



AGENDA and Notice of Special Meeting of the Newport City Council

The City Council of the City of Newport will hold a Special Meeting on Monday, December 9, 2013, at 7:00 P.M., in the Council Chambers, of the Newport City Hall, 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

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

Special Meeting of the Newport City Council Monday, December 9, 2013 - 6:00 P.M. City Council Chambers

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Public Comment on Items Not on the Agenda
- V. Consent Calendar
 - A. Approval of Minutes of Special City Council Meeting - December 2, 2013 (Hawker)
- VI. Action Items
 - A. Consideration of Resolution No. 3657 - Continuing Disclosure Policy and Procedures (Gazewood)

- VII. Discussion Items
 - A. Tax-Exempt Bond Post-Issuance Compliance Policy (Gazewood)
- VIII. Council Comments (time permitting, otherwise this item will occur after the public hearing)
- IX. Public Hearing - 7:00 P.M.
 - A. Public Hearing on the LUBA Remand on the Teevin Brothers Traffic Impact Analysis (Tokos)
- X. Public Comment on Items Not on the Agenda
- XI. Adjournment

December 2, 2013
6:00 P.M.
Newport, Oregon

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

Also attending were Ted Smith, Interim City Manager, Peggy Hawker, City Recorder, Tim Gross, Public Works Director, and Jim Protiva, Parks and Recreation Director.

Also in attendance was Dave Morgan from News Lincoln County, Larry Coonrod from the Lincoln County Dispatch, and Wyatt Haupt from the Newport News-Times.

PLEDGE OF ALLEGIANCE

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

ACTION ITEMS

CANVASS OF BALLOTS - NOVEMBER 5, 2013 MUNICIPAL ELECTION ON MEASURE NO. 21-152 - GENERAL OBLIGATION BONDS FOR NEW INDOOR MUNICIPAL SWIMMING POOL. Hawker reported that the issue before Council is post-election housekeeping, and includes the approval of the canvass of the ballots of the November 5, 2013 municipal election on Measure No. 21-152, general obligation bonds for a new indoor municipal swimming pool. She noted that the abstract of votes, which was included in the Council packet, is prepared and issued by the Council Clerk, and Council's "canvass" is a review/scrutiny of the abstract and approval of the abstract. MOTION was made by Swanson, seconded by Sawyer and Allen, to approve the canvass of the ballots of the November 5, 2013 election at which Measure No. 21-152 was approved by the voters of the City of Newport. The motion carried unanimously in a voice vote.

CONSIDERATION OF RESOLUTION NO. 3655 AUTHORIZING THE ISSUANCE, SALE, EXECUTION, AND DELIVERY OF NOT TO EXCEED \$7,900,000 GENERAL OBLIGATION BONDS, SERIES 2013; AUTHORIZING A SPECIAL AD VALOREM TAX LEVY; DESIGNATING AN AUTHORIZED REPRESENTATIVE; DELEGATING THE APPROVAL AND AUTHORIZATION OF DISTRIBUTION OF THE PRELIMINARY AND FINAL OFFICIAL STATEMENTS; EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT; CLASSIFYING TAXES; AND RELATED MATTERS. Smith reported that the issue before Council is the consideration of Resolution No. 3655 which authorizes the sale of the \$7,900,000 of General Obligation Bonds approved by the voters on November 5, 2013, and provides for related matters. He explained the three options related to the estimated tax rate of the bonds. Allen noted that the upper limit of \$.49 per \$1,000 of assessed value was a placeholder. He added that after the last work session, he reviewed other resolutions associated with the city's past bond measures, and found that there was an estimate for the water treatment plant bonds, but not an estimate on the wastewater treatment plant bonds. He reported that both resolutions did

not reflect an upper limit rate, but authorized the bonds be sold at competitive rates and using staff's best judgment. He added that bond counsel suggested rates that reflect current market conditions. Allen stated that he does not support including an upper limit rate. Sawyer noted that Interim Finance Director Gazewood was confident the rate would be \$.43 or \$.44 per \$1,000 of assessed value.

Roumagoux read a letter from Elaine Karnes stating that "it is only appropriate to spend no more per thousand than stated in the voters' literature and promotional information, and that it is not appropriate to add on any further amenities (i.e. slide or roof garden) than promoted."

Further discussion ensued regarding the options related to the estimated tax rate of the bonds. Protiva noted that all the information is contained in Gazewood's staff report. Saelens reported that he had participated in all conversations with bond counsel and was comfortable with either option B. or C. as contained in Gazewood's staff report.

Alice Vachss addressed Council as a resident and pool user. She reported that her research indicates that \$7,000,000 for the construction of the building is insane. She suggested that since the vote was so close, the voters be allowed another opportunity to vote on the issue.

Rhonda Harman addressed Council as one of the fundraising co-chairs. She noted that she is proud of the job the group did, and while there was a small voter turnout, the measure passed.

Lou Limbrunner stated that he hates seeing this money spent on wasteful things, and suggested that the measure be presented again in a "real" election. He added that the existing pool could be rehabilitated for under a million dollars.

Vachss stated that Oregon Constitutional protections do not have to do with the number of votes. She noted that she is asking for an election during a general election year. Allen reported that the city's attorneys and bond counsel had reviewed the measure and had not seen a legal issue with what the city is doing. He added that regardless of whether the election was close, the voters have spoken, the measure passed, and he is ready to move forward.

MOTION was made by Allen, seconded by Beemer, to adopt Resolution No. 3655, a resolution authorizing sale of \$7,900,000 in general obligation bonds approved by the voters of the City of Newport, Oregon, on November 5, 2013, and providing for related matters, and incorporating in Section 3 the words "incoming City Manager" and adding to Subsection 3.(5), fourth line, following the words "20 years," the phrase "and the rates and prices at which the bonds are sold reflect current market conditions." The motion carried unanimously in a voice vote.

Saelens reported that there was extensive vetting by the community regarding whether a new pool was wanted. He noted that there were extensive monthly meetings, an open house, meetings of the Parks and Recreation Committee, at which the issue was discussed. He added that it is not unusual for contentious issues to come out closely as that is the nature of the community.

CONSIDERATION OF RESOLUTION NO. 3656 SUSPENDING THE ANNUAL INCREASE IN PARKS AND RECREATION USER FEES. Smith reported that the issue before Council is consideration of Resolution No. 3656 which would suspend the annual increase in parks and recreation user fees for one year. He noted that the day pass user would be paying \$3.36 per use with the increase, and that it would be better to thank

people for supporting the bond measure by not increasing the rates this year. Protiva reported that the resolution is supported by the Parks and Recreation Committee. Allen noted a typo on the effective date of the resolution.

MOTION was made by Beemer, seconded by Saelens, to adopt Resolution No. 3656, suspending the increase of Recreation Center and Swimming Pool user fees for one year, as amended. The motion carried unanimously in a voice vote.

PUBLIC COMMENT

Carla Perry noted that the city has contracted with a grant researcher and understands that the chance of finding money to support the swimming pool construction is low. She asked that if money is found, it be applied toward the construction cost or to pay down the debt as opposed to funding additional special features.

COUNCIL COMMENTS

Busby reported that there has been discussion regarding the creation of a task force to look at the business licensing issue. He noted that a discussion will be held regarding this matter at the December 16 work session. He added that the initial plan is for a group to be comprised of Saelens, Busby, and staff from the enforcement side, planning, and finance, and the goal is to gather information and make recommendations for changing the ordinance.

Beemer complimented the organization that supported passage of the pool bond. He added that the big difference between this election and the previous election is the organized support and ensuring that the information was distributed.

Allen reported that the Infrastructure Task Force met on November 21 and will hold meeting on December 5 and 19. He added that the new City Manager will be able to attend the final meeting.

Roumagoux thanked the pool bond measure supporters.

Roumagoux read a letter from Isabel Solano, a sophomore at Newport High School, who urged Council to support mitigation of plastic shopping bags.

Smith reported that a special meeting will be held on December 9 with a public hearing at 7 P.M., and possible presentations beginning at 6:00 P.M.

ADJOURNMENT

Having no further business, the meeting adjourned at 6:42 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor



Agenda Item # Resolution No. 3657
Meeting Date December 9, 2013

CITY OF NEWPORT AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Resolution regarding Continuing Disclosure Policy and Procedures

Prepared By: Gazewood Dept Head Approval: _____ City Mgr Approval: _____

Issue Before the Council: Prior to selling the \$7,900,000 General Obligation Bonds, the City's contracted Financial Advisor is required to take a comprehensive look at the City's continuing disclosure undertakings and filing history, and then make sure any filings missed over the last five years are taken care of. When the City issues debt in the public market, the City enters into a continuing disclosure agreement to provide ongoing financial information to investors. The agreement requires the City to provide its annual financial statements and certain financial information, as well as notice of material events. The Financial Advisor determined from their review of the City's continuing disclosure undertakings and history that the City failed to make its annual disclosure filings for multiple years on multiple bond issues. The disclosure filing deficiencies were required to be disclosed in the Preliminary Official Statement (POS) related to the sale and issuance of the \$7,900,000 General Obligation Bonds (GOB). These deficiencies are described in the POS on pages 37 and 38 as shown in the attached Addendum I. Further, the City was required to develop a Policy to ensure future compliance in continuing disclosure requirements. The Policy detailed in EXHIBIT A and attached to Resolution No. 3657 was accepted by the Financial Advisor and was incorporated in the POS on page 38 in summary format. The Policy was forwarded to Bond Counsel and received their acceptance, also. The comments, changes and/or additions to the Policy suggested by the Financial Advisor and Bond Counsel have been incorporated into the Policy.

For information purposes, the continuing disclosure requirements that the City commits to for the \$7,900,000 GOB is detailed on pages 1 to 5, in the attached Addendum II.

Staff Recommendation: Staff recommends adoption of this resolution.

Proposed Motion: I move to adopt Resolution No. 3657, a resolution regarding Continuing Disclosure Policy and Procedures.

Other Alternatives Considered: None

Fiscal Notes: Continued disclosure filing deficiencies could jeopardize future City bond sales as investors may not want to bid on City offerings. The intent of this Policy is to ensure future compliance. The Policy sets forth staff levels of accountability with reporting requirements.

CITY OF NEWPORT

**RESOLUTION NO. 3657
A RESOLUTION ADOPTING CONTINUING DISCLOSURE
POLICY AND PROCEDURES**

WHEREAS, the City is in the process of selling recently voter approved General Obligation Bonds of \$7,900,000 to finance the costs of a new indoor municipal swimming pool and related systems, facilities, improvements and to pay for the costs of issuance of the bonds;

WHEREAS, the City has contracted with Piper Jaffray & Company, Seattle-Northwest Division, to act as Financial Advisor in the preparation and sale of the Bonds;

WHEREAS, prior to selling the General Obligation Bonds, the Financial Advisor is required to take a comprehensive look at the City's continuing disclosure undertakings and history, and then make sure any filings missed over the last five years are taken care of;

WHEREAS, when the City issues debt in the public market, the City enters into a continuing disclosure agreement to provide ongoing financial information to investors. The agreement requires the City to provide its annual financial statements and certain financial information, as well as notice of material events;

WHEREAS, the Financial Advisor determined from their review of the City's continuing disclosure undertakings and history that the City failed to make its annual continuing disclosure filings for multiple years on multiple bond issues; and

WHEREAS, the Financial Advisor needed to mention in the Preliminary Official Statement, for the sale of the \$7,900,000 General Obligation Bonds, the steps the City is taking to ensure compliance in the future;

WHEREAS, the City has developed a Continuing Disclosure Policy and Procedures statement and provided such to the Financial Advisor for inclusion in the Preliminary Official Statement in summary form. The Continuing Disclosure Policy and Procedures statement is incorporated herewith as Exhibit A.

THE CITY OF NEWPORT RESOLVES AS FOLLOWS: The attached Continuing Disclosure Policy and Procedures (Exhibit A) is hereby adopted.

This resolution will become effective immediately upon passage.

Adopted by the Newport City Council on December 9, 2013.

Sandra N. Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder



EXHIBIT A

CONTINUING DISCLOSURE POLICY AND PROCEDURES FOR THE CITY OF NEWPORT, OREGON

Requirement: When the City issues debt in the public market, the City enters into a continuing disclosure agreement to provide ongoing financial information to investors. The agreement requires the City to provide its annual financial statements and certain financial information, as well as notice of certain material events, including a rating change. These required filings are currently required to be made at the Municipal Securities Rulemaking Board's website at EMMA (Electronic Municipal Market Access). EMMA is the official depository for information on municipal bonds providing public access to official statements, trade data, credit ratings and other information about the municipal securities market. Continuing disclosure of current financial information and timely disclosure of certain events with respect to bonds is required by the Securities and Exchange Commission Rule 15c-12.

