



**AGENDA & Notice of Work Session,  
& Regular Meeting of City Council**

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The City Council of the City of Newport will hold a work session at **12:00 noon**, on **Monday, May 18, 2009**, in Conference Room "A" at City Hall. The regular Council meeting begins at **6:00 P.M., on Monday, May 18, 2009**. The meeting will be held in the Council Chamber, 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the meeting agenda follows.

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

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

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**WORK SESSION AGENDA**

**12:00 Noon**  
**City Council**

- I. Questions regarding evening agenda items
- II. Discussion of proposal for Ernest Bloch street naming

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**REGULAR COUNCIL AGENDA**

**6:00 P.M.**  
**City Council**

Any person wishing to speak on any item should complete the sign-in form and hand it to the City Recorder.

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

**II. Public Comments**

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

**III. Consent Calendar**

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

- A. Approval of minutes from the special meeting of April 28, 2009, the work session and regular meeting of May 4, 2009, and special meeting of May 11, 2009.....**Pages 4-14**  
(Hawker)
- B. Fire & Police Monthly Reports, April 2009.....**Pages 15-17**  
(Crook & Miranda)
- C. Listing of Claims Paid, April 2009.....**Pages 18-27**  
(Riessbeck)
- D. Acknowledge receipt of Edward Byrne Memorial Grant.....**Pages 28-40**  
(Miranda)

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

**V. Officers' Reports**

- A. Mayor's Report
- B. City Manager's Report
- C. City Attorney's Report

**7:00 P.M. – Public Hearings**

(None for this meeting)

**VI. Action Items**

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

- A. Tourism Grant Application, Oregon Coast Gardening & Landscaping Expo.....**Pages 41-53**  
(Atkinson)
  - B. Consideration of formation of a Nye Beach Commercial Parking District.....**Pages 54-76**  
(Bassingthwaite)
  - C. Amendments to Public Contracting Code Provision & Public Contracting Rules.....**Pages 77-88**  
(Firestone)
  - D. Ordinance amending Newport Municipal Code, Chapter 3.05 Room Tax.....**Pages 89-93**  
(Janice Riessbeck)
  - E. Determination of type of appeal hearing process and setting date for appeal hearing on appeal of the Planning Commission’s denial of a variance to the sign code requirements in NMC Section 10.10.050(A) in File No. 2-VAR-09.....**Pages 94-109**  
(Bassingthwaite)
- VII. **Public Comment**  
(Additional time for public comment – 5 minutes per speaker)
- VIII. **Adjournment**
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April 28, 2009  
1:58 P.M.  
Newport, Oregon

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

Staff attending was as follows: City Manager Shaddox, City Recorder Hawker, City Attorney Firestone, and Human Resources Coordinator Ewing.

Also in attendance were Bob Gibson, Human Resources Consultant, and Keira Morgan, from KNPT and KYTE.

**Hiring of a City Manager.** A discussion ensued regarding the city manager recruitment process. It was agreed to speak with the top candidate, James Voetberg, to determine whether he is interested in accepting the position, subject to a complete background check and contract negotiation. Voetberg returned to visit with Council and agreed to accept the position subject to the successful background check and contract negotiation. It was agreed that Bain and Bertuleit would conduct an “on-the-ground” background check in Skagit County, and that other resources would be used for background checking in Ketchikan. It was agreed to send thank you letters to the third and fourth ranked candidates. The second ranked candidate will be notified by letter once the background investigation is complete. Council authorized Bob Gibson to speak directly with candidates if contacted. MOTION was made by Bertuleit, seconded by Brusselback, to authorize Shaddox and Firestone to negotiate a contract with Voetberg, and particularly his start date, salary, and moving expenses. The motion carried unanimously in a voice vote.

Council agreed that a press release should be issued regarding Voetberg, and that it also be placed on the city’s website.

Having no further business, the meeting adjourned at 2:45 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor

May 4, 2009  
Noon  
Newport, Oregon

### CITY COUNCIL WORK SESSION

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

Staff present: Shaddox, Hawker, Firestone, Atkinson, Bassingthwaite, Smith, Ritzman, Riessbeck, Crook, Reno, Miranda, and Protiva.

Council discussed the following items:

1. Obteshka reported that on page 49 of the minutes, he intended to say “a celebration of Ernest Bloch's life on the 50th anniversary of his death.”
2. Obteshka inquired as to whether he should vote on the consent calendar as he had not attended the special meeting. It was noted that he was entitled to vote.
3. Shaddox noted that there was no intent to discuss the senior center rate increases this evening. The intent is to acknowledge receipt of the rate increases and forward same to the consultant.
4. Bertuleit will report on a recent CWACT meeting this evening.
5. Bain will report on a recent Georgia-Pacific meeting this evening.
6. Bain will report on a recent Chamber of Commerce meeting this evening.
7. Bain will report on a recent Air Service Consortium meeting this evening. He reported that 21.6% of the seats are filled on the Newport/PDX and PDX/Newport routes.
8. Brusselback will report on a recent meeting of the Georgia-Pacific Task Force this evening.
9. Patrick will update Council on the NOAA issue this evening. She reported that the county had recently contributed \$5,000 to help in securing the home porting of the NOAA research fleet, and asked whether the city could also make a contribution toward this effort. Staff will determine whether a contribution is doable by this evening.
10. Kilbride will report on the Field of Honor and the 1,000 Flags programs this evening.
11. Bain reported that town hall meetings are being held on the Oregon Medical Insurance Pool.
12. A 2010 Census presentation will occur this evening.
13. The ODOT fund exchange agreement will be discussed this evening.
14. The award of contracts for temporary employment services will be discussed this evening.
15. Bain reported that the reference checks on the selected city manager candidate had been completed. He distributed copies of the proposed agreement. Council opted to discuss this matter at the evening meeting.

16. Copies of the amended city attorney contract were distributed. Council agreed to discuss this matter at the evening meeting.
17. Katherine Pedersen, representing the Friends of the Aquatic Center, made a PowerPoint presentation. The following individuals spoke in support of the Friends of the Aquatic Center' plan to ask the city to purchase land for this facility: Steve Schuster, George Mpitsos, Stephanie Simpson, Frank Geltner, Julie Turner, Don Mathews, Rhonda Harman, Bob Ramstead, Clayton Jacobsen, Alicia Fernandez, John Tharp, and Carol Fisher.

Shaddox suggested Council focus on the land purchase, as during the presentation, the request for a city subsidy was not made. He noted that there is \$1,000,000 unappropriated in the proposed budget that could be used for a city tourist facility, and that the matter could be discussed as a part of the budget. He noted that this line item is in the budget, and eligible for appropriation, but not recommended in the 2009-10 budget.

Bain suggested putting the question of support for the facility to the voters. Kilbride asked about the line item in the business plan for "City of Newport contract," and whether this was a subsidy. He asked what would happen if the revenues are inadequate to support the facility. Marcia Williams reported that, as a 501(c.)3.) non-profit corporation, money could be borrowed. Bain noted that the group was requesting the purchase of a particular property. Pedersen reported that she had spoken with Don Lindly about the possibility of placing the aquatic center at the fairgrounds, and that he responded that a task force was being formed to discuss possible uses for that property. Obtshka noted that there may be wetland and traffic pattern issues with the South Beach property. He also noted that the property is in a tsunami inundation zone. He suggested that the aquatic facility could rejuvenate the north side. Mpitsos noted that it would be wonderful to have the aquatic facility near the recreation center. Schuster noted that a specific site is not on the table, but that the group is looking for support to move forward. Mpitsos reported that a study had been conducted and about 70% of the participants were in support of the facility. Kilbride asked whether the request for support included \$1,000,000. Mpitsos noted that a facility is needed to make progress. Firestone reviewed financial issues with the Landry property. A discussion ensued regarding wetland mitigation. It was noted that a wetland delineation study would be required, along with a geo-technical study. Pedersen reported that these studies had been done and the city manager had copies. Patrick noted that she had no problem with purchasing the land with transient room tax monies, but she was struggling with the location. She added that she likes the fairgrounds location. A discussion ensued regarding possible uses for the Landry property. Mpitsos reported that the Friends of the Aquatic Center want Council to agree that the facility needs to be built. Bertuleit disclosed that he is a member of the board of the Friends of the Aquatic Center, but that he has no economic interest. Williams reported the possibility of purchasing the Landry property for \$400,000. MOTION was made by Patrick, seconded by Brusselback, to direct staff to strongly negotiate with the county for consideration of locating the aquatic

facility at the fairgrounds site, and to include the school district in the discussion. The motion carried unanimously in a voice vote.

Shaddox reported that contact could be made with the county staff by tomorrow. He suggested moving ahead on the wetland delineation without a contract on the property since this work would have to be performed regardless. MOTION was made by Patrick, seconded by Obteshka, to move forward with the wetland delineation study on the Landry property, at a cost not to exceed \$10,000. The motion carried unanimously in a voice vote. Firestone noted that there are two potential sources for funding this project – Urban Renewal monies or transient room tax monies.

18. It was agreed to discuss Council Rules at a later date.

Having no further business, the meeting adjourned at 1:45 P.M.

May 4, 2009  
6:00 P.M.  
Newport, Oregon

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

Staff attending was as follows: City Manager Shaddox, City Recorder Hawker, City Attorney Firestone, Finance Director Riessbeck, Community Development Director Bassingthwaite, Public Works Director Ritzman, and Police Chief Miranda.

### **PROCLAMATIONS AND RECOGNITIONS**

**Alma B. Howes – Volunteer of the Year for the City of Newport.** Bain presented the award to Paul Amundson for his work with the Water Task Force. Amundson was present to receive the award.

**Presentation of CERT certificates.** Dean Sawyer made a brief Powerpoint presentation, and presented certificates of completion of CERT training to: Emma Compton, Evelyn Elder, James Gentle, Jody Hanna, and Thomas Matteson. Miranda presented a certificate to Bill Bain. Completing the training, but not in attendance was: Janet Harrison, Jayne Welch, Virginia Dale, Guy DiTorrice, Eleanor Lemaster, Cristeresa Panciano, Diego Guillermo Pioquinto, Alan Wasner, Cynthia Wasner, Brad Welch, and Julie Anna Barclay.

**Proclamation – Emergency Medical Services Week – May 17 – 23, 2009.** Bain proclaimed the week of May 17 – 23, 2009 as Emergency Medical Services Week in the City of Newport.

**Proclamation – Police Week – May 10 – 16, 2009.** Bain proclaimed the week of May 10 – 16, 2009 as Police Week in the City of Newport.

**Proclamation – Teacher Appreciation Week – May 3 – 9, 2009.** Bain proclaimed the week of May 3 – 9 as Teacher Appreciation Week in the City of Newport.

### **CONSENT CALENDAR**

- A. Approval of minutes from the City Council work session, executive session, and regular meeting of April 20, 2009, and executive session and special meeting of April 24, 2009.
- B. Senior Center rate increases – acknowledge receipt of the Senior Center Advisory Committee’s recommendations, and refer to the finance director for consideration in the rate study.

Obtreshka noted that the reference to Ernest Bloch's birthday should have referred to the celebration of the 50<sup>th</sup> anniversary of Bloch's death on July 15. He noted that he did not attend the April 24 executive session. MOTION was made by McConnell, seconded by Patrick, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

### **COUNCILOR'S REPORTS AND COMMENTS**

Brusselback reported on a recent meeting of the GP Task Force. He noted that presentations were made by EcoNorthwest and Powell Valuations, and that there was unanimous agreement for an annual payment of \$55,000. There is one meeting left to finalize details of the agreement. Firestone reported that another item of discussion is the recommendation regarding monitoring efforts and the reasonable possibility that the task force may recommend some portion of the fee be used for ocean monitoring.

Kilbride reported that he participated in the Field of Honor and 1000 Flags Program. The event began with a concert at the PAC by pianist, Richard Bosworth. He also participated in a flag ceremony where more than 100 residents carried the flags over bridge to the site where 1,000 flags were placed. Saturday night included a performance of Blue Eyed Soul. Bain reported that more than 200 local citizens received the veteran's medal.

Bertuleit reported that the fun run at Loyalty Days went off without a hitch. He noted that there were many student participants, as the school with the most participants earned \$500 for their school.

Bertuleit reported that he attended a CWACT meeting. Issues discussed included ARRA, state transportation funding bill, ODOT tolling and pricing development, Van Buren bridge development, Highway 20 project, costs for highway maintenance, and gas tax.

Patrick reported on a recent meeting with NOAA officials regarding the home porting of the research fleet in Newport. She noted that it was a very productive meeting, and NOAA is seriously considering Newport. She noted that the NOAA team has requested additional information on various things. The final and best proposal must be submitted in less than 30 days, and Newport is competing with Lake Union, Port Angeles, and Bellingham, Washington. The decision should be made in early August. The decision will be made on two factors – technical and community.

Bain reported on a recent meeting of the Air Service Consortium meeting. Officers were re-elected, and the primary conversation centered on the marketing strategy. He noted that Newport is realizing 21.6% utilization of seats, with 99.1% reliability on Newport schedules.

Bain reported that he attended a Georgia-Pacific Community Forum meeting.

Bain reported that he attended a Chamber Board meeting where he briefed the members on SeaPort Airlines, the Field of Honor, the Bay Boulevard project, and the process for interviewing and selecting city manager.

Bain reported that he attended a recent YBEF meeting.

## PUBLIC COMMENT

Carla Perry reported that she was one of the individuals participating in the interview process for candidates for the position of city manager. She noted that it was grueling, but exciting. She commended the city for hiring an excellent facilitator, and including community members, and for executing the process in an orderly, professional, fair, and creative manner. She thanked Council for a successful process, and the invitation to participate.

## OFFICER'S REPORTS

**Report of the City Manager.** Shaddox reminded Council that the Budget Committee will meet tomorrow at 6 P.M.

Shaddox invited Council and the public to attend the City at 5:30 program on Thursday, May 7, at the airport.

**Approval of amendment to city attorney's agreement.** Shaddox reported that Firestone is transitioning from city service, and had offered to share jobs between Newport and Bend until June 26. Shaddox had presented Council with an amendment to Firestone's contract at the work session. It calls for him to work 24 hours per week for the city. He plans to work Mondays and Tuesdays, and evenings and other days to respond to messages and be available for the city. The amendment would become effective today and conclude on June 26. MOTION was made by McConnell, seconded by Patrick, to approve the amendment to Firestone's employment agreement. The motion carried unanimously in a voice vote.

**Approval of city manager contract.** Shaddox reported that he and Firestone had met with Voetberg and conducted background and reference checks last week. He noted that the outcome was positive, and he was recommending approval of the contract that had been distributed at the work session. The contract provides that Voetberg start work on June 1, at an annual salary of \$104,000, with a moving allowance not to exceed \$4,000, and a monthly car allowance of \$100. Firestone reported that the language had been tightened, and refers to a specific set of transgressions that would result in automatic termination. He reported that this will be the standard form that will be used for city manager, city attorney, all department head future hires. Patrick asked whether there is a provision requiring the city manager to bring to Council attention situations that are not right. Shaddox noted that when Council adopts a job description and follows its charter, there is an expectation that the appointees comply with the job description and charter. He noted that appointees have a responsibility to abide by all laws and rules of Council, and that includes keeping each other honest. He noted that the city manager and city attorney working together provides good synergy and checks and balances. Kilbride asked whether severance benefits are in place for resignations, and it was noted that they are not. MOTION was made by Patrick, seconded by McConnell, to approve the employment contract with James Voetberg. The motion carried unanimously in a voice vote.

## DISCUSSION ITEMS

**2010 U.S. Census presentation by Ping Khaw-Sutherland.** Khaw-Sutherland reviewed the 2010 Census efforts and plans.

## ACTION ITEMS

**ODOT Fund Exchange Agreement No. 25448.** Ritzman explained the agreement. He recommended adoption of Resolution No. 3466, approving the ODOT Fund Exchange Agreement No. 25448. MOTION was made by Bertuleit, seconded by McConnell, to adopt Resolution No. 3466, and authorize the mayor to sign ODOT's Fund Exchange Agreement No. 25448. The motion carried unanimously in a voice vote.

**Award of contract for temporary employment services.** Firestone explained the request. MOTION was made by Patrick, seconded by Obtshka, to approve contracts with Barrett Business Services, Inc., and Cardinal Services, Inc. to provide temporary employment services to the city. The motion carried unanimously in a voice vote.

## COUNCIL COMMENTS

McConnell asked about the format and procedure for the budget hearing. Riessbeck reported that the agenda is based on budget law. It was noted that a brief Urban Renewal Agency meeting would occur immediately prior to the Budget Committee meeting. The URA will discuss a contribution to the Port of Newport for assistance with the NOAA research fleet recruitment.

It was noted that the discussion on Council Rules had not occurred at the work session, but would occur at the next work session. McConnell requested a special work session be held if the discussion does not occur at the next work session. Firestone reported that this is a matter for Council to review and make recommendations for changes.

## ADJOURNMENT

Having no further business, the meeting adjourned at 7:52 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor

May 11, 2009  
4:00 P.M.  
Newport, Oregon

The City Council of the City of Newport met in a special meeting on the above date in Conference Room A of the Newport City Hall. On roll call, Bain, Kilbride, Patrick, Brusselback, McConnell, Obteshka, and Bertuleit were present.

Staff attending was as follows: City Manager Shaddox, City Recorder Hawker, and City Attorney Firestone.

**Review City Council Rules.** Patrick requested clarification regarding Section D. under the Agenda section, regarding action items during Council work sessions. Firestone noted that this provides flexibility, and refers to any motion made by Council during these meetings. The following change was suggested to the last sentence of this section: “Formal action items will not normally be scheduled during work sessions, but Council may take formal action if required.”

Patrick asked about annual reports of boards, commissions, and committees. It was noted that these reports were “at the request of Council.” It was noted that the reporting requirement includes task forces and ad hoc committees. Patrick recommended a joint meeting of the City Council and Planning Commission.

Patrick asked about the Confidentiality section of the rules, and particularly who designates who is to issue public statements. A discussion ensued, and it was agreed that this person should be the city manager or other person authorized by the City Council.

Patrick requested the definition of censure in the Confidentiality section, Paragraph C. Firestone reported that this is action taken, by the City Council, in the form of a resolution or motion, against a Councilor for violation of the confidentiality rules.

Kilbride asked whether Council can delegate a proxy for voting purposes. Firestone noted that this cannot be done.

Patrick asked about emergency meetings on page six. It was noted that there is also a section on meetings on page seventeen. These two sections will be combined and include meeting categories with subsections, and relocated within the Council Rules.

Patrick asked about materials discussed in executive session, and particularly whether Councilors may share the information with Councilors who were not in attendance. Firestone reported that it is permissible. A further discussion ensued regarding who can attend executive sessions, and it was agreed to amend section A. of the Executive Session section by the addition of “parties directly involved.” Section D. of this section should be amended to read “Material or other privileged communication discussed during an executive session should not be disclosed outside the executive session.

Patrick requested a copy of the statute that allows for a prohibition on firearms in a public building.

Patrick requested clarification of the City Council role when serving as a liaison to a board, committee, commission, or other entity. It was agreed to change Paragraph A. of this section to read: “Not attempt to lobby or influence the board, commission, or committee on any item under its consideration. It is important for the advisory body to

make objective recommendations to the Council on items before them. However, nothing in this section precludes the Council member from asking questions, making comments, explaining what the Council expects from the board, commission, or committee, or explaining Council policy.” Shaddox reported that he has witnessed lobbying by Council liaisons and noted that it has to stop.

A further discussion ensued regarding the sections on weapons and hats, and it was agreed to remove both sections.

Patrick suggested removing the last sentence of the Litigation Section. It was agreed to add an additional sentence that would read: “The city manager and city attorney will provide the Council with a report of all claims filed against the city.”

Firestone reported that there is no requirement of a roll call at the beginning of the meetings. It was agreed to continue with the practice of calling roll at the outset of regular City Council meetings. A discussion ensued regarding the agenda. Staff was asked to issue a press release regarding public comment occurring at the beginning of regular City Council meetings, effective July 1, 2009. Staff will also determine whether this announcement can be printed on the water bills.

A discussion ensued regarding the section entitled, “Representing the City.” It was agreed to leave this section as it is written.

Patrick suggested that Council interview applicants for board, commission, and committee vacancies, as addressed in the section entitled “Vacancies on Boards, Commissions, and Committees.” It was agreed that this section be rewritten as follows: “The mayor, with the consent of the Council, shall appoint all members of boards, commissions, and committees, and appoint persons to fill all vacancies. The city manager will seek applications from interested candidates. The Council may, and normally will, interview applicants for the Planning Commission and Budget Committee.” Council requested staff make sure that committee vacancies are listed on the city website.

A discussion ensued regarding abstentions. It was agreed to amend the first paragraph of the “Voting” section to read: “Every Council member who may legally vote on a motion shall vote on a motion unless a majority of the Council present, for special reason, allows the Council member to abstain. The Council member must declare the intent to abstain prior to the vote and explain the reason for the abstention.”

It was suggested that proclamations be read in their entirety only if someone is in attendance to accept the proclamation. Otherwise, only the event and dates will be announced

Firestone will make the recommended amendments, reorganize the rules, and submit a draft to Council.

**Discussion and direction on recruitment strategies for filling the city attorney position.** Council discussed the recruitment of a city attorney. Shaddox distributed copies of the RFP that was used in the last recruitment. Firestone recommended an in-house attorney, noting that it is more efficient if the attorney is in the building. It was the consensus of Council that an in-house city attorney be hired. MOTION was made by Brusselback, seconded by Obteshka, to direct staff to prepare an advertisement and begin the recruitment process for an in-house city attorney. The motion carried unanimously in a voice vote.

**City Council communications.** Shaddox noted that he does not see the City Council as dysfunctional in any way. He added that there are areas for improvement in the manner and style of conducting public meetings. He noted that some degree of interpersonal conflict is a part of the dynamic, and recommended treating one another with respect, and honoring and acknowledging disagreements. He suggested that Council bury the hatchet and move on to the business of the city. He noted that the interpersonal conflicts have trickled down to the staff and is having an impact on them. It was recommended that this discussion continue, and Council bring 10 – 15 issues they would like to see improve.

