 205.49 feet, more or less to a point on the west line of the northeast quarter, southeast quarter Section 34; thence south along the last said east line 661 feet more or less, to the southeast corner of the northeast quarter, southeast quarter Section 34; thence south along the west line of the southeast quarter, southeast quarter, Section 34 20 feet; thence west along a line that is parallel with and 20 feet south of the south line of the northwest quarter, southeast quarter, Section 34, 170 feet, more or less; thence North along a line parallel with and 170 feet westerly of the west line of the southwest quarter, southeast quarter Section 34, 8'; thence South 53°43' West, 217 feet, more or less; thence South 08°01' West, 171 feet; thence South 77° West, 80.00 feet more or less; thence North 04°16' West, 173 feet; thence North 54°06' West, 280 feet to a point on the north line of the southwest quarter, southeast quarter, Section 34; thence westerly along the last said north line 600 feet, more or less, to a point on the east line of the southwest quarter, section 34; thence west along the north line of the south half, southwest quarter section 34, 2562 feet, more or less to a point on the east line of said Section 33; thence west along the along the north line of the south half, southeast quarter Section 33, a distance of 2630 feet, more or less, to the East line of said Southwest quarter of Section 33; thence west along the east-west centerline of said Southwest quarter of Section 33, a distance of 910 feet, more or less, to the Northeast corner of that third tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 409, Deed Volume Records for Lincoln County, Oregon; thence south along the East line of said third City of Newport Tract, a distance of 660 feet, more or less, to the Southeast corner of the third City of Newport Tract, said Southeast corner of said third City of Newport Tract lying on said South line of the North half of the Southeast quarter of said Southwest quarter of Section 33; thence west along said South line of the North half of the Southeast quarter of said Southwest quarter of the Southwest quarter of Section 33, a distance of 400 feet, more or less, to the East line of the Southwest quarter of the Southwest quarter of Section 33; thence west along the South line of the North half of said Southwest quarter of the Southwest Quarter of Section 33, a distance of 458 feet, more or less, to the true point of beginning.

(end)



**Attachment "C"**  
 File No. 1-AX-14/2-Z-14



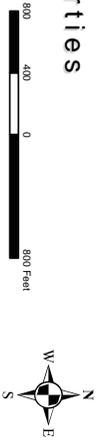
**City of Newport**  
**Comprehensive Plan Designation**

- Commercial
- Industrial
- Public
- Low Density Residential
- High Density Residential
- Shoreland
- Open Space
- Urban Growth Boundary
- City Limits
- Taxlot

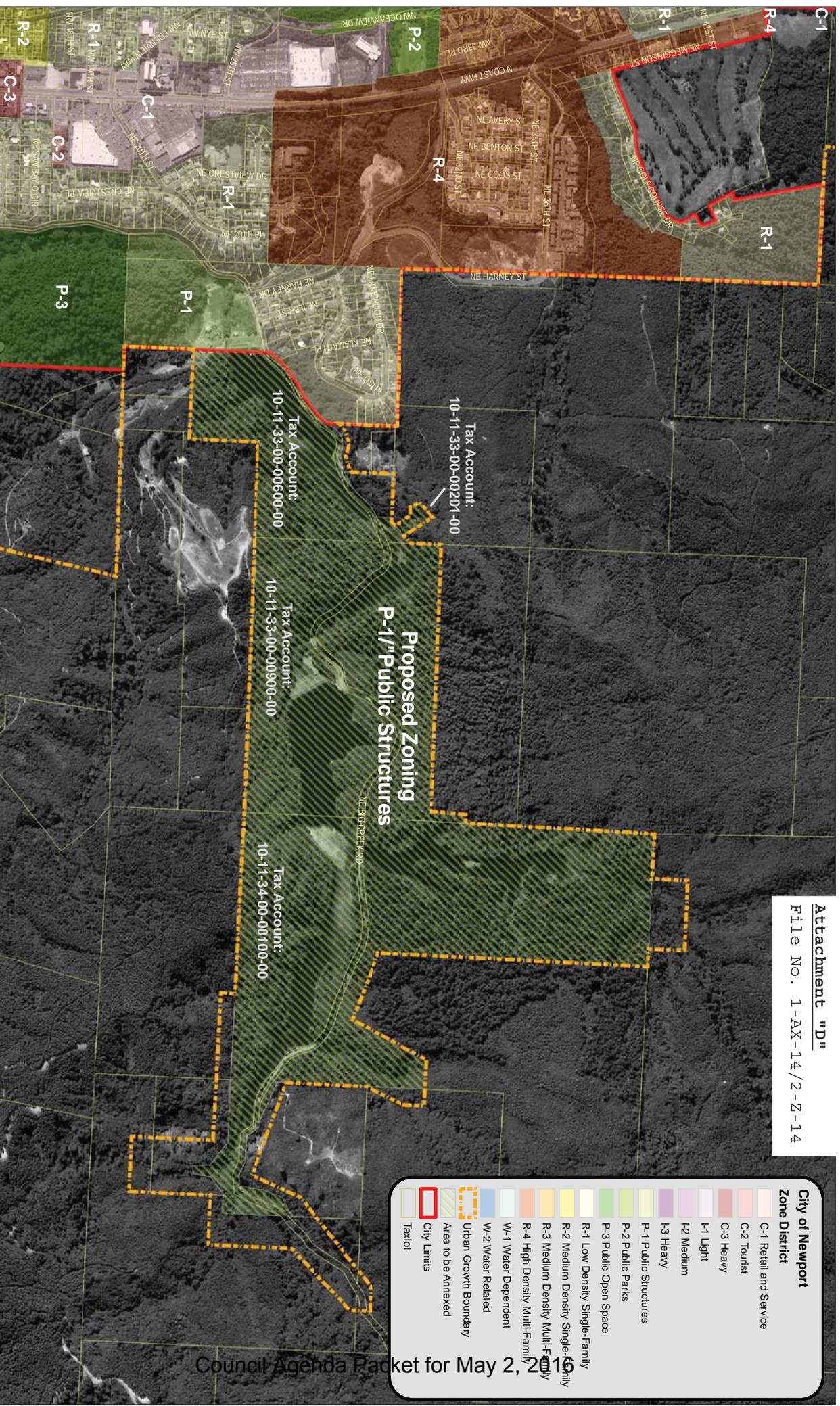
Council Agenda Packet for May 2, 2016

**City of Newport Community Development Department**  
**Comprehensive Plan Designation for Reservoir Properties**  
 169 SW Coast Highway  
 Newport, OR 97365  
 Phone: 1.541.574.0629  
 Fax: 1.541.574.0644

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



**Attachment "D"**  
 File No. 1-AX-14/2-Z-14



**City of Newport**

Zone District	Description
C-1	Retail and Service
C-2	Tourist
C-3	Heavy
I-1	Light
I-2	Medium
I-3	Heavy
P-1	Public Structures
P-2	Public Parks
P-3	Public Open Space
R-1	Low Density Single-Family
R-2	Medium Density Single-Family
R-3	Medium Density Multi-Family
R-4	High Density Multi-Family
W-1	Water Dependent
W-2	Water Related
Urban Growth Boundary	Urban Growth Boundary
Area to be Annexed	Area to be Annexed
City Limits	City Limits
Taxlot	Taxlot

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

**Existing and Proposed Zoning Designations for Reservoir Properties**

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CITY OF NEWPORT  
USES IN THE PUBLIC ZONING DISTRICTS

P-1/"Public Structures"

Permitted Uses:

- Public Parks
- Public Open Space
- Public Schools, Colleges, or Universities
- Any Building or Structure Erected by a Governmental Entity
- Community Buildings
- Fairgrounds
- Public Cemeteries
- Water and Wastewater Treatment Plants
- Performing Arts Centers
- Visual Arts Centers
- Senior Centers
- Airports and Accessory Structures
- Public Golf Courses
- City Halls
- County Courthouses
- Jails and Juvenile Detention Facilities
- City or County Maintenance Facilities
- Public Museums
- Public Restrooms
- Recreation Equipment
- Post Offices
- Parking Lots
- Public Hospitals
- Trails, Paths, Bike Paths, Walkways, Etc.
- Water Storage Facilities
- Public Libraries
- Fire Stations
- Police Stations
- Accessory Structures For Any of the Above

Conditional Uses:

- Public Owned Recreational Vehicle Parks

P-2/"Public Parks"

Permitted Uses:

- Public Parks
- Public Open Space
- Public Cemeteries
- Public Golf Courses
- Public Restrooms
- Recreation Equipment
- Parking Lots
- Trails, Paths, Bike Paths, Walkways, Etc.
- Accessory Structures For Any of the Above

Conditional Uses:

- Publicly Owned Recreational Vehicle Parks

P-3/"Public Open Space"

Permitted Uses:

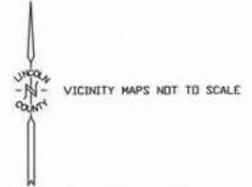
- Public Parks
- Public Open Space
- Trails, Paths, Bike Paths, Walkways, Etc.
- Accessory Structures For Any of the Above

# BIG CREEK RD #402 2015 ROAD LEGALIZATION SURVEY

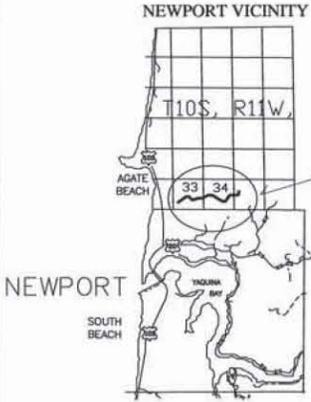
TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M.  
SOUTH 1/2 & NE 1/4 OF SECTION 33,  
SOUTH 1/2 OF SECTION 34, & NW 1/4 SECTION 35

HORIZONTAL DATUM: NAD83(2011)  
VERTICAL DATUM: NAVD 88

OREGON COORDINATE REFERENCE SYSTEM  
OREGON COAST ZONE  
OBLIQUE MERCATOR PROJECTION  
NORTH AMERICAN DATUM OF 1983  
LATITUDE OF LOCAL ORIGIN: 44°45'00"N  
LONGITUDE OF LOCAL ORIGIN: 124°03'00"W  
FALSE NORTING -4 600 000.000 m (-15091863.517 IFT)  
FALSE EASTING -300 000.000 m (-984251.969 IFT)  
SKEW AXIS SCALE: 1.000 000 (exact)  
SKEW AZIS AZIMUTH AT ORIGIN: +5°00'00"  
m = METERS  
IFT = INTERNATIONAL FEET  
1 IFT = 0.3048 m



PROJECT ACRONYMS	
C/L	= CENTERLINE
R/W	= RIGHT OF WAY
PI	= POINT OF INTERSECTION
RPC	= RED PLASTIC CAP
YPC	= YELLOW PLASTIC CAP
STA	= STATION
POB	= POINT OF BEGINNING
EOP	= END OF PROJECT
PLSS	= PUBLIC LAND SURVEY SYSTEM
GPS	= GLOBAL POSITIONING SYSTEM
AP	= ANGLE POINT

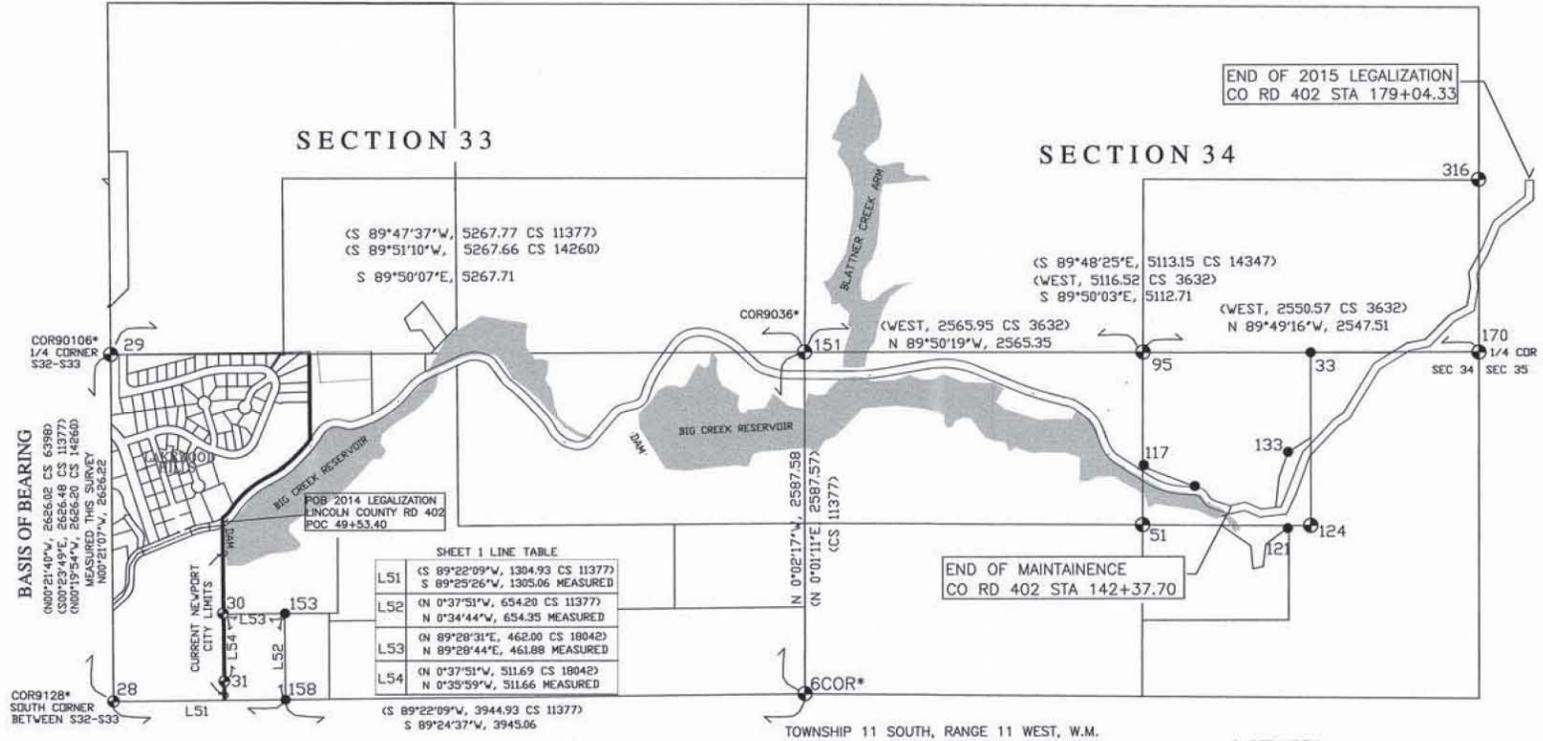


## PROJECT LOCATION

**Narrative**  
The purpose of this survey is to legalize the location of Lincoln County Road #402, Big Creek Road, to conform with the current alignment as traveled and maintained, and to locate and legalize a portion that continues northerly and easterly of the currently traveled roadway, which has historical use, but has not been maintained for many years, using procedures set forth in O.R.S. 368 for the Legalization of County Roads.

**History**  
The following historical road alignments that are associated with Big Creek Road were retraced:

- 1894 CCJ 1-103 "Newport and Siletz Road"
- 1912 CCJ 4-437, 1913 CCJ 5-33 "Andrew York Road"
- 1916 Commissioner's Court (Road Book 2) "Andrew York Road" Field Notes pages 264-266 by Z.M. Derrick
- 1930 "Mc Millian Maps" Plat Book, Big Creek Road, Ord Castle survey from Corvallis-Newport highway to east line of Section 33
- 1933 CCJ 12-256 Order accepting deed from Greenbrook (66-604) in South East 1/4 of Section 3 a portion of the Ord Castle Survey.
- 1977 "Big Creek County Road 402 Legalization Plan and Profile" is a 4 sheet road plat surveyed and monumented by the county surveyor (John Hanna) showing a right of way alignment, 60 feet in width, covering mostly the southern portion of Big Creek Road currently within the City of Newport Limits. The 1977 legalization was not completed. The Plat was "Voided" and never recorded.
- Road Record (CR402 October 2002, Road Department Roll Files) Mapping project by Lincoln County Tax Assessor Cartographer, interpreting and plotting record alignments shown above and digitized alignment of existing roadway from 1998 aerial photography.
- 2012 Road Legalization (Doc201209649) and Survey for City of Newport (CS19000 by PLS 51382) of the portion of Big Creek Road that falls within and terminates at the current Newport city limits. This alignment is a retracement of the aforementioned, unrecorded 1977 "Big Creek County Road 402 Legalization Plan and Profile".
- 2015 Lincoln County Commissioners Order #5-15-127 Initiating Proceedings for Legalizing a Portion of Big Creek County Road #402



**BASIS OF BEARING**  
N00°21'40"W, 2666.02 CS 6398D  
S00°23'49"E, 2666.48 CS 11377J  
N00°21'40"W, 2666.02 CS 1466D  
N00°21'07"W, 2626.22

SHEET 1 LINE TABLE	
L51	CS 89°22'09"W, 1304.93 CS 11377J S 89°25'26"W, 1305.06 MEASURED
L52	ON 0°37'51"W, 654.20 CS 11377J N 0°34'44"W, 654.35 MEASURED
L53	ON 89°28'31"E, 462.80 CS 18042J N 89°20'44"E, 461.88 MEASURED
L54	ON 0°37'51"W, 511.69 CS 18042J N 0°35'59"W, 511.66 MEASURED

### PROCEDURE

This survey used a combination of GPS and conventional (total station) methods to gather data to map and design a legal centerline based on the as traveled alignment of Big Creek County Road 402.

**Point of beginning** for this Centerline is the calculated point of terminus of the 2012 legalization centerline at station POC 49+53.40 (49+53.29) as shown on CS19000. This survey held 107 for position as centerline station PRC 48+47.79 and 135 for rotation to tie in data from CS19000. Line 54 from 31 to 30 (also see sheet 8) was extended northerly to intersect the centerline to establish the point of beginning on the current city limits of Newport. This method of establishing the city limits appears to create some discrepancy with the method used in CS19000. The intention is to leave no gaps or overlaps between the 2012 legalization (Doc 2012-09646) and the 2015 legalization of Lincoln County Road 402, Big Creek Road.

### Basis of Bearing

Bearings shown on this survey are in the Oregon Coast Grid System of the Oregon Coordinate Reference System and are based on ties to Lincoln County Geodetic Control Monuments COR9128 (28) and COR90106 (29) as shown.

### Monumentation

Control monuments consisting of 5/8" iron rods with 2" aluminum caps marked "Lincoln County" and numbered 402-1 through 402-25" were set along the roadway for traverse control and to serve as reference to the right of way alignment as per O.R.S. 209.155 (2) (b) except control point 402-10 which is an unrecorded, found iron rod, with a faded, orange plastic cap at grade.

### Right of Way Width

No right of way width is stated in the record of the establishment of Big Creek Road so a 60 foot width is applied per statutory county roads widths.

Line work for ownerships and the Newport Reservoir not associated with found monuments was obtained from Lincoln County Assessor's mapping shape file and are intended as a graphical reference only.

### SHEET INDEX

SHEET 1:	NARRATIVE, BASIS OF BEARING, VICINITY MAP
SHEET 2:	PLAN VIEW POB (PRC) 65+78.75 TO PRC 65+78.75
SHEET 3:	PLAN VIEW PRC 65+78.75 TO PT 93+45.76
SHEET 4:	PLAN VIEW PT 93+45.76 TO PC 115+60.51
SHEET 5:	PLAN VIEW PT 115+60.51 TO PC 139+20.64
SHEET 6:	PC 139+20.64 TO STA 142+37.70, INSERT #3, & FIELD LOCATION OF ANDREW YORK RD (402)
SHEET 7:	FIELD LOCATION ANDREW YORK RD (402) CONTINUED
SHEET 8:	INSERT #1, COORD. & NOTES FOR FOUND MONUMENTS

SURVEYED APRIL-OCTOBER 2014	
SURVEY BY:	SURVEY FOR:
LINCOLN COUNTY Surveyor's Office	LINCOLN COUNTY PUBLIC WORKS BIG CREEK COUNTY RD #402
880 NE 7TH ST NEWPORT OR, 97365	TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M.
541-265-4147	SOUTH 1/2 & NE 1/4 OF SECTION 33,
DATE: MAY 6, 2014	SOUTH 1/2 OF SECTION 34, & NW 1/4 SECTION 35
FIELD CREW: CMM\EDN\ELA	SCALE: VICINITY MAP NOT TO SCALE
CHECKED BY: EDN	SHEET 1 OF 8
DRAFTED BY: CMM	DRAWING NAME: 402LEG.DWG

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Charles M. Malarky*  
OREGON JAN. 12, 1988  
CHARLES M. MALARKY #53220L5  
RENEWAL DATE: DEC 31, 2016

**BIG CREEK ROAD#402**

SHEET 2 OF 8

2015 ROAD LEGALIZATION SURVEY

**ROAD 402 CENTERLINE ALIGNMENT  
Curve & PI Data**

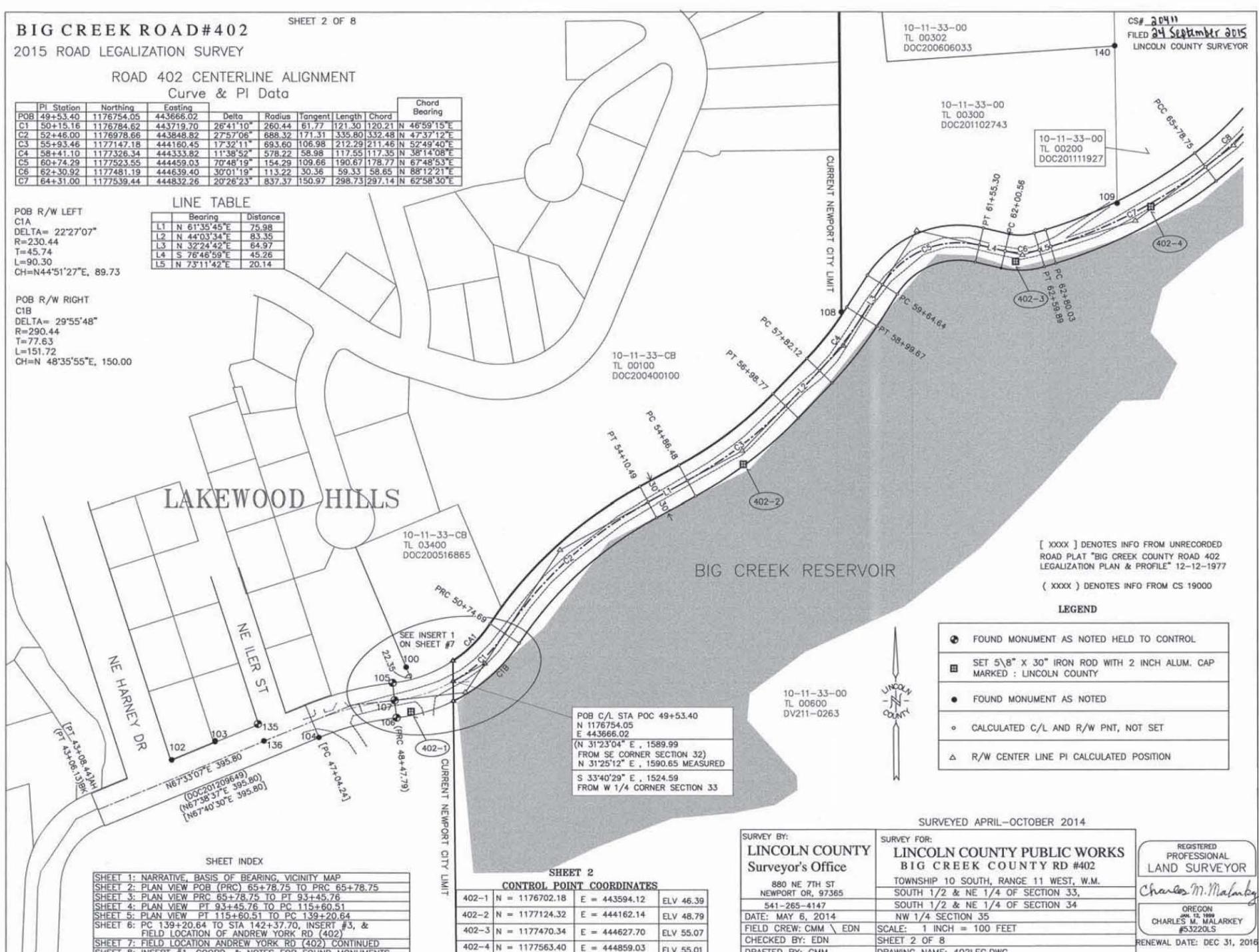
PI Station	Northing	Easting	Delta	Radius	Tangent	Length	Chord	Chord Bearing
POB 49+53.40	1176754.05	443666.02						
C1 50+15.16	1176784.62	443719.70	26°41'10"	260.44	61.77	121.30	120.21	N 46°59'15" E
C2 52+46.00	1176978.66	443848.82	27°57'06"	688.32	171.31	335.80	332.48	N 47°37'12" E
C3 55+93.46	1177147.18	444160.45	17°32'11"	693.60	106.98	212.29	211.46	N 52°49'40" E
C4 58+41.10	1177326.34	444333.82	11°38'52"	578.22	58.98	117.55	117.35	N 38°14'08" E
C5 60+74.29	1177523.55	444459.03	70°48'19"	154.29	109.66	190.67	178.77	N 67°48'53" E
C6 62+30.92	1177481.19	444639.40	30°01'19"	113.22	30.36	59.33	58.65	N 88°12'21" E
C7 64+31.00	1177539.44	444832.26	20°26'23"	837.37	150.97	298.73	297.14	N 62°58'30" E

**LINE TABLE**

Line	Bearing	Distance
L1	N 61°35'45" E	75.98
L2	N 44°03'34" E	83.35
L3	N 32°24'42" E	64.97
L4	S 76°46'59" E	45.26
L5	N 73°11'42" E	20.14

POB R/W LEFT  
CIA  
DELTA= 22°27'07"  
R=230.44  
T=45.74  
L=90.30  
CH=N44°51'27"E, 89.73

POB R/W RIGHT  
CIB  
DELTA= 29°55'48"  
R=290.44  
T=77.63  
L=151.72  
CH=N 48°35'55"E, 150.00



[ XXXX ] DENOTES INFO FROM UNRECORDED ROAD PLAT "BIG CREEK COUNTY ROAD 402 LEGALIZATION PLAN & PROFILE" 12-12-1977  
( XXXX ) DENOTES INFO FROM CS 19000

**LEGEND**

	FOUND MONUMENT AS NOTED HELD TO CONTROL
	SET 5\8" X 30" IRON ROD WITH 2 INCH ALUM. CAP MARKED : LINCOLN COUNTY
	FOUND MONUMENT AS NOTED
	CALCULATED C/L AND R/W PNT, NOT SET
	R/W CENTER LINE PI CALCULATED POSITION

POB C/L STA POC 49+53.40  
N 1176754.05  
E 443666.02  
(N 31°23'04" E , 1589.99  
FROM SE CORNER SECTION 32)  
(N 31°25'12" E , 1590.65 MEASURED  
S 33°40'29" E , 1524.59  
FROM W 1/4 CORNER SECTION 33