Purpose: The purpose of establishing this Policy is to ensure future compliance in continuing disclosure requirements. As noted by the City's financial advisor, the City failed to make its annual Continuing Disclosure filings for multiple years on multiple bond issues. The filing deficiencies are set forth in the Preliminary Official Statement (POS), at the heading "Continuing Disclosure" for the \$7,900,000, City of Newport, General Obligation Bonds, Series 2013.

Disclosure Events: Information required to be disclosed at EMMA includes updated financial or operating information about the City and notices that disclose the occurrence of specific events that may impact the Bonds issued by the City. The exact information that the City must disclose for each borrowing will be stated in the continuing disclosure agreement for that borrowing, and the person preparing the City's continuing disclosure reports should review those agreements carefully and comply with their requirements. Those agreements generally require the City to give notice of the following specific events:

- a. Principal and interest payment delinquencies;
- b. Non-payment related defaults, if any;
- c. Unscheduled draws on debt service reserves reflecting financial difficulties;
- d. Unscheduled draws on credit enhancements reflecting financial difficulties;
- e. Substitution of credit or liquidity providers, or their failure to perform;
- f. Adverse tax opinions, certain notices from the IRS or determinations with respect to rights of security holders, if material;

- g. Modifications to rights of security holders, if material;
- h. Bond calls, if material, and tender offers;
- i. Defeasances;
- j. Release, substitution, or sale of property securing repayment of the securities, if material;
- k. Rating changes;
- l. Failure of the City to provide annual financial information, including annual audited financials, certain financial and/or statistical schedules, as required by the individual Bond/Loan issue and disclosure agreement; and
- m. Other disclosures that may be required at EMMA.

Staff Assignments: The primary responsibility for maintaining Continuing Disclosure and required filings at EMMA is assigned to the City's Assistant Finance Director. Should circumstances such as prolonged absences from work arise that the Assistant Finance Director is not available, then the City's Finance Director shall file the required disclosure information. To ensure disclosure filing compliance following required filings by the Assistant Finance Director and notice thereof, the Finance Director shall review the EMMA site for completeness of filings prior to the applicable filing deadline for annual and material event filings. The Finance Director shall then provide notice to those on the Distribution List below of the updated required filings.

Distribution List: The Distribution List shall include the following:

1. Financial Advisor and Bond Counsel;
2. Mayor and Chairperson of the City Audit Committee;
3. City Manager and City Recorder; and
4. Responsible City Finance Department staff.

Disclosure Filing Timelines: *Annual Filings.* For the City's outstanding debt issues through LOCAP, the annual financial information is to be available and filed at EMMA no later than 270 days after the end of the preceding fiscal year, this date being March 27th in non- leap years. For the City's outstanding General Obligation Bond and Full Faith and Credit Obligation debt, the annual financial information is to be available and filed at EMMA no later than 9 months after the end of the preceding fiscal year, this date being March 31st. Such information includes audited financial statements and such other financial and/or statistical schedules that are specified in the "Continuing Disclosure Certificate" for the particular bond issue. If audited financial statements are not available by the deadlines mentioned above, unaudited financial statements must be filed at EMMA prior to the filing deadline with audited statements to be filed at EMMA as soon as available.

Material Event Filings. Other disclosure events, such as rating changes, are required to be filed at EMMA within 10 business days of occurrence. Disclosure filings are required for City issued bonds as well as bonds issued by the Newport Urban Renewal Agency. All outstanding bond issues must be updated in their entirety.

Tax-Exempt Bond Post-Issuance Compliance Policy

Bob Gazewood

From: Jennifer Cordova <JCordova@hawkins.com>
Sent: Monday, December 02, 2013 12:01 PM
To: Robert Gazewood; Bob Gazewood
Cc: Ted Smith; Peggy Hawker; Jim Protiva; Mark Saelens
Subject: RE: City of Newport GO Bonds 2013 - Tax Due Diligence Questions [HAWKINS-WEST1.FID76508]

Hi Bob,

Thank you for these responses. I don't have any follow-up questions at this time and I'll wait to hear from you about the post-issuance compliance procedures. You are correct that adopting such procedures is recommended but not required. We won't need an answer on that until the Form 8038-G is signed which will be a few days after the bond pricing.

With respect to your question about naming rights, awarding naming rights to a tax-exempt bond-financed facility to a "private party" can lead to private use of the facility under certain circumstances. A private party, for this purpose, includes non-governmental entities (both for-profit and non-profit) but it does not include individuals acting in a non-business capacity. So, for example, if the City sold the naming rights to the facility to an interested citizen in exchange for a \$10,000 donation, that would present no private use issues. If, on the other hand, the City sold the naming rights to Nike for \$50,000, Nike would likely be treated under the tax code as privately using some amount of the facility. The IRS views naming rights arrangements as leading to private use because it views the situation as one in which the naming party can benefit. A more obvious example of this would be private companies paying millions of dollars for the naming rights to a municipally-owned sports stadium or arena. Those private companies presumably feel that the advertising or other benefits from the naming arrangement provide them with a financial benefit worth making the large payment for naming rights.

Since there can be a de minimis amount (generally 10%) of private use of a tax-exempt financed facility without triggering tax problems with the associated bonds, the question with naming rights arrangements becomes how much private use results from a particular naming rights arrangement. Many naming rights arrangements can fall under the de minimis private use limits. These might include arrangements whereby the facility is named after the private party but the private party receives no other rights to the facility. On the other hand, we have had clients negotiate naming rights arrangements whereby the private party not only names the facility, but also negotiates additional rights with respect to the facility. Those arrangements often lead to more extensive private use.

So the takeaway is that the impact that a particular naming rights arrangement may have on the tax-exempt status of the Bonds would depend on the specifics of the situation. Many naming rights arrangements would not adversely impact the tax-exempt status, but others could. For that reason, if, in the future, the City decided to pursue a sale of the naming rights to the financed facility to a private party, I would recommend that the City contact us to make sure that the proposed arrangement would not adversely impact the tax-exemption of the Bonds. I hope this helps.

Thanks,

-Jennifer

Jennifer Booth Córdova
Hawkins Delafield & Wood LLP
200 SW Market Street
Suite 350

Portland, OR 97201
(503) 402-1326
jcordova@hawkins.com

From: Robert Gazewood [mailto:chaoin@pacifier.com]
Sent: Friday, November 29, 2013 10:53 AM
To: Jennifer Cordova; 'Bob Gazewood'
Cc: 'Ted Smith'; 'Peggy Hawker'; J.Protiva@NewportOregon.gov; M.Saelens@NewportOregon.gov
Subject: RE: City of Newport GO Bonds 2013 - Tax Due Dilligence Questions [HAWKINS-WEST1.FID76508]

Jennifer,

This is in reply to your earlier emails requesting certain information. The City's responses follow:

1. **Other tax-exempt debt:** The City has no plans to issue any debt of subordinate entities, specifically, the Newport Urban Renewal Agency, South Beach Urban Renewal District in 2013. The City has been working with a local bank for a tax-exempt loan of \$1,000,000 to be repaid within three years. Originally, we were anticipating closing this loan in 2013. It may still be possible but, at this date, it appears highly unlikely that we could close the loan by December 31, 2013. The loan is intended to close consistent with the purchase of Property the City intends to acquire. Negotiations are in progress and an environmental assessment is needed so it looks like this loan will roll over to 2014. For further information, Gulgun Mersereau is aware of this potential bank loan as I have been in discussions with Gulgun about it.
2. **Expected timing of expenditures:** The City expects to spend, or have binding commitment to a third party or third parties to spend, at least 5% of the \$7,900,000 bond proceeds within six months from the date of issuance of the Bonds and expects to spend at least 85% of the bond proceeds within 3 years from the date of issuance.
3. **Reimbursements:** Since the City will be issuing the Bonds in 2013, the issuance will occur prior to incurring any projects costs. Therefore, there will be no need for reimbursements. Accordingly, the City notified Bond Counsel as such, and the reimbursement provisions in the authorizing Resolution were removed.
4. **Private Use Limitations:**
 - **Answer NO** to question: Will any of the financed assets be leased or rented to, or otherwise preferentially used by, private persons, including for-profit entities, non-profit organizations, individuals acting in a trade or business, or the federal government?
 - **Answer Yes** to question: Will all financed assets be owned by the City during the entire term (20 years) of the Bonds?
 - **Answer Yes** to the part of the question: Will the financed assets be operated and managed by City employees? **Answer NO** to the part of the question: Does the City expect to hire a private operator or manager.
5. **Post-Issuance Compliance Procedures:** This Policy procedure requires further review and discussion with management staff, this review is expected this coming week. As I understand it, the Policy is not required but is highly recommended to have. The Policy would be presented to the City Council at its meeting on December 9, 2013. This will provide sufficient time for a decision before the IRS Form 8038-G is filed.
 - On page 10, of the "Draft" Policy, *Form of Annual Tax-Exempt Bond Compliance Checklist*, is this question – "Has the issuer entered into a naming rights agreement relating to all or any portion of a Project? **Question: Please tell us what the impact to tax-exempt status of the Bonds would be if such agreement is any extent happens.** No "naming" is anticipated but it is important to know the impact if considerations would be given to "naming."

We are looking forward in seeing your response to our question posed at Item 5 above.

Bob Gazewood
Interim Finance Director

From: Jennifer Cordova [mailto:JCordova@hawkins.com]
Sent: Wednesday, November 13, 2013 9:49 AM
To: Bob Gazewood; Robert Gazewood
Cc: Gulgun Mersereau; Harvey Rogers
Subject: FW: City of Newport GO Bonds 2013 - Tax Due Diligence Questions [HAWKINS-WEST1.FID76508]

Hi Bob,

I am the tax lawyer who works with Gulgun and Harvey. I need to ask a few standard tax due diligence questions to confirm that the City's 2013 GO Bonds can be issued on a tax-exempt basis. If you have any questions about these inquiries specifically, or about the tax limitations on private use and arbitrage that will apply to the Bonds generally, please do not hesitate to give me a call at 503-402-1326 anytime. Thanks.

1. Other tax-exempt debt? Not including this financing, has the City (including any subordinate entities, such as the urban renewal agency) issued, or is there a plan to issue, additional tax-exempt debt during this 2013 calendar year? If yes, please provide details.

2. Expected timing of expenditures. Does the City expect to spend, or have a binding commitment to a third party to spend, at least 5% of these bond proceeds within 6 months from the date of issuance of the Bonds and expect to spend at least 85% of the bond proceeds within 3 years from the date of issuance?

3. Reimbursements. Will any of the Bond proceeds be used to reimburse the City for expenditures paid or to be paid before the financing closes? I understand from speaking with Gulgun that the authorizing resolution will include reimbursement language. Including that reimbursement language in the resolution will allow the City to reimburse hard costs of the project that were paid up to 60 days before the adoption date of the resolution and certain preliminary planning costs even if paid before that date. Shortly before Bond closing, I'll be asking you for a list of pre-closing expenditures expected to be reimbursed from the Bond proceeds. We need to include that information on the Form 8038-G that we file with the IRS after closing.

4. Private Use Limitations. I understand that the Bond proceeds will be used to finance a new indoor swimming pool and related improvements. With respect to the projects:

- Will any of the financed assets be leased or rented to, or otherwise preferentially used by, private persons, including for-profit entities, non-profit organizations, individuals acting in a trade or business, or the federal government?
- Will all financed assets be owned by the City during the entire term of the Bonds? If no, please provide details.
- Will the financed assets be operated and managed by City employees or does the City expect to hire a private operator or manager?

5. Post-Issuance Compliance Procedures. After the Bonds are issued, we will need to file a Form 8038-G with the IRS. That 8038-G now requires that we indicate whether the City has established written post-issuance compliance procedures to ensure compliance with the arbitrage and the private business use rules imposed on tax-exempt bonds and bond-financed facilities. The background for this is that the IRS has recently become increasingly interested in "encouraging" issuers to adopt written compliance procedures because they believe (probably not unreasonably) that tax compliance may improve if issuers have written procedures addressing how they will monitor compliance after bonds are issued. I have attached an advisory that our firm distributed earlier this year on the topic in case you are interested. Having written procedures is not in and of itself a tax requirement,

but if the City does not have written procedures, then we'll need to leave those boxes blank on the 8038-G. The IRS has not required issuers to adopt post-issuance compliance procedures, but it has provided an incentive in the form of reduced penalties in the event that there is an inadvertent tax violation after issuance. For example, if there is a change in use of a bond-financed facility in a way that causes tax issues, an issuer who discovered the problematic change in use pursuant to its post-issuance procedures is entitled to pay a reduced amount if the change is such that a monetary settlement to the IRS is required to resolve the tax issue. Of course we all plan for there not to be a tax issue in the first place, but if the City has procedures in place, the settlement in the event of such an issue would be reduced. In addition, while the IRS has stated that it is not targeting issuers without post-issuance compliance procedures for an audit, they have indicated that they view the adoption of such procedures to be a favorable fact during an audit in indicating that the issuer takes its post-issuance compliance procedures seriously.

