



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

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The City Council of the City of Newport will hold an work sessions on Monday, November 7, 2011, starting at 12:00 P.M., Regular Council meeting at 6:00 P.M. The work session will be held in Conference Room A at City Hall, and the regular meeting will be held in the Council Chamber, City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

The meeting locations are 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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**CITY COUNCIL WORK SESSION**

**Monday, November 7, 2011 – 12:00 P.M.**

**Conference Room A**

- I. Fire Department Update
- II. Business License Update
- III. City Manager Update
- IV. Site Visit to Water Treatment Plant

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**REGULAR MEETING AGENDA**

**Monday, November 7, 2011 – 6:00 P.M.**

**Council Chamber**

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

- I. Pledge of Allegiance
- II. Call to Order and Roll Call

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

**IV. Public Comments**

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

**V. Proclamations**

- a. International Peace Day

**VI. Consent Calendar**

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

- a. Approval of minutes from City Council work session, regular meeting, and executive session of October 17, 2011, and executive session of October 28, 2011 (Hawker)

**VII. Officer's Reports**

- a. Mayor's Report
- b. City Manager's Report
  - i. Department Updates
  - ii. Suggestion/Concern/Complaint Form
  - iii. Project Update Memo

**VIII. Discussion Items and Presentations**

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

**7:00 P.M.**

**IX. Action Items**

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

- a. Consideration of Herbicide Use Policy (Protiva)
- b. Consideration of Tourism Facilities Application (Voetberg)
- c. Consideration of Resolution 3561: Immunity from Personal Injury (Voetberg)
- d. Consideration of GP Franchise Fee for Storm Water System Mapping (Gross)
- e. Consideration of Resolution 3562- Communication with City Attorney (Voetberg)
- f. Consideration of Adopt-A-Street/Building Grounds Program (Voetberg)
- g. Reconsideration of Plastic Bag Community Plan

(Voetberg)

h. Consideration of Resolution 3564-Ending Fund Balances and Revenues  
(Marshall)

i. Consideration of Resolution 3565 and Resolution 3566- Technical Advisory  
Task Force  
(Voetberg)

**X. Council Reports and Comments**

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

**XI. Public Comment**

**XII. Adjournment**



## City Council Agenda Item Summary City of Newport, Oregon

**Issue/Agenda Title:** Status: Business License Draft Working Group

**Prepared By:** David Marshall **Dept Head Approval:** dm **City Mgr Approval:** \_\_\_\_\_

**Issue Before the Council:** The “License’d Express” (Business License Draft Working Group) has been tasked to complete a revision to the City’s Business License Ordinance by January 2012.

This is the first report from that Group, and it is important to understand that this document is very much a Work In Progress and subject to further review and modification.

**Staff Recommendation:** None.

**Proposed Motion:** None

### **Key Facts and Information Summary:**

Christy’s draft - as attached here - has incorporated changes provided to her by City staff. This draft was received and distributed to the other members of the Working Group Wednesday a.m.

As this is written, further comments have been offered by Lee Hardy and Steve Beck; those comments *have not been* incorporated into the document.

We consider many of the outstanding issues to those of *policy*. How does the Council want us to proceed? For example, should a one business with multiple locations have multiple licenses ... or just a single license? As written, the draft ordinance states that multiple business licenses are necessary.

There are many such policy issues that must be decided.

**Other Alternatives Considered:** None.

**City Council Goals:** None.

### **Attachment List:**

The November 2<sup>nd</sup> draft of the Ordinance

**NOV 2 DRAFT**

## **BUSINESS LICENSE FEE ORDINANCE**

**Comment [C1]:** Note that the ordinance is drafted as a fee and not a tax. This is because it operates much more like a fee and it will be easier for the City Council to amend the rates as a fee. If the City prefers to treat it as a tax, please advise. Note also that the ordinance is not drafted in official ordinance form. Staff will assist with the correct format once we've finalized the content.

### **PURPOSE AND SCOPE**

The purpose of this chapter is to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of Newport through the regulation of businesses, occupations and trade. A business need not be located within the City in order to be subject to the provisions of this Chapter. This ordinance services the public interest by ensuring that business will be carried on in compliance with applicable laws and in a manner that protects the public's health, safety and welfare. This Chapter's licensing provisions are enacted pursuant to the City Charter, Section \_\_\_\_\_ and the City's home rule authority as provided in the Oregon Constitution, Article XI, Section 2 and Article IV, Section 1.

The business license fee shall be in addition to and not in lieu of any other license or permit fee, charge or tax required under any other City Code section or City ordinance. The business license required by this ordinance shall not be construed to constitute a permit to engage in any activity prohibited by law nor as a waiver of any other regulatory or license requirement imposed by the City or by federal, state, or local law.

### **DEFINITIONS**

Business – Any enterprise, establishment, store, shop, activity, profession or undertaking doing business of any nature within the City, whether conducted directly, indirectly, or cooperatively, including the holding out of Residential Premises for Rent.

“Business” does not include the on-premises sale of used household goods by a person who resides on the premises (a yard or garage sale), as long as the sale is conducted no more than four days in any calendar year.

**Comment [C2]:** This definition is purposefully broad to encompass most businesses (except yard sales) and as written should be construed to include cooperative businesses (such as antique malls). For specific exclusions from the business license fee (but not the registration requirement), see the section titled “Exclusions” below.

City Manager- The City Manager of the City of Newport or his or her designee.

Doing Business – An act or series of acts performed in the course or pursuit of a business activity for more than twenty (20) hours in one calendar year.

**Comment [C3]:** This definition carves out any business activity performed for 20 hours or less in a calendar year.

Employee- A person who works in the service of another person (the employer) and whose work performance details are controlled by the employer. Employees may be part time or full time and the number of employees will be measured using a Full Time Equivalent computation.

**Comment [C4]:** This definition provides direction to City staff when calculating the amount of the business license fee based on FTE. Staff may use other reasonable standards as directed by the City Manager.

Not-for-Profit Entity – Any entity organized and operated exclusively for a religious, charitable, humanitarian or educational purpose and for whom the United States and the State of Oregon have granted an exemption from the payment of income tax on that basis.

Person –Any and all natural and legal persons, including individuals or public or private corporations, firms, partnerships, associations, organizations, syndicates, joint ventures, societies, or any other group or entity acting as a unit of individuals.

*Residential Premises for Rent* – A building or buildings, or a portion of a building, located within the City and containing **[two or more?]** dwelling units that are rented, leased, let or made available for compensation for sleeping or living purposes. The term “Residential Premises for Rent” includes a hotel or motel, automobile or tourist court, rental or boarding house, and mobile home or trailer park. In the case of mobile homes or trailer parks, the term dwelling unit means space or stall. A dwelling unit occupied by the owner of a Residential Premises for Rent shall not be included in the dwelling unit count for computing the business license fee for that location.

**Comment [C5]:** The City should also consider how it would like to charge owners of commercial space for rent. Should such businesses be charged per employee or per property for rent?

**Comment [C6]:** These “Residential Premises for Rent” definitions are offered as policy choices for the committee and City Council. Each definition either narrows or expands upon the number of residential rentals which qualify as a “doing business” and are thus subject to the business license fee.

POSSIBLE ALTERNATE LANGUAGE WHICH EXEMPTS FROM THE FEE ANYONE RENTING OUT A TWO OR MORE DWELLING UNITS **FOR 14 DAYS OR LESS** IN A

*CALENDAR YEAR: Residential Premises for Rent- A building or buildings, or a portion of a building, located within the City and containing **[two or more?]** dwelling units that are rented, leased, let or made available for compensation for sleeping or living purpose **for more than 14 calendar days in any one calendar year.** The term “Residential Premises for Rent” includes a hotel or motel, automobile or tourist court, rental or boarding house, and mobile home or trailer park. In the case of mobile homes or trailer parks, the term dwelling unit means space or stall. A dwelling unit occupied by the owner of a Residential Premises for Rent shall not be included in the dwelling unit count for computing the business license fee for that location.*

Special Event Vendors-A person engaged in selling or offering for sale any food, beverage, merchandise or service on **[public?]** property, streets, or sidewalks during a **[City-sponsored and authorized?]** event for which the event organizer has obtained a valid Business License. Special Event Vendors must possess all necessary City, County and State permits and authorizations. |

**Comment [C7]:** As the committee noted, the Vending ordinance will need to be amended as it uses the business license ordinance as a charging/licensing mechanism. See my other comments regarding Special Event Vendors in the Exemptions Section below.

## **REGISTRATION AND FEE; EXEMPTIONS FROM FEE**

No person shall do business within the City without a current, valid City business license.

No person shall do business within the City as an employee, agent or representative of another person unless the owner, principal, employee, agent or representative has a current, valid City license for that business, no matter where the principal offices of that business are situated.

### **C. Exemptions from the Business License Fee**

1. Exempt persons listed in this subsection shall not be charged a business license fee. All exemptions listed in this subsection and doing business within the City must submit an annual application on a form provided by the City.

2. The following persons shall not be charged a business license fee:

- a. A Not-for-Profit Entity, as defined in this ordinance.
- b. A Special Event Vendor, as defined by this ordinance.
- c. Persons expressly exempted from paying a City business license fee under any other lawful provision of federal, state, or City law, provided that the Person claiming the exemption shall show proof of such exemption satisfactory to the City Attorney.
- d. Persons engaged in delivery of goods from points outside the city, providing the sales contacts and actual sales take place outside the City;
- e. Any city, county, state agency, special district, school district or other government entity.

**Comment [C8]:** Please note that not everyone on the subcommittee agreed that Special Event Vendors should be excluded from the fee. City direction and comments requested.

Also, as presently written, only vendors on public property at City sponsored or approved events are currently excluded from paying the fee. For City consideration:

- 1) Should vendors at only City sponsored events on public property qualify for the exemption?
- 2) If so, what is the process for the City to sponsor or approve an event?
- 3) Should vendors at all events qualify for the exemption as long as the event organizer has a valid business license?

**Comment [C9]:** This section is meant to exclude from the fee any Person protected by state or federal law from being charged a business license fee. (For example: in some circumstances some realtors may not be charged the fee. This is also true for businesses owned by persons under 17.)

**Comment [C10]:** Does the City wish to exclude any agent of these governmental entities (such as contractors?) Staff notes that charging agents for the fee merely increases government costs.

**MULTIPLE LOCATIONS OR BUSINESSES**

A person who does business from more than one physical location or who does business as more than one business entity, including any person operating a franchise, shall obtain separate business licenses and pay separate business license fees for each such location or entity. In determining whether different business activities at the same location are in fact one business, normal and ordinary customs and usages of business shall be considered, including but not limited to consideration of how the businesses are registered with other governmental agencies, such as the Oregon Secretary of State and the Internal Revenue Services.

**Comment [C11]:** This section is meant to provide direction to staff in determining how to bill for multiple businesses or multiple locations.

**APPLICATION; RATE**

All persons doing business within the City, regardless of whether they are exempt from the payment of a business license fee, shall register and submit an annual application on a form provided by the City. The application shall show: the corporate, trade, or registered name of the business; the complete address(s), email address(es), and telephone number(s) of the principal office of the business and any other locations or Residential Premises for Rent; the name of the owner(s) or principal(s); the number of Employees or the number of Residential Premises and dwelling units; and the state of incorporation if the business is a corporation. On the basis of that application, the City shall compute the annual fee for that license according to the schedule of fees that the City Council shall establish from time to time by resolution. The applicant shall warrant by his/her signature that all representations made on the application form are the truth to the best of his/her knowledge. Any misrepresentations on the application shall constitute a violation of this ordinance.

**Comment [C12]:** Does this section meets staff needs for processing an application? Please note that staff still needs to develop the application , the schedule of fees, and other materials.

All applications shall be submitted on or before July 1<sup>st</sup> of each year or before the person first does business in the City, whichever is later. A license shall be valid until June 30<sup>th</sup> of the next year. Applications received after January 30th will be charged one-half of the yearly fee determined by City resolution.

**Comment [C13]:** Does this timeline work for the City budgeting process?

All business license fees shall be determined by resolution of the City Council. The business license fee shall be computed, except as noted in this section, according to the number of employees engaged in the business within the City during the calendar year. For business licenses based upon Residential Premises for Rent, the license fee shall be computed according to the number of dwelling units available for rent in the City and shall be charged to the owner of the Residential Premises for Rent.

Upon receipt of a signed and completed application for a business license, the City shall inform the applicant of the license fee due and the basis for the calculation of the business license fee. The business license fee determined by the City shall be due and payable by the applicant no later than July 1st of the year for which the license is issued

or no later than 10 days after the date that the applicant first does business within the City in that calendar year, whichever is later.

### **ISSUANCE; DISPLAY; TRANSFER**

The City shall issue a written receipt for a business license fee paid in full. The receipt shall constitute a business license and shall be public notice that the person named thereon is licensed to do business in the City for the year shown. A person who is required by this ordinance to have a business license shall cause the receipt to be prominently posted in a place available to the public at the principal location or office of the business for which the license is issued. If the principal location or office of the business is not located within the City, the business' employee, agent or representative must possess a copy of the license when doing business within the City.

No transfer or assignment of any license issued under this chapter shall be valid or permitted. Upon sale or other transfer of a business, the new owners must obtain a new business license.

### **DISCLOSURE; DELINQUENCY**

Persons required to possess a business license shall, upon the City's request, make available all records, accounts and documents of every nature and in whatever media format which may tend to prove or disprove the applicant's statements on his or her business license application. Such records may include but are not limited to records which show the applicant's number of employees or records which show the number of applicant's Residential Premises for Rent dwelling units.

A business license fee not paid in full within 30 days after it is due is delinquent and the City may avail itself of any and all remedies available to collect the fee, including but not limited to referring the delinquency to a collection agency and citing the person for a violation of the Newport Code. In addition, a delinquency charge of 10 percent of the business license fee due may be added to the fee that is otherwise due. This delinquency charge shall be charged for each successive 30 day period, or portion

**Comment [C14]:** City staff: please make sure that these dates and deadlines work for you.

thereof, for which any amount is due and owing and remains unpaid, including any delinquency charges already imposed, up to a maximum penalty of \_\_\_\_ of the license fee.

**Comment [C15]:** Subcommittee guidance requested regarding the delinquency charges.

### **ADMINISTRATION**

The City Manager is responsible for the administration of this Chapter. The City Manager may adopt reasonable rules and regulations necessary to carry out the purpose and intent of this Chapter. Violations of this Chapter or of any rules and regulations adopted by the City Manager pursuant to this Chapter shall be subject to the penalties provided for within this Chapter. No person shall willfully make any false or misleading statements to the City Manager regarding information relevant to the issuance of a business license.

### **REVOCACTION**

A license issued under the provisions of this chapter may be revoked by the City Manager, after notice, for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for a license;
2. A violation of this Chapter;
3. Conducting the licensed activity in an unlawful manner or in such a manner so as to constitute a breach of the peace or to endanger or risk the health, safety or general welfare of the public;

Notice of revocation of a license shall be given in writing to the licensee, setting forth specifically the grounds of complaint. Such notice shall be mailed to the licensee at the licensee's last known address at least ten (10) calendar days before the date of revocation. The last known address is deemed to be the address provided to the City by

**Comment [C16]:** City staff: please make sure that these dates and deadlines work for you.

the applicant on the business license application unless the applicant thereafter gives the city written notice of a different address.

## **VIOLATIONS**

A violation of this chapter shall constitute a civil violation of the laws of Newport and shall be prosecuted at the City's discretion by the filing of a complaint filed in City municipal court or in an Oregon state court of proper jurisdiction. Any person found to have violated this Chapter shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00).

Each violation of a separate provision of this Chapter shall constitute a separate offense and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate offense.

The conviction of any person for violation of this Chapter shall not act or relieve such person from the requirement to obtain a business license. The penalties imposed by this section are in addition to and not in lieu of any other remedies available to the City.

In the event any provision of this chapter is violated by a firm or corporation, the officer, officers or individuals responsible for the violation shall be personally subject to the penalties imposed by this section.

## **APPEAL**

Any person aggrieved by the City Manager's (i) denial of a business license application; (ii) revocation of a business license; (iii) assessment of business license fees; or (iv) application of any rules or regulations pertaining to this Chapter, shall have the right to appeal to the City Council. The applicant or licensee shall file with the City Council a written statement setting forth fully the grounds for the appeal within twenty (20) calendar days after either: (i) the day the notice indicating denial or revocation is mailed; (ii) the day the disputed fees are assessed; or (iii) the day the rules or regulations were allegedly misapplied to the applicant. The City Council shall set a time and place for a hearing on the appeal within twenty (20) calendar days after receiving

**Comment [C17]:** City staff: please make sure that all appeal dates and deadlines work for you.

the appeal. Notice of the appeal hearing shall be mailed to the applicant or licensee's last known address at least ten (10) calendar days prior to the hearing. During the hearing, the applicant or licensee shall have an opportunity to present in writing or verbally the grounds for the appeal. The decision and order of the City Council on such appeal shall be final and conclusive.



**A PROCLAMATION  
REAFFIRMING THE INNATE DIGNITY OF ALL PEOPLE  
IN THE CITY OF NEWPORT, OREGON  
AND RECOGNIZING INTERNATIONAL PEACE DAY**

**WHEREAS**, the residents of the City of Newport live in a multicultural community of people from many places across the country and across the globe; and

**WHEREAS**, the City of Newport is committed to recognizing the dignity of all its residents and the diverse contributions of both immigrants and native-born; and

**WHEREAS**, the politics of division, isolation, and hate have no place in our community; and

**WHEREAS**, as residents of Newport, we recognize that all people are deserving of assurance of the basic principles of equity and human rights guaranteed to all persons by the United States Constitution and Bill of Rights;

**NOW, THEREFORE**, I, MARK MCCONNELL, Mayor of the City of Newport, Oregon, do hereby ask that the City Council of the City of Newport stand with our community in supporting the principles of fairness, dignity, and acceptance; and that these core principles commit us to promoting a peaceful discourse with all residents of the City of Newport; and that we reject the politics of division and isolation that fan anger and hate against any person or group. And, as Mayor, I proclaim that through the declaration and proper celebration of an international peace year and an international day of peace, it is possible to contribute to strengthening such ideals of peace and to alleviating the tensions and causes of conflict, both within and among the people of the City of Newport.

Dated this seventh day of November, 2011.



\_\_\_\_\_  
Mark McConnell, Mayor



October 17, 2011  
Noon  
Newport, Oregon

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

Technical Advisory Task Force Members present: Anne Sigleo, David Young, Frank DiFilippis, Peter Lawson, and Charlie Plybon. Excused were Jim Fuller and Joe Hayward.

Staff present: Voetberg, Hawker, Protiva, and Miranda.

1. Council and the Technical Advisory Task Force discussed the work of the Task Force and the proposed RFP that has been developed. A discussion ensued regarding whether the process should be that of an RFP or a grant. It was suggested that the process be left open-ended. A discussion ensued regarding the two resolutions that established the Task Force and funding. The Task Force noted that they are willing to continue work on this project. Plybon suggested that a list of potential vendors be developed; a list of publications in which to advertise; and Sigleo suggested advertising in the federal grant list. It was agreed that new resolutions would be required that amend the original resolutions, and that the draft RFP be sent to the legal team for review.
2. Protiva distributed a list of potential park usage rules. He noted that without the rules, the Police Department cannot do their jobs. Allen asked whether staff had checked with other cities regarding park usage rules. Miranda noted that this would match the state parks process. After a brief discussion, it was agreed that staff would refine the rules and prepare an ordinance adopting them.
3. MOTION was made by Roumagoux, seconded by Beemer, to enter executive session pursuant to 192.660(2)(h) to consult with legal counsel. The motion carried unanimously in a voice vote, and Council entered executive session at 1:03 P.M. MOTION was made by Brusselback, seconded by Bertuleit, to leave executive session. The motion carried unanimously in a voice vote, and Council returned to its work session at 1:28 P.M.
4. Voetberg reported that there are two potential ConnectOregonIV grant opportunities for the city. One is the local match for the rehabilitation of Runway 16/34, and the other is the local match for ramp access area development associated with the relocation of the Tillamook Air Museum. A discussion ensued regarding the status of negotiations with the Erickson group (owners of the Tillamook Air Museum). Voetberg reported that the city has been in contact with the Erickson group, and that the Port of Tillamook is working on encouraging the Museum to stay in Tillamook. He noted that it could be several months before the city hears from the Erickson group. Voetberg reported that the Port of Newport is also applying for a COIV grant for its

international terminal renovation, and that the city could support this application. It was the consensus of Council to support both potential city grant applications.

5. It was agreed to conduct a site visit of the new water treatment facility after the work session on November 7, 2011.
6. It was agreed to hold a joint meeting with the Port of Newport on November 21, 2011, from 5:00 - 6:00 P.M.
7. Council was reminded that a Town Hall meeting had been scheduled for November 16, 2011, at the Guin Library, in the Hatfield Marine Science Center.
8. It was agreed to hold only one Council meeting in December.
9. Upcoming work session items include: pesticide policy; revision to communication with city attorney; committee application updates; update from Tourism Facilities Task Force; and economic development; and update from the Public Arts Task Force.

Having no further business, the meeting adjourned at 1:52 P.M.

October 17, 2011  
6:00 P.M.  
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Brusselback, Beemer, Allen, Sawyer, Bertuleit, Roumagoux, and McConnell were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Finance Director Marshall, Public Works Director Gross, Parks and Recreation Director Protiva, Police Chief Miranda, Lieutenant Malloy. Parks and Recreation Director Protiva arrived at 6:30 P.M.

### **PLEDGE OF ALLEGIANCE**

Council and audience participated in the Pledge of Allegiance.

### **ADDITIONA/DELETIONS AND APPROVAL OF AGENDA**

Council agreed to add action item C., consideration of Resolution No. 3560, to the agenda.

McConnell noted that a clipboard was located in the entryway for sign up by folks interested in speaking on the plastic bag community plan.

### **PUBLIC COMMENT**

McConnell noted that a three minute time limit for public comment will be observed.

Jodi Lindquist addressed Council regarding issues she has with the Police Department.

Rennie Ferris addressed Council regarding business licenses, and suggested that the city attorney be required to obtain a business license. Marshall reported that she is sending a check for this fiscal year.

Tyson Franck suggested that the city reevaluate the police department staffing.

Don Searcy and Jorge Hernandez requested Council consider a resolution regarding fairness and equity for immigrants, and recognizing International Peace Day. McConnell noted that staff can redraft this document as a proclamation, and it can be renewed annually.

Regina Martinez, owner of Under the Pumpkin Patch and Martinez Day Care, addressed Council regarding emissions from the Road and Driveway asphalt plant. It was suggested that she notify responsible agencies as the city has no jurisdiction over this issue.

## PROCLAMATIONS AND RECOGNITIONS

McConnell proclaimed October 24, 2011 as World Polio Day in the City of Newport. Carol Ruggeri, Mark Miranda, and Jim Voetberg accepted the proclamation.

McConnell proclaimed the city's gratitude and appreciation to Lincoln County Sheriff's Deputy Sergeant Robert Jozwaik upon his retirement from law enforcement.

McConnell reported that Bike Newport received an award for business from the Austin Family Business program.

## CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session of September 19, 2011, and the work session and regular meeting of October 3, 2011;
- B. Report of accounts paid for September 2011;
- C. Fire and Police Department monthly reports for September 2011.

It was noted that the city attorney has requested an amendment to the September 19, 2011 work session minutes, and that a copy of the revised minutes had previously been distributed to Council. MOTION was made by Bertuleit, seconded by Brusselback, to adopt the consent calendar as presented. The motion carried unanimously in a voice vote.

## OFFICER'S REPORTS

**Mayor's Report.** McConnell appointed Liz Martin, Rick Letherer, Jeff Strike, Don Taylor, and Dennis Lancaster to the Non-Profit Funding Review Task Force. MOTION was made by Brusselback, seconded by Beemer, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

**City Manager's Report.** Voetberg reported that the packet contains the updated suggestion/concern/complaint report. He noted that the packet also contains an update on key city projects. Bertuleit asked about the sidewalk under bridge, and Gross reported that quotes are needed, and this will occur when certain other projects are advanced. McConnell asked whether there is funding for the fence for the North Jetty Trail. Gross noted that it is in the budget, but quotes are needed. Brusselback asked about the status of the NW Third Street sidewalk. Gross noted that this is a project that will be delegated to the new project manager. McConnell asked about the Agate Beach wastewater improvements. Gross reported that the system in the north part of the city is past its useful life; a system analysis has been performed; and the analysis is being reviewed with the goal of obtaining an estimate from the consultant. He added that this is a part of the master plan process. Allen asked whether the city is looking at engaging stakeholders regarding storm drainage improvements work during development of the next budget. Voetberg reported that he would have a cost estimate for storm drain

analysis at the next meeting. McConnell noted that the next quarterly meeting with ODOT will be held on October 19. Beemer asked about the status of permitting and bursting at Big Creek. Gross reported that the permit has been submitted and the city is awaiting a response. Gross added that the contractor has been selected to perform the Nye Beach storm drain work, and that work should begin within the next few weeks.

Voetberg reported that the city had received a gold safety award at the recent LOC Conference.

## DISCUSSION ITEMS AND PRESENTATIONS

Marshall delivered a PowerPoint presentation on the first quarter financial results for fiscal year 2011/2012. He responded to Council questions.

## PUBLIC HEARINGS

**Plastic Bag Community Plan.** McConnell opened the public hearing on the plastic bag community plan at 7:00 P.M. He asked for public comment.

The following people spoke in support of a ban on single use plastic bags:

Terry Obteshka, Newport resident and business owner;

Joe Gilliam, Northwest Grocery Association;

Matt Hawkyard, local chair of Surfrider's Foundation;

Daniella Crowder, small business owner and member of "Buy Lincoln County" board of directors;

Dennis Fry, Newport resident and small business owner;

Frank DiFilippis, Newport resident;

Teri Allen;

Ellen Franklin, Newport resident;

Charlie Plybon, representing Surfrider's Foundation;

JoAnn Barton, Newport resident;

Vince Pappalardo, Newport resident and Surfrider Foundation member;

Greg Harlo, Newport resident;

Rhonda Fry, Newport resident and manager of Oceana Natural Foods;

Matthew Gray, graduate student at HMSC; and

Mar Lehrman, Dave Mathews, and Fran Recht (via e-mail).

McConnell read an e-mail from Kevin Redding expressing opposition to a proposed ban on single use plastic bags.

A discussion ensued regarding a deposit or fee for use of paper bags. Joe Hayward stated that the fee concept has a constitutional problem.

Plybon reported that the opposition to the proposed state ban was well organized and well funded, and coordinated in South Carolina where many plastic bags are manufactured.

McConnell noted that the packet contains a list of 40 small local businesses that support a single use plastic bag ban.