**Adjournment.** Having no further business, the meeting adjourned at 6:00 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor

## NEWPORT FIRE DEPARTMENT CITY REPORT April 2009

	CITY	RURAL		CITY	RURAL
FIRE CALLS:	4	0	PERMITS ISSUED:		
AUTOMATIC ALARMS:	5	1	BURN PERMITS:	54	107
MEDICAL CALLS:	45	5	FIREWORKS PERMIT:	0	0
MVC'S:	3	3	FIREWORKS DISPLAY:	0	0
HAZMAT STANDBY:	0	1			
MUTUAL AID RENDERED:	2	0			
MUTUAL AID RECEIVED:	0	0	TOTAL INSPECTIONS:		32
HELICOPTER STANDBY:	0	0	VIOLATIONS:		12
PUBLIC SERVICE	4	0	ABATEMENTS:		17
HAZARDOUS CONDITION	0	1	PLAN REVIEWS:		14
OVERPRESSURE/RUPTURE:	0	0	CONSTRUCTION INSPECTIONS:		7
			VOLUNTEER HOURS		348

### OCCUPANCIES

AIRCRAFT:	0	0	PROCESSING PLANTS:	0	0
BOATS:	0	0	PUBLIC BUILDINGS:	0	0
HOSPITAL/CARE CENTER:	4	0	REPAIR SHOPS:	0	0
HOTEL/MOTEL:	0	0	RESIDENTIAL:	3	1
LABORATORIES:	1	0	RESTAURANT:	0	0
LAUNDRAMATS:	0	0	SCHOOLS:	0	0
LAUNDRIES:	0	0	SERVICE STATION:	0	0
MANUFACTURING:	0	0	STORAGE:	0	0
MARINA:	0	0	STORES:	0	0
MISCELLANEOUS:	0	0	TAVERNS:	0	0
MOTOR VEHICLES:	0	0	TRAILERS:	0	0
NATURAL COVER:	1	0	UTILITIES:	0	0
OFFICES:	0	0	VACANT BUILDINGS:	0	0

### FIRE CAUSES

	CITY	RURAL		CITY	RURAL
ALARM MALFUNCTION:	0	0	HEATING APPLIANCE:	0	1
CARELESS SMOKING:	0	0	INCENDIARY:	0	0
CHILDREN W/HEAT	0	0	MISCELLANEOUS:	0	0
CLEARANCE:	0	0	MISTAKEN ALARM:	2	0

**NEWPORT FIRE DEPARTMENT  
CITY REPORT April 2009**

ELECTRICAL:	0	0	OPEN FIRES:	5	0
ENGINE BACKFIRE:	0	0	REKINDLE:	0	0
EXPOSURE FIRE:	0	0	SCORCHED FOOD:	2	0
FALSE ALARM:	0	0	SPARKS:	0	0
FIREWORKS:	0	0	UNDETERMINED:	0	0
FLAMMABLE LIQUID:	0	0	WELDING/CUTTING:	0	0
FLUES:	0	0			
FRICTION:	0	0			
GAS LEAK:	0	0			

**LOSS OF LIFE****INJURY**

CIVILIAN:	0	FIREFIGHTER:	0	CIVILIAN:	0	FIREFIGHTER:	0
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# Newport Police Department Monthly Statistical Review



## SELECTED CALLS FOR SERVICE (CFS)

	APRIL 2009			ARRESTS	Total CFS To Date	
	THIS MONTH	LAST MONTH	SAME TIME LAST YEAR		This Year	Last Year
RAPE	0	3	1	0	3	6
ROBBERY	2	0	1	0	2	4
AGGRAVATED ASSAULT	3	3	4	2	9	7
BURGLARY (Residential)	6	6	3	0	18	17
BURGLARY (Business)	2	0	3	0	7	5
BURGLARY (Other)	0	1	1	0	1	6
THEFT	28	31	46	8	135	130
MOTOR VEHICLE THEFT	4	5	3	1	12	15
FRAUD	12	2	17	2	28	11
SIMPLE ASSAULT	11	8	5	8	31	29
VANDALISM	7	12	16	4	36	28
SEX OFFENSE	3	2	1	2	13	8
NARCOTIC/DRUGS	11	7	6	8	37	29
DOMESTIC DISPUTES	20	13	18	x	69	61
LIQUOR LAWS	2	13	1	1	12	20
DUII	11	8	12	10	45	44
DISORDERLY CONDUCT	11	13	17	11	69	49
TRESPASS/PROWLER	11	12	12	9	41	51
TRAFFIC CRASH/INJURY/FATAL	10	5	6	0	21	10
TRAFFIC CRASH/PROPERTY	17	6	12	0	41	25
HIT & RUN	9	10	13	3	33	30
ANIMAL PROBLEMS	21	19	28	x	59	82
SUSPICIOUS PERS/CIRCUM	74	82	57	0	277	231
VEHICLE IMPOUNDS	14	13	16	x	65	61
ALARMS	37	44	34	x	155	199
<b>TOTAL CALLS FOR SERVICE</b>	<b>578</b>	<b>533</b>	<b>850</b>	<b>107</b>	<b>2,303</b>	<b>2,470</b>

## April Overtime Hours

Shift Coverage	62
Court	42
Investigations	62
Administration	45
Training	49
Other	18
<b>TOTAL HOURS</b>	<b>277</b>

## Top 5 Traffic Citation Charges

Driving Susp/Revoked	11
No Operator License	5
Fail to Obey Trf Dev	5
Speeding	5
Driving Uninsured	4
<b>TOTAL CITATIONS</b>	<b>49</b>

**PARKING CITATIONS 6**

**WARNING CITATIONS 93**

**Volunteer Hours 196**

**CITY OF NEWPORT**  
*Monthly Disbursements*  
*April 2009*

Vendor Name	Check Date	Check Number	Dept	Amount
A Work Safe Service, Inc	4/24/2009	3740	3605	150.00
Abby's Pizza	4/10/2009	3598	1090	46.40
Aboveboard Electric, Inc	4/10/2009	3599	1100	840.17
Aboveboard Electric, Inc	4/10/2009	3599	1510	195.00
Aboveboard Electric, Inc	4/10/2009	3599	4010	826.02
Aboveboard Electric, Inc	4/10/2009	3599	4020	116.00
Aboveboard Electric, Inc	4/24/2009	3741	1100	78.00
Aboveboard Electric, Inc	4/24/2009	3741	4520	905.36
Aboveboard Electric, Inc	4/24/2009	3741	4830	75.00
Access Equipment Rental	4/10/2009	3600	4020	275.28
Action Networks, Inc	4/3/2009	3503	1900	705.00
AFLAC	4/30/2009	3839	1050	79.14
AFLAC	4/30/2009	3839	1070	652.31
AFLAC	4/30/2009	3839	1090	266.22
AFLAC	4/30/2009	3839	1200	103.80
AFLAC	4/30/2009	3839	1400	56.70
AFLAC	4/30/2009	3839	1500	43.30
AFLAC	4/30/2009	3839	4010	75.60
Albinio, Melanie	4/10/2009	3602	4870	49.00
ALL- STAR ENGRAVING	4/3/2009	3514	1070	46.95
ALL- STAR ENGRAVING	4/10/2009	3603	1090	216.70
Allstart Auto Electric, Inc	4/10/2009	3604	3605	40.70
Alsea Bay Power Products	4/24/2009	3742	4510	10.59
Amerigas	4/3/2009	3515	3605	216.25
Analytical Laboratory & Consul	4/24/2009	3743	4010	567.00
Anderson, John D	4/10/2009	3605	4870	4.20
Anderson, Tim	4/10/2009	3606	4870	371.25
Annas Consultants, Inc.	4/10/2009	3607	1090	1,515.87
AOPA	4/10/2009	3608	7005	39.00
Arbitrage Compliance Spec. Inc	4/3/2009	3516	4590	3,500.00
Associated Cleaning Serv., Inc	4/10/2009	3609	7005	124.25
Associated Cleaning Serv., Inc	4/24/2009	3744	various	6,193.00
AT Conference	4/10/2009	3610	1010	52.68
AT Conference	4/10/2009	3610	7005	80.10
AT&T	4/3/2009	3517	7110	53.84
Audio Editions	4/10/2009	3611	1100	8.00
Audio Editions	4/24/2009	3746	1100	851.39
Auto Additions, Inc	4/10/2009	3612	1070	88.00
Auto Additions, Inc	4/24/2009	3747	1070	24,088.75
Automation Group Inc.	4/3/2009	3518	4010	277.90
Automation Group Inc.	4/3/2009	3518	4510	2,029.45

Automation Group Inc.	4/3/2009		3518		4520		1,880.00
Automation Group Inc.	4/10/2009		3613		4020		1,039.09
Automation Group Inc.	4/10/2009		3613		4810		140.00
Avaya, Inc	4/10/2009		3614		1090		55.00
Baker & Taylor Entertainment	4/3/2009		3519		1100		81.32
Baker & Taylor Entertainment	4/10/2009		3615		1100		837.05
Bank of America	4/10/2009		3616		1090		65.54
Barnes, Laurence	4/24/2009		3748		1510		156.85
Barrelhead Supply, Inc	4/3/2009		3520		1090		2.63
Barrelhead Supply, Inc	4/3/2009		3520		3605		22.98
Barrelhead Supply, Inc	4/3/2009		3520		4010		72.84
Barrelhead Supply, Inc	4/3/2009		3520		4020		40.30
Barrelhead Supply, Inc	4/3/2009		3520		4520		2.01
Barrelhead Supply, Inc	4/3/2009		3520		7005		359.60
Barrelhead Supply, Inc	4/3/2009		3520		7110		6.86
Barrelhead Supply, Inc	4/10/2009		3617		1510		-13.29
Barrelhead Supply, Inc	4/10/2009		3617		7110		37.20
Barrett Business Svices, Inc	4/3/2009		3521		4520		547.40
Barrett Business Svices, Inc	4/10/2009		3618		4510		398.65
Barrett Business Svices, Inc	4/10/2009		3730		4870		705.60
Barrett Business Svices, Inc	4/24/2009		3749		4520		345.10
Barrett Business Svices, Inc	4/24/2009		3831		4520		261.80
Big Bend Community College	4/24/2009		3750		1090		1,533.00
Bike Newport	4/10/2009		3619		4830		20.00
BLACKWOOD, LEE ROBERT	4/24/2009		3751		4870		150.00
Blumenthal Uniforms & Equipmnt	4/24/2009		3752		1090		2,514.96
Blumenthal Uniforms & Equipmnt	4/24/2009		3752		1091		356.60
Bobo-Shisler, Julie	4/10/2009		3620		4810		20.00
Booth, Richard	4/10/2009		3621		4870		20.00
BRENNTAG PACIFIC, INC	4/3/2009		3523		4010		2,976.90
BRENNTAG PACIFIC, INC	4/10/2009		3622		4010		3,053.75
Brown, Alan Tire Center	4/3/2009		3524		3605		201.82
Brown, Jeff A/V Productions	4/10/2009		3623		1010		450.00
Brown, Jeff A/V Productions	4/24/2009		3753		1010		450.00
BS&B Safety Systems LLC	4/24/2009		3739		4520		2,655.88
Building Department, Llc , The	4/3/2009		3525		4610		1,688.78
Building Department, Llc , The	4/3/2009		3525		4620		359.80
Caldwell Upholstery	4/3/2009		3526		4830		148.35
Carquest Auto Parts	4/3/2009		3527		3605		23.68
Carquest Auto Parts	4/10/2009		3624		3605		13.54
Carson Oil Co	4/10/2009		3625		1090		75.43
Carson Oil Co	4/24/2009		3754		1070		195.41
Cedar Creek Quarries, Inv	4/3/2009		3528		4020		122.46
Central Coast Excavating, Inc	4/24/2009		3755		4520		3,210.00
Central Lincoln P.U.D	4/3/2009		3529		various		7,291.35
Central Lincoln P.U.D	4/10/2009		3626		various		5,390.51
Central Lincoln P.U.D	4/24/2009		3756		various		43,617.75
Centro de Ayuda	4/24/2009		3757		1030		327.50
Ch2mhill	4/10/2009		3627		4510		2,837.05

CHAN, ROSE W	4/24/2009		3758		4000		89.75
Channing Bete Company, Inc.	4/3/2009		3506		5210		913.42
Charter Communications	4/10/2009		3628		4010		57.99
Charter Communications	4/24/2009		3759		4830		31.55
Cheek, Rebecca	4/10/2009		3629		4870		186.90
City Center Newport Assn. Inc.	4/24/2009		3760		7430		7,500.00
City County Insurance Service	4/24/2009		3761		1070		106.38
Civil West Engineering Service	4/24/2009		3762		4090		2,612.00
Clemons, Julia E.R	4/10/2009		3630		4870		525.00
Coast Range Equipment and Repa	4/10/2009		3631		4010		85.00
Coast Range Equipment and Repa	4/24/2009		3763		4520		2,550.55
Coast Telecomm	4/24/2009		3764		1070		89.50
Coastal Paper & Supply	4/10/2009		3632		4810		86.19
Coastal Refrigeration	4/3/2009		3513		1200		332.27
Coastal Refrigeration	4/3/2009		3513		3605		85.00
Coastal Refrigeration	4/24/2009		3765		4810		773.99
Coastal Refrigeration	4/24/2009		3765		7430		75.00
COASTCOM, INC	4/3/2009		3530		1200		71.23
COASTCOM, INC	4/3/2009		3530		1900		385.46
Coates & Kokes	4/10/2009		3633		7005		7,746.23
Cohen, Rebecca	4/24/2009		3766		1100		78.50
Columbia Cascade Company	4/10/2009		3634		5500		1,450.00
Copeland Lumber	4/3/2009		3531		3805		4.60
Copeland Lumber	4/3/2009		3531		4830		0.85
Curtis, L.N. & Sons	4/3/2009		3532		1090		3,394.81
DCBS-Fiscal Services	4/10/2009		3635		4610		707.46
DCBS-Fiscal Services	4/10/2009		3635		4620		851.95
Dell Financial Services	4/24/2009		3767		5100		2,743.15
Department of Motor Vehicle	4/10/2009		3636		1070		110.00
DEQ	4/24/2009		3768		4020		500.00
DHS Health Services Agency	4/10/2009		3637		1090		30.00
DHS Health Services Agency	4/29/2009		3837		1090		810.00
Dickinson, Steve	4/3/2009		3533		1510		3,075.60
Dickinson, Steve	4/24/2009		3769		1510		2,533.88
DMV Driver & Motor Vehicle Ser	4/24/2009		3770		1070		35.00
Doug's Electric	4/24/2009		3771		3805		104.21
Dutton, Richard	4/10/2009		3638		1020		23.93
Dutton, Richard	4/24/2009		3772		1020		15.68
Embarcadero Resort Hotel	4/10/2009		3731		1020		1,500.00
Emerald Springs	4/10/2009		3639		4510		51.00
EMERGENCY MEDICAL PRODUCT, INC	4/10/2009		3640		5210		28.45
Englund Marine Supply	4/3/2009		3535		3805		201.45
Englund Marine Supply	4/10/2009		3641		3605		18.75
Englund Marine Supply	4/10/2009		3641		4520		20.56
Englund Marine Supply	4/10/2009		3641		4830		58.61
Enterprise Rent-A-Car	4/3/2009		3536		1525		74.00
Enviro-Clean Equipment, Inc	4/24/2009		3773		4520		1,631.87
Facts on File	4/24/2009		3774		1100		299.60
Fastenal Company	4/3/2009		3537		3805		3.17

Fastenal Company	4/3/2009		3537		4520		58.11
Fastenal Company	4/10/2009		3642		4020		31.92
Fastenal Company	4/10/2009		3642		7005		100.50
Fastenal Company	4/24/2009		3775		3805		8.13
FedEx	4/10/2009		3643		4040		11.12
FedEx	4/10/2009		3643		4540		11.12
FERGUSON ENTERPRISES, INC NW	4/3/2009		3538		3605		19.99
FERGUSON ENTERPRISES, INC NW	4/3/2009		3538		4010		-12.47
FERGUSON ENTERPRISES, INC NW	4/3/2009		3538		4020		2,587.50
Forrest, Holly & Grant	4/10/2009		3644		4810		79.00
Globalstar USA	4/3/2009		3539		1070		21.54
Grady Britton	4/3/2009		3540		7430		32,647.05
Graymont Capital Inc.	4/3/2009		3541		4510		2,501.40
Greater Newport Chamber of Crc	4/3/2009		3542		7430		37,500.00
Greater Newport Chamber of Crc	4/24/2009		3776		7430		400.00
Groth-Gates Heating & Sheet Me	4/10/2009		3646		4510		283.54
GRP DATA , LLC	4/3/2009		3543		4520		2,005.00
Hach Company	4/3/2009		3544		4510		335.47
Hach Company	4/10/2009		3647		4010		741.28
Hach Company	4/24/2009		3777		4010		308.31
HAGGERTY, JENNIFER	4/3/2009		3545		1100		25.00
Halco Welding, Inc	4/3/2009		3512		4520		2,880.00
Halsey Sign, Inc	4/10/2009		3648		7110		1,115.00
Halsey Sign, Inc	4/24/2009		3778		1070		477.00
Harris Office	4/10/2009		3649		1070		544.43
Harris Office	4/10/2009		3649		3610		8.75
Hart, Roger	4/10/2009		3650		4870		4.20
Harvey's Lock & Key service	4/3/2009		3546		4010		122.10
Harvey's Lock & Key service	4/24/2009		3779		4810		294.85
Harvey's Lock & Key service	4/24/2009		3779		4830		80.00
Hasty Awards	4/24/2009		3780		4870		592.23
Hatfield Marine Science Center	4/10/2009		3651		7430		2,500.00
Hawker, Margaret	4/10/2009		3732		1020		140.06
HD Supply Waterworks, LTD	4/24/2009		3782		4020		2,711.23
Helms, Mindy	4/10/2009		3733		4810		79.00
HINZMAN, TERRY	4/24/2009		3783		4510		150.00
Hudgins, Matthew	4/24/2009		3784		7110		480.00
Industrial Welding Supply, Inc	4/3/2009		3547		1090		42.99
Ingram Library Services	4/3/2009		3548		1100		170.12
Ingram Library Services	4/10/2009		3652		1100		343.08
Ingram Library Services	4/24/2009		3785		1100		3,382.14
Integra	4/3/2009		3549		various		2,478.78
Itron, Inc	4/10/2009		3653		4040		347.22
Itron, Inc	4/10/2009		3653		4540		347.21
J.C. Market	4/3/2009		3550		1070		33.12
J.C. Market	4/3/2009		3550		1900		155.15
J.C. Market	4/3/2009		3550		3605		25.96
J.C. Market	4/3/2009		3550		4090		5.50
J.C. Market	4/3/2009		3550		4870		63.94

J.C. Market	4/10/2009		3654		1900		136.74
J.C. Market	4/24/2009		3786		1090		8.01
Javelina Trading Company	4/3/2009		3551		4020		279.24
KCUP-AM	4/10/2009		3655		7005		236.00
KEIRANS, JENNIFER	4/24/2009		3832		1100		92.62
Klein, Priscilla	4/10/2009		3656		1030		27.50
KPPT-AM/KPPT FM	4/10/2009		3657		7005		767.00
KPPT-AM/KPPT FM	4/24/2009		3787		4870		200.00
KSHL Radio	4/10/2009		3659		4870		150.00
Landmark Audiobooks	4/10/2009		3660		1100		131.40
LEAF	4/10/2009		3661		7005		97.21
LEAF	4/10/2009		3661		7110		97.20
Lewis, Carrie	4/24/2009		3788		4810		20.00
Lincoln County Assesor's Offic	4/10/2009		3662		1400		657.00
Lincoln County Consortium	4/24/2009		3789		7910		19,240.07
Lincoln County Fleet Services	4/24/2009		3790		1090		405.46
LINCOLN COUNTY JUVENILE DEPT.	4/10/2009		3663		1510		855.00
Lincoln County Print Shop	4/3/2009		3552		1070		9.00
Lincoln County Public Works	4/10/2009		3664		1510		529.14
Lincoln County Public Works	4/10/2009		3664		3605		2,257.33
Lincoln County Public Works	4/24/2009		3791		1070		2,262.67
Lincoln County Public Works	4/24/2009		3791		1090		506.48
Lincoln County Public Works	4/24/2009		3791		1091		78.30
Lincoln County Public Works	4/24/2009		3791		1100		24.57
Lincoln County Surveyor's Offi	4/10/2009		3665		3610		20.00
Lincoln County Transportation	4/10/2009		3666		7430		90,000.00
Lincoln Equipment, Inc	4/3/2009		3553		4810		71.18
Lincoln Glass Company	4/10/2009		3667		1510		293.75
Lincoln Glass Company	4/10/2009		3667		1525		85.00
Lloyd, Robert Sheet Metal, Inc	4/3/2009		3554		1200		360.00
Lumbermens/ProBuild	4/3/2009		3504		1090		11.99
Lumbermens/ProBuild	4/3/2009		3504		1510		-1.61
Lumbermens/ProBuild	4/3/2009		3504		1510		26.10
Lumbermens/ProBuild	4/3/2009		3504		1510		15.48
Lumbermens/ProBuild	4/3/2009		3504		1510		9.46
Lumbermens/ProBuild	4/3/2009		3504		1510		12.23
Lumbermens/ProBuild	4/3/2009		3504		1510		2.26
Lumbermens/ProBuild	4/3/2009		3504		1510		45.71
Lumbermens/ProBuild	4/3/2009		3504		3605		90.38
Lumbermens/ProBuild	4/3/2009		3504		3805		40.22
Lumbermens/ProBuild	4/3/2009		3504		4520		31.92
Lumbermens/ProBuild	4/3/2009		3504		4830		11.48
Lumbermens/ProBuild	4/3/2009		3504		4830		9.49
Lumbermens/ProBuild	4/3/2009		3504		7110		45.74
M & E Septic Service	4/3/2009		3555		4010		175.00
MacHugh, Keith	4/10/2009		3734		4810		37.00
Mayer/Reed	4/3/2009		3507		7430		12,100.88
Mccoy, Ed	4/3/2009		3510		4510		172.95
McLaughlin,Jim	4/3/2009		3556		4520		223.84

Med-Tech Resource, Inc	4/10/2009		3668		1090		85.28
MENTOR/Nat'l Mentoring Partner	4/10/2009		3735		4870		72.00
Microflex Corporation	4/10/2009		3669		4510		321.30
MIKE'S HEATING AND AIR	4/3/2009		3557		4830		720.00
Mulder Sheet Metal, Inc	4/3/2009		3558		4020		135.75
Murphy, Ireta	4/10/2009		3671		4870		21.00
Murphy, Robert	4/10/2009		3672		1090		520.88
Nationwide Retirement Solution	4/30/2009		3840		1020		9,825.94
New Northwest Broadcasters,LLC	4/10/2009		3673		7005		3,004.00
NEWPORT AUTO PARTS, INC	4/3/2009		3559		1070		20.97
NEWPORT AUTO PARTS, INC	4/3/2009		3559		1090		55.49
NEWPORT AUTO PARTS, INC	4/3/2009		3559		3605		28.83
NEWPORT AUTO PARTS, INC	4/3/2009		3559		4020		119.88
NEWPORT AUTO PARTS, INC	4/3/2009		3559		4520		52.83
NEWPORT AUTO PARTS, INC	4/3/2009		3559		7110		47.27
NEWPORT AUTO PARTS, INC	4/10/2009		3674		1510		67.97
Newport Diesel & Marin Co, Inc	4/3/2009		3560		3605		1,250.03
Newport Electronics	4/10/2009		3675		1090		6.00
Newport Fire Fighters Assn	4/30/2009		3841		1090		490.40
Newport Glass Compny, Inc	4/3/2009		3561		1525		25.00
Newport Oregonian	4/24/2009		3792		1090		139.48
Newport Parks & Recreation	4/24/2009		3793		1500		125.72
Newport Police Association	4/30/2009		3842		1070		1,318.31
Newport Plumbing, Inc	4/10/2009		3676		1510		5.55
Newport Plumbing, Inc	4/10/2009		3676		4520		450.00
Newport Public Library	4/3/2009		3511		1100		109.36
Newport Public Library	4/10/2009		3677		1100		26.19
Newport Public Library	4/24/2009		3794		1100		60.93
Newport Rental Service, Inc	4/3/2009		3505		7005		235.50
Newport Rental Service, Inc	4/24/2009		3795		1510		66.75
Newport Volunteer Fire Departmt	4/10/2009		3678		1090		2,575.00
News Guard, The	4/10/2009		3679		1100		26.00
News-Times	4/10/2009		3680		1400		343.20
News-Times	4/10/2009		3680		4870		715.76
News-Times	4/24/2009		3796		1070		114.35
Nextel Communications	4/3/2009		3562		1070		1,184.56
NO-D-LAY SHOE SHOP	4/10/2009		3681		3605		1,264.90
Northeast Wisconsin Technical	4/3/2009		3563		1070		125.00
Northwest Radiator	4/24/2009		3798		1510		258.00
Northwest Vending Co	4/10/2009		3682		7110		60.16
NW Natural	4/3/2009		3564		4020		163.54
NW Natural	4/3/2009		3564		4520		243.94
OACA	4/3/2009		3565		1030		155.00
OAWU	4/10/2009		3683		4520		215.00
O'Callaghan, Peggy	4/10/2009		3736		1525		87.38
O'Callaghan, Peggy	4/24/2009		3799		1525		21.54
OCCA	4/3/2009		3566		7430		26,275.00
OCCA	4/10/2009		3684		7430		7,650.00
Ocean Tire factory	4/24/2009		3800		1070		70.00