With all of that having been said, does the City have written post-issuance tax compliance procedures? If yes, please send me a copy. If not, would you be interested in establishing such procedures? We have a form that I could send you that some of our clients have used. Other clients have adopted procedures provided to them by arbitrage consultants. And still others feel comfortable sticking with their informal, unwritten procedures. What do you think? Feel free to give me a call if you'd like to talk through any of this.

Thanks,

-Jennifer

Bob Gazewood

From: Jennifer Cordova <JCordova@hawkins.com>
Sent: Wednesday, November 13, 2013 10:36 AM
To: Bob Gazewood; Robert Gazewood
Cc: Gulgun Mersereau; Harvey Rogers
Subject: RE: City of Newport GO Bonds 2013 - Tax Due Diligence Questions [HAWKINS-WEST1.FID76508]
Attachments: Post-Issuance Procedures General.doc

Bob,

I have attached a form of procedures for your review and consideration that some of our clients have chosen to customize and adopt. I'd be happy to answer any questions that you have about this form or to help you customize this form into something that would work well for the City. The IRS does like to see certain elements in any written procedures, however, so if you opt to customize this form on your own, I'd suggest you run your changes by us so that we can be sure that the IRS-desired elements survive any changes.

Thanks,

-Jennifer

Jennifer Booth Córdova
Hawkins Delafield & Wood LLP
200 SW Market Street
Suite 350
Portland, OR 97201

DRAFT

[NAME OF ISSUER]

TAX-EXEMPT BOND POST-ISSUANCE COMPLIANCE POLICY

(adopted __/__/13)

I.

PURPOSE.

The purpose of this Policy is to ensure that the [NAME OF ISSUER] (the “Issuer”) complies with applicable requirements of federal tax law necessary to preserve the tax status of interest on tax-exempt obligations issued by the Issuer. This Policy is designed to set forth compliance procedures so that the Issuer utilizes the proceeds of all issues of bonds, certificates of participation, bond anticipation notes, and tax and revenue anticipation notes (collectively referred to as “Bonds”) in accordance with applicable federal tax requirements, and complies with all other applicable federal requirements with respect to outstanding Bonds.

To comply with applicable federal tax requirements, the Issuer must confirm that the requirements are met at the time each Bond issue is issued and throughout the term of the Bonds (until maturity or redemption). Generally, compliance should include retention of records relating to the expenditure of the proceeds of each Bond issue, the investment of the proceeds of each Bond issue, and any allocations made with respect to the use of the proceeds of each Bond issue, sufficient to establish compliance with applicable federal tax requirements, including records related to periods before the Bonds are issued (e.g., in the case of reimbursement of prior expenditures) until six (6) years after the final maturity or redemption date of any issue of Bonds.

II.

PROCEDURES.

A. Responsible Official. The [insert title] of the Issuer will identify the officer or other employee(s) of the Issuer (the “Bond Compliance Officer”) who will be responsible for each of the procedures listed below, notify the current holder of that office of the responsibilities, and provide that

person a copy of these procedures. Upon employee transitions, the [titles] of the Issuer will advise any newly-designated Bond Compliance Officer of his/her responsibilities under these procedures and will ensure the Bond Compliance Officer understands the importance of these procedures. If employee positions are restructured or eliminated, the [title] of the Issuer will reassign responsibilities as necessary.

B. Issuance of Bonds.

Bond Counsel. The Issuer will retain a nationally-recognized bond counsel law firm (“**Bond Counsel**”) to assist the Issuer in issuing Bonds. In connection with any tax-exempt Bond issue, Bond Counsel will deliver a legal opinion which will be based in part on covenants and representations set forth in the Issuer’s Tax Certificate (or other closing documents containing the tax representation) (the “**Tax Certificate**”) and other certificates relating to the Bonds, including covenants and representations concerning compliance with post-issuance federal tax law requirements that must be satisfied to preserve the tax-exempt status of tax-exempt Bonds. As described more fully below, the Issuer will also consult with Bond Counsel and other legal counsel and advisors, as needed, following issuance of each Bond issue to ensure that applicable post-issuance requirements in fact are met, so that tax-exempt status of interest will be maintained for federal income tax purposes so long as any Bonds remain outstanding.

The Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that that tax-exempt status of interest will be maintained. Those requirements and procedures shall be documented in a Tax Certificate and other certificates and/or other documents finalized at or before issuance of the Bonds. If there is no document in the transcript titled “Tax Certificate,” the Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel prior to the closing of the financing to understand which document(s) in the transcript contain the tax representations and covenants. The requirements and procedures in the Tax Certificate shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

Documentation of Tax Requirements. The federal tax requirements relating to each Bond issue will be set forth in the Tax Certificate executed in connection with the Bond issue, which will be included in the closing transcript. The certifications, representations, expectations, covenants and factual statements in the Tax Certificate relate primarily to the restriction on use of the Bond-financed facilities by persons or entities other than the Issuer, changes in use of assets financed or refinanced with Bond

proceeds, restrictions applicable to the investment of Bond proceeds and other moneys relating to the Bonds, arbitrage rebate requirements, and economic life of the Bond-financed assets.

Information Reporting. The Bond Compliance Officer and/or other designated Issuer personnel will assure filing of information returns on IRS Form 8038-G no later than the 15th day of the second calendar month in the calendar quarter following the calendar quarter in which an issue of Bonds is issued. The Issuer will confirm that the IRS Form 8038-G is accurate and is filed in a timely manner with respect to all Bond issues, including any required schedules and attachments. The IRS Form 8038-G filed with the IRS, together with an acknowledgement copy (if available) or IRS Notice CP152, will be included as part of the closing transcript for each Bond issue, or kept in the records related to the appropriate issue of Bonds.

C. **Application of Bond Proceeds.**

Use of Bond Proceeds. The Bond Compliance Officer and/or other designated Issuer personnel shall:

- * monitor the use of Bond proceeds and the use of the Bond-financed assets (e.g., facilities, furnishings or equipment) throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in the applicable Tax Certificate;
- * maintain records identifying the assets or portion of assets that were financed or refinanced with proceeds of each issue of Bonds;
- * consult with Bond Counsel and other legal counsel as needed in the review of any contracts or arrangements involving use of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in the applicable Tax Certificate;
- * maintain records for any contracts or arrangements involving the use of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in the applicable Tax Certificate; and
- * communicate as necessary and appropriate with personnel responsible for the Bond-financed assets to identify and discuss any existing or planned use of the Bond-

financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the applicable Tax Certificate.

Timely Expenditure of Bond Proceeds. At the time of issuance of any Bonds issued to fund original expenditures, the Issuer must reasonably expect to spend at least 85% of all proceeds expected to be used to finance such expenditures (which proceeds would exclude proceeds in a reasonably required reserve fund) within three (3) years after issuance of such Bonds.¹ In addition, for such Bonds, the Issuer must have incurred or expect to incur within six months after issuance original expenditures of not less than 5% of such amount of proceeds, and must expect to complete the Bond-financed project (the “Project”) and allocate Bond proceeds to costs with due diligence.² Satisfaction of these requirements allows Project-related Bond proceeds to be invested at an unrestricted yield for three (3) years.³ Bonds issued to refinance outstanding obligations are subject to separate expenditure requirements, which shall be outlined in the Tax Certificate relating to such Bonds. The Issuer’s finance staff will monitor the appropriate capital project accounts (and, to the extent applicable, working capital expenditures and/or refunding escrow accounts) and ensure that Bond proceeds are spent within the applicable time period(s) required under federal tax law.

Capital Expenditures. In general, proceeds (including earnings on original sale proceeds) of Bonds issued to fund original expenditures, other than proceeds deposited in a reasonably required reserve fund or used to pay costs of issuance, should be spent on capital expenditures.⁴ For this purpose, capital expenditures generally mean costs to acquire, construct, or improve property (land, buildings and equipment), or to adapt the property to a new or different use. The property financed or refinanced must have a useful life longer than one (1) year. Capital Expenditures include design and planning costs related to the Project, and include architectural, engineering, surveying, soil testing, environmental, and other similar costs incurred in the process of acquiring, constructing, improving or adapting the property.

¹ In the case of short-term working capital financings (e.g., TRANs), the Issuer’s actual maximum cumulative cash flow deficit as of the close of the six-month period commencing on the issue date must be at least equal to 100% of the issue price of the notes (under the six-month rebate exception, excluding the reasonable working capital reserve) or 90% of the issue price of the notes (under the statutory safe harbor exception) in order for the notes to be exempt from the rebate requirements.

² These requirements do not apply to short-term working capital financings (e.g., TRANs).

³ Proceeds of working capital financings (e.g., TRANs) may be invested at an unrestricted yield for thirteen (13) months..

⁴ Proceeds of working capital financings (e.g., TRANs) need not be spent for capital expenditures.

Capital Expenditures do not include operating expenses of the Project or incidental or routine repair or maintenance of the Project, even if the repair or maintenance will have a useful life longer than one (1) year.

D. Use of Bond-Financed Assets.

Ownership and Use of Project. For the life of a Bond issue, the Project must be owned and operated by the Issuer (or another state or local governmental entity). At all times while the Bond issue is outstanding, no more than 10% (or \$15,000,000, if less) of the Bond proceeds or the Project may be used, directly or indirectly, in a trade or business carried on by a person other than a state or local governmental unit ("Private Use").⁵ In addition, not more than 5% (or \$5 million, if less) of the proceeds of any Bond issue may be used, directly or indirectly, to make a loan to any person other than governmental persons. Generally, Private Use consists of any contract or other arrangement, including leases, management contracts, operating agreements, guarantee contracts, take or pay contracts, output contracts or research contracts, which provides for use by a person who is not a state or local government on a basis different than the general public. The Project may be used by any person or entity, including any person or entity carrying on any trade or business, if such use constitutes "General Public Use". General Public Use is any arrangement providing for use that is available to the general public at either no charge or on the basis of rates that are generally applicable and uniformly applied.

Management or Operating Agreements. Any management, operating or service contracts whereby a non-exempt entity is using assets financed or refinanced with Bond proceeds (such as bookstore, cafeteria or dining facility, externally-managed parking facilities, gift shops, etc.) must relate to portions of the Project that fit within the allowable private use limitations or the contracts must meet the IRS safe harbor for management contracts. Any replacements of or changes to such contracts relating to Bond-financed assets or facilities, or leases of such assets or facilities, should be reviewed by Bond Counsel. The Bond Compliance Officer shall contact Bond Counsel if there may be a lease, sale, disposition or other change in use of assets financed or refinanced with Bond proceeds.

Useful Life Limitation. The weighted average maturity of the Bond issue cannot exceed 120% of the weighted average economic life of the Bond-financed assets. In other words, the weighted average

⁵ This 10% limitation is limited to 5% in cases in which the Private Use is either unrelated or disproportionate to the governmental use of the financed facility.

economic life of the Project must be at least 80% of the weighted average maturity of the Bond issue. Additional state law limitations may apply as well.

G. Investment Restrictions; Arbitrage Yield Calculations; Rebate.

Investment Restrictions. Investment restrictions relating to Bond proceeds and other moneys relating to the Bonds are set forth in the Tax Certificate. The Issuer's finance staff will monitor the investment of Bond proceeds to ensure compliance with applicable yield restriction rules.

Use and Control of Bond Proceeds. Unexpended Bond proceeds (including reserves) may be held directly by the Issuer or by the trustee for the Bond issue under an indenture or trust agreement. The investment of Bond proceeds shall be managed by the Issuer. The Issuer shall maintain appropriate records regarding investments and transactions involving Bond proceeds. The trustee, if appropriate, shall provide regular statements to the Issuer regarding investments and transactions involving Bond proceeds.

Arbitrage Yield Calculations. Investment earnings on Bond proceeds should be tracked and monitored to comply with applicable yield restrictions and/or rebate requirements. Any funds of the Issuer set aside or otherwise pledged or earmarked to pay debt service on Bonds should be analyzed to assure compliance with the tax law rules on arbitrage, invested sinking funds, and pledged funds (including gifts or donations linked or earmarked to the Bond-financed assets).

Rebate. The Issuer is responsible for calculating (or causing the calculation of) rebate liability for each Bond issue, and for making any required rebate payments. Unless Bond Counsel has advised the Issuer that the Bonds are exempt from the rebate requirements described in this section, the Issuer will retain an arbitrage rebate consultant to perform rebate calculations that may be required to be made from time to time with respect to any Bond issue. The Issuer is responsible for providing the arbitrage rebate consultant with requested documents and information on a prompt basis, reviewing applicable rebate reports and other calculations and generally interacting with the arbitrage rebate consultant to ensure the timely preparation of rebate reports and payment of any rebate.

The reports and calculations provided by the arbitrage rebate consultant are intended to assure compliance with rebate requirements, which require the Issuer to make rebate payments, if any, no later than the fifth (5th) anniversary date and each fifth (5th) anniversary date thereafter through the final maturity or redemption date of a Bond issue. A final rebate payment must be made within sixty (60) days of the final maturity or redemption date of a Bond issue.