Hearing no further public comment, the hearing was closed at 8:22 P.M.

Brusselback noted that some very interesting comments were made this evening. He agreed that customers need an incentive, as this is a cultural shift. He noted that he is in favor of a fee for use of a paper bag. He added that this is a great branding opportunity;

a great leadership opportunity; and that it is time that the issue is addressed. MOTION was made by Brusselback, seconded by Roumagoux, to move forward with using the Surfrider's Foundation Option 1, with the fee concept, rather than a deposit and to direct staff to bring an ordinance to Council at the earliest opportunity. Allen suggested that there may be community members who do not share this opinion, and that another way to gauge public opinion would be to hold an advisory vote of the people. He noted that there would be little cost if the vote was held during a primary or general election. Sawyer noted that he would like to lessen the impact on businesses and lower income folks. McConnell noted that the plight of lower income folks could be addressed in the ordinance. Brusselback noted that in terms of outreach, this is a publicly noticed meeting and there are no opponents. He added that this can be seen as a measure of the support of the general population. Bertuleit noted that he is disappointed in the corporate structure. He added that he would rather ban nonbiodegradable products that are used for packaging. He noted that he agrees with Allen regarding the advisory vote. Voting aye in a voice vote were Roumagoux, Brusselback, McConnell, Sawyer, and Beemer. Voting no were Allen and Bertuleit. It was agreed that staff provide a schedule at the next meeting regarding when the ordinance will come back to Council. The schedule should include public hearings to allow for adequate public comment. It was noted that the ordinance will not likely appear on an agenda until January.

## ACTION ITEMS

**Consideration of Resolution No. 3559 adopting an Adopt-A-Park Policy for the City of Newport.** Protiva reported that the attached Adopt-A-Park policy has been reviewed by legal counsel, previously discussed by the City Council, and recommended for approval. McConnell asked whether adopting a streetscape would be considered a park. Brusselback asked when a new parks master plan will be completed. Protiva stated that it is not budgeted in the immediate future. MOTION was made by Brusselback, seconded by Beemer, to adopt Resolution No. 3559 adopting an Adopt-A-Park Policy for the City of Newport. The motion carried unanimously in a voice vote. McConnell suggested identifying a way for volunteers to assist in the maintenance of non-park city properties.

**Consideration of Adoption of Ordinance No. 2023 regarding Transient Room Tax Revenues.** It was noted that the issue before Council is consideration of the adoption of Ordinance No. 2023 which would amend Section 2 of Ordinance No. 1849 requiring that the city place certain room tax revenues in a "Tourism Facilities Fund" and that the Fund be used for an event center, conference center, convention center, or similar tourist facility. It was noted that the Tourism Facilities Fund was never established. If adopted, the ordinance would formalize past and current accounting of transient room tax revenue and accurately state how the funds for tourism facilities are contemplated to be spent. Allen asked whether there was any money from the 1.5% rate subject to the 70/30 allocation. MOTION was made by Beemer, seconded by Bertuleit, to read Ordinance No. 2023, regarding transient room tax revenues, by title only, and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2023. Voting aye on the adoption of Ordinance No. 2023 were McConnell, Allen, Bertuleit, Beemer, Sawyer, Roumagoux, and Brusselback.

**Consideration of Adoption of Resolution No. 3560, Adopting Minor Amendment Eight to the South Beach Urban Renewal Plan.** It was noted that this is the same resolution adopted earlier this evening by the Urban Renewal Agency. MOTION was made by Brusselback, seconded by Sawyer, to adopt Resolution No. 3560, a resolution adopting Minor Amendment Eight to the South Beach Urban Renewal Plan. The motion carried unanimously in a voice vote.

## **COUNCIL REPORTS AND COMMENTS**

Roumagoux reported on a recent meeting of the Recreation Facility Management Review Task Force at which the Task Force reviewed information from other facilities. She noted that the Task Force is on schedule.

Roumagoux reported that she attended the OCCC scholarship ceremony. She added that she is amazed at the number of students, and their good work.

Brusselback reported that he attended the recent Homeless Connect program, and was impressed with the program and that many young people volunteered.

Beemer reported that he had participated in the recent tsunami evacuation drill. He noted that he will have a report for Council at a later date. Sawyer thanked the participants in the drill.

Bertuleit reported on the work of the Tourism Facilities Task Force. He added that the application will be sent for legal review, and that a short Task Force meeting will be needed. He noted that it should come to Council soon.

Bertuleit reported on the HMSC running club, and noted that a number of folks from out of town attended a recent event.

Allen updated Council on the recent OPAC meeting.

Allen reported on the quarterly OCZMA meeting. He added that he and Tokos spoke at this meeting.

## **PUBLIC COMMENT**

Jodi Lindquist suggested a clean sweep of the Police Department. She stated that she had a negative experience with the Police Department.

## **ADJOURNMENT**

Having no further business, the meeting adjourned at 9:17 P.M.

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Margaret M. Hawker, City Recorder

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Mark McConnell, Mayor





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

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

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

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

Request by Celtic Heritage Alliance. The Celtic Heritage Alliance has requested from the City funds and unused Celtic Festival inventory. As shown in the attached documents, the Festival had a net operating loss when City labor costs are included of \$8,806, and the inventory consists of: a banner purchased at a cost of \$2,000; various souvenirs purchased at \$2,779.37; and Celtic game equipment purchased at \$1,216.85. Staff does not recommend giving money to the Celtic Heritage Alliance, however, the inventory could be considered surplus and given to the Celtic Heritage Alliance. In an effort for the City to support next year's event, staff recommends giving the inventory to the Celtic Heritage Alliance. As additional information, the Celtic Heritage Alliance has a separate request for City funding, through the DNC, of \$15,000 for advertising funds. The DNC has not yet considered this request.

Single Use Plastic Bag Ordinance Time Line. Recognizing a request for reconsideration on previous Council action has been requested, Council did ask that a timeline for preparing an ordinance banning single use plastic bags be developed. Should staff continue with an ordinance, following timeline can be expected:

Monday January 16, 2012: Draft ordinance submitted to staff for review.

Monday, February 6: Submit staff's draft at a Council workshop for initial review and comment.

Monday, February 20: Submit proposed ordinance at a City Council Meeting, receive public comment, no vote on ordinance.

Monday, March 5: Submit proposed ordinance at a City Council Meeting, receive public comment, possible adoption.

Assignment of Cable Television Franchise. Through Ordinance 1962 a cable franchise was granted to Broadstripe, LLC. Broadstripe was recently acquired by Wave Broadband who has requested the franchise agreement be assigned to them. Working with the City attorney, the attached assignment has been developed. No Council action is required.

Manager's Weekly Report: Attached are weekly Manager's Reports for the weeks of October 17 and October 24, 2011.

# CELTIC INVENTORY

CASHED UP CELTIC TREAS (10/17/11)

| Item                             | Quantity   | Price paid |           | Extension       |
|----------------------------------|------------|------------|-----------|-----------------|
|                                  |            | Per Item   |           |                 |
| <b>Banners :</b>                 |            |            |           |                 |
| Banner (solid)                   | 3          |            |           |                 |
| Banner (mesh)                    | 4          |            |           | \$ 2,000.00     |
| Banner (paper pub)               | 1          |            |           |                 |
| Banner (paper NCFHG)             | 2          |            |           |                 |
| <br>                             |            |            |           |                 |
| Coordinators Polos               | 2          | \$ 22.00   | \$        | 44.00           |
| Sport Kilts                      | 2          | \$ -       | \$        | -               |
| Haggis Bowl Competitor T-Shirt   | 20         | \$ 7.00    | \$        | 140.00          |
| <br>                             |            |            |           |                 |
| <b>Souvineers</b>                |            |            |           |                 |
| Pint Glasses                     | 71         | \$ 2.22    | \$        | 157.62          |
| Coins                            | 47         | \$ 6.60    | \$        | 310.20          |
| Plastic Beer Steins              | 237        | \$ 1.15    | \$        | 272.55          |
| Black Baseball Cap               | 31         | \$ 6.00    | \$        | 186.00          |
| Navy Baseball Cap                | 28         | \$ 6.00    | \$        | 168.00          |
| Forest Green Baseball Cap        | 24         | \$ 6.00    | \$        | 144.00          |
| Pub T-Shirt                      | 92         | \$ 6.50    | \$        | 598.00          |
| NCFHG T-shirt ( Ladies Green)    | 15         | \$ 7.00    | \$        | 105.00          |
| NCFHG T-Shirt (Forest Green)     | 31         | \$ 7.00    | \$        | 217.00          |
| NCFHG T-Shirt (Royal Blue)       | 26         | \$ 7.00    | \$        | 182.00          |
| "Limited edition Giclee"         | 17         | \$ 15.00   | \$        | 255.00          |
| Money Bags                       | 6          | \$ -       |           |                 |
| Water Bottles                    | 61         | \$ -       |           |                 |
| Paper Bags (boxes)               | 1          | \$ -       |           |                 |
| Programs (boxes)                 | 2          | \$ -       |           |                 |
| <br>                             |            |            |           |                 |
| Medical Tape (boxes)             | 2          | \$ -       |           |                 |
| <br>                             |            |            |           |                 |
| *28lb WFD                        | 1          | \$ 174.97  | \$        | 174.97          |
| *14 lb WFD                       | 1          | \$ 149.97  | \$        | 149.97          |
| *56 lb WFD                       | 1          | \$ 214.97  | \$        | 214.97          |
| *Scottish Hammer Handles         | 2          | \$ 50.97   | \$        | 101.94          |
| 20lb Sheaf                       | 1          | \$ 100.00  | \$        | 100.00          |
| 10lb Sheaf                       | 1          | \$ 100.00  | \$        | 100.00          |
| **30 Ft Sheaf/WOB standards      | 1          | \$ 200.00  | \$        | 200.00          |
| 20 ft (incomplete) WOB Standards | 1          | \$ 25.00   | \$        | 25.00           |
| Womens Hammer                    | 1          | \$ 150.00  | \$        | 150.00          |
| <br>                             |            |            |           |                 |
| <b>Totals</b>                    | <b>735</b> |            | <b>\$</b> | <b>3,996.22</b> |

\$ 2,779.37

\$ 1,216.85

\* Cost of Shipping included (averaged across items purchased together)

\*\* cost of raw materials only at least

10 City Staff hours were taken for construction

# Celtic Festival Financials

As of October 19, 2011

## Revenues:

|                       |                 |                 |
|-----------------------|-----------------|-----------------|
| City DNC Grant        | \$ 5,000        |                 |
| Festival revenues*    | <u>\$47,019</u> |                 |
| <b>Total Revenues</b> |                 | <b>\$52,019</b> |

## Expenses:

|                           |                 |                        |
|---------------------------|-----------------|------------------------|
| Festival expenses         | \$37,737        |                        |
| City "in-kind" costs**    | <u>\$23,088</u> |                        |
| <b>Total Expenses</b>     |                 | <b><u>\$60,825</u></b> |
| <b>Net Operating Loss</b> |                 | <b>(\$ 8,806)</b>      |

\* Festival revenues include gate receipts and sponsor revenue and game entry fees.

\*\* City "in kind" costs include wages for various city employees who directly participated in organizing the event or indirectly provided services such as finance, attorney and administration.

CONSENT AND APPROVAL  
OF THE  
CITY OF NEWPORT, OREGON TO  
ASSIGNMENT OF CABLE TELEVISION FRANCHISE

WHEREAS, the City of Newport, Oregon ("Grantor") granted to Broadstripe, LLC ("Grantee") a franchise as set forth in Ordinance No. 1962, dated August 19, 2008, to own and operate a cable television system in the City of Newport (the "System") and to provide cable television and other lawful services with a term that is due to expire on December 31, 2018 (the "Franchise"); and

WHEREAS, on August 16, 2011, Grantee and WaveDivision I, LLC, d/b/a Wave Broadband, ("Wave I"), entered into a Purchase and Sale Agreement ("Agreement") with Grantee and other related parties (collectively, "Sellers") for the sale of certain assets of Grantee (the "Assets"). On the same date, Wave I entered into a Limited Agency Agreement with WaveDivision VII, LLC, a Washington limited liability company ("Assignee"), pursuant to which Wave I will act as the agent for Assignee in purchasing the Assets from the Sellers and will convey such Assets to Assignee at closing, and assign, upon Grantor's consent, the Franchise from Grantee to Assignee (the "Transaction"); and

WHEREAS, Grantee and Assignee filed an FCC Form 394 Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise with Grantor on or about August 19, 2011; and

WHEREAS, Grantor has duly conducted a thorough review and investigation into the legal, technical and financial qualifications of Assignee to own and operate the System in light of the above-referenced FCC Form 394; and

WHEREAS, all written comments and staff reports have been received, and made a part of the record; and

WHEREAS, following review and investigation, Grantor has concluded Assignee has established that it meets the legal, technical and financial criteria to operate the System and has satisfied all criteria set forth in and/or under all applicable local, state and federal laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLVED, that, in consideration of the foregoing, Grantor consents to the transactions contemplated by the Agreement and further resolves as follows:

1. Grantor consents to the assignment of the Franchise from Grantee to Assignee effective upon the closing of the Transaction, subject to all terms and conditions as provided in the Franchise Agreement between the City of Newport and Broadstripe, LLC as signed by the City on August 18, 2008 and

effective until December 31, 2018, including all provisions of City Code Chapter 9.05.

2. Grantor confirms that: (a) the Franchise was duly issued, is valid and enforceable in accordance with its terms, and is in full force and effect; (b) other than as set forth in this Consent and Approval, there have been no amendments or modifications to the Franchise; (c) there are no defaults under the Franchise, and no event has occurred and is continuing which, with the giving of notice or passage of time, or both, could constitute a default thereunder; and (d) upon the assignment of the Franchise from Grantee to Assignee at the closing of the Transaction, the duly authorized franchisee under the Franchise will be Assignee.

3. Neither Assignee nor any other person may sell, lease, mortgage, assign or merge or otherwise transfer this Franchise without the prior written consent of Grantor, which shall not be unreasonably withheld or delayed. No change in control of the Grantee, defined as an acquisition of 50% or greater ownership interest in the Grantee, shall take place without the prior written consent of the Grantor, which shall not be unreasonably withheld or delayed. Notwithstanding the above, no consent shall be required for an assignment or transfer to a parent or subsidiary of Assignee or another entity directly or indirectly owned or controlled by Assignee as long as the transfer of assignment complies with all terms and conditions of the existing Franchise. Further, no Grantor consent shall be required for Grantee to (a) restructure its debt or change the ownership interests among its equity participants or replace its equity participants, in whole or in part, and/or its affiliates; or (b) pledge or grant a security interest (i) in its assets, including, but not limited to, the Franchise, or (ii) of interests in Assignee, to any lender(s) for purposes of securing indebtedness.

4. The Franchise and this Consent and Approval were and are made, passed and adopted in accordance with all applicable notice and procedure requirements under all laws applicable to Grantor, and with all applicable notice and procedure requirements, and do not conflict with the laws, ordinances, resolutions and other regulations of Grantor, as presently in effect or as the same were in effect at the time the particular action was taken.

5. Grantor acknowledges: (a) Grantee shall remain responsible for obligations of the franchisee under the Franchise and (b) Assignee shall be responsible only for obligations of the franchisee under the Franchise that accrue from and after the date of the closing of the Transaction.

6. This Consent and Approval shall take effect immediately and shall remain in effect through the remainder of the term of the Franchise.

ADOPTED AND APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF NEWPORT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BROADSTRIPE, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



Gary Firestone  
City Attorney  
CITY OF NEWPORT  
169 S.W. Coast Hwy.  
Newport, OR 97365  
g.firestone@thecityofnewport.net  
541-574-0607

August 20, 2008

Rick Clark  
Government Relations, Northern Region  
BROADSTRIPE  
604 Oakesdale Ave., SW, Suite 101  
Renton, WA 98057

Dear Mr. Clark:

The Newport City Council, at their August 18<sup>th</sup> meeting adopted Ordinance No. 1962, granting a cable franchise and approving a franchise agreement with Broadstripe, LLC. I have enclosed a copy of the ordinance, as well as a signed copy of the franchise agreement. Please sign and return a copy of the franchise agreement to my attention. Thank you, and if you have questions, please feel free to contact me.

Sincerely,

CITY OF NEWPORT

  
Gary Firestone  
City Attorney

Enclosures

CITY OF NEWPORT

ORDINANCE NO. 1962

An Ordinance Granting a Cable Franchise to and Approving a Franchise Agreement with Broadstripe, LLC, a Delaware Limited Liability Company

Findings

1. Newport Municipal Code Section 9.0.060B authorizes the City to grant franchises by ordinance if the franchise agreement differs from the standard franchise agreement.
2. Broadstripe, LLC, a Delaware limited liability company, and its predecessor in interest have provided cable television services to a portion of the City of Newport for many years and wishes to enter into a new franchise agreement.
3. Broadstripe seeks to be required to provide only one cable access channel, which is different from the standard cable franchise agreement. Broadstripe provides service only to a small number of customers in one area of the City.
4. The council has reviewed the draft franchise agreement, finds it to be consistent with all code requirements and competitively neutral.

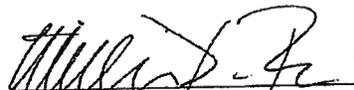
Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

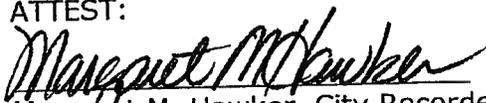
- Section 1. The Newport City Council grants a franchise to Broadstripe, LLC authorizing Broadstripe to use rights-of-way administered by the city on the terms stated in the Franchise Agreement attached hereto as Exhibit A.
- Section 2. The City Manager is authorized to sign a franchise agreement with Broadstripe substantially in the form of Exhibit A.
- Section 3. This ordinance shall take effect 30 days after adoption, but the grant of authority under Section 1 shall be effective only after Broadstripe signs the Franchise Agreement.

Adopted by a 6-0 roll call vote of the Council on 8/12/08.

Signed by the Mayor on AUGUST 18, 2008.

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

ATTEST:

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

ORDINANCE NO. 1962  
Page 1 of 1

FRANCHISE AGREEMENT (CABLE) BETWEEN THE CITY OF NEWPORT  
AND BROADSTRIPE, LLC

This agreement is between the City of Newport, Oregon, an Oregon municipal corporation (City) and Broadstripe, LLC, a Delaware limited liability company (Franchisee). This agreement is effective when duly executed by both parties.

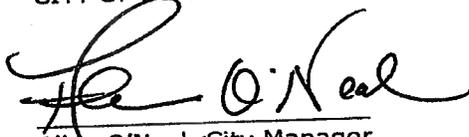
RECITALS

- A. The City of Newport administers rights of way within the City limits.
- B. Franchisee uses areas within City rights of way for facilities, including conduit, lines, wires and associated equipment. Franchisee operates a business within the City providing communication services to customers.
- C. City and Franchisee wish to formalize the agreement allowing Franchisee to occupy and use City rights of way.

AGREEMENT

1. Franchisee may place, maintain and use facilities within City rights of way as provided in this agreement.
2. Franchisee shall comply with and the parties agree that this agreement is subject to all city ordinances and regulations, including but not limited to provisions regulating rights of way, provisions regulating franchises and franchisees, and provisions regulating businesses generally.
3. Except as limited by state or federal law, as compensation for the right to use City rights of way, Franchisee shall pay City 5% of its gross revenues (as defined by Newport Municipal Code Section 9.05.020C) generated from any service that uses any of Franchisee's facilities in the right of way. The definition of gross revenues excludes any revenues that the City is preempted or otherwise legally prohibited from taxing.
4. Franchisee shall make one public, education, and government access channel available to City on Franchisee's basic tier of service. Franchisee may, but is not required to, provide one or more additional access channels.
5. In the event of arbitration or litigation relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, including fees incurred on appeal.
6. This agreement shall remain in effect until December 31, 2018.

CITY OF NEWPORT

  
Allen O'Neal, City Manager  
Date: 8/19/08

BROADSTRIPE, LLC

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## **Manager's Office Weekly Report**

### **Week of 10-17-11**

Following are various items and issues which the City has been involved with during the week of October 17, 2011.

Meeting with COG Representative Diana Crumpton. Met with Diana Crumpton of Oregon Cascades West Council of Governments to discuss needs of the City of Newport. Attached is a brief review of services and projects the COG provided in 2010.

Meeting with representatives of the Celtic Heritage Alliance, Inc. Jim Protiva, David Marshall the Mayor and I met with representatives of the Celtic Heritage Alliance, Inc (CHA). CHA considered this meeting a "Settlement Meeting" however staff viewed this not as a "Settlement Meeting" but an opportunity for CHA to voice their requests of the City. Staff does not believe there is anything to settle, but we are interested addressing their requests of the City including; their desire to receive money from last year's Celtic Festival, giving them the unsold souvenir items, and giving them the Celtic games equipment. Staff relayed to CHA that there is no money to give to them but that the unsold souvenirs and equipment are of minimal value to the City and we would consider giving this to them after a discussion with the Council. Staff has tentatively placed this on the Council meeting of November 7<sup>th</sup> for Council discussion.

Operations of Lincom. At its meeting on October 19<sup>th</sup>, the Lincom Executive Board received a recommendation for the user Committee (a committee made up of the various users of Lincom) that (1) additional questions of Willamette Valley Communication Center be addressed and (2) that Lincom provide a five-year operation and capital plan to continue providing service. Executive Board approved a motion pursuant to the User Committee's recommendation.

Met with Library Employees. I attend the Library's monthly employee meeting. Besides being great spellers, our library employees are to be congratulated for the service they provide this community.

Lodging/Restaurant Association. Attended a Lodging/Restaurant Association meeting. Provided the Association with an update on various issues the city is dealing with.

Alternative Recycling Program. Met with Thompson Sanitation and Lincoln County Solid Waste District Manager Mark Saelens to discuss the City's alternative recycling program specific to the location of glass recycling depots. The three locations identified in a 2004 DEQ permit requires updating to reflect current and future planned sites.

Airport Committee Meeting. Along with Airport Director Gene Cossey, I attended an Airport Committee meeting. Gene provided an update to the Committee on Council's direction to proceed with two separate Connect Oregon IV grant applications. Airport Committee member Mark Watkins is working on developing a entrance sign logo and provided an example. So that any sign compliments ongoing marketing efforts of the City, Mark was reminded to work with the Destination Newport Committee, which has developed a "brand" for Newport.

Upcoming issues:

- Staffing needs of various Departments including Fire/Police/Administration/Streets.
- City Center Deco monument, insufficient funds to build what City Center organization desires and employee and public perception of the use of funds public funds.
- Supplemental Budget to address various changes in the current budget including wages, reduction of negative fund balances, and other changes discovered after adoption.

Staff has been/continues working with LGLG on the following issues:

- Regional Library Use Agreement - Ted Smith.
- Business License and Room Tax Ordinance – David Marshall, Jim Voetberg.
- Business License Payment – David Marshall, Jim Voetberg.
- Past Business License taxes owed by three property managers – David Marshall
- Exclusions from city-owned property and from contacting the city by telephone – Mark Miranda
- Electronically scanning old case files and disposing of the paper files – Mark Miranda
- Transportation Plan Update – Derrick Tokos
- Tourism Facilities Grant – Jim Voetberg, Peggy Hawker

## **Manager's Office Weekly Report Week of 10-24-11**

Following are various items and issues which the City has been involved with during the week of October 24, 2011.

Met with City Center Business Owners. Tim Gross, Derrick Tokos, Jason Malloy, Mayor McConnell and I met with business owners of the City Center District to brainstorm ideas to improve business activity in this area of town. The group was interested in exploring various ideas including low cost items such as painting vacant storefronts and contacting building owners to ask that the buildings be spruced up. Other ideas such as dealing with traffic flow and parking along 101 was discussed. This was the first of what is hoped will be ongoing meetings to economic developed of the city center area.

Employee Communication. Discussed with John Baker, the City's contractor to assist with employee communication, the process of establishing a City Employee Committee to allow employees the opportunity to share ideas, comments, questions, concerns and compliments on city issues. It is hoped the committee will be up and running within the next month.

Vehicle Charging Stations. ODOT has narrowed the location of vehicle charging stations in Newport to: the city's 9<sup>th</sup> and Herbert parking lot and the Staples parking lot. Additional information can be seen at: [www.oregon.gov/ODOT/HWY/OIPP/EV\\_TigerSiteRankings.shtml](http://www.oregon.gov/ODOT/HWY/OIPP/EV_TigerSiteRankings.shtml)

Attended Fire Department Staff Meeting. Attended monthly Fire Department staff meeting. Chief Paige has established an environment of open communication between management and staff.

Attended Volunteer Fire Monthly Business Meeting. I attended the Volunteer Fire Department's monthly business meeting in which I thanked the members for their tremendous service for the City. The Volunteers will be working on revising their By-Laws to reflect the current relationship between the City and the Volunteer Association. Council can expect a revision to Ordinance 21, an ordinance that originally recognized the Association's fire response services for the city.

Attended YBEF meeting. Attended YBEF meeting on behalf of the City. YBEF continues to support economic development projects and opportunities for Newport.

Big Creek Reservoir. From work associated with the water treatment plant intake structure, information relating to the seismic stability of material on which the dam sits was discovered, which is requiring additional investigation. Staff hopes to have additional information ready for the November 7<sup>th</sup> Treatment Plant walkthrough.

Tourism Facility Grant Task Force. The Tourism Facility Grant Task Force finalized the grant application for a call for proposals to utilize funds in the Room Task Fund for tourism facilities. The application will be before the Council at its meeting of November 7<sup>th</sup>.

Mombetsu Park. Led by Mayor McConnell, Newport Rotary has made substantial improvements to Mombetsu Park. The Park, located on Neff Street just west of 101, was cleaned up, an enlarged parking area was established, and new pathways and a dry creek were installed. Many thanks go to Rotary for this volunteer work.

Newport Football and Cross Country. By its win over Central this past Friday (at the time ranked #1 in the State), the Newport football team won their league. Also, the Cross country boys won their league by beating out the favored Philomath team. Congratulations go to all the players and coaches. Go Cubs.