OCZMA	4/24/2009		3801		1010		25.00
Old Republic Surety Company	4/10/2009		3685		1900		530.00
OMJA	4/3/2009		3567		1030		85.00
OREGON AFSCME	4/30/2009		3843		1200		826.95
Oregon Cabintes	4/10/2009		3686		1525		125.00
Oregon Department of Justice	4/30/2009		3846		1070		442.00
Oregon Department of Justice	4/30/2009		3845		1090		458.00
Oregon Department of Justice	4/30/2009		3844		4020		400.00
Oregon Department of Justice	4/30/2009		3847		7005		468.00
Oregon Department of Transport	4/10/2009		3687		1900		43.78
Oregon Fire Chiefs' Associatio	4/10/2009		3689		1090		275.00
Oregon State Police	4/10/2009		3690		4870		230.00
Oregon State Police	4/24/2009		3802		1525		10.00
Orsborn Power Saw Co	4/10/2009		3691		1510		124.94
Owen Equipment	4/3/2009		3568		3605		418.77
P&S Preferred LLC	4/3/2009		3569		1510		80.30
Pacific Coast Plumbing, Inc	4/10/2009		3692		7430		187.50
Pacific Coast Plumbing, Inc	4/24/2009		3803		4810		505.47
Pacific Northwest Police	4/3/2009		3508		1070		345.00
Paramount Supply	4/3/2009		3570		4010		31.38
Parque, Antoinette	4/3/2009		3509		4000		91.72
Past Performance, LLC	4/10/2009		3693		4020		235.00
PBS Engineering + Environment	4/3/2009		3571		4010		6,307.00
Peak Internet	4/10/2009		3694		1020		54.95
Peak Internet	4/10/2009		3694		7110		70.00
Peak Internet	4/24/2009		3804		4810		22.00
Pepsi-Cola Bottling Co. Eugene	4/3/2009		3572		4830		164.40
Pepsi-Cola Bottling Co. Eugene	4/10/2009		3695		4830		411.10
Pettis, Tony	4/10/2009		3737		4810		129.00
Pioneer Printing, Inc	4/10/2009		3696		7110		50.00
Pioneer Telephone Cooperative	4/10/2009		3697		1090		0.23
Pioneer Telephone Cooperative	4/10/2009		3697		4510		158.37
Platt Electric Supply	4/3/2009		3573		1510		34.39
Platt Electric Supply	4/3/2009		3573		4010		3.00
Polydyne, Inc	4/10/2009		3698		4510		9,476.00
Poshusta, Al	4/24/2009		3805		1070		295.00
PRCHAL, LEE ANN	4/24/2009		3833		4830		39.00
Pridgeon, Jeff	4/3/2009		3574		1030		1,200.00
Public Works Supply, Inc	4/10/2009		3699		4520		382.00
Qwest	4/3/2009		3575		various		1,310.65
Qwest	4/24/2009		3806		7430		39.47
R & W Engineering, Inc.	4/24/2009		3807		5150		3,871.46
Recreation Resource, Inc	4/24/2009		3808		1510		3,402.00
Reid, Nancy	4/10/2009		3700		4870		21.00
Reserve Account	4/3/2009		3576		1010		3,164.96
Ritchey, John	4/24/2009		3809		4510		140.91
Ritzman, Lee	4/3/2009		3577		3605		101.00
Road & Driveway Company, Inc	4/10/2009		3701		4520		1,372.63
Rogue Interagency Training Ass	4/10/2009		3702		1090		250.00

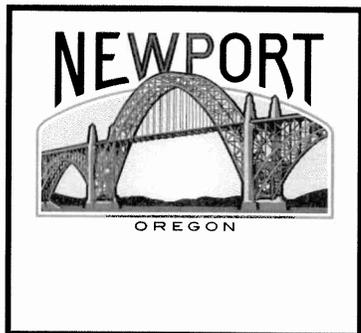
Sax, Mark	4/24/2009		3810		4020		144.50
Scanners Digital Solutions	4/3/2009		3578		7005		219.00
Seal Rock Water District	4/3/2009		3579		4090		734.10
Seal Rock Water District	4/24/2009		3811		4045		5,000.00
Sears	4/24/2009		3812		4520		265.98
Secretary of State	4/10/2009		3704		1030		20.00
Sherwin-Williams	4/10/2009		3705		3805		15.30
Shilo Inns	4/3/2009		3580		1090		1,959.72
Silver Spring Upholstery	4/3/2009		3581		4020		184.20
SMITH, TED J	4/10/2009		3738		1100		100.65
Solomonson, Mary	4/10/2009		3706		4870		322.50
Spec Industries Inc.	4/10/2009		3707		4520		555.00
Standard and Poor's	4/10/2009		3708		4010		9,375.00
Staples	4/3/2009		3582		1070		57.96
Staples	4/3/2009		3582		4810		102.98
Staples	4/3/2009		3582		4870		23.98
Staples	4/3/2009		3582		7005		34.98
Staples	4/24/2009		3813		1020		44.21
Staples Link/Business Advantag	4/3/2009		3583		1070		35.02
Staples Link/Business Advantag	4/10/2009		3709		1070		131.59
Steen's Master Lube	4/3/2009		3584		3605		33.95
Steen's Master Lube	4/10/2009		3710		3605		32.95
Stitchin Post, The	4/3/2009		3585		1070		35.00
Swanson's Pest Mangt., Inc	4/10/2009		3711		7005		65.00
Systemax Northwest, Inc	4/24/2009		3814		1510		657.59
T&L Septic & Chemical Toilet	4/24/2009		3815		1090		504.00
T. Ryckman Construction, Inc.	4/24/2009		3816		4520		170.00
Thompson's Sanitary Serv., Inc	4/10/2009		3712	various			2,088.45
Thompson's Transfer & Disposal	4/10/2009		3713		1510		35.90
Thompson's Transfer & Disposal	4/24/2009		3817		1510		65.70
Thompson's Transfer & Disposal	4/24/2009		3817		4510		167.40
Thyssenkrupp Elevator Corp	4/3/2009		3586		1100		534.60
Thyssenkrupp Elevator Corp	4/3/2009		3586		1200		600.66
Thyssenkrupp Elevator Corp	4/3/2009		3586		1525		598.41
Thyssenkrupp Elevator Corp	4/3/2009		3586		4830		600.66
Thyssenkrupp Elevator Corp	4/3/2009		3586		7430		554.90
Thyssenkrupp Elevator Corp	4/10/2009		3714		1100		152.25
TLC Credit Union	4/8/2009		3597		1100		425.00
TLC Credit Union	4/8/2009		3597		1510		30.00
TLC Credit Union	4/8/2009		3597		4010		25.00
TLC Credit Union	4/8/2009		3597		4830		632.00
TLC Credit Union	4/30/2009		3849		1100		425.00
TLC Credit Union	4/30/2009		3849		1510		30.00
TLC Credit Union	4/30/2009		3849		4010		25.00
TLC Credit Union	4/30/2009		3849		4830		632.00
Toby Murry Motors	4/3/2009		3587		3605		242.60
Tradenet	4/24/2009		3818		7430		1,900.00
Tri Agg, Inc	4/10/2009		3715		4020		239.88
Trident Seafood Inc.	4/24/2009		3819		4000		718.54

Troyer's Marine Supply	4/3/2009		3588		4520		29.95
Troyer's Marine Supply	4/24/2009		3820		4520		176.28
True-Cut Engraving, LLC	4/3/2009		3589		1100		12.50
True-Cut Engraving, LLC	4/10/2009		3716		1010		54.00
U.S. Bank	4/24/2009		3821		4010		8,500.00
United Grocers	4/3/2009		3590		1090		110.30
United Grocers	4/3/2009		3590		1510		27.32
United Grocers	4/3/2009		3590		4510		196.53
United Grocers	4/24/2009		3822		1090		15.69
United Way of Lincoln County	4/30/2009		3850		1050		50.00
United Way of Lincoln County	4/30/2009		3850		1510		25.00
Upstart	4/10/2009		3717		1100		1,369.20
USA Blue Book	4/24/2009		3823		4010		152.58
USAMOBILITY	4/10/2009		3718		1070		31.85
USAMOBILITY	4/10/2009		3718		1510		21.78
USAMOBILITY	4/10/2009		3718		3605		3.03
USAMOBILITY	4/10/2009		3718		3805		2.53
USAMOBILITY	4/10/2009		3718		4510		3.03
USAMOBILITY	4/10/2009		3718		7005		6.57
Vadim Municipal Software, Inc	4/24/2009		3824		1050		640.00
Vaisala, Inc	4/10/2009		3719		7005		195.00
Valley Fire Control, Inc	4/3/2009		3591		4830		143.00
Valley Fire Control, Inc	4/24/2009		3825		1070		57.00
VerizonWireless	4/3/2009		3592		1070		593.91
VerizonWireless	4/10/2009		3720		various		337.14
Viking Instrument Laboratory	4/24/2009		3826		4510		500.00
Vyanet Operating Group, Inc.	4/10/2009		3721		4010		241.45
Walch's Appliance	4/10/2009		3722		4830		24.95
West Coast Linen	4/3/2009		3593		1090		12.50
West Coast Linen	4/10/2009		3723		1090		12.50
WEST COAST TRUST	4/24/2009		3835		1020		43,913.51
WEST COAST TRUST	4/24/2009		3836		1020		92,933.75
West Consultants, Inc.	4/24/2009		3827		4010		9,495.00
Western Tool Supply	4/3/2009		3594		7005		8.98
Williams, Zografos & Peck	4/24/2009		3828		1040		2,189.07
Worden, Mark	4/10/2009		3724		4510		49.91
World Data Products Inc	4/3/2009		3595		5100		12,540.00
WRG Fire Training Simulation	4/10/2009		3725		5210		1,200.00
WW Construction	4/10/2009		3726		4520		3,754.96
WW Construction	4/24/2009		3829		4520		1,605.00
Xerox Corporation	4/24/2009		3830		1010		1,600.66
Yaquina Boat Equipment, Inc	4/10/2009		3727		7110		53.75
Yoga Space	4/10/2009		3728		4870		329.70
Zee Medical Service Co	4/3/2009		3596		3605		424.57
<b>TOTALS:</b>							724,079.50

**CITY OF NEWPORT**  
*Monthly Disbursements*  
*Check Amounts Over \$25,000*  
*April 2009*

Vendor Name	Check Date	Check #	Dept.	Description	Amount
Greater Newport Chamber of Crc	4/3/2009	3542	7430	Qtrly Community Service Payment	37,500.00
Landwaves, Inc.	4/27/2009	3834	9710	Improvement for Intersection 101 & SE 40th	472,792.35
Lincoln County Transportation	4/10/2009	3666	7430	City Loop Bus Service FY 2008-09	90,000.00
OCCA	4/3/2009	3566	7430	OR COAST COUNCIL ARTS 4TH QTR PYMT	26,275.00
WEST COAST TRUST	4/24/2009	3835	1020	1st Qtr 2009 Refine Cont Retirement	43,913.51
WEST COAST TRUST	4/24/2009	3836	1020	March 2009 - Add'l Retirement	92,933.75
				TOTALS:	670,480.86

**PURCHASES OVER \$25,000 REPORTED PURSUANT TO 2.30.060 OF THE NEWPORT MUNICIPAL CODE "PUBLIC CONTRACTING - DELEGATION OF AUTHORITY"**



Agenda Item #  
Meeting Date

III.D.  
May 18, 2009

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

Issue/Agenda Title \_\_\_\_\_ Edward Byrne Memorial Grant \_\_\_\_\_

Prepared By: Miranda \_\_\_\_\_ Dept Head Approval: Chief Miranda \_\_\_\_\_ City Mgr Approval:                     *MB*                    

**Issue Before the Council:**

The Newport Police Department has applied for a Byrne Memorial Justice Assistance Grant. This is a formula program where monies have already been approved by the Federal Government, but we still have to apply for them. The grant requires that we must make the grant application available for review by the governing body.

**Staff Recommendation:**

The Police Department requests that the City Council review this application. We will be available to answer any questions.

**Proposed Motion:**

None required.

**Key Facts and Information Summary:**

The Newport Police Department proposes to use JAG funds in an effort to improve its ability to collect quality digital evidence, and to collect and process items that may have been contaminated or would otherwise be difficult to store in the condition they were recovered.

The following items are intended for purchase:

- Patrol digital cameras that have better capability for night time images and more storage capacity.
- Digital cameras for detectives and supervisors that will be able to use telephoto lenses and have functions not available in the patrol cameras.
- Digital camcorders for use at crime scenes
- Drying cabinet for drying clothing or other items that have been contaminated with body fluids or other liquids.
- Vehicle mobile video cameras for patrol vehicles that are not now equipped.
- Surveillance video camera system
- Evidence processing station to reduce possibility of cross contamination of evidence.

All purchases will follow the City's purchasing process and will use local vendors if at all possible.

**Other Alternatives Considered:**

None

**City Council Goals:**

Public Safety

**Attachment List:**

Grant application and narrative

**Fiscal Notes:**

The grant is in the amount of \$44,747 with no match required.

<b>APPLICATION FOR FEDERAL ASSISTANCE</b>	2. DATE SUBMITTED May 11, 2009	Applicant Identifier
1. TYPE OF SUBMISSION Application Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
<b>5. APPLICANT INFORMATION</b>		
Legal Name City of Newport	Organizational Unit Newport Police Department	
Address 169 SW Coast Hwy Newport, Oregon 97365-3806	Name and telephone number of the person to be contacted on matters involving this application  Teem, Dave (541) 574-0637	
6. EMPLOYER IDENTIFICATION NUMBER (EIN) 93-6002222	7. TYPE OF APPLICANT Municipal	
8. TYPE OF APPLICATION New	9. NAME OF FEDERAL AGENCY Bureau of Justice Assistance	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.804 CFDA 16.804 - Recovery Act - Justice Assistance Grants - TITLE: Localities	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT Evidence Collection and Processing Enhancement	
12. AREAS AFFECTED BY PROJECT City Of Newport		
13. PROPOSED PROJECT Start Date: July 01, 2009 End Date: June 30, 2012	14. CONGRESSIONAL DISTRICTS OF  a. Applicant b. Project OR05	
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?  Program is not covered by E.O. 12372
Federal	\$44,747	
Applicant	\$0	
State	\$0	
Local	\$0	

Other	\$0	
Program Income	\$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
TOTAL	\$44,747	N
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.		

Close Window

**Edward Byrne Memorial  
Justice Assistance Grant**

**Formula Program: Local Solicitation**

Program Narrative:

1. Newport, Oregon is a coastal city serving a resident population of approximately 10,500 people, with an additional transient daily population of 15,000. Newport, Oregon is the county seat of Lincoln County. Law Enforcement in the City of Newport consists of 22 sworn officers, 1 Community Service Officer, 5 support staff, and 12 Police volunteers. The Department is a full service Police Department providing 24 hour public safety, criminal investigations and prosecutorial support.
2. The Newport Police Department intends to use JAG funds to purchase necessary law enforcement related equipment from local vendors for providing direct service to the public that would otherwise be unavailable, as well as to improve officer effectiveness and improve criminal prosecutions. Local budgetary constraints have not allowed the Department to procure or upgrade equipment that is in daily use.
3. The Newport Police Department intends to use JAG funds to purchase products from local vendors to keep revenues local as soon as funding is available. The products will be purchased and will be implemented into field use immediately upon procurement.
4. The Newport Police Department will monitor all grant expenditures through the City Grant Administrator and report expenses and progress related to this

grant. Funds will be requested as required and placed in a specific budget line specifically for this project. Criminal investigations and prosecutions that the items purchased with JAG funds enhanced, will be evaluated and reported each City fiscal year.

Law Enforcement Program #1.

The Newport Police Department will use JAG funds to purchase 11 Olympus Stylus 1030 SW digital cameras or similar products with expanded memory cards for use in criminal investigations. The cameras will replace current digital cameras that are in service and aging. The cameras currently used by patrol staff are able to document minor events in limited conditions. The current cameras do not function well in low light or when multiple images need to be obtained quickly. Purchasing new cameras with better optics and improved features will allow investigating officers to better document crime scenes, evidence, documents and injuries to crime victims. The expanded memory cards will allow investigating officers to freely document all evidence without the fear of not having enough memory to document an event. The City of Newport is located on the Oregon coast, where the climate is frequently wet. Purchasing new cameras with waterproof features will minimize damage to cameras and the digital evidence stored on the camera regardless of the conditions the cameras are used. This project will use \$4179.89 (9%) of the available grant funds.

Law Enforcement Program #2.

The Newport Police Department will use JAG funds to purchase 9 Cannon EOS Rebel XSi digital cameras or similar products with expanded memory cards used for criminal investigations. The Cannon digital cameras will be used by supervisors and detective personnel for forensic photography of latent prints, tool marks, and victim injuries. Also proposed is the Cannon EF 100-300mm telephoto zoom lens and EF 50mm f/2.5 lens, which will allow investigators to capture high-quality close-up shots. Currently, the Newport Police Department supervisors use the same camera as patrol officers. With supervisors and patrol officers handling many investigations without the assistance of detectives, due to detective caseload, digital evidence is gathered with cameras we are seeking to replace in project 1. With some investigations requiring detailed photography, the need for high resolution cameras is needed. Having access to a high quality camera and lens for documenting crime scenes, evidence and victim injuries is vital to evidence documentation. The purchase of the Cannon Rebel cameras and telephoto lenses will also replace two cameras, which are currently being used by detectives. The current Cannon Rebel cameras in service are first generation Rebel cameras and do not have the expanded options and features, which will aid in the preserving and documentation of evidence. The Newport Police do not have a dedicated crime processing team, so personnel carry their equipment with them in the patrol vehicles. Proposed are nine Pelican Cases used to store and protect the camera and telephoto lens. This project will use \$10616.78 (23%) of the available grant funds.

### Law Enforcement Program #3.

The Newport Police Department will use JAG funds to purchase 2 Sony Handycam High Definition Digital Camcorders. The cameras will be used to document criminal investigations, surveillance, and community events. Currently, officers and detectives have access to one digital camera, which stores its entire media on tapes. The cost to replace the tapes is costly, and the camera is not always available due to a current or pending investigations. Evidence stored directly to digital media is much more effective and of higher evidentiary value than evidence that has to be converted. Purchasing two digital camcorders will increase the availability of a camcorder available to use when needed. Upgrading to a digital camcorder will also minimize the cost of documenting events due to the media being transferred to a computer versus a tape, as well as improved evidentiary value. The high definition recording will also document the event with a high quality picture/video, which can later be used in criminal trials. This project will use \$1400.00 (3%) of the available grant funds.

### Law Enforcement Program #4.

The Newport Police Department will use JAG funds to purchase a DrySafe Drying Cabinet or similar product. The cabinet would be used for drying evidence that poses a danger to officers and evidence custodians that process soiled evidence. The cabinet provides controlled, even drying conditions while containing airborne pathogens, particulates, fumes, and odors given off while drying. The cabinet also protects evidence from cross-contamination, which could compromise a successful criminal prosecution. Currently, evidence soiled in bodily fluids and/or chemicals are dried in an open evidence

processing area. In this environment cross contamination is a concern. In addition, personnel may be exposed to hazardous chemical fumes, biohazards or other health risks. The Drying Cabinet allows investigating officers and evidence custodians to work more freely without the fear of health concerns. This project will use \$6350.00 (14%) of the available grant funds.

#### Law Enforcement Program #5.

The Newport Police Department will use JAG funds to purchase 3 ICOP or similar product mobile video systems. The mobile video systems aid in documenting events as they actually happen. In addition, the mobile video systems are proven to support successful prosecution of criminal events such as Driving Under the Influence investigations, reckless driving, and other related investigations where a camera can be utilized to document events as they occur. Currently the Newport Police Department utilizes the ICOP mobile in 6 of its assigned 10 patrol cars. Using JAG funds to purchase 3 ICOP mobile video systems will outfit our active patrol cars to ensure a better prosecution rate and assist in protecting officers against fraudulent complaints. This project will use \$18000.00 (40%) of the available grant funds.

#### Law Enforcement Program #6.

The Newport Police Department will use JAG funds to purchase one Spy Camera Video system to be used by investigators for monitoring and surveillance of criminal activity. Frequently, Newport investigators are faced with investigations where repeat offenses are occurring at the same location. The use of a spy camera video system to catch unlawful

activity will aid in the successful identification and apprehension of suspects without the need for an officer to be present at the scene. In addition, the cameras will aid in theft and embezzlement investigations, where a known worker is suspected of committing a crime, but a case lacks sufficient evidence. A Spy Camera Video system will assist officers in developing evidence for successful prosecution and reduce the loss of revenues to business owners. This project will use \$1000.00 (2%) of the available grant funds.

Law Enforcement Program #7.

The Newport Police Department will use JAG funds to purchase 1 Evidence Processing Station to be used to process evidence related to criminal investigations. The Newport Police Department is in the process of developing an area within the Police Department dedicated solely to evidence handling. This is being done to reduce evidence contamination and provide a safe working environment to handling hazardous evidence and pathogens. Currently, evidence is processed in a common use area prior to being secured in permanent evidence. Dedicating an area with a station used only for the purpose of processing evidence will aid in successful prosecution of cases and increase the safety of personnel handling evidence. This project will use \$1000.00 (2%) of the available grant funds.

**Edward Byrne Memorial  
Justice Assistance Grant  
FY 2009 Budget Narrative**

**Law Enforcement Program #1 Budget:**

11	Olympus Stylus 1030 SW	\$360.00 each	Total: \$3960.00
11	San Disk 4GB Memory	\$19.99 each	Total: \$219.89

Law Enforcement Program #1 budget total: \$4179.89

**Law Enforcement Program #2 Budget**

9	Cannon EOS Rebel XSi	\$699.99 each	Total: \$6299.91
9	Cannon EF 100-200mm lens	\$299.99 each	Total: \$2699.91
1	Cannon EF 50mm lens	\$695.00 each	Total: \$695.00
9	San Disk 4GB Memory	\$19.99 each	Total: \$179.91
9	Pelican Case 1450	\$82.45	Total: \$742.05

Law Enforcement Program #2 budget total: \$10616.78

**Law Enforcement Program #3 Budget**

2	Sony Handycam HDR-XR 100	\$699.99 each	Total: \$1399.98
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Law Enforcement Program #3 budget total: \$1399.98

**Law Enforcement Program #4 Budget**

1	DrySafe Drying Cabinet	\$ 6350.00 each	Total: \$6350.00
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Law Enforcement Program #4 budget total: \$ 6350.00

**Law Enforcement Program #5 Budget**

3	ICOP Video Systems	\$6000.00 each	Total: \$18000.00
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Law Enforcement Program #5 budget total: \$ 18000.00

**Edward Byrne Memorial  
Justice Assistance Grant  
FY 2009 Budget Narrative**

**Law Enforcement Program #6 Budget**

1 Spy Camera Video System \$1000.00 each Total: \$1000.00

Law Enforcement Program #6 budget total: \$ 1000.00

**Law Enforcement Program #7 Budget**

1 Evidence Processing Table \$1000.00 each Total: \$1000.00

Law Enforcement Program #7 budget total: \$ 1000.00

**Other**

Miscellaneous administrative costs to monitor and report grant activity \$2200.00

Edward Byrne Memorial Justice Assistance Budget Narrative grand total: **\$ 44746.65**

**Edward Byrne Memorial  
Justice Assistance Grant**

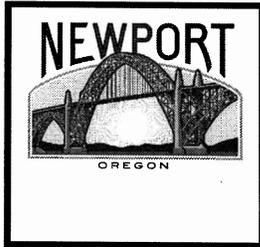
**FY 2009 Local Solicitation**

**Review Narrative:**

The 2009 Edward Byrne Memorial Justice Assistance Grant, FY 2009 Local Solicitation, application is scheduled for the City Council agenda to be reviewed by the Newport City Council on May 18, 2009.