The Issuer will confer and consult with the arbitrage rebate consultant to determine whether any rebate spending exceptions may be met. Rebate spending exceptions are available for periods of 6 months, 18 months and 2 years. The Issuer will review the Tax Certificate and/or consult with the arbitrage rebate consultant or Bond Counsel for more details regarding the rebate spending exceptions.

In the case of short-term working capital financings, such as tax and revenue anticipation notes, if there is concern as to whether or not the Issuer has met its requisite maximum cumulative cash flow deficit with respect to its short-term working capital notes, the services of a rebate analyst should be engaged to determine whether either the six-month spending exception or the statutory safe harbor exception to the rebate rules is met (in which case no rebate would be owed) or whether the proceeds of the notes are subject, in whole or in part, to rebate.

Copies of all arbitrage rebate reports, related return filings with the IRS (*i.e.*, IRS Form 8038-T), copies of cancelled checks with respect to any rebate payments, and information statements must be retained as described below. The responsible official of the Issuer described in Subsection A of this Part II will follow the procedures set forth in the Tax Certificate entered into with respect to any Bond issue that relate to compliance with the rebate requirements.

F. Record Retention.

Allocation of Bond Proceeds to Expenditures. The Issuer shall allocate Bond proceeds to expenditures for assets, and shall trace and keep track of the use of Bond proceeds and property financed or refinanced therewith.

Record Keeping Requirements. Copies of all relevant documents and records sufficient to support an assertion that the tax requirements relating to a Bond issue have been satisfied will be maintained by the Issuer for the term of a Bond issue (including refunding Bonds, if any) plus six (6) years, including the following documents and records:

- Bond closing transcripts;
- Copies of records of investments, investment agreements, credit enhancement transactions, financial derivatives (*e.g.*, an interest rate swap), arbitrage reports and underlying documents, including trustee statements;
- Copies of material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) purchase orders, invoices, trustee

requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;

- All contracts and arrangements involving private use, or changes in use, of the Bond-financed property;
- All reports and documents relating to the allocation of Bond proceeds and private use of Bond-financed property; and
- Itemization of property financed with Bond proceeds, including placed in service dates.
- In the case of short-term working capital financings, such as tax and revenue anticipation notes, information regarding the Issuer's revenue, expenditures and available balances sufficient to support the Issuer's maximum cumulative cash flow deficit.

III.

POST-ISSUANCE COMPLIANCE.

A. In General. The Issuer will conduct periodic reviews of compliance with these procedures to determine whether any violations have occurred so that such violations can be remedied through the "remedial action" regulations (Treas. Reg. Section 1.141-12) or the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance). If any changes or modifications to the terms or provisions of a Bond issue are contemplated, the Issuer will consult Bond Counsel. The Issuer recognizes and acknowledges that such modifications could result in a "reissuance" of the Bonds for federal tax purposes (*i.e.*, a deemed refunding) and thereby jeopardize the tax-exempt status of the Bonds after the modifications.

The Bond Compliance Officer and/or other designated Issuer personnel will consult with Bond Counsel and other legal counsel and advisors, as needed, following issuance of each issue of the Bonds to ensure that all applicable post-issuance requirements in fact are met, so that interest on the Bonds will be excluded from gross income for federal income tax purposes so long as any Bonds remain outstanding. This will include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed assets and future contracts with respect to the use of output or throughput of Bond-financed assets.

Whenever necessary or appropriate, the Issuer will engage an expert advisor as arbitrage rebate consultant to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

B. Monitoring Private or Other Use of Financed Assets. The Issuer will maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of a Bond issue, including the uses and the users thereof (including terms of use and type of use). Such records may be kept in any combination of paper or electronic form. In the event the use of Bond proceeds or the assets financed or refinanced with Bond proceeds is different from the covenants, representations or factual statements in the Tax Certificate, the Issuer will promptly contact and consult with Bond Counsel to ensure that there is no adverse effect on the tax-exempt status of the Bond issue and, where appropriate, will remedy any violations through the “remedial action” regulations (Treas. Reg. Section 1.141-12), the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance), or as otherwise prescribed by Bond Counsel.

C. Ongoing Training

Training shall be made available to the Compliance Officer to support the Compliance Officer’s understanding of the tax requirements applicable to the Bonds. Such training may include, but would not be limited to, attending training sessions at local conferences such as OMFOA and/or OASBO, participation in IRS teleconferences, reading technical guidance materials provided by educational organizations, the IRS, and/or Bond Counsel, and discussing questions and issues with the Issuer’s Bond Counsel and/or arbitrage rebate consultant.

D. Annual Checklist of Tax-Exempt Bond Compliance Checklist. The Bond Compliance Officer will complete the attached “Annual Tax-Exempt Bond Compliance Checklist” with respect to all outstanding Bonds on or before [insert date] of each annual period. The Bond Compliance Officer will retain a copy of each completed and signed checklist in a file that is retained in accordance with the document retention requirements described in Section II.F., above.

Form of Annual Tax-Exempt Bond Compliance Checklist

(to be completed by the "Bond Compliance Officer" as described in the Tax-Exempt Bond Post-Issuance Compliance Policy)

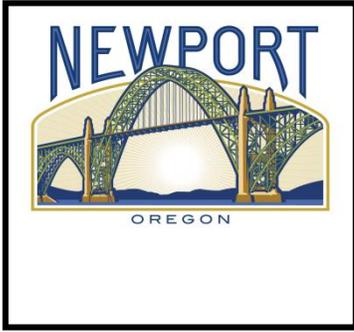
Date Completed: _____

	Yes	No
Has there been a sale of all or any portion of a facility financed with tax-exempt bonds (a "Project")?		
Has there been a lease of all or any portion of a Project to any party other than a state or local government?		
Has the Issuer entered into a new, or amended an already existing, management or service contract related to a Project?		
Has the Issuer entered into a naming rights agreement relating to all or any portion of a Project?		
Has the Issuer entered into any other arrangement with an entity, other than a state or local government, that provided legal rights to that entity with respect to a Project?		
Will there be a rebate/yield restriction arbitrage computation date during the upcoming annual period?		
Is the Issuer out of compliance with the record retention requirements as described in Section IV of the Tax-Exempt Bond Compliance Procedures?		

If an answer to any question above is "Yes", or the answer is unclear, the Bond Compliance Officer shall consult with the Issuer's bond counsel to determine (i) if the event could adversely impact the tax-exemption of the Issuer's outstanding tax-exempt bonds and/or (ii) whether any action needs to be taken during the upcoming annual period to ensure compliance with the tax-exempt bond restrictions.

The undersigned is the "Bond Compliance Officer" as described in the Tax-Exempt Bond Compliance Procedures and has completed the above checklist to the best of the knowledge of the undersigned.

Signature of _____ - Bond Compliance Officer
(print name)



Agenda Item #
Meeting Date

December 9, 2013

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Public Hearing and Possible Action on LUBA Remand of the Teevin Bros. Traffic Impact Analysis

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

ISSUE BEFORE THE COUNCIL: A public hearing to consider whether or not analysis contained in a November 26, 2013 memorandum from Kittelson & Associates, Inc. adequately responds to a remand from the Oregon Land Use Board of Appeals (LUBA) and satisfies city criteria for evaluating Traffic Impact Analysis (TIA) applications as it pertains to the intersection of SE Running Springs Road and SE Yaquina Bay Road.

STAFF RECOMMENDATION: If the City Council concludes that the relevant standards have been met then it must approve the TIA application. A draft order and findings of fact have been prepared should the Council elect to proceed in this manner.

PROPOSED MOTION: I move to adopt Order No. 2013-4, establishing that the November 26, 2013 memorandum from Kittelson & Associates, Inc. has addressed deficiencies in the Teevin Bros. log yard traffic impact analysis application, as identified in LUBA Final Opinion and Order No. 2013-057, and that the application satisfies applicable approval criteria contained in the Newport Municipal Code.

KEY FACTS AND INFORMATION SUMMARY: On November 6, 2013, LUBA issued Final Opinion and Order No 2013-057 remanding the City of Newport’s decision to approve a TIA application submitted by Teevin Brothers Land and Timber Company, LLC for a proposed log yard at 1650 SE Bay Boulevard. The rationale for LUBA’s remand was limited to the narrow issue of the TIA having failed to adequately address the intersection of SE Running Springs Road and SE Yaquina Bay Road. Criteria that the City of Newport applies to TIA applications are discretionary. This requires that a land use decision be made applying the relevant criteria at Newport Municipal Code (NMC) Section 14.45.050 to the intersection of SE Running Springs Road and SE Yaquina Bay Road.

Teevin Brothers Land and Timber Company, LLC, through its agent Kittelson & Associates, Inc., submitted a supplemental memorandum dated November 26, 2013 analyzing traffic operations at the affected intersection. Said analysis was duly reviewed and accepted by the City Engineer by memorandum of that same date.

Notice of the December 9, 2013 public hearing was provided to the applicant, appellants, property owners within 200 feet of the proposed log yard, persons who provided written testimony on the application prior to the remand, and affected utilities and city departments. It was mailed on November 19, 2013, 20-days prior to the hearing. Notice of the hearing was also published in the Newport News-Times on November 30, 2013.

A copy of the draft final order, findings of fact, November 26, 2013 Kittelson & Associates, Inc. memorandum, and the City Engineer’s response, was available for public inspection seven days in advance of the December 9, 2013 hearing.

OTHER ALTERNATIVES CONSIDERED: None.

CITY COUNCIL GOALS: There are no applicable Council goals.

ATTACHMENT LIST:

- Draft Order No. 2013-4
- Findings of Fact in Support of the Draft Order
- November 26, 2013 Memorandum from Kittelson & Associates, Inc. (Attachment A)
- November 26, 2013 Memorandum from Timothy Gross, City Engineer (Attachment B)
- LUBA Final Opinion and Order No. 2013-057
- Public Notices and Mailing List for the December 9, 2013 hearing

FISCAL NOTES: There are no direct impacts to the City's budget associated with this application.

**THE CITY COUNCIL OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

In the Matter of:

LAND USE FILE NO. 1-TIA-13-A)	
SUPPLEMENTAL FINDINGS AND ANALYSIS)	ORDER NO.
ADDRESSING MATTERS REMANDED WITH)	2013-4
LUBA FINAL OPINION AND ORDER NO. 2013-057)	
AND APPROVING THE TRAFFIC IMPACT ANALYSIS)	
FOR THE TEEVIN BROTHERS LOG YARD)	

WHEREAS, on November 6, 2013, the Land Use Board of Appeals (LUBA) issued Final Opinion and Order No 2013-057 remanding the City of Newport's decision to approve a Traffic Impact Analysis (TIA) application submitted by Teevin Brothers Land and Timber Company, LLC for a proposed log yard at 1650 SE Bay Boulevard; and

WHEREAS, the rationale for LUBA's remand was limited to the narrow issue of the TIA having failed to adequately address the intersection of SE Running Springs Road and SE Yaquina Bay Road; and

WHEREAS, the City of Newport's TIA criteria are discretionary, requiring a land use decision applying the relevant criteria at Newport Municipal Code (NMC) Section 14.45.050 to the intersection of SE Running Springs Road and SE Yaquina Bay Road; and

WHEREAS, the applicant, through its agent Kittelson & Associates, Inc., submitted a supplemental memorandum dated November 26, 2013 analyzing traffic operations at the affected intersection; and

WHEREAS, said analysis was duly reviewed and accepted by the City Engineer by memorandum of that same date; and

WHEREAS, a public hearing before the Newport City Council was held on December 9, 2013 to consider whether or not said analysis satisfies TIA approval; and

WHEREAS, 20 days prior to the hearing, notice of the hearing was provided to the applicant, appellants, property owners within 200 feet of the proposed log yard, persons who provided written testimony on the application prior to the remand, and affected utilities and city departments; and

WHEREAS, the public was further afforded an opportunity to review the November 26, 2013 Kittelson & Associates, Inc. memorandum, the City Engineer's response, and draft

findings of fact and a draft of this final order prepared for City Council consideration, seven days in advance of the December 9, 2013 hearing; and

WHEREAS, at the conclusion of said hearing, after consideration and discussion, upon a motion duly seconded, the City Council accepted the analysis contained in the November 26, 2013 Kittelson & Associates, Inc., memorandum as satisfying criteria for the approval of a TIA contained in NMC Chapter 14.45 with respect to the intersection of SE Running Springs Road and SE Yaquina Bay Road.

NOW, THEREFORE, THE CITY OF NEWPORT ORDERS AS FOLLOWS:

1. All of the foregoing recitals are hereby confirmed and adopted as findings of fact in support of this order.
2. The City Council of the City of Newport hereby accepts the Supplemental Findings of Fact (Exhibit "A"), including all associated attachments, as having satisfied deficiencies in the TIA application submitted by Teevin Brothers Land and Timber Company, LLC, as identified in LUBA Final Opinion and Order No. 2013-057.
3. The Planning Commission's findings of fact and final order accepted with City Council Order No. 2013-1 is hereby supplemented as described herein, and the conditions of approval contained in those documents remain in full effect.