Upcoming issues:

- Staffing needs of various Departments including Fire/Police/Administration/Streets.
- City Center Deco monument, insufficient funds to build what City Center organization desires and employee and public perception of the use of funds public funds.
- Supplemental Budget to address various changes in the current budget including wages, reduction of negative fund balances, and other changes discovered after adoption.
- Citizen complaint of a hedge obstructing sight distance at a corner on Rhododendron Street (the city started but stopped a city initiated enforcement process several months ago).
- Single use Bag Ordinance
- Tree City Designation (currently with the Planning commission)

Staff has been/continues working with LGLG on the following issues:

- Regional Library Use Agreement - Ted Smith.
- Business License and Room Tax Ordinance – David Marshall, Jim Voetberg.
- Business License Payment – David Marshall, Jim Voetberg.
- Past Business License taxes owed by three property managers – David Marshall
- Exclusions from city-owned property and from contacting the city by telephone – Mark Miranda
- Electronically scanning old case files and disposing of the paper files – Mark Miranda
- Transportation Plan Update – Derrick Tokos
- Tourism Facilities Grant – Jim Voetberg, Peggy Hawker

**FINANCE DEPARTMENT COMMENTARY:**

**Past Accomplishments**

**Present Activities**

**Hopes and Aspirations**

**I. NEW EMPLOYEE**

- A. GWYN ISENBRAUN BEGIN WORKING IN THE FINANCE DEPARTMENT ON OCTOBER 3<sup>RD</sup>. SHE WILL REPLACE LINDA STERLING, WHO RETIRES ON 30 NOVEMBER 2011. (IN THE FY12 BUDGET, WE BUDGETED TWO MONTHS' OF TRAINING FOR LINDA'S REPLACEMENT.)
- B. IN ADDITION TO ASSUMING RESPONSIBILITY FOR PAYROLL, ACCOUNTS PAYABLE, AND ACCOUNTS RECEIVABLE, GWYN WILL TAKE AN ACTIVE ROLE IN OUR SOFTWARE CONVERSION EFFORTS (SEE PARAGRAPH III, BELOW). IN ADDITION, SHE WILL BE TRAINED TO BE THE BACKUP COURT CLERK TO KATHY WOOSLEY AND, OF COURSE, TO ASSIST AT THE "WINDOW" WHEN KAY KEADY IS UNAVAILABLE.

**II. THE RESOURCE CONSERVATORY**

- A. WHILST SLOGGING<sup>1</sup> TO WORK IN THE RAIN ON OCTOBER 4<sup>TH</sup>, I NOTICED TWO SPRINKLER SYSTEMS (ONE OF THEM BELONGING TO THE CITY) ENERGETICALLY WATERING THEIR LAWNS, A SOMEWHAT REDUNDANT PAST TIME, I THOUGHT, CONSIDERING THE SOAKING I WAS EXPERIENCING AT THE TIME. THUS ALERTED, I VOWED TO NOTICE, AND OCCASIONALLY TO COMMENT UPON, OTHER RESOURCE EXPENDITURES THAT SOME MIGHT CONSIDER TO BE UNNECESSARY.
- B. THOUGHT: SHOULD THE CITY INVESTIGATE KEEPING WATER OUT OF THE STORM DRAIN/SEWER SYSTEM BEFORE IT EVER GETS THERE? RAIN BARRELS, RAIN GARDENS, VEGETATED GREEN ROOFS, AND PERMEABLE GREEN ROADS AND PLAYGROUNDS? JUST A THOUGHT.
- C. LIGHTS, POWER, STAGNATION
  1. AT OUR WEEKLY FINANCE DEPT MTG ON OCT 11<sup>TH</sup>, WE DISCUSSED THE THE SUBJECT OF LIGHTS AND HOW A ENTIRE MOVEMENT CAN RESULT FROM A SINGLE ACTION; WHY DON'T WE BEGIN TURNING OFF LIGHTS WHEN THEY'RE NOT NEEDED?
  2. I AM HAPPY TO REPORT THAT SOME ON MY STAFF HAVE ALREADY RESPONDED TO THE CHALLENGE.
  3. IN ADDITION, I HAVE SCHEDULED A PRELMIINARY MEETING WITH PUD TO EXPLORE ENERGY SAVINGS PROGRAMS.

**III. NEW SOFTWARE SYSTEM**

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<sup>11</sup> Hierarchy of Horizontal Movement: (1) Racing; (2) Running; (3) Jogging; (4) Slogging; (5) Trudging; (6) The "Survival Shuffle;" (7) The Intractable Vertical Lift

## September 2011

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- A. ON OCTOBER 10<sup>TH</sup>, WE SIGNED A CONTRACT WITH CASELLE CORPORATION FOR THEIR SOFTWARE SYSTEM, *CLARITY*.
- B. WE HAVE COMPLETED THE PRELIMINARY QUESTIONNAIRE, ALONG WITH SENDING REQUESTED REPORTS FOR THE GENERAL LEDGER, ACCOUNTS PAYABLE AND PAYROLL.
- C. CASELLE IS WORKING WITH RICHARD DUTTON TO INSTALL CLARITY ONTO OUR SQL SERVER
- D. CASELLE IS ALSO WORKING WITH RICHARD TO "PULL" DATA FOR GENERAL LEDGER, ACCOUNTS PAYABLE, AND PAYROLL STARTING THE WEEK OF OCTOBER 31<sup>ST</sup>.
- E. BY DECEMBER 1<sup>ST</sup>, CLARITY SOFTWARE WILL BE ON OUR SYSTEM WITH OUR DATA ... THIS WILL ENABLE US TO FAMILIARIZE OURSELVES WITH THE SOFTWARE AND SEE WHAT ADJUSTMENT MAY BE NEEDED.
- F. LINDA AND GWYN WILL TRAVEL TO PROVO FOR TRAINING FROM FEBRUARY 6TH THRU 10TH.
- G. GO" LIVE" IS SCHEDULED APPROXIMATELY FEBRUARY 13<sup>TH</sup>
- H. WE HOPE TO HAVE A PURCHASE ORDER/PURCHASE REQUISITION SYSTEM OPERATIONAL BY JULY 1<sup>ST</sup>. WE PLAN TO INTRODUCE THIS PROCESS DEPARTMENT BY DEPARTMENT, STARTING WITH DEPARTMENTS – POLICE AND FIRE FOR EXAMPLE – THAT OCCASIONALLY USE MANUAL PURCHASE ORDERS AND THEN EXPANDING TO THE OTHER DEPARTMENTS. THE INTRODUCTION OF THIS PROCESS INTO THE CITY WILL RESULT IN A MAJOR CHANGE FOR THE CITY AND ONE THAT WILL REQUIRE A GREAT DEAL OF TRAINING AND, I BELIEVE A MEASURABLE SAVINGS IN EXPENDITURES.

#### IV. **UPDATE ON THE AUDIT**

- A. THE FIELD WORK FOR THE AUDIT WAS COMPLETED ON OCTOBER 7<sup>TH</sup>.
- B. THE AUDITORS ARE NOW PREPARING THEIR REPORT AND, AS PART OF THAT EFFORT, WILL FORWARD TO THE CITY THE FINANCIAL INFORMATION NECESSARY FOR US TO PREPARE THE CITY'S *MANAGEMENT DISCUSSION & ANALYSIS*, OUR SHARE OF THE AUDIT THAT ATTEMPTS TO PUT ENIGMATIC CONCEPTS AND OBSCURE DATA INTO A COMPREHENSIBLE FORMAT. THAT EFFORT MUST BE COMPLETED PRIOR TO A REVIEW OF THE AUDIT WITH THE COUNCIL.
- C. THOUGH THE AUDITORS WILL NOT BE AVAILABLE (ANOTHER COMMITMENT), WE EXPECT TO PRESENT THE AUDIT RESULTS TO THE COUNCIL ON DECEMBER 5<sup>TH</sup>. THE AUDIT SHOULD BE AN "UNQUALIFIED" ONE, WHICH MEANS THAT THE CITY MEETS GENERALLY ACCEPTED ACCOUNTING PRINCIPALS ... A CLEAN BILL OF HEALTH IN OTHER WORDS.
- D. THERE ARE DEFICIENCIES, OF COURSE, PRIMARILY THOSE DEALING WITH THE LACK OF SEPARATION OF DUTIES, A LONG-STANDING ISSUE FOR A DEPARTMENT THAT HANDLES \$20 MILLION OF CASH PER YEAR WHILE ALSO BEING SUBJECT TO FREQUENT TURNOVER AND UNDER-STAFFING.

#### V. **SUPPLEMENTAL BUDGET AND TRANSFER RESOLUTIONS**

- A. ON DECEMBER 5<sup>TH</sup>, WE WILL ALSO PRESENT TO THE COUNCIL A SUPPLEMENTAL BUDGET AND RELATED RESOLUTION TRANSFERS.

- B. THE PURPOSE OF THE SUPPLEMENTAL BUDGET IS, PRIMARILY, TO RECOGNIZE ADDITIONAL RESOURCES THAT ARE AVAILABLE (*IF CONFIRMED BY THE AUDIT*) AND TO APPROPRIATE SOME OF THOSE RESOURCES.
- C. THE PURPOSE OF THE RESOLUTION TRANSFERS IS TO RECOGNIZE AND ACCOMMODATE OTHER CHANGES TO THE ADOPTED BUDGET THAT HAVE OCCURRED SINCE BUDGET ADOPTION, INCLUDING THOSE WHICH ORIGINATED WITH THE RECENT AUDIT.

**VI. OTHER SUNDRY ITEMS**

**A. WATER SHUT OFFS**

- 1. ON OCTOBER 20<sup>TH</sup>, WE TURNED OFF WATER TO 19 LOCATIONS.
- 2. A MOSTLY RHETORICAL QUESTION: IF A CUSTOMER DOES NOT PAY A WATER BILL UNDER THE PRECEPTS OF PARAGRAPHS 5.10.160 (E) (1) AND (2) OF THE MUNICIPAL CODE, AND THE ACT OF SHUTTING OFF THE WATER WILL ALSO RESULT IN SHUTTING DOWN THE BUSINESS, WITH ALL THAT THAT IMPLIES ... DO WE PROCEED?

**B. EMPLOYEE HEALTH INSURANCE WORKING GROUP**

- 1. MET ON OCTOBER 31<sup>ST</sup>.
- 2. WITH THE TACIT UNDERSTANDING THAT THE CITY CAN NO LONGER AFFORD TO PAY 90% OF THE MOST EXPENSIVE PLAN (VVV-A), WE REVIEWED THREE OTHER HEALTH INSURANCE PLANS.
- 3. THE GROUP'S INTENT IS TO PRESENT ITS RECOMMENDATIONS TO THE BUDGET COMMITTEE AT ITS FIRST REGULARLY SCHEDULED MEETING NEXT SPRING.

C. ALONG WITH THE MAYOR, CITY MANAGER, AND JIM PROTIVA, MET WITH THE "CELTIC FOLKS" ON OCTOBER 18<sup>TH</sup>.

D. ON OCTOBER 26<sup>TH</sup>, TIM GROSS AND I HAD OUR QUARTERLY MEETING WITH THE P.U.D. THE PURPOSE OF THIS MEETING IS TO REVIEW THE CITY'S NEAR- AND LONG-TERM CAPITAL PROJECTS WITH THE PUD, ESPECIALLY THOSE THAT MIGHT IMPACT THE PUD.

**AND, YES, WE STRIVE TO**



# Memo

To: Jim Voetberg, City Manager  
 From: Derrick Tokos, Community Development Director  
 Date: November 3, 2011  
 Re: Community Development Department Project Update

Here is a summary of October activities. For context in terms of permit volumes, in calendar year 2010 the City issued 143 building permits, totaling \$46,685,750 in construction value. Building permit fees alone totaled \$303,106. The City received 76 land use applications. The number of building permits issued and land use actions received for 2010 was slightly above our 10 year average.

|      | Building Permits     | Electrical Permits   | Plumbing Permits    | Construction Value | Land Use Actions |
|------|----------------------|----------------------|---------------------|--------------------|------------------|
| Oct. | 5<br>(\$1,541.57)    | 20<br>(\$1495.20)    | 6<br>(\$995.13)     | \$110,000          | 8<br>(\$2,149)   |
| YTD  | 95<br>(\$130,968.51) | 192<br>(\$24,456.80) | 65<br>(\$17,648.40) | \$16,396,973       | 44<br>(\$10,863) |

October building activity included exterior alterations to the Nazarene Church Outreach/Community Center, interior renovations at the First Baptist church, demolition permits for a home and the Driftwood Motel, and sign permits for the Mini Pet Mart (located in the old Sears building). The land use actions include a legislative amendment (Tree City USA), a rezoning request, partial street vacation, geologic permit, a couple of right-of-way encroachments and two temporary structures permits.

### Status of Major Construction Projects

Port Terminal Project: Removal of the SS Pasley is almost finished.

Wal-Mart Expansion: New entry is finished and old storage area is almost ready for occupancy

Water Treatment Plant: Drywall work has been completed.

Lincoln County School District: Plan reviews are complete and permits have been pulled for the new classrooms, band room, and shop room at the High School. Construction is underway, and the structures are being framed.

Nazarene Church Outreach/Community Center: Footings have been poured for the new building.

Rogue Brewery Expansion: Plan review has been completed for a 20,000 square foot expansion to the brewery. City will release permits once the Port (as the property owner) signs off on the work. The Port and Rogue Brewery are still wrapping up lease negotiations.

Walgreens: Architect anticipates submitting building plans for City review by November 14<sup>th</sup>.

## **Significant Planning Projects**

Safe Haven Hill Tsunami Evacuation Improvements: Amendment to the URA Plan was approved on 10/17/11. ODOT Flex Fund Grant Application submitted 10/20/11. FEMA grant application to be submitted once Geotechnical Engineer's Final Report is prepared (within a couple of weeks). Decisions on both grants should occur around the first of the year.

Creation of Land Bank for Work Force Housing: Top implementation priority of Housing Study adopted by the City Council on 6/20/11. Staff is working with stakeholders to develop an ordinance to provide a framework for how the "Land Bank" and "Housing Fund" should function.

Vacation Rental Code Update: Draft code has been revised by the Ad-Hoc Work Group in response to feedback at the September Open House. Work Group is meeting on 11/2/11 to confirm that changes are acceptable. Planning Commission to review changes at 11/14/11 work session and decide whether or not to start a hearings process.

Transportation System Plan Update: Work is progressing slowly, having been delayed as a result of ODOT contract amendments with its consultants. Two major elements are substantially complete. They are a draft trip budget zoning overlay for South Beach, and thresholds/criteria for traffic impact analysis reports (not currently required by the City). The City Attorney has reviewed the drafts, and staff discussed their comments along with those made by the Planning Commission with ODOT on 10/27/11. ODOT is updating cost estimates for the "preferred" transportation network along with what can be reasonably funded. That work should be completed by 12/6/11. An additional public open house is slated for the early next year. Local legislative adoption will follow.

Agate Beach Street and Recreation Enhancements: ODOT has advised that a jurisdictional transfer of the parking lot area is not an option given the City's plans to use a portion of the area for non-transportation uses (i.e. shower/restroom). They are on board with the improvements though, and will provide the City with a support letter for any grant applications that it submits. Staff is coordinating with Surfriders regarding future trail and restroom construction. Surfriders may apply to the City for tourism facility funds once that grant program is opened up.

Territorial Sea Planning Process: OCZMA is coordinating outreach efforts with local governments, particularly with regards to addressing the impact of wave energy devices on sensitive viewsheds and addressing the interplay between in-water and upland wave energy development. It is likely that the City will need to assist in getting the public engaged. This will likely occur in the January/February timeframe.

Formation of a Bay Front Parking District: The City Council approved the formation of the District on 10/3/11 with an effective date of 11/2/11. Advertisements for the advisory committee closed 10/25/11. There was only one applicant, so we are re-advertising and will get more aggressive in our recruitment. We hope to have candidates lined up for Council interviews on 11/21.

Coho/Brant Neighborhood Plan: This budgeted urban renewal project will map out right-of-way and needed improvements for areas west of Highway 101 from the bridge south to SE 40<sup>th</sup> Street. This will be a discussion item for the town hall meeting scheduled for 11/16.

Economic Development Grants: RFP for consulting services was issued the first week of October, with proposals being due on 11/4. Lorna Davis with the Chamber, Don Mann with the Port and two Planning Commission members will assist in scoring the proposals. A consultant should be selected and under contract by the end of the month. On a separate note, staff is coordinating with OPRD's Main Street Program to bring out a speaker in mid November to meet with the City Center District on how to get traction on downtown revitalization.

## **Committee Work**

Planning Commission: The Commission will review a draft Tree City USA ordinance and recommended changes to the draft Vacation Rental code at its 11/14 meeting. They will also hold public hearings on a rezoning request adjacent to the hospital and a partial vacation of SW 12<sup>th</sup> Street.

Parking Districts: The Nye Beach District Advisory Committee is meeting on 11/8 to review the status of proposed sidewalk improvements to 3<sup>rd</sup> St and 6<sup>th</sup> St. The City Center Committee will meet with staff on 11/16 to review plans for revising timed parking and loading area requirements in the core downtown area.



*Phil Paige, Fire Chief  
Newport Fire Department  
245 NW 10<sup>TH</sup> ST  
Newport, Oregon 97365*

October 31, 2011

To: Jim Voetberg, City Manager

Re: Monthly Activities

Here are some of the highlights for the month of October:

### **Community Involvement:**

We have continued our community involvement in such events as the 75<sup>th</sup> Bridge anniversary and providing a standby engine at some high school football games. Chief Murphy is assisting with the new CERT class and other disaster preparedness activities such as the upcoming tabletop and panel discussion with the Coast Guard, and I continue to attend the Leadership Lincoln class. Other activities starting up for the holiday season include the food drive and the toy drive.

### **Operations:**

We have had a fire this at the Newport Bay Coffee Roasters this month. Luckily, we had just finished another incident and we had two engines with three personnel respond from the main station (3200) immediately. They were able to make a quick attack and mostly confine the damage to the attached storage rooms. The fire had begun to spread into the attic, but the spread was stopped pretty quickly. The business was able to reopen in a couple days.

Our 1983 American LaFrance Engine was donated to the Oregon Fire Service Museum Memorial and Learning Center. We do not currently have funding to replace the engine, so we are down to three serviceable structure engines. I have been developing a replacement/depreciation plan so that we can address funding for the replacement of apparatus in the future.

I will be presenting our short term plans for improving our staffing effectiveness at the Council work session on Monday, November 7.

LinCom users and executive board have decided to move ahead with getting firm prices for the transfer of dispatching from LinCom to Willamette Valley.

Our participation in the ESCI Fire Services Study has been approved, and we will begin that process in October, with the report expected to be completed in about six months.

We have re-numbered our stations and apparatus to match up with the rest of the County's numbering system. This will be effective October 1<sup>st</sup>.

### **Training:**

We have completed training on the new medical protocol which became effective October 1, 2011.

Regional rope rescue guidelines and procedures have been drafted and the implementation of the regional rope rescue response team is progressing.

Training on the personnel accountability system has been completed. This should be a great improvement in the on-scene safety for our personnel.

**Volunteer shifts:**

We have drafted guidelines for a new volunteer shift program to help staff the first-out engine at Station 3200. We will be experimenting with shift sign-ups for the month of December (without any reimbursement or stipend) to see how it works. This program is not funded at this point, but I will be requesting future funding for a stipend to reimburse volunteers who are willing to sign up to help our staffing levels.

**Fire Prevention:**

Chief Murphy and several other paid and volunteer staff presented Fire Prevention Week school programs to over 500 primary grade children this month.

**Miscellaneous:**

We met with the City Attorney and discussed various aspects of the Fire Department. I am working on a Standard Operating Guideline (SOG) to address the organizational structure of the department and clarify the roles of the individual positions and the sub-groups (Volunteer Association and the IAFF local). This will also address one of the few remaining deficiencies that were noted in the OSHA review earlier this year.

I will be out of town Wednesday evening to Sunday this week, attending the Oregon Fire Chiefs Association conference in Seaside. Chief Murphy will be acting Fire Chief during my absence.

Respectfully submitted,  
Phil Paige, Fire Chief

## Parks and Recreation Activities in October

- \*Spooky Swim was well attended and swimmers retrieved "eyeballs" to win treats
- \*Evening swim lessons started in October
- \*Swim Team conducted an "in-house" swim meet
- \*Aqua Zumba is going well on Mondays at 8am
- \*Full safety net has been completed in the cardio area to protect patrons from flying soccer balls
- \*A new volunteer led cheerleading/gymnastics practice is available at the Rec Center
- \*Rec Staffer Shannon Rackowski represented the Center and provided two sessions at OAHPERD
- \*The senior center held a Health Fair with over 100 people in attendance
- \*The Friends of the Senior Center received a \$500 dollar grant from Walmart
- \*Senior Center staff attended training on providing exercise for people with Parkinson's
- \*The Senior Center received a grant for \$700 dollars for writer's workshops and presentations
- \*Several hundred volunteers' hours were utilized in planting and moving wood chips at Coast Park
- \*The Rotary Club has made improvements to Mombetsu Park to include a pathway, bridge and parking lot
- \*Minor vandalism is occurring at the new Coast Park by skateboarders and older youth playing on the equipment

Newport Public Library  
Librarian's Report  
October, 2011

Library staff hosted Newport Public Library's 6<sup>th</sup> Banned Books program on September 27. Six panel members, including our own Michele Longo-Eder, shared readings from some of their favorite "banned" books. This program is presented annually during Banned Books Week to highlight the importance of guarding patrons' right to read, and protecting the freedom of expression. Over the course of each year many, many books are at risk of being taken off the shelves of school and public libraries because individuals or groups find the content not to their liking.

As in past months, the Library Director continues to work on the development of a new integrated library system (ILS). Tillamook County has negotiated a contract with Innovative Interfaces, Inc. for their new ILS. At present, only Tillamook County Library (TCL), Driftwood Public Library (DPL) and Newport Public Library are on board with this system. It is still my hope that one or more of the Lincoln County Libraries will join us in this endeavor. Toledo Public Library, Waldport Public Library and Siletz Public Library have held off committing to this project because they are investigating other paths and opportunities.

On October 10, Tillamook County Library sent letters to Toledo Public Library, Waldport Public Library, Siletz Public Library, the OCCC Library and Tillamook Bay Community College Library inviting officially inviting them to join the project described above. As part of the drama of all this, the story going around was that these libraries had not been "officially" invited to join. This letter was in response to that issue. I have been trying for months to bridge the gap between opposing viewpoints in this matter. No matter how it comes out, I've done my best to gain an outcome that will benefit our patrons.

Library staff took a well-deserved day off on October 6, for an in-service learning day. Captain Rob Murphy of the Newport Fire Department presented a needed program on protection ourselves from bloodborne pathogens. Captain Murphy informed staff about safety procedures to be used when dealing with any incidents involving blood or other bodily secretions. To my knowledge, this is the first time staff have been given any instruction on this subject. After Captain Murphy's class, staff spent the remainder of the day organizing and cleaning up areas of the library. We also conducted a much needed inventory of "at risk" areas of the library collection. Areas inventoried were the DVD section, the 100's, 200's, 300's and 600's of the non-fiction section. We confirmed what we already knew: there are lots of "missing" (a euphemism for stolen) items in the non-fiction collection dealing with the paranormal, dreams, astrology, witch-craft, religion, diabetes and general health materials. The DVD section wasn't quite as bad. Most of our stolen articles in this area are items that were checked out and never returned.

The Library Director also spent time over the past month working with the Public Library Division of the Oregon Library Association, planning and organizing programs for the annual conference to be held in Bend next year. In all, PLD will sponsor eleven programs, sponsor a half-day preconference entitled, "Understanding the Culture of Poverty," presented by Dr. Perla Rodriguez,

and host a dinner featuring essayist, critic and author, Bill Deresiewicz. The purpose of the Public Library Division is to promote public library service and development, to promote the potential for increasing cooperation among public libraries, to represent the interests and concerns of public libraries in relation to the Oregon Library Association and the Oregon State Library, and to develop legislative priorities for public libraries and other issues as may be pertinent to the Division.

*Ted Smith*



Noble  
Professional  
Dedicated

Newport Police Department  
**Memorandum**

*One Team - One Future*

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**Date:** November 1, 2011

**To:** Jim Voetberg, City Manager

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

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

1. Our newest officers, Brad Purdom and Dan Miller, are doing well in their field training. Brad is in week 6 of his training, with about 11 more weeks to go. Dan is in week 7, and may have only five more weeks to go since he was a lateral hire.
2. We still have two police officer vacancies, of which only one is authorized to fill. A candidate we were looking at did not pass the background process. We are going back and reviewing the list from the last hiring process. We may have to start the process again.
3. We were not successful in our latest grant application for the COPS Hiring Program. Only 238 grants were awarded out of the 2,712 that were submitted. Although we did not receive funding, the COPS Office advised that our request has not been denied. (The emphasis is theirs.) Our application is in a pending status until they ascertain what funding they will receive next year.
4. We recently received a \$500 grant from Wal-Mart for crime prevention materials.
5. At the last City Council meeting a citizen spoke to the Council about how she felt that she was being mistreated by members of the Police Department. She made multiple allegations against various Department members. We have dealt with her many times over the years, and found that her credibility is often in question. Even so, she still is a citizen of the community that deserves and receives our respect. We do listen to her complaints and investigate them to the best of our ability under the circumstances. We want to make sure that we don't overlook an issue that we can handle. This person also made reference of my "never being around". I would also note that, although the opportunity to make an appointment with me was given to her several times, she has yet to make any appointment. While it is true that I may sometimes be

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

unavailable, the supervisory staff of the Police Department is very capable of dealing with any situation that arises. I have all faith in the world in their abilities to carry on should I not be around.

6. Last week I attended the International Association of Chiefs of Police conference in Chicago. I participated in many training classes on topics ranging from liability to one called a Proactive Approach to Reducing Injuries and Enhancing Officer Safety. This conference was a great opportunity for me to network with other professionals. I was personally introduced to Mr. Mueller, the FBI Director. The vendor area of almost 1,000 exhibits was extremely interesting. If only I had thought to bring the City check book with me, I could have brought home helicopters, armored vehicles, and/or communications systems. I did gather a lot of information and ideas that we can explore over the next year. The intent of NPD is to constantly strive to improve our operation for efficiency and safety.
7. I just received an OLCC report on a Minor Decoy Compliance operation they held on August 18, 2011. Of the five establishments they checked in Newport, only one sold alcohol to a minor.

# Memorandum

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**To:** Jim Voetberg, City Manager  
**From:** Gene Cossey, Airport Director  
**Date:** 11/3/2011  
**Re:** Airport Update -- October

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## **Airport and FBO Operations**

Total operations and fuel sales for October were up over September. Increases in corporate aviation operations and fuel purchases have put numbers back to normal expected quantities. Self-serve sales of 100LL have continued to do very well.

Operations – 542 Takeoffs and landings  
Fuel Sold:  
    Jet A                – 5,051 Gallons  
    AV Gas              – 1,569 Gallons

Airport staff has continued to work on training, field maintenance, and equipment maintenance. The staff should be commended on the excellent condition of the field, terminal area, and fuel operations.