**SHEET INDEX**

SHEET 1:	NARRATIVE, BASIS OF BEARING, VICINITY MAP
SHEET 2:	PLAN VIEW POB (PRC) 65+78.75 TO PRC 65+78.75
SHEET 3:	PLAN VIEW PRC 65+78.75 TO PT 93+45.76
SHEET 4:	PLAN VIEW PT 93+45.76 TO PC 115+60.51
SHEET 5:	PLAN VIEW PT 115+60.51 TO PC 139+20.64
SHEET 6:	PC 139+20.64 TO STA 142+37.70, INSERT #3, & FIELD LOCATION OF ANDREW YORK RD (402)
SHEET 7:	FIELD LOCATION ANDREW YORK RD (402) CONTINUED
SHEET 8:	INSERT #1, COORD. & NOTES FOR FOUND MONUMENTS

**SHEET 2  
CONTROL POINT COORDINATES**

402-1	N = 1176702.18	E = 443594.12	ELV 46.39
402-2	N = 1177124.32	E = 444162.14	ELV 48.79
402-3	N = 1177470.34	E = 444627.70	ELV 55.07
402-4	N = 1177563.40	E = 444859.03	ELV 55.01

SURVEY BY: <b>LINCOLN COUNTY Surveyor's Office</b> 880 NE 7TH ST NEWPORT OR, 97385 541-265-4147	SURVEY FOR: <b>LINCOLN COUNTY PUBLIC WORKS BIG CREEK COUNTY RD #402</b> TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M. SOUTH 1/2 & NE 1/4 OF SECTION 33, SOUTH 1/2 & NE 1/4 OF SECTION 34 NW 1/4 SECTION 35
DATE: MAY 6, 2014	SCALE: 1 INCH = 100 FEET
FIELD CREW: CMM \ EDN	CHECKED BY: EDN
DRAFTED BY: CMM	DRAWING NAME: 402LEG.DWG

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Charles M. Maloney*  
OREGON  
JAN. 12, 1998  
CHARLES M. MALONEY  
#53220LS  
RENEWAL DATE: DEC 31, 2016

SHEET 3 OF 8

**BIG CREEK ROAD#402**  
2015 ROAD LEGALIZATION SURVEY

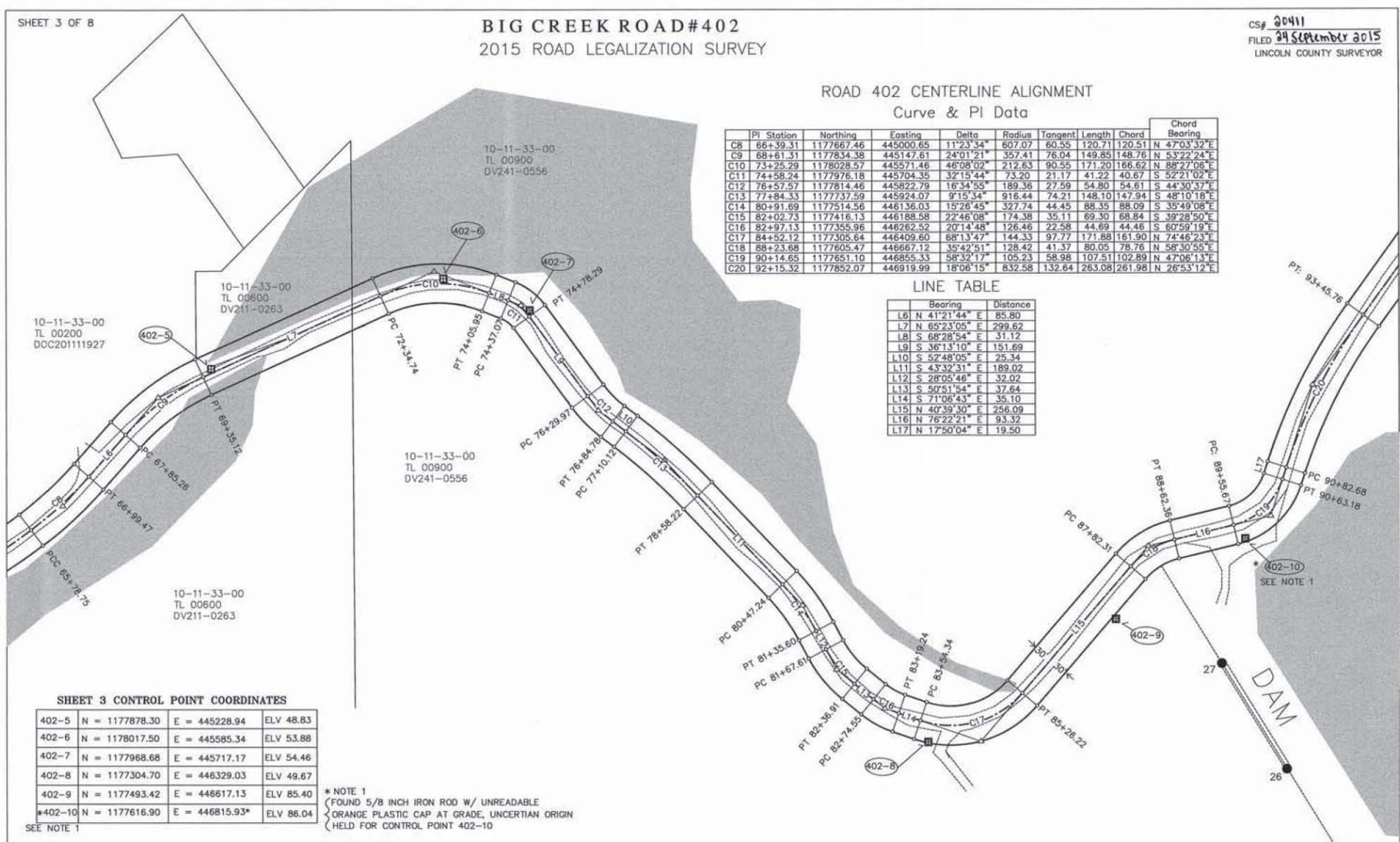
CS# 20411  
FILED 24 September 2015  
LINCOLN COUNTY SURVEYOR

**ROAD 402 CENTERLINE ALIGNMENT**  
Curve & PI Data

PI Station	Northing	Easting	Delta	Radius	Tangent	Length	Chord	Chord Bearing
C8 66+39.31	1177667.46	445000.65	11°23'34"	607.07	60.55	120.71	120.51	N 47°03'32"E
C9 68+61.31	1177834.38	445147.61	24°01'21"	357.41	76.04	149.85	148.76	N 53°22'24"E
C10 73+25.29	1178028.57	445571.48	46°08'02"	212.63	90.55	171.20	166.82	N 88°27'06"E
C11 74+58.24	1177976.18	445704.35	32°15'44"	73.20	21.17	41.22	40.67	S 52°21'02"E
C12 76+57.57	1177814.46	445822.79	16°34'55"	189.36	27.59	54.80	54.61	S 44°30'37"E
C13 77+84.33	1177737.59	445924.07	9°15'34"	916.44	74.21	148.10	147.94	S 48°10'18"E
C14 80+91.69	1177514.56	446136.03	15°26'45"	327.74	44.45	88.35	88.09	S 35°49'08"E
C15 82+02.73	1177416.13	446188.58	22°46'08"	174.38	35.11	69.30	68.84	S 39°28'50"E
C16 82+97.13	1177355.96	446262.52	20°14'48"	126.46	22.58	44.69	44.46	S 60°59'19"E
C17 84+52.12	1177305.64	446409.80	68°13'47"	144.33	97.77	171.88	161.90	N 74°46'23"E
C18 88+23.68	1177605.47	446867.12	35°42'51"	128.42	41.37	80.05	78.76	N 58°30'55"E
C19 90+14.65	1177651.10	446855.33	58°32'17"	105.23	58.98	107.51	102.89	N 47°06'13"E
C20 92+15.32	1177852.07	446919.99	18°06'15"	832.58	132.64	263.08	261.98	N 26°53'12"E

**LINE TABLE**

Line	Bearing	Distance
L6	N 41°21'44"	85.80
L7	N 65°23'05"	299.62
L8	S 68°28'54"	31.12
L9	S 36°13'10"	151.69
L10	S 52°48'05"	25.34
L11	S 43°32'31"	189.02
L12	S 28°05'46"	32.02
L13	S 50°51'54"	37.64
L14	S 71°06'43"	35.10
L15	N 40°39'30"	256.09
L16	N 76°22'21"	93.32
L17	N 17°50'04"	19.50



**SHEET 3 CONTROL POINT COORDINATES**

Point	N	E	ELV
402-5	1177878.30	445228.94	48.83
402-6	1178017.50	445585.34	53.88
402-7	1177968.68	445717.17	54.46
402-8	1177304.70	446329.03	49.67
402-9	1177493.42	446617.13	85.40
402-10	1177616.90	446815.93*	86.04

\* NOTE 1  
( FOUND 5/8 INCH IRON ROD W/ UNREADABLE  
{ ORANGE PLASTIC CAP AT GRADE, UNCERTAIN ORIGIN  
{ HELD FOR CONTROL POINT 402-10

**LEGEND**

- ⊕ FOUND MONUMENT AS NOTED HELD TO CONTROL
- ▣ SET 5" 8" X 30" IRON ROD WITH 2 INCH ALUM. CAP MARKED : LINCOLN COUNTY
- FOUND MONUMENT AS NOTED
- CALCULATED C/L AND R/W PNT, NOT SET
- △ R/W CENTER LINE PI CALCULATED POSITION

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SHEET 7: FIELD LOCATION ANDREW YORK RD (402) CONTINUED
SHEET 8: INSERT #1, COORD. & NOTES FOR FOUND MONUMENTS



SURVEYED APRIL-OCTOBER 2014

SURVEY BY: <b>LINCOLN COUNTY</b> Surveyor's Office 880 NE 7TH ST NEWPORT OR, 97365 541-265-4147 DATE: MAY 6, 2014 FIELD CREW: CMM \ EDN CHECKED BY: EDN DRAFTED BY: CMM	SURVEY FOR: <b>LINCOLN COUNTY PUBLIC WORKS</b> BIG CREEK COUNTY RD #402 TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M. SOUTH 1/2 & NE 1/4 OF SECTION 33, SOUTH 1/2 & NE 1/4 OF SECTION 34 NW 1/4 SECTION 35 SCALE: 1 INCH = 100 FEET SHEET 3 OF 8 DRAWING NAME: 402LEG.DWG
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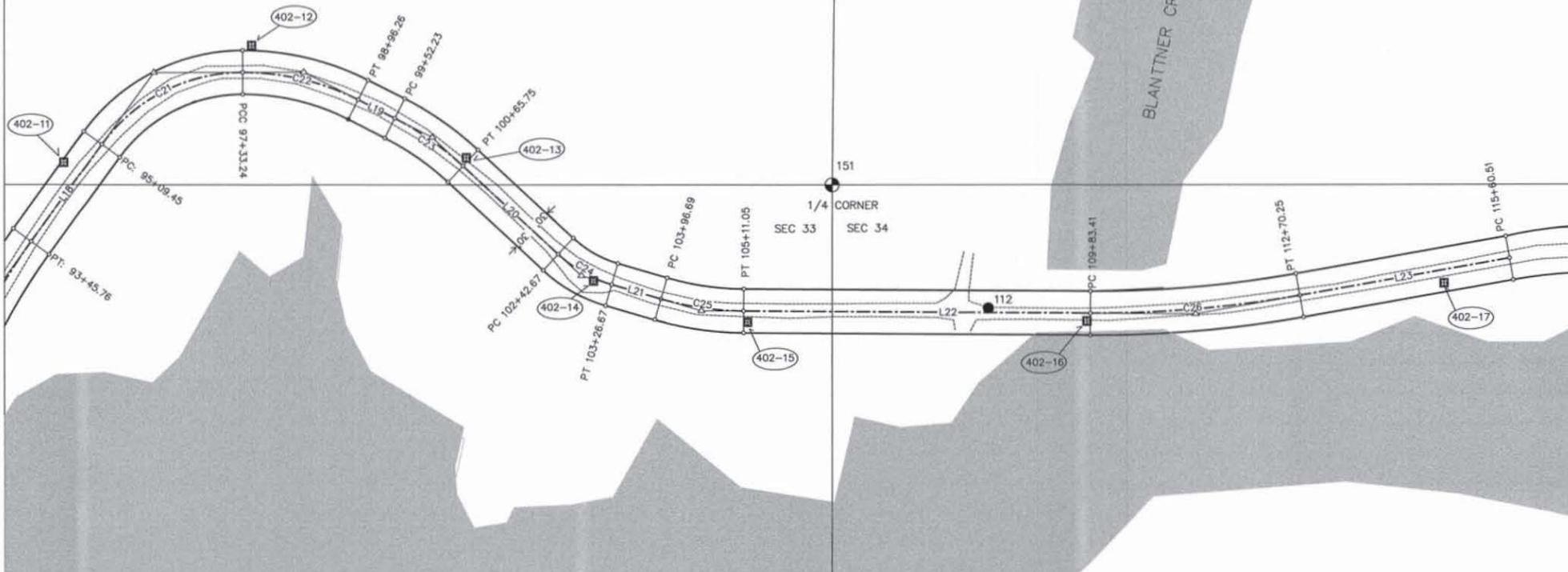
REGISTERED PROFESSIONAL LAND SURVEYOR

*Charles M. Malinkey*

OREGON  
JUNE 12, 1989  
CHARLES M. MALINKEY  
#53220LS  
RENEWAL DATE: DEC 31, 2016

**BIG CREEK ROAD #402**  
2015 ROAD LEGALIZATION SURVEY

CS# 20411  
FILED 24 September 2015  
LINCOLN COUNTY SURVEYOR



BIG CREEK RESERVOIR

**ROAD 402 CENTERLINE ALIGNMENT**  
Curve & PI Data

PI Station	Northing	Easting	Delta	Radius	Tangent	Length	Chord	Chord Bearing
C21 96+30.41	1178189.93	447164.92	53°58'15"	237.72	120.96	223.78	215.61	N 62°54'27"E
C22 98+16.30	1178190.37	447368.94	27°01'41"	345.59	83.06	163.02	161.51	S 76°36'35"E
C23 100+09.36	1178101.61	447543.86	16°01'07"	406.06	57.14	113.53	113.16	S 55°05'11"E
C24 102+85.45	1177913.09	447746.57	26°39'58"	180.50	42.78	84.01	83.25	S 60°24'37"E
C25 104+54.24	1177865.40	447910.11	15°54'12"	412.02	57.55	114.36	114.00	S 81°41'42"E
C26 111+27.22	1177861.25	448583.81	10°21'06"	1587.65	143.81	286.84	286.45	N 85°10'40"E

**SHEET 4 CONTROL POINT COORDINATES**

Station	N	E	ELV
402-11	1178067.61	447042.55	125.35
402-12	1178226.70	447298.11	121.85
402-13	1178073.76	447590.26	126.77
402-14	1177906.13	447762.62	142.43
402-15	1177849.95	447972.85	136.02
402-16	1177851.31	448435.41	87.41
402-17	1177902.81	448922.03	132.03

**LINE TABLE**

Line	Bearing	Distance
L18	N 35°56'20" E	163.70
L19	S 63°05'46" E	55.96
L20	S 47°04'37" E	176.91
L21	S 75°44'36" E	70.02
L22	S 89°38'48" E	472.35
L23	N 80°00'07" E	290.26

**LEGEND**

- ⊕ FOUND MONUMENT AS NOTED HELD TO CONTROL
- SET 5/8" X 30" IRON ROD WITH 2 INCH ALUM. CAP MARKED : LINCOLN COUNTY
- FOUND MONUMENT AS NOTED
- CALCULATED C/L AND R/W PNT, NOT SET
- △ R/W CENTER LINE PI CALCULATED POSITION

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- SHEET 8: INSERT #1, COORD. & ELEVATION



SURVEYED APRIL-OCTOBER 2014

SURVEY BY:  
**LINCOLN COUNTY**  
Surveyor's Office  
880 NE 7TH ST  
NEWPORT OR, 97365  
541-265-4147  
DATE: MAY 6, 2014  
FIELD CREW: CMM \ EDN  
CHECKED BY: EDN  
DATE: MAY 6, 2014

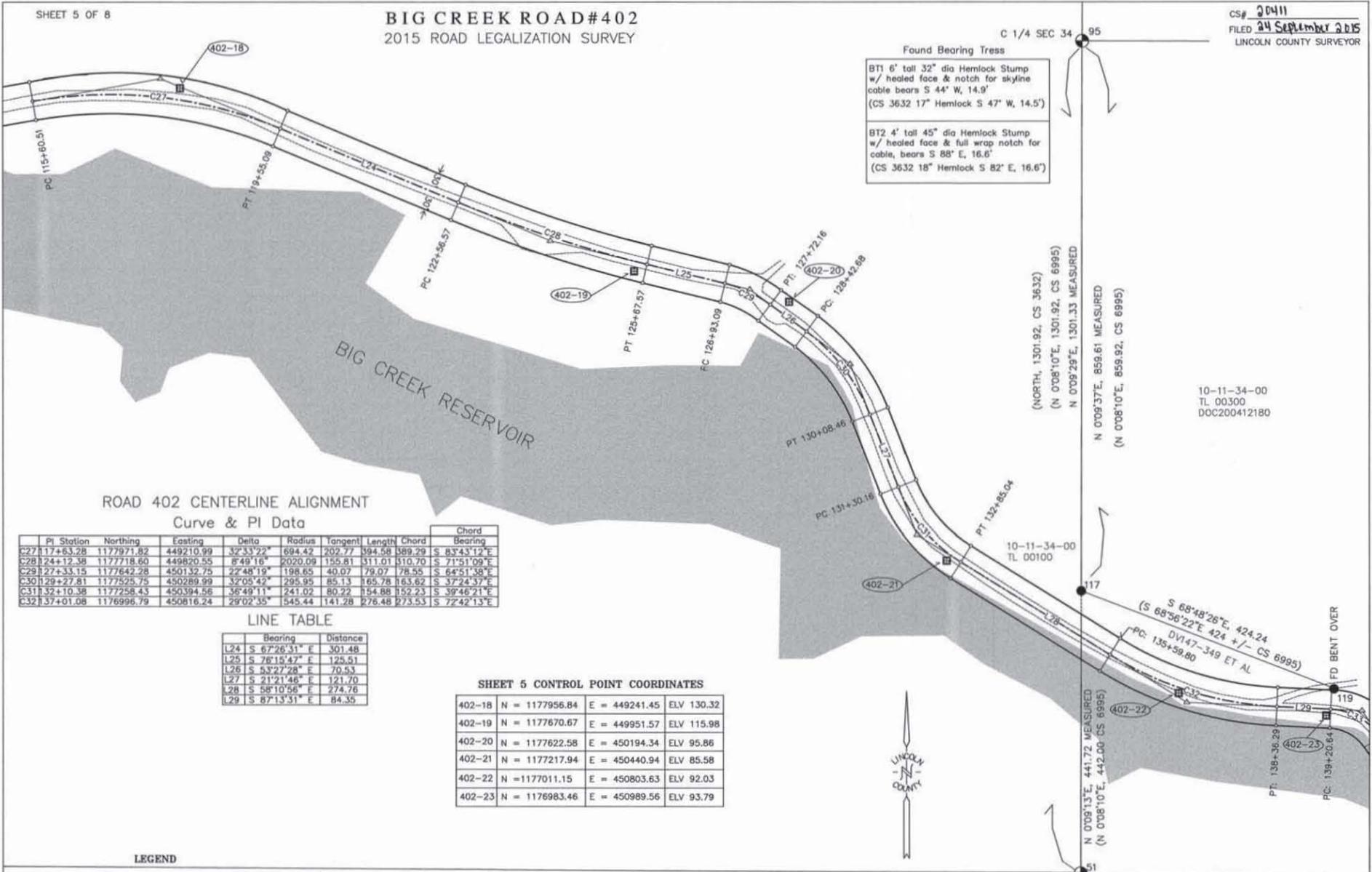
SURVEY FOR:  
**LINCOLN COUNTY PUBLIC WORKS**  
BIG CREEK COUNTY RD #402  
TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M.  
SOUTH 1/2 & NE 1/4 OF SECTION 33,  
SOUTH 1/2 & NE 1/4 OF SECTION 34  
NW 1/4 SECTION 35  
SCALE: 1 INCH = 100 FEET  
SHEET 4 OF 8  
DRAWING NAME: 402LEG.DWG

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Charles M. Malarky*  
OREGON JUN. 12, 1999  
CHARLES M. MALARKEY #53220LS  
RENEWAL DATE: DEC 31, 2016

SHEET 5 OF 8

**BIG CREEK ROAD#402**  
2015 ROAD LEGALIZATION SURVEY

CS# 20411  
FILED 24 September 2015  
LINCOLN COUNTY SURVEYOR



**ROAD 402 CENTERLINE ALIGNMENT**  
Curve & PI Data

PI Station	Northing	Easting	Delta	Radius	Tangent	Length	Chord	Chord Bearing
C27	117+63.28	1177971.82	449210.99	32°33'22"	694.42	202.77	394.56	S 83°43'12" E
C28	124+12.58	1177718.60	449820.55	8°49'16"	2020.09	155.81	311.01	S 71°51'09" E
C29	127+33.15	1177642.28	450132.75	22°48'19"	198.65	40.07	79.07	S 64°51'38" E
C30	129+27.81	1177525.75	450289.99	32°05'42"	295.95	85.13	165.78	S 37°24'37" E
C31	132+10.38	1177258.43	450394.56	36°49'11"	241.02	80.22	154.88	S 39°46'21" E
C32	137+01.08	1176996.79	450816.24	29°02'35"	545.44	141.28	276.48	S 72°42'13" E

**LINE TABLE**

Line	Bearing	Distance
L24	S 67°26'31" E	301.48
L25	S 76°15'47" E	125.51
L26	S 53°27'28" E	70.53
L27	S 21°21'46" E	121.70
L28	S 58°10'56" E	274.76
L29	S 87°13'31" E	84.35

**SHEET 5 CONTROL POINT COORDINATES**

402-18	N = 1177956.84	E = 449241.45	ELV 130.32
402-19	N = 1177670.67	E = 449951.57	ELV 115.98
402-20	N = 1177622.58	E = 450194.34	ELV 95.86
402-21	N = 1177217.94	E = 450440.94	ELV 85.58
402-22	N = 1177011.15	E = 450803.63	ELV 92.03
402-23	N = 1176983.46	E = 450989.56	ELV 93.79

**LEGEND**

- FOUND MONUMENT AS NOTED HELD TO CONTROL
- SET 5/8" X 30" IRON ROD WITH 2 INCH ALUM. CAP MARKED : LINCOLN COUNTY
- FOUND MONUMENT AS NOTED
- CALCULATED C/L AND R/W PNT, NOT SET
- R/W CENTER LINE PI AND CURVE POINTS CALCULATED POSITION
- △

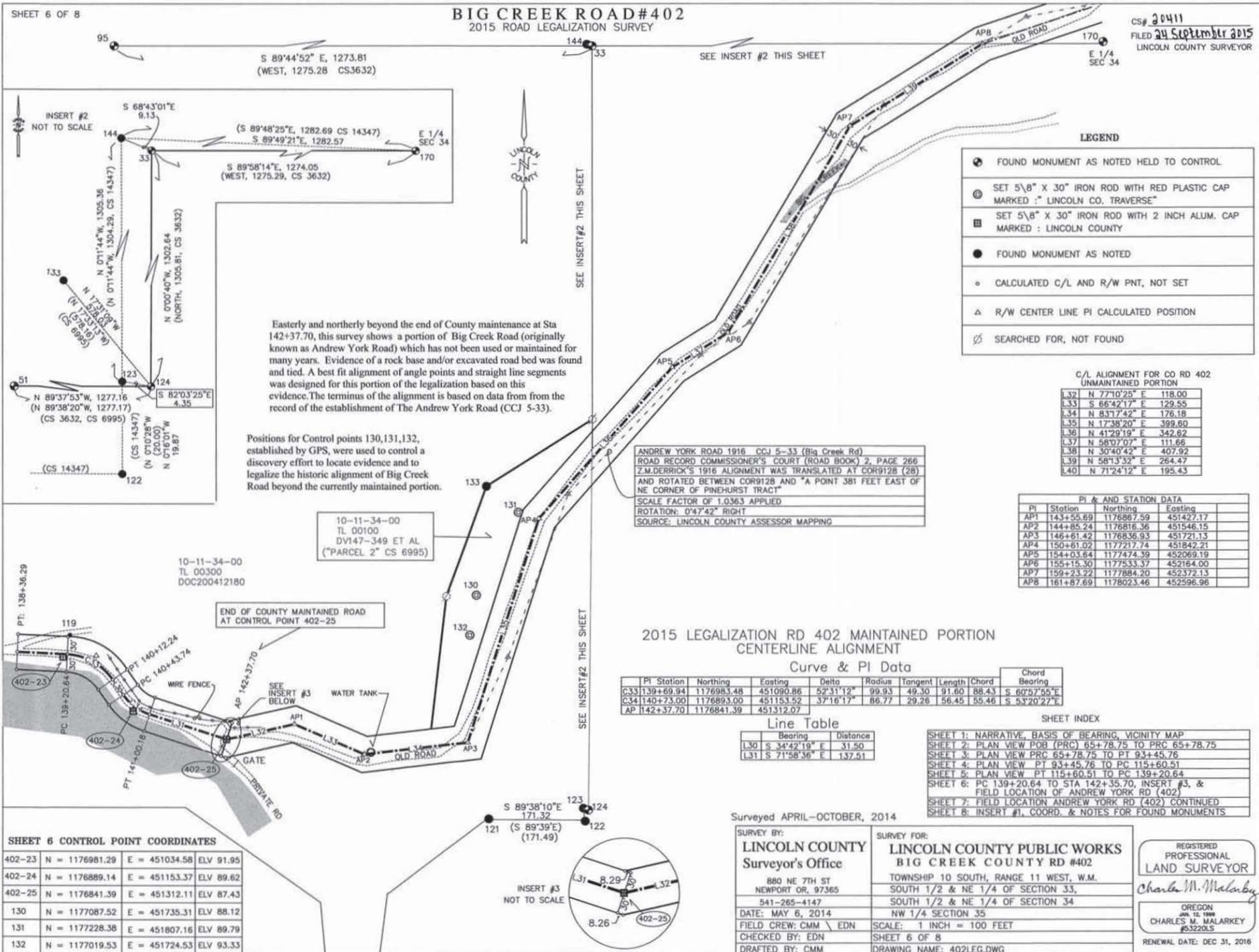
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SURVEYED APRIL-OCTOBER 2014

<b>SURVEY BY:</b> LINCOLN COUNTY Surveyor's Office 880 NE 7TH ST NEWPORT OR, 97365 541-265-4147 DATE: MAY 6, 2014 FIELD CREW: CMM \ EDN CHECKED BY: EDN DRAFTED BY: CMM	<b>SURVEY FOR:</b> LINCOLN COUNTY PUBLIC WORKS BIG CREEK COUNTY RD #402 TOWNSHIP 10 SOUTH, RANGE 11 WEST, W.M. SOUTH 1/2 & NE 1/4 OF SECTION 33, SOUTH 1/2 & NE 1/4 OF SECTION 34 NW 1/4 SECTION 35 SCALE: 1 INCH = 100 FEET SHEET 5 OF 8 DRAWING NAME: 402LEG.DWG
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REGISTERED PROFESSIONAL LAND SURVEYOR  
*Charles M. Maloney*  
OREGON JAN 15, 1988  
CHARLES M. MALARKEY #53220LS  
RENEWAL DATE: DEC 31, 2016







Memorandum of Agreement  
By and Between  
Lincoln County and the City of Newport  
Transfer of Big Creek Road  
County Road # 402

This Agreement is made by and between Lincoln County and the City of Newport, pursuant to ORS Chapter 190, to establish the procedures and general timelines concerning the future potential transfer of jurisdiction and maintenance responsibility for Big Creek County Road, County Road # 402 (County Road) from its westerly location east to the termination of the improved area. It is understood and agreed that certain other related actions, including an amendment of the Newport Urban Growth Boundary (UGB)<sup>1</sup> and annexation of properties within the amended UGB to the city would need to occur before this agreement is implemented. It is also understood that the UGB amendment and annexation have independent and separate legal standards and procedures that must be met. Nothing in this agreement is intended to predetermine or guarantee the decisions in those contexts, and all standards and procedures must be met and followed in those separate actions.