SO ORDERED this 9th day of December, 2013.

Sandra N. Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

EXHIBIT "A"

Case File No. 1-TIA-13-A

SUPPLEMENTAL FINDINGS OF FACT

1. On June 3, 2013, the Newport City Council, by Order No. 2013-1, accepted the Planning Commission's final order and findings of fact approving a Traffic Impact Analysis (TIA) submitted by Teevin Bros. Land and Timber Co., LLC, for the construction of a log yard on approximately 15 acres of land located at 1650 SE Bay Blvd (Lincoln County Assessor's Map 11-11-09D, Tax Lots 100 and 101).
2. Criteria for the review and approval of TIA applications are listed at Section 14.45.050 of the Newport Municipal Code (NMC); those criteria incorporate the additional criteria at NMC Section 14.45.020.
3. City of Newport's approval of the TIA was appealed to the Land Use Board of Appeals (LUBA) by the Oregon Coast Alliance, The Landing at Newport Condominium Association and Nancy Smock. On November 6, 2013, LUBA issued Final Opinion and Order No. 2013-057 denying two of the three grounds for appeal. One of the grounds for appeal was affirmed, and the application was remanded back to the City for further consideration on that point.
4. Specifically, LUBA found in favor of appellants' second assignment of error in which they argued that the TIA did not clearly address the intersection of SE Running Springs Road and SE Yaquina Bay Road as required by NMC 14.45.030(A) and; therefore, did not constitute substantial evidence upon which the City could base its approval.
5. On November 26, 2013, applicant's traffic engineering firm, Kittelson & Associates, Inc., supplemented the TIA with a memorandum analyzing traffic operations at SE Running Springs Road and SE Yaquina Bay Road in response to the remand.
6. Pursuant to NMC Section 14.45.050/ "Approval Criteria," when a TIA is required, a development proposal is subject to the following criteria, in addition to all criteria otherwise applicable to the underlying proposal:
 - A. The analysis complies with the requirements of NMC 14.45.020;
 - B. The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or indentifies mitigation measures that resolve the traffic safety problems in a manner that is satisfactory to the City Engineer and, when state highway facilities are affected, to ODOT; and
 - C. Where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect an existing or planned transportation facility, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of OAR 660-012-0060; and

- D. For affected non-highway facilities, the TIA establishes that any Level of Service standards adopted by the City have been met, and development will not cause excessive queuing or delays at affected intersections, as determined in the City Engineer's sole discretion; and
 - E. Proposed public improvements are designed and will be constructed to the standards specified in NMC Chapter 14.44 (Transportation Standards) or Chapter 13.05 (Subdivision and Partition), as applicable.
7. NMC Section 14.45.020/"Traffic Impact Analysis Requirements" lists the following requirements for a Traffic Impact Analysis:
- A. Pre-application conference. The applicant shall meet with the City Engineer prior to submitting an application that requires a TIA. This meeting will be coordinated with ODOT when an approach road to US-101 or US-20 serves the property so that the completed TIA meets both City and ODOT requirements.
 - B. Preparation. The submitted TIA shall be prepared by an Oregon Registered Professional Engineer that is qualified to perform traffic engineering analysis and will be paid for by the applicant.
 - C. Typical Average Daily Trips and Peak Hour Trips. The latest edition of the Trip Generation Manual, published by the Institute of Transportation Engineers (ITE) shall be used to gauge PM peak hour vehicle trips; unless a specific trip generation study that is approved by the City Engineer indicates an alternative trip generation rate is appropriate. An applicant may choose, but is not required, to use a trip generation study as a reference to determine trip generation for a specific land use which is not well represented in the ITE Trip Generation Manual and for which similar facilities are available to count.
 - D. Intersection-level analysis. Intersection-level analysis shall occur at every intersection where 50 or more peak hour vehicle trips can be expected as a result of the proposal.
 - E. Transportation Planning Rule compliance. The TIA shall comply with the requirements of OAR 660-012-000.
 - F. Structural conditions. The TIA shall address the condition of the impacted roadways and identify structural deficiencies or reduction in the useful life of existing facilities related to the proposed development.
 - G. Heavy vehicle routes. If the proposal includes an increase in 10 or more of the vehicles described in Section 14.45.010(D), the TIA shall address the provisions of Section 14.45.020(F) for the routes used to reach US-101 or US-20.
8. A public hearing before the Newport City Council was held on December 9, 2013 to consider whether or not analysis contained in the November 26, 2013 Kittelson & Associates memorandum satisfied criteria, above, for the review and approval of TIA applications, as they pertain to the intersection of SE Running Springs Road and SE Yaquina Bay Road. Issues unrelated to this intersection were not considered because they were outside the scope of the remand.

9. Notice of the public hearing was mailed on November 19, 2013 to the applicant, appellants, adjoining property owners within 200 feet of the subject site, persons who provided written testimony prior to the remand, and affected utilities and city departments. Notice of the hearing was also published in the Newport News-Times on November 30, 2013.
10. This set of supplemental findings of fact, the associated final order, the November 26, 2013 Kittelson & Associates memorandum, a November 26, 2013 memorandum from Tim Gross, P.E., City Engineer, and LUBA Final Opinion and Order No. 2013-57 served as the City Council's staff report and all of the documents were available for public inspection on the City's website and at City Hall on December 2, 2013, seven days prior to the hearing.
11. At the hearing, a prepared statement was read advising those in attendance of the procedure the City Council would use to conduct the hearing. The City Council received the staff report and took testimony from persons testifying in favor and in opposition to the application. The minutes of the December 9, 2013 hearing are hereby incorporated by reference.
12. The Planning Commission's decision, accepted by the City Council with Order No. 2013-1, establishes that the TIA satisfied criteria contained in NMC Chapter 14.45 for aspects of the application that are beyond the scope of the LUBA remand, and is therefore a part of the City's final decision on the application that is no longer at issue.

CONCLUSIONS

1. Section 14.45.020/"Traffic Impact Analysis Requirements" outlines requirements for a Traffic Impact Analysis (TIA). This is intended to ensure that the City has sufficient information to establish whether or not the approval criteria listed under NMC Section 11.45.050 have been met. The applicant has satisfied the requirements of Section 14.45.020 as follows:
 - A. A pre-application meeting was conducted between Matt Hughart with Kittleson and Associates, Inc. and Tim Gross, City Engineer, via conference call on November 30, 2012; therefore, an additional pre-application meeting is not required in order for the City to consider the supplemental analysis contained in Kittelson & Associates, Inc.'s, November 26, 2013 memorandum. The property does not take access off of US-20 or US-101, so it was not necessary that the meeting be coordinated with the Oregon Department of Transportation (ODOT). This finding was made in the City's original approval of the application and was not challenged at LUBA.
 - B. The Kittelson & Associates, Inc. memorandum, dated November 26, 2013, was prepared by Diego Arguea, P.E., and Chris Brehmer, P.E., both of whom are Oregon Registered Professional Engineers qualified to perform traffic engineering analysis (Attachment A). The firm, Kittleson and Associates, Inc., was founded in 1985 and specializes in transportation engineering and planning work. The report was prepared at the expense of the applicant, as is required. This finding was made in the City's original approval of the application and was not challenged at LUBA.

- C. Given the unique nature of a log yard facility, an independent trip generation profile was developed by Kittleson and Associates, Inc. based upon the projected maximum operating capacity of the log yard facility. This specific “trip generation study” was discussed and approved by the City Engineer at the pre-application meeting. NMC Section 14.45.020(C) allows use of a “trip generation study,” as has been prepared by Kittleson and Associates, Inc., to serve as an alternative to an applicant using the 9th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to gauge PM peak hour trips associated with a proposed use. This finding was made in the City’s original approval of the application and was not challenged at LUBA.

The November 26, 2013 Kittelson & Associates, Inc. memorandum notes that trip generation and assignment for the SE Running Springs Road/SE Yaquina Bay Road analysis is based upon the January 2013 TIA. This earlier version of the TIA contains the above referenced “trip generation study.”

- D. Intersection-level analysis was performed at the intersection of SE Running Spring Road and SE Yaquina Bay Road, as documented in the Kittelson & Associates, Inc., November 26, 2013 memorandum. NMC 14.45.020(D), requires such analysis where 50 or more peak hour vehicle trips can be expected as a result of a development project. Figure 1 to the Kittelson memorandum identifies the expected number of vehicle trips at this intersection. It shows a total of 14 new vehicle trips during the weekday a.m. peak hour, and 8 additional trips during the weekday p.m. peak hour. While this amounts to less than 50 vehicle trips during a peak hour period, the applicant has nonetheless performed intersection level analysis at this location in response to the determination by LUBA that NMC 14.45.030(A) requires the intersection be addressed.
- E. The November 26, 2013 memorandum prepared by Kittelson & Associates, Inc., does not address compliance with the Transportation Planning Rule (OAR 660-012-0060) because the City decision adopted with Council Order No. 2013-1 established that this rule need only be addressed in circumstances where a functional plan, acknowledged comprehensive plan, or land use regulation must be amended in order for a project to proceed and that none of those circumstances exist with the subject proposal. This finding was made in the City’s original approval of the application and was not challenged at LUBA.
- F. The structural condition of SE Yaquina Bay Road, was assessed as part of the prior City decision (ref: Order No. 2013-1). The adequacy of that analysis was challenged by appellants in their LUBA appeal and LUBA considered and denied those arguments and affirmed the City’s decision on this point. SE Running Springs Road will not be impacted because the truck traffic will not, and cannot reasonably, utilize that road to access the log yard because it is a dead-end residential street. The November 26, 2013 memorandum prepared by Kittelson & Associates, Inc. does not revisit the structural analysis issue because it has already been performed for SE Yaquina Bay Road, which is the only leg of the intersection that the trucks will utilize.
- G. Section 14.45.020(G) clarifies that structural analysis for projects generating 10 or more vehicle trips that exceed 26,000 pounds gross vehicle weight must address the routes that

will be used by the vehicles to reach US 101 or US 20. As noted above, that analysis for SE Yaquina Bay Road was performed by the applicant and accepted and approved by the City Council with Order No. 2013-1. The adequacy of that analysis is not at issue in the remand, and it is; therefore, not addressed in the Kittelson & Associates, Inc., November 26, 2013 memorandum. SE Running Springs Road is not a part of the route that the applicant proposes to use to reach US-101 or US-20, nor would it be feasible to do so given that it is a dead-end roadway that does not connect to US-20. Therefore, it is not necessary for structural analysis to be performed for this segment of the SE Running Springs Road/SE Yaquina Bay Road intersection.

2. Section 14.45.050/ "Approval Criteria" sets out the criteria that a TIA must satisfy. With regard to those criteria, the following conclusions can be drawn:
 - A. Subsection 14.45.050(A) requires that the TIA study contain all of the required elements listed under Section 14.45.020. Compliance with those requirements is addressed above under Conclusion No. 1.
 - B. Subsection 14.45.050(B) requires a TIA demonstrate that adequate transportation facilities exist to serve the proposed development or identify mitigation measures that resolve the traffic safety problems in a manner that is satisfactory to the City Engineer and, when state highway facilities are affected, to ODOT. The subject intersection does not access directly onto a state highway; therefore, ODOT approval is not required. For the reasons stated in the memo dated November 26, 2013, from City Engineer Timothy Gross, P.E., the information contained in Kittelson & Associates, Inc.'s, November 26, 2013 memorandum demonstrates that the roadway intersection at SE Running Springs Road and SE Yaquina Bay Road is adequate as currently constructed (Attachment B, incorporated into the City's findings by this reference).
 - C. Subsection 14.45.050(C) notes that where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect an existing or planned transportation facility, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of OAR 660-012-0060. As earlier noted, this project does not require an amendment to the Newport Comprehensive Plan or land use regulations in order for it to proceed; therefore, compliance with this administrative rule is not required. This finding was made in the City's original approval of the application and was not challenged at LUBA.
 - D. Subsection 14.45.050(D) applies to affected non-highway facilities. It requires that the TIA establish that any level-of-service standards adopted by the City have been met, and development will not cause excessive queuing or delays at affected intersections, as determined in the City Engineer's sole discretion. The City of Newport has not adopted level-of-service standards. The November 26, 2013 Kittelson & Associates, Inc. memorandum nonetheless assesses the level-of-service at the SE Running Springs Road and SE Yaquina Bay Road intersection. It identifies that the intersection is expected to perform at level-of-service "A." Attachment A to the memorandum describes level-of-service "A" as *"Nearly all drivers find freedom of operation with very little time spent waiting for an*

acceptable gap.” and “*Very seldom is there more than one vehicle in queue.*” It further describes the average control delay per vehicle as being less than or equal to 10 seconds. In his November 26, 2013 memorandum (incorporated into these findings), the City Engineer determines that the analysis contained in the November 26, 2013 Kittelson & Associates, Inc., submittal demonstrates that traffic attributed to the Teevin Bros. project will not cause excessive queuing or delays at the intersection of SE Running Springs Road and SE Yaquina Bay Road. This satisfies the criterion.