A copy of the 2009 Edward Byrne Memorial Justice Assistance Grant application and all attachments will be made available for review to Newport City Council.

A copy of the 2009 Edward Byrne Memorial Justice Assistance Grant application is a public record and is available for public review and comment.



Agenda Item # VI . A .  
 Meeting Date 5/18/09

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

Issue/Agenda Title: Tourism Marketing Grant Fund Application - Oregon Coast Gardening & Landscaping Expo.

Prepared By: Cheryl Atkinson Dept Head Approval: ca City Mgr Approval: 

**Issue Before the Council:** The Oregon Coast Gardening & Landscaping Expo is requesting tourism marketing grant funding, in the amount of \$1216. Five hundred dollars (\$500) will assist in marketing their event by producing promotional brochures; and \$700 will be for technical/support services for a live three hour radio show with media personality, Mike Darcy.

**Staff Recommendation:** This is entirely a City Council decision based on whether the application meets the criteria for tourism marketing grant funding.

**Proposed Motion: To Approve:** I move to approve the tourism marketing grant funding request, in the amount of \$1216, submitted by the Oregon Coast Gardening & Landscaping Expo, for assistance with marketing its Garden Expo event.

**To Deny:** I move to deny the tourism marketing grant funding request, in the amount of \$1216, submitted by the Oregon Coast Gardening & Landscaping Expo, for assistance with marketing its Garden Expo event.

**Key Facts and Information Summary:** The Expo is one of Samaritan House's key fund raising events and is critical for maintaining the shelter's operational revenue. This will be the second year of the event, and will be held June 26-27. The brochure will be distributed to 120 garden clubs. The three hour radio show "In the Garden" will be heard throughout western Oregon and SW Washington, and this event attracts gardeners from all over Oregon and Washington.

**Other Alternatives Considered:** None.

**City Council Goals:** The request complies with Council goal A. which states "Continue to provide a full range of services including: water, sewer, storm drainage, transportation, planning, police department, fire department, parks and recreation, library, airport, economic development, and tourism development." It specifically falls into tourism development as it draws visitors from both Oregon and Washington.

**Attachment List:** Attached is the Tourism Marketing Grant Fund application submitted by the Oregon Coast Gardening & Landscaping Expo

**Fiscal Notes:** If approved, this funding would come from TRT monies that have been set aside for this use.



## Oregon Coast Gardening & Landscaping Expo

JUNE 26-27, 2009

To: Newport City Council  
 From: Samaritan House Family Homeless Shelter  
 Represented by James Myers, Executive Producer – Oregon Coast Gardening & Landscaping Expo  
 Re: Tourism Grant Proposal

On behalf of the Board of Directors of Samaritan House Family Homeless, we appreciate this opportunity to apply for a City of Newport sponsored Tourism Grant for the 2009 *Oregon Coast Gardening & Landscaping Expo* being held in Newport on Friday, June 26 and Saturday, June 27. This will be the second year for the *Garden Expo* following a highly successful inaugural event last June. In fact, it was so successful we expanded this year's event to two days. The *Expo* is one of Samaritan House's key fund raising events each year and is critical to maintaining the shelter's operation revenue. The *Expo* features over 50 garden oriented vendors the majority of whom sell plants but also include garden art, tools, outdoor garden furniture, planters and more. Plus there is 10 top quality gardening seminars taught by leading Northwest horticulture experts.

*Garden Expo's* like ours, attract growing numbers of garden enthusiasts every year and they are big spenders! The event attracts gardeners from all over the state & Washington. The lure of Newport and an event of this quality make this a major draw for tourism and one that will continue to grow each year.

We are asking for a grant to cover the printing cost of our main promotional brochure (\$516) that is distributed to 120 garden clubs in Oregon and Washington and to key nursery and garden centers throughout western Oregon. Also we asking the grant to cover the cost of bringing famed Northwest horticulturist and media personality Mike Darcy to Newport to do his popular three-hour Saturday morning live radio show *In The Garden* from Newport & the *Expo*. The technical and support services for this is \$700. The broadcast is originated through KXL radio in Portland and is heard throughout western Oregon and SW Washington. His show also airs also on KNPT and in Coos Bay, Tillamook and The Dalles. We also promote heavily through state-wide media and through such supporting organizations as the Oregon State Federation of Garden Clubs and the Lincoln County Master Gardeners.

Enclosed you will find the completed application, a summary of the *Expo*, our 2009 promotional brochure, 2008 *Garden Expo* event program and the IRS determination letter.

We again thank you for your consideration. I would appreciate the opportunity to appear before you and present our case.

Sincerely,

Jim Myers  
 Executive Producer  
 Oregon Coast Gardening & Landscaping Expo  
 541-270-0892

[gardenexpo@oregoncoastgardeningexpo.com](mailto:gardenexpo@oregoncoastgardeningexpo.com)

<http://oregoncoastgardeningexpo.com>

<http://oregoncoastgardeningexpo.com>



CITY OF NEWPORT  
 169 SW Coast Highway  
 Newport, Oregon 97365  
 541-574-0603  
 c.atkinson@thecityofnewport.net

**SPECIAL EVENT/ACTIVITY GRANT FUND APPLICATION**

*Please read the rules instructions on page 4. prior to completion.*

**General Information:**

Name of Applicant Organization: Samaritan House

Mailing Address: 715 SW Bay Street

City, State, Zip: Newport, OR 97365

Telephone: 574-8898

E-Mail Address: info@samfamshelter.org

Principal Contact (If different from Applicant): Jim Myers

Mailing Address (If different from Applicant): P.O. Box 2301

City, State, Zip: Newport, OR 97365

Telephone: 270-0892

E-Mail Address: gardenexpo@oregoncoastgardeningexpo.com

Date(s) and Time(s) of Event: Friday, June 26 2:00p.m. - 7:00p.m.

Saturday, June 27 8:00a.m. - 4:00p.m.

Description of Event or Activity\*: See Attached Press Release

Nature of Event or Activity:

X	Tourism based capital project	X	Multi-night local lodging event
X	Special media promotion	<input type="checkbox"/>	Education and/or training project

Amount of Funding Requested: \$ 1,216

Total Event/Activity Budget: \$ 7,704

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

*Printing cost of the main Garden Expo promotional brochure (attached) \$516 plus cost linked to the KXL (Portland) radio broadcast of Mike Darcy's "In The Garden" radio broadcast live from the Garden Expo on Saturday (June 27) from 9:00am-12noon and heard on KXL (Portland/Salem/Vancouver), KNPT (Newport) plus Tillamook, Coos Bay & The Dalles. The link cost to the Expo (radio line cost + KXL radio cost) is \$700. The promotional brochure is mailed in bulk to 120 garden clubs and available at selected nurseries throughout western Oregon.*

List event/activity supporters or partners\*:

*Umpqua Bank, Oregon State Federation of Garden Clubs, Windermere Realty (West Coast Properties), Pioneer Printing, Georgia Pacific, Dolphin Construction, Fry Road Nursery (Albany) and five individual underwriters.*

Is applicant/organization a non-profit corporation? Yes

(Attach a copy of the IRS determination letter.)

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

No

Projected Event/Activity Impact:

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

*There are two areas of impact. One are the vendors & seminar speakers who will be attending the Garden Expo both days. The other are the attendees, a good number of which will be coming to Newport for this event from all over Oregon and Washington. Both groups will be using local services including hotels/motels & restaurants.*

*There will be approximately sixty vendors with their support help & spouses there will be about (about 125 total) and we anticipate 2,000+ attendees for our second year with a large number from outside the county. The target group are people who are highly involved in gardening, landscaping & horticulture in general. This definitely tends to be an upscale economic group.*

Financial Reporting Requirements:

For established groups, please provide two years of profit and loss statements, a current balance sheet, and a proposed budget for this event/activity. For newly

formed groups, please provide a proposed budget of revenues and expenditures in a form similar to the following:

#### 2009 PROPOSED REVENUES

Source #1	Underwriting	Amount	\$3,750
Source #2	Vendor Fees	Amount	\$3,500
Source #3	Ticket Sales	Amount	\$6,000
Source #4	Food Sales	Amount	\$1,000
TOTAL REVENUES			\$14,250

#### 2009 PROPOSED EXPENDITURES

Use #1	Newport Middle School Rental	Amount	\$1,700
Use #2	TCB Event Services	Amount	\$2,236
Use #3	Mike Darcy/KXL Radio	Amount	\$700
Use #4	Printing (Promotion brochure tickets, etc.)	Amount	\$968
Use #5	Volunteer shirts	Amount	\$800
Use #6	Mailing	Amount	\$300
Use #7	Signs	Amount	\$200
Use #8	Fairgrounds parking lot rental	Amount	\$500
Use #9	Miscellaneous	Amount	\$300
TOTAL EXPENDITURES			\$7,704

REVENUES MINUS EXPENDITURES            \$6,546

As a final condition to accepting granted funds, the applicant agrees to provide the City of Newport with a final report summarizing result of the event/activity (e.g., attendance, local and regional publicity, lodging occupancy, closing revenue and expenditure report, etc.), with a detailed and verified accounting.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Printed Name

Press Release: *Oregon Coast Gardening & Landscaping Expo* – Newport, Oregon

Release for June 2009 publications

Contact: Jim Myers 541-270-0892 [gardenexpo@oregoncoastgardeningexpo.com](mailto:gardenexpo@oregoncoastgardeningexpo.com)

Date of event: Friday, June 26 & Saturday, June 27 – *Secret Garden Tour*: Sunday, June 28



## **Oregon Coast Gardening & Landscaping Expo**

**Oregon Coast Gardening & Landscaping Expo Returns to Newport June 26 & 27**  
***“Where the Northwest's Leading Plant Sellers Come to You!”***

The 2009 edition of the *Oregon Coast Gardening & Landscaping Expo* returns for a two day run on Friday, June 26 and Saturday, June 27 in Newport at the beautiful Newport Middle School. The *Expo* will feature over fifty vendors with emphasis on plants of all kinds plus selected garden art, tools, planter boxes, garden furniture and much more! One of the major features will be ten gardening seminars featuring noted Northwest garden experts including “*In The Garden's*” Mike Darcy and Marianne Binetti, author and Seattle P.I. garden columnist.

The Lincoln County Master Gardeners will be operating a major “*Help Center*” at the *Expo* featuring pH soil testing, offering valuable advice to the public about plants and gardening plus selling hard to find red worms and castings.

Other *Expo* highlights include Mike Darcy's live broadcast of his “*In The Garden*” radio program Saturday from 9:00a.m. to Noon which is heard around western Oregon on KXL radio, Portland, KNPT Newport, KMBD Tillamook, KWRO Coos Bay/North Bend and KACI, The Dalles. Lowell “The Cool Tool Guy” Cordas will be offering tool sharpening at his vendor booth (no power tools). You can check your purchases in the *Plant-Check Zone* while continuing to shop or attending seminars. At the *Plant-Check Zone* you can obtain a pass to bring your vehicle to the drive-up/pick-up site. Plus a new feature is the *Plant-Taxi* service. Get your own personal attendant to help you transport your purchases to the *Plant-Check Zone* or drive-up/pick-up site.

The *Oregon State Federation of Garden Clubs*, an *Expo* sponsor, will again host their popular *Hospitality Lounge* with free coffee and goodies along with information about where to join or start a garden club. And the *Expo Bistro* will feature Mo's famous Clam Chowder and Chalet pie among its offerings this year!

All the ten seminars, four on Friday and six on Saturday, are included in the low admission price. Here is the schedule and times of the 2009 *Expo* seminars:

### **Friday Seminar Schedule**

3PM. . . Mike Bones--American Rhododendron Society

**Caring For Your Rhodies Year-in and Year-Out**

4 PM. . . Lowell Cordas--Lowell's Tools

**Garden Tool Selection and Sharpening**

5 PM. . . Jed White--Pacific Water Gardens

**Water Garden Basics and Biology**

6 PM. . . Mike Darcy--*In The Garden* Radio Host

**Garden Art, Pots, and Plants; Getting It All Together**

### **Saturday Seminar Schedule**

9 AM. . . Darren Morgan--Shonnard's Nursery

**Uncommon and Unusual Plants for the Central Climate**

10 AM. . . Carol Small--Nichols Garden Nursery

**Successful Seed Starting and Home Plant Propagation Simplified**

11 AM. . . Steve Taylor--Blooming Nursery

**Shrubs for the Coast**

12 Noon. . . Marianne Binetti--Author and Garden Columnist, Seattle P.I.

**Dirt Cheap Garden Remedies and Garden Projects**

1 PM. . . Kristin Van Hoosen--Hydrangeas Plus

**Loving Hydrangeas in Your Northwest Garden**

2 PM. . . Yolanda Wilson--Vanveen Bulbs

**Bulbs for Year Round Color**

The *Oregon Coast Gardening & Landscaping Expo* will be open from 2:00p.m. -7:00p.m. Friday, June 26 and 8:00a.m. -4:00p.m. Saturday, June 27.

For updated information on the *Oregon Coast Gardening & Landscaping Expo* go to their website at [www.oregoncoastgardeningexpo.com](http://www.oregoncoastgardeningexpo.com).

On Sunday, June 28th the 6<sup>th</sup> annual *Central Coast Secret Garden Tour & Garden Party* will feature self-guide tours of seven fabulous gardens in and around Siletz, east of Newport. The focus will be on gardens located just inland from the coastal strip. See what a few miles away from the wind and salt can offer in landscaping and gardening. Tickets are \$20 and include great food, a wine tasting, fabulous glass blowing demonstration and an amazing art auction. Tickets can be obtained by calling 541-574-8898.

Proceeds from both the *Garden Expo* and *Garden Tour* benefit Samaritan House Family Homeless Shelter of Lincoln County.

Internal Revenue Service

Department of the Treasury 48

District  
Director

P.O. Box 2350, Los Angeles, CA. 90053

Samaritan House, Inc.  
P.O. Box 269  
Newport, OR 97365-0024

Person to Contact: Gilda Lewis  
Telephone Number: (213)894-2336  
Refer Reply to: Org. Name  
Date: February 19, 1997  
EIN: 93-0986696

Dear Taxpayer:

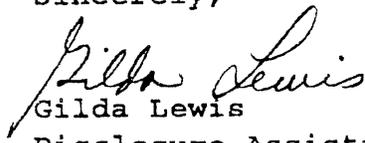
This letter is in response to your request for a copy of the determination letter for the above name organization.

Our records indicate that this organization was recognized to be exempt from Federal Income tax in July 1988 as described in Internal Revenue Code Section 501(c)(3). It is further classified as an organization that is not a private foundation as defined in Section 170(b)(1)(A)(vi).

The exempt status for the determination ruling issued in July 1988 continues to be in effect.

If you need further assistance, please contact our office at the above address or telephone number.

Sincerely,

  
Gilda Lewis  
Disclosure Assistant



## **Oregon Coast Gardening & Landscaping Expo**

**Friday, June 26 & Saturday, June 27  
Newport Middle School – Newport, Oregon**

### **2009 Vendor Lineup**

(subject to change)

#### **Master Gardener Help Center**

Got questions? Let our Master Gardener staff of expert volunteers answer them for you plus they offer pH soil testing and will be selling red worms and castings. Plus there will be a special raffle with a chance to win a garden cloche!

#### **Mike Darcy Radio Show Broadcast**

The Oregon Coast Gardening and Landscaping Expo is pleased to announce that Mike Darcy's weekly In The Garden radio show will be broadcasting LIVE from the Expo on Saturday, June 27. Darcy, for over thirty years the Northwest's premiere gardening authority and expert, will be broadcasting from the Garden Expo from 9:00a.m. to Noon. His weekly show airs on the Radio Northwest flagship station KXL in Portland as well as several others around the state including Expo sponsor KNPT AM1310 in Newport. Mike addresses a huge variety of lawn, garden, and landscape topics and takes calls from listeners throughout the Portland, Vancouver and Salem areas as well as other parts of Oregon and SW Washington. Mike will also be one of the featured Expo's guest seminar speakers.

#### **Vanveen Bulbs**

Vanveen bulbs is owned by a couple whose love for quality flower bulbs is unequalled and who strive to provide knowledge, customer service and value at the best possible price. "We sell the largest size bulbs available at a reasonable price. We personally inspect each bulb and will not sell them if they don't look good."

#### **The Oregon Glove Company**

The Oregon Glove Company has a wonderful selection of gloves to help you protect your hands while you participate in your favorite hobby.

#### **Hydrangeas Plus**

"We are offering some exciting new hydrangeas for 2009 that will be a fabulous addition to your garden. I have some great cutting cultivars for those of us that love fresh color in the summer. Some cultivars have fabulous fall color. Our new 2009 hydrangea varieties will be of particular interest to serious hydrangea fan and those discriminating home gardeners who thrive on the joy and challenges of

creating a showcase garden to enjoy for a lifetime. The plants you order from Hydrangeas Plus are grown under "real life" conditions which means they are easily transplanted and should readily bloom in your outside garden."

### **Lincoln County Master Gardeners**

Bring your dirt because, in addition to answering all your difficult gardening questions, the Lincoln County Master Gardeners will test the Ph of your soil.

### **Nichols Garden Nursery**

For 60 years, Nichols has been offering quality seeds and other items through their catalogue. It's a treat to have their knowledgeable staff come to the Garden Expo with a wonderful selection of the seeds and other goodies.

### **Monnier's Country Gardens**

I love the quote they have on their website. "We're more than just a nursery...We're a destination." Rob and Debbie have to be the most knowledgeable people around when it comes to the topic of fuchsias. If you want to grow a fuchsia, and who wouldn't, they can find a variety that will suit your yard and climate.

### **Country Nursery**

Sun Baskets, shade perennials, and shade perennial pots.

### **Lowell's Tools**

Lowell Cordas has one of the largest selections of quality garden tools around. Bring your shovels and pruners because, for a small fee, he'll sharpen them for you.

### **Simply Dump-It**

If you do a lot of hauling with your wheelbarrow, you won't want to miss seeing the Simply Dump-It in action. Save your backs and your wrists with this handy device.

### **D & S Greenhouses**

Handmade cedar and redwood planter boxes, bench sets, cedar deck-rubber tire wagons, plant caddies & stands plus plants including Dracaena and Escallonia.

### **Bloom River Gardens**

Bloom River Gardens has been proving Oregon gardeners with quality plants for over 29 years. They specialize in Rhododendrons and Azaleas but have 300 species and over 1000 varieties of plants. You can visit them in person or place an order online.

### **Bivens Nursery**

Annuals, perennials, hanging baskets, mixed containers, and specialty potted plants from this greenhouse nursery grower.

### **Shonnard's Nursery**

Shonnard's is a favorite destination for those of us on the central coast. They have a large selection of healthy plants on the outside, a great selection of garden goodies inside, and a knowledgeable staff everywhere.

### **Carol's Greenhouses & Gardens**

Carol's presents mixed hanging baskets, unusual perennials, and tropicals.

### **Lincoln County Department of Sanitation**

We're fortunate to have the Lincoln County Department of Sanitation returning with their wonderful information and equipment for turning your garbage into

useful soil for your plants. Of course, I'm referring to backyard composting, a wonderful activity that benefits the garden and environment.

### **Secret Garden Growers**

"There exists a magical, country nursery where plants grow while listening to soft music and excitement is discovering a new flower..." Specializing in perennials, ornamental grasses, herbs and the old and unusual.

### **Deborah Durkee**

We're excited that Deborah will be returning with her wonderful selection of handcrafted mosaic birdbaths.

### **Yew Wood Nursery**

Specializing in fuchsias as well as assorted perennials and ferns.

### **Carter's Greenhouse/Nursery**

Carter's Greenhouse/Nursery grows and procures perennials, grasses, natives, ferns, shrubs, and trees for landscape professionals and garden centers. They only open to the public by appointment so pursuing their lovely stock up close and personal is a rare treat.

### **Edelweiss Perennials**

Edelweiss is a mail order plant seller so it is wonderful to get a bird's eye view of their lovely specimens. They had a lovely selection last year and we know they'll be back with a wonderful display this year.

### **Shine On Stones**

Handcrafted stepping stones, wall plaques, garden totems, plus *welcome* and *address* signs.

### **Artists In Steel**

Mark and Tamara Fountain are a husband and wife team of very talented welders who recycle old scrap metal into beautiful works of garden art.

### **American Rhododendron Society Siuslaw Chapter**

Selling lovely Rhododendron plants and offering expert advise.

### **Oregon Heather Society**

One of the widest assortments of heather plants in one location. They'll also happily offer their expertise so bring your questions.

### **Connie Hansen Garden**

See what surprises are in store from the Oregon coast's favorite botanical garden located in Lincoln City.

### **Lakeside Nursery**

When starting Lakeside Nursery, Joe wanted this nursery to create plants that have consistent uniformity and quality. Joe has said "Anyone can grow junk plants but it takes someone who cares to grow a quality plant".

### **Garden World**

Designed around "Support your local grower", Garden World offers an unmatched selection of plant material grown by premier northwest growers. The co-op partnership stocks over 20,000 plants in 1000 varieties, ranging from the unique and unusual to the very common.

### **White Oak Farm**

Native plants, hardy perennials, and unusual species.

### **Oh-Growup**

To keep your garden happy and healthy, Oh-Growup has many garden art items that will keep your treasures standing tall or climbing high. We have trellises, topiaries, and stands in many sizes and shapes that not only will keep your plants in place during the growing season but also will give your winter garden some interesting dimension! Many of these items are available with colorful fused glass panels to add distinctive color throughout the year.

### **Echo Valley Natives**

"Our goal at Echo Valley Natives is to offer a wide variety of quality native plants to the public in hopes that it will minimize the devastating results of wild digging. The majority of our plant stocks are grown from seed, cuttings, or division, while a small amount of our plants are purchased from reputable growers who share in our ethics."

### **Killdeer Farms**

They offer over 500 varieties of Geraniums from dwarf to trailing and everything in between.

### **The Sedum Chicks**

Specializing in Sedum, Sempervivum, Living Wreaths and Hypertufa.

### **CowDawg Creations**

"I work primary with copper and finish each piece with an aged pretty blue / green patina. Most of my creations are functional garden art pieces, appealing to gardeners, birders and lovers of nature. You will see many many uniquely different designs of sprinklers, misters, showers, feeders, bird houses and more. My creativity is constantly evolving with nature as my pallet, a love for whimsy and the challenge of a clever design."

### **The Oregon Coast Garden Center**

Their web site states, "The largest show of color on the Oregon Coast." We believe it. They always have an excellent selection and their staff is first rate.

### **Fancy Fronds Nursery**

Located in Washington, Fancy Fronds has one of the largest selections of ferns in the United States. They sell through catalogue so it will be a real treat to see so many of their selections in person.

### **Albe Rustic Furniture**

"We handcraft unique rustic furniture using a variety of wild and domesticated trees. All of our pieces use quality construction and galvanized fasteners to ensure your rustic furniture will weather nicely." Truly one of a kind creations.

### **Hana Farms**

A nursery with the love of the unusual & a passion for hardy orchids.

### **Sturdi-built Greenhouses**

Building high quality Redwood and Glass Greenhouse Kits for over 45 years using the highest American grown and made materials.

### **Binetti Bookstore & Garden Travel Tours**

Meet acclaimed author and *Expo* seminar speaker Marianne Binetti. Her books will be for sale including her latest *Best Garden Plants for Washington and Oregon*. Ask Marianne about her upcoming fall tour of *Castles & Gardens of Scotland and England*.