## **FAA and AIP**

Design meetings on for AIP 18 and the subsequent runway rehabilitation project are underway. We have been able to isolate several of the design issues the FAA have put as primary concerns and are under the process of developing a scope of work for both projects.

## **OAMA**

I was able to attend the Oregon Airport Manager's Association meeting, and I was appointed as second VP to the group. Our group was able to address several anticipated issues facing airports in Oregon in the next few years and set goals for the near future to address these concerns. The primary concerns being centered on FAA funding and reauthorization and environmental regulations that may limit the future sale of AvGas. We also discussed issues with Small Community Air service and ways of generating opportunities for new participants to the air service market.

## **Connect Oregon IV**

I have been working with City Staff and state officials to proceed forward with our Connect Oregon IV application for matching funds on the runway rehabilitation project. Also I have confirmed with the state that the value of the fill being provided from the Port cannot be used as matching funds on the second project we have been considering.



**SUGGESTION/CONCERN/COMPLAINT FORM--CITY OF NEWPORT**

| <b>Date City Notified</b> | <b>No. Assigned</b> | <b>Claimant</b>       | <b>Suggestion/Concern/Complaint</b>   | <b>Status</b>  |
|---------------------------|---------------------|-----------------------|---|--|
| 7/8/2011                  | 137-PW-7-8-11       | Patricia O'Dell       | Would like the "bumps" at/near NW 60th & Rhododenron intersection removed/dealt with.   | <b>OPENED 7-8-11:</b> This is not possible at this time, this is the fault line and moves continuously. Talked with City Manager regarding this. |
| 9/29/2011                 | 145-PW-9-29-11      | Home Owner-NW 47th St | Sewage Smell  | OPENED 9-29-11: House is located close to pump station, PW installed rainguards to help reduce smell.<br>CLOSED 9-29-11                          |
| 9/29/2011                 | 146-PW-9-29-11      | Anonymous             | Sewer locate, owner looking for sewer lateral, Newport Plumping camered and found a clump of root and a split joint                   | OPENED 9-29-11: Let the homeowner know that the City is not responsible for laterals. CLOSED 9-2911  |
| 9/6/2011                  | 147-PW-9-6-11       | Matteo Costamagna     | Would like the alder tree growing on the city's lot where the water booster station sits topped so he can enjoy his ocean view again. | OPENED 9-611: Removed the tree's that were over hanging the curb and hitting sweeper and other trucks.<br>CLOSED 10-17-11                        |
| 10/11/2011                | 148-PW-10-11-11     | Enrique Sanchez       | Was advised by his landlord that city would cut the brush in the alley that runs next to his apartment complex.                       | OPENED 10-11-11: Mowed brush in the City right of way. CLOSED 10-21-11   |





# Memo

To: Jim Voetberg, City Manager and City Council  
From: Timothy Gross, Director of Public Works/City Engineer  
Date: November 7, 2011  
Re: Capital Projects Status Update

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## **Water Filtration Facility**

Please see the attached 3 month look ahead schedule and cost summary sheet. A more detailed update on the water treatment facility will be provided at the 11-7-11 Council Work Session.

## **Big Creek Road Slides – FEMA Emergency Assistance**

FEI performed a geotechnical investigation on 10/31/11 to 11/1/11. A geotechnical report will follow in the coming weeks.

## **Coast Park Improvements**

Volunteer crews are currently installing landscaping. Additional improvements need to be completed to comply with the Grant requirements.

## **Hwy 101/South Beach Sewer and Water Improvements**

Staff is preparing easement documents for this project.

## **Naterlin Drive to Yaquina Bay State Park Sidewalk**

Staff is preparing the construction documents for this project.

## **Big Creek Sanitary Sewer Pipe-bursting**

Brown and Caldwell is currently working on a scope of services for this project.

## **North Jetty Trail**

The City has received the signed easement agreement from the USCG for constructing a fence and opening the trail for public access from Naterlin Drive to the North Jetty. City staff will solicit quotes for the fence work within the next few weeks.

## **Nye Beach/Oceana Drainage Improvements**

Contractor is working on this project now. All improvements should be completed around November 11.

## **NW 6<sup>th</sup>/3<sup>rd</sup> Street Sidewalks/Nye Beach Drainage Improvements/NW 3<sup>rd</sup> Street Streetlights**

Staff is preparing the construction documents for this project.

## **Agate Beach Water Tank**

Civil West is currently working on the design of this tank. A preliminary planset has been submitted to the City and Staff are currently reviewing the plans.

### **Agate Beach Wastewater Improvements**

Brown and Caldwell are currently performing an analysis of this system to determine which improvements need to be completed first and what the estimated costs will be. Staff has received and is reviewing their preliminary report.

### **NE 3<sup>rd</sup> and Avery Street Sanitary Sewer Realignment**

The survey has been completed in the project area and City staff is preparing plans and specifications.

### **Embarcadaro Storm Drain Manhole**

The manhole at the Embarcadaro has been repaired. During the repair process it was discovered that the upstream concrete pipe coming from John Moore Boulevard is failing. The joints in the pipe are displaced and the pipe is settled approximately 3' in the center. It is likely that the tidal influence is causing the material below the pipe to infiltrate through the exposed joints and is exacerbating the sagging condition. City staff is investigating the condition of the pipe upstream of this section to determine its condition and will determine a future course of action at that time. Currently there is no funding source to pay for storm sewer pipe repair of this scale.

### **Senior Project Manager Interviews**

A promising candidate has been interviewed and Staff are currently reviewing references and preparing an offer.



**Newport Water Treatment Plant  
Construction Cost Tracking**

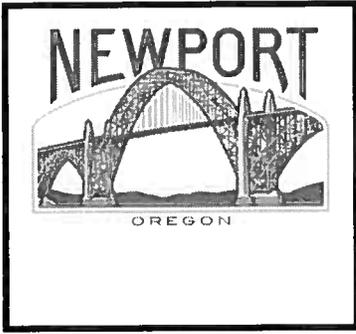
Costs through: 10/31/11  
Report Date: 11/2/11

| A       | B                                       | C   | ←-----BUDGET-----→ |                    |               |                | ←---ENCUMBRANCES---→  |                          | ←-----COSTS-----→ |                   |                             |           |
|---------|---|-----|--------------------|--------------------|---------------|----------------|-----------------------|--------------------------|-------------------|-------------------|-----------------------------|-----------|
|         |   |     | D                  | E                  | F             | G = D + E + F  | H                     | I                        | J                 | K                 | L = J + K                   | M = L - G |
| Item    | Description                             | UM  | Project Budget     | Budget Adjustments | Change Orders | Current Budget | Encumbrances to date* | Encumbrances to complete | Costs To-Date     | Costs To Complete | Forecast Cost at Completion | Variance  |
| 001-008 | Preconstruction Services                |     | 98,260.00          | 0.00               | 0.00          | 98,260.00      | 98,260.00             | 0.00                     | 98,260.00         | 0.00              | 98,260.00                   | 0.00      |
| 1000    | Early Work Amendment #1 Allowance       | All | 225,335.74         | 0.00               | (3,339.87)    | 221,995.87     | 221,995.87            | 0.00                     | 221,995.87        | 0.00              | 221,995.87                  | 0.00      |
| 100     | General Conditions                      | MOS | 90,000.00          | 0.00               | 0.00          | 90,000.00      | 90,000.00             | 0.00                     | 90,000.00         | 0.00              | 90,000.00                   | 0.00      |
| 101     | GMP #1 Mobilization                     | LS  | 130,000.00         | 0.00               | 0.00          | 130,000.00     | 130,000.00            | 0.00                     | 130,000.00        | 0.00              | 130,000.00                  | 0.00      |
| 102     | Advertising                             | LS  | 21,730.00          | 0.00               | 0.00          | 21,730.00      | 21,730.00             | 0.00                     | 21,730.00         | 0.00              | 21,730.00                   | 0.00      |
| 103     | Reproduction Costs                      | ALL | 12,500.00          | 0.00               | (12,500.00)   | 0.00           | 0.00                  | 0.00                     | 0.00              | 0.00              | 0.00                        | 0.00      |
| 104     | General Housekeeping                    | MOS | 10,086.00          | 0.00               | 0.00          | 10,086.00      | 10,086.00             | 0.00                     | 10,086.00         | 0.00              | 10,086.00                   | 0.00      |
| 105     | Material Hoisting/Distribution          | MOS | 27,536.34          | 0.00               | 0.00          | 27,536.34      | 27,536.34             | 0.00                     | 27,536.34         | 0.00              | 27,536.34                   | 0.00      |
| 106     | Temp Fencing/Barricades/Signs           | LS  | 11,560.00          | 0.00               | 0.00          | 11,560.00      | 11,560.00             | 0.00                     | 11,560.00         | 0.00              | 11,560.00                   | 0.00      |
| 107     | Temp Lay Down Area / Roads              | LS  | 19,921.00          | 0.00               | 0.00          | 19,921.00      | 19,921.00             | 0.00                     | 19,921.00         | 0.00              | 19,921.00                   | 0.00      |
| 108     | Waste Management                        | MOS | 3,000.00           | 0.00               | 0.00          | 3,000.00       | 3,000.00              | 0.00                     | 3,000.00          | 0.00              | 3,000.00                    | 0.00      |
| 150     | Surveying                               | ALL | 5,000.00           | 0.00               | (3,375.00)    | 1,625.00       | 1,625.00              | 0.00                     | 1,625.00          | 0.00              | 1,625.00                    | 0.00      |
| 2000    | Soldier Pile Retaining Wall             | LS  | 299,500.00         | 0.00               | 0.00          | 299,500.00     | 299,500.00            | 0.00                     | 299,500.00        | 0.00              | 299,500.00                  | 0.00      |
| 2001    | Concrete Fascia                         | LS  | 176,500.00         | 0.00               | 0.00          | 176,500.00     | 176,500.00            | 0.00                     | 176,500.00        | 0.00              | 176,500.00                  | 0.00      |
| 2002    | Excavation                              | LS  | 62,100.00          | 0.00               | 0.00          | 62,100.00      | 62,100.00             | 0.00                     | 62,100.00         | 0.00              | 62,100.00                   | 0.00      |
| 2003    | Concrete Drainage Swale                 | LS  | 21,000.00          | 0.00               | (3,189.00)    | 17,811.00      | 17,811.00             | 0.00                     | 17,811.00         | 0.00              | 17,811.00                   | 0.00      |
| 2004    | 6 Ft Vinyl Coated Chain Link Fence      | LS  | 8,900.00           | 0.00               | (8,900.00)    | 0.00           | 0.00                  | 0.00                     | 0.00              | 0.00              | 0.00                        | 0.00      |
| 2010    | Force Main Sewer Line & HDPE Conduit    | LS  | 79,710.21          | 0.00               | 4,041.72      | 83,751.93      | 83,751.93             | 0.00                     | 83,751.93         | 0.00              | 83,751.93                   | 0.00      |
| 2020    | Relocate Existing Piping at Clearwell   | ALL | 59,107.00          | 0.00               | 28,704.93     | 87,811.93      | 87,811.93             | 0.00                     | 87,811.93         | 0.00              | 87,811.93                   | 0.00      |
| 2030    | Rammed Aggregate Piers                  | ALL | 400,000.00         | 0.00               | (112,074.30)  | 287,925.70     | 287,925.70            | 0.00                     | 287,925.70        | 0.00              | 287,925.70                  | 0.00      |
| 2072    | Garage Demo                             | ALL | 28,598.78          | 0.00               | (17,798.78)   | 10,800.00      | 10,800.00             | 0.00                     | 10,800.00         | 0.00              | 10,800.00                   | 0.00      |
| 01100   | GMP #2 General Conditions               | MOS | 300,000.00         | 0.00               | 0.00          | 300,000.00     | 270,000.00            | 0.00                     | 300,000.00        | 0.00              | 300,000.00                  | 0.00      |
| 01105   | GMP #2 Reproduction Costs               | ALL | 7,500.00           | 0.00               | 0.00          | 7,500.00       | 3,500.00              | 4,000.00                 | 3,500.00          | 4,000.00          | 7,500.00                    | 0.00      |
| 01110   | GMP #2 General Housekeeping             | MOS | 40,244.00          | 0.00               | 0.00          | 40,244.00      | 40,244.00             | 0.00                     | 40,244.00         | 0.00              | 40,244.00                   | 0.00      |
| 01115   | GMP #2 Material Hoisting/Distribution   | MOS | 110,045.00         | 0.00               | 0.00          | 110,045.00     | 110,045.00            | 0.00                     | 110,045.00        | 0.00              | 110,045.00                  | 0.00      |
| 01120   | GMP #2 Temp Fence Maintenance/Signs     | LS  | 1,500.00           | 0.00               | 0.00          | 1,500.00       | 1,500.00              | 0.00                     | 1,500.00          | 0.00              | 1,500.00                    | 0.00      |
| 01125   | Remove adn Restoration of laydown areas | LS  | 7,570.00           | 0.00               | 0.00          | 7,570.00       | 0.00                  | 7,570.00                 | 0.00              | 7,570.00          | 7,570.00                    | 0.00      |
| 01130   | Temporary Weather Protection            | ALL | 15,000.00          | 0.00               | 0.00          | 15,000.00      | 15,000.00             | 0.00                     | 15,000.00         | 0.00              | 15,000.00                   | 0.00      |
| 01135   | GMP #2 Waste Management                 | MOS | 12,000.00          | 0.00               | 0.00          | 12,000.00      | 12,000.00             | 0.00                     | 12,000.00         | 0.00              | 12,000.00                   | 0.00      |
| 01150   | GMP #2 Surveying                        | ALL | 7,000.00           | 0.00               | 0.00          | 7,000.00       | 3,675.00              | 3,675.00                 | 3,325.00          | 3,675.00          | 7,000.00                    | 0.00      |
| 02221   | Membrane Bldg Encasements               | LS  | 84,355.00          | 0.00               | 0.00          | 84,355.00      | 84,355.00             | 0.00                     | 84,355.00         | 0.00              | 84,355.00                   | 0.00      |
| 02222   | Site Piping Material                    | LS  | 245,583.00         | 0.00               | 0.00          | 245,583.00     | 245,583.00            | 0.00                     | 245,583.00        | 0.00              | 245,583.00                  | 0.00      |
| 02223   | Site Piping Placement                   | LS  | 360,389.27         | 0.00               | 0.00          | 360,389.27     | 360,389.27            | 0.00                     | 360,389.27        | 0.00              | 360,389.27                  | 0.00      |
| 02224   | Structural Fill Placement & Grading     | LS  | 81,038.00          | 0.00               | 0.00          | 81,038.00      | 81,038.00             | 0.00                     | 81,038.00         | 0.00              | 81,038.00                   | 0.00      |
| 02250   | Earthwork Allowance                     | ALL | 23,596.00          | 0.00               | 0.00          | 23,596.00      | 17,549.00             | 6,047.00                 | 17,549.00         | 6,047.00          | 23,596.00                   | 0.00      |
| 02272   | Gravel Surfacing Allowance              | ALL | 24,750.00          | 0.00               | 0.00          | 24,750.00      | 7,860.00              | 16,890.00                | 7,860.00          | 16,890.00         | 24,750.00                   | 0.00      |
| 02444   | Chain Link Fence                        | LS  | 16,259.00          | 0.00               | 8,900.00      | 25,159.00      | 25,159.00             | 0.00                     | 8,900.00          | 16,259.00         | 25,159.00                   | 0.00      |
| 02950   | Landscaping Allowance                   | ALL | 2,500.00           | 0.00               | 0.00          | 2,500.00       | 0.00                  | 2,500.00                 | 0.00              | 2,500.00          | 2,500.00                    | 0.00      |
| 03100   | Form Materials                          | LS  | 44,971.00          | 0.00               | 0.00          | 44,971.00      | 44,971.00             | 0.00                     | 44,971.00         | 0.00              | 44,971.00                   | 0.00      |
| 03200   | Concrete Reinforcement                  | LS  | 133,866.00         | 0.00               | 0.00          | 133,866.00     | 133,866.00            | 0.00                     | 133,866.00        | 0.00              | 133,866.00                  | 0.00      |
| 03300   | Concrete & Concrete Pumping             | LS  | 160,038.00         | 0.00               | 0.00          | 160,038.00     | 160,038.00            | 0.00                     | 160,038.00        | 0.00              | 160,038.00                  | 0.00      |
| 03310   | Sidewalks                               | LS  | 52,378.00          | 0.00               | 0.00          | 52,378.00      | 52,378.00             | 0.00                     | 52,378.00         | 0.00              | 52,378.00                   | 0.00      |
| 03320   | Membrane Bldg Concrete Placement        | LS  | 138,912.00         | 0.00               | 0.00          | 138,912.00     | 138,912.00            | 0.00                     | 138,912.00        | 0.00              | 138,912.00                  | 0.00      |
| 03330   | Clearwell Concrete Placement            | LS  | 30,389.00          | 0.00               | 0.00          | 30,389.00      | 30,389.00             | 0.00                     | 30,389.00         | 0.00              | 30,389.00                   | 0.00      |
| 03350   | GAC/Flocc Concrete Placement            | LS  | 26,325.00          | 0.00               | 0.00          | 26,325.00      | 26,325.00             | 0.00                     | 26,325.00         | 0.00              | 26,325.00                   | 0.00      |
| 04200   | Masonry                                 | LS  | 349,677.00         | 0.00               | 0.00          | 349,677.00     | 349,677.00            | 0.00                     | 349,677.00        | 0.00              | 349,677.00                  | 0.00      |
| 05211   | Steel Joists & Decking                  | LS  | 182,790.00         | 0.00               | 0.00          | 182,790.00     | 182,790.00            | 0.00                     | 182,790.00        | 0.00              | 182,790.00                  | 0.00      |
| 05500   | Fabricated Metals                       | LS  | 167,393.00         | 0.00               | 0.00          | 167,393.00     | 167,393.00            | 0.00                     | 167,393.00        | 0.00              | 167,393.00                  | 0.00      |
| 07210   | Building Insulation                     | ALL | 7,500.00           | 0.00               | 0.00          | 7,500.00       | 7,272.00              | 0.00                     | 7,272.00          | 0.00              | 7,272.00                    | (228.00)  |
| 07412   | Metal Roofing                           | LS  | 147,662.00         | 0.00               | 0.00          | 147,662.00     | 147,662.00            | 0.00                     | 147,662.00        | 0.00              | 147,662.00                  | 0.00      |
| 08110   | Metal Doors & Frames                    | LS  | 37,388.00          | 0.00               | 0.00          | 37,388.00      | 37,388.00             | 0.00                     | 37,388.00         | 0.00              | 37,388.00                   | 0.00      |

|        |                                       |     |                      |             |                    |                      |                      |                   |                     |                     |                      |                     |
|--------|---------------------------------------|-----|----------------------|-------------|--------------------|----------------------|----------------------|-------------------|---------------------|---------------------|----------------------|---------------------|
| 08220  | FRP Doors & Frames                    | LS  | 28,066.00            | 0.00        | 0.00               | 28,066.00            | 28,066.00            | 0.00              | 28,066.00           | 0.00                | 28,066.00            | 0.00                |
| 08332  | Overhead Doors                        | LS  | 16,675.00            | 0.00        | 0.00               | 16,675.00            | 16,675.00            | 0.00              | 16,675.00           | 0.00                | 16,675.00            | 0.00                |
| 08410  | Storefront Windows & Glazing          | LS  | 7,950.00             | 0.00        | 0.00               | 7,950.00             | 7,950.00             | 0.00              | 7,950.00            | 0.00                | 7,950.00             | 0.00                |
| 08700  | Finish Hardware                       | LS  | 22,326.00            | 0.00        | 0.00               | 22,326.00            | 22,326.00            | 0.00              | 22,326.00           | 0.00                | 22,326.00            | 0.00                |
| 09110  | Interior Framing                      | LS  | 15,677.00            | 0.00        | 0.00               | 15,677.00            | 15,677.00            | 0.00              | 15,677.00           | 0.00                | 15,677.00            | 0.00                |
| 09130  | Acoustical Ceiling                    | LS  | 11,544.00            | 0.00        | 0.00               | 11,544.00            | 11,544.00            | 0.00              | 0.00                | 11,544.00           | 11,544.00            | 0.00                |
| 09250  | Drywall                               | LS  | 31,353.00            | 0.00        | 0.00               | 31,353.00            | 31,353.00            | 0.00              | 31,353.00           | 0.00                | 31,353.00            | 0.00                |
| 09310  | Ceramic Tile                          | LS  | 5,693.00             | 0.00        | 0.00               | 5,693.00             | 5,693.00             | 0.00              | 0.00                | 5,693.00            | 5,693.00             | 0.00                |
| 09660  | Resilient Flooring & Base             | LS  | 3,209.00             | 0.00        | 0.00               | 3,209.00             | 3,209.00             | 0.00              | 0.00                | 3,209.00            | 3,209.00             | 0.00                |
| 09905  | Painting & Protective Coatings        | LS  | 105,700.00           | 0.00        | 0.00               | 105,700.00           | 105,700.00           | 0.00              | 88,000.00           | 17,700.00           | 105,700.00           | 0.00                |
| 10400  | Miscellaneous Specialties             | LS  | 12,174.00            | 0.00        | 0.00               | 12,174.00            | 1,217.40             | 10,956.60         | 1,217.40            | 10,956.60           | 12,174.00            | 0.00                |
| 11000  | Equipment Hoisting & Accessories      | LS  | 28,000.00            | 0.00        | 0.00               | 28,000.00            | 28,000.00            | 0.00              | 28,000.00           | 0.00                | 28,000.00            | 0.00                |
| 11062  | Chemical Submersible & Sampling Pumps | LS  | 5,200.00             | 0.00        | 0.00               | 5,200.00             | 5,200.00             | 0.00              | 1,600.00            | 3,600.00            | 5,200.00             | 0.00                |
| 11063  | Floating Submersible Pump Station     | LS  | 15,800.00            | 0.00        | 0.00               | 15,800.00            | 15,800.00            | 0.00              | 14,220.00           | 1,580.00            | 15,800.00            | 0.00                |
| 11072  | Vertical Turbine Line Pumps           | LS  | 108,000.00           | 0.00        | 0.00               | 108,000.00           | 108,000.00           | 0.00              | 108,000.00          | 0.00                | 108,000.00           | 0.00                |
| 11075  | Vertical Turbine Can Pumps            | LS  | 146,300.00           | 0.00        | 0.00               | 146,300.00           | 146,300.00           | 0.00              | 146,300.00          | 0.00                | 146,300.00           | 0.00                |
| 11076  | Submersible Non-Clog pumps            | LS  | 11,500.00            | 0.00        | 0.00               | 11,500.00            | 11,500.00            | 0.00              | 0.00                | 11,500.00           | 11,500.00            | 0.00                |
| 11082  | Peristaltic Pumps                     | LS  | 69,900.00            | 0.00        | 0.00               | 69,900.00            | 69,900.00            | 0.00              | 69,900.00           | 0.00                | 69,900.00            | 0.00                |
| 11182  | Chemical Storage Tanks                | LS  | 59,200.00            | 0.00        | 0.00               | 59,200.00            | 59,200.00            | 0.00              | 59,200.00           | 0.00                | 59,200.00            | 0.00                |
| 11358  | GAC System                            | LS  | 326,934.00           | 0.00        | 0.00               | 326,934.00           | 326,934.00           | 0.00              | 289,800.00          | 37,134.00           | 326,934.00           | 0.00                |
| 11359  | Flocculation System                   | LS  | 109,500.00           | 0.00        | 0.00               | 109,500.00           | 109,500.00           | 0.00              | 109,500.00          | 0.00                | 109,500.00           | 0.00                |
| 11500  | Storage Totes                         | LS  | 11,600.00            | 0.00        | 0.00               | 11,600.00            | 11,600.00            | 0.00              | 11,600.00           | 0.00                | 11,600.00            | 0.00                |
| 11601  | Laboratory Accessories                | LS  | 10,500.00            | 0.00        | 0.00               | 10,500.00            | 500.00               | 10,000.00         | 0.00                | 10,500.00           | 10,500.00            | 0.00                |
| 12356  | Laboratory Casework & Fumehood        | LS  | 36,323.00            | 0.00        | 0.00               | 36,323.00            | 36,323.00            | 0.00              | 0.00                | 36,323.00           | 36,323.00            | 0.00                |
| 12500  | Furnishings                           | LS  | 2,731.00             | 0.00        | 0.00               | 2,731.00             | 2,731.00             | 0.00              | 0.00                | 2,731.00            | 2,731.00             | 0.00                |
| 13122  | Prefabricated Wood Building           | ALL | 40,855.00            | 0.00        | 0.00               | 40,855.00            | 12,640.00            | 28,215.00         | 6,320.00            | 34,535.00           | 40,855.00            | 0.00                |
| 13216  | Glass Fused Steel Reservoir           | LS  | 279,700.00           | 0.00        | 0.00               | 279,700.00           | 279,700.00           | 0.00              | 274,106.00          | 5,594.00            | 279,700.00           | 0.00                |
| 13400  | Install Pall Equipment                | LS  | 79,400.00            | 0.00        | 0.00               | 79,400.00            | 79,400.00            | 0.00              | 65,580.00           | 13,820.00           | 79,400.00            | 0.00                |
| 13440  | Instrumentation & Controls            | LS  | 197,506.00           | 0.00        | 0.00               | 197,506.00           | 197,506.00           | 0.00              | 187,759.29          | 9,746.71            | 197,506.00           | 0.00                |
| 14240  | Hydraulic Elevator                    | LS  | 43,750.00            | 0.00        | 0.00               | 43,750.00            | 43,750.00            | 0.00              | 13,125.00           | 30,625.00           | 43,750.00            | 0.00                |
| 15060  | Process Mechanical Installation       | LS  | 245,420.00           | 0.00        | 0.00               | 245,420.00           | 245,420.00           | 0.00              | 233,149.00          | 12,271.00           | 245,420.00           | 0.00                |
| 15061  | Process Mechanical Materials          | LS  | 417,815.00           | 0.00        | 0.00               | 417,815.00           | 417,815.00           | 0.00              | 417,815.00          | 0.00                | 417,815.00           | 0.00                |
| 15065  | Mechanical Supports                   | LS  | 71,554.00            | 0.00        | 0.00               | 71,554.00            | 71,554.00            | 0.00              | 71,554.00           | 0.00                | 71,554.00            | 0.00                |
| 15100  | Valves                                | LS  | 92,620.00            | 0.00        | 0.00               | 92,620.00            | 92,620.00            | 0.00              | 92,620.00           | 0.00                | 92,620.00            | 0.00                |
| 15300  | Fire Protection                       | LS  | 37,102.00            | 0.00        | 0.00               | 37,102.00            | 37,102.00            | 0.00              | 37,102.00           | 0.00                | 37,102.00            | 0.00                |
| 15440  | Plumbing                              | LS  | 129,550.00           | 0.00        | 0.00               | 129,550.00           | 129,550.00           | 0.00              | 110,117.50          | 19,432.50           | 129,550.00           | 0.00                |
| 15605  | HVAC                                  | LS  | 439,500.00           | 0.00        | 0.00               | 439,500.00           | 439,500.00           | 0.00              | 351,012.50          | 88,487.50           | 439,500.00           | 0.00                |
| 16000  | Electrical                            | LS  | 1,433,094.00         | 0.00        | 0.00               | 1,433,094.00         | 1,433,094.00         | 0.00              | 1,199,793.00        | 233,301.00          | 1,433,094.00         | 0.00                |
| 17100  | Intake Mechanical                     | ALL | 297,612.00           | 0.00        | 0.00               | 297,612.00           | 80,255.00            | 217,357.00        | 68,960.00           | 228,652.00          | 297,612.00           | 0.00                |
| 17200  | Electrical Creek Crossing             | ALL | 128,289.00           | 0.00        | 0.00               | 128,289.00           | 112,941.00           | 15,348.00         | 112,941.00          | 0.00                | 112,941.00           | (15,348.00)         |
| 17300  | Raw Water Line Replacement            | ALL | 200,000.00           | 0.00        | 3,375.00           | 203,375.00           | 203,513.00           | 0.00              | 203,513.00          | 3,800.00            | 207,313.00           | 3,938.00            |
| 18000  | Owners Contingency                    | LS  | 260,252.00           | (92,541.00) | 51,065.20          | 218,776.20           | 0.00                 | 0.00              | 0.00                | 0.00                | 0.00                 | (218,776.20)        |
| 18001  | Budget Transfer #1                    | LS  | 0.00                 | 10,776.00   | 0.00               | 10,776.00            | 10,776.00            | 0.00              | 10,436.00           | 340.00              | 10,776.00            | 0.00                |
| 18002  | Budget Transfer #2                    | LS  | 0.00                 | 71,645.00   | 0.00               | 71,645.00            | 71,645.00            | 0.00              | 68,009.00           | 3,636.00            | 71,645.00            | 0.00                |
| 18003  | Budget Transfer #3                    | LS  | 0.00                 | 7,120.00    | 0.00               | 7,120.00             | 7,120.00             | 0.00              | 2,576.00            | 4,544.00            | 7,120.00             | 0.00                |
| 1.8004 | Budget Transfer #4                    | LS  | 0.00                 | 3,000.00    | 0.00               | 3,000.00             | 3,000.00             | 0.00              | 3,000.00            | 0.00                | 3,000.00             | 0.00                |
| 20000  | GMP #1 Fee                            | LS  | 102,672.45           | 0.00        | (6,429.90)         | 96,242.55            | 96,242.55            | 0.00              | 96,242.55           | 0.00                | 96,242.55            | 0.00                |
| 20002  | GMP #2 Fee                            | LS  | 633,100.00           | 0.00        | 0.00               | 633,100.00           | 433,280.69           | 199,819.31        | 514,445.54          | 118,654.46          | 633,100.00           | 0.00                |
|        | <b>Totals</b>                         |     | <b>10,940,609.79</b> | <b>0.00</b> | <b>(71,520.00)</b> | <b>10,869,089.79</b> | <b>10,098,195.68</b> | <b>522,377.91</b> | <b>9,621,824.82</b> | <b>1,016,850.77</b> | <b>10,638,675.59</b> | <b>(230,414.20)</b> |

\* Encumbrances include executed subcontract agreements, work bid by SCG and completed work billed to date.