The parties agree, however, that if the amendment of the UGB is accomplished and the property adjacent to the County Road is annexed into the City of Newport, then the County and City will initiate transfer of jurisdiction of the County Road to the City of Newport in accordance with the requirements of ORS 373.270. In doing so, it is understood and agreed that:

- County will be responsible for creating the legal description of the portion of the County Road right-of-way to be transferred. County and City agree that it is the intent of the parties for County to initiate legalization proceedings under ORS Chapter 368 for the portion to be transferred to the City. Legalization will be completed before annexation is completed. The parties understand and agree that the legalization will be initiated immediately after amendment of the UGB is complete.
- The City will accept the road as it is currently improved, unless otherwise mutually agreed by the parties. The parties have not identified any needed major improvements to the road needed before the transfer is completed. This does not preclude the County's obligation to maintain the road (for any repairs necessitated by disaster, slides or other unanticipated events) prior to completion of the transfer.
- The County will initiate the transfer following legalization and annexation. The City shall timely respond to the initiation in accordance with law.
- Notwithstanding ORS 373.270(7)(b), County will maintain the County Road after the transfer, provided the parties agree to and execute a routine maintenance

<sup>1</sup> An amendment request has already been approved by the City Council and is pending before the County. Nothing in this agreement is intended to require approval of the request by the County. The request shall be considered and acted upon in accordance with the requirements of Lincoln County Code, Chapter 1, Land Use Planning, and applicable laws and rules.

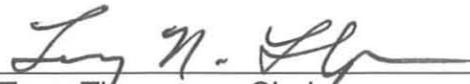
agreement outlining these obligations. Such an agreement will specify the nature of the maintenance work to be performed by the County, associated costs, and the manner in which those costs will be billed to the City. The agreement may also identify one-time minor improvements, including guardrail repairs, for County to undertake at no cost to the City. It is the intent of both parties that the agreement be prepared and presented as part of the transfer proceedings.

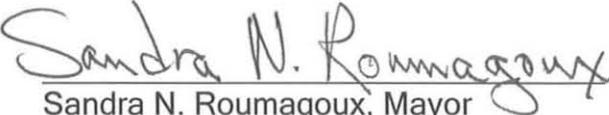
- The parties understand that the law reserves certain decisions to the governing bodies of the respective parties, and nothing in this agreement shall divest those governing bodies of their authority.

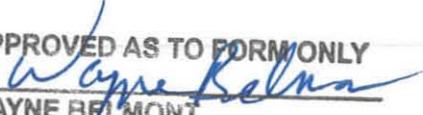
So Understood and Agreed this 23rd day of April, 2014:

Lincoln County

City of Newport

  
Terry Thompson, Chair

  
Sandra N. Roumagoux, Mayor

APPROVED AS TO FORM ONLY  
  
WAYNE BELMONT  
LINCOLN COUNTY COUNSEL

**Wanda Haney**

---

**From:** Wanda Haney  
**Sent:** Friday, March 11, 2016 3:04 PM  
**To:** 'Legals'  
**Subject:** City of Newport Legal Notice - 1-AX-14/2-Z-14  
**Attachments:** Notice - PC - Publish.doc

Attached is a notice of a Planning Commission hearing for our File No. 1-AX-14/2-Z-14 for publication once on **FRIDAY, MARCH 18, 2016**, and once on **WEDNESDAY, MARCH 23, 2016**, Please. Would you please return an email response confirming receipt of this notice & that it will publish on those dates.

Thanks,

*Wanda Haney*

Executive Assistant

City of Newport

Community Development Department

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

FAX: 541-574-0644

w.haney@newportoregon.gov

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

The City of Newport Planning Commission will hold a public hearing on Monday, March 28, 2016, at 7:00 p.m. in the Council Chambers at City Hall to consider File No. 1-AX-14/2-Z-14, a request for annexation, zone designation, and withdrawal initiated by the City of Newport. The Commission will make a recommendation to the City Council on this request, which will then hold a public hearing at a later date. Notice of that hearing will also be provided. The request is to (1) annex city-owned properties surrounding the Big Creek reservoirs along with the adjoining portions of Big Creek Road into the Newport city limits; (2) the zoning will be P-1/“Public Structures” consistent with the existing Newport Comprehensive Plan designation; and (3) the subject property will be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and other file materials are available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above).

**(For Publication once on Friday, March 18, 2016, and once on Wednesday, March 23, 2016.)**

**CITY OF NEWPORT  
NOTICE OF A PUBLIC HEARING <sup>1</sup>**

**NOTICE IS HEREBY GIVEN** that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, March 28, 2016, to review the following request for annexation, zone designation, and withdrawal and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

**File No. 1-AX-14 / 2-Z-14**

**Applicant:** Initiated by City of Newport.

**Request:** Consideration of requests to: (1) annex city-owned properties surrounding the Big Creek reservoirs along with the adjoining portions of Big Creek Road into the Newport city limits; (2) the zoning designation will be P-1/"Public Structures" consistent with the existing Newport Comprehensive Plan designation of "Public"; and (3) the subject property will be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District.

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

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

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

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

**Time/Place of Planning Commission Hearing:** Monday, March 28, 2016; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

**MAILED:** March 15, 2016.

**PUBLISHED:** March 18, 2016, and March 23, 2016/News-Times.

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<sup>1</sup> This notice is being sent to the City Council, the Planning Commission, and to the owners of all parcels within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.

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

Email:  
DLCD

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

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

Lincoln County Surveyor  
880 NE 7<sup>th</sup> St  
Newport OR 97365

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

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

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

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

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

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

US Post Office  
ATTN: Postmaster  
310 SW 2<sup>nd</sup> St  
Newport OR 97365

[ODOTR2PLANMGR@ODOT.STATE.US](mailto:ODOTR2PLANMGR@ODOT.STATE.US)

Joseph Lease  
Building Official

Lincoln County Planning Dept  
210 SW 2<sup>nd</sup> St  
Newport OR 97365

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

Victor Mettle  
Code Administrator/Planner

Lincoln County Library District  
PO Box 2027  
Newport OR 97365

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

Rob Murphy  
Fire Chief

Newport Rural Fire Protection  
District  
PO Box 923  
Newport OR 97365

Mark Miranda  
Police Chief

Ted Smith  
Library

Tim Gross  
Public Works

Spencer Nebel  
City Manager

EXHIBIT 'A'  
(Affected Agencies)  
Annexations

Mike Murzynsky  
Finance Director

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ROBERT C & LINDA A ETHERINGTON  
3249 NE BIG CREEK RD  
NEWPORT OR 97365

NESTUCCA FORESTS LLC  
ATTN: HANCOCK FOREST MGT  
17700 SE MILL PLAIN BLVD STE 180  
VANCOUVER WA 98683

ARTHUR BRAXLING &  
BRAXBEACH LLC  
PO BOX 240  
NEWPORT OR 97365

MICHAEL B WARREN  
PO BOX 223  
NEWPORT OR 97365

MERIWETHER NW OR LND & TBR LLC  
ATTN: FOREST CAPITAL PRTRNS LLC  
955 N MAIN ST  
INDEPENDENCE OR 97351

FERBER FAMILY TRUST &  
NORMAN L FERBER &  
MARY MEGOWAN FERBER  
TRUSTEES  
5726 NE BIG CREEK RD  
NEWPORT OR 97365

MATHEW C & SHELLI S JOHNSTON  
5707 NE BIG CREEK RD  
NEWPORT OR 97365

LINCOLN COUNTY  
ATTN: WAYNE BELMONT  
LINCOLN COUNTY COURTHOUSE  
225 W OLIVE ST  
NEWPORT OR 97365

## ANNEXATION OF CONTIGUOUS TERRITORY

(Temporary provisions relating to annexation of certain industrial lands)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Together comprise at least 150 acres;

(b) On which no electors reside;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Must be recorded; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**222.140** [Repealed by 1979 c.317 §26]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Note:** See note under 222.173.

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

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

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

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

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

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

**Note:** See note under 222.173.

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

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

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

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

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

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

**Note:** 222.183 was added to and made a part of 222.010 to 222.750 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**222.185** [1971 c.673 §4; repealed by 1975 c.326 §5]

**222.190** [Repealed by 1975 c.326 §5]

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, March 28, 2016**

**Commissioners Present:** Jim Patrick, Rod Croteau, Lee Hardy, Bob Berman, Mike Franklin, and Bill Branigan.

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Franklin, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session and regular session meeting minutes of March 14, 2016.

Berman noted a correction he felt needed to be made to some wording on the first page of the work session minutes. **MOTION** was made by Commissioner Berman, seconded by Commissioner Branigan, to approve the Planning Commission work session minutes as amended. The motion carried unanimously in a voice vote. **MOTION** was made by Commissioner Berman, seconded by Commissioner Franklin, to approve the regular session minutes as presented. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.** No action items.

5. **Public Hearings.** Chair Patrick opened the public hearing portion of the meeting at 7:04 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman and Croteau declared site visits to the reservoir property. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File No. 4-CP-14:** Revisions to the Goals and Policies section of the Public Facilities Element of the Newport Comprehensive Plan to provide policy direction on how the City should utilize Local Improvement Districts as a source of funding capital infrastructure projects. The Commission will forward a recommendation on this matter to the City Council.

Patrick opened the hearing for File No. 4-CP-14 at 7:05 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that at a prior meeting the Commission had a chance to look at the draft ordinance along with policy language for this item. He made some corrections based on the Commissioner's feedback at that time. He noted that this is something the Commission has been working on for a while. He said it's kind of a retooling of the City's Local Improvement District (LID) code. He said what the Commissioners have before them tonight are new policies that provide the City Council some direction as to how to approach forming Local Improvement Districts, when it should be a priority in terms of including LIDs as a piece of the funding puzzle, considerations for when the Council should initiate LIDs and some of the factors there, and some policy direction with respect to handling petitions to form LIDs. Tokos noted that we've had a consultant by the name of FCS Group working on this under a grant funded by ODOT and DLCD through a transportation growth management (TGM) program. This is the culmination of that work. He noted that there are a number of other documents that they have been working on that the Commission has had a chance to look at in the past. The draft code is included, but is not before the Commission for action because it's not a land use code, and it's not policies that are going into the Comprehensive Plan. So, the code itself will just go to the Council as an amendment to the Municipal Code. He said that the Commissioners are welcome to pass on any observation that they would like to share with respect to that, and he will be happy to share those with the Council. He said there's also a couple of other pieces of information; a strategies document that the Commission has had a chance to see, a FAQ flyer that we'll have available to the public,

and an Excel spreadsheet model that will be very useful for us for calculating out what an LID would actually look like on the ground; what the cost would be for each owner based on a myriad of factors that we can program into the spreadsheet. He said what the Commission has tonight is a draft ordinance that would add a Policy 6 to the Goals and Policies section of the Public Facilities element of our Comprehensive Plan and is really directed at providing some guidance for how the City should be approaching and handling Local Improvement Districts.

Croteau had a question on page 6 of Attachment “B” related to part B of 12.05.030 where it speaks about a declaration in case of emergency requires the unanimous vote of the City Council. He asked if we intentionally set the bar that high; that’s fairly high. Tokos said he believes that was intentional. The other question Croteau had was on page 21 where it deals with appeals. It references ORS 34.010 to 34.102. He asked if that’s limited to appeals on LIDS, or is that a general means of resolving conflicts with this sort of legislation. He wondered if we need to specify anything more than just an ORS number. Tokos said he hasn’t looked at this particular language probably since it was originally drafted. His suspicion is that that Statute is specific to appeals of Local Improvement Districts because it’s not a land use appeal, which is covered under different Statutes. He thinks it’s pretty targeted to LIDs; but he can certainly take a look at it. He asked what Croteau’s concern would be. Croteau said only if it needed further specification. He was curious whether it was very specific or not. Tokos said his sense is that it is specific; and he can confirm that before it goes to Council. Patrick said if it is an appeal, it might be nice to pull into our code what the structure of that appeal is rather than referring people to go off to the ORS and figure out how you’re supposed to appeal this. Tokos will take a look at that and see if we can’t be more specific about it in the code. His suspicion is that when we do that, and it’s an appeal of the Council decision, you’re talking about something that’s going to Circuit Court. Patrick said it would be nice even if it just outlined how we’re doing it. Tokos said that’s a good point. We can put some language in there to at least provide some clarity what those provisions refer to.

Berman noted a typo in the third line down on page 18 of Attachment “B” under 12.05.075 that starts on the previous page. He said that it should be either “the” assessment or “any” assessment. On that same page, under item C, he wondered what the rationale is for the different percentage increments depending on where the money is coming from; one is rate plus 2%, and the other one is rate plus 3%. He asked if that’s standard language. Tokos said his suspicion is that this was pulled by the consultant from other comparable LID codes. When he reads the language, it strikes him that the additional 3% is just because of the exposure of self-financing. He said that would be the rationale to have 3% as opposed to 2%, because of the self-financing nature of that approach. He suspects FCS pulled this from other codes and was using it as model language. Berman said it seems more logical to have whatever the cost is plus “x” percent, regardless of where it comes from. Patrick said it’s apples and oranges. In one case you’re using a rate of interest that’s paid to you when you had your money in the bank, 3%. The other is 2% on top of what interest you had to pay. He said the 3% is going to be a lot lower than the 2% rate. You don’t want to lend your money out; you’re setting it to a savings rate, not to a lending rate. If it’s a lending rate, it would be one thing; but it’s not, it’s a savings rate. Croteau agreed that they are different.

Berman’s next question was on the next paragraph, item D. He asked if it’s customary for the Council to have to adopt a resolution just to essentially foreclose on somebody that’s a year overdue; the Finance Department can’t just take those kinds of actions? Hardy said that’s an enforcement action; so she doesn’t think the Finance Director has that authority. Tokos said that he doesn’t have an answer whether or not that’s been structured differently in other context such as the payment of utility fees or something like that. He would have to look into that. Berman asked, if he hasn’t paid his utility bill in over a year, does the Council have to say that he’s in default. Tokos thought that by and large the City Council has the ability to structure the code in the manner that it sees fit. This language could have been codified such that if payments haven’t been paid within one year of due date, the total amount due will automatically be due and payable. Berman said if you’re trying to allow some discretion by the Council, and they have to take positive action to have that come due and payable; it seems like an administrative burden on the Council. Tokos said you could view it that way. Another way to view it is that staff would be compelled to share that information with the Council; and it’s a way for the Council to be kept apprised of the delinquent accounts. You can handle that administratively as well. This is saying administratively, Finance Director, any time you have an account that is delinquent more than twelve months, you provide it on a roster and document it with the Council as a consent item or some sort of report. This certainly is a way to make sure it gets in front of the City Council, and they would take some affirmative action. He said the one thing that’s a little bit different with LIDs than with utilities is that he could see a circumstance where there’s a developer-initiated LID where the Council may want to provide some flexibility if they feel that at the end of the day that means they are going to get paid, and it’s not going to go belly-up. He can’t think of all circumstances, but he could think of some circumstances where based on an economic

downturn or whatever, the Council may want to carry something with some amendments as opposed to force it as payable. Because if they force it and the person defaults, the City could be left with the property and if it's in bad shape, that may not be enough to cover the debt. He said that would be one way this language as structured gives the Council the flexibility of an alternative approach if they think it's appropriate. Berman agreed that's a rationale for doing it this way. Tokos said on the flip side, if the Council started seeing those things on a regular basis and were uncomfortable with it, we adjust the code. Patrick agreed we could change it if they don't like it.

Berman asked, what if somebody just simply walks away from their property; say there was a total loss in a fire, and they didn't have adequate insurance, and they say the land is near a landslide anyway, so they just move away. Tokos said we lien the property. Berman said the City would probably just end up eating it. Tokos said if they walk away, the property gets foreclosed, it gets sold; and then the proceeds are used to pay off the liens and other encumbrances on the property. So, the City would get something out of it. He said the strategy we were taking was let's at least for residential properties target LIDs so they don't exceed 10% of the assessed value. We don't want them to be so large that the exposure to the owner is such that they're at risk of default because it's too much of a burden for them to pay. He said or, on the flip side, if it's developer-initiated, that it's no more than 50% of the assessed value so that the City's not hanging out there if the developer can't pull it off. We also have language in here for when we fund an LID and it's done through some sort of phased borrow; and we'll probably roll it in with our program borrows against our utility fees that we use for water, sewer, and storm drainage type capital projects. We'd probably bundle it so it's more efficient for us. When we do the LID ones, they would be their own independent element, and we would want to make sure there's enough reserve in there to account for odd circumstances such as what Berman brought up, which is somebody loses their home because of a fire and didn't have adequate insurance and had to walk away from that particular property. Patrick said most of the time even with 10%, you'll get your land cost covered. Berman asked if anyone had a sense of what that land cost to improvement ratio typically is. Tokos said that will vary considerably. We have lots of properties here where the land is considerably more valuable than the improvements. He said one of the things we talked about on the economic development side is when your land to improvement value is considerably lower such that your land is considerably more valuable than the improvement, that tends to be a commercial property that's ripe for redevelopment.

Berman noted that in the third paragraph on page 2 of Attachment "B" it has numbers 1 and 2; and at the end of number 2 there's the word "and" that shouldn't be there. Tokos said he would get that fixed. He said that he needs to go back through the code one more time thoroughly to make sure there's nothing else like that.

Franklin noted on Attachment "A", Ordinance No. 2093, on the second page under number 9 bullet point c in the second line the letter "t" is missing in the word street. Tokos said he's actually seeing the "t" on his copy. He thinks that it's either a copying issue or sometimes that "draft" watermark covers it up. He will make sure that's clean; especially when that "draft" comes off.

Hardy said that she still takes issue with the use of the term "benefited properties." Although, she thanked Tokos for "the term benefited properties means properties that are expected to be enhanced." She said properties don't benefit, people do. Those who experience benefits have a cost on the other side. She said, let's not obscure the fact that this enhancement is going to cost these people something. She said if you're taking a look at who really benefits from an LID, it's typically not just the neighborhood. Her feeling is that the entire municipality benefits in terms of enhanced public safety and welfare and enhanced overall consistency of value. She said what you have in this town is a mixture of older and newer neighborhoods that have been acquired or developed at different times. She thinks that issue of whether it really is a citywide benefit versus a localized benefit needs to be carefully handled with each LID that may come up. Tokos said that's a fair point. He thinks that spreadsheet model is going to come in handy in giving us the capacity to do that reasonably; to be able to adjust the different approaches to the assessment and also the different percentages of contribution. He said Hardy's point is well-taken; particularly with respect to street improvements because they are more visible. He thinks not quite as much with say septic conversions to sewer; although there's certainly a broader general health benefit to decommissioning those. That's a little harder to quantify. There's a little bit more direct benefit to property owners there. Storm drainage and streets are visible improvements that improve the overall quality of the neighborhood, which clearly has a broader public benefit. Hardy said, which improves the consistency of the value of the entire town. Tokos said his suspicion is that by capping it and really targeting LIDs at no more than 10% of the assessed value, by and large for any kind of a street project we're going to be bringing in a substantial number of other funds to the table. So, it's just a piece of the puzzle. The ones where he thinks the LIDs would be the primary funder would be those small sewer ones.

Patrick closed the public hearing at 7:24 p.m. There was no deliberation.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to recommend adoption of the amendments described in File No. 4-CP-14. The motion carried unanimously in a voice vote.

**B. File No. 1-AX-14/2-Z-14:** Consideration of requests to 1) annex approximately 320 acres of real property (currently identified as Tax Lots 201, 600 & 900 of Assessor's Tax Map 10-11-33 and Tax Lot 100 of Map 10-11-34 and adjoining portions of the Big Creek Road right-of-way within the existing Urban Growth Boundary) into the city limits; 2) amend the City of Newport Zoning Map to establish a P-1/"Public Structures" zoning designation for the subject property; 3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Commission will forward a recommendation on this matter to the City Council.

Patrick opened the hearing for File No. 1-AX-14/2-Z-14 at 7:25 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that before the Commission was the file record for the reservoir annexation. He said this is something that had been in the works for some time. We went through a full UGB expansion for a little bit larger piece. That process was a multi-year process; it had to go through the City, the County, and ultimately had to be acknowledged by the State. We then embarked on annexing just the City-owned properties within the expanded UGB. The City Council initiated this some time ago, but it had to be put on the shelf until the County finished legalizing Big Creek Road since in at least two locations the annexation keys off where that boundary is. They wrapped that up in September of last year. Because we did a Memorandum of Understanding with the County on the sequencing of these things, we moved to a discussion about a maintenance agreement for Big Creek Road. There was some back and forth in discussion between our respective Public Works Departments, and ultimately our Public Works Department decided to accept it as is. The primary reason for that is our City Engineer Tim Gross anticipates that we'll be doing work near-term that at some point will require us to relocate or reconstruct portions of that road to ensure access to the private property owners that rely upon that road. So, to have the County do any major work in certain areas where we will turn around and possibly tear it up, we decided it's not worth it; we will just take it as is. That's the rationale for that. So, we were able to reinstate the annexation; and that was what was before the Commission at tonight's hearing.

On the overhead screen, Tokos had the map displayed. It showed the actual area that's being annexed, which is Exhibit "A" to the legal description. That showed in orange the boundary of the UGB expansion, then the hatched line showed the city ownership, and what was in purple is what we are actually annexing. There are little bits of privately-owned properties that are not being annexed at this time. We don't want to annex them at this time because if they were annexed we would be compelled to put them under Public zoning, and that's inappropriate. We don't need to bring them in at this point in time. The pieces that we're not annexing at this time will stay under the County's Timber Conservation zoning, and they'll have that palette of uses available to them. Tokos said it's about 320 acres when you add up the City's ownership, which is just almost 310 acres, and another 10 acres more or less that is tied up in Big Creek Road right-of-way. We're only bringing in those portions of Big Creek Road that are adjoining City-owned property. He noted that it does extend a little bit further to the east off this map; there were other exhibits in the packet. When the County legalized it, they legalized it well past where it actually stops being a physical road. There will be a stretch of Big Creek Road right-of-way that's still in the unincorporated county that we're not responsible for.

Tokos explained that the standards for annexation are spelled out in Statute and in the Municipal Code, and are included in the staff report. He said the primary issue before the Commission is whether the annexation is a public necessity and will promote the general welfare. He provided some rationale for that in the staff report; namely, you can rely upon the fact that if you apply a P-1 Public zoning designation your action would be upon its face consistent with the Comprehensive Plan. The other is that the primary reason we did this was to make it easier procedurally for us to institute changes to our water infrastructure. That's a public necessity. The domestic water supply is critical to the health and welfare of our community and ensuring that the processes are such that they don't necessarily impede whatever solution is determined to be appropriate through public vetting processes. He thinks that's a very important consideration, which he put in the staff report and thinks the Commission can also rely on as meeting the bar for being public necessity and consistent with the public welfare. Tokos said he doesn't want it to be lost that one of the reasons we also did the UGB expansion was to facilitate regional park improvements at some point with a trail system. Putting in a P-1 zone facilitates both; the recreational and utility aspect. It's the only zoning designation we have that allows for both and why that's being applied in this case. Tokos said that he thought the Commissioners have sufficient

information in the record to forward a favorable recommendation to the City Council should you believe that's an appropriate action.

Branigan asked on the map on the screen, what the white patch above the purple was. He asked, that's not in the UGB? Tokos said there is City-owned property that's outside the UGB. That's a large City-owned parcel, and a good chunk of that parcel is outside the UGB. He noted that our initial approach with the State was to include that; and that was way more acreage than they were comfortable with. So through negotiation, we pulled that back. From the audience, Robert Etherington noted that if the City is planning on rerouting that County road around the new dam, we may have to get up there with road right-of-way. Tokos said if we have to do that, then we will have to go through a County review process at that point. The UGB is set; we're really not in a position to revisit that at this point in time. If we have to, for example, relocate Big Creek Road such that some small portion of that extends outside our UGB, then we're into a review process with the County. But there is a process to make that happen. We would just have to go through it with the County.

**PROPOSERS, OPPOSITORS, OR INTERESTED PARTIES:** Robert C. Etherington, who along with his wife owns the property at 3249 NE Big Creek Road, Newport. Etherington asked where that section of the County road that the County controls was located. He said the property line kind of runs down the middle of the road. Tokos said we will be taking Big Creek Road all the way over to that far corner where the last of the City property is. All of that will be transferred to the City after the annexation is complete.

Patrick closed the public hearing at 7:36 p.m. There was no deliberation.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Franklin, to recommend approval of the request described in parts 1, 2, and 3 of File No. 1-AX-14/2-Z-14 with the zone designation of P-1. The motion carried unanimously in a voice vote.

6. **New Business.** No new business.
7. **Unfinished Business.** No unfinished business.
8. **Director Comments.** Tokos noted that we do now have two applications for Planning Commission, and he will be talking to the Mayor about getting interviews set up and getting the vacancy filled. We just did receive a second application for the Citizen Advisory Committee, so now we have enough to actually fill the slots. Tokos will get that scheduled for the Commission's consideration at an upcoming meeting.
9. **Adjournment.** Having no further business, the meeting adjourned at 7:37 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant

**Wanda Haney**

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**From:** Amanda Phipps <aphipps@newportnewstimes.com>  
**Sent:** Thursday, April 14, 2016 12:12 PM  
**To:** Wanda Haney  
**Subject:** RE: City of Newport Legal Notice - 1-AX-14/2-Z-14

Wanda,  
We have received your notice and will publish accordingly.

Thank you,  
Amanda

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**From:** Wanda Haney [mailto:W.Haney@NewportOregon.gov]  
**Sent:** Thursday, April 14, 2016 12:07 PM  
**To:** 'Legals'  
**Subject:** City of Newport Legal Notice - 1-AX-14/2-Z-14

Attached is a notice of a City Council public hearing for our File No. 1-AX-14/2-Z-14 for publication twice: once on **Friday, April 22, 2016**, and once on **Wednesday, April 27**, please. **Please respond with an email confirming receipt of this notice & that it will publish as requested.**

Thanks,

*Wanda Haney*  
Executive Assistant  
City of Newport  
Community Development Department  
169 SW Coast Hwy  
Newport, OR 97365  
541-574-0629  
FAX: 541-574-0644  
[w.haney@newportoregon.gov](mailto:w.haney@newportoregon.gov)

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

The City of Newport City Council will hold a public hearing on Monday, May 2, 2016, at 6:00 p.m. in the Council Chambers at City Hall to consider File No. 1-AX-14/2-Z-14, a request for annexation, zone designation, and withdrawal initiated by the City of Newport. The request is to (1) annex city-owned properties surrounding the Big Creek reservoirs along with the adjoining portions of Big Creek Road into the Newport city limits; (2) the zoning will be P-1/"Public Structures" consistent with the existing Newport Comprehensive Plan designation; and (3) the subject property will be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the City Council in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the City Council. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and other file materials are available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above).