**Cedarglen Floral Company**

High quality Annuals \* Perennials \* Baskets

**Fry Road Nursery**

Fabulous lineup of quality nursery grown plants! Home of *Flip Flop Tropicals!*

**Blooming Nursery**

Herbaceous perennials, temperennials & annuals, ground covers, herbs, ornamental grasses, shrubs and vines.

**Garden Time TV**

Come visit with William McClenathan & Judy Alleruzzo, hosts of *Garden Time*, the Northwest's number one television garden show, seen on KPTV, Portland, KEVU, Eugene and KWVT, Salem. Drop by and have a chance to win a cool prize too!

**Fantas-Teak Furniture**

Teak Outdoor Furniture

**Maple Trading Company**

Cat & Dog metal planters, garden stakes & garden gnomes

**Embroidery Expressions**

Quality embroidered gardening clothing items and accessories

**Clyde's Wind Chimes**

Metal wind chimes, metal garden art, wooden hand painted yard signs/wall plaques and plant/wind chime hangers

**One Green World**

Offers unusual fruit and ornamental trees and plants from around the world.

**Salmon River Greenhouse**

Specializing in hanging baskets, rare and unique palms and succulents.

**Solar Gem Greenhouses**

Manufacturer of one piece fiberglass greenhouses...also offering complete product delivery and set up.

**Siskiyou Rare Plant Nursery**

Alpine plants from around the world plus many other rock garden plants.

**Sasquatch Designs**

Stephanie Korschun, a professional scientific illustrator, designs and produces silkscreened t-shirts with her original illustrations of plants & beneficial insects.

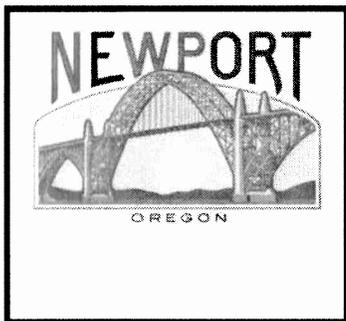
**Richard Massey Design**

Quality outdoor furniutre grounded in the traditions of early 20th centurey arts and crafts design with an elegant Japanese influence. Plus Redwood & Western Red Cedar planter boxes and more.

**Off The Beaten Path**

Annuals, herbs, vegetable starts and perennials that you don't normally see in stores.

For updated information go to [www.oregoncoastgardeningexpo.com](http://www.oregoncoastgardeningexpo.com)



Agenda Item #  
Meeting Date

VI . B .  
May 18, 2009

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

Issue/Agenda Title Consideration of formation of a Nye Beach Commercial Parking District

Prepared By: James Bassingthwaite Dept Head Approval: JB City Mgr Approval: [Signature]

**ISSUE BEFORE THE COUNCIL:** Consideration of starting the formal process for the formation of a Nye Beach Commercial Parking District as an economic improvement district with a surcharge on a business license fee pursuant to ORS 223.141 to 223.161.

**STAFF RECOMMENDATION:** Allow for public comment on the proposed ordinance and consider adoption by Council motion of the ordinance to start the formal public notice and hearing process for the creation of an economic improvement district for parking system improvements in the commercial portion of Nye Beach at either the May 18<sup>th</sup> or June 1<sup>st</sup> Council meetings (if the Council is ready to start the process). The formation of an economic improvement district under state statute is a bit unusual in that the start of the formal process for consideration of the district involves the adoption of an ordinance by the City Council (either on the Council's own motion or by petition of 33 percent or more of the persons conducting business within the proposed district boundaries) followed by a public notice and hearing process. The Council has previously identified the creation of parking districts (which under state statute would be an economic improvement district with parking as its focus) as a Council goal and the Council could initiate the process by its own motion, rather than by petition.

**PROPOSED MOTION:** I move for reading by title only of **AN ORDINANCE ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT PURSUANT TO ORS 223.144 IN THE NYE BEACH AREA FOR PARKING SYSTEM IMPROVEMENTS AND ASSESSMENT OF A SURCHARGE ON BUSINESS LICENSE FEES FOR BUSINESSES, TRADES, OCCUPATIONS OR PROFESSIONS WITHIN THE DISTRICT** and for adoption by roll call vote.

**KEY FACTS AND INFORMATION SUMMARY:** A group of interested Nye Beach individuals have been meeting to discuss the formation of a parking district. The draft ordinance is an outgrowth of the discussions that have occurred at those meetings. At Council direction, City staff have been assisting in the process. A draft of an ordinance was distributed on May 3, 2009, to those individuals that had been attending the meetings and had provided email addresses. The draft ordinance contained some possible options for district boundaries (which are included in the Council ordinance draft attached) in Exhibit "B". The attached draft ordinance contains a few changes from the May 3<sup>rd</sup> draft distributed based on comments from Gary Firestone in regard to the draft Ordinance language regarding the NZO Section 2-3-6.050 provisions (related to Section 6 of the draft Ordinance).

The funding of an economic improvement district can be done on either an assessment of property or as a surcharge to a business license fee. The proposed ordinance is based on a surcharge to a business license fee. By state statute, the adoption of the ordinance begins the formal public notice and hearing process for the formation of the district. Two public hearings by the Council would be involved prior to implementation of a parking district. Each hearing would require public notice to be provided to the affected business owners (and property owners would also be notified). The first hearing would occur at least 30 days after adoption of the proposed ordinance

beginning the process and would be held to take public input on the proposed formation of the district. If the Council chooses to form the district following the first public hearing, the Council establishes the amount of the business license fee surcharge. Another hearing is then held at least 30 days after. At the second public hearing, if the Council receives written objections from more than 33 percent of the persons conducting business that would be subject to the surcharge, then the process is automatically terminated (essentially a minority veto). At either hearing, the Council can make adjustments or end the process. The proposed boundaries of the district may be a factor in whether or not there will be 33 percent or more of the businesses that object to the district.

Pursuant to state statute, an economic improvement district can only be applied to areas zoned for commercial and industrial uses and cannot include residential uses.

If the Council adopts an ordinance to start the process at the Council meeting of May 18<sup>th</sup> or June 1<sup>st</sup>, the first formal public hearing could be held on July 6<sup>th</sup>. I would anticipate that an informal public open house/work session meeting would also be held mid-June in the Nye Beach area with City staff to review issues and answer questions on the proposal. Assuming a decision is made by the Council to continue the process at the July 6<sup>th</sup> meeting, the next public hearing could be held on August 17<sup>th</sup>. If the Council does not receive the 33 percent in written objections, the Council could proceed to finalize the adoption of the district.

With the adoption of the district, the Council can allow commercial uses within the payment in lieu of parking district to be exempt from either providing off-street parking or from paying the payment in lieu of fee as provided for in NZO Section 2-3-6.050 (which in part states: "If a parking district authorized by the City Council is formed in all or part of the special area, the requirements for payment in lieu of parking may be waived upon adoption of a motion of the City Council." The Council may want to consider through the process whether all commercial uses within the proposed parking district should be exempt or exempt to the same degree. Currently, the draft ordinance would defer the decision on the level of exemption to a separate resolution.

**OTHER ALTERNATIVES CONSIDERED:** Different alternatives were discussed at the meetings of interested individuals in forming a parking district in Nye Beach and the attached draft ordinance is the result of input received at those meetings.

**CITY COUNCIL GOALS: FROM COUNCIL GOALS ADOPTED 3/16/09:** Under Community Livability: Transportation/Streets: "Assist neighborhood business associations to identify opportunities to expand parking capacity and implement agreed upon strategies."

#### **ATTACHMENT LIST:**

- \*Draft Ordinance and Exhibits
- \*ORS Provisions on Economic Improvement Districts
- \*Staff memo providing more detailed background information related to this issue

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

**PRELIMINARY DRAFT 5-10-09****CITY OF NEWPORT****ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT PURSUANT TO ORS 223.144 IN THE NYE BEACH AREA FOR PARKING SYSTEM IMPROVEMENTS AND ASSESSMENT OF A SURCHARGE ON BUSINESS LICENSE FEES FOR BUSINESSES, TRADES, OCCUPATIONS OR PROFESSIONS WITHIN THE DISTRICT****Findings:**

1. The formation of an economic improvement district for parking system improvements funded through a business license fee surcharge is authorized by ORS 223.144.
2. The Mayor of the City of Newport previously appointed a Payment in Lieu of Parking Task Force that was confirmed by the City Council to address the assessment of the fee charged for the payment in lieu of parking program established pursuant to Newport Zoning Ordinance (No. 1308, as amended) (NZO) Section 2-3-6.050. The Newport Zoning Ordinance specifies that the fee charged for each parking space in the payment of lieu of program shall be based on a reasonable estimate of the cost of providing one surface parking space. The existing fee of \$175.00 per parking space was established in the early 1980s and has remained unchanged. The Payment in Lieu of Parking Task Force included representatives from the three payment in lieu of parking districts (including Nye Beach) and held meetings in 2006 and 2007 open to the public to address the fee for parking charged and to develop recommendations regarding the payment in lieu of fee program. Recommendations were approved by the Task Force on March 26, 2007.
3. The Newport Planning Commission and the Newport City Council provided for public notice and held public hearings in 2007 on the recommendations of the Payment in Lieu of Parking Task Force. Public input received at the public hearings expressed a preference for the creation of parking districts to address parking issues within the three payment in lieu of parking districts. Pursuant to NZO Section 2-3-6.050, uses within a Special Parking Area that includes portions of Nye Beach are exempt from the requirement to provide off-street parking if the use pays a payment in lieu of parking fee. NZO Section 2-3-6.050 allows for the Council by motion to allow uses participating in a Council approved parking district to also be exempt from the payment in lieu of parking fee.
4. On February 4, 2008, the City Council adopted the recommendations of the Payment in Lieu of Parking Task Force with modifications that had been recommended by the Planning Commission. As requested through public input at the public hearings and as recommended by the Planning Commission, the City Council allowed for an 18 month period for the formation of parking districts for three affected payment in lieu of districts prior to the implementation of the Payment in Lieu of Parking Task Force recommendations.

5. The City sponsored on workshop on the basics of forming parking districts on April 27, 2008, for interested parties from the three payment in lieu of parking districts.
6. At the request of interested persons in the Nye Beach area, the City sponsored on workshop on the potential formation of a parking district in Nye Beach on July 29, 2008, at the Newport Visual Arts Center and provided for public notice of the event.
7. City staff attended meetings of individuals interested in forming a parking district in Nye Beach in 2008 and 2009 to answer questions and assist in the preparation of the materials necessary to consider the formation of a parking district in Nye Beach. A draft of a proposed ordinance for the formation of a parking district in Nye Beach as an economic improvement district was distributed by City staff via email on May 3, 2009, to interested parties that had attended the meetings and had provided an email address.
8. The City Council initiated the consideration of the establishment of a economic improvement district for parking system improvements in the Nye Beach area at a City Council meeting on \_\_\_\_\_, 2009.

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

**Section 1. Establishment of a Nye Beach Commercial Parking District (NBCPD).** Pursuant to ORS 223.144, a business license fee surcharge may be enacted for the funding of an economic improvement district to provide parking system improvements within the Nye Beach area ("Nye Beach Commercial Parking District").

**Section 2. Establishment of Plan, Boundaries, Cost and Duration for NBCPD.** The economic improvements for the Nye Beach Parking District includes parking system improvements as identified in Exhibit "A" (An Economic Development Plan for the Nye Beach Commercial Area to Address Parking System Improvements). The boundaries of the parking district for which a business operating from commercially zoned property within the district shall be assessed are as identified in Exhibit "B". The preliminary estimate of the probable cost of the economic improvements identified in Exhibit "A" is \$7,500 to \$10,000 per year for a period of five years from the date of adoption of the ordinance. Extensions of the time period of the economic improvement district may be made through the process as allowed by ORS 223.154.

**Section 3. Public Hearing on NBCPD Formation and Notice.** Notices shall be mailed or delivered personally to affected persons announcing the attention of the Council to construct or undertake the improvements identified in Exhibit "A" and to impose a business license fee upon persons conducting business from property within the proposed district for all of the estimated annual probable cost. The notice shall state that a public hearing before the Newport City Council will be held on \_\_\_\_\_, 2009, at 7:00 p.m. in the Council Chambers of the Newport City Hall at 169 SW Coast Highway to allow for testimony in support or opposition to the proposed improvements in Exhibit "B" and the establishment of a business license surcharge fee. Notice shall be mailed or delivered at least 30 days prior to the public hearing.

**Section 4. Establishment of Amount of Business License Fee Surcharge, Public Hearing on Proposed Fee and Notice, and Termination Due to Written Objections.** After the public hearing held on \_\_\_\_\_, 2009, if the Council determines that the economic improvements shall be made as identified in Exhibit "B", the Council shall determine whether or not the businesses benefited shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost, the amount of the business license fee surcharge. Once the Council establishes the surcharge fee, the Council shall set a date and place for another public hearing on the proposed fee and provide for notice of the amount of the proposed fee and notice of a public hearing on the proposed fee shall be mailed or personally delivered to each person conducting business within the proposed economic improvement district at least 30 days prior to the public hearing. The notice shall state the time and place of the public hearing at which affected persons may appear to support or object to the proposed business license fee surcharge. At the public hearing on the proposed business license fee surcharge, the Council shall consider the objections of persons subject to the proposed fee and may adopt, correct, modify, or revise the proposed business license fee. If written objections of more than 33 percent of persons conducting business within the economic improvement district who will be subject to the proposed business license fee surcharge are received at the public hearing, the business license fee will not be imposed and the economic improvement projects as funded by the proposed fee shall be terminated.

**Section 5. Establishment of NBCPD Advisory Committee.** If the economic improvement district is established and the business license fee surcharge is imposed after the public hearing process identified in Section 3 and Section 4, the Council shall establish an advisory committee to develop a plan for completion of the improvements and to allocate expenditure of moneys for economic improvement activities within the scope of the plan. Members appointed to the advisory committee shall include persons conducting business within the economic improvement district.

**Section 6. Exemption From Off-Street Parking Requirements or Payment in Lieu of Parking Fees.** NZO Section 2-3-6.050 already exempts uses within the defined Special Parking Areas from the requirement to provide off-street parking if a payment in lieu of parking is made. With adoption of the economic improvement district and the imposition of the business license fee surcharge, as allowed by NZO Section 2-3-6.050 the City Council will exempt businesses paying the business license fee surcharge within the Special Parking Area defined by NZO Section 2-3-6.050 and located within the NBCPD boundary to be exempt from the requirements to pay payment in lieu of parking fees to the extent provided for by separate resolution adopted by motion of the Council.

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

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

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

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

ATTEST:

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

**Exhibit "A"**

DRAFT 5-3-09

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

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

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

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

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

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

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

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

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

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

(5) The NBCPD proposes that the economic improvement district be established for a period of five years commencing on \_\_\_\_\_, 2009.

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

EXHIBIT "B" - OPTION #1

N  
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PROPOSED NBCPD BOUNDARY =



EXHIBIT "B" - OPTION #2

PROPOSED NBCPD BOUNDARY =



EXHIBIT "B" - OPTION #3A

N  
4

PROPOSED NRCPD BOUNDARY =



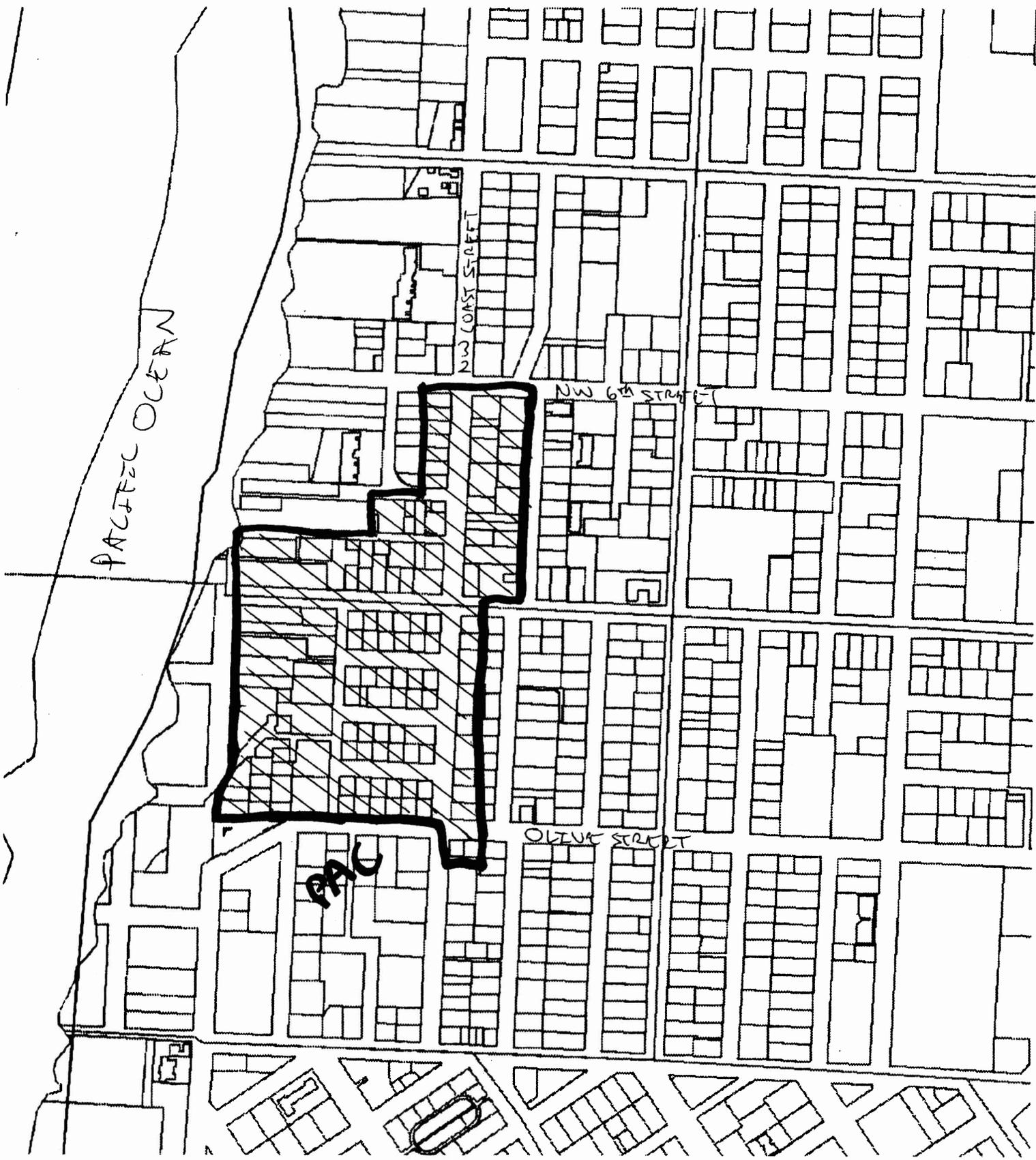
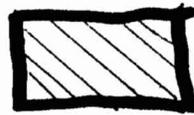
EXHIBIT "B" - OPTION #3 B

PROPOSED NBCPD BOUNDARY =



EXHIBIT B - OPTION #4

PROPOSED NRC PD BOUNDARY =



eral benefit and use of the people of the city, including but not limited to appropriation for an aviation field, park, city hall, city buildings, jail, or to protect the city from overflow by freshets.

(2) Appropriate any real property, water, watercourse and water and riparian rights, including power sites, to any public or municipal use or for the general benefit and use of the people within or without the city, and to build dams, reservoirs and conduits for the purpose of storing and using water to aid in developing the necessary power to generate electricity for the use and benefit of the people within or without the city.

(3) Condemn for its use private property for the purpose of erecting and maintaining electric lines thereon for the purpose of generating and conveying power to light and heat the city, and to be used and sold by the city for manufacturing, transportation, domestic and other purposes, either within or without the corporate limits of the city, and for the purpose of constructing electrical systems for municipal uses. [Amended by 1971 c.134 §1]

**223.010 Right of city to enter upon, survey, examine and select property to be condemned.** For the purposes of ORS 223.005, a city may enter upon, survey and examine property in the manner provided by ORS 35.220 and may select any such property or rights for the purpose of constructing any ditch, drain, dam, dike, canal, flume, sewer, reservoir, septic tank, filter bed, sewer form or purifying plant or laying or constructing and maintaining any pipe, sewer, drain, aqueduct, dam, dike, canal, flume, reservoir, septic tank, filter bed, sewer form or purifying plant or other plant, building or electric lines or system for municipal uses, including but not limited to, aviation fields, parks, city hall, city buildings, jails, docks, piers, slips, shore and terminal structures. [Amended by 1971 c.134 §2; 2003 c.477 §4]

**223.015 Manner of condemnation; compensation.** After selection of such rights and property under ORS 223.010 in such manner as the council provides, the city seeking to make the appropriation may proceed in the manner prescribed by the statutes for the appropriation of land for corporate purposes, and not otherwise, unless otherwise provided by law, to have such property appropriated and the compensation therefor determined and paid. However, the compensation for such condemnation by a city shall be paid by a deposit in the court of an order drawn upon the city treasurer for the amount of compensation.

**223.020 Scope of condemnation.** Appropriation of property under ORS 223.005 may extend beyond the corporate limits of the city to or along and including any lake, spring, stream or power site.

**223.025** [Repealed by 1963 c.297 §1]

**223.030** [Repealed by 1963 c.297 §1]

**223.035** [Repealed by 1963 c.297 §1]

**223.040** [Repealed by 1963 c.297 §1]

### MUNICIPAL CONDEMNATION PROCEEDINGS

**223.105 Proceedings to condemn property for city improvements when owner and city disagree on price.** (1) The provisions of this section apply to every city, whether organized under general law or otherwise.

(2) Whenever the council of any incorporated city deems it necessary to take or damage private property for the purpose of establishing, laying out, extending or widening streets, or other public highways and places within any city, or for rights of way for drains, sewers or aqueducts, or for widening, straightening or diverting channels of streams and the improvement of waterfronts, and the council cannot agree with the owner of the property as to the price to be paid, the council may direct proceedings to be taken under the general laws of this state to procure the same.

**223.110** [Repealed by 1971 c.741 §38]

### ECONOMIC IMPROVEMENT DISTRICTS

**223.112 Definitions for ORS 223.112 to 223.132.** As used in ORS 223.112 to 223.132, unless the context requires otherwise:

(1) "Council" means the city council or other controlling body of a city.

(2) "Economic improvement" means:

(a) The planning or management of development or improvement activities.

(b) Landscaping or other maintenance of public areas.

(c) Promotion of commercial activity or public events.

(d) Activities in support of business recruitment and development.

(e) Improvements in parking systems or parking enforcement.

(f) Any other economic improvement activity for which an assessment may be made on property specially benefited thereby. [1985 c.576 §1; 1991 c.902 §4]

**223.114 Economic improvement; assessment ordinance.** (1) A council may enact an ordinance establishing a procedure to be followed by the city in making assessments for the cost of an economic improvement upon the lots which are specially benefited by all or part of the improvement.

(2) In any ordinance adopted under subsection (1) of this section, a city shall not be authorized to:

(a) Levy assessments in an economic improvement district in any year that exceed one percent of the real market value of all the real property located within the district.

(b) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(c) Levy assessments on residential real property or any portion of a structure used for residential purposes. [1985 c.576 §2; 1989 c.1018 §3; 1991 c.459 §350; 1991 c.902 §5]

**223.115** [Repealed by 1971 c.741 §38]

**223.117 Requirements of assessment ordinance.** (1) An ordinance adopted under ORS 223.114, shall provide for enactment of an assessment ordinance that:

(a) Describes the economic improvement project to be undertaken or constructed.

(b) Contains a preliminary estimate of the probable cost of the economic improvement and the proposed formula for apportioning cost to specially benefited property.

(c) Describes the boundaries of the district in which property will be assessed.

(d) Specifies the number of years, to a maximum of five, in which assessments will be levied.