Agenda Item #  
Meeting Date

November 7<sup>th</sup>, 2011

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

Issue/Agenda Title Herbicide Usage Policy

Prepared By :Protiva Dept Head Approval: Protiva City Mgr Approval:

**Issue Before the Council:**

Consideration of a herbicide usage policy to minimize the use of herbicides on City-owned park property and on certain rights of way maintained by City of Newport Department of Parks and Recreation and located within City limits.

**Staff Recommendation:**

Staff recommends adopting the attached herbicide usage policy to minimize the use of herbicides on City-owned park property and on certain rights of way maintained by City of Newport Department of Parks and Recreation and located within City limits.

**Proposed Motion:**

I move the Council adopt the Herbicide Usage policy dated November, 2011.

**Key Facts and Information Summary:**

This issue has been discussed and supported by the Parks and Recreation Advisory Committee for over a year. Opportunities for citizen comments have been available at each meeting. Parks and Recreation Staff, in conjunction with members of the Advisory Committee, held two public meetings that explained the concept of reducing or eliminating the use of herbicides for vegetation management. The Council also discussed this at their August 15<sup>th</sup> and September 6<sup>th</sup> work sessions (see attached staff reports). Staff has received over 50 different e-mails from citizens requesting the discontinued use of herbicides where children play.

The draft policy dated August 2011, the herbicide policy adopted by Waldport, and Council comments were sent to the City Attorney for reconciliation into a policy that is in the best interests of the City. Attached is a final herbicide policy for Council consideration. Staff believes the proposed herbicide policy addresses the desires of Council and recommends adoption.

**Other Alternatives Considered:**

Many alternatives were considered ranging from doing nothing to complete elimination.

**City Council Goals:**

Management of City assets

**Attachment List:**

Herbicide Policy dated November, 2011.

**Fiscal Notes:**

There will be no additional expense incurred initially by implementing this policy. There will be additional time required by staff to maintain City Parks and property. There is currently no provision for additional staff and overtime is not allowed at this time.

# City of Newport, OR

## Department of Parks and Recreation

### Herbicide Policy

November 2011

#### **Purpose and Scope**

The purpose of this policy is to minimize the use of herbicides on City-owned park property and on certain rights of way maintained by City of Newport Department of Parks and Recreation and located within City limits.

#### **Policy**

This policy sets forth guidelines for vegetation management in City parks and in certain rights of way maintained by the City of Newport Parks and Recreation Department and located within the city limits (City Parks Properties). The City is committed to using non-chemical vegetation management strategies such as hand pulling, mowing, trimming, and use of native plants and beneficial insects. Except in areas declared "Herbicide-Free Zones" by this policy, in addition to non-chemical vegetation management strategies, the City may also use certain approved herbicides to control vegetation where such use is indicated and appropriate.

Standards of practice for herbicide application on City Parks Properties will continue to meet or exceed federal and state requirements. Herbicides used on City Parks Properties will be limited to those included in the list of Permitted Herbicide Products included in this policy. All state and federally mandated practices related to herbicide application including but not limited to licensing and reporting requirements will be followed.

Any vegetation management contractors hired to work on City Parks Properties will be required to understand and abide by this policy. Before applying any herbicides on City Parks Properties, a vegetation management contractor will be required to provide the City of Newport, through the Parks and Recreation Department, with: 1) a copy of a the contractor's pesticide applicator's license to perform public vegetation control; 2) the names of the employees who will be applying herbicides; and 3) a report specifying the herbicides to be used, including amounts, concentrations, and spray locations.

#### **Practices**

Except in an emergency, or when non-chemical control methods are non-chemical control methods are not available, impractical, or inappropriate, the City will attempt to control

vegetation using non-chemical methods before using herbicides. Non-chemical control methods may include:

- Prevention, such as: 1) construction and planting techniques that minimize weed growth; 2) mulching; and 3) use of native and other plants to avoid conditions where undesirable plant species can take root and develop into problem conditions.
- Mechanical Techniques, such as: 1) manual removal; 2) string trimming; 3) flame weeding (if appropriate); 4) mowing; 5) aeration and thatching; 6) vacuum removal; and 7) thermal controls.
- Biological Controls, such as use of beneficial insects.
- Implementing programs and informational campaigns to increase the public's tolerance threshold for certain plant species.

#### **"Herbicide-Free Zones"**

Due to the nature of their use and/or users, some areas have been designated "Herbicide-Free Zones" by the City. The following setbacks for herbicide application will apply to all City Park Properties:

- Playgrounds – No herbicides will be applied within 25 feet of playgrounds.
- Dog Parks – No herbicides will be applied inside or within 25 feet of the outside perimeter of dog parks.
- Picnic Areas – No herbicides will be applied within 25 feet of picnic facilities.
- Community Gardens – No herbicides will be applied inside or within 25 feet of the outside perimeter of community gardens.
- Swimming/Wading Pools – No herbicides will be applied within 100 feet of an outdoor pool during the season it is open to the public.
- Gutter Bars – No herbicides will be applied to gutters or within five feet of any catch basin.

Except in "Herbicide-Free Zones," in the event a property is too large for non-chemical control methods to be effective or non-chemical control methods are not available, impractical, or inappropriate, the City may use herbicides from the list of Permitted Herbicide Products to control vegetation on City Parks Property. Herbicide applications must be approved by the Director of Parks and Recreation and the approval must be confirmed in writing by the City Manager.

## **Permitted Herbicide Products**

The following chemicals are listed as products that may be used by the Parks and Recreation Department and independent vegetation management contractors:

- Roundup, glyphosate
- Garland 4, triclosyr
- Speed Zone, carfentrazone – ethyl
- Weed & Feed, 2,4-D miccoprop-p
- Dimension 270-G, Dithiopyr

All products must be used in accordance with manufacturer specifications. All herbicide applications must be documented as required by the State of Oregon. The City shall keep materials safety data sheets (MSDS sheets) on file for all Permitted Herbicide Products.

## **Notification and Warning Signs**

The Parks and Recreation Department will make a good-faith attempt to ensure that citizens, employees, and contractors are adequately informed of all herbicide applications conducted on City Parks Properties. Prominent signs will be posted 24 hours before spraying occurs, and left posted for one week after application. Signage will include:

- date and time of application
- reentry date and time
- trade and chemical names of herbicide applied
- contact information for Parks Department Staff

## **Emergency Application**

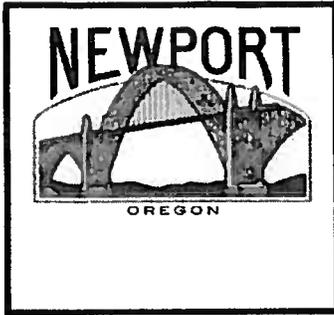
In the case of an immediate threat to public health or safety, herbicides may be applied to City Park Properties with less than 24 hour notice, and if necessary, in "Herbicide-Free Zones." City staff will post required signs as soon as practicable following an emergency herbicide application.

## **Human Exposure or Illness Contact Information**

The following information will be made available to personnel using herbicides and at the City Manager's office:

1. If you need medical attention right now, call 9-1-1 and/or the Poison Control Center at **1-800-222-1222**.
2. Call the National Pesticide Information Center (NPIC) at 1-800-858-7378 to report the pesticide exposures or illnesses. NPIC provides these reports to the EPA under a cooperative agreement. NPIC is open seven days per week from 6:30am - 4:30pm PST.
3. Consider reporting the incident to the product's manufacturer. Manufacturers are required by law to submit reports of adverse effects to the US EPA."

(National Pesticide Information Center web site, <http://npic.orst.edu/index.html>)



Agenda Item # \_\_\_\_\_  
Meeting Date August 15, 2011\_\_

CITY COUNCIL AGENDA ITEM SUMMARY  
City Of Newport, Oregon

Issue/Agenda Title Herbicide Use Policy

Prepared By: Jim Protiva Dept Head Approval: JAP \_\_\_\_\_ City Mgr Approval: [Signature]

**Issue Before the Council:** Review and discussion of the draft herbicide use policy for city-owned property and city rights-of-way within the city limits of Newport.

**Staff Recommendation:** Staff recommends Council review the Herbicide Use Policy and provide direction to staff on the revising and final adoption of the policy.

**Proposed Motion:** None. This is a work session discussion item.

**Key Facts and Information Summary:** There was concern expressed by a citizen group that herbicide use was dangerous to the health and wellbeing of people and animals using parks and other city properties. The concern was discussed and researched by the Parks and Recreation Advisory Committee on numerous occasions. After considering what other agencies and communities in the county were practicing, the committee held two public hearings and listened to testimony at several public meetings.

It was determined to draft a policy to guide staff in the IPM approach to dealing with unwanted vegetation. This approach sets specific guidelines which include, but are not limited to, using non-chemical control methods and posting of prominent signs to be left at locations for one full week.

The Parks and Recreation Advisory Committee voted unanimously during their July meeting to recommend the attached draft to Council for adoption.

**Other Alternatives Considered:** Numerous policies were considered in the formulation of this draft policy. The option of doing nothing and keeping our current "practice" was discussed but not believed to be in the best interest of the city.

**City Council Goals:** To maintain and continue to update programs (maintenance).

**Attachment List:** Draft Policy.

**Fiscal Notes:** The fiscal impact of this policy will not be fully understood until after implementation as some additional labor is anticipated as well as savings by not purchasing chemicals.

# City of Newport, OR

## Department of Parks and Recreation

### Herbicide Use Policy

DRAFT July 2011

#### **Purpose and Scope**

The purpose of this policy is to direct staff usage of herbicides on City-owned property and certain rights of way within City limits.

#### **Background**

The City of Newport acknowledges the body of evidence that suggests that chemical pesticides can pose risks to human health, especially that of children, and the environment. But, invasive and noxious plants and other vegetative pests can affect human health by triggering allergies, and can impact property values, aesthetics, and recreation on some city properties. A comprehensive policy is needed to guide City of Newport staff in the application of chemical herbicides on city-owned property. In order to help uphold the city's commitment to a healthy, safe, and desirable community, an integrated pest management (IPM) approach will be used in managing unwanted vegetation on city property.

#### **Policy**

This policy sets forth guidelines for herbicide use in the management of weeds on City-owned property and certain rights of way.

Vegetative management activities on City property will follow the principles of Integrated Pest Management (IPM), which emphasizes non-chemical management strategies. Chemical means of control will be used as a "last resort," only after other methods (hand-pulling, prevention, other non-chemical means of control) have been deemed ineffective. The policy recognizes that there may occasionally be circumstances in which chemical herbicides may be required as a part of the IPM program for invasive weeds or in the event of an urgent non-routine circumstance. If herbicides are used, The City will use the least harmful products possible. This policy requires public notification and posting of warning signs prior to any herbicide application. Standards of practice for herbicide application on City property will continue to meet or exceed federal and state requirements. Herbicides are selected from a list of Permitted Herbicide Products as outlined by the state. All state and federally mandated practices including but not limited to licenses and reporting for herbicide application will be followed.

The policy applies only to City of Newport-owned properties and certain rights of way and not city residents and businesses. Any vegetation management contractors hired to work on City-owned property are required to understand and abide by this policy. If such contractors are to apply chemical herbicides, they will provide the City of Newport, through the Parks and Recreation Department, a copy of a pesticide applicator's license to perform public vegetation control, the names of the employees who will be applying herbicides, and a report at the beginning of the job as to which herbicides are to be used with amounts, concentrations, and locations.

## **Practices**

The City will use non-chemical control methods for all vegetation management performed as a first option. Methods may include:

- Hand removal
- Construction techniques to disallow undesirable plants to take root
- Mechanical techniques like string trimming, flame weeding, mowing

In the event the property is too large or manual resources are not available, the second option is to use least toxic chemical herbicides (but still effective) to control noxious or invasive weeds as deemed necessary or in the event of some unusual circumstance.

## **Permitted Product List of Chemicals**

If an herbicide from the Permitted Herbicide Product list is used, the site, weed and application period will be in accordance with the manufacturer's specifications and documented as required by the state. All products will have associated MSDS sheets on file. The following chemicals are permitted for use at this time by the Parks and Recreation Department (2011):

- Roundup, glyphosate
- Garland 4, triclosyr
- Speed Zone, carfentrazone – ethyl
- Weed & Feed, 2,4-D miccoprop-p
- Dimension 270-G, Dithiopyr

## **Notification and Warning Signs**

The Parks and Recreation Department will make a good-faith attempt to ensure that citizens, employees, and contractors are adequately informed of all herbicide applications conducted on City Parks and City property. Prominent signs will be posted before spraying occurs, and left posted for one week after application. Signage includes:

- date and time of application
- reentry date and time
- type of herbicide applied

-contact information

### **Human exposure or illness contact information**

1. If you need medical attention right now, call the Poison Control Center at **1-800-222-1222**.
2. Call the National Pesticide Information Center (NPIC) at 1-800-858-7378 to report the pesticide exposures or illnesses. NPIC provides these reports to the EPA under a cooperative agreement. NPIC is open seven days per week from 6:30am - 4:30pm PST.
3. Consider reporting the incident to the product's manufacturer. Manufacturers are required by law to submit reports of adverse effects to the US EPA.”

(National Pesticide Information Center web site, <http://npic.orst.edu/index.html>)

# Memorandum

**To:** City Council through City Manager  
**From:** Jim Protiva, Parks and Recreation Director  
**Date:** 9/6/2011  
**Re:** Revise Herbicide Restriction Policy

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After discussion and public comment at the August 15<sup>th</sup> work session about some of the language in the Herbicide use policy, staff has made the following additions and deletions to more accurately reflect the practice and intentions of the City of Newport.

While the follow document is a draft, it is expected that the issue will come before council for adoption by resolution in the future. It is also worth mention that the Parks and Recreation Advisory Committee has not yet had the opportunity to review this document but is generally in agreement that restricting the use of herbicide where children play is in the best interest of the community.

I look forward to further modification of this policy if the council deems it necessary.

# City of Newport, OR

## Department of Parks and Recreation

### Herbicide ~~Restriction~~Use Policy

DRAFT ~~August~~July 2011

#### Purpose and Scope

The purpose of this policy is to ~~restrict -direct~~ staff usage of herbicides on City-owned park property and certain rights of way that the Parks Crews maintain and are within City limits.

#### Background

The City of Newport acknowledges the body of evidence that suggests that chemical pesticides have been shown to have the potential to negatively can pose risks to affect human health, especially that of children, and the environment. But, invasive and noxious plants and other vegetative pests can affect human health by triggering allergies, and can impact property values, aesthetics, and recreation on some city properties. A comprehensive policy is needed to guide City of Newport staff in the application of chemical herbicides on city-owned property. In order to help uphold the city's commitment to a healthy, safe, and desirable community, an integrated pest management (IPM) approach will be used in managing unwanted vegetation on city property.

#### Policy

This policy sets forth restrictive guidelines for herbicide use in the management of weeds on City-owned property and certain rights of way. It will be the policy of the City of Newport to restrict all herbicides from areas in which children play or are like to play.

Vegetative management activities on City park property will follow the principles of Integrated Pest Management (IPM), which emphasizes non-chemical management strategies. Chemical means of control will be used as a "last resort," only after other methods (hand-pulling, prevention, other non-chemical means of control) have been deemed ineffective. The policy recognizes that there may occasionally be circumstances in which chemical herbicides may be required as a part of the IVM program for invasive weeds or in the event of an urgent non-routine circumstance. If herbicides are used, The City will use the least harmful products possible. This policy requires public notification and posting of warning signs prior to any herbicide application. Standards of practice for herbicide application on City park property will continue to meet or exceed federal and state requirements. Herbicides are selected from a list of Permitted Herbicide Products as outlined by the state. All state and federally mandated

practices including but not limited to licenses and reporting for herbicide application will be followed.

The policy applies only to City of Newport ~~parks owned properties~~ and certain rights of ways that the parks crew maintain and not city residents and businesses. Any vegetation management contractors hired to work on City-owned property are required to understand and abide by this policy. If such contractors are to apply chemical herbicides, they will provide the City of Newport, through the Parks and Recreation Department, a copy of a pesticide applicator's license to perform public vegetation control, the names of the employees who will be applying herbicides, and a report at the beginning of the job as to which herbicides are to be used with amounts, concentrations, and locations.

## Practices

The City will use non-chemical control methods for all vegetation management performed as a first option. Methods may include:

- Hand removal
- Construction techniques to disallow undesirable plants to take root
- Mechanical techniques like string trimming, flame weeding, mowing

In the event the property is too large or manual resources are not available, the second option is to use least toxic chemical herbicides (but still effective) to control noxious or invasive weeds as deemed necessary or in the event of some unusual circumstance. The approval for specific uses will be determined by the Director of Parks and Recreation and confirmed in writing by the City Manager.

## Permitted Product List of Chemicals

If an herbicide from the Permitted Herbicide Product list is used, the site, weed and application period will be in accordance with the manufacturer's specifications and documented as required by the state. All products will have associated MSDS sheets on file. The following chemicals are listed as products that may be used as a last resort ~~permitted for use~~ at this time by the Parks and Recreation Department (2011):

- Roundup, glyphosate
- Garland 4, triclosyr
- Speed Zone, carfentrazone – ethyl
- Weed & Feed, 2,4-D miccoprop-p
- Dimension 270-G, Dithiopyr

## Notification and Warning Signs

The Parks and Recreation Department will make a good-faith attempt to ensure that citizens, employees, and contractors are adequately informed of all herbicide applications conducted on City Parks and City property maintained by the parks crews. Prominent signs will be posted 24 hours before spraying occurs, and left posted for one week after application. Signage includes:

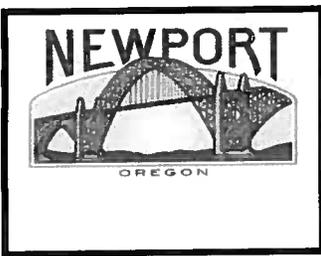
- date and time of application
- reentry date and time
- type of herbicide applied
- contact information

### **Human exposure or illness contact information**

1. If you need medical attention right now, call the Poison Control Center at **1-800-222-1222**.
2. Call the National Pesticide Information Center (NPIC) at 1-800-858-7378 to report the pesticide exposures or illnesses. NPIC provides these reports to the EPA under a cooperative agreement. NPIC is open seven days per week from 6:30am - 4:30pm PST.
3. Consider reporting the incident to the product's manufacturer. Manufacturers are required by law to submit reports of adverse effects to the US EPA.”

(National Pesticide Information Center web site, <http://npic.orst.edu/index.html>)





Agenda Item #: \_\_\_\_\_  
Meeting Date: November 7, 2011

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

**Issue/Agenda Title:** Consideration of Approval of Tourism Facilities Fund Grant Policy and Application

Prepared By: nc Dept Head Approval: jv City Mgr Approval: [Signature]

**Issue Before the Council:** The issue before Council is the consideration of a tourism facilities grant policy and application and providing authorization for staff to advertise the grant.

**Staff Recommendation:** Staff recommends that the Council approve the Tourism Facilities Grant Policy and Application prepared by the Tourism Facilities Task Force and modified by the city attorney, and authorize staff to advertise the grant.

**Proposed Motion:** I move to approve the Tourism Facilities Fund Grant Policy and Application as prepared by the Tourism Facilities Task Force and modified by the city attorney, and authorize staff to advertise the grant application.

**Key Facts and Information Summary:** The Tourism Facilities Grant Fund task Force was established per Resolution Number 3553 and charged with developing criteria for a grant policy and application that will solicit requests for use of the city's tourism facilities funds of approximately \$1,000,000. The Task Force met several times and developed a grant policy and application that has been reviewed and modified by the city attorney. The final grant application is attached for approval by the Council.

Staff is also requesting authorization to advertise the grant. Once advertised and proposals submitted, the Task Force will be responsible for reviewing grant applications and forwarding recommendation(s) of award to the City Council. As prepared, proposals are due January 20, 2012. Council can expected to award the Grants in February.

**Other Alternatives Considered:** None.

**City Council Goals:** The request does not address a specific City Council goal.

**Attachment List:** Attached is the Tourism Facilities Fund Grant Policy and Application.

**Fiscal Notes:** None.

**CITY OF NEWPORT CITY COUNCIL  
TOURISM FACILITIES GRANT INSTRUCTIONS**

**City of Newport  
169 SW Coast Highway  
Newport, Oregon 97365  
541.574.0603**

**Answer questions completely within the page limitations provided below. Applications will be considered based on project merits and according to the criteria approved by the City Council and attached to this application. Applicants may be contacted to provide more information. Hard copies of completed applications are due in the City Manager's Office by 5:00 P.M., on Friday, January 20, 2012 - NO EXCEPTIONS. E-mailed or faxed applications will NOT be accepted. Only one application per entity allowed.**

**Please Note:**

- 1. These funds were created by transient room tax collections. There are legal restrictions on how the money may be spent, and if the project cannot meet the legal requirements, the project cannot be funded.**
- 2. The Newport City Council has established policies governing the Tourism Facilities Grant Program. A copy of those policies is attached to this application.**
- 3. Applicants will be selected for funding based on information included in the application materials, and oral presentations.**
- 4. At least a one-to-one funding match is required.**
- 5. Applicants are defined as any 501(c) organization or government entity.**

**Currently there is a Contingency of \$1,000,000.00 in the Room Tax Fund of the City of Newport Budget. The existing funds do not need to be distributed in one fiscal year. The City Council and Tourism Facilities Task Force have established a process for distributing those funds to promote economic development and generate an increase in the Room Tax Fund in future years.**

**Once a grant has been awarded, the City of Newport will enter into an agreement with the Grantee that will spell out the terms of the grant and the time frame in which the grant funds will be released. Each agreement will be tailored to fit the Grantee's proposed project. The Grantee will be required to indemnify the City of Newport from financial liabilities incurred by the project. The grant funds will not be distributed until the matching dollars for a project have been raised or secured.**

**Each application will be considered on its own merits. Each application will be judged by the criteria attached to this the application form.**

**Submission of an application does not ensure funding. Funding decisions will be made based on the criteria attached to this application form. The City Council may elect to cancel the Tourism Facilities Grant Program and not fund any projects.**

**The Tourism Facilities Task Force will review and rate all applications. Applicants who submit qualifying applications will be invited to make an oral presentation to the Tourism Facilities Task Force Based on the application materials submitted and the Applicant's oral presentation, the Tourism Facilities Task Force will forward a recommendation to the Council as to which Applicants should be awarded Grant Funds, as well as the recommended amount of Grant Funds to be awarded to each Applicant. Applicants recommended to the Council by the Tourism Facilities Task Force will be**

expected to make an oral presentation before the Council. The Council will make the final decision regarding which Applicants will be awarded Grant Funds, as well as the amount of Grant Funds to be awarded to each Applicant.

The applicant should respond in 12-point, single-spaced text. Ten double-sided hard copies of the complete application and one electronic copy on a flash drive must be delivered to the **City Manager's Office by 5:00 P.M., on Friday, January 20, 2012.**

#### **PREVAILING WAGE**

Please note that use of City funds in a public works project may subject your project to prevailing wage laws. You may wish to consider whether acceptance of Tourism Facilities Grant Funds will subject your project to prevailing wage and review the project budget in light of that determination.