**(For Publication once on Friday, April 22, 2016, and once on Wednesday, April 27, 2016.)**

*emailed  
4/14/16*

**CITY OF NEWPORT  
NOTICE OF A PUBLIC HEARING <sup>1</sup>**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Newport, Oregon, will hold a public hearing on Monday, May 2, 2016, to consider the following request for annexation, zone designation, and withdrawal.

**File No. 1-AX-14 / 2-Z-14**

**Applicant:** Initiated by City of Newport.

**Request:** Consideration of requests to: (1) annex city-owned properties surrounding the Big Creek reservoirs along with the adjoining portions of Big Creek Road into the Newport city limits; (2) the zoning designation will be P-1/"Public Structures" consistent with the existing Newport Comprehensive Plan designation of "Public"; and (3) the subject property will be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District.

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

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

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

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

**Time/Place of Planning Commission Hearing:** Monday, May 2, 2016; 6:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

**MAILED:** April 18, 2016.

**PUBLISHED:** April 22, 2016, and April 27, 2016/News-Times.

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

Memorandum of Agreement  
By and Between  
Lincoln County and the City of Newport  
Transfer of Big Creek Road  
County Road # 402

This Agreement is made by and between Lincoln County and the City of Newport, pursuant to ORS Chapter 190, to establish the procedures and general timelines concerning the future potential transfer of jurisdiction and maintenance responsibility for Big Creek County Road, County Road # 402 (County Road) from its westerly location east to the termination of the improved area. It is understood and agreed that certain other related actions, including an amendment of the Newport Urban Growth Boundary (UGB)<sup>1</sup> and annexation of properties within the amended UGB to the city would need to occur before this agreement is implemented. It is also understood that the UGB amendment and annexation have independent and separate legal standards and procedures that must be met. Nothing in this agreement is intended to predetermine or guarantee the decisions in those contexts, and all standards and procedures must be met and followed in those separate actions.

The parties agree, however, that if the amendment of the UGB is accomplished and the property adjacent to the County Road is annexed into the City of Newport, then the County and City will initiate transfer of jurisdiction of the County Road to the City of Newport in accordance with the requirements of ORS 373.270. In doing so, it is understood and agreed that:

- County will be responsible for creating the legal description of the portion of the County Road right-of-way to be transferred. County and City agree that it is the intent of the parties for County to initiate legalization proceedings under ORS Chapter 368 for the portion to be transferred to the City. Legalization will be completed before annexation is completed. The parties understand and agree that the legalization will be initiated immediately after amendment of the UGB is complete.
- The City will accept the road as it is currently improved, unless otherwise mutually agreed by the parties. The parties have not identified any needed major improvements to the road needed before the transfer is completed. This does not preclude the County's obligation to maintain the road (for any repairs necessitated by disaster, slides or other unanticipated events) prior to completion of the transfer.
- The County will initiate the transfer following legalization and annexation. The City shall timely respond to the initiation in accordance with law.
- Notwithstanding ORS 373.270(7)(b), County will maintain the County Road after the transfer, provided the parties agree to and execute a routine maintenance

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<sup>1</sup> An amendment request has already been approved by the City Council and is pending before the County. Nothing in this agreement is intended to require approval of the request by the County. The request shall be considered and acted upon in accordance with the requirements of Lincoln County Code, Chapter 1, Land Use Planning, and applicable laws and rules.

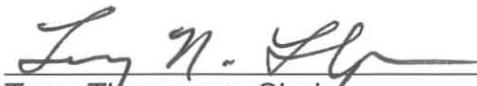
agreement outlining these obligations. Such an agreement will specify the nature of the maintenance work to be performed by the County, associated costs, and the manner in which those costs will be billed to the City. The agreement may also identify one-time minor improvements, including guardrail repairs, for County to undertake at no cost to the City. It is the intent of both parties that the agreement be prepared and presented as part of the transfer proceedings.

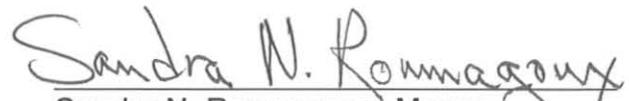
- The parties understand that the law reserves certain decisions to the governing bodies of the respective parties, and nothing in this agreement shall divest those governing bodies of their authority.

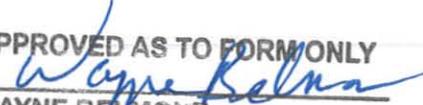
So Understood and Agreed this Bid day of April, 2014:

Lincoln County

City of Newport

  
Terry Thompson, Chair

  
Sandra N. Roumagoux, Mayor

APPROVED AS TO FORM ONLY  
  
WAYNE BELMONT  
LINCOLN COUNTY COUNSEL

# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:6.C.  
Meeting Date: 5-2-16

## Agenda Item:

### Public Hearing on Imposing a 3% Tax on Marijuana within the City of Newport

#### Background:

At the April 18, 2016, City Council meeting, the Council requested that a public hearing be scheduled for the May 2 meeting on whether to propose a local 3% tax on marijuana within the City of Newport for consideration by the electors in November.

Under House Bill 3400, local units of government may adopt an ordinance which must be referred to the voters imposing a tax or fee up to 3% on the sale of marijuana items by a retail licensee within that city. This ordinance must be referred to voters in a Statewide general election, which means an election in November of an even numbered year.

If the City Council wishes to have this question placed on the ballot, an ordinance and resolution calling for an election on this issue would need to be approved by the Council by June. City Recorder, Peggy Hawker, and City Attorney, Steve Rich, have developed drafts of an ordinance and a resolution that could be used for this purpose.

It is also my understanding that during the recent legislative session, State law authorized the Department of Revenue to collect the local tax. This would be accomplished in a similar fashion of how the local gas taxes are collected and remitted by the State to local units of government. This would certainly facilitate this process.

It would also be appropriate for the City Council to consider whether this tax would be imposed only on recreational marijuana. Please note there is currently no apparent prohibition for the City levying a local tax on medical marijuana. During previous discussions, the focus of local taxation appeared to be strictly on the recreational marijuana products.

There have been some suggestions from City staff regarding earmarking this funding for a specific purpose (parks, law enforcement or other efforts in the community). It was thought this may make the ballot issue more attractive knowing that the revenues are being earmarked for specific purpose. This could be done by ordinance if the Council chooses to do that.

#### Recommendation:

I recommend that the Mayor conduct a public hearing to obtain public comment referring to voters a measure that would impose a 3% tax on the sale of marijuana

items by marijuana retailers.

Following the public hearing and considering any comments, I recommend that City Council direct staff to prepare a final ordinance and resolution to refer to the voters in November 2016 a measure that would impose a 3% tax on the sale of marijuana items by marijuana retailers.

**Fiscal Effects:**

It is undetermined what this tax would generate at this time. The City Council could earmark any revenues from the local tax for a specific purpose which the Council would so choose.

**Alternatives:**

Do not proceed with the position of a 3% tax on the sale of marijuana items by marijuana retailers or as suggested by the City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. Nebel", is written over a faint, light-colored circular stamp or watermark.

Spencer R. Nebel, City Manager

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**CITY OF NEWPORT**

**ORDINANCE NO. 2097**

**AN ORDINANCE OF THE CITY OF NEWPORT  
IMPOSING A THREE PERCENT TAX  
ON THE SALE OF MARIJUANA ITEMS BY A  
MARIJUANA RETAILER AND REFERRING ORDINANCE NO. 2097  
TO THE VOTERS AT THE GENERAL ELECTION  
TO BE HELD ON NOVEMBER 8, 2016**

**WHEREAS**, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

**WHEREAS**, the Newport City Council wants to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

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

**Section 1.** Chapter 3.15 of the Newport Municipal Code is enacted as follows:

**3.15 IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS  
BY A MARIJUANA RETAILER**

**A. DEFINITIONS**

1. Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.
2. Marijuana retailer means a person who sells marijuana items to a consumer in this state.
3. Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**B. TAX IMPOSED**

As described in section 34a of House Bill 3400 (2015), the City of Newport hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

**C. COLLECTION**

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

D. REFERRAL

This ordinance shall be referred to the electors of the City of Newport at the next statewide general election on Tuesday, November 8, 2016.

**Section 2. Effective Date.** This ordinance shall be effective immediately upon certification of the election results if approved by the electors of the City of Newport at the election of November 8, 2016.

Adopted by the Newport City Council on June 6, 2016.

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Sandra N. Roumagoux, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

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Steven Rich, City Attorney



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**CITY OF NEWPORT**

**RESOLUTION NO. 3745**

**A RESOLUTION CALLING FOR AN ELECTION  
TO REFER TO THE VOTERS OF THE CITY OF NEWPORT, OREGON,  
A MEASURE THAT WOULD IMPOSE A THREE PERCENT TAX  
ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER**

**Finding**

On June 6, 2016, the City Council adopted Ordinance No. 2097 imposing a three percent tax on the sale of marijuana items by marijuana retailers in the City of Newport, and referring Ordinance No. 2097 to the electors of the City of Newport at the election of November 8, 2016.

Based upon this finding:

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

**Section 1.** An election is called in and for the City of Newport for the purpose of submitting to the legal voters of the city the ballot title, Attachment A, with the following question:

Shall the City of Newport impose a three percent tax on the sale of marijuana items by a marijuana retailer?

**Section 2.** The explanatory statement for this ballot measure is included as Attachment B.

**Section 3.** Tuesday, November 8, 2016, is designated as the date for holding the election on the question stated in Section 1 above.

**Section 4.** The election will be conducted by the Lincoln County Clerk's Office.

**Section 5.** The precincts for the election shall include all territory within the corporate limits of the City of Newport and no other territory.

**Section 6.** If the ballot measure is approved by the voters of the City of Newport, the Newport Municipal Code shall be amended as provided in Attachment C.

Adopted by the Newport City Council on June 20, 2016.

CITY OF NEWPORT

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Sandra N. Roumagoux, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

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Steven E. Rich, City Attorney

**ATTACHMENT A  
TO  
CITY OF NEWPORT RESOLUTION NO. 3745**

**BALLOT TITLE**

**CAPTION**

Imposition of a tax on retail marijuana items

**QUESTION**

Shall the City of Newport impose a three percent tax on the sale of marijuana items by a marijuana retailer?

**SUMMARY**

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer. The Newport City Council adopted Ordinance No. 2097, on June 6, 2016, which imposes a three percent tax on the sale of marijuana items by a marijuana retailer and referring the ordinance to the voters at the General Election to be held on November 8, 2016.

Approval of this measure would impose a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

**ATTACHMENT B  
TO  
CITY OF NEWPORT RESOLUTION NO. 3745**

**EXPLANATORY STATEMENT**

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of Newport City Council has adopted Ordinance No. 2097 imposing a three percent tax on the sale of marijuana items by a retail licensee in the city, and, as a result, has referred this measure to the voters.

Approval of this measure would impose a three percent tax on the sale of marijuana items by a marijuana retailer within the city. There are no restrictions on how the city may use the revenues generated by this tax. However, this tax will only be imposed if this measure passes at the November 8, 2016 General Election.

**ATTACHMENT C  
TO  
CITY OF NEWPORT RESOLUTION NO. 3745**

If the ballot measure is approved by the voters of the City of Newport, the Newport Municipal Code shall be amended as follows:

**3.15 IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER**

**A. DEFINITIONS**

1. Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.
2. Marijuana retailer means a person who sells marijuana items to a consumer in this state.
3. Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**B. TAX IMPOSED**

As described in section 34a of House Bill 3400 (2015), the City of Newport hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

**C. COLLECTION**

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

**From:** Spencer Nebel  
**Sent:** Tuesday, April 12, 2016 9:21 PM  
**To:** Cindy Breves  
**Subject:** FW: Allocation for Tax revenue

Attachment for medical marijuana.

**Spencer R. Nebel**

City Manager  
City of Newport, Oregon 97365  
541-574-0601  
[s.nebel@newportoregon.gov](mailto:s.nebel@newportoregon.gov)

**From:** Jim Protiva  
**Sent:** Friday, April 08, 2016 2:50 PM  
**To:** Spencer Nebel <[S.Nebel@NewportOregon.gov](mailto:S.Nebel@NewportOregon.gov)>  
**Cc:** Tim Gross <[T.Gross@NewportOregon.gov](mailto:T.Gross@NewportOregon.gov)>; Michael Murzynsky <[M.Murzynsky@NewportOregon.gov](mailto:M.Murzynsky@NewportOregon.gov)>  
**Subject:** Allocation for Tax revenue

Appropriate allocation for Marijuana tax revenue:

I would like to request dedicating the revenue the City of Newport receives from marijuana tax towards park improvements to include replacement of rusty and broken playground equipment. It is a very serious concern that would benefit from a dedicated funding source such as this. I personally believe that it would do a great service and create good will in the community.



# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #: 7.A.  
Meeting Date: 5-2-16

## Agenda Item:

### **Communication from the Budget Committee - Adoption of Resolution No. 3748, a resolution revising the Financial Policy for the City of Newport relating to Reserves, Contingencies, and Unappropriated Fund Balances**

#### **Background:**

On Tuesday April 26, 2016, the Budget Committee reviewed revisions to the Newport fund balance, contingencies and reserves policy. The Budget Committee unanimously recommended that the City Council consider approving the new policy.

In developing a budget for the 2016-17 Fiscal Year, Finance Director, Mike Murzynsky, Assistant Finance Director, Linda Brown, and I continue to work to make our budget process compliant with the Department of Revenue rules and guidelines. The State of Oregon has some very specific and detailed requirements for local units of governments to follow. One area that we will be discussing with the Budget Committee is in regards to the city's fund balance policy. In 2014, the Council adopted a policy that Interim Finance Director, Bob Gazewood, and I developed. While the policy was reasonable from a cash flow standpoint for the city's various funds, it was not consistent with various aspects of the Department of Revenue guidelines for local budgets.

Enclosed is a draft policy that will be reviewed by the Budget Committee. The most significant change in this policy is that the unappropriated ending fund balance for each of the operating funds should only contain enough cash to meet cash flow requirements through the course of the fiscal year. For the General Fund, that means there needs to be sufficient cash preserved by the time the city reaches November when the property tax revenue is collected by the County and provided to the local government. The unappropriated ending fund balance cannot be appropriated during the fiscal year unless there is a declared emergency. The Department of Revenue provides that surplus funds in any fund for a local unit of government should be contained in a reserve for future expenditure. The 2016/17 proposed budget has been developed along these lines. The reserve for future expenditures are funds that are not intended to be spent during the fiscal year. However, if the need arises during the fiscal year. To utilize this money, a supplemental budget may be adopted to appropriate the expenditure.

The third category of funding is the general operating contingency. The general operating contingency is for the placement of funds that may necessitate spending during the year on items that cannot be specifically identified at the time the budget is being prepared. So unlike the reserve for future expenditure, there is general thought that contingency is likely to be used during the course of the year.

The funding policies take into account that our budget uses conservative assumptions so that we normally have unspent appropriated funds at the end of the fiscal year, including contingencies. As a result, I believe it is appropriate not to tie up significant funding in fund balance, undesignated reserves for future expenditures or contingency in the budget. Based on my third go around with the budget process, I feel the proposed budget appropriates a comfortable level of expenditures in each of the operating funds.

**Recommendation:**

I recommend the City Council consider the following motion:

**I move adoption of Resolution No. 3748, a resolution repealing Resolution No. 3534, and revising the Financial Policy for the City of Newport relating to Reserves, Contingencies, and Unappropriated Fund Balances.**

**Fiscal Effects:**

The policy provides guidelines to City Administration, Budget Committee and City Council relating to appropriate levels of reserves in the City's various operating funds.

**Alternatives:**

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. Nebel", is written over a faint, light blue circular stamp or watermark.

Spencer R. Nebel, City Manager

**RESOLUTION NO. 3748**

**A RESOLUTION OF THE NEWPORT CITY COUNCIL  
ADOPTING A REVISED POLICY REGARDING THE CITY'S FINANCIAL RESERVES,  
CONTINGENCIES, AND UNAPPROPRIATED ENDING FUND BALANCES  
AND REPEALING RESOLUTION NO. 3534 IN ITS ENTIRETY**

**WHEREAS**, the City of Newport is responsible to its citizens for the care and management of public funds; and

**WHEREAS**, the city must provide adequate funding for the services it is obligated to provide to its citizens; and

**WHEREAS**, the city's financial responsibilities and obligations must adhere to numerous laws and regulations; and

**WHEREAS**, the financial reserves, contingencies, and unappropriated ending fund balances policy attached as Exhibit A is designed to ensure the fiscal stability of the City of Newport, and to provide guidance in financial management and practices to city staff;

**NOW, THEREFORE, THE CITY OF NEWPORT RESOLVES AS FOLLOWS:** the attached Financial Policy (Exhibit A) is hereby adopted, and Resolution No. 3534 is repealed in its entirety.

This resolution will become effective immediately upon passage.

Adopted by the Newport City Council on May 2, 2016

**CITY OF NEWPORT**

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Sandra N. Roumagoux, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

## FINANCIAL POLICY

### City of Newport Fund Balance, Contingencies & Reserves Policy

#### 1.0 -- PURPOSE:

The purpose of this policy is to provide guidance to the city administration, Budget Committee, and City Council regarding the maintenance of unappropriated ending fund balances, reserves for future expenditures, and contingencies for the various operating funds. This policy is intended to identify desired levels to protect the city's financial position in the event of unanticipated emergencies.

#### 2.0 -- DEFINITIONS

##### 2.1 -- Unappropriated Ending Fund Balance (UEFB)

Budgeted requirements may include an unappropriated ending fund balance. The purpose of an unappropriated ending fund balance is to provide the local government with a cash or working capital balance with which to begin the fiscal year following the one for which this budget is being prepared (ORS 294.371 and OAR 150-294.398, renumbered from 294.371).

The amount of an unappropriated ending fund balance is determined by estimating cash requirements between July 1 of the fiscal year following the one which is being budgeted, and the time sufficient revenues will become available from other sources to meet cash flow needs. The maximum amount that should be budgeted in an unappropriated ending fund balance is the difference between the cash requirements and the other resources available during that period.

The unappropriated ending fund balance is not included in the resolution making appropriations. No expenditures can be made from an unappropriated ending fund balance during the year in which it is budgeted, except in an emergency situation arising during the year by involuntary conversion (theft, vandalism, accident, etc.), civil disturbance or natural disaster.

##### 2.2 -- Reserved for Future Expenditure

An amount "**reserved for future expenditure**" is a line item requirement which identifies funds to be "saved" for use in future fiscal years.

Since the initial intent when the budget is adopted is not to spend the amount reserved for future expenditure, it is not included in the resolution making appropriations. If the need arises during the fiscal year to spend this money, a supplemental budget may be adopted to appropriate the expenditure.

An exception to this is in an emergency situation created when property is destroyed by involuntary conversion, civil disturbance or natural disaster. ORS 294.481, renumbered from 294.455, describes when and how any available monies, including reserved amounts can be used to make such expenditures.

### **2.3 -- General Operating Contingency**

An estimate for **general operating contingency** may be included in an operating fund. The estimate is based on operations that may necessitate spending during the year on items that cannot be specifically identified at the time the budget is being prepared. The contingency is not a separate fund. It is a line item within an operating fund, separate from any of the other major object classifications. Its purpose and proper use are explained in Oregon Administrative Rule 150-294.352(8).

Each operating fund (each fund from which operating expenses are paid) is allowed one appropriation for a general operating contingency. A non-operating fund cannot have an appropriation for a contingency. During the fiscal year, money budgeted and appropriated as contingency must be transferred to another appropriation category before it can be expended.

### **2.4 -- Reserve Fund**

Reserve funds may be set up to accumulate money for financing the cost of any service, project, property or equipment that the district can legally perform or acquire (ORS 294.346, renumbered from 294.525). Under Local Budget Law, a reserve fund is a way to save money from year to year. Expenditures can be appropriated and made directly from a reserve fund.

The resolution creating a reserve fund should state the purpose for which the money in the fund can be spent. At least every 10 years after the establishment of a reserve fund, the governing body must review the fund to decide if it should be continued or abolished. Any unexpended or unobligated balance left in the fund when it is abolished can be transferred to the general fund or any other fund designated by the governing body.

Unlike reserves for future expenditures, reserve funds are established for a specific purpose to be funded over a number of fiscal years for specifically planned purposes.

## **3.0 – FUNDING LEVELS FOR UEFB & CONTINGENCIES**

### **3.1 – Calculation of Funding Levels**

The proposed budget shall be the basis for establishing U.E.F.B., reserves for future expenditures and contingencies for all operating funds. The funding levels shall be calculated based on the total expenditures, less transfers as outlined in this section. Any operating funds in which the U.E.F.B., reserve for future expenditures and/or contingencies fall more than 10% outside of these parameters shall be noted in the budget message.

Any unappropriated dollars in development funds and capital outlay funds shall be held as a reserve for future expenditures. Debt retirement funds shall be funded to meet requirements for the payment of interest and principal and related expenses. Any required reserves for future payments or payment scheduled in future years shall be held as part of the reserves for future expenditures for that debt fund.

The Contingency, Unappropriated Ending Fund Balances and Reserve for Future Expenditures for operating funds of the City of Newport shall be calculated as follows:

General Operating Contingency is calculated by multiplying the total expenditures of the fund without transfers by the targeted percentage in Section 3.2 of this policy.

Unappropriated Ending Fund Balance is then calculated by multiplying the total expenditures of the fund without transfers, less the General Operating Contingency, by the targeted percentage in Section 3.2 of this policy.

Reserve for Future Expenditures will include all remaining funds not required for contingency or UEFB. The Reserve for Future Expenditures should fall within a range calculated by multiplying the percentages outlined in Section 3.2 of the policy, times the total expenditures of the fund without transfers, less contingency and UEFB.

**3.2 – Fund Balances, Reserves & Contingency Levels**

The funding targets of the unappropriated ending fund balances, reserves for future expenditures and contingencies for operating funds shall be as follows:

	<u>Contingency</u>	<u>UEFB</u>	<u>Reserve for Future Expenditures</u>
General Fund	4%	10%	8% to 15%
Self-Supporting Funds (1)	10%	12%	0% to 25%
Funds Supported by Transfers (2)	10%	8%	0% to 25%

(1) Self-Supporting Funds – Street, Water, Wastewater, Room Tax Fund, & Building Inspection Fund

(2) Funds Supported by Transfers – Public Works Fund, Parks & Recreation & Airport

**4.0 – TARGETED FUND BALANCE GOALS**

**4.1 – UEFB Falls Below Targeted Levels**

In the event that the UEFB falls below the designated range for that type of fund, the city administration shall develop a proposed plan to bring the UEFB back to the appropriate range for consideration and approval by the City Council within six (6) months after this discovery.

#### **4.2 – UEFB Exceeds Targeted Levels**

In the event that the UEFB falls above the designated range for any funds, the city administration shall develop a plan to bring the UEFB within the targeted limits through a one-time capital expenditure, commitment of funds to reserves, or other fiscally responsible actions for that fiscal year. In subsequent fiscal years, the funding requirements and or expenses for that fund should be evaluated to determine whether revenues can be reduced, services increased, or other actions taken to address subsequent fund balance issues.

#### **4.3 – Balance Review**

Annually, in February of each year, the Finance Director will evaluate the targeted levels to determine their adequacy for the upcoming budget year, and will provide a report to the City Manager for review. The City Manager will present a report to the City Council when modifications are recommended for the targeted funding levels included within this financial policy.



# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:8.A.  
Meeting Date: 5-2-16

## Agenda Item:

### Report on Financial Matters for the Quarter Ending March 31, 2016

#### Background:

Finance Director, Mike Murzynsky has prepared the third quarter financial reports for the City of Newport. The third quarter represents 75% of the fiscal year, and for operations that operate evenly throughout the entire fiscal year, 75% is a good threshold to determine how revenues and/or expenses are faring. Please note that some cost centers may have expenses that fall disproportionately during the fiscal year. For example, the Mayor and Council budget includes the audit and the Oregon League dues. These are paid at the first part of the fiscal year, and it front loads those expenditures giving a higher percentage at this point in reviewing the budget. Likewise, some of our revenues are seasonal in nature as well, such as property taxes where the significant majority of taxes are paid within a fairly short time frame.

Overall, in reviewing the expenditures by department, most of the departments are in relatively good shape, and spending below the 75% threshold. This would be normally expected at this time of year. Generally, our revenues are coming in as anticipated as well. A couple of areas that are running a little under projections are revenues for the Water Fund, which are running just under 75% of anticipated revenues. Please note that our expenditures are also running below by the same amount, so we do not foresee any major issues with the Water Fund. The Sewer Fund revenues are running closer to the 75% level, with expenditures running below that level.

We do not see significant concerns at this time relating to the City's financial status as it relates to the amounts appropriated for various operations for the fiscal year that will end on June 30, 2016. The Finance Department will monitor these numbers closely as we complete the last quarter of the fiscal year. Also, there will likely be budget amendment prior to the end of the fiscal year to clean up any cost centers that are problematic at that time. I certainly appreciate the job that the departments do in staying within their appropriated amounts.

#### Recommendation:

No action is required.

#### Fiscal Effects:

None.

#### Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel, City Manager





Agenda Item # \_\_\_\_\_

Meeting Date May 2, 2016

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

Agenda Title: Financial reports for the quarter ended March 31, 2016

Prepared By: MM

**Issue before the Council:**

Attached are the financial statements for the quarter ended March 31, 2016 for your review.

**Staff notes on the 2015-16 Year-End reports:**

Attached are the City of Newport's 2015-16 3rd Quarter Financial reports for Council review and discussion. The City operations are 75 percent into the current fiscal year and this is noted in the top right part of each sheet. Any revenue below that mark is not a good thing while an expenditure over the mark is not a good thing. My process will be to review the budgeted revenues versus actual and then a brief overview on are the expenditures used to date. Exceptions will be discussed as they come up.

A quick overview on the attached reports. The reports are divided into operational revenue and operational expenditures, both are summarized and this is noted by a Total Revenue and Total Expenditure line item. The expenditures are further divided into Programs and this is divided into Operational Units. For example, the General Fund is divided by Programs like City Administration and then Police, Fire, Library, and so on. Within the City Administration it is further divided into operating units, like City Manager, Information Technology, Finance, Human Resources, and so on which are then totaled into a Total Expenditure line.

Finally, there is an additional box of information showing the Original Appropriation Number or Adopted Budget effected by any Supplemental Budget along with the respective resolution(s) number. Please note the latest Supplemental Budget, Resolution 3746 is not in the financials because that was just approved by the City Council.

### **General Fund:**

The total actual revenue received were \$10,117,639; Property Taxes (now being collected) and Room Tax and Business License make up more than 74% of this number. For expenditures, the actual expenditures were \$7,487,860, which is 45.73% expended as of the end of the quarter. Within the individual programs/departments in the General Fund the City Manager, Court, Finance Customer Service, Custodial and Non-Departmental total budgets spent are above the 75% base line. Yet City Manager, Court and Finance Customer Service are part of the City Administration bottom line, this total program has spent 71.90% of its budget so the program is fine. Non- Departmental is beyond the 25% due to payment of the annual insurance bills and support transfer. The payment of the annual insurance comes in early in the fiscal year and skews the departments until time passes it up and the budgets self-correct. The insurance payment has a major effect throughout the budgets and will be noted as it comes up.