(e) Contains provision for notices to be mailed or delivered personally to affected property owners that announce the intention of the council to construct or undertake the economic improvement project and to assess benefited property for a part or all of the cost. The notice shall state the time and place of the public hearing required under paragraph (f) of this subsection.

(f) Provides for a hearing not sooner than 30 days after the mailing or delivery of notices to affected property owners at which the owners may appear to support or object to the proposed improvement and assessment.

(2) The ordinance shall also:

(a) Provide that if, after the hearing held under subsection (1)(f) of this section, the council determines that the economic improvement shall be made, the council shall determine whether the property benefited shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost of the economic improvement, the

amount of assessment on each lot in the district.

(b) Require the city recorder or other person designated by the council to prepare the proposed assessment for each lot in the district and file it in the appropriate city office.

(c) Require notice of such proposed assessment to be mailed or personally delivered to the owner of each lot to be assessed, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice. The notice shall state the time and place of a public hearing at which affected property owners may appear to support or object to the proposed assessment. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

(d) Provide that the council shall consider such objections and may adopt, correct, modify or revise the proposed assessments.

(e) Provide that the assessments will not be made and the economic improvement project terminated when written objections are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessments is levied. [1985 c.576 §3; 1989 c.1018 §4]

**223.118 Remonstrance against assessment; exclusion of property.** (1) In addition to the requirements listed in ORS 223.117 (2), an assessment ordinance adopted under ORS 223.114 and 223.117 may, at the discretion of the council, provide that:

(a) When the council receives written objections at the public hearing only from owners of property upon which less than 33 percent of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that assessments shall not be levied on any lot or parcel of property if the owner of that property submitted written objections at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.

(b) The council, after excluding from assessment property belonging to such owners, shall determine the amount of assessment on each of the remaining lots or parcels in the district.

(c) Notice of such proposed assessment be mailed or personally delivered to the owner of each lot to be assessed, which notice shall state the amount of the assessment

proposed on the property of the owner receiving the notice.

(2) When assessments are levied against property within an economic improvement district in accordance with an assessment ordinance that contains the provisions described in subsection (1) of this section:

(a) Any new owner of benefited property in the district or any owner of benefited property who excluded the property from assessment by submitting written objections to the council may subsequently agree to the assessment of the owner's property in the district. The council shall apportion the costs to the property for the remaining time in which assessments will be levied.

(b) The assessed property may not be relieved from liability for that assessment.

(c) If the council considers it necessary to levy assessments upon property in the district for longer than the period of time specified in the assessment ordinance, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in ORS 223.117 (2)(b) to (e) and subsection (1)(a) to (c) of this section. [1991 c.773 §2]

**223.119 Advisory committee; functions.** An ordinance adopted under ORS 223.114, may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of moneys for economic improvement activities within the scope of ORS 223.112 to 223.132. If an advisory committee is created, the council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of property owners or tenants may enter into an agreement with the city to provide the proposed economic improvement. [1985 c.576 §4; 1989 c.1018 §5]

**223.120** [Repealed by 1971 c.741 §38]

**223.122 Effect of urban renewal districts or local improvement districts.** The existence of local improvement districts or urban renewal districts in a city does not affect the creation of economic improvement districts under ORS 223.112 to 223.132. [1985 c.576 §5]

**223.124 Extension of assessment period.** When the council considers it necessary to levy assessments upon property in an economic improvement district for longer than the period of time specified in the assessment ordinance that created the district, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice

and right of remonstrance described in ORS 223.117 (2)(b) to (e). [1985 c.576 §6]

**223.125** [Repealed by 1971 c.741 §38]

**223.127 Application of certain assessment statutes to economic improvement districts.** (1) ORS 223.387 and 223.391 to 223.395 apply to economic improvement districts created by a city in accordance with ORS 223.112 to 223.132.

(2) The rights and duties accorded local governments and the owners of property for financing assessments under ORS 223.205 and 223.210 to 223.295 apply to assessments levied upon property in an economic improvement district for financing all or part of the cost of an economic improvement. [1985 c.576 §7; 1991 c.902 §6; 2003 c.802 §3]

**223.129 Expenditure of assessment revenues; liability for unauthorized expenditures.** (1) A city council shall not expend any moneys derived from assessments levied under ORS 223.112 to 223.132 for any purpose different from the purpose described in the ordinance adopted under ORS 223.114.

(2) Any public official who expends any moneys derived from assessments levied under ORS 223.112 to 223.132 for any purpose different from the purpose described in an ordinance adopted under ORS 223.114 shall be civilly liable for the return of the moneys by suit of the district attorney of the county in which the city is located or by suit of any taxpayer of the city. [1985 c.576 §8]

**223.130** [Repealed by 1971 c.741 §38]

**223.132 Formation of economic improvement districts as additional power of cities.** The authority granted to cities by ORS 223.112 to 223.132, is in addition to any other authority a city may have under state law, its charter or its ordinances to create or finance economic improvement districts. [1989 c.1018 §2]

**223.135** [Repealed by 1971 c.741 §38]

**223.140** [Repealed by 1971 c.741 §38]

**223.141 Definitions for ORS 223.141 to 223.161.** As used in ORS 223.141 to 223.161, unless the context requires otherwise:

(1) "Business license fee" means any fee paid by a person to a city for any form of license that is required by the city in order to conduct business in that city.

(2) "Conducting business" means to engage in any business, trade, occupation or profession in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

(3) "Council" means the city council or other controlling body of a city.

(4) "Economic improvement" means:

(a) The planning or management of development or improvement activities.

(b) Landscaping or other maintenance of public areas.

(c) Promotion of commercial activity or public events.

(d) Activities in support of business recruitment and development.

(e) Improvements in parking systems or parking enforcement.

(f) Any other economic improvement activity for which an assessment may be made on property specially benefited thereby. [1991 c.698 §1]

**223.144 Economic improvement district; business license ordinance.** (1) A council, on its own motion or after receiving a petition for the formation of an economic improvement district signed by 33 percent or more of persons conducting business within the proposed district, may enact an ordinance establishing a procedure to be followed by the city in imposing a business license fee to raise revenue for the cost of an economic improvement. The business license fee authorized under this subsection may be in the form of a surcharge on an existing business license fee imposed by the city on any business, trade, occupation or profession carried on or practiced in the economic improvement district.

(2) In any ordinance adopted under subsection (1) of this section, a city shall not be authorized to:

(a) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(b) Impose a business license fee to raise revenue for an economic improvement that does not primarily benefit persons conducting business within the economic improvement district. [1991 c.698 §2]

**223.145** [Repealed by 1971 c.741 §38]

**223.147 Requirements of business license fee ordinance.** (1) An ordinance adopted under ORS 223.144, shall provide for enactment of a business license fee ordinance that:

(a) Describes the economic improvement project to be undertaken or constructed.

(b) Contains a preliminary estimate of the probable cost of the economic improvement.

(c) Describes the boundaries of the district in which property will be assessed.

(d) Specifies the number of years, to a maximum of five, in which business license fees for the economic improvement will be imposed.

(e) Contains provision for notices to be mailed or delivered personally to affected persons that announce the intention of the council to construct or undertake the economic improvement project and to impose a business license fee upon persons conducting business within the district for a part or all of the cost. The notice shall state the time and place of the public hearing required under paragraph (f) of this subsection.

(f) Provides for a hearing not sooner than 30 days after the mailing or delivery of notices to affected persons at which the persons may appear to support or object to the proposed improvement and business license fee.

(2) The ordinance shall also:

(a) Provide that if, after the hearing held under subsection (1)(f) of this section, the council determines that the economic improvement shall be made, the council shall determine whether the businesses benefited shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost of the economic improvement, the amount of the business license fee.

(b) Require notice of such proposed business license fee to be mailed or personally delivered to each person conducting business within the proposed economic improvement district, which notice shall state the amount of the business license fee. The notice shall state the time and place of a public hearing at which affected persons may appear to support or object to the proposed business license fee. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

(c) Provide that the council shall consider the objections of persons subject to the proposed business license fee and may adopt, correct, modify or revise the proposed business license fee.

(d) Provide that the business license fee will not be imposed and the economic improvement project terminated when written objections are received at the public hearing from more than 33 percent of persons conducting business within the economic improvement district who will be subject to the proposed business license fee. [1991 c.698 §3]

**223.150** [Repealed by 1971 c.741 §38]

**223.151 Advisory committee; functions.** An ordinance adopted under ORS 223.144, may require creation, for each economic improvement district, of an advisory committee to develop a plan and to allocate expenditure of moneys for economic improvement activities within the scope of ORS 223.141 to 223.161. If an advisory committee is created, the council shall appoint persons conducting business within the economic im-

provement district to the advisory committee. An existing association of persons conducting business within an economic improvement district may enter into an agreement with the city to provide the economic improvement. [1991 c.698 §4]

**223.154 Extension of business licensing period.** When the council considers it necessary to impose business license fees upon persons conducting business in an economic improvement district for longer than the period of time specified in the ordinance that created the district, the council shall enact an ordinance that provides for continued business license fees for a specified number of years and grants to persons conducting business in the district the notice and right of remonstrance described in ORS 223.147 (2)(b) to (d). [1991 c.698 §5]

**223.155** [Repealed by 1971 c.741 §38]

**223.157 Expenditure of business license revenues; liability for unauthorized expenditures.** (1) A city council shall not expend any moneys derived from business license fees levied under ORS 223.141 to 223.161 for any purpose different from the purpose described in the ordinance adopted under ORS 223.144.

(2) Any public official who expends any moneys derived from business license fees levied under ORS 223.141 to 223.161 for any purpose different from the purpose described in an ordinance adopted under ORS 223.144 shall be civilly liable for the return of the moneys by suit of the district attorney of the county in which the city is located or by suit of any taxpayer of the city. [1991 c.698 §6]

**223.160** [Repealed by 1971 c.741 §38]

**223.161 Effect of urban renewal districts or local improvement districts.** (1) The existence of local improvement districts or urban renewal districts in a city does not affect the creation of economic improvement districts under ORS 223.141 to 223.161.

(2) The authority granted to cities by ORS 223.141 to 223.161 is in addition to any other authority a city may have under state law, its charter or its ordinances to create or finance economic improvement districts. [1991 c.698 §7]

**223.165** [Repealed by 1971 c.741 §38]

**223.170** [Repealed by 1971 c.741 §38]

**223.175** [Repealed by 1971 c.741 §38]

#### FINANCING LOCAL IMPROVEMENTS (BANCROFT BONDING ACT)

**223.205 Scope and application; validation of bond issues by cities of 100,000 or more.** (1) ORS 223.205 and 223.210 to 223.295 may be cited as the Bancroft Bonding Act.

(2) The provisions of the Bancroft Bonding Act are not mandatory. Any governmental body having charter provisions, or ordinance provisions authorized by charter, for bonding improvement assessments and selling bonds may follow those provisions or the provisions of the Bancroft Bonding Act, or the provisions of any other statute.

(3) All bonds issued prior to March 20, 1939, in accordance with the charter provisions of any city which, as of March 20, 1939, has or after that date attains a population of 100,000 or more inhabitants, according to the published federal census, and all action taken and proceedings adopted by a city prior to that date for issuing bonds in accordance with charter provisions are ratified, approved and confirmed. [Amended by 1957 c.103; §1; 1959 c.653 §1; 1965 c.282 §2; 1975 c.642 §1; 1991 c. 902 §7]

**223.207 Purpose of ORS 223.208.** The Legislative Assembly hereby declares that the purpose of ORS 223.208 and this section is to provide purchasers of homes or multi-family dwellings with Bancroft financing of system development charges as an alternative to absorbing those charges into the long-term permanent financing of their homes. [1977 c.722 §2]

**223.208 System development and connection charges of local government subject to Bancroft Act.** (1) Subject to subsection (2) of this section, the rights and duties accorded local governments and the owners of property for financing and assessments under ORS 223.205 to 223.775 shall apply to the following:

(a) A system development charge designed to finance the purchase or development of a public park or recreational facility or the construction, extension or enlargement of a street, community water supply, storm sewer or sewerage or disposal system as defined in ORS 199.464 imposed by a local government as a condition to issuance of any occupancy permit or imposed by a local government at such other time as, by ordinance, it may determine.

(b) That portion of a connection charge imposed by a local government that is greater than the amount necessary to reimburse the local government for its costs of inspection and installing connections with system mains.

(2) Notwithstanding ORS 223.230, the financing of system development or connection charges under this section may, at the option of the governing body, be a second lien on real property, which lien shall be inferior only to the mortgage or other security interest held by the lender of the owner's purchase money. Bonds issued under this subsection shall be issued separately from

# Memo

To: Newport City Council  
From: James Bassingthwaite, Community Development Director  
Date: May 10, 2009  
Re: Background on Parking District Formation and Payment in Lieu of Parking Issues

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**Summary of Issue:** The current Newport Zoning Ordinance (NZO) Section 2-3-6.050 that includes the payment in lieu of parking option for the three special areas (Nye Beach, City Center, and Bay Front) states in part that:

"Uses within a special area are not required to provide the parking required in section 2-3-6. However, in lieu of providing that parking, the use shall be required to pay into a parking fund in an amount established by resolution of the City Council. The City Council may amend the resolution from time to time. The fee charged shall be based on a reasonable estimate on the cost of providing one surface parking space plus a proportionate share of other requirements such as driveways, aisles, and landscaping."

NZO Section 2-3-6.050 also allows for an exemption from the payment in lieu of parking fee for Council approved parking districts as follows: "If a parking district authorized by the City Council is formed in all or part of the special area, the requirements for payment in lieu of providing parking may be waived upon adoption of a motion of the City Council."

Although the City established in 1997 by ordinance how the payment in lieu of parking fee should be calculated, the City Council had not actually changed the amount of the fee (\$175.00 per space) since the program was established in the early 1980s. The current fee does not represent a reasonable estimate of providing a surface parking space. Based on public input on the payment in lieu of fee program regarding a number of issues with the program, the Council in 2006 created and appointed a Payment in Lieu of Parking Task Force to study the fee issue. The Task Force developed a set of recommendations following a series of publicly noticed meetings that were adopted by the Task Force in March 2007. The Planning Commission held two public hearings and a joint work session with the City Council in 2007 on the parking issue and the Task Force recommendations. Based on public input received through the hearing process, the Planning Commission recommended amendments to the Task Force recommendations and included a provision to allow for an 18 month period prior to implementation of the Task Force recommendations for the affected areas to form parking districts. The City Council held a public hearing in November 2007 and a work session in January 2008 on the Task Force recommendations. Based on public

input received by the City Council, the Council adopted by motion the Task Force recommendations (with the amendments recommended by the Planning Commission) on February 4, 2008. The Council allowed an 18 month period before the recommendations would become effective for the three affected areas to form parking districts.

City staff held a publicly noticed work shop on the basics of parking districts for all three of the affected areas in April 2008. City staff also held a publicly noticed work shop on the basics of parking districts for the Nye Beach area in July 2008. City staff have since then been attending meetings of a group of interested persons in Nye Beach to assist in the discussion of the formation of a Nye Beach Commercial Parking District. City staff have also attended a meeting (which included public notice) to present information on the basics of parking districts for the Bayfront area in January 2009 and are currently assisting individuals from the Bayfront in their consideration of a parking district. City staff also met with individuals from the City Center in April 2009 to discuss the basics of parking district formation for the City Center.

**Brief Background on Timeline** – The discussion of the payment in lieu of parking fee issues are not new to the City Council, as the City Council has had opportunities to address payment in lieu of parking fee issues since at least a joint worksession between the Planning Commission and the City Council on September 11, 1995. The Council considered changes to the payment in lieu of parking fee in 1997 (the 1997 changes adopted included limiting the payment in lieu of fee program to just the current three areas (Bayfront, Nye Beach, and City Center) rather than maintaining it as a city wide program and establishing that the fee needed to be based on the actual cost of providing off-street surface parking (but the Council did not actually change the fee)) and again around 2000. At a September 29, 2003, joint worksession of the City Council and Planning Commission, the payment in lieu of parking issue was identified as the third top priority for planning projects (behind a review of the overall zoning ordinance and South Beach issues). At the April 17, 2006, City Council meeting, the Council again discussed the payment in lieu of parking fee issue and voted to establish an ad hoc committee to address the payment in lieu of fee issue and to request representatives from the three impacted payment in lieu of parking areas (Nye Beach, City Center, Bay Front).

The composition of the task force was revised at the August 21, 2006, to include at least two members each from the Bay Front, Nye Beach and City Center areas, with one individual paying the payment in lieu of fee and one not paying the payment in lieu of fee in order to ensure more diversity of perspective on the task force. At the October 2, 2006, City Council meeting, the Mayor appointed and the Council approved a Payment in Lieu of Parking Task Force.

The Council's Priority One Goals for 2007 included as the 7<sup>th</sup> goal: "Assess, develop, and implement a parking policy to include parking districts and funding mechanism for City Center, Bayfront, and Nye Beach in collaboration with the City Center Association, the Bayfront Committee, and the Nye Beach Merchants Association." Parking issues in each of those three areas were also discussed at a July 30, 2007, joint worksession of the City Council and Planning Commission.

**Newport Payment in Lieu of Parking Task Force - Summary of Recommendations –**

The Task Force was appointed by the Mayor and City Council to address issues regarding the payment in lieu of parking fee currently charged by the city (\$175.00 per space per year) and the recommendations are primarily related to the fee issues. The Task Force held a series of meetings open to the public beginning in late 2006 and early 2007. The Task Force approved the recommendations on March 26, 2007. To summarize, the recommendations are as follows:

**Recommendation 1:** Charging a payment in lieu of parking fee of \$7,500 per parking space based on a reasonable estimate of the cost of providing an off-street surface parking space.

A. One fee would be charged rather than a separate fee for each district.

B. The fee would be indexed on an annual basis for inflation.

**Recommendation 2:** The payment in lieu of parking fee would be a one-time payment (with the Council possibly allowing a 10 year payout (or other timeframe) of the fee in installments).

**Recommendation 3:** Existing businesses/property owners currently paying the payment in lieu of fee would have their prior payments (adjusted for inflation using an index such as the ENR construction cost index) applied to the adjusted payment in lieu of parking fee and if the total of the payments equals the fee, then they would be done.

**Recommendation 4:** Existing businesses/property owners paying the payment in lieu of fee of \$175 per space would see increases on a yearly basis of 10 percent.

**Recommendation 5:** The use of parking meters should be explored for some of the high traffic parking lots/areas.

**Recommendation 6:** The resolution establishing the new payment in lieu of parking fee shall identify the types of projects that the City Council shall consider undertaking with the funds collected (ie., establishing more off-street and on-street parking, maintaining and improving existing parking lots, funding the Free Shuttle service, parking meters, etc.) with a goal of improving the parking situations within each of the three payment in lieu of parking districts.

**Task Force Members –** The individuals appointed by the Mayor and approved by the city Council to serve on the Payment in Lieu of Parking Task Force included:

Sandy Bruster (City Center/not required to pay payment in lieu of parking fee), Bill Taylor (City Center/not required to pay payment in lieu of parking fee), Patrick Hannan (Development Commission/City Center business owner paying the payment in lieu of parking fee), Ian Clayman (Bayfront/property pays payment in lieu of parking fee), Steve Dennis (Bayfront /property pays payment in lieu of parking fee), Neal Henning (Bayfront/was on Planning Commission at time of appointment/not required to pay payment in lieu of parking fee), Scott Doll (Nye Beach/business pays payment in lieu of parking fee), Kathy Cleary (Nye Beach/not required to pay payment in lieu of parking fee), Linda Neigebauer (Nye Beach/not required to pay payment in lieu of parking fee).

Larry Henson served as the City Council liaison member to the Task Force.

**Newport Planning Commission Action and Recommendation –** The Planning Commission held a public hearing on the Task Force recommendations on May 29, 2007,

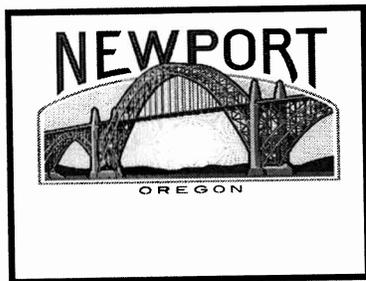
and a continued public hearing on September 24, 2007. The Planning Commission made a recommendation to the City Council at their October 8, 2007, meeting. The Planning Commission recommended (on a vote of 5-0 (Patrick, Brusselback, Atwill, Newman, and Mosely) (Rehfus and Eisler absent), that the City Council allow up to a year and a half for the formation of parking districts prior to implementation of the recommendations of the Task Force. The Planning Commission would encourage the formation of parking districts in each of the three payment in lieu of parking districts. If a parking district is not formed within the year and a half, then the recommendations of the Task Force should be implemented with the Task Force Recommendation 5 language amended to include consideration of parking meters and other forms of payment for parking.

**City Council Action** – The City Council adopted the recommendations of the Payment in Lieu of Parking Task Force as amended by the Planning Commission at the February 4, 2008, City Council meeting following a public hearing in November 2007 and a work session in January 2008 on the issue. The City Council allowed 18 months for each of the three districts (Nye Beach, City Center, and Bayfront) to form parking districts prior to implementation of the recommendations.

**Brief Summary of Payment in Lieu of Parking Fee Issue:** Newport Zoning Ordinance (NZO) (No. 1308, as amended) Section 2-3-6.050 (Special Area Parking Requirements) exempts new and expanding land uses in parts of the Nye Beach, City Center, and Bayfront areas that would otherwise be required to provide off-street parking from actually providing all or part of the off-street parking if the new or expanded use pays into the payment in lieu of parking fund established by the City Council for each parking space the new or expanded use chooses not to provide. The payment in lieu of parking fee program provides a choice for new and expanding land uses in the three defined areas to either pay a fee for off-street parking spaces required but not provided or to actually provide all or part of the required off-street parking spaces. New and expanding land uses in those defined areas that provide their own required off-street parking are not required to pay the fee. Existing land uses that do not provide off-street parking and do not pay the payment in lieu of parking fee but that existed prior to off-street parking requirements (commonly referred to as "grandfathered" uses) would remain "grandfathered" to the extent of their existing "grandfathered" status. The payment in lieu of parking fee was established in the early 1980s at \$175.00 per space and has remained unchanged since then. NZO Section 2-3-6.050 specifies that: *"The fee charged shall be based on a reasonable estimate on the cost of providing one surface parking space plus a proportionate share of other requirements such as driveways, aisles, and landscaping."* The proposed recommendations would update the fee to be consistent with the ordinance language specifying how the fee should be calculated under the Special Area Parking Requirements.

**Brief Summary on what is a "Parking District"** -- Under the NZO Section 2-3-6.050, the formation of a City Council approved parking district can result in uses within the parking district not being required to provide either off-street parking or to pay the payment in lieu of parking fee. Parking districts can be formed as an economic improvement district under ORS 223.112 through either property owners or business owners depending on the method

of formation and assessment. The formation of a parking district requires identification of the projects to be undertaken by the district, a preliminary estimate of the cost of the projects and proposed method of assessment, the district boundaries, and the time frame of the assessment (up to five years although districts can be renewed). The approval of the formation of a parking district requires a public notice and hearing process which allows for an opportunity for objections to formation of a district. Parking districts can also have an advisory committee appointed by the Council to allocate expenditures of district funds.



Agenda Item #  
Meeting Date

VI.C.  
May 18, 2009

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

**Title:** Amendments to Public Contracting Code Provision and Public Contracting Rules

Prepared By: Firestone Dept Head Approval: Firestone City Mgr Approval: [Signature]

**Issues Before the Council:** (1) Should provisions of the Municipal Code governing public contracts be amended to require use of City contract forms in most situations and to require maximum prices be included in each contract?

(2) Should the Newport Municipal Code and the Public Contracting Rules be amended to change the threshold for Local Contract Review Board review of contracts and to change the dollar authority of the City Manger relating to contracts?