- E. Subsection 14.45.050(E) requires that proposed public improvements be designed and constructed to the standards specified in NMC Chapter 14.44 (Transportation Standards) or Chapter 13.05 (Subdivision and Partition), as applicable. The November 26, 2013 supplemental analysis for the intersection of SE Running Springs Road and SE Yaquina Bay Road, as reviewed and accepted by the City Engineer, indicates that the intersection is adequate as constructed. Therefore, improvements to this intersection are not needed.
- 3. Section 14.45.060(F) notes that the City may impose conditions of approval needed to meet operations, structural, and safety standards and provide the necessary right-of-way and improvements to ensure consistency with the City’s Transportation System Plan. Neither the November 26, 2013 supplemental memorandum prepared by Kittelson & Associates, Inc., nor the City Engineer’s review of that analysis indicates a need for conditions of approval to be imposed with respect to the intersection of SE Running Springs Road and SE Yaquina Bay Boulevard.

OVERALL CONCLUSION

The supplemental analysis prepared by Kittelson & Associates Inc., dated November 26, 2013, establishes that criteria for approval of a Traffic Impact Analysis as outlined in Newport Municipal Code Chapter 14.45 have been satisfied with respect to the intersection of SE Running Springs Road and SE Yaquina Bay Road.



KITTELSON & ASSOCIATES, INC.
 TRANSPORTATION ENGINEERING / PLANNING
 610 SW Alder Street, Suite 700, Portland, OR 97205 P 503.228.5230 F 503.273.8169

MEMORANDUM

Date: November 26, 2013

Project #: 13132

To: Derrick Tokos, AICP
 Community Development Director
 City of Newport
 169 SW Coast Highway
 Newport, OR 97365

From: Diego Arguea, PE and Chris Brehmer, PE, Kittelson & Associates

Project: Teevin Bros. Log Yard

Subject: Land Use Board of Appeals - Traffic Impact Analysis Response to Comments

This memorandum provides a supplemental analysis of traffic operations at the SE Yaquina Bay Road/SE Running Spring intersection for the proposed Teevin Bros. Log Yard development located in Newport, Oregon. A traffic impact analysis for the proposed development was first submitted in January 2013, and the project was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA) by local residents. This memorandum addresses the second assignment of error identified in the *Land Use Board of Appeals (LUBA No. 2013-057) Final Opinion and Order* dated November 6, 2013.

LUBA REQUEST FOR ADDITIONAL ANALYSIS

As shown on Page 9 (beginning on Line 17) of the LUBA *Final Opinion and Order* (Reference 1), the following language summarizes the request for additional analysis at the SE Yaquina Bay Road/SE Running Spring intersection:

The proposed log yard fronts Yaquina Bay Road, an arterial or collector street that meets SE Running Springs Road and, together, they form an intersection that is "along the site frontage and within the access spacing distance[] extending out from the boundary of [the proposed log yard's] frontage." NMC 14.45.030(A). Accordingly, the TIA was required to include and address that intersection. The city's finding that the supplemental TIA addresses the SE Running Spring Road/SE Yaquina Bay Boulevard intersection is not supported by substantial evidence in the record. The city's finding that the SE Running Spring Road/SE Yaquina Bay Boulevard intersection need not be considered, simply because it was not included under city staff scoping, is inconsistent with the text of NMC 14.45.030(A).

The second assignment of error is sustained.

The requested analysis is summarized in the following sections.

INTERSECTION OPERATIONS THRESHOLDS

Traffic operations at unsignalized intersections are generally described using a measure known as “level-of-service” in accordance with Highway Capacity Manual analysis procedures. Level of service represents ranges in the average amount of delay that motorists experience when passing through the intersection. Level-of-service is measured on an “A” (best) to “F” (worst) scale. At two-way stop-controlled intersections, level-of-service is reported based on the average delay experienced by the critical movement at the intersection, typically a left-turn (or a right-turn if no left-turns are present) from a stop-controlled street. A detailed description of level of service is provided in *Attachment A*.

Per conversations with City of Newport staff, the City has not adopted level-of-service standards for streets that are under its jurisdiction. Rather, City staff depends on the traffic engineer’s assessment of intersection level-of-service, volume-to-capacity ratio, and queuing analysis to assess intersection operations. This assessment is provided herein.

SE YAQUINA BAY ROAD/SE RUNNING SPRING INTERSECTION ANALYSIS

A supplemental analysis was prepared that addresses the anticipated level-of-service and volume-to-capacity ratio impacts at the SE Yaquina Bay Road/SE Running Spring intersection. Traffic volumes were collected on a typical mid-week day in November 2013 during the weekday a.m. (7:00-9:00 a.m.) and weekday p.m. (4:00-6:00 p.m.) commuter peak hours. The data is shown in *Attachment B*. Consistent with the January 2013 TIA, operations analyses were conducted with the traffic engineering software package *Synchro*.

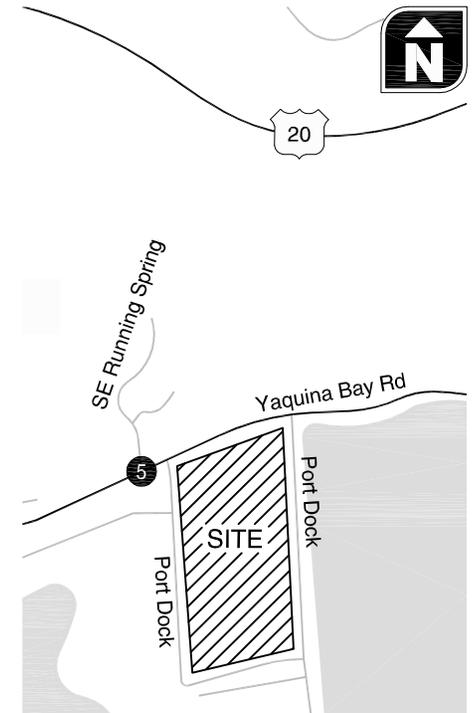
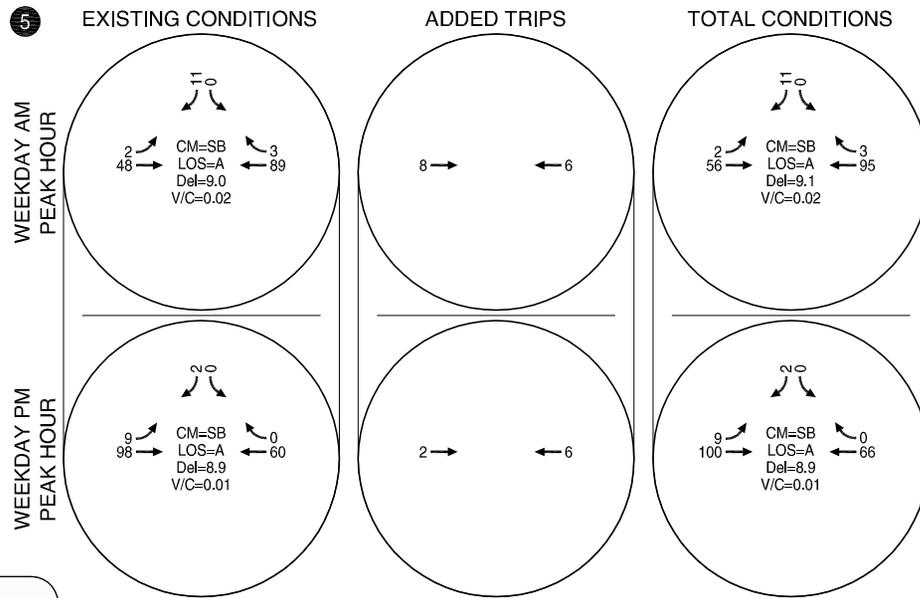
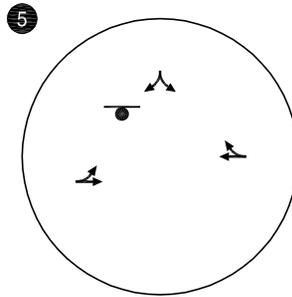
Existing Conditions Analysis

An existing conditions analysis was prepared for the SE Yaquina Bay Road/SE Running Spring intersection based on the traffic volume data collected. The intersection level-of-service evaluation uses the peak 15-minute flow rate during the weekday a.m. and p.m. peak hours. Using the peak 15-minute flow rate ensures that this analysis is based on a reasonable worst-case scenario. For this reason, the analysis reflects conditions that are only likely to occur for 15 minutes out of each average peak hour. The transportation system will likely operate under conditions better than those described in this memorandum during all other time periods.

The 2013 existing conditions analysis is summarized in Figure 1. As shown in Figure 1, the SE Yaquina Bay Road/SE Running Spring intersection operates at level-of-service “A” and volume-to-capacity ratios of 0.02 and 0.01 under weekday a.m. and p.m. peak hour conditions, respectively. The existing traffic operations output sheets are provided in *Attachment C*.

H:\profiles\13132 - Newport Lumber Yard\dwg\figs\13132_Fig02.dwg Nov 20, 2013 - 10:37am - darguea Layout Tab: 01

LANE CONFIGURATION



LEGEND

- = STOP SIGN
- CM = CRITICAL MOVEMENT (UNSIGNALIZED)
- LOS = INTERSECTION LEVEL OF SERVICE (SIGNALIZED)/CRITICAL MOVEMENT LEVEL OF SERVICE (UNSIGNALIZED)
- Del = INTERSECTION AVERAGE CONTROL DELAY (SIGNALIZED)/CRITICAL MOVEMENT CONTROL DELAY (UNSIGNALIZED)
- V/C = CRITICAL VOLUME-TO-CAPACITY RATIO

SE RUNNING SPRING/YAQUINA BAY ROAD SUPPLEMENTAL ANALYSIS
WEEKDAY AM AND PM PEAK HOURS
NEWPORT, OREGON

FIGURE
1

Trip Generation

The trip generation and assignment for this analysis is based on the January 2013 TIA¹. The added trips through the SE Yaquina Bay Road/SE Running Spring intersection were added in the eastbound and westbound direction for the weekday a.m. and p.m. peak hours and are summarized in Figure 1.

Total Conditions Analysis

The total traffic conditions analysis forecasts how the SE Yaquina Bay Road/SE Running Spring intersection is forecast to operate with the traffic generated by the proposed development. The estimated site-generated traffic was added to the existing traffic volumes during the weekday a.m. and p.m. peak hours (shown in Figure 1) to arrive at the total traffic volumes, also shown in Figure 1. As shown, the SE Yaquina Bay Road/SE Running Spring intersection is forecast to continue to operate acceptably during the weekday a.m. and p.m. peak hours. Table 1 below summarizes the impact of the added traffic to the SE Yaquina Bay Road/SE Running Spring intersection.

Table 1 Summary of Traffic Impacts at the SE Yaquina Bay Road/SE Running Spring intersection – Weekday PM Peak Hour

Performance Measure	Existing Traffic Operations (without site)		Total Traffic Operations (with site)	
	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour
Critical Movement	Southbound	Southbound	Southbound	Southbound
Level-of Service	A (Delay = 9.0 seconds)	A (Delay = 8.9 seconds)	A (Delay = 9.1 seconds)	A (Delay = 8.9 seconds)
Volume-to-Capacity Ratio	0.02	0.01 ¹	0.02	0.01 ¹
Southbound Queue	25 ²	25 ²	25 ²	25 ²

¹ Note: v/c ratio rounded up to the nearest 0.01

² Note: queues rounded up to the nearest 25 feet

As shown in Table 1, the SE Yaquina Bay Road/SE Running Spring intersection is forecast to continue to operate similarly to the existing conditions during both the weekday a.m. and p.m. peak hours. The total traffic operations output sheets are provided in *Attachment D*.

SUMMARY AND CONCLUSIONS

The analysis shown herein demonstrates that the SE Yaquina Bay Road/SE Running Spring intersection operates at level-of-service “A” both under both existing conditions and under total traffic conditions (includes the traffic impacts of the Teevin Bros. development). As such, the analysis complies with NMC 14.45.050(D) because the projected impacts are not forecast to cause excessive queuing or delays at the affected intersection, resulting in no significant impact.

¹ Refer to the January 2013 TIA: *Table 4 – Estimated Trip Generation*, and *Figure 5 – Estimated Trip Distribution Pattern and Site Generated Trips*

We trust this memorandum adequately addresses the second assignment of error identified in the *Land Use Board of Appeals (LUBA No. 2013-057) Final Opinion and Order* dated November 6, 2013. Please contact us if you have further questions or comments at 503-228-5230.

REFERENCES

1. Oregon Coast Alliance, The Landing at Newport Condominium Association, and Nancy Smock *versus* City of Newport, *Respondent*. November 6, 2013.