### **Parks and Recreation:**

The total actual revenue received were \$490,048, 79.92% of anticipated revenues with Fees representing 83.71% of the total, Parks and Receptions appear to be on pace to collect their overall projected revenues. For expenditures, the actual expenditures were \$1,033,847 for the quarter which is 60.44% of budget. Within the individual programs/departments in the Parks department only the Parks Administration spent beyond the 75% baseline.

### **Public Parking:**

The total actual revenue received were \$26,592, 82.3% of the anticipated budget, the majority of the "fees in lieu of" were collected this quarter. For expenditures, the actual expenditures were minimal, \$2,727, well below scheduled spending.

### **Housing:**

The total revenues received were \$450, mainly interest income. For expenditures, the actual expenditures were \$4,384 and are spent as needed.

### **Airport:**

The total revenues received were \$205,205, 59.66% of expected revenues. Jet fuel is at 47.5% of expected receipts while AvGas is at 46.5% and rents collected are 90.1% collected. For expenditures, the actual expenditures were \$477,801, 62.29% of the anticipated budget. The Operational category budgets are within the 75% baseline with the exception of the Other Services area. The Other Service area is still over due to the allocation of the insurance payment so it will be reviewed monthly.

**Room Tax:**

The total actual revenue received were \$1,105,120, which is 81.37% of expected budgeted revenues. For expenditures, the actual expenditures were \$681,996, 69.44% of the anticipated budget.

**Building Inspection:**

The total actual revenue received were \$221,819 which is 115.52% of expected budgeted revenues. For expenditures, the actual expenditures to date were \$200,505, or 69.89% against the budget, well below the 75% baseline.

**Street:**

The total actual revenue received were \$681,852 which is 69.39% of expected budgeted revenues. For expenditures, the actual expenditures to date \$738,030, or 61.96 versus budgeted expenditures, well below the 75% baseline.

**Line Undergrounding:**

The total actual revenue received were \$100,969 and the actual operating expenditures are barely spent and are always carefully monitored.

**SDC fund:**

The total actual SDC revenues collected were \$371,735, or 149.25% of expected revenues. The expenditures are used as needed and also only transferred as needed.

**Agate Beach Closure:**

The total actual revenue received to date is \$0.00 while expenditures are only used as need, year to date used were \$14,675.

**Newport Urban Renewal:**

The total actual revenue received to date was \$39,250, which represents interest income and rental income from the South Beach property. The expenditures used to date, \$55,171, were for payroll for Community Development staff who monitor the Renewal Area and utilities related to the South Beach property.

**Debt Service funds:**

All debt service are not presented but they were within planned budgets.

**Capital Projects - General and Proprietary:**

The revenues and expenditures, actual totals, are coming in as expected or spent as expected. All projects are within the 75% benchmark with regards to spending.

**Water:**

The total actual revenue received to date were \$2,747,816, 69.70% of planned revenues....mainly in the miscellaneous area plus the fees and charges. For expenditures, the actual expenditures were \$2,031,636, 63.56% of planned expenses. Within the individual programs/department in the Water fund no program spent above the 75% baseline.

**Wastewater:**

The total actual revenue received to date was \$2,839,426, 73.32% of planned revenues...again, mainly miscellaneous area plus the fees and charges. For expenditures, the actual expenditures were \$2,034,418, 59.72% of planned expenses. Within the individual programs/department in the Wastewater fund only the Non-Departmental unit spent above the 25% baseline, main reason was again the insurance payment allocation.

**Public Works Fund:**

The total actual revenue received to date was \$600,808, 58.36% of planned budgeted revenues. We will create the allocation from the other Public Works funds the allocation is too high and should be reduced and this will happen in the final Supplemental Budget. For expenditures, the actual expenditures were \$524,931, 52.54% of planned expenses. Within the individual programs/department in the Wastewater fund no unit spent above the 75% baseline.

**Overall:**

With the exceptions noted above in each fund the City is operating within the constructed budget. The City Manager and Department Directors have been monitoring their respective budget and the budgets currently show no sign of overages.

**Proposed Motion:**

None - for Council information

**Attachment List:**

Financial data as of March 31, 2016

**CITY OF NEWPORT  
GENERAL FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget	
<b>REVENUES:</b>							
Property Taxes	6,151,747	6,151,747	186,800	5,958,338	193,409	96.86%	
Other Taxes	2,004,000	2,004,000	139,588	1,602,096	401,904	79.94%	
Franchises	945,600	945,600	70,260	724,422	221,178	76.61%	7,560,434
Federal Sources	55,000	55,000	42,190	42,190	12,810	76.71%	0.74725
State Sources	150,200	150,200	-	70,875	79,325	47.19%	
Miscellaneous Sources	690,471	818,306	112,790	526,279	292,027	64.31%	
Services Provided for	1,073,843	1,073,843	89,487	805,382	268,461	75.00%	
Fee, Fines & Forfeitures	413,600	413,600	(5,143)	360,927	52,673	87.26%	
Investments	9,700	9,700	3,917	11,773	(2,073)	121.37%	
Miscellaneous	36,600	36,600	1,352	15,356	21,244	41.96%	
<b>TOTAL REVENUES:</b>	<b>11,530,761</b>	<b>11,658,596</b>	<b>641,241</b>	<b>10,117,639</b>	<b>1,540,957</b>	<b>86.78%</b>	
<b>EXPENDITURES:</b>							
City Administration							
Mayor & Council	98,150	98,150	651	83,424	14,726	85.00%	
City Manager	348,049	353,171	46,843	277,641	75,530	78.61%	
Information Technology	525,198	528,565	59,582	339,409	189,156	64.21%	
Court	57,258	58,179	6,202	47,119	11,060	80.99%	
Legal	153,200	155,730	11,804	114,217	41,513	73.34%	
Finance	557,624	563,842	47,148	423,513	140,329	75.11%	
Human Resources	114,918	116,230	6,259	75,614	40,616	65.06%	
Safety Coordinator	104,533	105,159	9,487	59,519	45,640	56.60%	
Finance Customer Service	36,500	36,500	3,068	28,728	7,772	78.71%	
Total City Administration	1,995,430	2,015,526	191,045	1,449,183	566,343	71.90%	
Police	3,603,480	3,674,850	370,741	2,661,796	1,013,054	72.43%	
Fire	1,892,439	2,009,630	127,353	1,475,089	534,541	73.40%	
Emergency Coordinator	107,000	107,000	-	4,445	102,555	4.15%	
Library	1,225,857	1,239,088	115,048	817,610	421,478	65.98%	
Community Development	315,380	319,161	20,625	160,447	158,714	50.27%	
Facilities & Grounds:							
Facilities Operations	263,035	265,306	28,400	188,854	76,452	71.18%	
Facilities Capital Projects	416,000	416,000	11,000	48,920	367,080	11.76%	
Grounds Operations	413,503	416,370	14,730	229,303	187,067	55.07%	
Grounds Capital Projects	10,000	10,000	-	-	10,000	0.00%	
Custodial Operations:	123,826	124,609	11,455	96,453	28,156	77.40%	
Total Facilities & Grounds	1,226,364	1,232,285	65,586	563,530	668,755	45.73%	
Non Departmental	421,488	421,488	23,595	355,760	65,728	84.41%	
Contingency	541,322	391,322					
<b>TOTAL EXPENDITURES:</b>	<b>11,328,760</b>	<b>11,410,350</b>	<b>913,991</b>	<b>7,487,860</b>	<b>3,531,168</b>		
<b>Excess of Revenue over (under) Expenditures</b>	<b>202,001</b>	<b>248,246</b>	<b>(272,750)</b>	<b>2,629,779</b>	<b>(1,990,211)</b>		
<b>OTHER FINANCING SOURCES</b>							
Transfer In	53,500	53,500	4,458	40,125	13,375		
Transfer Out	(1,248,432)	(1,344,677)	(94,624)	(1,011,390)	(333,287)		
Total Other Financing Sources (Uses)	(1,194,932)	(1,291,177)	(90,166)	(971,265)	(319,912)		
<b>Net Changes in Fund Balance</b>	<b>(992,931)</b>	<b>(1,042,931)</b>	<b>(362,916)</b>	<b>1,658,514</b>	<b>(2,310,123)</b>		
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>2,595,226</b>	<b>2,645,226</b>		<b>3,035,351</b>	<b>2,995,163</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>1,602,295</b>	<b>1,602,295</b>		<b>4,693,864</b>	<b>(1,082)</b>		

	Appropriations	UEFB	Total Requirements	
Adopted Budget	12,577,192	1,602,295	14,179,487	-
Supplemental Budget Resolution # 3726	50,000		50,000	
Supplemental Budget Resolution # 3740	127,835		127,835	
<b>Total Amended Budget:</b>	<b>12,755,027</b>	<b>1,602,295</b>	<b>14,357,322</b>	<b>-</b>

**CITY OF NEWPORT  
PARKS & RECREATION FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	566,365	567,365	66,161	474,921	92,444	83.71%
Investments	2,000	2,000	426	1,550	450	77.51%
Miscellaneous	43,800	43,800	763	13,576	30,224	31.00%
<b>TOTAL REVENUES:</b>	<b>612,165</b>	<b>613,165</b>	<b>67,350</b>	<b>490,048</b>	<b>123,117</b>	<b>79.92%</b>
<b>EXPENDITURES:</b>						
Parks Administration	164,626	166,728	14,345	135,392	31,336	81.21%
60+ Activity Center	168,321	169,753	10,164	96,015	73,738	56.56%
Swimming Pool	392,466	394,897	31,001	280,151	114,746	70.94%
Recreation Center	545,606	547,094	63,198	326,465	220,629	59.67%
Recreation Programs	176,944	176,944	10,306	103,763	73,181	58.64%
Sports Programs	122,266	123,266	10,726	92,062	31,204	74.69%
Contingency	139,308	131,855				
<b>TOTAL EXPENDITURES:</b>	<b>1,709,537</b>	<b>1,710,537</b>	<b>139,740</b>	<b>1,033,847</b>	<b>544,835</b>	<b>60.44%</b>
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	<b>(1,097,372)</b>	<b>(1,097,372)</b>	<b>(72,390)</b>	<b>(543,800)</b>	<b>(421,717)</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	749,502	749,502	62,459	562,127	187,376	
Transfer Out	-	-	-	-	-	
<b>Total Other Financing Sources (Uses)</b>	<b>749,502</b>	<b>749,502</b>	<b>62,459</b>	<b>562,127</b>	<b>187,376</b>	
<b>Net Changes in Fund Balance</b>	<b>(347,870)</b>	<b>(347,870)</b>	<b>(9,931)</b>	<b>18,327</b>	<b>(234,342)</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>347,870</b>	<b>347,870</b>		<b>417,005</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>-</b>	<b>-</b>		<b>435,332</b>	<b>-</b>	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	1,709,537	-	1,709,537	-
Supplemental Budget Resolution # 3740	1,000	-	1,000	
<b>Total Amended Budget:</b>	<b>1,710,537</b>	<b>-</b>	<b>1,710,537</b>	<b>-</b>

**CITY OF NEWPORT  
PUBLIC PARKING FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	31,265	31,265	168	25,707	5,558	82.22%
Investments	1,045	1,045	226	885	160	84.71%
<b>TOTAL REVENUES:</b>	<b>32,310</b>	<b>32,310</b>	<b>393</b>	<b>26,592</b>	<b>5,718</b>	<b>82.30%</b>
<b>EXPENDITURES:</b>						
Public Parking -General	-	-	-	-	-	
Public Parking -Nye Beach	12,722	12,722	85	767	11,955	6.03%
Public Parking -City Center	6,896	6,896	33	297	6,599	4.31%
Public Parking - Bay Blvd	22,218	22,218	185	1,663	20,555	7.49%
Contingency	274,207	274,207				
<b>TOTAL EXPENDITURES:</b>	<b>316,043</b>	<b>316,043</b>	<b>303</b>	<b>2,727</b>	<b>39,109</b>	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	<b>(283,733)</b>	<b>(283,733)</b>	<b>90</b>	<b>23,865</b>	<b>(33,391)</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	
Transfer Out	(40,000)	(40,000)	-	(40,000)	-	
Total Other Financing Sources (Uses)	(40,000)	(40,000)	-	(40,000)	-	
<b>Net Changes in Fund Balance</b>	<b>(323,733)</b>	<b>(323,733)</b>	<b>90</b>	<b>(16,135)</b>	<b>(33,391)</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>323,733</b>	<b>323,733</b>		<b>318,536</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>-</b>	<b>-</b>		<b>302,401</b>	<b>-</b>	

	Appropriations	UEFB	Total Requirements
Adopted Budget	356,043	-	356,043
<b>Total Amended Budget:</b>	<b>356,043</b>	<b>-</b>	<b>356,043</b>

**CITY OF NEWPORT**  
**HOUSING FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Investments	530	530	123	450	80	84.90%
<b>TOTAL REVENUES:</b>	530	530	123	450	80	84.90%
<b>EXPENDITURES:</b>						
Housing	139,449	139,449	495	4,384	135,065	3.14%
Contingency	32,132	32,132				
<b>TOTAL EXPENDITURES:</b>	171,581	171,581	495	4,384	135,065	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(171,051)	(171,051)	(372)	(3,934)	(134,985)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	13,200	13,200	1,100	9,900	3,300	
Transfer Out	-	-	-	-	-	
Total Other Financing Sources (Uses)	13,200	13,200	1,100	9,900	3,300	
<b>Net Changes in Fund Balance</b>	(157,851)	(157,851)	728	5,966	(131,685)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	157,851	157,851		156,334		
<b>FUND BALANCE - END OF YEAR</b>	-	-		162,300	-	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	171,581	-	171,581	-
<b>Total Amended Budget:</b>	171,581	-	171,581	-

**CITY OF NEWPORT**  
**AIRPORT FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Services Provided for	30,704	30,704	2,559	23,028	7,676	75.00%
Fee, Fines & Forfeitures	258,420	258,420	11,674	132,359	126,061	51.22%
Investments	561	561	108	686	(125)	122.30%
Miscellaneous	54,280	54,280	4,369	49,132	5,148	90.52%
<b>TOTAL REVENUES:</b>	343,965	343,965	18,709	205,205	138,760	59.66%
<b>EXPENDITURES:</b>						
Airport	693,941	767,030	51,611	477,801	289,229	62.29%
Contingency	71,691	-				
<b>TOTAL EXPENDITURES:</b>	765,632	767,030	51,611	477,801	289,229	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(421,667)	(423,065)	(32,901)	(272,597)	(150,468)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	335,288	335,288	27,941	251,466	83,822	
Transfer Out	(161,039)	(161,039)	-	160,106	(321,145)	
Total Other Financing Sources (Uses)	174,249	174,249	27,941	411,571	(237,322)	
<b>Net Changes in Fund Balance</b>	(247,418)	(248,816)	(4,961)	138,975	(387,791)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	353,254	353,254		312,146		
<b>FUND BALANCE - END OF YEAR</b>	105,836	104,438		451,121	320,211	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	926,671	105,836	1,032,507	-
<b>Total Amended Budget:</b>	926,671	105,836	1,032,507	-

**CITY OF NEWPORT**  
**ROOM TAX FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Taxes	1,307,300	1,344,155	93,387	1,095,093	249,062	81.47%
Fees, Fines & Forfeitures	12,000	12,000	1,864	8,391	3,609	69.93%
Investments	2,000	2,000	263	1,636	364	81.81%
<b>TOTAL REVENUES:</b>	1,321,300	1,358,155	95,514	1,105,120	253,035	81.37%
<b>EXPENDITURES:</b>						
Room Tax	1,145,246	982,101	16,374	681,996	300,106	69.44%
Contingency	126,381	66,381				
<b>TOTAL EXPENDITURES:</b>	1,271,627	1,048,482	16,374	681,996	300,106	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	49,673	309,673	79,140	423,124	(47,070)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	
Transfer Out	(744,651)	(1,076,651)	(18,944)	(906,555)	(170,096)	
Total Other Financing Sources (Uses)	(744,651)	(1,076,651)	(18,944)	(906,555)	(170,096)	
<b>Net Changes in Fund Balance</b>	(694,978)	(766,978)	60,196	(483,430)	(217,167)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	778,488	850,488		850,362		
<b>FUND BALANCE - END OF YEAR</b>	83,510	83,510		366,932	-	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	2,016,278	83,510	2,099,788	-
Supplemental Budget Resolution # 3726	72,000		72,000	
Supplemental Budget Resolution # 3735	36,855		36,855	
<b>Total Amended Budget:</b>	2,125,133	83,510	2,208,643	-

**CITY OF NEWPORT**  
**BUILDING INSPECTION FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fees, Fines & Forfeitures	162,740	187,740	20,432	218,546	(30,806)	116.41%
Investments	1,600	1,600	395	1,434	166	89.62%
Miscellaneous	2,670	2,670	-	1,839	831	68.88%
<b>TOTAL REVENUES:</b>	167,010	192,010	20,827	221,819	(29,809)	115.52%
<b>EXPENDITURES:</b>						
Building Inspection	258,868	286,897	22,198	200,505	86,392	69.89%
Contingency	25,887	22,858				
<b>TOTAL EXPENDITURES:</b>	284,755	309,755	22,198	200,505	86,392	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(117,745)	(117,745)	(1,372)	21,314	(116,201)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	3,000	3,000	250	2,250	750	
Transfer Out	-	-	-	-	-	
Total Other Financing Sources (Uses)	3,000	3,000	250	2,250	750	
<b>Net Changes in Fund Balance</b>	(114,745)	(114,745)	(1,122)	23,564	(115,451)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	469,943	469,943		475,695		
<b>FUND BALANCE - END OF YEAR</b>	355,198	355,198		499,259	-	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	284,755	355,198	639,953	-
Supplemental Budget Resolution # 3735	25,000		25,000	
<b>Total Amended Budget:</b>	309,755	355,198	664,953	-

**CITY OF NEWPORT  
STREETS FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Other Taxes	571,487	571,487	-	355,459	216,028	62.20%
State Sources				-	-	
Fee, Fines & Forfeitures	408,000	408,000	35,875	324,447	83,553	79.52%
Investments	2,000	2,000	431	1,946	54	97.29%
Miscellaneous	1,200	1,200	-	-	1,200	0.00%
<b>TOTAL REVENUES:</b>	<b>982,687</b>	<b>982,687</b>	<b>36,305</b>	<b>681,852</b>	<b>300,835</b>	<b>69.39%</b>
<b>EXPENDITURES:</b>						
Streets Maintenance	655,041	659,287	26,418	441,760	217,527	67.01%
Storm Drain Maintenance	426,956	431,202	27,248	296,270	134,932	68.71%
Contingency	109,156	100,664				
<b>TOTAL EXPENDITURES:</b>	<b>1,191,153</b>	<b>1,191,153</b>	<b>53,666</b>	<b>738,030</b>	<b>352,459</b>	<b>0.6196</b>
<b>Excess of Revenue over (under) Expenditures</b>	<b>(208,466)</b>	<b>(208,466)</b>	<b>(17,361)</b>	<b>(56,178)</b>	<b>(51,624)</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	70,000	70,000	5,833	52,500	17,500	
Transfer Out	(77,768)	(77,768)	(465)	(67,768)	(10,000)	
Total Other Financing Sources (Uses)	(7,768)	(7,768)	5,369	(15,268)	7,500	
<b>Net Changes in Fund Balance</b>	<b>(216,234)</b>	<b>(216,234)</b>	<b>(11,992)</b>	<b>(71,446)</b>	<b>(44,124)</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>588,769</b>	<b>588,769</b>		<b>670,591</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>372,535</b>	<b>372,535</b>		<b>599,146</b>	<b>-</b>	

	Appropriations	UEFB	Total Requirements
Adopted Budget	1,268,921	372,535	1,641,456
<b>Total Amended Budget:</b>	<b>1,268,921</b>	<b>372,535</b>	<b>1,641,456</b>

**CITY OF NEWPORT**  
**LINE UNDERGROUNDING FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Franchises	170,000	170,000	14,978	99,049	70,951	58.26%
Investments	2,800	2,800	466	1,920	880	68.56%
<b>TOTAL REVENUES:</b>	172,800	172,800	15,444	100,969	71,831	58.43%
<b>EXPENDITURES:</b>						
Line Undergrounding	400	400	59	320	80	79.97%
Contingency	645,580	645,580				
<b>TOTAL EXPENDITURES:</b>	645,980	645,980	59	320	80	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(473,180)	(473,180)	15,385	100,649	71,751	
<b>OTHER FINANCING SOURCES</b>						
Transfer In						
Transfer Out	(259,435)	(259,435)	-	(251,211)	(8,224)	
Total Other Financing Sources (Uses)	(259,435)	(259,435)	-	(251,211)	(8,224)	
<b>Net Changes in Fund Balance</b>	(732,615)	(732,615)	15,385	(150,561)	63,526	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	732,615	732,615		758,129		
<b>FUND BALANCE - END OF YEAR</b>	-	-		607,567	-	

	Appropriations	UEFB	Total Requirements
Adopted Budget	905,415		905,415
<b>Total Amended Budget:</b>	905,415	-	905,415

**CITY OF NEWPORT**  
**SDC FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	245,800	245,800	-	368,221	(122,421)	149.80%
Investments	3,270	3,270	968	3,515	(245)	107.49%
<b>TOTAL REVENUES:</b>	249,070	249,070	968	371,736	(122,666)	149.25%
<b>EXPENDITURES:</b>						
SDC - Streets	50,000	50,000	-	-	50,000	0.00%
SDC - Water	-	-	-	-	-	0.00%
SDC - Wastewater	-	-	-	-	-	0.00%
SDC - Parks	-	-	-	-	-	0.00%
SDC - Storm Drain	-	-	-	-	-	0.00%
SDC - Administration	25,000	25,000	-	-	25,000	0.00%
Contingency	1,088,800	1,028,800	-	-	-	-
<b>TOTAL EXPENDITURES:</b>	1,163,800	1,103,800	-	-	75,000	-
<b>Excess of Revenue over (under) Expenditures</b>						
	(914,730)	(854,730)	968	371,736	(197,666)	-
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	-
Transfer Out	(197,500)	(257,500)	-	(248,762)	(8,738)	-
Total Other Financing Sources (Uses)	(197,500)	(257,500)	-	(248,762)	(8,738)	-
<b>Net Changes in Fund Balance</b>	(1,112,230)	(1,112,230)	968	122,974	(206,404)	-
<b>FUND BALANCE - BEGINNING OF YEAR</b>	1,112,230	1,112,230	-	1,151,935	-	-
<b>FUND BALANCE - END OF YEAR</b>	-	-	-	1,274,909	-	-

	Appropriations	UEFB	Total Requirements
Adopted Budget	1,361,300	-	1,361,300
<b>Total Amended Budget:</b>	1,361,300	-	1,361,300

**CITY OF NEWPORT**  
**AGATE BEACH CLOSURE FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	12,000	12,000	-	-	12,000	0.00%
Investments	6,000	6,000	-	-	6,000	0.00%
<b>TOTAL REVENUES:</b>	18,000	18,000	-	-	18,000	0.00%
<b>EXPENDITURES:</b>						
Agate Beach Closure	60,327	60,327	(1,437)	14,675	45,652	24.33%
Contingency	1,362,257	1,362,257				
<b>TOTAL EXPENDITURES:</b>	1,422,584	1,422,584	(1,437)	14,675	45,652	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(1,404,584)	(1,404,584)	1,437	(14,675)	(27,652)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In						
Transfer Out						
Total Other Financing Sources (Uses)	-	-	-	-	-	
<b>Net Changes in Fund Balance</b>	(1,404,584)	(1,404,584)	1,437	(14,675)	(27,652)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	1,404,584	1,404,584		1,397,838		
<b>FUND BALANCE - END OF YEAR</b>	-	-		1,383,163	-	

	Appropriations	UEFB	Total Requirements
Adopted Budget	1,422,584		1,422,584
<b>Total Amended Budget:</b>	1,422,584	-	1,422,584

**CITY OF NEWPORT**  
**NEWPORT URBAN RENEWAL AGENCY FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Federal Sources	358,857	358,857	-	-	358,857	0.00%
Investments	-	-	312	1,565	(1,565)	
Miscellaneous	72,000	72,000	38,250	38,250	33,750	53.13%
<b>TOTAL REVENUES:</b>	430,857	430,857	38,562	39,815	391,042	9.24%
<b>EXPENDITURES:</b>						
Newport URA	200,423	200,965	6,063	55,171	145,794	27.45%
Contingency	704,687	704,145				
<b>TOTAL EXPENDITURES:</b>	905,110	905,110	6,063	55,171	145,794	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(474,253)	(474,253)	32,500	(15,356)	245,248	
<b>OTHER FINANCING SOURCES</b>						
Transfer In						
Transfer Out	(300,000)	(300,000)	-	(300,000)		
Total Other Financing Sources (Uses)	(300,000)	(300,000)	-	(300,000)	-	
<b>Net Changes in Fund Balance</b>	(774,253)	(774,253)	32,500	(315,356)	245,248	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	774,253	774,253		739,806		
<b>FUND BALANCE - END OF YEAR</b>	-	-		424,450	-	

	Appropriations	UEFB	Total Requirements
Adopted Budget	1,205,110		1,205,110
<b>Total Amended Budget:</b>	1,205,110	-	1,205,110

**CITY OF NEWPORT**  
**CAPITAL PROJECTS GENERAL - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Other Taxes	170,000	170,000	46,095	173,249	(3,249)	101.91%
Federal Sources	350,000	1,913,935	48,547	205,235	1,708,700	10.72%
State Sources	1,600,455	1,600,455	-	217,477	1,382,978	13.59%
Miscellaneous Sources	229,871	229,871	-	16,000	213,871	6.96%
Fee, Fines & Forfeitures	580,000	580,000	49,288	443,648	136,352	76.49%
Investments	15,415	15,415	8,918	42,757	(27,342)	277.37%
Miscellaneous				585	(585)	
Loan Proceeds	2,919,088	2,919,088	-	-	2,919,088	0.00%
<b>TOTAL REVENUES:</b>	<b>5,864,829</b>	<b>7,428,764</b>	<b>152,849</b>	<b>1,098,951</b>	<b>6,329,813</b>	<b>14.79%</b>
<b>EXPENDITURES:</b>						
Capital Projects - General	10,674,520	10,728,216	711,978	3,389,606	7,338,610	31.60%
Capital Projects - Swim Pool	8,225,884	8,381,165	546,687	2,301,453	6,079,712	27.46%
Capital Projects - Airport	2,683,189	1,692,256	154,300	518,853	1,173,403	30.66%
Capital Projects - VAC/PAC	365,089	365,089	-	5,000	360,089	1.37%
Contingency	58,458	61,636				
<b>TOTAL EXPENDITURES:</b>	<b>22,007,140</b>	<b>21,228,362</b>	<b>1,412,966</b>	<b>6,214,912</b>	<b>14,951,814</b>	
<b>Excess of Revenue over (under) Expenditures</b>	<b>(16,142,311)</b>	<b>(13,799,598)</b>	<b>(1,260,117)</b>	<b>(5,115,961)</b>	<b>(8,622,001)</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	1,412,806	1,854,806	-	1,854,806	-	
Transfer Out	-	-	-	-	-	
<b>Total Other Financing Sources (Uses)</b>	<b>1,412,806</b>	<b>1,854,806</b>	<b>-</b>	<b>1,854,806</b>	<b>-</b>	
<b>Net Changes in Fund Balance</b>	<b>(14,729,505)</b>	<b>(11,944,792)</b>	<b>(1,260,117)</b>	<b>(3,261,155)</b>	<b>(8,622,001)</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>14,729,505</b>	<b>11,944,792</b>		<b>11,944,792</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>-</b>	<b>-</b>		<b>8,683,637</b>	<b>-</b>	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	22,007,140	-	22,007,140	-
Supplemental Budget Resolution # 3726	322,000		322,000	
Supplemental Budget Resolution # 3706	120,000		120,000	
Supplemental Budget Resolution # 3740	(1,220,778)		(1,220,778)	
<b>Total Amended Budget:</b>	<b>21,228,362</b>	<b>-</b>	<b>21,228,362</b>	<b>-</b>