**Staff Recommendation:** Approve the changes as shown in the attached ordinance and resolution.

**Proposed Motions:**

I move for reading by title only and adoption by roll call vote of An Ordinance Amending Newport Municipal Code Section 2.30.060 Regarding the Authority of the City Manager To Enter Into Contracts and Amending Reporting Requirements.

I move for adoption of the Resolution of the Newport City Council Acting in its Capacity as the Local Contract Review Board Amending Sections 30.175 and 100.010 and Chapter 70 of the City of Newport Public Contracting Rules.

**Key Facts and Information Summary:** The City Council has indicated its desire to reduce the dollar threshold at which the Local Contract Review Board reviews contracts and to reduce the dollar authority of the City Manager relating to contract expenditures. The Council has also indicated its desire that the City use standard city contract forms or justify the reason that the standard forms are not used. The proposed resolution would achieve those changes by modifying the City's public contracting rules.

**Other Alternatives Considered:** Not making the proposed changes.

**City Council Goals:**

**Attachment List:** Proposed Ordinance, Proposed Resolution

**Fiscal Notes:** No significant fiscal impact is expected.

## CITY OF NEWPORT

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

**An Ordinance Amending Newport Municipal Code Section 2.30.060 Regarding the  
Authority of the City Manager To Enter Into Contracts and Amending Reporting  
Requirements**

Findings

1. The City Council adopted Newport Municipal Code Section 2.30.060 to give some authority to the City Manager relating to public contracts.
2. The City Council wishes to amend the scope of authority granted the City Manager relating to contracts.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Newport Municipal Code Section 2.30.060 is amended to read:

**2.30.060 Delegation of Authority**

A. The city manager may enter into a public contract that does not exceed \$50,000.00 without specific Council approval, provided the obligation is part of an adopted budget, the rules of the board are satisfied by written findings and a record is made of the transaction that shows compliance with the rules. The city manager shall advise the Council of all contracts in excess of \$5,000.00. This delegation of authority is subject to the limitations of Section 2.30.070.

B. The board may by regulation delegate authority to the city manager and others relating to the disposal of surplus property.

Section 2. All other portions of Chapter 2.30 remain unchanged.

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

Adopted by Roll Call Vote: \_\_\_\_\_

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

\_\_\_\_\_  
ORDINANCE NO. \_\_\_\_\_  
Page 1 of 2

William D. Bain, Mayor

ATTEST:

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

CITY OF NEWPORT

RESOLUTION NO. \_\_\_\_\_

A Resolution of the Newport City Council Acting in its Capacity as the Local Contract Review Board Amending Sections 30.175 and 100.010 and Chapter 70 of the City of Newport Public Contracting Rules

Findings

- A. The City has adopted Public Contracting Rules to govern the City’s contracting process.
- B. The City Council wishes to amend the Public Contracting Rules to reset the threshold at which contracts must be reviewed and approved by the Local Contract Review Board and to require the use of standard City contract forms unless adequate justification is made to use other forms.

Based on these findings,

THE CITY OF NEWPORT, IN ITS CAPACITY AS THE LOCAL CONTRACT REVIEW BOARD, RESOLVES AS FOLLOWS:

- Section 1. Section 30.175 and 100.010 of the City of Newport Public Contracting Rules are amended as shown in the attached Exhibit A.
- Section 2. Chapter 70 of the City of Newport Public Contracting Rules are amended to read as shown in the attached Exhibit B.
- Section 3. This resolution takes effect immediately upon passage.

Adopted by a \_\_\_\_\_ vote of the Newport City Council on \_\_\_\_\_, 2009.

Signed on \_\_\_\_\_, 2009.

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

ATTEST:

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

**EXHIBIT A****30.175 Contract Terms and Conditions****A. Required Terms and Conditions**

The City shall establish standard terms and conditions for contracts and standard form contracts for classes of contracts. The standard form contract shall be used unless the City determines that an alternative form is acceptable under the circumstances and prepares written finding justifying the use of a different contract form. Contracts shall include provisions relating to the following, if applicable. For those provisions referring to statutes, the contract language shall comply with and implement the statutes.

1. Payment of laborers and material suppliers; contributions to Industrial Accident Fund; liens and withholding taxes, and drug testing (ORS 279B.220, 279C.505);
2. Payment of claims by public officers, payments to first tier subcontractors and claims by labor and materials suppliers (ORS 279C.515),
3. Hours of labor (ORS 279B.020, 279B.235, 279C.520, 279C.540);
4. Environmental and natural resources regulations (279B.525);
5. Payment for medical care, compliance with or exemption from workers compensation laws (ORS 279B.230, 279C.530);
6. Prevailing wage rates (ORS 279C.830);
7. Salvaging, recycling, composting or mulching yard waste material, and salvage and recycling of construction and demolition debris (ORS 279B.225, 270C.510);
8. Certification by contractor of compliance with the Oregon tax laws according to ORS 305.385.
9. Certification by contractor of nondiscrimination as to relations with subcontractors (ORS 279A.110).

10. Inclusion of provisions in contracts with subcontractors, as required by ORS 279C.580;

11. Progress payments and retainage;

12. Bonding requirements (performance and payment bonds, and bond required to be filed with the Construction Contractor's Board or BOLI); and

~~13. Any other requirement imposed by federal or state law, regulation, rule or ordinance, which is applicable to the contract.~~

Deleted: 1

~~14. Maximum payment amounts and payment terms, including withholding of retainage.~~

### **100.010 Expenditure Authority**

#### **A. City Manager**

The City Manager may authorize contracts obligating the City to spend up to ~~\$50,000~~, provided that the purchase is pursuant to an adopted budget.

Deleted: 10

#### **B. Department Heads**

Any department head may authorize contracts obligating the City to spend up to ~~\$10,000~~, provided however, if the expenditure is for goods that are for the particular use of the department heads, such as office furniture for the department head's office or computer to be used by the department head, approval of the City Manager is required.

Deleted: 25

#### **C. Others**

Department heads may authorize employees to enter into contracts and shall establish a maximum authority for employees or classes of employees.

## **EXHIBIT B**

### **Chapter 70 PERSONAL SERVICES CONTRACTS**

#### **70.010 Personal Services Contracts**

A. Personal service contracts are not subject to formal competitive process under the Oregon Public Contracting Code. This Chapter describes a method for distinguishing between personal service contracts and public contracts, particularly service contracts, and provides examples of contracts or classes of contracts which are or are not personal service contracts. It also provides procedures to be used in awarding personal services contracts.

B. The determination whether a contract is a public contract or a personal service contract shall be based on the following:

1. A personal service contract is appropriate where the contract is for services, and where the individual qualifications and skills of the person providing the service are an essential part of the service. A personal service contract is awarded primarily on the basis of the contractor's qualifications including but not limited to criteria such as experience, training, knowledge, and expertise, technical skill, creativity, artistic ability, performance history, and demonstrated ability to exercise sound professional judgment.

2. A personal service contract is not appropriate where price is the major factor and quality of service is only a minor factor and can be satisfied by compliance with minimum standards.

C. Personal service contracts may include, but are not limited to, the following:

1. Contracts for services performed as an independent contractor in the professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; physician or dentist; registered professional engineer; appraiser or surveyor; aerial photographer; timber cruiser; broadcaster; or data processing consultant.

2. Contracts for such services as an artist in the performing of fine arts, including but not limited to photographer, filmmaker; painter; weaver; or sculptor.

3. Contracts for services of a specialized creative and research oriented, noncommercial nature.

4. Contracts for educational and human custodial care services.

D. The following are NOT personal service contracts:

1. Contracts, even though in a professional capacity, if predominately for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominately a tangible product.

2. A service contract, including a contract with a temporary service or personnel agency, to supply labor which is of a type that can generally be done by any competent worker, e.g., data entry, key punch, janitorial, security guard, crowd management, crop spraying, laundry, and landscape maintenance service contracts

3. Contracts for trade related activities considered to be labor and material contracts.

4. Contracts for services of a trade-related activity, to accomplish routine, continuing, and necessary functions, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

5. Contracts with personnel agencies.

E. Examples of the differences between personal services contracts and other contracts include:

1. A contract to design advertising and plan an advertising campaign is a personal services contract because it involves specialized knowledge and skills, but a contract to provide standardized responses (e.g. brochures) in response to requests for information in response to an advertising campaign is not a personal services contract because it does not require professional skills.

2. A contract for legal services is a personal services contract because it involves professional skills, but a contract to publish an ordinance or code is not a personal services contract because even though some level of expertise is needed, the contract is primarily for the product, price should be a primary factor, and adequate quality can be assured by requirements or specifications in the contract.

### **70.015 Screening and Selection Policy for Personal Services Contracts**

It is the City's policy to select as expeditiously as possible the best qualified consultant available, consistent with financial considerations. The selection procedures in this section shall be used to select the personal services contractors, except where ORS 279C.110 requires a different procedure. The selections procedures do not apply to the appointment or hiring of City officials and employees, to employment or services contracts with City officials and employees (except if providing services outside the scope of employment or official duties), or to collective bargaining agreements.

A. Formal Selection Procedure.

This procedure shall be used for personal service contracts when the total cost of the contract exceeds \$50,000. The City may elect to use the Formal Selection Procedure for any personal service contract, regardless of price.

1. Announcement.

The City will make at least one public announcement of its need for personal services in an appropriate trade periodical and/or newspaper of general circulation. The announcement shall include a description of the requested services, the scope of the services, project completion dates if applicable, and a description of any special requirements, if present. The announcement shall invite qualified prospective contractors to indicate to the requesting department their interest in performing the services required. The announcement will specify a closing date by which the statement must be received by the appropriate department. The announcement may be sent directly to persons the City believes capable of providing the services.

2. Application.

Prospective contractors must submit a statement which describes their capabilities, credentials, and performance data sufficient to establish their qualification for the project. The application must include information on the rates to be charged, including an estimate of total cost.

3. Initial Screening.

The Department Head or designee shall evaluate the qualifications of all applicants responding to the announcement by the closing date and select from among the respondents a number of prospective contractors whose statements evidence the highest level of qualification to be interviewed as the next stage of the selection process. The number of interviewees will normally be three, but may be more or less, depending on the relative quality of the initial submissions. Should fewer than three statements be received, then each prospective contractor submitting statements that is considered to be acceptable will be interviewed.

4. Final Selection Procedure.

a. Interviews.

The Department Head or designee will hold discussions with the finalists selected for initial screening. Applicant capability, experience, and compensation requirements shall determine the department's final selection. The interviews may be in person or by phone.

b. Award of Contracts.

The Department Head or designee shall make a recommendation to the Board for award of the contract based on the written materials and the interview evaluation. The designee may be a committee.

B. Informal Selection Procedure.

1. This procedure may be used when the estimated fee to the contractor does not exceed \$50,000.

2. The department will contact a minimum of three prospective contractors with which it has had previous successful experience or which are known or believed by the department to be qualified to offer the sought-after services. A projected fee will be requested and a selection made by the Department Head or designee based upon the consultant's capability, experience, project approach, and compensation requirements.

C. Direct Appointment Procedure.

1. A qualified consultant may be appointed directly from the City's current list of consultants, another public contracting agency's current list of consultants pursuant to an interagency or intergovernmental agreement entered into in accordance with ORS Chapter 190; or from consultants offering the necessary services that the City reasonably can locate. Direct appointment procedure may be used when:

a. The consultant's estimated fee does not exceed \$5,000; or

b. When the project consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier departmental contract, provided that the original selection procedure used for the project was a formal procedure and the consultant's estimated fee does not exceed \$50,000.

2. A direct appointment shall be competitive to the extent practicable and may be based on the consultant's availability, capabilities, staffing experience, compensation requirements and the project's location.

D. Emergency Appointment Procedure.

Nothing in the rule shall be inferred to prohibit or otherwise impede the Department Head's or designee's right to make direct consultant appointments when conditions require a prompt action to protect life or property. In such instances, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted by the Department Head or designee to the City Manager or designee for action. The City Manager or designee will determine if an emergency exists, declare the emergency, and when appropriate, approve the appointment.

E. Responsible Parties' Actions.

1. Professional Consultants.

Submit qualifications, credentials, and performance data relating to their capabilities to the appropriate division in response to project announcement.

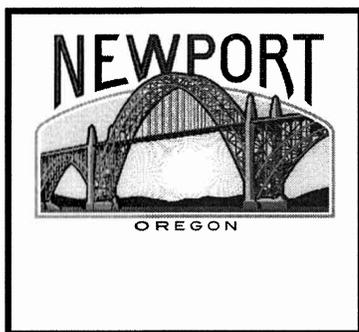
2. Division/Department.

- a. Determine that the work on a project requires the services of a consultant.
  - b. Announce project as required by this section.
  - c. Request the City Manager's approval of the required actions.
  - d. Determine appropriate selection/appointment procedure.
  - e. Select consultant/candidates as specified under this rule.
  - f. Interview the top candidates and make the final selection.
  - g. Execute contracts and awards to consultants, with the City Manager's prior approval.
  - h. Maintain a file on the selection process, including:
    - i. The method and copy of the announcement.
    - ii. The names of firms/individuals and cost estimates considered.
    - iii. A justification of need for the contract.
    - iv. The basis for selection.
    - v. The means by which rates were established.
    - vi. How reasonableness of price was determined.
    - vii. A copy of the resulting contract.
3. City Manager
- a. Approves each project's scope and budget as necessary.
  - b. Makes direct and emergency appointments as required.
  - c. Approves/disapproves Personal Services Contract and all subsequent

amendments unless the amount of the contract requires the Board's approval.

#### **70.020 AMENDMENTS**

Amendments for additional work on personal service contracts shall be permitted only if the City requests additional work of the same type. Any such amendment may not exceed 25% of the original contract value. If an additional personal services contract is to be awarded for work related to an existing personal service contract, the total value of the new and old contracts is to be considered in determining the type of selection procedure required. If a contract was originally awarded by the informal selection procedure, amendments that would result in a total contract price of more than \$50,000 are not permitted. If a contract was originally awarded by the direct appointment procedure under Section 70.015C.1.a, amendments that would result in a total contract price of more than \$10,000 are not permitted.



Agenda Item #  
Meeting Date

VI.D.  
May 18, 2009

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

Issue/Agenda Title An Ordinance amending Newport Municipal Code Chapter 3.05 Room Tax

Prepared By: JR Dept Head Approval: *Janice R. Westbrook* City Mgr Approval: *[Signature]*

**Issue Before the Council:**

After concluding an audit of some of the entities that pay room tax to the City, the City's auditors suggested that a couple of minor changes in the City Code could eliminate some confusion in the way some of the lodging establishments are collecting and remitting the tax to the City.

**Staff Recommendation:**

Adopt the attached ordinance to make changes to the Newport Municipal Code, chapter 3.05 regarding room taxes.

**Proposed Motion:**

***I move for reading by title only Ordinance number \_\_\_\_\_, an ordinance amending Newport Municipal Code chapter 3.05 and for adoption by roll call vote.***

**Key Facts and Information Summary:**

After the audit firm Pauly, Rogers and Company completed their examination of several entities that pay room tax to the City they noted there was some confusion in two areas; the first was in whether cleaning fees were subject to the room tax, and the second was in how charges related to credit payments for room rents were handled. The attached ordinance clarifies the definition of rent to include cleaning and maintenance fees charged to the renter, making those fees subject to the tax. The ordinance also eliminates references to discounts for credit card charges. To offset the elimination of the discount, the administration fee that lodging establishments can retain will be increased to six percent.

**Other Alternatives Considered:**

Taking no action

**City Council Goals:**

Fiscal responsibility as mentioned in the Council's Mission Statement;

**Attachment List:**

Ordinance; City code section with changes noted; selected audit findings

**Fiscal Notes:**

No fiscal analysis has been done;

CITY OF NEWPORT

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

**An Ordinance Amending Newport Municipal Code Chapter 3.05 Room Tax To Clarify That Cleaning Charges Are Taxable and To Amend The Provisions Authorizing Operators To Retain Amounts To Cover Collection and Remittance Expenses.**

Findings

- 1. Newport Municipal Code Section Chapter 3.05 imposes a Room Tax and provides regulations governing the collections of the Room Tax.
- 2. A recent audit of some entities that pay the Room Tax has determined that some clarification is needed as to what charges are subject to the tax and that the Room Tax could be administered more simply with some minor changes.
- 3. The amendments in this ordinance will clarify that cleaning charges and other charges associated with the occupancy of the space are taxable. The amendments will increase the amount that operators may retain to cover their expenses, but eliminate the deduction for credit card charges.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Newport Municipal Code Section 3.05.010F is amended to read:

**3.05.010 Definitions**

The following definitions apply to this chapter.

\* \* \* \* \*

F. Rent means the consideration charged for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner that are solely for cleaning or maintenance of the unit or personal use or occupancy by the owner. Rent does include charges associated with any occupant's occupancy of space, including cleaning or maintenance charges but does not include any charges for services unrelated to occupancy or for goods or commodities.

Section 2. Newport Municipal Code Section 3.04.030 is amended to read:

**3.05.030 Collection of Tax by Operator**

A. Every operator shall collect the room tax from all occupants at the time of payment unless an exemption applies. If payment is by credit card, payment is made at the time the occupant provides credit card information to the operator, not when the operator ultimately receives credit.

B. Tax amounts shall be rounded down to the nearest cent.

Section 3. Newport Municipal Code Section 3.05.040 is amended to read:

**3.05.040 Operator Record Keeping and Expenses**

A. The operator shall maintain records showing the amount of tax separately from rent charged, and any receipt shall show the tax separately. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this ordinance.

B. Operators may withhold six percent of room tax collected to cover the operator’s collection and remittance expenses.

Section 4. All other portions of Newport Municipal Code Chapter 3.05 remain unchanged.

Section 5. This ordinance shall take effect 30 days after adoption.

Adopted by Roll Call Vote: \_\_\_\_\_

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

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

ATTEST:

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

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

3.05.010 Definitions

The following definitions apply to this chapter.

F. Rent means the consideration charged for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner that are solely for cleaning or maintenance of the unit or personal use or occupancy by the owner. Rent does include charges associated with any occupant's occupancy of space, including cleaning or maintenance charges but does not include any charges for services unrelated to occupancy or for goods or commodities.

- Deleted: which
- Deleted: such
- Deleted: such
- Deleted: so long as the charges are made in connection therewith for space occupancy.
- Deleted: additional
- Deleted: ,

3.05.030 Collection of Tax by Operator

A. Every operator shall collect the room tax from all occupants at the time of payment unless an exemption applies. If payment is by credit card, payment is made at the time the occupant provides credit card information to the operator, not when the operator ultimately receives credit.

B. Tax amounts shall be rounded down to the nearest cent.

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C. In credit card and similar transactions, the amount of rent shall include only the amount ultimately paid to the operator, excluding any credit charge transaction charges.

3.05.040 Operator Record Keeping and Expenses

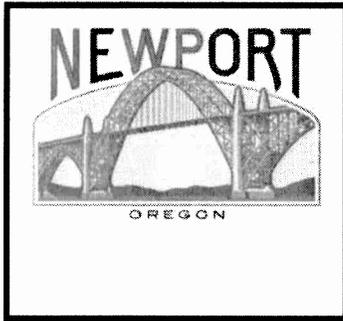
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B. Operators may withhold six percent of room tax collected to cover the operator's collection and remittance expenses.

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**CITY OF NEWPORT TRANSIENT ROOM TAX**  
**FYE 06/30/09**  
**SUMMARY OF FINDINGS**

WP Ref.	Finding	Disposition AUP Report Finding	Explanation (if necessary)
981	<p>During our review of the Transient Room Tax Ordinance No. 1033, it was noted that the intent of the credit card discount as written in section 3(e) of the ordinance is very difficult to interpret. Establishments may subtract their credit card fees from the gross rent on line four and remit 9.5% of the adjusted taxable rent; which should result in an excess in tax collected. We noted a majority of establishments do not include the excess tax collected on line eight of their remittance; which would be added back into the taxes due before the collection fee discount. For establishments who do report the excess tax collected on line eight, the discount nets to nothing. We recommend that the City evaluate and possibly amend section 3(e) of Ordinance No. 1033 to establish the true intent of the credit card discount.</p>		
800.2 & 800.3	<p>During our testing, we noted that [REDACTED] is not assessing any TRT taxes on cleaning fees. We did not note any specific guidelines in Ordinance No. 1033 which specifically includes or excludes cleaning fees from taxable rent. We recommend that the City evaluate whether cleaning fees associated with vacation rentals should be taxed.</p>	<p>AUP Report Finding</p>	<p>Note: Hotels do not deduct cleaning fees for the rooms they rent when they assess Transient Room Taxes for customers; should vacation rentals be any different?</p>



Agenda Item # VI . E .  
 Meeting Date May 18, 2009

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

Issue/Agenda Title Determination of type of appeal hearing process and setting date for appeal hearing on appeal of the Planning Commission's denial of a variance to the sign code requirements in NMC Section 10.10.050(A) in File No. 2-VAR-09

Prepared By: James Bassingthwaite Dept Head Approval: JB \_\_\_\_\_ City Mgr Approval: \_\_\_\_\_

**ISSUE BEFORE THE COUNCIL:** Consideration of the type of appeal hearing process (either on the record or *de novo*) for an appeal of a Planning Commission decision denying a variance and setting a date for a hearing on the item.

**STAFF RECOMMENDATION:** Schedule the appeal for either a *de novo* or on-the-record hearing process.

**PROPOSED MOTION: FOR DE NOVO HEARING:** I move to hear the appeal of the Planning Commission's decision in File No. 2-VAR-09 as a *de novo* hearing with a hearing date of June 15, 2009.

**For on the record hearing:** I move to hear the appeal of the Planning Commission's decision in File No. 2-VAR-09 as an on-the-record hearing pursuant to the schedule as developed by City staff [City staff will develop a schedule for consideration of the Council to distribute by the noon worksession on May 18<sup>th</sup>].

**KEY FACTS AND INFORMATION SUMMARY:** File No. 2-VAR-09 was a request for approval of a Type I sign variance to Section 10.10.050 (A) of the City of Newport Municipal Code to allow a proposed 66 square-foot wall sign located on the gabled roof above the portico on the west side of the building at the new Holiday Inn Express (135 SE 32<sup>nd</sup> Street) to be 48 feet high from grade to the top of the sign. Section 10.10.050 (A) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign for all signs other than mural signs. The property is in a C-1/"Retail and Service Commercial" zone where the height limitation is 50 feet.

The Planning Commission held a public hearing on April 13, 2009, and determined by a vote of 5-0 (Patrick, Fisher, McIntyre, Reh fuss, Atwill) that the applicant in the request for the Type I Sign Variance as submitted in the application did not meet the burden of demonstrating compliance with all of the applicable criteria and therefore a determination that the request was in conformance with the provisions of the Newport Municipal Code and the Zoning Ordinance of the City of Newport could not be made. The Planning Commission adopted a Final Order on the decision dated April 27, 2009. Appeals to the decision needed to be filed by 5:00 p.m. on May 12, 2009.

An appeal of that decision was filed on May 12, 2009, by the applicant (Newport Hospitality LLC) (Dennis Bartoldus, authorized agent). A copy of the appeal is attached. The applicant is requesting a *de novo* hearing on the appeal. In filing the appeal, the applicant identified the decision sought to be reviewed (Planning Commission's denial of a Type I variance for a sign in File No. 2-VAR-09) but did not specifically include a date of the decision sought to be reviewed as required by Newport Zoning Ordinance (NZO) (Ord. No. 1308, as amended) Section 2-6-1.045 (A) (1) which states that the appeal shall contain: "An identification of the decision sought to be reviewed, including the date of the decision." However, NZO Section 2-6-045 does not specify that the failure to file all required information with the appeal results in automatic dismissal of the appeal. NZO Section 2-6-045 is also unclear as to whether or not the appeal is deemed "incomplete" in a manner similar to how other land use

applications are processed which would allow for the appellant to submit the missing information. The applicant submitted a letter on May 13, 2009, addressing the issue of the date of the decision. This is an issue that the Council may want to consider as part of the appeal process. If the Council does want to address this issue through the appeal process, staff would recommend a *de novo* hearing process to allow for public input on the item and new evidence and argument to be presented regarding this issue.