ATTACHMENTS

- A. Level-of-Service Description
- B. November 2013 Traffic Count Data
- C. Existing Traffic Operations Output Sheets
- D. Total Traffic Operations Output Sheets



Attachment A
Level-of-Service Description

LEVEL-OF-SERVICE AT UNSIGNALIZED INTERSECTIONS

Unsignalized intersections include two-way stop-controlled (TWSC) and all-way stop-controlled (AWSC) intersections. The 2000 Highway Capacity Manual provides models for estimating average control delay at both TWSC and AWSC intersections. Table B3 provides a qualitative description of each LOS category as it applies to unsignalized intersections, and Table B4 identifies the average control delay threshold point used as the boundary for each LOS category. LOS thresholds for the specific reviewing jurisdiction(s) are described in the body of the report.

Table A1
Level of Service Criteria for Unsignalized Intersections

Level of Service	Average Delay per Vehicle to Minor Street
A	<ul style="list-style-type: none"> Nearly all drivers find freedom of operation with very little time spent waiting for an acceptable gap. Very seldom is there more than one vehicle in queue.
B	<ul style="list-style-type: none"> Some drivers begin to consider the average control delay an inconvenience, but acceptable gaps are still very easy to find. Occasionally there is more than one vehicle in queue.
C	<ul style="list-style-type: none"> Average control delay becomes noticeable to most drivers, even though acceptable gaps are found on a regular basis. It is not uncommon for an arriving driver to find a standing queue of at least one additional vehicle.
D	<ul style="list-style-type: none"> Average control delay is long enough to be an irritation to most drivers. Average control delay is long because acceptable gaps are hard to find, because there is a standing queue of vehicles already waiting when the driver arrives, or both.
E	<ul style="list-style-type: none"> Drivers find the length of the average control delay approaching intolerable levels. Average control delay is long because acceptable gaps are hard to find, because there is a standing queue of vehicles already waiting when the driver arrives, or both. There may or may not be substantial excess capacity remaining at the intersection when this condition is encountered.
F	<ul style="list-style-type: none"> Most drivers encountering this condition consider the length of the average control delay to be too long. Average control delay is long because acceptable gaps are hard to find, because there is a standing queue of vehicles already waiting when the driver arrives, or both. There may or may not be substantial excess capacity remaining at the intersection when this condition is encountered.

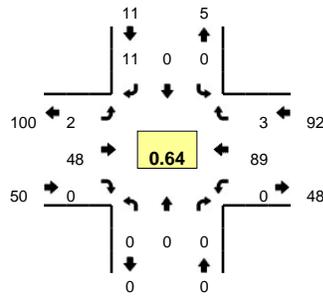
Table A2
Level of Service Criteria for Unsignalized Intersections

Level of Service	Average Control Delay per Vehicle (Seconds)
A	≤10
B	>10 and ≤15
C	>15 and ≤25
D	>25 and ≤35
E	>35 and ≤50
F	>50

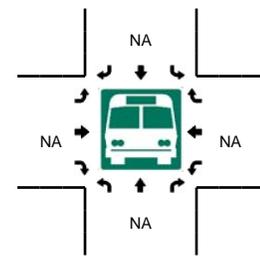
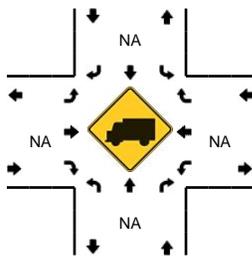
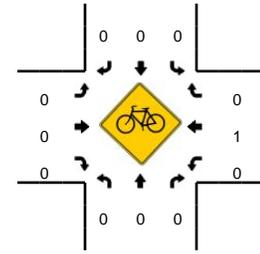
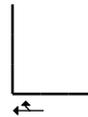
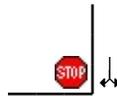
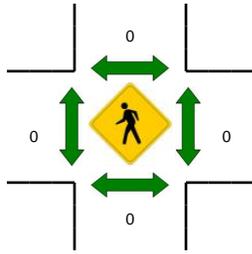
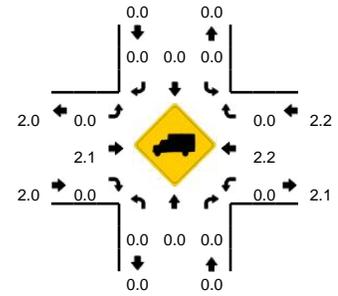
Attachment B
November 2013 Traffic
Count Data

LOCATION: SE Running Springs Dr -- Yaquina Bay Rd
CITY/STATE: Newport, OR

QC JOB #: 11377601
DATE: Thu, Nov 14 2013



Peak-Hour: 7:35 AM -- 8:35 AM
Peak 15-Min: 7:45 AM -- 8:00 AM

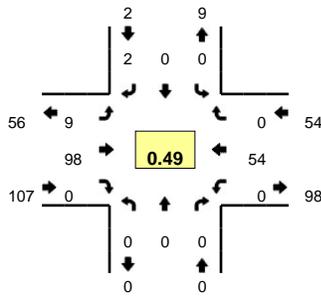


5-Min Count Period Beginning At	SE Running Springs Dr (Northbound)				SE Running Springs Dr (Southbound)				Yaquina Bay Rd (Eastbound)				Yaquina Bay Rd (Westbound)				Total	Hourly Totals
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
7:00 AM	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	2	
7:05 AM	0	0	0	0	0	0	0	0	0	3	0	0	0	6	0	0	9	
7:10 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	
7:15 AM	0	0	0	0	0	0	1	0	0	3	0	0	0	2	0	0	6	
7:20 AM	0	0	0	0	0	0	1	0	0	3	0	0	0	2	0	0	6	
7:25 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	4	
7:30 AM	0	0	0	0	0	0	0	0	0	3	0	0	0	3	0	0	6	
7:35 AM	0	0	0	0	0	0	0	0	0	3	0	0	0	5	0	0	8	
7:40 AM	0	0	0	0	0	0	1	0	0	4	0	0	0	9	0	0	14	
7:45 AM	0	0	0	0	0	0	3	0	0	5	0	0	0	10	2	0	20	
7:50 AM	0	0	0	0	0	0	0	0	0	6	0	0	0	14	0	0	20	
7:55 AM	0	0	0	0	0	0	2	0	0	5	0	0	0	13	0	0	20	117
8:00 AM	0	0	0	0	0	0	1	0	0	7	0	0	0	10	0	0	18	133
8:05 AM	0	0	0	0	0	0	1	0	0	2	0	0	0	5	1	0	9	133
8:10 AM	0	0	0	0	0	0	1	0	0	0	0	0	0	4	0	0	5	136
8:15 AM	0	0	0	0	0	0	1	0	1	4	0	0	0	4	0	0	10	140
8:20 AM	0	0	0	0	0	0	0	0	1	2	0	0	0	6	0	0	9	143
8:25 AM	0	0	0	0	0	0	0	0	0	6	0	0	0	7	0	0	13	152
8:30 AM	0	0	0	0	0	0	1	0	0	4	0	0	0	2	0	0	7	153
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8:40 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	5	0	0	5	144
8:45 AM	0	0	0	0	0	0	0	0	0	3	0	0	0	4	0	0	7	131
8:50 AM	0	0	0	0	0	0	0	0	0	2	0	0	0	5	0	0	7	118
8:55 AM	0	0	0	0	0	0	0	0	1	2	0	0	0	3	0	0	6	104
Peak 15-Min Flowrates	Northbound				Southbound				Eastbound				Westbound				Total	
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U		
All Vehicles	0	0	0	0	0	0	20	0	0	64	0	0	0	148	8	0	240	
Heavy Trucks	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	4	
Pedestrians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Bicycles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Railroad																		
Stopped Buses																		

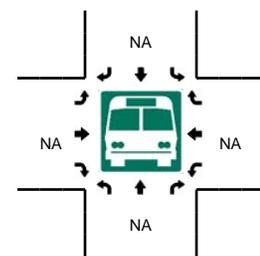
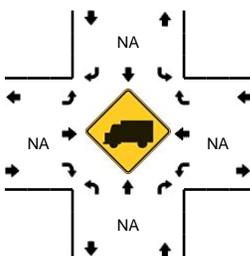
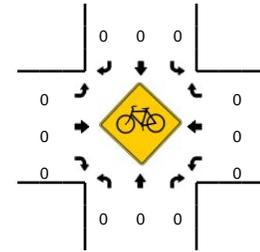
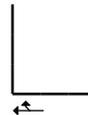
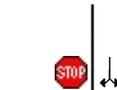
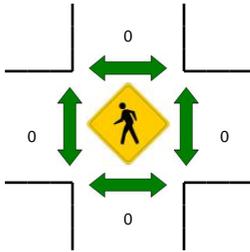
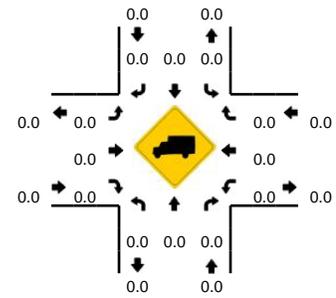
Comments:

LOCATION: SE Running Springs Dr -- Yaquina Bay Rd
CITY/STATE: Newport, OR

QC JOB #: 11377602
DATE: Thu, Nov 14 2013



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Peak 15-Min: 5:45 PM -- 6:00 PM



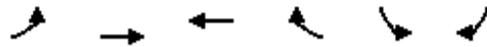
5-Min Count Period Beginning At	SE Running Springs Dr (Northbound)				SE Running Springs Dr (Southbound)				Yaquina Bay Rd (Eastbound)				Yaquina Bay Rd (Westbound)				Total	Hourly Totals	
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U			
4:00 PM	0	0	0	0	0	0	0	0	0	0	6	0	0	0	5	0	0	11	
4:05 PM	0	0	0	0	0	0	0	0	1	8	0	0	0	3	0	0	12		
4:10 PM	0	0	0	0	0	0	1	0	1	5	0	0	0	4	0	0	11		
4:15 PM	0	0	0	0	0	0	0	0	1	4	0	0	0	4	0	0	9		
4:20 PM	0	0	0	0	0	0	0	0	0	10	0	0	0	7	0	0	17		
4:25 PM	0	0	0	0	0	0	0	0	0	8	0	0	0	3	0	0	11		
4:30 PM	0	0	0	0	0	0	0	0	1	6	0	0	0	1	0	0	8		
4:35 PM	0	0	0	0	0	0	0	0	0	5	0	0	0	6	0	0	11		
4:40 PM	0	0	0	0	0	0	1	0	1	5	0	0	0	7	0	0	14		
4:45 PM	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	0	4		
4:50 PM	0	0	0	0	0	0	0	0	0	4	0	0	0	6	0	0	10		
4:55 PM	0	0	0	0	0	0	0	0	0	6	0	0	0	2	0	0	8	126	
5:00 PM	0	0	0	0	0	0	0	0	1	6	0	0	0	3	0	0	10	125	
5:05 PM	0	0	0	0	0	0	0	0	0	2	0	0	0	6	0	0	8	121	
5:10 PM	0	0	0	0	0	0	1	0	0	9	0	0	0	1	0	0	11	121	
5:15 PM	0	0	0	0	0	0	0	0	0	13	0	0	0	4	0	0	17	129	
5:20 PM	0	0	0	0	0	0	0	0	0	1	0	0	0	3	0	0	4	116	
5:25 PM	0	0	0	0	0	0	0	0	1	5	0	0	0	3	0	0	9	114	
5:30 PM	0	0	0	0	0	0	1	0	0	3	0	0	0	4	0	0	8	114	
5:35 PM	0	0	0	0	0	0	0	0	0	5	0	0	0	2	0	0	7	110	
5:40 PM	0	0	0	0	0	0	0	0	2	1	0	0	0	2	0	0	5	101	
5:45 PM	0	0	0	0	0	0	0	0	3	8	0	0	0	9	0	0	20	117	
5:50 PM	0	0	0	0	0	0	0	0	2	15	0	0	0	10	0	0	27	134	
5:55 PM	0	0	0	0	0	0	0	0	0	30	0	0	0	7	0	0	37	163	
Peak 15-Min Flowrates	Northbound				Southbound				Eastbound				Westbound				Total		
	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U	Left	Thru	Right	U			
All Vehicles	0	0	0	0	0	0	0	0	20	212	0	0	0	104	0	0	336		
Heavy Trucks	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Pedestrians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Bicycles	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Railroad																			
Stopped Buses																			

Comments:

Attachment C
Existing Traffic Operations
Output Sheets

HCM Unsignalized Intersection Capacity Analysis
 13: Yaquina Bay Blvd & SE Running Spring

2013 Existing Traffic Operations
 Weekday AM Peak Hour



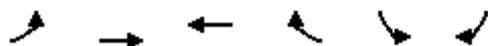
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↔	↔		↔	
Volume (veh/h)	2	48	89	3	0	11
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Peak Hour Factor	0.64	0.64	0.64	0.64	0.60	0.64
Hourly flow rate (vph)	3	75	139	5	0	17
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type		None	None			
Median storage (veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	144				223	141
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	144				223	141
tC, single (s)	4.1				6.4	6.2
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	100				100	98
cM capacity (veh/h)	1451				768	912