**CITY OF NEWPORT**  
**CAPITAL PROJECTS PROPRIETARY - FISCAL YEAR 2016**

			For Period Ending:		03/31/16	75% of Year
	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
State Sources	1,000,000	1,000,000	-	-	1,000,000	0.00%
Investments	-	-	8,132	25,312	(25,312)	
Loan Proceeds	8,448,986	8,834,025	189,639	770,474	8,063,551	8.72%
<b>TOTAL REVENUES:</b>	<u>9,448,986</u>	<u>9,834,025</u>	<u>197,771</u>	<u>795,786</u>	<u>9,038,239</u>	<u>8.09%</u>
<b>EXPENDITURES:</b>						
Capital Projects - Water	5,303,808	5,078,888	58,052	1,630,275	3,448,613	32.10%
Capital Projects - Wastewater	6,474,417	6,469,819	268,122	1,156,885	5,312,934	17.88%
Contingency	-	-				
<b>TOTAL EXPENDITURES:</b>	<u>11,778,225</u>	<u>11,548,707</u>	<u>326,174</u>	<u>2,787,160</u>	<u>8,761,547</u>	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(2,329,239)	(1,714,682)	(128,402)	(1,991,374)	276,692	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	1,474,661	1,474,661	-	1,474,661	-	
Transfer Out						
Total Other Financing Sources (Uses)	<u>1,474,661</u>	<u>1,474,661</u>	<u>-</u>	<u>1,474,661</u>	<u>-</u>	
<b>Net Changes in Fund Balance</b>	(854,578)	(240,021)	(128,402)	(516,713)	276,692	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	854,578	240,021		3,122,890		
<b>FUND BALANCE - END OF YEAR</b>	<u>-</u>	<u>-</u>		<u>2,606,177</u>	<u>-</u>	

	Appropriations	UEFB	Total Requirements	
Adopted Budget	11,778,225	-	11,778,225	-
Supplemental Budget Resolution # 3740	(229,518)		(229,518)	
<b>Total Amended Budget:</b>	<u>11,548,707</u>	<u>-</u>	<u>11,548,707</u>	<u>-</u>

**CITY OF NEWPORT**  
**RESERVE FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16**

75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Investments	2,050	2,050	480	1,642	408	80.10%
<b>TOTAL REVENUES:</b>	2,050	2,050	480	1,642	408	80.10%
<b>EXPENDITURES:</b>						
Reserve - Police	40,000	40,000	-	-	40,000	0.00%
Reserve - Fire	425,000	425,000	-	-	425,000	0.00%
Reserve - Library	-	-	-	-	-	0.00%
Contingency	-	-	-	-	-	
<b>TOTAL EXPENDITURES:</b>	465,000	465,000	-	-	465,000	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	(462,950)	(462,950)	480	1,642	(464,592)	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	180,000	226,245	15,000	135,000	91,245	
Transfer Out	-	-	-	-	-	
Total Other Financing Sources (Uses)	180,000	226,245	15,000	135,000	91,245	
<b>Net Changes in Fund Balance</b>	(282,950)	(236,705)	15,480	136,642	(373,347)	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	501,938	501,938		502,138		
<b>FUND BALANCE - END OF YEAR</b>	218,988	265,233		638,780	-	

	Appropriations	UEFB	Total Requirements
Adopted Budget	465,000	218,988	683,988
Supplemental Budget Resolution # 3740	46,245		46,245
<b>Total Amended Budget:</b>	511,245	218,988	730,233

**CITY OF NEWPORT  
WATER FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	3,885,000	3,885,000	232,106	2,689,413	1,195,587	69.23%
Investments	5,200	5,200	503	3,126	2,074	60.12%
Miscellaneous	52,000	52,000	7,123	55,277	(3,277)	106.30%
<b>TOTAL REVENUES:</b>	<b>3,942,200</b>	<b>3,942,200</b>	<b>239,732</b>	<b>2,747,816</b>	<b>1,194,384</b>	<b>69.70%</b>
<b>EXPENDITURES:</b>						
Water Plant	1,067,465	1,076,288	83,295	771,682	304,606	71.70%
Water Distribution	938,418	946,889	106,067	665,377	281,512	70.27%
Water Non Departmental	930,412	930,412	32,752	594,577	335,836	63.90%
Contingency	259,917	242,623				
<b>TOTAL EXPENDITURES:</b>	<b>3,196,212</b>	<b>3,196,212</b>	<b>222,115</b>	<b>2,031,636</b>	<b>921,953</b>	<b>0.6356</b>
<b>Excess of Revenue over (under) Expenditures</b>	<b>745,988</b>	<b>745,988</b>	<b>17,618</b>	<b>716,181</b>	<b>272,430</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	
Transfer Out	(1,685,342)	(1,685,342)	(104,004)	(1,656,936)	(28,406)	
Total Other Financing Sources (Uses)	(1,685,342)	(1,685,342)	(104,004)	(1,656,936)	(28,406)	
<b>Net Changes in Fund Balance</b>	<b>(939,354)</b>	<b>(939,354)</b>	<b>(86,387)</b>	<b>(940,755)</b>	<b>244,024</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>1,174,476</b>	<b>1,174,476</b>		<b>1,634,175</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>235,122</b>	<b>235,122</b>		<b>693,420</b>	<b>0</b>	

	Appropriations	UEFB	Total Requirements
Adopted Budget	4,881,554	235,122	5,116,676
<b>Total Amended Budget:</b>	<b>4,881,554</b>	<b>235,122</b>	<b>5,116,676</b>

**CITY OF NEWPORT  
WASTEWATER FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Fee, Fines & Forfeitures	3,865,680	3,865,680	295,969	2,835,542	1,030,138	73.35%
Investments	2,000	2,000	536	1,945	55	97.25%
Miscellaneous	5,000	5,000	770	1,939	3,061	38.78%
<b>TOTAL REVENUES:</b>	<b>3,872,680</b>	<b>3,872,680</b>	<b>297,275</b>	<b>2,839,426</b>	<b>1,033,254</b>	<b>73.32%</b>
<b>EXPENDITURES:</b>						
Wastewater Plant	1,536,391	1,545,335	120,118	920,106	625,229	59.54%
Wastewater Distribution	601,914	606,629	53,432	430,017	176,612	70.89%
Wastewater Non Departmental	995,704	995,704	42,081	688,295	307,409	69.13%
Contingency	279,425	265,766				
<b>TOTAL EXPENDITURES:</b>	<b>3,413,434</b>	<b>3,413,434</b>	<b>215,631</b>	<b>2,038,418</b>	<b>1,109,251</b>	<b>0.5972</b>
<b>Excess of Revenue over (under) Expenditures</b>	<b>459,246</b>	<b>459,246</b>	<b>81,645</b>	<b>801,009</b>	<b>(75,997)</b>	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	
Transfer Out	(1,148,086)	(1,148,086)	(4,004)	(555,017)	(593,069)	
<b>Total Other Financing Sources (Uses)</b>	<b>(1,148,086)</b>	<b>(1,148,086)</b>	<b>(4,004)</b>	<b>(555,017)</b>	<b>(593,069)</b>	
<b>Net Changes in Fund Balance</b>	<b>(688,840)</b>	<b>(688,840)</b>	<b>77,640</b>	<b>245,992</b>	<b>(669,066)</b>	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	<b>892,737</b>	<b>892,737</b>		<b>968,152</b>		
<b>FUND BALANCE - END OF YEAR</b>	<b>203,897</b>	<b>203,897</b>		<b>1,214,143</b>	<b>(0)</b>	

	Appropriations	UEFB	Total Requirements
Adopted Budget	4,561,520	203,897	4,765,417
<b>Total Amended Budget:</b>	<b>4,561,520</b>	<b>203,897</b>	<b>4,765,417</b>

**CITY OF NEWPORT  
PUBLIC WORKS FUND - FISCAL YEAR 2016**

For Period Ending: **03/31/16** 75% of Year

	Adopted Budget	Amended Budget	Current Month Activity	Actual Year to Date Activity	Budget Remaining	% of Actual To Budget
<b>REVENUES:</b>						
Services Provided for	1,028,376	1,028,376	-	599,886	428,490	58.33%
Investments	1,000	1,000	246	912	88	91.23%
Miscellaneous	99	99	-	10	89	10.10%
<b>TOTAL REVENUES:</b>	<b>1,029,475</b>	<b>1,029,475</b>	<b>246</b>	<b>600,808</b>	<b>428,667</b>	<b>58.36%</b>
<b>EXPENDITURES:</b>						
Public Works - Admin	290,723	294,154	24,964	218,350	75,804	74.23%
Engineering	533,554	542,477	58,838	306,581	235,896	56.52%
Fleet Management	88,282	89,164	-	-	89,164	0.00%
Contingency	86,606	73,370				
<b>TOTAL EXPENDITURES:</b>	<b>999,165</b>	<b>999,165</b>	<b>83,802</b>	<b>524,931</b>	<b>400,864</b>	
<b>Excess of Revenue over (under)</b>						
<b>Expenditures</b>	30,310	30,310	(83,556)	75,877	27,803	
<b>OTHER FINANCING SOURCES</b>						
Transfer In	-	-	-	-	-	
Transfer Out	-	-	-	-	-	
Total Other Financing Sources (Uses)	-	-	-	-	-	
<b>Net Changes in Fund Balance</b>	30,310	30,310	(83,556)	75,877	27,803	
<b>FUND BALANCE - BEGINNING OF YEAR</b>	189,102	189,102		183,477		
<b>FUND BALANCE - END OF YEAR</b>	<u>219,412</u>	<u>219,412</u>		<u>259,354</u>	(328)	

0.52537

	Appropriations	UEFB	Total Requirements	
Adopted Budget	999,165	219,412	1,218,577	-
<b>Total Amended Budget:</b>	999,165	219,412	1,218,577	-

# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:8.B.  
Meeting Date: 5-2-16

## Agenda Item:

### Report on Financial Status of Capital Projects through March 31, 2016

#### Background:

The City Finance Department is now preparing a report on the various capital outlay projects budgeted in the 2015-16 Fiscal Year as of March 31 for your review. It is our plan to incorporate this report in all future financial reports provided to the City Council. Please note that we will also begin reporting any projects over a \$1 million dollars, based on the 2015-16 budget. Details will include contract dates, contract amounts and completion dates. These projects will be posted on the website.

#### Recommendation:

None

#### Fiscal Effects:

None.

#### Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel, City Manager





Agenda Item # \_\_\_\_\_

Meeting Date May 2, 2016

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

Agenda Title: Capital Projects as of March 31, 2016

Prepared By: MM

**Issue before the Council:**

Attached are the Capital Projects as of March 31, 2016 for your review. This is a report newly created in Finance which is very similar to our quarterly Financials except it shows the grant total of individual projects as of the end of the quarter.

A quick report overview, the columns beginning in the left are the Fund number, Project number, Project Name, Beginning Budget, Amended Budget, Total Spent to date, Budget Remaining, and finally Percentage Spent to Date. The projects are split between General Government project, specialty projects such as the Swimming Pool, and the PAC/VAC projects. Water and Wastewater follows in a separate fund with specific funding. The data shown in the Actual to Date are the expenditures spent to date in summary form for the project number listed in the left column. The column to the right of the Actual to Date are the Budget Remaining is the Actual to Date subtracted from the Amended Budget. The final column is the percentage of expenditures spent to date divided by the Amended Budget.

**Proposed Motion:**

None - for Council information

**Attachment List:**

Capital Projects as of March 31, 2016

**CAPITAL PROJECTS AS OF MARCH 31, 2016**

Fund	Project No.	Project Name	FY 2015-2016	2015-2016	31-Mar-16	75% of Year	Percentage
			Beg Budget	Amend Budget	Actual to date	Budget Remaining	Spent to date
<b>402 - 6110 -- CAPITAL PROJECTS - GENERAL</b>							
	10006	Deco District Park	90,000	90,000	-	90,000	0.00%
	11014	So Beach Tsunami Evacuation Route Enhancement	492,294	492,294	354,177	138,117	71.94%
	11024	Hwy 101 Pedestrian Crossing Improvements	185,050	-	-	-	Closed
	12015	Bay/Moore Storm Sewer	2,949,100	2,916,570	7,082	2,909,488	0.24%
	12018	Wayfinding Sign Project - Phase Iii	6,000	6,000	-	6,000	0.00%
	13010	Agate Beach Recreation & Wayside Improve	100,624	400,624	109,649	290,975	27.37%
	13011	Strategic Grant Consulting Services	23,605	23,113	21,111	2,002	91.34%
	13012	Storm Sewer System Master Plan	20,000	20,000	-	20,000	0.00%
	13018	Se 35Th & Hwy 101	67,547	67,547	-	67,547	0.00%
	13020	Sam Moore Creek Water Qty Improve	129,550	129,550	13,505	116,045	10.42%
	14002	Sw Abalone-Brant Street Improve Project	2,174,000	2,198,171	1,786,792	411,379	81.29%
	14003	Se Ferry Slip Road Street Improvement Project	1,438,000	1,453,459	610,204	843,255	41.98%
	14005	Fire Station Seismic Rehab	1,491,223	1,491,223	6,438	1,484,785	0.43%
	14007	2014 Sidewalk & Bike Improvemnet	15,000	15,000	175	14,825	1.17%
	15003	2015-2016 Street Overlay & Improve	264,232	346,370	330,149	16,221	95.32%
	15011	Parks System Master Plan	37,500	37,500	-	37,500	0.00%
	15012	Lid Code Update Study	15,000	15,000	-	15,000	0.00%
	15013	Nye Beach Turnaround Pavement Rehab	25,000	25,000	-	25,000	0.00%
	15014	Harbor Way Between Nye St & Abby St	81,675	81,675	-	81,675	0.00%
	15015	Agate Beach State Park To Hwy 101 Trail Connect	29,120	29,120	-	29,120	0.00%
	15016	Ne 6Th St Right Of Way Acquisition	50,000	50,000	-	50,000	0.00%
	15017	Ferry Slip Road Utility Line Underground	500,000	500,000	-	500,000	0.00%
	15018	Ne 7Th & Harney Sliplining	100,000	100,000	-	100,000	0.00%
	15019	Sharrows Bay Blvd Fr Naterlin East To John Moore	10,000	10,000	-	10,000	0.00%
	15036	Nye Creek Storm Sewer Repair		200,000	30,496	169,504	15.25%
	15037	North Newport Ura Study		30,000	43,437	(13,437)	144.79%
<b>402 - 6120 - CAPITAL PROJECTS - SWIMMING POOL</b>							
	13019	Aquatic Center	7,940,000	8,262,000	2,304,866	5,957,134	27.90%
	14004	Aquatic Center Parking Improvements	285,884	119,165	5,175	113,990	4.34%
<b>402-6130- CAPITAL PROJECTS - AIRPORT</b>							
	12092	AIP 22 RW 16-34 Final Construction Grant	1,988,189	997,256	86,892	910,364	8.71%
	14021	FBO & T Hangar Repairs	310,000	310,000	282,931	27,069	91.27%
	15001	Airport Master Plan	385,000	385,000	149,076	235,924	38.72%

Fund	Project No.	Project Name	FY 2015-2016 Beg Budget	2015-2016 Amend Budget	31-Mar-16 Actual to date	Budget Remaining	Percentage Spent to date
<b>402-6140- CAPITAL PROJECTS - PAC/VAC</b>							
	15020	VAC - Runyan Floor & Walls	18,746	18,746	4,000	14,746	21.34%
	15021	VAC - Entry Stairway & Hall	8,422	8,422	1,000	7,422	11.87%
	15022	VAC 2Nd Floor Room Configuration	5,924	5,924	-	5,924	0.00%
	15023	VAC Wooden Art Floor	2,500	2,500	-	2,500	0.00%
	15024	PAC Lobby Expansion	282,267	282,267	-	282,267	0.00%
	15025	PAC Women'S Restroom	47,230	47,230	-	47,230	0.00%
			21,568,682	21,166,726	6,147,155	15,019,571	
<b>403-6210 - PROPRIETARY CAPITAL PROJECTS - WATER</b>							
	11018	Agate Beach Lower Storage Tank	2,037,139	1,815,489	1,176,169	639,320	64.79%
	11025	Big Creek Dam #1 & 2	451,300	451,300	190,149	261,151	42.13%
	12010	Yaquina Hts Tank Interior Recoating & Handrails	100,000	100,000	-	100,000	0.00%
	12029	Fixed Base Metering System	1,150,000	1,150,000	68,373	1,081,627	5.95%
	13011	Strategic Grant Consulting Services	25,192	21,942	21,111	831	96.21%
	13013	Seal Rock Water Intertie	75,000	75,000	74,999	1	100.00%
	13014	Water Right Revisions	5,533	5,533	578	4,956	10.44%
	14012	Pave Parking Lot At Wtp	60,000	60,000	168	59,832	0.28%
	14013	Wtf Hallway Expansion	25,000	25,000	8,565	16,435	34.26%
	14014	Old Wtp Demolition/Construction Of Storage Garage	200,000	200,000	-	200,000	0.00%
	14015	Water Distribution System Flushing Plan	40,000	40,000	-	40,000	0.00%
	14016	Candletree Pump Station Replacement	450,000	450,000	28,589	421,411	6.35%
	14018	Emergency Generator	330,000	330,000	-	330,000	0.00%
	15026	Scada System Upgrade Wtp	73,000	73,000	24,302	48,698	33.29%
	15029	Ne 3Rd/Yaquina Heights Dr Water Line	250,000	130,000	-	130,000	0.00%
	15030	Utility Rate Study	20,000	20,000	-	20,000	0.00%
	15035	Hwy 101 & Golf Course Road Infrastructure Improve	-	120,000	30,838	89,162	25.70%
<b>403-6220 - PROPRIETARY CAPITAL PROJECTS - WASTEWATER</b>							
	12025	Big Creek Ww Lift Station Replacement	2,346,128	3,453,872	1,031,980	2,421,892	29.88%
	13008	Wastewater System Master Plan	111,651	139,045	61,843	77,202	44.48%
	13009	San Sewer Televising Program	132,044	132,044	4,045	127,999	3.06%
	13011	Strategic Grant Consulting Services	25,192	21,942	21,111	831	96.21%
	13015	Smoke Testing Phase Ii	45,079	16,337	-	16,337	0.00%
	14009	Schooner Creek Wastewater Lift Station (15032)	1,794,000	686,256	3,099	683,157	0.45%
	14020	Nye Beach Ps Screen & Grinder (11020)	200,000	200,000	-	200,000	0.00%
	15027	Scada System Upgrade Wwtp	82,000	82,000	35,182	46,819	42.90%
	15028	Scada System Upgrade Waterwater Collection	42,000	42,000	-	42,000	0.00%
	15030	Utility Rate Study	20,000	20,000	-	20,000	0.00%
	15031	Gravity Sanitary Sewer Upgrade Nw 48Th To Big Crk	1,401,323	1,401,323	-	1,401,323	0.00%
	15032	Schooner Creek Wastewater Lift Station	-	-	-	-	Closed
	15033	Ne 7Th & Douglas & Hubert Betwn 3Rd & 6Th	275,000	275,000	-	275,000	0.00%



# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:8.C.  
Meeting Date: 5-2-16

## Agenda Item:

### Report on Vacation Rentals in the City of Newport

#### Background:

At the April 18, 2016 meeting, the City Council requested a report on the status of existing vacation rentals, options for modifying how we regulate vacation rentals and discussion as to whether a moratorium could be considered on new vacation rentals.

The attached report from Derrick Tokos covers a number of issues relating to this matter. In 2011-12 the Planning Commission undertook an extensive code review and outreach process to develop amendments that were ultimately adopted by the City Council in April 2012. Vacation rental provisions were reviewed from a number of cities on the west coast as part of this revision process.

Since the changes were made to the code, the city has received 191 applications for vacation rentals with 149 currently registered for this purpose. Attachment E of Derrick's report show the distribution of these vacation rentals. Please note that the highest concentration of vacation rentals is in and around the Nye Beach and hotel areas. Also please note that the total active units have been fairly stable with 141 units in 2014, 147 units in 2015, and 149 units currently. 50% of the vacation rentals are located in either multi-family or commercial zoning districts in the city, 6% are located R-1 districts, 14% in R-2 districts, and 24% in W-2 districts. The City Council has several actions that they could consider taking including: 1.) taking no further action at this time; 2.) actively monitor the city's vacation rental regulatory program with periodical reports from staff over the next six to twelve months; 3.) direct the Planning Commission to review vacation rental regulations and provide a recommendation to the Council as to possible revises to the current city rules; 4.) the Council could direct the Planning Commission to specific issues that Council would like to be considered in modifying our current vacation rental policies and; 5.) the Council could seek additional analysis from staff on whether or not a moratorium can be justified given the statutory limitations.

The actual complaints received from vacation rentals under the new provisions have been minimal with just three complaints being recorded with the Community Development Department. We did check with the Police to determine whether there was any pattern of complaints with vacations rentals. The Police did not have any specific data since the officers may or may not know whether a problem is related to a vacation rental or just to a home located in any areas of the city, so there is limited data on that issue without researching each vacation rental address for specific complaints.

During my two and half years with the city, I do not believe a complaint has ever gone before the City Council and I believe that I have only had one party contact me regarding a vacation rental complaint.

Finally, area property managers have not indicated a change over in long term rental properties to vacation rentals. There is some speculation that the vacation rentals impact more seasonal homes than work force housing.

I do understand the potential impact that vacation rentals may have on work force housing and the concerns of keeping residential areas residential in nature. Based on the fairly level number of registered vacation rentals, I would hesitate recommending that a moratorium be placed on new vacation rentals. If the Council wants to considered a review and or provide direction as to modifications to the regulation of vacation rentals, I think we can be done following normal procedures for dealing with any land use issues. A review of Attachment B to Derrick's report provides a good listing of different options that have been pursued in different communities. If the Council feels we should be looking at regulation units a specific way, then this listing of various components of regulation is quite helpful in better understanding the options.

At this point I am not prepared to make a recommendation to proceed with any changes other than providing periodic reports to the Council on the numbers and distribution of vacation rentals in the city, however if the Council wishes to have us pursue any alternative measures, I would recommend that the matter be referred to the Planning Commission with some specific direction as to the Councils desires on this issue.

**Recommendation:**

None

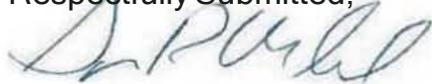
**Fiscal Effects:**

None.

**Alternatives:**

None recommended.

Respectfully Submitted,



Spencer R. Nebel, City Manager

# Memorandum

To: Newport City Council  
From: Derrick Tokos, Community Development Director   
Date: April 28, 2016  
Re: **Report on Vacation Rentals and Bed and Breakfast Establishments in the City of Newport**

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The City Council, at its April 18, 2016 meeting, requested a report on the work that was done in 2012 to overhaul the City's Vacation Rental and Bed and Breakfast (B&B) regulations, and how that program has been working since the new rules were adopted. This memo also includes relevant statistics and options the Council may elect to consider moving forward.

### **Vacation Rental and B&B Rules Prior to 2012**

Limited vacation rental use was permitted outright in all of the City's zoning districts under the definition of a "Weekly Rental," which allowed a unit to be rented not more than 10 times in a calendar year. No city review was required prior to a unit being offered as a rental, and the City had no information as to how many such rentals existed. Persons desiring to offer a vacation rental more than 10 times a year, or those seeking to establish a bed and breakfast use were treated as hotel/motel uses, permitted as conditional uses in the City's R-3 and R-4 residential zones and outright in the City's C-2 zone district. A total of 52 vacation rentals and 12 B&B establishments had been permitted through the conditional use permitting process as of 2010.

### **Reasons for Amending the Vacation Rental Rules**

In September of 2010, the Planning Commission determined that amendments were needed because the existing rules were difficult to interpret and enforce and, in the case of conditional uses, had led to inconsistent application and implementation of the requirements over time. The Commission was further concerned that no uniform, clear and objective approval criteria existed and that safety standards that apply to conventional hotel/motel uses were not in place for B&Bs and vacation rentals (i.e. not a level playing field).

### **2011-2012 Amendment Process**

The Planning Commission undertook an extensive code review and outreach process to develop the amendments that were ultimately adopted by the City Council in April of 2012. The project took roughly 18-months to complete and included the following key elements:

A. Desired Outcomes: In February of 2011, the Commission put together a list of desired outcomes to assist staff and an Ad-Hoc work group that it formed. That list read as follows:

- The process should take a fresh look at where vacation rentals should be allowed.
- Maximum occupancy should be explored.

- Standards should address how vacation rental use is different than single-family dwelling use.
  - Criteria should consider parking and sanitation.
  - Focus should be on developing clear and objective standards
  - Keep the process simple.
  - Develop more precise definitions.
  - Maintain a complaint driven approach to enforcement.
  - Establish a fee to offset costs to the city to administer the program
- B. Formation of Ad-Hoc Work Group: An Ad-Hoc work group of community volunteers met seven (7) times between March and November of 2011 to develop a set of recommended amendments for the Commission to consider. The group consisted of the following individuals:
- Tracy Wiley – Embarcadero Resort
  - Rob Oberbillig – Homeowner
  - Lee Hardy – Yaquina Bay Property Management
  - Bob Berman – Homeowner
  - Cindy Reid – Vacation Rental Owner
  - Joya Menashe – Agate Beach Services (Vacation Rental Manager)
  - Melanie Sarazin – Planning Commission Liaison

Mr. Berman and Mr. Oberbillig were asked to serve on the group because each had direct experience with the adverse impacts that vacation rentals could have on a residential neighborhood. Both Lee Hardy and Bob Berman are now members of the Planning Commission; however, at the time they served as members of the Ad-Hoc work group they were not.

- C. Code Review, Outreach and Recommendation: The Ad-Hoc work group evaluated vacation rental codes from nine (9) different jurisdictions and from that developed common themes that informed their work on the amendments. The jurisdictions included Lincoln City, Manzanita, Bandon, Astoria, Cannon Beach, Seaside, Sisters, Durango (CO), and Sonoma (CA). An overview of the key elements of those codes is included as “Attachment A” to this memo.

The group borrowed extensively from the work these jurisdictions had performed and developed a proposal that was vetted with the public at a workshop held on September 11, 2011. Notice of the workshop was sent out to all vacation rental and B&B owners of record and with the August utility bills. Key provisions of the proposal, much of which was ultimately adopted, included:

- Allowing vacation rentals and bed and breakfast establishments in all zones subject to a license with clear and objective criteria regarding (a) occupancy, (b) parking, (c) waste management, (d) landscaping, (e) safety of renters and (f) issue resolution.
- An over-the-counter approval process.
- A conditional use option if the clear and objective standards could not be met.
- No grandfathering of existing rentals and B&Bs.