Copies of the Newport Zoning Ordinance appeal process and the appeal filed by the applicants are attached. The Newport Zoning Ordinance (No. 1308, as amended) states that: "Approving authorities that hear appeals may do so on the record of the initial hearing or de novo." [emphasis in original]. Therefore, the Council has discretion to hear the appeal "on the record" or "de novo." The applicants have requested that the City Council hear the appeal *de novo* (or essentially a new public hearing on the application following the same procedure used in the Planning Commission hearing). An appeal "on the record" would include "all evidence used in making the initial decision and a transcript of the hearing [held by the Planning Commission]" and would not allow for new evidence to be submitted. With either an appeal on the record or a *de novo* hearing, the City Council has under NZO Section 2-6-1.045 (Appeals), the ability to affirm, reverse, or modify in whole or in part the decision of the Planning Commission.

File No. 2-VAR-09 is subject to the 120 day rule pursuant to ORS 227.178 (1) (and a similar provision found in NZO Section 2-6-1.050), which requires that the City take final action on a permit application within 120 days after the application is deemed complete unless waived by the applicant. If the City does not take final action within 120 days, the applicant can petition for a court order (writ of mandamus) compelling the City to approve the application. ORS 227.179 (1) states:

Except when an applicant requests an extension under ORS 227.178(5), if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

The application for File No. 2-VAR-09 was filed on March 20, 2009, and deemed complete on March 23, 2009 (the date public notice of the Planning Commission hearing was mailed). 120 days from March 23, 2009, would be July 21, 2009. Depending on what decision the Council makes regarding the review procedure, it is likely that the earliest regularly scheduled City Council meeting at which the appeal could be heard would be the June 15, 2009, Council meeting. Pursuant to NZO Section 2-6-5.010 (Council Review), the Council may determine to reconsider or rehear any matter subject to and in accordance with the procedure specified in NZO Section 2-6-5.010 (A) within 10 days after the meeting at which such decision is made or adopted if any one who has standing for an appeal in accordance with the provisions of NZO Section 2-6-1.040(B) shall file a petition for review in the manner provided for in NZO Section 2-6-1.045 for appeals provided. This does not confer an automatic right of rehearing the matter pursuant to NZO Section 2-6-5.010(B), but does require the Council to consider whether or not to rehear the matter.

**OTHER ALTERNATIVES CONSIDERED:** See above in Key Facts and Information Section.

**CITY COUNCIL GOALS:** None applicable.

**ATTACHMENT LIST:**

- \*Appeal as submitted on May 12, 2009
- \*Applicant May 13, 2009 letter
- \*Planning Commission's Final Order on File No. 2-VAR-09
- \*NZO Section 2-6-1.045 (Appeals)

**FISCAL NOTES:**

Dennis L. Bartoldus  
Attorney at Law

DENNIS L. BARTOLDUS  
Of Counsel  
CLIFFORD G. COLLARD

380 S.W. 2nd Street  
P.O. Box 1510  
Newport, Oregon 97365  
Telephone 541-265-5400  
Fax 541-265-7633  
e-mail – landlaw@charter.net  
collardlaw@charter.net

May 12, 2009

Community Planning & Development Department  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365

RE: Appeal of Newport Hospitality, LLC of Denial of a Type I Variance for a Sign  
File No. #2-VAR 09

Dear Folks:

Please find enclosed an appeal by Newport Hospitality, LLC of the denial of a variance for a sign. Also enclosed is the appeal fee of \$150.

Newport Hospitality is appealing the Planning Commission's denial of a Type I variance for a sign to the Newport City Council.

We request that the city council hold a de novo hearing on this matter as part of decision-making process on this case. Please notify me of the date this matter is scheduled before the City Council, either to discuss the holding of a de novo hearing and also, of course, for the hearing that will be scheduled on this matter.

If you have any questions, please contact me.

Very truly yours,

  
DENNIS L. BARTOLDUS

DLB/mah  
Enclosures



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

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

NEWPORT HOSPITALITY, LLC

By: [Signature]  
Applicant Signature(s)

5/12/09  
Date Signed

By: [Signature]  
Property Owner Signature(s) (if other than applicant)

5/12/09  
Date Signed

[Signature]  
Authorized Representative Signature(s) (if other than applicant)

5/12/09  
Date Signed

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

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

STATEMENT OF APPEAL  
OF NEWPORT HOSPITALITY LLC

Newport Hospitality LLC appeals the decision of the Planning Commission in file number 2-VAR-09 which denied a variance to the height limitation in the sign ordinance. The planning commission erred in denying the requested Type I variance requested by Newport Hospitality for at least (but not limited to) the following reasons:

1. The failure to grant a variance will result in a hardship to the property owner that is seeking the variance and the property owner is entitled to relief through the granting of the variance.
2. The sign has no greater impact on the surrounding area than a sign that would be permitted outright under the sign ordinance.
3. The sign has less of an impact on the surrounding area than a sign that would be permitted without a variance.
4. The granting of the variance will not violate the purpose of the sign ordinance as set forth in 10.10.010 of the sign ordinance.

Newport Hospitality LLC requests that the hearing before the City Council be held de novo.

Newport Hospitality LLC will submit additional information to the City Council prior to the date scheduled for the hearing in this matter.

**EXHIBIT A****LEGAL DESCRIPTION:****Parcel I:**

Lot 3, Block H, HARBORTON, in Lincoln County, Oregon.

Excepting any portion lying westerly of the easterly line of that tract conveyed to Jenson Trucking, Inc., by deed recorded June 22, 1961 in Book 216, page 604, Deed Records.

Excepting that tract conveyed to David J. Wilson, et ux, by deed recorded September 3, 1965 in Book 258, page 608, Deed Records.

Also excepting that tract conveyed to the City of Newport for road purposes by deed recorded May 10, 1990 in Volume 216, page 1941, Film Records.

Further excepting that tract described in Deed recorded March 9, 2000 in Volume 398, page 1634, Film Records.

**Parcel II:**

Beginning at the Southeast corner of Lot 3, Block H, HARBORTON, in Lincoln County, Oregon; thence North 87°22' West, 116.0 feet; thence North 0°02' West 119.0 feet; thence South 87°22' East 116.0 feet; thence South 0°02' East, 119 feet to the point of beginning.

EXCEPTING that part thereof conveyed to Lincoln County by Deed recorded September 11, 1951 in Book 147, Page 528, Deed Records for Lincoln County, Oregon.

ALSO EXCEPTING that strip conveyed to the City of Newport by instrument recorded November 27, 1989 in Book 211, Page 700, Film Records for Lincoln County, Oregon.

**Parcel III:**

Beginning at a point that is North 87°22' West 166 feet from the Southeast corner of Lot 3, Block H, HARBORTON, in Lincoln County, Oregon; thence North 0°02' West 119 feet to the property line of the Murry tract as recorded in Book 157, Page 21; thence North 87°22' West along the South line of the said Murry tract 100 feet; thence South 0°02' East 119 feet to the most Southerly Southeast corner of the Murry tract; thence East along 4th Street 100 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Newport by Deed recorded May 10, 1990 in Book 216, Page 1945, Lincoln County Records.

**Parcel IV:**

Beginning at the Southeast corner of Lot 3, Block H, HARBORTON, in Lincoln County, Oregon; thence North 87°22' West 116 feet to the true point of beginning of the tract herein described; thence North 87°22' West 50 feet to the Southeast corner of the Cecil R. Cook, et ux tract recorded June 6, 1966 in Volume 267, Page 438, Deed Records for Lincoln County, Oregon; thence North 0°02' West 119.0 feet to the Northeast corner of the said Cook tract; thence South 87°22' East 50 feet; thence South 0°02' East 119 feet to the point of beginning.

EXCEPTING that part thereof conveyed to Lincoln County by deed recorded September 11, 1951 in Book 147, Page 528, Deed Records for Lincoln County, Oregon.

ALSO EXCEPTING that portion conveyed to the City of Newport by deed recorded May 10, 1990 in Microfilm Volume 216, Page 1947, Lincoln County Records.

Dennis L. Bartoldus  
Attorney at Law

DENNIS L. BARTOLDUS  
Of Counsel  
CLIFFORD G. COLLARD

380 S.W. 2nd Street  
P.O. Box 1510  
Newport, Oregon 97365  
Telephone 541-265-5400  
Fax 541-265-7633  
e-mail – landlaw@charter.net  
collardlaw@charter.net

May 13, 2009

James Bassingthwaite  
Community Planning and Development Director  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365

RE: Appeal of Newport Hospitality, LLC of Denial of a Type 1 Variance for a sign  
File No. #2-VAR-090

Dear: James:

The planning commission decision being appealed by Newport Hospitality, LLC in this case is dated April 27, 2009.

I would note that the appeal specifically references the planning commission decision in case file 2-VAR-09, and there was only one planning commission decision that was entered in this case. Newport Hospitality is the applicant and did appear at the planning commission hearing.

I understand that the City Council will consider when and how to set the hearing on this matter at its meeting on May 18.

Very truly yours,

  
DENNIS L. BARTOLDUS

DLB/mah  
cc: Client

Rec'd 5/13/09  
RB

**BEFORE THE PLANNING COMMISSION OF THE CITY OF NEWPORT,  
COUNTY OF LINCOLN, STATE OF OREGON**

<b>IN THE MATTER OF PLANNING COMMISSION</b>	)	
<b>FILE NO. 2-VAR-09, APPLICATION FOR A</b>	)	
<b>TYPE I SIGN VARIANCE, AS SUBMITTED BY</b>	)	<b>FINAL</b>
<b>NEWPORT HOSPITALITY, LLC (DALE CLARK/ CLARK SIGNS, AUTHORIZED REPRESENTATIVE)</b>	)	<b>ORDER</b>

---

**ORDER DENYING A TYPE I SIGN VARIANCE** to Section 10.10.050(A) of the City of Newport Municipal Code to allow a proposed 66 square-foot wall sign located on the gabled roof above the portico on the west side of the building at the new Holiday Inn Express to be 48 feet high from grade to the top of the sign. The subject property is located at 135 SE 32<sup>nd</sup> St. (the new Holiday Inn Express) (Assessor's Map 11-11-17-DB; Tax Lots 500, 501, 502 & 400)

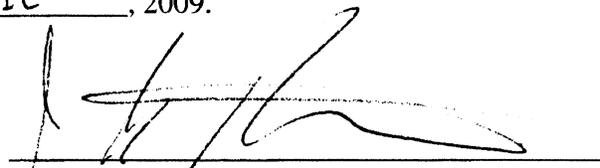
**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a variance, with a public hearing a matter of record of the Planning Commission on April 13, 2009; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence on behalf of the applicant, from Community Development Department staff, and in support and opposition to the variance; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **DENIED** the request as the Commission determined that the applicant had not demonstrated compliance with the criteria for the sign variance.

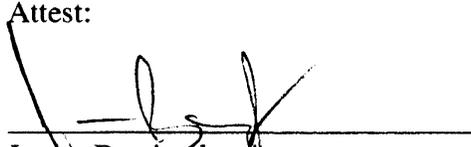
**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the denial of the sign variance as requested by the applicant.

**BASED UPON THE ABOVE**, the Planning Commission determines that the applicant in the request for a Type I Sign Variance as submitted in the application has not met the burden of demonstrating compliance with all of the applicable criteria and therefore a determination that the request is in conformance with the provisions of the Newport Municipal Code and the Zoning Ordinance of the City of Newport cannot be made.

Accepted and approved this 27<sup>th</sup> day of APRIL, 2009.

  
\_\_\_\_\_  
James Patrick, Chair  
Newport Planning Commission

Attest:

  
\_\_\_\_\_  
James Bassingthwaite,  
Community Development Director

**EXHIBIT "A"**

Case File No. 2-VAR-09

**FINDINGS OF FACT**

1. Newport Hospitality, LLC (Dale Clark/Clark Signs, authorized representative) submitted a request on March 20, 2009, for approval of a Type I variance to Section 10.10.050(A) of the City of Newport Municipal Code to allow a proposed 66 square-foot wall sign located on the gabled roof above the portico on the west side of the building at the new Holiday Inn Express to be 48 feet high from grade to the top of the sign. Section 10.10.050 (A) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign. The subject property is located at 135 SE 32<sup>nd</sup> St. (the new Holiday Inn Express) (Assessor's Map 11-11-17-DB; Tax Lots 500, 501, 502 & 400).

2. Staff reports the following facts in connection with the application:

- a. Plan Designation: Commercial.
- b. Zone Designation: C-1/"Retail and Service Commercial ".
- c. Surrounding Land Uses: Surrounding uses include some industrial uses to the south and east; other commercial uses such as retail, restaurants, motels, brewery, and an auto dealership; public parks, aquarium, and marine science center, and high-density residential to the southeast. See Planning Staff Report Attachment "C" (Zoning Map of Area).
- d. Topography and Vegetation: The lot is level.
- e. Existing Structures: A newly constructed 4-story motel.
- f. Utilities: All are available to the subject property.
- g. Past Land Use Actions: None known.
- h. Notification: All affected property owners within 200 feet, applicable City departments, and other agencies were notified on March 23, 2009. See Planning Staff Report Attachment "B" (Public Hearing Notice and Map). The public hearing notice was published in the Newport News-Times on April 3, 2009.

3. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 23, 2009, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., April 13, 2009. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on April 3, 2009. The affidavit of mailing and proof of publication were entered into the record during the course of the hearing on April 13, 2009. Written comments received by the Community Development Department prior to the public hearing included:

A letter of opposition from Janet Webster, 113 SE Bay Blvd., Newport, OR 97365.

Recommendations of approval from:

Roxie Frahm, Newport Candy Shoppe, PO Box 501, Newport, OR 97365  
 Debbie Zahradnicek, 3248 SE Ferry Slip Rd, Newport, OR 97365  
 John Tharp, Newport Business Plaza, 2925 SE Ferry Slip Rd #52, Newport, OR 97365  
 Barbara Abshire, Fishtails Café, 3101 SE Ferry Slip Rd, Newport, OR 97365  
 Bob Ramstead, Pirates Plunder, 3145 SE Ferry Slip Rd, Newport, OR 97365

A written note of opposition from Gary and Linda Cook, 370 SW 29<sup>th</sup> St Apt. E, Newport, OR 97365

4. A public hearing was held on April 13, 2009. At the hearing, the Planning Commission received the staff report and received oral testimony in favor from the applicant's agent, Dale Clark of Clark Signs. At the hearing, Clark submitted another written recommendation for approval from Mary Parker, 3209 SE Ferry Slip Rd, Newport, OR 97365. Oral testimony in opposition was received from the following:

Tom Chandler, PO Box 1131, Newport, OR 97365  
 Joyce Gaffin, PO Box 530, South Beach, OR 97366

The minutes of the April 13, 2009, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Applicant's Findings of Fact  
 Attachment "A-1" – Applicant's Sign Permit Application\*  
 Attachment "A-2" – Site Survey\*  
 Attachment "A-3" – Illustration of West Elevation\*  
 Attachment "A-4" – Building Photograph Showing Proposed Sign Location  
 Attachment "B" – Public Hearing Notice and Map  
 Attachment "C" – Zoning Map of Area  
 Attachment "D" – Applicable Sections of Sign Code

*\*Note: Reduced in scale for photocopy purposes. Full size available at Community Development Department and was available at public hearing.*

5. On March 6, 2009, Clark Signs submitted a sign permit application for a proposed wall sign to be placed on the gabled roof above the portico at the new Holiday Inn Express. The new building is four stories. The maximum building height in the C-1 zone is 50 foot (although certain types of structural features can exceed the building height as provided in NZO Section 2-3-1.010 (General Exceptions to Building Height Limitations)). The proposed sign placed in the gabled roof element above the portico on the west building elevation would be 48 feet high from grade to the top of the sign. See Planning Staff Report Attachment "A-3". Pursuant to Section 10.10.050 (A) of the Newport Municipal Code (NMC), the maximum of height of all signs (other than mural signs) is 30 feet above grade.

6. The applicable criteria for a Type I variance to the Sign Code are found in the Newport Municipal Code Section 10.10.140 as follows:

"Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant".

### CONCLUSIONS

*Newport Municipal Code Section 10.10.140 Criteria states that: "Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant".*

1. In regard to the NMC Section 10.10.140 criteria, the Planning Commission considers whether or not the applicant has sufficiently demonstrated that the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

2. The applicant has submitted findings addressing the criteria. See Planning Staff Report Attachment "A" (Applicant Findings of Fact). The applicant states that the 30-foot height limitation creates practical difficulties due to some bushes located between the building and the highway. The bushes include a mix of evergreen and deciduous trees as well as bushes. The applicant contends that the only two potential locations on the building for a sign are the portico over the main entrance and the gabled roof above the portico. The applicant contends that the portico is too low for the sign to be seen from the highway due to the bushes, which would be impractical to remove because they are on the neighboring property. The applicant states that the practical difficulties are beyond their control as the bushes on the neighboring property owner are not under the applicant's control. See Planning Staff Report Attachment "A-4". Further, eliminating these bushes would eliminate potentially important landscaping and buffering according to the applicant. Alternatives that could be utilized by the applicant include a wall mural sign, which is not subject to the 30-foot height limitation; or removing one of the proposed 4 foot directional signs at the driveway entrances and replacing it with a free-standing sign on the southwest corner of the property. In examining these two alternatives, the applicant determined that neither a painted wall mural sign under the gable roof nor a freestanding sign at the southwest corner would be as attractive in appearance as a lighted sign. Additionally, the applicant notes that a wall mural sign would not comply with the corporate guidelines for Holiday Inn Express signs. No specific documentation from the applicant was submitted in regard to the corporate guidelines for Holiday Inn Express signs by the applicant outside of the statements in the proposed findings. A letter was subsequently submitted by Gregory McCormack of Sign Management identifies that there are a brand-approved "family of signs" which are available to implement the Holiday Inn Repositioning Program. However, no specific documentation was submitted regarding a corporate requirement for the proposed sign to be in the proposed location at the proposed height.

3. In regard to the corporate guideline issue raised by the applicant, the Planning Commission concludes that a corporate guideline is not a special hardship or practical difficulty that would justify

a variance from the sign code requirements. Otherwise, a corporate guideline for a larger sign or more signage could become a valid basis for justifying a variance to the sign code.

4. The applicant indicates that at the time of construction, they believed that the 30-foot height limitation applied only to free-standing signs and not to wall signs. The applicant notes that a proposed sign was shown on the building elevations submitted for the building permit approvals. The Commission concludes that that this does not create a practical difficulty or a special hardship under the criteria. A sign permit application was not submitted in conjunction with the original building permit application. As the building permit applicant had not submitted a sign permit application with a proposed signage plan at the same time as the building permit application, there was not a review of the proposed signage for conformance with the sign code at the same time as the building permit review. As a mural sign, the Holiday Inn Express illustration that appeared on the building permit is permissible with a sign permit.

5. The Planning Commission concludes that alternative signage through a mural sign, a pole sign or the proposed sign at a lower height on the portico in compliance with the requirements of the Newport Sign Code are options available to the applicant. Testimony submitted at the hearing by Joyce Gaffin, for example, concluded that the applicant could place a sign on the property that would be visible from the highway in a number of locations. Written testimony from Janet Webster in opposition identified a number of other alternatives for signage for directing customers to the hotel. While a particular sign in a particular location may be more desirable by the applicant, the Commission concludes that because there are viable signage alternatives (including a mural sign in the proposed location or a pole sign on the property consistent with the Newport Sign Code), there are no special hardships or practical difficulties demonstrated by the applicant based on the material submitted with the application and the testimony received at the hearing. Whether one sign option is more aesthetically pleasing than another sign option is not part of the criteria with which the Planning Commission reviews the variance request. Therefore, the Planning Commission concludes that the applicant has not met the applicant's burden in demonstrating that the request meets the criteria for a variance based on the evidence and testimony before the Commission.

### **OVERALL CONCLUSION**

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has not met the applicant's burden of demonstrating compliance with the criteria for granting a Type I sign variance; and, therefore, the request is **DENIED**.

- (2) Anyone who has filed a written request for notice of the approving authority's decision; and
- (3) Anyone who has requested notice of any appeal hearing.

**2-6-1.045. Appeals.** Any person with standing may appeal a decision of the approving authority. To have standing, a person must have made an appearance of record at the initial hearing. All appeals shall be made no later than 15 calendar days after the date the final order is signed.

- A. **Petition of Appeal.\*** All petitions of appeal shall be signed by the appellant or authorized agent and shall contain:
  - (1) An identification of the decision sought to be reviewed, including the date of the decision.
  - (2) A statement demonstrating that the appellant has standing to appeal.
  - (3) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the application shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to an ordinance, statute, or other law, such errors shall be specifically identified in the application, along with the specific grounds relied upon for review.
- B. **Scope of Review.\*\*** Approving authorities that hear appeals may do so on the record of the initial hearing or de novo. If the appeal is heard on the record, all evidence used in making the initial decision and a transcript of the hearing shall be forwarded to the appeals approving authority. No new evidence may be presented.
- C. **Notice of Appeal.\*\*\*** Notice of the appeal shall be given to the applicant, his authorized agent (if any), and to interested persons, who shall be described as:
  - (1) Anyone who has made appearance of record (see Section 2-6-1.040(B)).
  - (2) Anyone who has filed a written request for notice of the approving authority's decision; and

\* Amended by Ordinance No. 1635 (6-15-92).

\*\* Amended by Ordinance No. 1635 (6-15-92).

\*\*\* Amended by Ordinance No. 1635 (6-15-92).

- (3) Anyone who has requested notice of any appeal hearing.
- D. De novo hearings may be held by the appeals approving authority. In cases of a de novo hearing, the same procedure shall be used as was employed in the initial hearing.\*
- E. Appeals Decision.\*\* Upon review of the appeal, the appeals approving authority may, by final order, affirm, reverse, or modify in whole or part the initial decision. When the appeals approving authority modifies or reverses a decision of the initial approving authority, the final order shall set forth findings and reasons for the change. The appeals approving authority may also remand the matter back to the initial approving authority for further consideration or clarification. A notice of the decision made by the approving authority shall be given to:
- (1) Anyone who has made appearance of record (see Section 2-6-1.040(B)); and
  - (2) Anyone who has filed a written request for notice of the approving authority's decision; and
  - (3) Anyone who has requested notice of any appeal hearing.
- F. No permit or approval shall be issued, no permit or approval shall be considered valid, and no project may proceed, based on any action or decision of the City of Newport under this Ordinance, until such time as all rights of appeal from such decision have been exhausted and such decision is "judicially final." A decision shall be considered judicially final at such time as any applicable period for the appeal of such decision shall have expired without initiation of an appeal, or any properly initiated appeal shall have been exhausted, whichever is later.\*\*\*
- G. The period of validity for any permit or approval hereunder, constituting a land use decision or limited land use decision, as defined by ORS 197.015, and which is subject to appeal, shall commence when the decision is judicially final, but in no event shall such permit or approval be valid after five (5) years from the date such action or decision would have been judicially final, had no appeal ever been taken in the matter.\*\*\*
- H. With respect to all matters constituting a land use action, whether commenced under this Ordinance or otherwise, whenever any such land use action is taken by the adoption of an

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\* Amended by Ordinance No. 1635 (6-15-92).

\*\* Amended by Ordinance No. 1635 (6-15-92).

\*\*\* Subsections F, G, and H added by Ordinance No. 1696 (12-20-93).