**CITY OF NEWPORT  
TOURISM FACILITIES GRANT APPLICATION**

Name of Applicant/Organization : \_\_\_\_\_  
Mailing Address & City: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Contact Phone No.: \_\_\_\_\_ Contact Fax No.: \_\_\_\_\_  
Contact E-Mail Address: \_\_\_\_\_  
Name of Project: \_\_\_\_\_  
Total Project Budget: \$ \_\_\_\_\_  
Amount Requested: \$ \_\_\_\_\_  
Authorization Signature: \_\_\_\_\_

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

**General**

Simply check the appropriate boxes below. If there is a question as to whether the proposed project meets these qualifications, the question may be submitted to the task force for preliminary review. A preliminary review only answers the questions of whether the project appears to qualify. It is not the final decision nor does it mean the project will be funded. Submit the question by November 18, 2012, so the task force can reply by November 30, 2012. This will allow time to complete the application by January 20, 2012. The application deadline will not be extended by preliminary review requests.

Is the project proposed by a government agency? Yes  No

OR

Is the project proposed by a non-profit organization? Yes  No

(A non-profit agency is defined as a 501(c) organization)

Will the project encourage people to travel to Newport from more than 50 miles away? Yes  No

Will the project encourage people to spend the night in Newport? Yes  No

Is the reason the project encourages visitors due to one or more of the following? (Check all that apply):

- Business
- Pleasure
- Recreation
- Arts
- Heritage
- Culture

Are you requesting funding for improved real property with a useful life of at least ten years? Yes  No

## Project Description

In this section, describe the project and how it meets various qualifications. First review the heading and questions, then check all boxes that apply to the project or give short answers. Finally, provide a narrative explaining how the project addresses the questions. The length of the answer to any question is optional, however, the applicant should attempt to answer all questions. **The total narrative should not exceed ten pages including application (excluding attachments).**

Summary description of the project (summarize the project so that reviewers have a general sense of the project)

### Business Plan and Budget: (25 points)

What is the total cost of the project?

---

What is the amount requested from the city?

---

What is the ratio of the request to the total cost?

---

What funds have already been raised for the project? (Include the source of funds, i.e., cash on hand, grants awarded, grants committed.)

---

What funds remain to be raised for the project?

---

How are the remaining funds to be raised? (Other grants, pledges, etc.)

Does the project provide a service that the city currently funds?

Yes  No

Does the project require continued support from the city? If yes, explain.

Yes  No

When do you anticipate completion of the project?

What is the plan for operations over a 3 - 5 year period?

How does the project demonstrate financial stability?

How does the project demonstrate a viable business plan?

### Economic Impact: (20 points)

Are project funds to be spent locally on:

|                 |     |                          |    |                          |
|-----------------|-----|--------------------------|----|--------------------------|
| Planning        | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Design          | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Construction    | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Post-Completion | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

How does the project create local jobs in all phases?

What is the projected economic impact?

Will the project create spin-off businesses?

Tourism Spending: (15 points)

How does the project encourage overnight stays?

How does the project encourage increased spending at local businesses?

How does the project increase the capacity for tourism?

Facility Usage: (Check all that apply) (10 points)

Is the project open year round:      Yes       No

If yes:

Daily \_\_\_\_\_

Weekdays \_\_\_\_\_

Weekends \_\_\_\_\_

Once a week \_\_\_\_\_

Is the project seasonal:      Yes       No

Daily \_\_\_\_\_

Weekdays \_\_\_\_\_

Weekends \_\_\_\_\_

Once a week \_\_\_\_\_

Is the project off-season:      Yes       No

Daily \_\_\_\_\_

Weekdays \_\_\_\_\_

Weekends \_\_\_\_\_

Once a week \_\_\_\_\_

Is the project monthly:                      Yes                       No

Daily \_\_\_\_\_  
Weekdays \_\_\_\_\_  
Weekends \_\_\_\_\_  
Once a week \_\_\_\_\_

Is the project open on holidays:            Yes                       No                       Only

Other: \_\_\_\_\_

Who is the targeted tourist? (Check all that apply)

Children \_\_\_\_\_  
Families \_\_\_\_\_  
Adults 21+ \_\_\_\_\_  
Seniors \_\_\_\_\_  
Groups \_\_\_\_\_  
Business \_\_\_\_\_  
Pleasure \_\_\_\_\_  
Arts \_\_\_\_\_  
Heritage \_\_\_\_\_  
Cultural \_\_\_\_\_  
Sports \_\_\_\_\_  
Other \_\_\_\_\_

Will the project attract repeat visits:

during a single stay?                      Yes                       No   
during a single season?                    Yes                       No   
over a single year?                        Yes                       No   
over multiple years?                        Yes                       No

What is the potential for repeat business?

What is the regularity of usage?

Does the project allow for multiple activities or uses? State size and types of events.

Is there a particular new demographic that the project is intended to reach?

Who does the project attract?

Other: (5 points)

How does the location relate to the current tourism hubs?

How is the project energy efficient or environmentally friendly?

What is the effect of the project on local livability components?

Is there any additional information that you would like the committee to consider?

(Overall project 25 points)

**In responding to questions, use additional sheets as necessary, but not to exceed the ten page limit.**

### **Required Attachments**

1. IRS determination letter for 501(c) - if applicable
2. Financial history of the project, if available: three years of year-end revenue/expense summaries, and current balance sheet; or feasibility study
3. Executive Summary of the business plan for the project, including a budget
4. Timeframe for fundraising
5. Timeframe for project construction/completion

### **Optional Attachments**

1. Up to 5 pages of 8 ½ x 11 drawings of any facility and floor plan to be constructed or renovated with the requested funds

## **TOURISM FACILITIES GRANT PROGRAM**

### **Purpose**

This policy is intended to guide the City of Newport in accepting applications and considering grant proposals for funding under the Tourism Facilities Grant Program established by the Newport City Council. The Tourism Facilities Grant Program is funded by local transient room tax revenues, so state law controls the types of projects to which grants may be provided. If a project cannot meet legal requirements, it will not be awarded a grant.

### **Title**

The provisions adopted by this Resolution shall be known as the "Tourism Facilities Grant Program Rules."

### **Policy**

It is the policy of the City to make Grant Funds available to qualified Applicants without regard to race, color, religion, sex, sexual orientation, national origin, marital status, age, disability or familial status.

### **Definitions**

- (1) "Applicant" means any 501(c) organization or government entity may apply for a grant from the Tourism Grant Program.
- (2) "City" means the City of Newport.
- (3) "City Manager" means the City Manager of the City of Newport or the City Manager's designee.
- (4) "Council" means the City Council of the City of Newport.
- (5) "Grant Agreement" is the legally binding contract between the City and the grant recipient. The Grant Agreement consists of the conditions specified in these rules, special conditions enumerated in the agreement, if applicable, and the grant application approved by the Council.
- (6) "Grant Funds" means the funds requested by an Applicant and/or the funds delivered to a grantee through the Tourism Facilities Grant Program.
- (7) "Match" is any contribution to a project made up of funds other than Grant Funds. Match may include:
  - (a) Cash on hand or cash that is pledged to be on hand prior to commencement of the project;
  - (b) Secured funding commitments from other sources; or
  - (c) Pending or potential commitments of funding from other sources. In such instances, Tourism Grant Program funding will not be released prior to secured commitment of the

other funds. Pending commitments of the funding must be secured within the time provided in the Grant Agreement.

(8) "Tourism Facilities Task Force" is a Task Force, consisting of 7 members, appointed by the Council in accordance with Resolution 3553.

### **Definitions for "Tourism-Related Facilities"**

(1) "Conference center" means a facility that:

- (a) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and
- (b) Meets the current membership criteria of the International Association of Conference Centers.

(2) "Convention center" means a new or improved facility that:

- (a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including but not limited to banquet facilities, loading areas and lobby and registration areas;
- (b) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;
- (c) Generates a majority of its business income from tourists;
- (d) Has a room-block relationship with the local lodging industry; and
- (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

(3) "Tourism" means economic activity resulting from tourists.

(4) "Tourism-related facility":

- (a) Means a conference center, convention center or visitor information center;
- (b) Means other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

(5) "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:

- (a) Requires the person to travel more than 50 miles from the community of residence; or
- (b) Includes an overnight stay.

(6) "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

### **Application Requirements**

(1) Applications that do not comply with the requirements in this section will not be considered.

(2) Applications must be submitted on a form provided by the City.

(3) Applications for the 2011/2012 grant cycle are due in the City Manager's office by 5:00 p.m. on Friday, January 20, 2012. Applicants must submit 10 hard copies of the application and one electronic copy on a flash drive or memory stick. Applications submitted by email or FAX will not be considered.

(4) All Applicants shall supply the following information:

- (a) Name of Applicant;
- (b) Name, physical and email address, and FAX and telephone numbers of the Applicant's contact person(s) and, if applicable, the Applicant's fiscal officer(s);
- (c) The name and a description of the proposed project;
- (d) Estimated line item budget for the project;
- (e) Identification of specific project elements for which Grant Funds will be used;
- (f) A list of any non-Grant Funds, services or materials available or secured for the project and any conditions which may affect the completion of the project;
- (g) If the project is part of a multi-year project, and a new funding request continues a previously City-funded activity, a description of the previous project accomplishments and results as well as an accounting of past expenditures and revenues for the project;
- (i) A project schedule including times of project beginning and completion; and
- (j) Any information requested by the Tourism Facilities Task Force or the Council in order to evaluate the project.

(5) All Applicants shall demonstrate a dollar for dollar match, based on the total Grant Funds request, at the time of application.

(6) All Applicants shall demonstrate that the Grant Funds requested will be used to fund Tourism-Related Facilities.

(7) Applications must include the following attachments:

- (a) If applicable, documentation from the Internal Revenue Service confirming that the Applicant is a 501(c) tax exempt organization;
- (b) Three years of year-end revenue/expense summaries and current balance sheet, or feasibility study;
- (c) An executive summary of the business plan for the project, including a budget;
- (d) A time frame for fundraising, if applicable;
- (e) A time frame for project completion.

(8) Clarification of information submitted may be sought from the Applicant during the evaluation process.

## **Application Processing**

(1) Submission of an application does not ensure funding. Decisions to award Grant Funds will be made based on the criteria and rating schedule attached to these rules as Exhibit A. The Council may elect to terminate the Tourism Facilities Grant Program and not award any Grant Funds.

(2) The Tourism Facilities Task Force will review all applications that comply with the application requirements included in these rules (qualifying applications). The Tourism Facilities Task Force will then rate the qualifying applications based on the criteria and rating schedule attached to these rules as Exhibit A.

(3) All Applicants who submit qualifying applications will be invited to make an oral presentation to the Tourism Facilities Task Force.

(4) Based on the application materials submitted and the Applicant's oral presentation, the Tourism Facilities Task Force will forward a recommendation to the Council as to which Applicants should be awarded Grant Funds, as well as the recommended amount of Grant Funds to be awarded to each Applicant.

(5) Applicants recommended to the Council by the Tourism Facilities Task Force will be expected to make an oral presentation before the Council.

(6) The Council is not bound by the Tourism Facilities Task Force recommendations.

(7) The Council will make its decision as to which Applicants should be awarded Grant Funds, as well as the amount of Grant Funds to be awarded to each Applicant based on the criteria and rating schedule attached as Exhibit A.

(8) The City may require additional information from the Applicant to aid in evaluating and considering a proposed project.

(9) Applicants will be notified in writing of award of a grant or denial of an application. Written notifications will be sent by first class mail to the address provided in the application. Notifications will be deemed received by the Applicant three calendar days after deposit by the City in the United States Mail.

## **Grant Agreement Conditions**

(1) If a grant application is approved, the City Manager, on behalf of the City, will enter into a Grant Agreement with the grantee.

(2) If the Grant Agreement has not been fully executed by all the parties within one month of Council approval, funding shall be terminated. The money allocated to the grant shall be available for reallocation by the City.

- (3) The terms of the Grant Agreement may be tailored to fit the project for which the Grant Funds are awarded. Grantees shall comply with all Grant Agreement conditions.
- (4) Obligations of the City under the Grant Agreement are contingent upon the availability of monies for use in the Tourism Facilities Grant Program.
- (5) The grantee shall comply with all federal, state and local laws and ordinances applicable to the work to be done under the agreement.
- (6) Grant Funds may not be used to refinance existing debt.
- (7) The grantee is responsible for all the expenses of the operation and maintenance of the project, including but not limited to adequate insurance, and any taxes or special assessments applicable to the project.
- (8) The grantee shall comply with all prevailing wage laws if they are applicable to the project.
- (9) The Applicant's total financial resources must be adequate to ensure completion of the project.
- (10) Upon notice to the grantee in writing, the City Manager may terminate funding for projects not in compliance with the terms of the Grant Agreement. The money allocated to the project but not used will be available for reallocation by the Council.
- (11) The grantee will obtain all required permits and licenses from local, state or federal government entities.
- (12) The City may place additional conditions in the Grant Agreement as necessary to carry out the purpose of the Tourism Facilities Grant Program, including any provisions that the City Manager considers necessary to ensure the expenditure of funds for the purposes set forth in the application.

#### **Distribution of Funds**

- (1) The City will not reimburse the grantee for any expenditures incurred prior to the signing of the Grant Agreement by all parties.
- (2) Prior to disbursement of Grant Funds, the grantee must provide proof that the dollar for dollar required Match, based on the total Grant Funds awarded, has been secured.
- (3) Funds shall not be disbursed until the City Manager receives satisfactory evidence that necessary permits and licenses have been granted and documents required by the City have been submitted.
- (4) The City shall retain ten percent of the Grant Funds until the final project report, as required by the Grant Agreement, has been approved by the City. Final reports are due within 60 days of

project completion. Any unexpended Grant Funds must be returned to the City with the final report. Upon receipt of the final report, the City shall have 90 days to approve the completed report or notify the grantee of any concerns that must be addressed or missing information that must be submitted before the report is considered complete and reviewed for approval. Once the final report has been approved the final payment shall be promptly provided to the grantee.

### **Appeals**

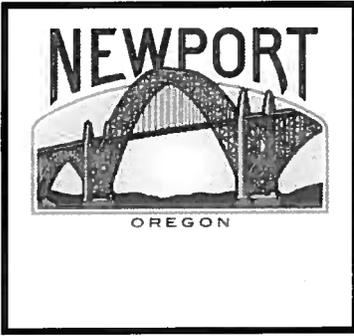
(1) If the Tourism Facilities Task Force or the Council denies a grant application, the Applicant may appeal the denial to the Council by submitting a written notice of appeal to the City Manager's office within 5 business days of the receipt of the denial.

(2) Within 20 calendar days of the City's receipt of the written appeal, the Council will review the denial on the record of the application. No new information will be accepted for review.

(3) The Applicant is not entitled to an appeal hearing.

(4) The Council's decision on the appeal is final.

(5) The Council's decision regarding the appeal will be transmitted to the Applicant at the address provided in the application, by first class mail.



Agenda Item # \_\_\_\_\_  
Meeting Date 11/7/11

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

Issue/Agenda Title: Consideration of Resolution No. 3561 - Establishing Immunity from Certain Personal Injury or Property Damage Claims

Prepared By: Peggy Hawker Dept Head Approval: ph City Manager Approval: [Signature]

**Issue Before the Council:** The issue before Council is consideration of Resolution No. 3561 which would limit private claims or rights of action based on negligence for personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance

**Staff Recommendation:** Staff recommends approval of the resolution. The resolution was reviewed by Carrie Connelly, of the Local Government Law Group, and she reported "that there is some concern in the legal community that any immunity opted for under this legislation could be found unconstitutional under Clarke, as it removes a cause of action that existed at common law. The League of Oregon Cities is currently working with CIS to determine the best way for cities to proceed. However, in the interim, he advises that cities with undeveloped rights-of-way that nonprofit groups want to convert into trails, should go ahead and adopt such an "opt-in" resolution. I understand the City of Newport does have such right-of-way trails over private property. To that end, adoption of this resolution is recommended for your city."

**Proposed Motion:** I move to adopt Resolution No. 3561 establishing immunity from certain personal injury or property damage claims.

**Key Facts and Information Summary:** The Oregon House of Representatives adopted HB2865 which will become effective on January 1, 2012. The bill establishes that personal injury or property damage resulting from the use of a trail that is a public easement; unimproved right-of-way, or structure in a public easement; or unimproved right-of-way, by users on foot, horse, bicycle, or other nonmotorized vehicle, does not give rise to a private claim or right of action based on negligence against a city with a population of more than 500,000; the employees of a city with the same population, or the owner of land abutting the public easement or unimproved right-of-way. Cities with a population of less than 500,000 can opt in, by adopting a resolution, and receive the same immunity as cities greater than 500,000 population.

**Other Alternatives Considered:** None.

**City Council Goals:** None.

**Attachment List:** Resolution No. 3561

**Fiscal Notes:** None.

**CITY OF NEWPORT**

**RESOLUTION NO. 3561**

**A RESOLUTION ESTABLISHING IMMUNITY  
FROM CERTAIN PERSONAL INJURY  
OR PROPERTY DAMAGE CLAIMS  
DESCRIBED IN HOUSE BILL 2865**

**FINDINGS:**

1. The City Council of the City of Newport finds that the Oregon Legislature enacted House Bill 2865 in its 2011 Regular Session.
2. HB 2865 limits private claims or rights of action based on negligence for personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance; and
3. The City Council finds that House Bill 2865 applies automatically to cities with a population of 500,000 or more and allows cities with a lesser population to opt in to limit liability in the manner established by the law; and
4. The City Council finds that the City of Newport will limit its liability from certain claims by opting in to the immunity provided for in House Bill 2865.

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

1. The City of Newport, on behalf of its officers, employees and agents, hereby opts to limit its liability with respect to personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right-of-way, or from use of structures in the public easement or unimproved right of way, with respect to claimants who may be a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.
2. The City of Newport further opts to extend the immunity contained in Section 1 of this resolution to:
  - a. The owner of land abutting the public easement in the city, and unimproved right-of-way in the City; and
  - b. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right-of-way in the city.
3. This resolution shall be effective immediately.

Adopted by the Newport City Council on November 7, 2011.

CITY OF NEWPORT

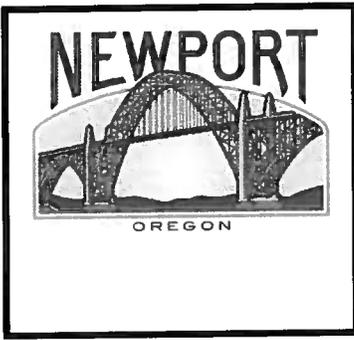
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Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder



Agenda Item #

Meeting Date

November 7, 2011

**CITY OF NEWPORT**  
**AGENDA ITEM SUMMARY**  
City of Newport, Oregon

Issue/Agenda Title: Consideration of GP Franchise Fee for Stormwater System Mapping

Prepared By: Timothy Gross Dept Head Approval: \_\_\_\_\_ City Mgr Approval: \_\_\_\_\_

**Issue Before the Council:**

Authorize the use of Georgia Pacific (GP) Franchise Agreement Funds from 2011 and 2012 for infrastructure mapping.

**Staff Recommendation:**

Staff recommends that City Council authorize the use of GP Franchise Agreement Fees from 2011 and 2012 to conduct infrastructure mapping for the purposes of indentifying and mitigating environmental impacts associated with storm water discharge.

**Proposed Motions:**

I move to authorize the use of GP Franchise Agreement Fees from 2011 and 2012 to conduct infrastructure mapping for the purposes of indentifying and mitigating environmental impacts associated with storm water discharge.

**Key Facts and Information Summary:**

At the October 3<sup>rd</sup> City Council Workshop, a memorandum and discussion was presented to Council identifying the need for more comprehensive mapping of the City's infrastructure systems, to allow better identification of cross connections and other environmental impacts associated with storm water discharge. A comprehensive system map, which could include elements such as structure locations and depths, pipe sizes and alignments, condition assessments, and other pertinent data, can be used for identifying cross connections between systems, identifying where sources of pollutants are coming from, and identifying where capacity issues exist which may contribute to sewer backups and overflows. In addition to these immediate benefits, a comprehensive infrastructure mapping system will also form the backbone of future system master planning. Future master plans will allow City staff to better plan for and fund infrastructure projects, prioritize critical projects, and will open up grant opportunities addressing water quality and pollution prevention.

City staff has already met with Civil West, the City's storm water consultant, to prepare a plan for conducting infrastructure mapping. This project will begin by preparing an infrastructure mapping strategy. The mapping system will be created in GIS by digitally gathering location data through GPS and hand held data collectors. By careful planning, the mapping system will allow for additional infrastructure information to be added in the future. For example, the initial mapping exercise will likely gather only location data and basic infrastructure information, such as whether a structure is a storm or sanitary sewer manhole. Next, the pipes locations and alignments connecting the structures will be identified. This process will allow a two-dimensional map to be created relatively quickly. After the initial mapping exercise is completed, additional information can be added

to the GIS map as attribute data, including critical information such as manhole depths, pipe sizes, condition ratings, and maintenance history. This additional information will help City staff determine why local flooding and sanitary sewer backup may be occurring, and what steps can be taken to mitigate these issues.

A local student has been identified who is willing to work part time collecting the necessary GPS data, minimizing data collection costs. Civil West is also currently assessing the potential of utilizing the City's current GPS unit to determine if it sufficient for collecting the data at the necessary degree of accuracy that is required for the mapping process. Over the next few weeks, Civil West and the City plan to work together to prepare the mapping plan and strategy and establish the objectives and projected uses of the final mapping products. Data collection will begin shortly after this initial planning process.

The tentative plan is to map infrastructure beginning with critical drainage basins first. It is likely the first basin to be mapped would be the Nye Creek/John Moore Creek watershed which drains most of the north part of central Newport, and is also the focus of the Fecal Coliform testing study. At regular intervals the GPS data would be uploaded to the consultant who will create the GIS map in an ongoing process. This will allow the City to utilize portions of the infrastructure map before the whole mapping process is completed.

Currently City staff does not have an estimate of what the total mapping process will cost. Initially the contract with Civil West will be established on a time and materials basis. As the mapping process continues and the rate at which data is collected and processed is established, a projected cost can be estimated. The total cost of the project will be determined based upon what level of detail is desired in the final infrastructure mapping system. The intent of City staff is to provide the most comprehensive mapping system possible with the funds available through the 2011 and 2012 GP Franchise fees.

**Other Alternatives Considered:**

None. No other revenue sources have been identified for this project.

**City Council Goals:**

Wastewater: Continue systematic program to identify sources of pollution entering storm drainage systems, including testing of sewage lines for cross-connections to storm drainage system.

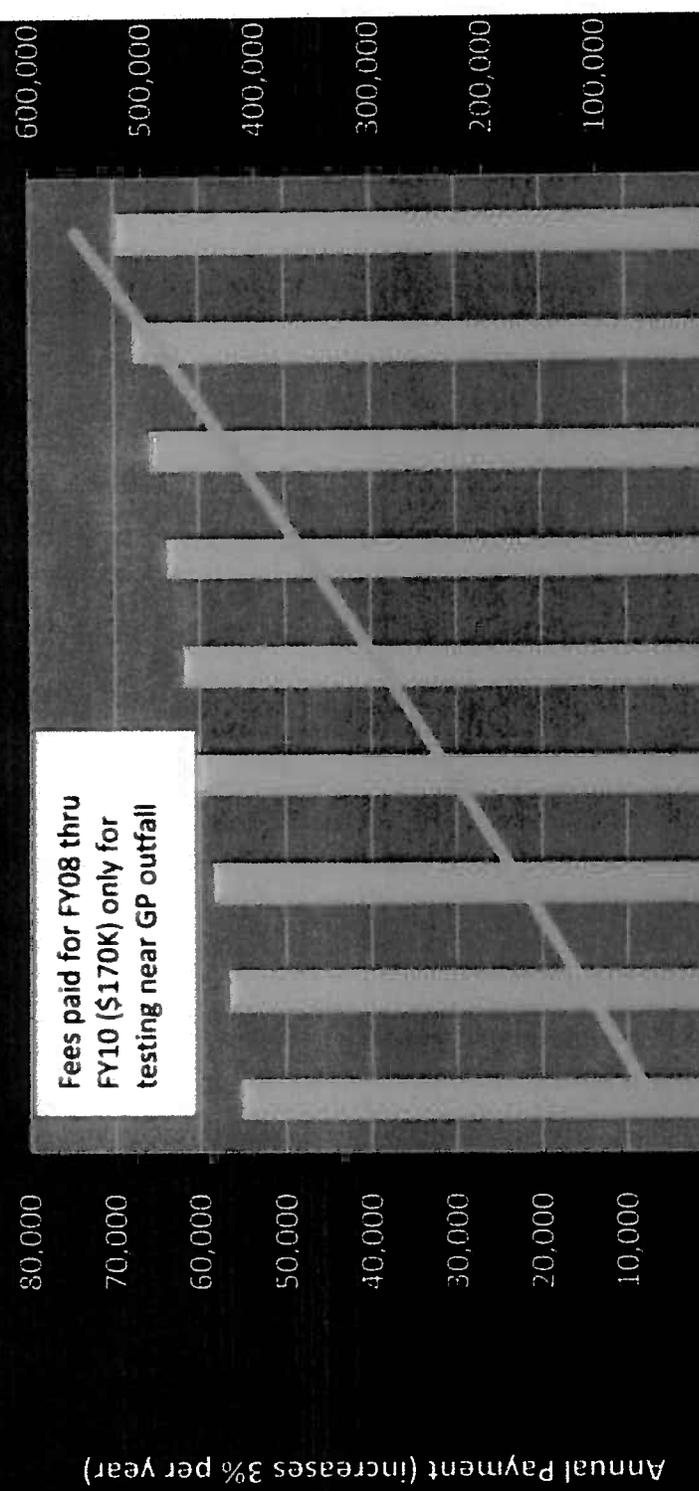
**Attachment List:**

GP Payment Provisions Chart

**Fiscal Notes:**

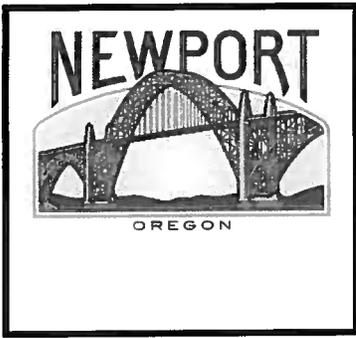
The projected GP franchise fees for calendar years 2011 and 2012 are \$60,100 and \$60,902 respectively. Total requested GP Franchise agreement funds for this project equals \$121,002. A graph showing GP payment provisions is attached to this memo.