Regulatory options presented to the public attending the workshop are included as Attachment B to this memo. Close to 90 comments were received from the public (Attachment C) and those comments were addressed by the Ad-Hoc work group before a final recommendation was made to the Planning Commission (Attachment D).

- D. Adoption Process: The Planning Commission met six (6) times in work session to review the draft amendments. This occurred concurrent with the Ad-Hoc work group meetings. Commission members also attended and helped to facilitate the public workshop. Public hearings were held in January and February

of 2012. Stakeholders were invited to testify at these proceedings. At the February 2012 meeting the Planning Commission recommended a final package of amendments for the Council's consideration. In March of 2012 the City Council adopted the changes as recommended. The new vacation rental rules were effective July 1, 2012.

#### **Vacation Rental and B&B Process Post Adoption**

It took a couple of years to bring all of the existing vacation rental and bed and breakfast establishments into the fold under the new rules. This was in part due to the requirement that each unit be inspected by the Building Official to ensure that it met safety standards. In many cases, owners had to make corrections and in some circumstances an extensive amount of work was required. This took time to sort itself out. There were also a number of units that came in late, namely at the Embarcadero, due to changes to their management structure and follow-up revisions the City made to its codes. From 2014 forward the City has had a pretty good count of vacation rentals and bed and breakfast establishments. This is checked periodically against VRBO and AirBnB, with non-compliant owners being notified and brought into the process. A map showing the current distribution of vacation rentals and B&Bs is enclosed (Attachment E). Also, here are a few relevant statistics:

#### VRD and B&Bs since 2012

Applications received: 191  
Inspected to date: 185  
Passed inspection: 172  
In operation today: 149  
Complaints received: 3

#### Distribution by Zone District

R-1 – 6%  
R-2 – 14%  
R3 – 6%  
R-4 – 20%  
C-2 – 30%  
W-2 – 24%

As illustrated on the map, a number of the units are concentrated in the Nye Beach area, which is not surprising given the proximity to the beach, restaurants, shopping and ocean views. In fact, it is pretty clear from the map that factors such as ocean/bay views and proximity to services are driving factors for what makes a unit desirable for vacation rental use. Zoning designations have little if any impact. The City has received complaints on three (3) vacation rental units since 2012. The issues related to trash management, parking, and advertising in excess of permitted occupancy. This small number of complaints may be partially attributed to the fact that the City asks neighbors to address their concerns to the persons managing vacation rental units. If that is not effective, then the City would step in to help resolve the issue. Note that there is a significant difference between applications received and units that are currently being rented. Some of the applicants never completed the process as a result of the safety repairs they would need to make, others were picked up by hotels/motels and are managed under their hotel/motel business license (e.g. the Whaler), and several are simply a result of the owner either selling the unit or electing to no longer make it available as a vacation rental.

#### **Relationship between Vacation Rentals and Affordable/Workforce Housing**

There does not appear to be any available data showing how vacation rentals influence the availability of workforce and affordable housing, other than they are part of the seasonable housing mix that reduces the supply of housing for year round tenants. It is an open question whether or not units managed as vacation rentals would be affordable if offered for sale, or if they would simply be held as second homes and would therefore be unavailable. As of the 2010 census, which is now somewhat dated, there were 5,540 housing units in the City of Newport. Of that number 766 (13.8%) were reported as being in seasonal, recreational, or occasional use. Vacation rentals are a small fraction of that figure. It may be that the percentage of housing units in the City used for seasonal purposes is on the rise, we just don't have any data to that effect. It would also be very difficult to develop such data.

Enclosed is an email from Lee Hardy, Yaquina Bay Property Management, indicating that she does not believe she has ever had a client who had a long term rental switch to a vacation rental use (Attachment F). She also

notes the influence that the recession had on the rental market. Patricia Patrick with Dolphin Realty, and Bonnie Saxton with Advantage Realty may also weigh in on this issue, and any feedback staff receives from them will be forwarded to the Council.

#### **Next Steps**

The Council has a number of available options, a few of which are listed below in no particular order:

- Take no further action at this time.
- Actively monitor the City's vacation rental regulatory program with periodic reports from staff. This could be on a 6 or 12-month basis.
- Direct the Planning Commission to review the vacation rental regulations and provide a recommendation to the Council as to whether or not revisions should be made to the City's rules. The Council could provide the Commission with specific issues that it would like it to consider.
- Seek additional analysis from staff on whether or not a moratorium can be justified given the statutory limitations. A brief memo from City Attorney Steve Rich is enclosed addressing this issue (Attachment G).

#### Attachments

Attachment "A": Ad-Hoc Work Group Review of Sample Codes, dated March 24, 2011

Attachment "B": Handouts Used at September 2011 Public Workshop Listing Regulatory Options

Attachment "C": Public Comments Received at the September 2011 Workshop

Attachment "D": Ad-Hoc Work Group Options for Addressing Open House Comments

Attachment "E": Distribution of Vacation Rentals and B&Bs in the City of Newport as of April 2016

Attachment "F": Email from lee Hardy, Yaquina Bay Property Management

Attachment "G": Email from Steve Rich, Newport City Attorney

# CITY OF NEWPORT VACATION RENTAL CODE UPDATE

Review of Sample Codes

March 24, 2011

Work Group Meeting

# Commission's Desired Outcomes

- Open to fresh look at where vacation rentals should be allowed
- Maximum occupancy should be explored
- Standards should address how vacation rental use is different than single-family dwelling use
- Criteria should consider parking and sanitation
- Discretionary criteria ok, but focus on clear and objective standards
- Keep process simple
- Need more precise definitions
- Satisfied with complaint driven enforcement program
- There should be an appropriate fee to off-set administrative costs

# Jurisdictions Sampled

- ▣ Lincoln City
- ▣ Manzanita
- ▣ Bandon
- ▣ Astoria
- ▣ Cannon Beach
- ▣ Seaside
- ▣ Sisters
- ▣ Durango, CO
- ▣ Sonoma, CA

# Rationale for Regulating

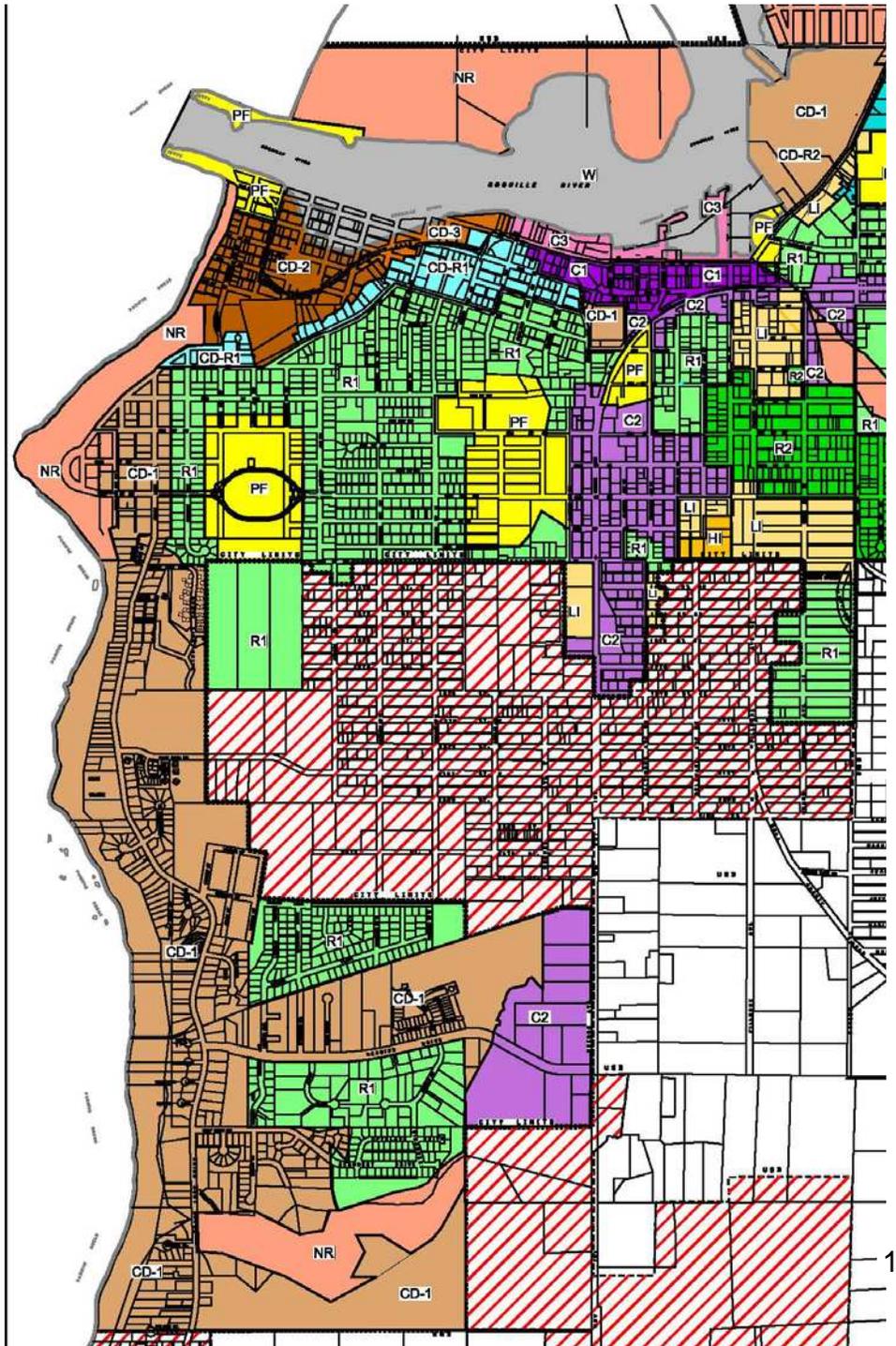
- ❑ Ensure safety and convenience of renters, owners, and neighboring property owners (Manzanita)
- ❑ Protect the character of residential neighborhoods (Cannon Beach, Bandon)
- ❑ Address perceived negative effects such as noise, overcrowding, illegal parking, litter, etc. (Lincoln City, Durango)
- ❑ Prevent conversion of residential land supply to transient use (Sonoma Co. prohibition in high density residential zones)

# Locations Allowed?

- All residential areas with a cap on number of licenses issued in certain areas (Manzanita, Cannon Beach)
- All residential/commercial areas (Lincoln City)
- Select residential/commercial areas (Bandon, Seaside, Durango, Sonoma Co.)
- Residential areas only (Sisters)
- Commercial areas only (Astoria)



Bandon code limits Vacation rentals to "CD" districts, which the attached map shows are those areas close to the ocean and river.



# Density Limitations

- ▣ Ownership based. Licenses limited to one per owner of residential property within the City (Lincoln City, Cannon Beach, Manzanita)
- ▣ Proximity based. Allow if number of vacation rentals within a fixed distance is under a certain percentage (Bandon 30%/300 ft., Seaside 20%/100 ft.) Allow if there are no vacation rentals within a fixed distance (Durango 500 ft.)
- ▣ Ratio based cap or hard cap. Total number of licenses in certain residential districts limited to 17.5 % of total dwellings (Manzanita). Transient rental permits capped at 92 permits (Cannon Beach)

# Maximum Overnight Occupancy

- Limit of 2 persons per sleeping room plus 2 additional persons per property up to a max. of 12 persons (Cannon Beach, Sonoma Co., Durango). Cannon Beach and Sonoma exclude small children (Age 2 or 3)
- Max. occupancy above reduced if off-street parking requirements cannot be met (Cannon Beach, Durango)
- Two persons per sleeping room plus an additional 4 persons. No tie to parking, but cannot later expand structure to increase occupancy (Manzanita)
- Three people per bedroom up to a max. of 10 (Bandon)
- Three per bedroom, and can be reduced by Code Enforcement or Fire Marshal for valid reasons (Seaside)
- Based upon available off-street parking (Lincoln City)
- Discretionary. Compatible with nearby uses (Sisters)

# Tenancy Limits

- ❑ Other than the 92 permits under the hard cap, tenancy is limited to 1 rental every 14 to 30 days (Cannon Beach)
- ❑ Rental shall not exceed 1 individual tenancy within 7 consecutive calendar days (Durango)
- ❑ Prohibition on joint use (i.e. home occupation, temporary events, etc.) (Durango)

# Maximum Guests (as opposed to overnight occupancy)

- Max. overnight occupancy plus 6 individuals, excluding children under 3 years of age. May be exceeded on national holidays (Sonoma Co.)

# Off-street Parking Requirements

- ❑ Scaled standard based upon size of home. 1 space for 2 sleeping rooms, 2 spaces for 3-4 rooms, 3 spaces for larger homes (Sonoma Co.)
- ❑ Based upon bedrooms. One space per bedroom, but in no case less than 2 spaces (Bandon, Lincoln City, Seaside). 1 space per bedroom w/ no min. (Durango)
- ❑ Based upon occupancy. 1 space for every 3 dwelling occupants (Cannon Beach)
- ❑ Traditional single family dwelling standard. 2 spaces (Manzanita)
- ❑ Discretionary. Adequate site layout for transportation facilities (Astoria)
- ❑ Use of on-street parking prohibited (Lincoln City, Durango)
- ❑ No triple stacking of parking (i.e. a vehicle crossing parts of two off-street spaces to park) (Lincoln City)

# Waste Management

- ❑ Owner required to maintain residential waste disposal service (Lincoln City, Cannon Beach)
- ❑ Dumpsters prohibited (Lincoln City)
- ❑ Provisions for regular garbage removal (Bandon)
- ❑ Recycling and refuse storage bins shall not be stored in public view unless in compliance with neighborhood standards (Sonoma Co.)
- ❑ Use of covered and secure containers required, with side yard pickup. Service at least once a week (Manzanita)
- ❑ Exterior storage of trash receptacles prohibited (Durango)
- ❑ Discretionary. No adverse impact on livability (Sisters)

# Landscaping/Maintenance

- ❑ No change permitted to residential character of the outside appearance of the building (colors, materials, lighting, etc.) (Durango)
- ❑ 50% of front yard, and 40% of total yard must be landscaped. No more than 50% of landscaping can be hard features such as patios and decks. Must be maintained. Ground cover must be sized to cover 50% of landscaped area in 3 years (Lincoln City)
- ❑ Front, side and rear yards must maintain residential appearance by limiting off-street parking in yards. 50% landscaping requirement (Seaside)
- ❑ Discretionary. Dwellings must be maintained at or above levels of surrounding dwellings (Bandon)

# Noise

- ❑ Must meet County fixed standards. Quiet hours 10:00 pm to 9:00 am. No outdoor amplified sounds allowed (Sonoma Co.)
- ❑ Must adhere to City noise standards (Durango)
- ❑ Discretionary. No more objectionable noise is emitted from the rental than a normal neighborhood dwelling (Bandon).
- ❑ Where codes are silent, City general noise or nuisance codes would likely govern. Newport's noise limit for residential areas is 55 dBA (daytime) and 50 dBA (nighttime) at the property boundary

# Safety Requirements

- ❑ Certification of compliance with Residential Building Codes and/or subject to initial inspection for building code safety issues (Manzanita, Cannon Beach, Durango)
- ❑ Requirement that vacation home rentals be subject to same periodic health and safety inspections as other temporary lodging establishments (Manzanita, Cannon Beach, Lincoln City, Durango). Cannon Beach program setup as audit of 20% of dwellings over a five year period.
  - In Newport hotels/motels are inspected by the Fire Department 1-2 per year. Inspections on vacation rentals 50/50 due largely to absentee owners (i.e. trouble lining up inspection times).
- ❑ Owners required to provide information and equipment in the unit to assist renters in dealing with natural disasters, power outages, and other emergencies. Delegate list of required items to Council via resolution (Manzanita) Working fire extinguisher (Durango). Working smoke alarms (Lincoln City).

# Guest Registry Requirements

- ❑ Owner required to maintain guest and vehicle registry including tenant contact information and vehicle license plate numbers for dates visited. Information to be made available to the City upon request (Cannon Beach)
- ❑ Same as above, except vehicle information isn't tracked (Lincoln City)

# Contact Information

- ❑ Property owner shall provide a current 24-hour working phone number of the property owner or manager to the County and all neighbors within 100 ft of property (Sonoma Co.)
- ❑ Same as above, but contact must reside in county (Seaside)
- ❑ Contact must reside within City UGB or a property management company with a staffed office within 10 miles of the City. City provides contact info to neighbors within 200 feet (Cannon Beach)
- ❑ Local contact or management company must be within City UGB (Lincoln City)
- ❑ Contact must be available 24-hours a day, have a key, and be able to respond in 30 minutes (Manzanita)
- ❑ Local contact required. Info filed with Police Dept. Not required to be distributed to neighbors (Bandon)

# Posting Standards

- ❑ A copy of permit must be posted on property with occupancy limits, local contact information, diagram of the premises with parking locations, trash pick-up and trash storage information (Durango)
- ❑ Same as above, but must be posted next to front door and include City contact information and max. number of vehicles. Quiet hours must also be posted (Lincoln City, Cannon Beach)
- ❑ Similar to above with addition of recycling information being posted (Manzanita)

# Signage

- ❑ Limited to match home occupation rules. 2 sq. ft. max and no freestanding signs (Durango)
- ❑ Allows sign (72 - 90 sq. inches in size) identifying unit as short term rental with local contact number (Manzanita)
- ❑ Allow the same range of signage permitted in low density residential zones (Lincoln City)

# Term of Licenses/Permits

- Permit void if payment of room tax ceases for a period of one year (Bandon, Manzanita)
- Permits are specific to the applicant/owner and are not transferable (Durango, Manzanita)
- Only property owners are eligible for permits (Manzanita).
- Vacation rental license requires annual renewal (Lincoln City)

# Effect on Existing Rentals

- ❑ Subject to license, lodging tax, and location standards. Must apply for license within 120 days (Durango)
- ❑ Rendered non-conforming. Can rely on prior approval, but must obtain vacation rental license. Health and safety standards built into license. (Lincoln City)

# Enforcement

- ▣ Initial contact is neighbors first point of contact for complaints/concerns (Cannon Beach, Lincoln City, Durango, Sonoma Co.)
- ▣ Owner must maintain complaint log (Lincoln City)
- ▣ Scaled penalties within 12 month period with warning, \$500 fine, suspension of permit, revocation (Durango). Two violation within 24 month period is warning, followed by scaled suspension of permit and revocation (Cannon Beach)
- ▣ Scaled monetary fine (\$500, \$1000, up to \$3000) (Manzanita)
- ▣ Fixed monetary fine (Lincoln City)
- ▣ Advertising vacation rental use is treated the same as actual use for purposes of a code violation (Lincoln City, Manzanita)

# Process

- ❑ Over the counter (e.g. license) with ministerial review for compliance with clear and objective standards. Could include follow-up inspections (Manzanita)
- ❑ Staff level decision with notice to neighbors and opportunity to appeal to Planning Commission. Could include discretionary criteria (Lincoln City, Sisters)
- ❑ Planning Commission approval with public hearing (Bandon)
- ❑ Different levels of review depending upon location (Durango, Astoria)
- ❑ Different levels of review depending upon whether or not all of the fixed standards can be met. Discretionary criteria can be used for “alternate” review (Seaside, Sonoma Co.)

# Other regulations

- ❑ In planned developments, consent from HOA required. If no HOA then consent is required from a majority of the owners (Durango)
- ❑ Consent required where joint driveway access or private beach access is to be used (Bandon)
- ❑ Allowance for hardship permit (in excess of cap) where owner demonstrates extraordinary financial burden necessitating rental (Manzanita)
- ❑ Room tax reporting and business license required in most of the sample ordinances

# Next Steps

- Identify components that you would like to see worked into a draft proposal
- Determine the appropriate process to be used
- Staff can prepare a brief written explanation for each requirement that can be reviewed with the draft language

# Where Should Vacation Rentals and B&Bs Be Allowed?

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**Proposal: Allow in all residential and commercial zones.**

**Other options:**

- Select residential/commercial areas
- Commercial areas only
- Residential areas only
- Residential areas with density limitations
  - Ownership based (e.g. one license per owner)
  - Proximity based (e.g. require they be spaced a certain distance or limit percentage of homes in a certain area)
  - Ratio or hard cap (e.g. set a fixed number or percentage of residences in community as the max. number of licenses that would be issued)

# Occupancy Limits

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**Proposal: Overnight occupancy limit of 2 persons per bedroom plus two. Subject to reduction based upon available off-street parking.**

**Maximum occupancy 1 person for every 200 square feet of floor area (fire code).**

**Other options:**

- No limit on overnight occupancy
- Maximum overnight occupancy based exclusively on available off-street parking
- Overnight occupancy set on a per bedroom or sleeping area basis with no tie to availability of off-street parking
- Discretionary (e.g. compatible with the character of the area)

# Off-Street Parking Standards

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**Proposal: One space per bedroom that is dedicated to a vacation rental or B&B use.**

**Other options:**

- Same as single family dwelling (typically 2 spaces)
- Based upon occupancy (e.g. 1 space for every 3 occupants)
- Based upon size of home (e.g. 1 space for 2 bedroom home, 2 spaces for a 3-4 bedroom home, etc.)
- Discretionary standards (e.g. adequate site layout for transportation facilities)

# Landscaping

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**Proposal: At least 50% of front yard and 40% of total area must be landscaped.**

**Other options:**

- No landscaping requirements
- No change permitted to residential or outside appearance of home
- Restrict off-street parking in yards
- Discretionary standards (e.g. dwelling must be maintained at or above the level of surrounding dwellings)
- Target to residential areas only

# Waste Management

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**Proposal: Weekly service required. Provisions must be made for regular trash removal from the premises. Use of dumpsters is prohibited. Provisions must be made for storage of receptacles so they cannot be viewed from the street.**

**Other options:**

- Treat as single family residence (e.g. no waste management requirements)
- Eliminate one or more of the above requirements
- Require the use of secure containers
- Discretionary standards (e.g. No adverse impact on livability of the neighborhood)

# Safety Issues

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**Proposal: Inspection by Building Official required prior to change of occupancy.**

**Must meet residential code and subject to periodic re-inspection.**

**Emergency information to be posted, and kit required for guests. Guest registry requirement.**

**Other options:**

- Do not require one or more of the listed standards
- Require regular inspections (as opposed to periodic)
- Other safety issues not captured?

# Issue Resolution

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**Proposal: License requirements to be posted on-site. Local contact must be available 24 hours a day and be able to respond, in person, within 30 minutes. Serves as initial point of contact for complaints and must maintain complaint log. Neighbors to be advised of local contact via notice when license is issued.**

**Other options:**

- No requirement for local contact
- Require local contact or management company be within City limits
- Have local contact information on file with City (versus providing to neighbors with a notice)
- Provide alternate response times to those listed above

# Enforcement

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**Proposal: Advertising for vacation rental or B&B use is the same as actual use. Failure of local contact to respond to complaints is a violation. If terms of license are not followed then penalty could lead to suspension or revocation of license (if multiple occurrences within 12 month period). If no license is obtained then penalty can be a fine of up to \$500 per occurrence and possible misdemeanor.**

**Other options:**

- Focus on monetary penalties as opposed to non-monetary solutions
- Use of scaled fines
- Enforce only if actual use
- Have the City serve as the initial point of contact for addressing complaints and concerns

# Permit Terms

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**Proposal: Licenses are specific to the owner of the structure, are not transferable, and automatically renew with the business license.**

**No grandfathering of existing approvals.  
Permit holders must obtain license within 120 days and may rely upon terms of existing approvals if they are more permissive than the license standards.**

**Other options:**

- Require annual renewals
- Allow licenses to transfer from owner to owner
- Authorize grandfathering of existing permits
- Allow an individual other than the owner to obtain a license

# Process

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**Proposal: License issued over-the-counter if standards can be met. Site plan must be submitted and owner is responsible for obtaining address list for public notice. License issued once inspection is completed.**

**Conditional use option is available if all standards cannot be met.**

**Other options:**

- Don't provide for discretionary review process (i.e. license standards must be met)
- Adopt discretionary criteria and a process where neighbors have an opportunity to weigh in before license is issued

# Other Issues

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- Tenancy Limits (i.e. frequency of rentals) – Some jurisdictions limit the number of rentals that can occur in a particular period of time. Not recommended with this proposal.
- Noise – No new standards are proposed. City would rely upon existing nuisance rules in its Municipal Code.
- Signage – Same as allowed for single family homes in residential zones.
- HOA Consent – Proposal includes notice to HOAs so that they are aware of when new licenses are issued. Some jurisdictions require HOA consent before license is issued.
- Room tax reporting and business license is required (no change from current rules)

9/12/11 Workshop  
Vacation Rental Code Update

COMMENT/QUESTION
<b>Where Rentals Allowed/Occupancy:</b>
For maximum occupancy - add "living space" (excludes stairwells, attics, hallways & garages).
Pre-existing nonconforming rentals - don't work under proposed changes (e.g. Occupancy per sq. footage differs from new 1 person per 200 sf fire code).
How do the nonconforming properties fit in? (20 x 17 (340 sf) sleeps two currently) (an owner who has substantially renovated is already at substantial cost (e.g. firewalls).
Maximum occupancy - 1 person for 200 sf of living space.
Maximum occupancy is too excessive!
Tenancy Limits - How to regulate number of uses versus number of occupants.
No rentals in R-1 or R-2.
B&Bs are really small hotels that offer rooms for just one night are are inappropriate in R-1 & R-2 zones.
B&Bs - current code of R-3 & R-4 should be sustained. Inappropriate use in residential areas of R-1 & R2.
One of the largest impacts of VRDs in residential neighborhoods is the moving in/moving out of the renters with each tenancy. A solution to this issue is tenancy limits. The City should limit VRD rentals to no more than one within 7 to 14 calendar days.
What makes you think that by opening up more areas to vacation rentals you won't be compounding the problem while either increasing, or at the very least, maintaining the same number of illegal establishments?
2-4-11.025 (B) (Maximum building occupancy) - I have three homes side by side with a fourth on the same block. I have rented them together for family reunions or business meetings. Am I supposed to explain to my clients that they risk breaking the city law if they gather in too large a number?
Can "occupancy limits" as opposed to "tenancy limits" be imposed in R-1 and R-2 zones to limit the frequency of VRD operations? Suggest that it is appropriate for VRDs to combine the number of stays by true tenants and non-tenant "friends and relatives" in an occupancy total not to be exceeded over some time limit.
<b>Parking/Landscaping/Waste Management:</b>
Trash weekly service (if not occupied?) If taken by cleaners? Without dumpster for condos (i.e. Embarcadero); visibility?
Landscaping - (enforcement - i.e. condos and/or CCR restrictions?) What if no room?
Off-street - what about Nye Beach & no off-street available on Bay Front?
Waste - What if no room to hide? (i.e. Agate Beach on cul-de-sac (2' on sides & front))
Where did 40/ to 50/ come from?
What is 40/ of? (Total lot or all side or front?)
Landscaping on narrow lots that are already built (i.e. Nye Beach)?
What if no off-street parking?
Enforcement of off-street parking how do you tell?
What if neighbor's trash cans are visible? (Blending with neighborhood)

9/12/11 Workshop  
Vacation Rental Code Update

COMMENT/QUESTION
What about if cans are out early?
Maybe go to a nuisance clause.
Parking 1 per unit?
Parking limits - in off-street parking (i.e. Nye Beach has limited parking).
2-4-11.025 ( C) (Parking) - My homes were built as vacation rentals, including land use and all necessary documents to establish them as such. One property has the original 1905 garage, which is too small for any vehicle. The other three homes have off-street parking. I was allowed to make use of the on-street parking, and I provided five off-street spaces. My homes are in Nye Beach, which allowed me to build with minimal setback. These homes were not required to have garages or street-side driveways. I cannot simply create space to meet these new requirements. I do not follow the thinking behind the inability to make use of street parking over night. There is no such provision for residents of the community. I pay transient room taxes and property taxes; doesn't that buy me any rights?
2-4-11.025 (D) (Waste Management) - I own four homes on the same block where the minimum stay is two nights. Each home is provided with a garbage can and recycling container. I pick these up daily and dump them into a dumpster rented from Thompson's, which is in a place where their truck required me to place it so they could empty it. Without this dumpster I would have to either contract with Thompson's for a daily pickup of four cans, or haul the garbage to the dump on a daily basis myself, or collect it in another building somewhere until collection day. If you have a problem with unmaintained or unsupervised dumpsters, then deal with it on that basis.
Does the statement, "designated parking spaces shall be accessible" mean handicapped accessible? If so, if the VR is not handicapped accessible, why provide a space for handicapped parking?
<b>Safety Issues:</b>
Rentals may add to "safety" versus "empty" properties.
Life, safety issues versus too much information required (e.g. Name, contact & vehicle for every guest).
Is the Fire Marshal to set inspection standards & requirements?
How often is the periodic inspection? Cost?
2-4-11.030 (Inspections) - I have a problem with the term "Designee". Who is this person; how did they get the job? What is their background; what building or business background do they bring? What hidden agendas or vendettas will they exercise? Who does an owner appeal to and at what cost in both time and money?
Regarding emergency provisions, specifics should be determined now; not later.
An alternate location for postings would be more friendly. Vacationers choose to stay in VRs specifically because they are not hotels. To post on the wall is so hotel-like and not at all homey. We provide all this information (and more, such as recommendations of local businesses, etc.) in a binder on the kitchen counter.
Regarding inspections, a reasonable time should be allowed to correct identified deficiencies; as an already established VR will have existing reservations that must be honored. To cancel those reservations while the deficiencies are corrected would be a hardship on the VR owner and a great inconvenience to the vacationers.