# GP Payment Provisions: Increases 3% per year, for seven years, beginning in 2010



|                     | FY08   | FY09    | FY10    | FY11    | FY12    | FY13    | FY14    | FY15    | FY16    |
|---------------------|--------|---------|---------|---------|---------|---------|---------|---------|---------|
| Annual Payment      | 55,000 | 56,650  | 58,350  | 60,100  | 61,902  | 63,759  | 65,671  | 67,641  | 69,669  |
| Cumulative Payments | 55,000 | 111,650 | 170,000 | 230,100 | 292,002 | 355,762 | 421,433 | 489,074 | 558,743 |





Agenda Item #

Meeting Date:

11/7/11

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

Issue/Agenda Title Update Resolution No. 3535, Communication with the City Attorney

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

**Issue Before the Council:** Consideration of updating Resolution No. 3535, establishing communication with the city attorney, to reflect the fact that the city's attorney is providing legal services on a full time basis.

**Staff Recommendation:** Staff recommends adopting Resolution No. 3562.

**Proposed Motion:** I move to adopt Resolution No. 3562, establishing a model for communication with the city attorney.

**Key Facts and Information Summary:** On April 4, 2011, the City Council adopted Resolution No. 3535 that had the word "interim" in the resolution title and in the first "Whereas" in reference to the city attorney and legal services, respectively. On August 15, 2011, the City Council adopted a motion accepting a Letter of Engagement for legal services with the Local Government Law Group (LGLG). This is a housekeeping resolution to clarify that LGLG is providing services on a full-time basis. The intent and purpose of Resolution No. 3535 and the manner in which communication with the city attorney occurs is not changed.

**Other Alternatives Considered:** None

**City Council Goals:** N/A

**Attachment List:** Resolution No. 3535; Resolution No. 3562

**Fiscal Notes:** N/A

**RESOLUTION NO. 3562**

**A RESOLUTION OF THE NEWPORT CITY COUNCIL  
ESTABLISHING A MODEL FOR  
COMMUNICATION WITH THE CITY ATTORNEY**

**WHEREAS**, the City of Newport has contracted with the Local Government Law Group, PC, (LGLG) to provide legal services for the city; and

**WHEREAS**, the City Council wishes to establish a practice regarding the authority to contact the City Attorney (LGLG); and

**WHEREAS**, the City Council has opted to adopt the practice of communication with the City Attorney through the "City Manager/Mayor Model with flexibility to allow contact by individual Councilors regarding issues such as personal conflicts of interest, and other individual issues;"

**THE CITY OF NEWPORT RESOLVES** that communication with the City Attorney will be conducted under the "City Manager/Mayor Model," with some flexibility to allow for individual Councilors to communicate with the City Attorney on issues such as personal conflicts of interest and other individual issues. Communication with the City Attorney by individual Councilors shall be authorized by the Mayor with the exception of issues related to individual Councilors. Communication with the City Attorney by staff, other than the City Manager, shall only occur with the express permission of the City Manager.

This resolution will become effective immediately upon passage.

Adopted by the Newport City Council on November 7, 2011.

**CITY OF NEWPORT**

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Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

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

**A RESOLUTION ADOPTING  
AN ADOPT-A-STREET/BUILDING GROUNDS POLICY  
FOR THE CITY OF NEWPORT, OREGON**

**FINDINGS:**

1. The City of Newport owns and maintains a variety of streets and building grounds; and
2. The City Council wants to make volunteer opportunities available for community groups and citizens to contribute to the care and maintenance of the city's streets and building grounds; and
3. An Adopt-A-Street/Building Grounds Program is a model for volunteer involvement that thrives in numerous other municipalities throughout the nation; and
4. An Adopt-A-Street/Building Grounds Program will raise local involvement, civic pride, and a sense of stewardship in assisting the city in caring for its parks and trails; and
5. An Adopt-A-Street/Building Grounds Program will develop and beautify the city's Streets and Building Grounds for the advantage of all; and
6. City staff has prepared an Adopt-A-Street/Building Grounds Program inclusive of policies and an agreement required to execute the program.

**NOW, THEREFORE, THE CITY OF NEWPORT RESOLVES** that that the Adopt-A-Street/Building Grounds Program, as described in the attached Exhibit A, is established to accommodate and encourage volunteer involvement in preserving and maintaining city streets and building grounds.

**BE IT FURTHER RESOLVED** that city staff is authorized to manage the Adopt-A-Street/Building Grounds Program.

**BE IT FURTHER RESOLVED** that creation of this program does not commit the city to any future enhancements of any streets buildings, building grounds, or facilities.

Adopted by the Newport City Council on November 7, 2011.

Signed on \_\_\_\_\_, 2011.

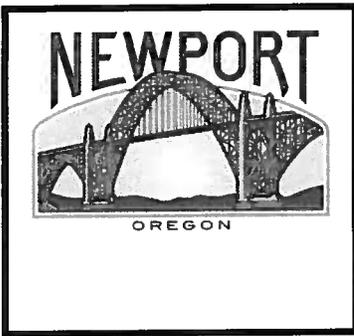
**CITY OF NEWPORT**

\_\_\_\_\_  
Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder



Agenda Item #

Meeting Date

November 7, 2011

## CITY COUNCIL AGENDA ITEM SUMMARY

City Of Newport, Oregon

Issue/Agenda Title Consideration of the Adopt-A-Street/Building Grounds program

Prepared By : N.Clark Dept Head Approval: Voetberg

City Mgr Approval: 

### **Issue Before the Council:**

The issue before council is the consideration of Resolution 3562 which would enact an Adopt-A-Street/Building Ground program as requested by the City Council.

### **Staff Recommendation:**

Staff recommends that the Council approve the Adopt-A-Street/Building Grounds program.

### **Proposed Motion:**

I move to adopt Resolution 3563, enacting an Adopt-A-Street/Building Grounds Program for the City of Newport.

### **Key Facts and Information Summary:**

Limited resources and increased use of City facilities, it is necessary to allow volunteer efforts to help maintain Newport streets and building grounds. The formation of a recognized program and formal agreement process with volunteer groups insures mutual understanding of issues and improvements.

The City realizes a great value in labor reduction and a better finished product when community members help towards a common goal of city beautification.

### **Other Alternatives Considered:**

None

### **City Council Goals:**

Management of City Assets  
City Beautification

### **Attachment List:**

Resolution 3562; Adopt-A-Street/Building Grounds Program; Adopt-A-Street/Building Grounds Agreement

### **Fiscal Notes:**

None

**City of Newport  
Adopt-A-Street/Building Grounds Program**

**Purpose**

The purpose of the City of Newport Adopt-A-Street /Building Grounds program is to provide volunteers with an opportunity to pick up litter, remove noxious weeds, and improve the appearance of city streets and city owned building grounds.

**Title**

The provisions adopted by this Resolution shall be known as the “Adopt-A-Street/Building Grounds Rules.”

**Scope**

Any volunteer group, identified as “Adopter” by these rules, may adopt a street/building grounds or a portion of a street/building grounds for the purpose of picking up litter, removing noxious weeds, and other work activities agreed to by the Adopter and the City.

**Definitions**

As used in this these rules, the following definitions will apply:

(1) “Adopter” means the individual or individuals, corporation, company, firm, business, partnership, or public agency that applies to adopt a street/building grounds program, and with whom the Agreement is made.

(2) “Agreement” means a fully executed agreement between the City and the Adopter that incorporates the requirements of these rules allowing Adopter and its Participants to perform activities listed in a Work Plan. An Agreement includes all attached provisions and exhibits. An Agreement does not convey any property right or interest.

(3) “Director” means the City Manager or designee.

(4) “City” means the City of Newport.

(5) “Participant” means the individual actually performing work on a street or grounds pursuant to an Agreement.

(6) “Street/Building Grounds” means the properties dedicated to public use and identified as a city street or as city owned property adjacent to a city owned building.

(7) “Work Plan” means a series of work tasks agreed to by the Adopter and the City. A copy of the Work Plan shall be attached to the Agreement.

(8) “Work Site” means the area where the work is to be conducted.

### **General Requirements**

(1) The Adopter must apply in writing to adopt a street/building ground on a form provided by the City.

(2) The Adopter may indicate a preference for a particular street/building grounds or section of street/building grounds in the application; however, applications will be processed on a first-come, first-served basis. If the particular street/building grounds or section of street/building grounds requested by the Adopter has already been adopted, the City manager, in his or her sole discretion, may allow multiple adopters to adopt the same location, or may suggest an alternate location for adoption.

(3) Once the location to be adopted has been determined, the Adopter and the City Manager will meet to create a Work Plan. The Work Plan will consist of a series of work tasks, agreed to by both the Adopter and the City Manager, to be completed by the Adopter during the term of the Agreement. The Work Plan may include dates or time lines for completion of the work tasks. A copy of the Work Plan will be attached to the Agreement.

(4) An Agreement will be executed by the Adopter and the City Manager. The Agreement will list the specific requirements and obligations of the Adopter, its Participants, and the City. No work is to be done in the park until the Agreement is fully executed. The Adopter should bring a copy of the Agreement to the work site when work is being performed.

(5) The term of the Agreement will be for a period of one, two, or three years.

(6) Subcontracting or assigning work to any party other than a Participant, or hiring or paying a wage or salary for work done pursuant to the Work Plan is prohibited and will result in termination of the Agreement.

(7) The City Manager may terminate an Agreement for any reason including, but not limited to safety considerations, failure of the Adopter to perform the work described in the Work Plan, or failure of the Adopter to comply with provisions of the Agreement. Termination may be issued orally or in writing.

(8) The Adopter may terminate the Agreement upon 30 days written notice to the City Manager.

(9) An Adopter has the option of renewing the Agreement for subsequent terms subject to the approval of the City Manager. A request for renewal of the Agreement must be submitted in writing, signed by the Adopter and submitted to the City Manager at least 30 days prior to the expiration date of the Agreement.

(10) Not less than 30 days after any renewal of the Agreement, the City and the Adopter will meet to review and make any changes to the Work Plan. If at any time the Work Plan is amended, the updated version of the Work Plan will be attached to the Agreement.

(11) The Adopter shall not use the adopted park to display advertising signs or display or sell merchandise of any kind.

### **Specific Requirements**

#### **(1) Adopter and Participant Responsibilities:**

(a) The Adopter will be responsible and liable for the care, control, supervision and assurance of safety of all Participants. The Adopter will obtain signed copies of the waiver form provided by the City from each Participant before the Participant performs any work tasks pursuant to the Agreement. The Adopter must submit the original signed waiver form to the Director within five (5) business days of receipt of the form. The Adopter may wish to keep copies of the forms for its records.

(b) The Adopter and each Participant must comply with and abide by all laws, rules, and regulations relating to safety and use of the street/building grounds, and such other terms and conditions as may be required in the Agreement. At the discretion of the Director, the Adopter or individual Participants may be excluded from participation in the program and/or the Agreement may be terminated for violation of the terms of the Agreement or these rules.

(c) The Adopter will provide adult supervision at the work site by at least one Participant over 18 years of age.

(d) Within 24 hours of the incident, the Adopter is required to report to the City Manager any injury suffered by an individual while 1) performing work pursuant to the Work Plan; or 2) present at the work site while work is performed pursuant to the Work Plan. Upon report of an injury by the Adopter, the City Manager will provide the Adopter with an incident analysis report form which must be filled out and returned to the Parks Department within 48 hours of the incident.

(e) In addition to any other tasks provided in the Work Plan, the Adopter is to pick up litter at least monthly and to conduct service projects at least two times a year. The City Manager may modify the minimum clean-up and service requirements included in the Work Plan if, in the opinion of the City Manager, such modifications are warranted based on the condition and appearance of the adopted park.

(f) The Adopter must agree to indemnify, defend, and hold harmless the City of Newport and its officers, employees, agents and volunteers from and against any claim or demand

for loss, liability, or damage, including claims for property damage and personal injury arising out of any activity undertaken by the Adopter or the Adopter's employees, officials, agents or volunteers on the premises of the Adopted street/building grounds and in performance of the Work Plan.

(g) Supplies, materials, and work area signs furnished by the City will be obtained from and returned to the City during regular business hours. The Adopter may furnish its own additional supplies for its exclusive use, at no cost to the City.

(h) The Adopter will be responsible for appointing or selecting a spokesperson to act as the representative of the Adopter in matters relating to the Agreement. The Adopter may change the spokesperson at any time by providing written notice of the change and contact information for the new spokesperson to City Manager.

(i) The Adopter will be responsible for placing litter and noxious weeds in trash bags furnished by the City and for conducting other work activities as described in the Work Plan.

## **(2) City Responsibilities:**

(a) The City will remove and dispose of all waste collected and bagged by the Adopter.

(b) The City will furnish trash bags, and may furnish other tools and/or materials as deemed appropriate by the City and as provided in the Work Plan.

(c) The City will provide Adopter with a participant timesheet. A copy of the timesheet must be provided to the Director at the end of each month.

(d) The City will provide an orientation to the Adopter. The orientation must be scheduled in advance with the City Manager.

(e) The City may design, furnish and erect a sign on the adopted street/building grounds premises with the Adopter's name or acronym displayed. The sign will remain the property of the City and will be removed by the City upon expiration or termination of this agreement. The acknowledgement sign is not intended as advertising or as a memorial; items such as an internet address, website, or telephone number will not be allowed. The Adopter's name may be verified with the Secretary of State's business name registry or other information available to the City.

## **ATTACHMENT A**

### **CITY OF NEWPORT ADOPT-A-PARK PROGRAM**

#### **Purpose**

The purpose of the City of Newport Adopt-A-Park Program is to provide volunteers with an opportunity to maintain, preserve, develop, and improve parks and trails in the City of Newport.

#### **Title**

The provisions adopted by this Resolution shall be known as the "Adopt-A-Park Rules."

#### **Scope**

Any volunteer group, identified as "Adopter" by these rules, may adopt a park or trail or a portion of a park or trail for the purpose of maintaining, preserving, developing, and improving parks and trails in the City of Newport, and other work activities agreed to by the Adopter and the City.

#### **Definitions**

As used in this these rules, the following definitions will apply:

1. "Adopter" means the individual or individuals, corporation, company, firm, business, partnership, or public agency that applies to adopt a park or portion of a park, and with whom the Agreement is made.
2. "Agreement" means a fully executed agreement between the City and the Adopter that incorporates the requirements of these rules allowing Adopter and its Participants to perform activities listed in a Work Plan. An Agreement includes all attached provisions and exhibits. An Agreement does not convey any property right or interest.
3. "Director" means the City of Newport Parks and Recreation Director or designee.
4. "City" means the City of Newport.
5. "Park" means the properties dedicated to public use and identified as parks in the City's Parks Master Plan.

6. "Participant" means the individual actually performing work in a park pursuant to an Agreement.
7. "Work Plan" means a series of work tasks agreed to by the Adopter and the City. A copy of the Work Plan shall be attached to the Agreement.
8. "Work Site" means the area where the work is to be conducted.

### **General Requirements**

1. The Adopter must apply in writing to adopt a park on a form provided by the City.
2. The Adopter may indicate a preference for a particular park or section of park in the application; however, applications will be processed on a first-come, first-served basis. If the particular park or section of park requested by the Adopter has already been adopted, the Director, in his or her sole discretion, may allow multiple adopters to adopt the same location, or may suggest an alternate location for adoption.
3. Once the location to be adopted has been determined, the Adopter and the Director will meet to create a Work Plan. The Work Plan will consist of a series of work tasks, agreed to by both the Adopter and the Director, to be completed by the Adopter during the term of the Agreement. The Work Plan may include dates or time lines for completion of the work tasks. A copy of the Work Plan will be attached to the Agreement.
4. An Agreement will be executed by the Adopter and the Director. The Agreement will list the specific requirements and obligations of the Adopter, its Participants, and the City. No work is to be done in the park until the Agreement is fully executed. The Adopter should bring a copy of the Agreement to the work site when work is being performed.
5. The term of the Agreement will be for a period of one, two, or three years.
6. Subcontracting or assigning work to any party other than a Participant, or hiring or paying a wage or salary for work done pursuant to the Work Plan is prohibited and will result in termination of the Agreement.
7. The Director may terminate an Agreement for any reason including, but not limited to safety considerations, failure of the Adopter to perform the work described in the Work Plan, or failure of the Adopter to comply with provisions of the Agreement. Termination may be issued orally or in writing.
8. The Adopter may terminate the Agreement upon 30 days written notice to the Director.
9. An Adopter has the option of renewing the Agreement for subsequent terms subject to the approval of the Director. A request for renewal of the Agreement must be

submitted in writing, signed by the Adopter and submitted to the Director at least 30 days prior to the expiration date of the Agreement.

10. Not less than 30 days after any renewal of the Agreement, the City and the Adopter will meet to review and make any changes to the Work Plan. If at any time the Work Plan is amended, the updated version of the Work Plan will be attached to the Agreement.
11. The Adopter shall not use the adopted park to display advertising signs or display or sell merchandise of any kind.

### **Specific Requirements**

#### **1. Adopter and Participant Responsibilities:**

- a. The Adopter will be responsible and liable for the care, control, supervision and assurance of safety of all Participants. The Adopter will obtain signed copies of the waiver form provided by the City from each Participant before the Participant performs any work tasks pursuant to the Agreement. The Adopter must submit the original signed waiver form to the Director within five (5) business days of receipt of the form. The Adopter may wish to keep copies of the forms for its records.
- b. The Adopter and each Participant must comply with and abide by all laws, rules, and regulations relating to safety and use of the park, and such other terms and conditions as may be required in the Agreement. At the discretion of the Director, the Adopter or individual Participants may be excluded from participation in the program and/or the Agreement may be terminated for violation of the terms of the Agreement or these rules.
- c. The Adopter will provide adult supervision at the work site by at least one Participant over 18 years of age.
- d. Within 24 hours of the incident, the Adopter is required to report to the Director any injury suffered by an individual while 1) performing work pursuant to the Work Plan; or 2) present at the work site while work is performed pursuant to the Work Plan. Upon report of an injury by the Adopter, the Director will provide the Adopter with an incident analysis report form which must be filled out and returned to the Parks Department within 48 hours of the incident.
- e. In addition to any other tasks provided in the Work Plan, the Adopter is to pick up litter at least monthly and to conduct service projects at least two times a year. The Director may modify the minimum clean-up and service requirements included in the Work Plan if, in the opinion of the Director, such modifications are warranted based on the condition and appearance of the adopted park.

- f. The Adopter must agree to indemnify, defend, and hold harmless the City of Newport and its officers, employees, agents and volunteers from and against any claim or demand for loss, liability, or damage, including claims for property damage and personal injury arising out of any activity undertaken by the Adopter or the Adopter's employees, officials, agents or volunteers on the premises of the Adopted Park and in performance of the Work Plan.
- g. Supplies, materials, and work area signs furnished by the Director on behalf of the City will be obtained from and returned to the Director during regular business hours. The Adopter may furnish its own additional supplies for its exclusive use, at no cost to the City.
- h. The Adopter will be responsible for appointing or selecting a spokesperson to act as the representative of the Adopter in matters relating to the Agreement. The Adopter may change the spokesperson at any time by providing written notice of the change and contact information for the new spokesperson to Parks and Recreation Director.
- i. The Adopter will be responsible for placing litter and noxious weeds in trash bags furnished by the City and for conducting other work activities as described in the Work Plan.

## 2. City Responsibilities:

- a. The City will remove and dispose of all waste collected and bagged by the Adopter.
- b. The City will furnish trash bags, and may furnish other tools and/or materials as deemed appropriate by the City and as provided in the Work Plan.
- c. The City will provide Adopter with a participant timesheet. A copy of the timesheet must be provided to the Director at the end of each month.
- d. The City will provide an orientation to the Adopter. The orientation must be scheduled in advance with the Director.
- e. The City will design, furnish and erect a sign on the adopted park premises with the Adopter's name or acronym displayed. The sign will remain the property of the City and will be removed by the City upon expiration or termination of this agreement. The acknowledgement sign is not intended as advertising or as a memorial; items such as an internet address, website, or telephone number will not be allowed. The Adopter's name may be verified with the Secretary of State's business name registry or other information available to the City.

# ADOPT-A-STREET/BUILDING GROUNDS AGREEMENT

This agreement is between \_\_\_\_\_ (Adopter) and the City of Newport (City). In consideration of the terms and conditions of this agreement, the parties agree as follows:

**Name of Street/Building Grounds Adopted:** \_\_\_\_\_  
\_\_\_\_\_

The terms, conditions and requirements of Resolution No. 3563 are hereby fully incorporated into this Agreement.

The term of this agreement will begin on \_\_\_\_\_, 20\_\_, and expire on \_\_\_\_\_, 20\_\_, unless earlier terminated pursuant to this agreement.

The Adopter may terminate this agreement with 30 days with written notice to the City Manager.

The City of Newport may terminate this agreement at any time and for any reason, including but not limited to safety considerations, failure of the Adopter to perform designated work tasks, and/or failure of the Adopter or its participants to comply with this agreement. The notice of termination may be issued either orally or in writing.

Written notices required or permitted by this Agreement may be personally delivered or mailed to the following addresses. Either party may change its notice address under this section at any time by written notice to the other party. Notices will be deemed delivered three calendar days after mailing.

**City:**  
City Manager  
City of Newport  
169 SW Coast Hwy  
Newport, OR 97365

**Adopter:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Adopter will make all necessary arrangements, including recruitment of participants, to carry out the work plan which has been agreed upon by the City and the Adopter and which is attached as Exhibit A to this agreement. If at any time the work

plan is amended, the updated version of the work plan will be attached to this Agreement.

The Adopter will be responsible and liable for the care, control, supervision and assurance of safety of all participants.

The Adopter will comply with and abide by all applicable laws, rules and regulations as well as the terms of this Agreement while performing activities authorized or required by this Agreement. The Adopter will ensure that all participants comply with and abide by all applicable laws, rules and regulations as well as the terms of this Agreement while performing activities authorized or required by this Agreement. The Adopter or individual participants may be excluded from participation in activities authorized or required by this agreement at the discretion of the City Manager for violation of applicable laws or the terms of this Agreement.

The City Manager may modify the minimum clean-up and service requirements included in this agreement if, in the opinion of the City Manager, such modifications are warranted based on the condition and appearance of the Adopted Street/Building Grounds.

The Adopter will obtain signed copies of the waiver form provided by the City from each participant before the participant performs any work tasks pursuant to this agreement. The Adopter must submit the original signed waiver form to the City Manager within five (5) business days of receipt of the form. The Adopter may wish to keep copies of the forms for its records.

The Adopter is required to report any injury suffered by an individual: 1) while performing work pursuant to this agreement; or 2) on the Adopted Street/Building Grounds premises while work is being performed pursuant to this Agreement; to the City Manager within 24 hours of the incident. The City Manager will provide an incident analysis report form which must be filled out and returned to the City within 48 hours of the incident.

The City will provide Adopter with a participant timesheet. A copy of the timesheet must be provided to the City Manager at the end of each month.

The Adopter agrees to indemnify, defend, and hold harmless the City of Newport and its officers, employees, agents and volunteers from and against any claim or demand for loss, liability, or damage, including claims for property damage and personal injury arising out of any activity undertaken by the Adopter or the Adopter's employees, officials, agents or volunteers on the premises of the Adopted Street/Building Grounds and in performance of the work plan attached as Exhibit A to this agreement.

This agreement is entered into for the sole benefit of City and the Adopter, and nothing contained herein is intended for the benefit of any other person or entity.

Adopter may not transfer or assign any of its rights, responsibilities or interests under this agreement without the City's prior written consent, which may be withheld in the City's sole discretion.

No modification of this agreement will be valid unless it is in writing and signed by both parties.

The waiver by either the City or the Adopter of a breach of any provision of this agreement will not operate or be construed as a waiver of any other provision of this agreement or of any subsequent breach of the same provision of this agreement.

If any provision of this agreement is held by any court of competent jurisdiction to be invalid, such invalidity will not affect any other provisions of this agreement, and this agreement will be construed as if the invalid provision had never been included in this agreement.

This agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This agreement supersedes all prior communications, representations or agreements, either oral or written, between the parties.

Unless otherwise agreed in writing, any mediation or suit arising out of this agreement may be conducted or filed only in Lincoln County, Oregon, and this agreement will be construed in accordance with and governed by the laws of the State of Oregon.

Each person executing this agreement on behalf of a party to this agreement hereby affirms that he or she is duly authorized by that party to bind that party to this agreement.

**ADOPTER**

**CITY OF NEWPORT**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**RESOLUTION NO. 3563**

**A RESOLUTION ADOPTING  
AN ADOPT-A-STREET/BUILDING GROUNDS POLICY  
FOR THE CITY OF NEWPORT, OREGON**

**FINDINGS:**

1. The City of Newport owns and maintains a variety of streets and building grounds;  
and
2. The City Council wants to make volunteer opportunities available for community groups and citizens to contribute to the care and maintenance of the city's streets and building grounds; and
3. An Adopt-A-Street/Building Grounds Program is a model for volunteer involvement that thrives in numerous other municipalities throughout the nation; and
4. An Adopt-A-Street/Building Grounds Program will raise local involvement, civic pride, and a sense of stewardship in assisting the city in caring for its parks and trails; and
5. An Adopt-A-Street/Building Grounds Program will develop and beautify the city's Streets and Building Grounds for the advantage of all; and
6. City staff has prepared an Adopt-A-Street/Building Grounds Program inclusive of policies and an agreement required to execute the program.

**NOW, THEREFORE, THE CITY OF NEWPORT RESOLVES** that that the Adopt-A-Street/Building Grounds Program, as described in the attached Exhibit A, is established to accommodate and encourage volunteer involvement in preserving and maintaining city streets and building grounds.

**BE IT FURTHER RESOLVED** that city staff is authorized to manage the Adopt-A-Street/Building Grounds Program.

**BE IT FURTHER RESOLVED** that creation of this program does not commit the city to any future enhancements of any streets buildings, building grounds, or facilities.

Adopted by the Newport City Council on November 7, 2011.

Signed on \_\_\_\_\_, 2011.

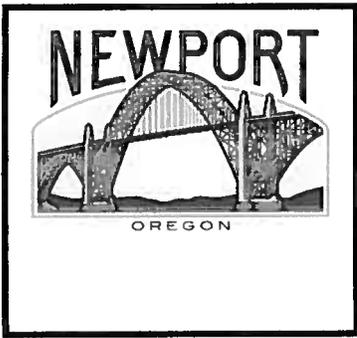
**CITY OF NEWPORT**

\_\_\_\_\_  
Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder



Agenda Item #

Meeting Date

11/7/11

CITY COUNCIL AGENDA ITEM SUMMARY  
City Of Newport, Oregon

Issue/Agenda Title: Reconsideration of Motion Made at the Council Meeting of October 17, 2011 Regarding the Plastic Bag Community Plan

Prepared By: Peggy Hawker Dept Head Approval: ph City Manager Approval: [Signature]

**Issue Before the Council:** The issue before Council is a request by Council Sawyer to reconsider the motion made at the City Council meeting of October 17, 2011 regarding the plastic bag community plan.