9/12/11 Workshop  
Vacation Rental Code Update

COMMENT/QUESTION
<b>Issue Resolution/Enforcement:</b>
Need to decide what are law enforcement issues versus management issues.
How do you deal with baseless complaints? (i.e. loss of license w/no recourse?)
Matrix of penalty levels? Seriousness?
Should City invest time & money in a system of tracking enforcement?
Fees & penalties should be reasonable (define reasonable).
Don't need two licenses - only one license with an endorsement.
30 minute response - take out "personal" or make phone call OK.
Complaint Log - suggest not require.
Check & coordinate with County rules regarding inspections & licensing (e.g. Hotel/motel, B&B license thru County).
Enforce guest registry.
Don't issue licenses - issue permits.
Local contact "within city limits" - why?
Define "multiple occurrences".
What does "actual use" mean?
Advertising - meet requirements and standards of the license.
2-4-11.025 (F) (Guest Register) - This is just unnecessary! There is no substitute for responsible management. Irresponsible clients catch us all off guard as owners; but we learn and adapt or we go out of business. It would not be sound business practice to have your home trashed on a regular basis. You are punishing indiscriminately for the irresponsible few.
What is the purpose of the contact information? Vehicle license plate numbers are not easily obtained as many guests arrive by air to Oregon and rent a car. Requiring the vacationer to call that information in to the VR owner is unfriendly.
The general consensus showed a desire for fairness and equity. If the City has VR rules, they should be met by all parties; not just agents and enrollees we know about at this time. Additionally, if there are regulations, there should be a method of enforcement.
As to a contact person, leaving it up to the VR owner to identify the contact and be responsible for action without further specification was best, with the owner also to decide when, or if, to include the police.
It was generally agreed that standards set by the fire marshal should be met with onus on the VR owner for compliance.
It seemed to be a general theme that "less is better" and following the KISS method pays benefits. A system needs to be easily understood and followed if it is to be effective.

COMMENT/QUESTION
It was the general opinion that any VR being advertised should be required to meet all the regulations even if it is not being actively rented. This would help insure that all rentals meet the basic requirements for safety, etc. Apparently, VR tenants do not have the same protections and legal resources as long-term tenants, hence the importance of sanitation and safety rules.
The big questions of fines/penalties and actual enforcement raise their heads. If negative or punitive action is being proposed against a VR property, the owner would need to be offered some system of hearings. How these would best be done and where the dollar costs for such things would come from needs to be decided.
Developing a system to identify and bring vacation rentals "into the fold" is essential for such a system to succeed. The City also needs to avoid the risk of requiring higher standards for vacation rentals than it does for long-term rentals.
<b>Permit Terms/Process:</b>
Build in a review process to evaluate how the new ordinances are working.
The right goes to the property, not the owner?
2-4-11.025 (F) "This information <i>shall</i> <sup>A</sup> be made available to the <i>city</i> <sup>B</sup> upon request". ( <sup>A</sup> Why? Who? Restate: <b>IN CASE OF EMERGENCY</b> <sup>B</sup> <b>ANY INFORMATION PROVIDED TO THE CITY BECOMES PUBLIC RECORD</b> )
2-4-11.025 (H) <b>"Owner or designee shall provide information and <i>equipment</i> <sup>A</sup> <sup>A</sup> DEFINE EQUIPMENT. *WHAT IS THE CITY'S PROTOCOL FOR EMERGENCY DISASTER, ETC. WHEN CONTACT (OR OWNER) IS UNAVAILABLE?</b>
I assume the existing permit will be renewed unless evidence to the contrary (grandfathering - with conditions)?
Favor "grandfathering" of existing VRDs, as opposed to a "new start" for all.
Favor "permitting" of VRDs to stay with the property as opposed to "licensing" of VRD owner.
How will this new proposal operate for VRBOs that are managed by property management companies who assume essentially all responsibility for the property? Would the owner still need a business license or would they operate under the property management license? With the inspection complete, would this be a "once only" or will the license/permit require "frequent renewal" or renewal only with "change of ownership"?
<b>OTHER ISSUES:</b>
Likes new guidelines - more clear. (e.g. definition of "occurrence" - previous definitions were not clear.
Likes new regulations.
Don't impose "higher standards" than what currently exist with motel/hotel use, etc.
HOA "notification" vs. "consent" (City cannot enforce CC&Rs - notice to HOA upon application?)
Does banquet room meet the same requirements for square footage? Need better explanation.
Do unattached houses have the same classification as a hotel that operate it - are they vacation rentals or extensions of hotel?

9/12/11 Workshop  
Vacation Rental Code Update

COMMENT/QUESTION
2-4-11.005 - If the City is going to place rules on vacation rentals & B&Bs, why not apartment buildings as well. Quite a few exhibit gross waste refuse problems, parking and abandoned vehicle problems.
2-4-11.010 (B) - Because my vacation rental property is an investment property, the value will be directly related to its use. The provision that the vacation rental use could end with sale of the property, would make it harder to sell if the next owner fails to meet your requirements.
2-4-11.010 (E) - "a land use approval authorizing..." - the wordage sounds like I am surrendering the rights I pursued by receiving land use approvals for my vacation rentals by receiving a permit from the city, but the city is requiring that I get this permit.
2-4-11.015 (A) (Approval Authority) - Having a single individual in charge of the determination of compliance and subsequently forcing the property owner to enter into a costly and time-consuming appeals process based on the determination of a single individual who is not elected or subject to public review is counter productive to vacation rentals as a business entity.
2-4-11.050 (Penalties) - You are punishing the responsible for the actions of the irresponsible.
What makes you think those that are currently operating illegally and managing to evade paying the taxes and permits required will suddenly change their approach?
Have you given any thought to the implications of how the owners of primary residences are going to react when they discover that you are now going to permit outright use of the homes they thought were permanent residencies or perhaps occasionally used vacation rentals or second homes are now being marketed as vacation rentals primarily by unprepared owner-managers or by management companies simply interested in increasing their inventory?
Why would a management company care one way or another if the home gets abused during periods of special events?
If the owner is in charge and located elsewhere how are they to know and respond in a timely manner?
As far as clients go, people are human. Those that live by the rules will live by them whether they exist in a written form or not. Those that play by a different standard will take every opportunity to do so. For the most part, perhaps 98% of my clients show respect for my properties.
An absentee landlord-manager or a less than perfect management firm will not have any or all of the qualities I do operating my own properties. What is the motivation.
I think the City's money will be better served by figuring out how to manage and regulate those establishments that exist legally or otherwise at this point in time.
Thank you for wanting to make Government better. Yes there are too many regulations & it is confusing. Please reduce costs as the rest of us are. Please make it easier to make a business.

# CITY OF NEWPORT VACATION RENTAL CODE UPDATE

Options for Addressing  
September 2011  
Open House Comments

October 12, 2011  
Work Group Meeting

# Maximum Occupancy

## ISSUE

- ❑ Concern that proposed 200 sq. ft. occupancy limit is excessive

## OPTIONS

- ❑ Include requirement so that owners are aware of limit.
- ❑ Do not call out limitation in the vacation rental code (will still be in Fire Code).

- 
- ❑ 200 sq. ft. of gross floor area per person limit is a function of the existing fire code (i.e. it is already a city standard).
  - ❑ Life safety standard.
  - ❑ Fire Department will enforce on a complaint basis.
  - ❑ Public spaces, such as the Council Chambers, have a larger limit because of enhanced emergency egress (larger aisle widths, double doors equipped with panic bars, etc.)

# Tenancy Limits

## ISSUE

- Frequent move in/move out is disruptive. Interested in seeing tenancy limit imposed in R-1 and R-2 zones.

## OPTIONS

- Impose tenancy limits in all zones.
- Impose tenancy limits in select zones, such as the R-1 and R-2.
- Do not impose tenancy limits.

- 
- Work group considered tenancy limits with initial draft.
  - Cannon Beach limits rentals to 1 tenancy every 14 days, Durango 1 tenancy every 7 days.
  - Enforced through guest registry. May necessitate active oversight.

# Locations Allowed?

## ISSUE

- ❑ Desire to see Bed and Breakfast uses prohibited in R-1 and R-2
- ❑ Interest in seeing no rentals in R-1 and R-2

## OPTIONS

- ❑ Further restrict where Bed and Breakfast and/or vacation rental uses are allowed.
- ❑ Do not restrict these uses in residential zones

- 
- ❑ Bed and Breakfast Uses are not currently allowed in R-1 and R-2 zones. They are allowed conditionally in R-3 and R-4 zones.
  - ❑ Vacation rentals are allowed outright in all residential zones subject to not more than 10 occurrences in a year.
  - ❑ Jurisdictions that limit uses, by zone (e.g. Bandon), tailored the boundaries of zoning districts to correspond with likely uses (something Newport has not done).

# Off-street Parking Requirements

- What about Nye Beach and other areas where no off-street parking is available?
- How will off-street parking be enforced?
- Why can't on-street spaces be used for overnight occupancy?
- Accessible = handicapped accessible?

## OPTIONS

- Revise to focus on provision of off-street spaces only (i.e. drop restriction on use of on-street spaces).
- Make only minor clarifications (e.g. accessibility standard)
- Do not make adjustments..

- 
- Current proposal provides a conditional use process for applications that cannot satisfy all of the standards (such as off-street parking). Is that adequate?
  - Prohibition of use of on-street parking spaces by guests would be difficult to enforce.
  - Accessibility standard may need to be clarified (not intended to be handicapped spaces).

# Waste Disposal

## QUESTIONS

- ❑ Why restrict dumpsters?
- ❑ Weekly service if not occupied? Alternative?
- ❑ Why conceal?

## OPTIONS

- ❑ Make targeted or wholesale adjustments to waste disposal standards.
- ❑ Distinguish by zone or use (e.g. B&B vs. vacation rental)?
- ❑ Do not make adjustments.

- 
- ❑ Concern with dumpsters was that they are out of character with residential areas, and encourage intensive use. Not all rentals or B&B's are in residential areas.
  - ❑ Existing proposal requires weekly waste disposal service during all months the dwelling is available.
  - ❑ Should consider enforcement. Is advertised easier to enforce than occupancy in terms of waste service being provided.
  - ❑ Is concealment requirement equitable?

# Safety Issues

## OPTIONS

- ❑ Frequency of inspections?  
Cost? Timing for corrective action?
- ❑ Required emergency provisions should be spelled out.
- ❑ Qualifications of Building Official designee?
- ❑ Shouldn't have to post next to door like a hotel/motel.
- ❑ Make targeted adjustments to be more specific about requirements and qualifications.
- ❑ Make limited adjustments (maintains flexibility)
- ❑ Provide Commission with thoughts on cost.

- 
- ❑ Frequency of re-inspections, and qualifications of designee were not spelled out because the City may need flexibility in administering the program. Is this appropriate?
  - ❑ Prohibiting rental until corrective action is taken is a strong tool for ensuring that work is completed in a timely manner, and that persons occupying the residence are not at risk.
  - ❑ Emergency information / equipment, spell out or give the Council authority to adopt at a later date?

# Guest registry

## ISSUE

- Unnecessary.
- What is the right balance of required info?
- How will registry requirement be enforced?

## OPTIONS

- Adjust the types of information to be collected.
- Eliminate requirement.
- Do not make adjustments.

- 
- The rationale for a guest registry is that it provides critical information for emergency responders in the event of a disaster. It also serves as a tool for enforcement of overnight occupancy / parking standards. Is this justification for the requirement?
  - Hotels/motels collect information about the number of occupants, and specifics about the primary tenant and vehicles. Does the proposed language require the same?

# Issue Resolution

## ISSUE

- ❑ Complaint log, suggest not require.
- ❑ Clarify 30 minute response.
- ❑ Identifying local contact should be sufficient.

## OPTIONS

- ❑ Make targeted adjustments with focus on the operator as the primary contact.
- ❑ Do not make adjustments.

- 
- ❑ Complaint log requirement serves as an enforcement tool, since the City is not the primary contact. Is that justification?
  - ❑ A response in 30 minutes. Is it needed, or is a phone call adequate?
  - ❑ The limits imposed on the local contact are intended to ensure that they are responsive. Is that appropriate, or needed?

# Enforcement

## ISSUE

- How to address baseless complaints.
- Matrix of penalty levels? Seriousness?
- Appeals process?

## OPTIONS

- Make targeted adjustments to the violations and penalties sections.
- Share with Commission thoughts on appeals options.
- Do not make adjustments.

- 
- A citation can be challenged in Municipal Court. That is the appeals process. It may be that another option may be appropriate, such as the City Manager having the option of making adjustments. This is an issue that is relevant to any enforcement issue, not just vacation rentals.

# Permit Terms/Process

- ❑ Right should go with property not the owner.
- ❑ Favors grandfathering.
- ❑ Don't require two licenses.
- ❑ Property managers or owners required to obtain license?
- ❑ Build in a check-in to evaluate new process.

## OPTIONS

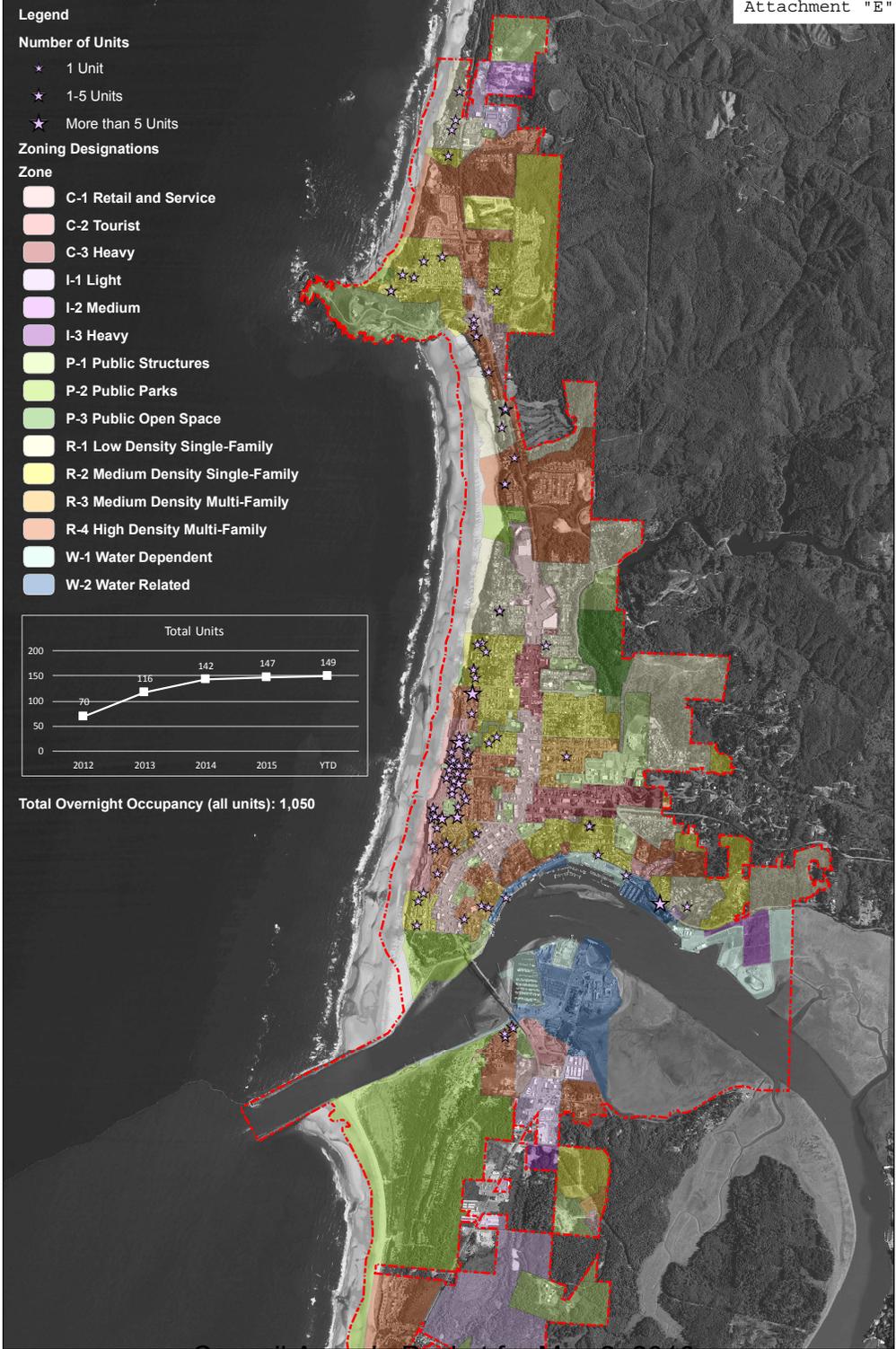
- ❑ Consider whether or not grandfathering, permit transfer, or check-in process should be worked into the proposed code.
- ❑ Clarify multiple license issue (e.g. endorsement)
- ❑ Do not make adjustments.

- 
- ❑ Rights are specific to owner to ensure that new owners are aware of limitations (this has been a problem in the past). Is this adequate justification?
  - ❑ Grandfathering was not included because of long term implications it has in terms of fairness, cost to administer and complexity of the rules. Current proposal allows current owner to effectively grandfather for the period that they have a license. Is that adequate?

# Motel vs Vacation Rental

## DEFINITIONS (SHOULD NEWPORT DEFINITION BE ADJUSTED)

- Motel. A building or group of buildings in which lodging is provided for guests for compensation, containing guest units with separate entrances from the building exterior, with or without cooking facilities, and where more than 40 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days (Newport)
- Motel means one or more buildings designed or used by temporary occupants. (Lincoln City)
- A building in which lodging is provided for guests for compensation. (Astoria)
- “Motel or other tourist accommodation” means a structure or part of a structure, containing motel rental units, occupied or designed for occupancy by transients for lodging or sleeping and including the terms “hotel” and “inn,” but shall not include the term “bed and breakfast establishment” or the transient occupancy of a dwelling unit regulated by this chapter. (Cannon Beach)
- Motel rental unit” means one bathroom and not more than three bedrooms. A “bathroom” is defined as consisting, at a minimum, of a toilet. (Cannon Beach)
- Not defined. (Bandon, Seaside)



**Derrick Tokos**

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**From:** Lee Hardy <lee@yaquinabayproperties.com>  
**Sent:** Friday, April 22, 2016 5:00 PM  
**To:** Derrick Tokos  
**Subject:** RE: Vacation Rentals in Newport

Hi Derek,

I was asked that kind of question by someone else today, coincidentally. I did see the article. In my experience, I do not think I have ever had a client who had a long term rental switch the property to vacation rental use, especially not recently. Someone said Dolphin Real Estate said the same thing when asked the same question.

I do recall that when we were working on the vacation rental ordinance and somewhat since then, I received maybe a total of six letters from Vacasa soliciting me to convert my home to a vacation rental. ☺ Like where would I live then??

The Vacasa letter was very clear in their representation of the annual income one could expect from a vacation rental. They said a "normal house in town" could expect to gross around \$60,000.00 per year as a vacation rental and that an oceanfront house could expect to gross at least \$100,000.00 per year. I found that to be pretty amazing and suspect that it is not likely true in terms of property owners' typical experience. But maybe some of the public actually believed that. The fact that this solicitation went on for a bit more than a year tells me that the company was seeking a large expansion of their inventory. Take a look at their website sometime. You might detect some interesting anomalies. Don't know about the bookkeeping expertise, but I once got the impression they might be charging room tax on cleaning fees. I know we talked about that issue in the committee.

The real pressures on rental property inventory are a bit more complicated. Many properties that became rentals when the owners could not sell them a few years ago are now being sold and are no longer rentals. Some property owners are actually fulfilling their dreams and retiring here after purchasing property in the past to use as rentals in the meantime while waiting for retirement.

It is worthy to note that, as long as rental owners continue to be hamstrung in terms of exercising their property rights, it will discourage folks from making investments in rental properties. I am referring to the now extended no-cause eviction notice times and the extended notices of rent increases. It is also no longer possible to fully enforce fixed term leases in this state if a tenant moves out several months prior to the term of the lease. This does not encourage people to invest in long term rental property.

Lee Hardy

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**From:** Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]  
**Sent:** Friday, April 22, 2016 4:42 PM  
**To:** Lee Hardy  
**Subject:** Vacation Rentals in Newport

Hi Lee,

You may have seen in the newspaper that this was a topic of discussion at our last City Council meeting. I am preparing a memo to our Council that speaks to how our vacation rental licensing program has been working since the City overhauled its vacation rental codes in 2012.

Would you be willing to put together a brief email that I could include in the Council packet addressing, from a rental management perspective, how the desire for vacation rentals is influencing people's choices to make their properties

available as month-to-month rentals or the conversion of month-to-month rentals to vacation rentals? If you don't see this as a significant factor, that would be relevant information for the Council too.

Any other observations you would like to share would be welcome as well.

Thanks for any assistance you can provide.

*Derrick I. Tokos, AICP*

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)

**Derrick Tokos**

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**From:** Derrick Tokos  
**Sent:** Thursday, April 28, 2016 9:23 AM  
**To:** Steven Rich  
**Subject:** RE: Applicability of Moratorium Statutes to Vacation Rentals

Thanks Steve,

I'll include this summary with the report I am preparing.

*Derrick I. Tokos, AICP*  
 Community Development Director  
 City of Newport  
 169 SW Coast Highway  
 Newport, OR 97365  
 ph: 541.574.0626 fax: 541.574.0644  
[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)

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**From:** Steven Rich  
**Sent:** Wednesday, April 27, 2016 10:22 AM  
**To:** Derrick Tokos <D.Tokos@NewportOregon.gov>  
**Subject:** RE: Applicability of Moratorium Statutes to Vacation Rentals

We discussed this matter this morning and I note the following regarding Meas.49 and the a Moratorium addressing vacation rentals.

Measure 49 addresses land use regulations [as defined in the statute] that “restricts the residential use of private property” zoned for residential use. It allows for a party who has been damaged to recover for the loss of FMV to their real property [of course there are exemptions – ORS 195.305(3)]. The claimant has the “burden of proof” and must submit an appraisal in support of their claim. An important qualifier is that the FMV does NOT include “prospective value” or “speculative value” or “possible value based upon future expenditures and improvements.” ORS 195.332

Moratorium under 197.520:

We can argue about whether the moratorium proposed by Councilor Engler would be covered by the “construction or land development” requirement, but for our immediate purposes we assume it will. A moratorium would require: 45 day notice to DLCD, findings justifying the need for a moratorium; and public hearing on the declaration of the moratorium and the findings supporting same. The contents of the findings are addressed quite specifically, and require a showing of, among other things that there is a compelling need, that irrevocable public harm is possible and that other methods to achieve the objective are unsatisfactory. The initial duration is limited to 120 days. That time period can be extended with additional findings and another public hearing.

Obviously, this is not an exhaustive treatment of either subject; but they are my initial thoughts on the matters.

**Steven E. Rich**

City Attorney  
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**From:** Derrick Tokos  
**Sent:** Friday, April 22, 2016 2:45 PM  
**To:** Steven Rich <[S.Rich@NewportOregon.gov](mailto:S.Rich@NewportOregon.gov)>  
**Cc:** Spencer Nebel <[S.Nebel@NewportOregon.gov](mailto:S.Nebel@NewportOregon.gov)>  
**Subject:** Applicability of Moratorium Statutes to Vacation Rentals

Hi Steve,

I am putting together a memo for the next City Council meeting regarding the vacation rental issues raised by Councilor Engler and discussed at the last City Council meeting. One of the topics has to do with the City's authority to impose a moratorium on authorizing new vacation rentals. Presumably, this would include the conversion of existing dwelling units to vacation rentals and the construction of new dwelling units that are to be used for vacation rental purposes.

Standards for vacation rentals are contained in our land use code and they are implemented in a ministerial manner as an endorsement to a business license (NMC Chapter 14.25).

ORS Chapter 197.505 to 197.540 sets out rules local governments must follow when imposing a moratorium on construction or development. Could you speak to whether or not these would apply to the subject circumstances? Also, in your view, are there any Measure 49 property compensation issues at play if such a prohibition were to be put in place?

Thanks for any assistance and/or insights you can provide.

*Derrick I. Tokos, AICP*  
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# CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda #:8.D.  
Meeting Date: 5-2-16

## Agenda Item:

### Report on Ferry Slip Road Adjacent to Parking Alcove Near the SW 35<sup>th</sup> Street Intersection

#### Background:

Attached is a report from Public Works Director, Tim Gross showing the detailed work that will be completed at this location. Please note that there are several locations along Ferry Slip Road that will maintain ditches in order to provide drainage for adjacent properties including at this location. The grading is not completed for this project which includes an 18-inch gravel shoulder add to the curb at a 2% cross-slope. If the property develops in the future, we have indicated to the property owners that it would be possible for the property owner to get a permit to extend the culvert and fill in this area if a drive was necessary for this revised use. Public Works Director, Tim Gross can answer any further question Council may have regarding this issue.

#### Recommendation:

None

#### Fiscal Effects:

None.

#### Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel, City Manager





**Fiscal Notes:**

N/A

**Alternatives:**

- N/A

**Attachments:**

- Field photograph of the slope in consideration

Parking Alcove