**Staff Recommendation:** This is entirely a Council decision.

**Proposed Motion:** The motion being reconsidered is: "I move to move forward with using the Surfrider's Foundation Option 1, with the fee concept, rather than a deposit and to direct staff to bring an ordinance to Council at the earliest opportunity."

**Key Facts and Information Summary:** A public hearing was held on the subject of the "plastic bag community plan" at the October 17, 2011 City Council meeting. At the conclusion of public testimony, the City Council voted, 5 - 2, with Allen and Bertuleit voting no, to direct staff to prepare an ordinance for Council consideration that would ban single use plastic bags without a deposit.

Councilor Sawyer has requested that this motion be reconsidered at this meeting. The Council Rules state: "A member who voted with the majority may move for a reconsideration of an action at the same or the next regular meeting. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Council. However, nothing in this section precludes a new motion on the same subject matter as a previous decision with the possibility of a different result." The motion that Council will be reconsidering is listed above in the "proposed motion" section, and is the motion that was approved at the October 17, 2011 meeting.

**Other Alternatives Considered:** None.

**City Council Goals:** None.

**Attachment List:** Excerpt from City Council Minutes of October 17, 2011  
Excerpt from Council Rules

**Fiscal Notes:** None.

Plastic Bag Community Plan. McConnell opened the public hearing on the plastic bag community plan at 7:00 P.M. He asked for public comment.

The following people spoke in support of a ban on single use plastic bags:

Terry Obteshka, Newport resident and business owner;

Joe Gilliam, Northwest Grocery Association;

Matt Hawkyard, local chair of Surfrider's Foundation;

Daniella Crowder, small business owner and member of "Buy Lincoln County" board of directors;

Dennis Fry, Newport resident and small business owner;

Frank DiFilippis, Newport resident;

Teri Allen;

Ellen Franklin, Newport resident;

Charlie Plybon, representing Surfrider's Foundation;

JoAnn Barton, Newport resident;

Vince Pappalardo, Newport resident and Surfrider Foundation member;

Greg Harlo, Newport resident;

Rhonda Fry, Newport resident and manager of Oceana Natural Foods;

Matthew Gray, graduate student at HMSC; and

Mar Lehrman, Dave Mathews, and Fran Recht (via e-mail).

McConnell read an e-mail from Kevin Redding expressing opposition to a proposed ban on single use plastic bags.

A discussion ensued regarding a deposit or fee for use of paper bags. Joe Hayward stated that the fee concept has a constitutional problem.

Plybon reported that the opposition to the proposed state ban was well organized and well funded, and coordinated in South Carolina where many plastic bags are manufactured.

McConnell noted that the packet contains a list of 40 small local businesses that support a single use plastic bag ban.

Hearing no further public comment, the hearing was closed at 8:22 P.M.

Brusselback noted that some very interesting comments were made this evening. He agreed that customers need an incentive, as this is a cultural shift. He noted that he is in favor of a fee for use of a paper bag. He added that this is a great branding opportunity; a great leadership opportunity; and that it is time that the issue is addressed. MOTION was made by Brusselback, seconded by Roumagoux, to move forward with using the Surfrider's Foundation Option 1, with the fee concept, rather than a deposit and to direct staff to bring an ordinance to Council at the earliest opportunity. Allen suggested that there may be community members who do not share this opinion, and that another way to gauge public opinion would be to hold an advisory vote of the people. He noted that there would be little cost if the vote was held during a primary or general election. Sawyer noted that he would like to lessen the impact on businesses and lower income folks. McConnell noted that the plight of lower income folks could be addressed in the ordinance. Brusselback noted that in terms of outreach, this is a publicly noticed meeting and there are no opponents. He added that this can be seen as a measure of the support of the general population. Bertuleit noted that he is disappointed in the corporate structure. He added that he would rather ban nonbiodegradable products that are used for packaging. He noted that he agrees with Allen regarding the advisory vote. Voting aye in a voice vote were Roumagoux, Brusselback, McConnell, Sawyer, and

Beemer. Voting no were Allen and Bertuleit. It was agreed that staff provide a schedule at the next meeting regarding when the ordinance will come back to Council. The schedule should include public hearings to allow for adequate public comment. It was noted that the ordinance will not likely appear on an agenda until January.

*Reconsideration of Actions Taken*

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

City Council Agenda Item Summary  
City of Newport, Oregon

**Issue/Agenda Title:** Resolution No. - GASB 54: Reporting of Fund Balances (Modified)

**Prepared By:** David Marshall **Dept Head Approval:** dm **City Mgr Approval:** SK

**Issue Before the Council:** GASB 54, a ruling by the Government Accounting and Standards Board effective for the fiscal year ending June 30, 2011, requires fund balances to be reported in classifications that "comprise a hierarchy based primarily on the extent to which the government is bound to honor constraints on the specific purposes for which amounts in those funds can be spent. Resolution No. 3547, dated June 20, 2011, was incomplete, and the attached resolution amends and completes Resolution No. 3547. The attached resolution, dictated by our auditors, amends Resolution No. 3547 so that it conforms more closely with GASB 54: It changes **Assigned** Fund Balances to **Committed**; it also adds the Room Tax Fund's Ending Fund Balance to the funds that have "Restricted" Fund Balances.

The ending balance for all funds must be designated in accordance with the following categories set forth by GASB 54:

- **Non-spendable** - Funds which cannot be spent
- **Restricted** - Amount subject to externally enforceable legal restrictions (imposed by grants, contributors, governmental regulations ...)
- **Committed** - Amounts whose use is constrained by limitations that a government imposes upon itself
- **Assigned** - Intended use of resources established by the governing body itself, or by an official or officers to which authority is delegated by the governing body
- **Unassigned** - Available for any purpose (Reported only in the General Fund)

Authority to classify portions of ending fund balances as **Assigned** is hereby granted to the City Manager and the Finance Director.

**Spending as it Relates to Ending Fund Balance Policy**

The City Council considers the spending of restricted fund balances, on purposes for which such funds can be used, to occur first when funds are spent for restricted and unrestricted purposes. When unrestricted classifications of fund balance are spent, the Council will consider that committed amounts will be reduced first, followed by assigned amounts, and then unassigned amounts.

**Staff Recommendation:** It is recommended that City Council adopt Resolution No. 3564.

**Proposed Motion:** I move to adopt Resolution No. 3564 providing for the designation of ending fund balances by categories in compliance with GASB 54 for the fiscal year ending June 30, 2011 and subsequent fiscal years.

**Key Facts and Information Summary:** Resolution No. 3564 will designate the city's fund balances by the categories described above and in compliance with GASB 54.

**Other Alternatives Considered:** None.

**City Council Goals:** None.

**Attachment List:** Resolution No. 3564.

**CITY OF NEWPORT  
RESOLUTION NO. 3564**

**A Resolution Amending Resolution No. 3547 and  
Designating the Fiscal Year 2011 Ending Fund Balances  
And Revenues for Specific Uses in Fiscal Year 2011-2012  
And Subsequent Years**

WHEREAS, GASB 54 requires that fund balances to be reported in classifications that “comprise a hierarchy based primarily on the extent to which the government is bound to honor constraints on the specific purposes for which amounts in those fund can be spent.”

The City of Newport resolves as follows:

1. **Restricted Fund Balances** – The ending fund balance of each of the following fund is “Restricted” in accordance with the purposes stated for each fund or program in the Fiscal Year 2011-2012 adopted budget.
  - a. **Fund 102** – Debt Service Fund (Water, Wastewater and Water Treatment Plant General Obligation Bonds).
  - b. **Fund 105** – Street Fund
  - c. **Fund 112** – Airport Fund
  - d. **Fund 120** – Room Tax Fund
  - e. **Fund 125** – SDCs Fund
  
2. **Committed Fund Balances** – The ending fund balance of each of the following funds is “Committed” in accordance with the purposes stated for each fund or program in the Fiscal year 2012 Adopted Budget.
  - a. **Fund 105** – Street Fund
  - b. **Fund 111** – Parks & Recreation Fund
  - c. **Fund 112** – Airport Fund
  - d. **Fund 117** – Line Undergrounding Fund
  - e. **Fund 118** – Agate Beach Site Closure Fund
  - f. **Fund 119** – Building Inspection Fund
  - g. **Fund 120** – Room Tax Fund
  - h. **Fund 124** – Public Parking Fund
  
3. **Spending as it Relates to Ending Fund Balance Policy** – The City Council considers the spending of restricted fund balances on purposes for which such funds can be used to occur first when funds are spent for restricted and unrestricted purposes. When unrestricted classifications of fund balance are spent, the Council will consider that committed amounts will be reduced first, followed by assigned amounts and then unassigned amounts.

This resolution will become effective retroactively to June 30, 2011.

Adopted by the City Council on November 5, 2011.

**CITY OF NEWPORT**

**ATTEST:**

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Mark McConnell, Mayor

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Margaret M. Hawker, City Recorder

CITY OF NEWPORT  
RESOLUTION NO. 3547

A Resolution Designating  
the Fiscal Year 2011 Ending Fund Balances  
and Revenues for Specific Uses in Fiscal Year 2011-2012

WHEREAS, GASB54 requires that fund balances to be reported in classifications that “comprise a hierarchy based primarily on the extent to which the government is bound to honor constraints on the specific purposes for which amounts in those funds can be spent.”

The City Council of the City of Newport resolves as follows:

1. Restricted Fund Balances - The ending fund balance of each of the following funds is “Restricted” in accordance with the purposes stated for each fund or program in the Fiscal Year 2011-2012 adopted budget.
  - a. Fund 102: Debt Service Fund (Water, Wastewater, and Water Treatment Plant General Obligation bonds)
  - b. Fund 105: Street Fund
  - c. Fund 112: Airport Fund
  - d. Fund 125: SDCs Fund
  
2. Assigned Fund Balances - The ending fund balance of each of the following funds is “Assigned” in accordance with the purposes stated for each fund or program in the Fiscal year 2012 Adopted Budget.
  - a. Fund 105: Street Fund
  - b. Fund 111: Parks and Recreation Fund
  - c. Fund 112: Airport Fund
  - d. Fund 117: Line Undergrounding Fund
  - e. Fund 118: Agate Beach Site Closure Fund
  - f. Fund 119: Building Inspection Fund
  - g. Fund 120: Room Tax Fund
  - h. Fund 124: Public Parking Fund

This resolution will become effective immediately upon its passage.

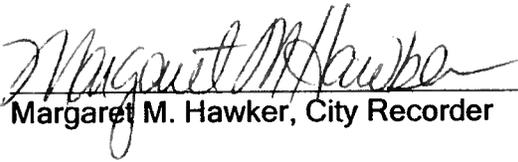
Approved by the City Council of the City of Newport, Oregon on June 20, 2011.

CITY OF NEWPORT

A handwritten signature in black ink, appearing to read "Mark McConnell", written over a horizontal line.

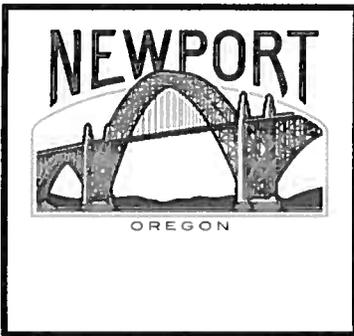
Mark McConnell, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Margaret M. Hawker", written over a horizontal line.

Margaret M. Hawker, City Recorder





Agenda Item #

Meeting Date

11/7/11

CITY COUNCIL AGENDA ITEM SUMMARY  
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Resolution Nos. 3565 and 3566 Amending Resolution Nos. 3502 and 3504

Prepared By: Peggy Hawker Dept Head Approval: ph City Manager Approval: [Signature]

Issue Before the Council: The issue before Council is consideration of Resolution No. 3565 amending Resolution No. 3502 and Resolution No. 3504 regarding the Technical Advisory Task Force.

Staff Recommendation: Staff recommends Council adopt Resolution Nos. 3565 and 3566.

Proposed Motions. Council will need to consider both motions as there are two separate resolutions that are being amended.

Proposed Motion #1: I move to adopt Resolution No. 3565 amending Sections 2 and 4 of Resolution No. 3502 relative to the use of funds received from Georgia-Pacific Toledo, LLC, under the agreement dated April 5, 2010, between the City of Newport and Georgia-Pacific Toledo, LLC.

Proposed Motion #2: I move to adopt Resolution No. 3566 amending Sections 2, 3, and 4 of Resolution No. 3504 relative to the creation and tasks of the Technical Advisory Task Force.

Key Facts and Information Summary: On April 19, 2010, Council adopted Resolution No. 3502 regarding the use of funds received from Georgia-Pacific Toledo, LLC, under the terms of the agreement between the city and G-P. The resolution states that "The Council directs that fees paid by G-P under the G-P agreement as stated in Section 2 of the Findings for years 2008, 2009, and 2010, totaling \$170,000, be utilized for the testing of ocean waters, habitat, beaches, and animals near the G-P outfall." It further states "The Council directs that the city establish a Technical Advisory Task Force for the purpose of soliciting grant proposals which will be funded from fees paid by G-P under Section 1."

On May 3, 2010, Council adopted Resolution No. 3504 creating the Technical Advisory Task Force. The Council ultimately ratified the Mayor's appointment of the following Task Force Members: Roger Hart, Jim Fuller, Joe Hayward, Frank DiFilippis, Peter Lawson, Anne Sigleo, and Charlie Plybon. David Young was appointed to replace Roger Hart.

The Task Force has been meeting diligently and has drafted an RFP. The language in both Resolution Nos. 3502 and 3504 is specific to the development of grant guidelines. At the last City Council work session, Council asked that the two resolutions be amended to remove the reference to grant guidelines to allow flexibility in submitting proposals or grant requests for ocean monitoring services.

An additional change to Resolution No. 3504 is the continuation of Task Force work beyond January 2012.

Other Alternatives Considered: Council could leave the resolutions as they are written, which would limit the Task Force to accepting only grant applications for ocean monitoring services.

City Council Goals: None

Attachment List: Resolution No. 3565  
Resolution No. 3566  
Resolution No. 3502  
Resolution No. 3504

Fiscal Notes: \$170,000 from the 2008, 2009, and 2010 G-P franchise fees.

**CITY OF NEWPORT**

**RESOLUTION NO. 3565**

**A RESOLUTION AMENDING RESOLUTION NO. 3502  
ESTABLISHING THE USE OF FUNDS RECEIVED  
FROM GEORGIA-PACIFIC TOLEDO, LLC UNDER THE AGREEMENT  
DATED APRIL 5, 2010 BETWEEN THE CITY OF NEWPORT  
AND GEORGIA-PACIFIC TOLEDO, LLC**

**Findings:**

1. On March 15, 2010, the City Council adopted Resolution No. 3497 which approved an agreement allowing Georgia-Pacific Toledo, LLC (GP) to operate and maintain North and South pipelines within public rights-of-way (GP Agreement). This Agreement culminated several years of discussions between the City and GP and endless hours of work performed by the GP Task Force. The Agreement was signed by the parties and effective on April 5, 2010.
2. Provisions in the GP Agreement provided for an annual payment by GP for use of the public rights-of-way equaling \$55,000 for year 2008, \$56,650 for year 2009, \$58,350 for year 2010, and for subsequent years, an increase of 3% annually. The Agreement is effective for a period of seven (7) years beginning in the year 2010.
3. Recommendations of the GP Task Force included that testing of ocean waters, habitat, beaches, and animals near the GP outfall be performed, utilizing fees paid by GP under the GP Agreement.
4. The Council has determined that there is a city benefit to testing, monitoring, and mitigating environmental impacts in, around, and adjacent to the city and to utilize funds received from the GP Agreement for such purposes.
5. It is the Council's desire to consider recommendations of the GP Task Force by allocating GP Agreement funds received for years 2008, 2009, and 2010, totaling \$170,000, for the testing of ocean waters, habitat, beaches, and animals near the GP outfall.
6. The Technical Advisory Task Force has been diligently working on City Council directed tasks and has recommended that Resolution No. 3502 be amended to allow greater flexibility in accepting submissions for the testing of ocean waters, habitat, beaches, and animals near the GP outfall.

7. It is the Council's desire to publicly recognize and thank members of the GP Task Force for their dedicated and endless hours of volunteer work on this important issue to the citizens of Newport.

Based on these Findings,

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

Section 1. The Council directs that fees paid by GP under the GP Agreement as stated in Section 2 of the Findings for years 2008, 2009, and 2010, totaling \$170,000, be utilized for the testing of ocean waters, habitat, beaches, and animals near the GP outfall.

Section 2. The Council directs that the city establish a Technical Advisory Task Force for the purpose of soliciting individuals, groups, or businesses interested in providing ocean monitoring services which will be funded from fees paid by GP under Section 1. Recommendations for ocean monitoring services will be made by the Technical Advisory Task Force and forwarded to the City Council for approval.

Section 3. The Council will review and approve the expenditure of fees paid by GP under the GP Agreement for years 2011 and beyond.

Section 4. The Council intends that fees paid by GP be utilized for testing, monitoring, or mitigating environmental impacts. Funding for the years 2008, 2009, and 2010 will be dedicated to the testing of ocean waters, habitat, beaches, and animals near or adjacent to the GP outfall.

Section 5. By this resolution, the Council publically recognizes and thanks members of the GP Task Force for their dedicated and endless hours of volunteer work on this important issue for the citizens of Newport.

Section 6. Effective Date. This Resolution is effective upon adoption.

Passed by the Newport City Council on November 7, 2011.

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Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

**CITY OF NEWPORT**

**RESOLUTION NO. 3566**

**A RESOLUTION AMENDING RESOLUTION NO. 3504  
AND CREATING A  
TECHNICAL ADVISORY TASK FORCE**

**Findings:**

1. On March 15, 2010, the City Council adopted Resolution No. 3497 which approved an agreement allowing Georgia-Pacific Toledo, LLC (GP) to operate and maintain North and South pipelines within public rights-of-way (GP Agreement). The agreement was signed by the parties and effective on April 5, 2010. Provisions in the GP Agreement provided for annual payments by GP for use of the public rights-of-way.
2. On April 19, 2010, the City Council adopted Resolution No. 3502, which directed that the fees paid by GP under the GP Agreement for years 2008, 2009, and 2010, totaling \$170,000, be used for the testing of ocean waters, habitat, beaches and animals near the GP outfall. Further, the Council directed that a Technical Advisory Task Force be established for the purpose of soliciting grant proposals for the testing of ocean waters, habitat, beaches, and animals near the GP outfall. Resolution No. 3502 also directed that the award of grants be recommended by the Technical Advisory Task Force and approved by the Council.
3. Resolution No. 3502 stated that the City Council intended that the "Framework to Develop an Effluent Monitoring Plan" developed by the Georgia Pacific Task Force, dated May 24, 2009, be used as a resource in the review of grant proposals.
4. The Technical Advisory Task Force has been diligently working on City Council directed tasks and has recommended that Resolution No. 3504 be amended to allow greater flexibility in accepting submissions for the testing of ocean waters, habitat, beaches, and animals near the GP outfall.
5. The term of the Technical Advisory Task Force was set to end in January of 2012, and this is prior to the conclusion of the City Council directed tasks. The members of the Technical Advisory Task Force have agreed to continue until the tasks are concluded, and it is anticipated this should occur no later than January of 2013.

Based on these Findings,

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

**Section 1.** A Technical Advisory Task Force is hereby created which shall consist of no less than five (5) and no more than seven (7) members appointed by the Mayor and approved by the City Council.

**Section 2.** The Technical Advisory Task Force will meet as necessary and be tasked with the following:

- A. Assist the city in drafting solicitation guidelines and process for the purpose of soliciting interest from individuals, groups, or businesses interested in providing services for the testing of ocean waters, habitat, beaches, and animals near the GP outfall;
- B. Review and evaluate submissions from interested individuals, groups, or businesses, for the monitoring of ocean waters, habitat, beaches, and animals near the GP outfall, and make recommendations regarding the award of funding to the City Council.
- C. Monitor and review the work performed by individuals, groups, or businesses that have been awarded funding.
- D. Evaluate the process established under Section 2 for future purposes; and
- E. Perform such other tasks related to the subject matter as may be requested by the City Council.

**Section 3.** The Technical Advisory Task Force shall be in effect from the date all such Task Force members are appointed until January 2013 or such other date as may be established by the City Council. The Technical Advisory Task Force shall be supported by city staff.

**Section 4.** The City Council recommends that the Technical Advisory Task Force use the "Framework to Develop an Effluent Monitoring Plan" developed by the Georgia Pacific Task Force, dated May 24, 2009, as a resource in the activities described in this resolution.

**Section 6.** Effective Date. This Resolution is effective upon adoption.

Passed by the Newport City Council on November 7, 2011.

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Mark McConnell, Mayor

ATTEST:

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Margaret M. Hawker, City Recorder

## CITY OF NEWPORT

### Resolution No. 3502

#### A Resolution to Establish the Use of Funds Received From Georgia-Pacific Toledo, LLC. under the Agreement Dated April 5, 2010 Between The City of Newport and Georgia-Pacific Toledo, LLC.

#### Findings:

1. On March 15, 2010, the City Council adopted Resolution No. 3497 which approved an agreement allowing Georgia-Pacific Toledo, LLC (GP) to operate and maintain North and South pipelines within public right-of-ways (GP Agreement). This agreement culminated several years of discussions between the City and GP and endless hours of work performed the GP Task Force. The Agreement was signed by the parties and effective on April 5, 2010.
2. Provisions in the GP Agreement provided for an annual payment by GP for use of the public rights-of-way equaling \$55,000 for year 2008, \$56,650 for year 2009, \$58,350 for year 2010 and for subsequent years an increase of 3% annually. The Agreement is effective for a period of seven (7) years, beginning in the year 2010.
3. Recommendations of the GP Task Force included that testing of ocean waters, habitat, beaches, and animals near the GP outfall be performed, utilizing fees paid by GP under the GP Agreement.
4. The Council has determined that there is a city benefit to testing, monitoring and mitigating environmental impacts in, around and adjacent to the city and to utilize funds received from the GP Agreement for such purposes.
5. It is the Council's desire to consider recommendations of the GP Task Force by allocating GP Agreement funds received for years 2008, 2009 and 2010, totaling \$170,000, for the testing of ocean waters, habitat, beaches and animals near the GP outfall.
6. It is the Council's desire to publicly recognize and thank members of the GP Task Force for their dedicated and endless hours of volunteer work on this important issue to the citizens of Newport.

Based on these Findings,

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

Section 1. The Council directs that fees paid by GP under the GP Agreement as stated in Section 2 of the Findings for years 2008, 2009 and 2010, totaling

\$170,000, be utilized for the testing of ocean waters, habitat, beaches, and animals near the GP outfall.

Section 2. The Council directs that the City establish a Technical Advisory Task Force for the purpose of soliciting grant proposals which will be funded from fees paid by GP under Section 1. Award of the grant shall be recommended by the Technical Advisory Task Force and approved by the Council. The Council intends that the "Framework to Develop an Effluent Monitoring Plan" developed by the Georgia Pacific Task Force, dated May 24, 2009, be used as a resource in the review of grant proposals referred to herein.

Section 3. The Council will review and approve the expenditure of fees paid by GP under the GP Agreement for years 2011 and beyond.

Section 4. The Council intends that fees paid by GP be utilized for testing, monitoring, or mitigating environmental impacts in, around, and adjacent to the city, which may but are not required to include, but with priority given to, the testing of ocean waters, habitat, beaches and animals near or adjacent to the GP outfall.

Section 5. By this resolution, the Council publically recognizes and thanks members of the GP Task Force for their dedicated and endless hours of volunteer work on this important issue for the citizens of Newport.

Section 6. Effective Date. This Resolution is effective upon adoption.

Passed by the Newport City Council on April 19, 2010.

  
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William D. Bain, Mayor

Attest:

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

CITY OF NEWPORT

Resolution No. 3504

A Resolution Creating a Technical Advisory Task Force

Findings:

1. On March 15, 2010, the City Council adopted Resolution No. 3497, which approved an agreement allowing Georgia-Pacific Toledo, LLC (GP) to operate and maintain North and South pipelines within public right-of-ways (GP Agreement). The Agreement was signed by the parties and effective on April 5, 2010. Provisions in the GP Agreement provided for annual payments by GP for use of the public rights-of-way.
2. On April 19, 2010, the City Council adopted Resolution No. 3502, which directed that the fees paid by GP under the GP Agreement for years 2008, 2009 and 2010, totaling \$170,000 be used for the testing of ocean waters, habitat, beaches and animals near the GP outfall. Further, the Council directed that a Technical Advisory Task Force be established for the purpose of soliciting grant proposals for the testing of ocean waters, habitat, beaches and animals near the GP outfall. Resolution No. 3502 also directed that the award of grants be recommended by the Technical Advisory Task Force and approved by the Council.
3. Finally, Resolution No. 3502 stated that the City Council intended that the "Framework to Develop an Effluent Monitory Plan" developed by the Georgia Pacific task Force, dated May 24, 2009, be used as a resource in the review of grant proposals.

Based on these Findings,

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. A Technical Advisory Task Force is hereby created which shall consist of no less than five (5) and no more than seven (7) members, approved by the City Council and appointed by the Mayor.

Section 2. The Technical Advisory Task Force will meet as necessary and be tasked with the following:

- a) Assist the City in drafting grant guidelines and process for the purpose of soliciting proposals for the testing of ocean waters, habitat, beaches and animals near the GP outfall;
- b) Review, evaluate and make recommendations to the City Council regarding grant awards;
- c) Monitor work performed under grant awards;

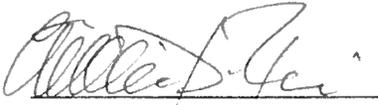
- d) Evaluate the process established under this Section 2 for future purposes; and,
- e) Perform such other tasks related to the subject matter herein as may be requested by the City Council.

Section 3. The Technical Advisory Task Force shall be in effect from the date all such task members are appointed by the Mayor and until January, 2012 or such other date as may be established by the City Council. The Technical Advisory Task Force shall be supported by City staff.

Section 4. The City Council directs the Technical Advisory Task Force to use the "Framework to Develop an Effluent Monitoring Plan" developed by the Georgia Pacific Task Force, dated May 24, 2009, as a resource in the activities described in this resolution.

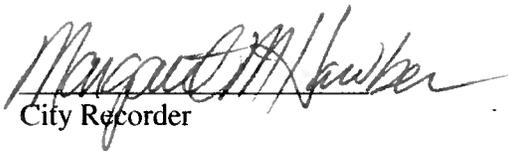
Section 5. This Resolution is effective upon adoption.

Passed by the Newport City Council on 5/3, 2010.



Mayor

Attest:

  
City Recorder