Direction, Lane #	EB 1	WB 1	SB 1
Volume Total	78	144	17
Volume Left	3	0	0
Volume Right	0	5	17
cSH	1451	1700	912
Volume to Capacity	0.00	0.08	0.02
Queue Length 95th (ft)	0	0	1
Control Delay (s)	0.3	0.0	9.0
Lane LOS	A		A
Approach Delay (s)	0.3	0.0	9.0
Approach LOS			A

Intersection Summary			
Average Delay		0.8	
Intersection Capacity Utilization		14.9%	ICU Level of Service A
Analysis Period (min)		15	

HCM Unsignalized Intersection Capacity Analysis
 13: Yaquina Bay Blvd & SE Running Spring

2013 Existing Traffic Operations
 Weekday PM Peak Hour



Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↔	↔		↔	
Volume (veh/h)	9	98	60	0	0	2
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Peak Hour Factor	0.49	0.49	0.49	0.49	0.49	0.49
Hourly flow rate (vph)	18	200	122	0	0	4
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type		None	None			
Median storage (veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	122				359	122
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	122				359	122
tC, single (s)	4.1				6.4	6.2
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	99				100	100
cM capacity (veh/h)	1477				635	934

Direction, Lane #	EB 1	WB 1	SB 1
Volume Total	218	122	4
Volume Left	18	0	0
Volume Right	0	0	4
cSH	1477	1700	934
Volume to Capacity	0.01	0.07	0.00
Queue Length 95th (ft)	1	0	0
Control Delay (s)	0.7	0.0	8.9
Lane LOS	A		A
Approach Delay (s)	0.7	0.0	8.9
Approach LOS			A

Intersection Summary			
Average Delay		0.6	
Intersection Capacity Utilization	22.3%		ICU Level of Service A
Analysis Period (min)	15		

Attachment D
Total Traffic Operations
Output Sheets

HCM Unsignalized Intersection Capacity Analysis
 13: Yaquina Bay Blvd & SE Running Spring

Total Traffic Operations
 Weekday AM Peak Hour



Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↔	↔		↔	
Volume (veh/h)	2	56	95	3	0	11
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Peak Hour Factor	0.64	0.64	0.64	0.64	0.60	0.64
Hourly flow rate (vph)	3	88	148	5	0	17
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type		None	None			
Median storage (veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	153				245	151
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	153				245	151
tC, single (s)	4.1				6.4	6.2
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	100				100	98
cM capacity (veh/h)	1440				747	901

Direction, Lane #	EB 1	WB 1	SB 1
Volume Total	91	153	17
Volume Left	3	0	0
Volume Right	0	5	17
cSH	1440	1700	901
Volume to Capacity	0.00	0.09	0.02
Queue Length 95th (ft)	0	0	1
Control Delay (s)	0.3	0.0	9.1
Lane LOS	A		A
Approach Delay (s)	0.3	0.0	9.1
Approach LOS			A

Intersection Summary			
Average Delay		0.7	
Intersection Capacity Utilization		15.2%	ICU Level of Service A
Analysis Period (min)		15	

HCM Unsignalized Intersection Capacity Analysis
 13: Yaquina Bay Blvd & SE Running Spring

Total Traffic Operations
 Weekday PM Peak Hour



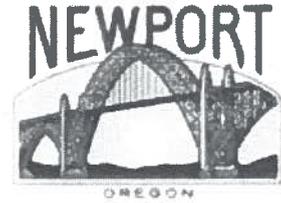
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↩	↩		↩	
Volume (veh/h)	9	100	66	0	0	2
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Peak Hour Factor	0.49	0.49	0.49	0.49	0.49	0.49
Hourly flow rate (vph)	18	204	135	0	0	4
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type		None	None			
Median storage (veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	135				376	135
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	135				376	135
tC, single (s)	4.1				6.4	6.2
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	99				100	100
cM capacity (veh/h)	1462				622	920

Direction, Lane #	EB 1	WB 1	SB 1
Volume Total	222	135	4
Volume Left	18	0	0
Volume Right	0	0	4
cSH	1462	1700	920
Volume to Capacity	0.01	0.08	0.00
Queue Length 95th (ft)	1	0	0
Control Delay (s)	0.7	0.0	8.9
Lane LOS	A		A
Approach Delay (s)	0.7	0.0	8.9
Approach LOS			A

Intersection Summary			
Average Delay		0.5	
Intersection Capacity Utilization		22.4%	ICU Level of Service
Analysis Period (min)		15	A

City of Newport

169 SW Coast Highway
Newport, OR 97365
P|541-574-3366 F|541-574-3301
<http://www.thecityofnewport.net/>



Memo

To: Derrick I. Tokos, AICP, Community Development Director

From: Timothy Gross, Director of Public Works/City Engineer

Date: 11/26/2013

RE: PROPOSED TEEVIN BROTHERS LOG PROCESSING YARD – NEWPORT, OR
LAND USE BOARD OF APPEALS - TRAFFIC IMPACT ANALYSIS (TIA) RESPONSE TO
COMMENTS

I have reviewed the memorandum dated November 26, 2013 by Kittleson & Associates, Inc. providing supplemental analysis of traffic operations at the SE Yaquina Bay Road/SE Running Spring intersection for the proposed Teevin Bros. Log Yard development.

Upon review of this memo and of the previously supplied studies dated February 12, 2013 from Kittleson & Associates, Inc. and February 27, 2013, from Stuntzner Engineering & Forestry, LLC, it is my finding as the City Engineer that the TIA sufficiently demonstrates that adequate transportation facilities exist to serve the proposed development, and that the development will not cause excessive queuing or delays at affected intersections.



EXP. 6/30/2015

CITY OF NEWPORT
NOTICE OF PUBLIC HEARING REGARDING
A LUBA REMAND ON TEEVIN BROS. TRAFFIC IMPACT ANALYSIS¹

NOTICE IS HEREBY GIVEN that the Land Use Board of Appeals (LUBA) issued a decision on an appeal that was filed on the approval of a Traffic Impact Analysis (File No. 1-TIA-13-A). Two of the petitioner's three grounds for appeal were denied. One was affirmed and the decision was remanded back to the City for further consideration on that point. The court found that analysis performed by Teevin Bros. traffic engineer did not adequately address the intersection of Running Springs Road and the Bay Road and; therefore, did not constitute "substantial evidence" that the City could rely upon to support an approval. Teevin Bros. is having its traffic engineer update the Traffic Impact Analysis with respect to this intersection and the City Council of the City of Newport, Oregon, will hold an evidentiary hearing on December 9, 2013, to consider and prepare supplemental findings on this narrow issue.

The following criteria will be evaluated in the narrow context of the remand: (Criteria for a Traffic Impact Analysis (NMC Section 14.45.050)) 1) The analysis complies with the requirements of NMC 14.45.020; 2) The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or identifies mitigation measures that resolve the traffic safety problems in a manner that is satisfactory to the City Engineer and, when state highway facilities are affected, to ODOT; and 3) Where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect an existing or planned transportation facility, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of OAR 660-012-0060; and 4) For affected non-highway facilities, the TIA establishes that any Level of Service standards adopted by the City have been met, and development will not cause excessive queuing or delays at affected intersections, as determined in the City Engineer's sole discretion; and 5) Proposed public improvements are designed and will be constructed to the standards specified in NMC Chapter 14.44 (Transportation Standards) or Chapter 13.05 (Subdivision and Partition), as applicable.

Testimony/Public Hearing: Testimony and evidence must be directed toward the criteria described above. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department (address under "Reports/Materials") must be received by 5:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the City Council.

Reports/Materials: The staff report may be reviewed or a copy purchased at the Newport Community Development Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials, copy of the issued Final Order, file materials, and the applicable criteria are available for inspection at no cost or copies may be purchased at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626 (address above in "Reports/Materials").

Time and Place of Hearing: Monday, December 9, 2013; 7:00 p.m. or shortly thereafter; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: November 19, 2013

PUBLISHED: November 30, 2013

¹ Notice of this action is being sent to the following: (1) Applicant and Appellants; (2) Those who have testified in writing; (3) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (4) affected public utilities within Lincoln County; and (5) affected city departments.

TEEVIN BROS. LAND & TIMBER CO
ATTN: PAUL LANGNER
PO BOX 247
RAINIER OR 97048

KITTLESON & ASSOCIATES INC
610 SW ALDER ST STE 700
PORTLAND OR 97205

PORT OF NEWPORT
ATTN: DON MANN
600 SE BAY BLVD
NEWPORT OR 97365

DOINA HIGH FAMILY TRUST &
DOINA HIGH
TRUSTEE
PO BOX 552
SILETZ OR 97380

NORTHWEST NATURAL GAS CO
DAVID W AIMONE TREASURY MGR
220 NW SECOND AVE
PORTLAND OR 97209-3943

RONDY'S & ASSOCIATES INC
C/O PORT OF NEWPORT LEASE
600 SE BAY BLVD
NEWPORT OR 97365

JOHN E WILES &
JOHN BECKER
PO BOX 2005
NEWPORT OR 97365

FOULWEATHER TRAWL
LEASE
PO BOX 311
NEWPORT OR 97365

NEWPORT BAY ESTATES
HOMEOWNERS' ASSN INC
ATTN: DAVID ROBERT TURNER
340 N COAST HWY
NEWPORT OR 97365

DAVID A & DEBBIE J SHELLSHEAR
1589 YAQUINA BAY RD
NEWPORT OR 97365

MATTHEW BURCHETTE
8838 N DANA AVE
PORTLAND OR 97203

ANTHONY & TERESA DAVI
PO BOX 453
NEWPORT OR 97365

PETER HEISLER
567 SE VISTA DR
NEWPORT OR 97365

ROBERT E DURADO
82 E NICHOLAS
KALISPELL MT 59901

STUNTZNER ENGINEERING &
FORESTRY LLC
PO BOX 118
COOS BAY OR 97420

Mailing Labels
Adjacent Properties

cc
Remnant

Bolduc, Rene
890 SE Bay Blvd
Newport, OR 97365

****undeliverable****
Bruce, Cynthia
PO Box 1546
Newport, OR 97365

Bruce, Mike & Robin
PO BOX 575
Gleneden Beach, OR 97388

****UNDELIVERABLE****
Bussey, Ernest A
1225 SE Wade Way
Newport, OR 97365

Byrd, Kay
890 SE Bay Blvd #305
Newport, OR 97365

Capri, David & Jill
PO Box 1022
Newport, OR 97365

Capri, Rex
255 NW 17th St
Newport, OR 97365

Coast Range Conifers LLC
Sara Leiman
26240 Cherry Creek Rd
Monroe, OR 97456

Crespo, Robert & Deborah A
826 SE Vista Dr
Newport, OR 97365

Cutler, Danielle
348A NW 55th St
Newport, OR 97365

Denison, Jim James
9602 Harlan Rd
Eddyville, OR 97343

Driver, Barry A
923 SE Bay Blvd #189
Newport, OR 97365

Eastburn, Corinne
344 SW 7th St Ste A
Newport, OR 97365

Eckus, David
923 SE Bay Blvd #42
Newport, OR 97365

Fogarty, Donna
PO Box 1105
Newport, OR 97365

****intervenor****
Fogarty, Yale
606 SW 13th St
Newport, OR 97365

****UNDELIVERABLE****
Forinash, Eunice
1202 SE Wade Way
Newport, OR 97365

Green, Gail
923 SE Bay Blvd #10
Newport, OR 97365

Greenlight Engineering
Rick Nys
13554 Rogers Rd
Lake Oswego, OR 97035

Haskell, Lois Ann & Robert
923 SE Bay Blvd #23
Newport, OR 97365

Holler, Patricia
1029 S Pine St
Newport, OR 97365

Hughitt, Lottie
923 SE Bay Blvd #37
Newport, OR 97365

Johnson, Barbara J
1270 SE Shermer Ct
Newport, OR 97365

Johnson, Glenda & Lawrence L
1270 SE Shermer Ct
Newport, OR 97365

Johnson, T C
1270 SE Shermer Ct
Newport, OR 97365

Kane, Joseph & Eileen
890 SE Bay Blvd #308
Newport, OR 97365

Keirnes, Sandra
923 SE Bay Blvd #14
Newport, OR 97365

Kelota, Lanny
656 NE Cherry Ln
Toledo, OR 97391

Knutson, Dorothy A
1151 SE Harbor Crescent Dr
Newport, OR 97365

****Appellant****
Malone, Sean
259 E Fifth Ave Ste 200-G
Eugene, OR 97401

Amend

Mazzeo, Fred
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Newport, OR 97365

McClannan, Joe
890 SE Bay Blvd #305
Newport, OR 97365

Mills, Rex
890 SE Bay Blvd #105
Newport, OR 97365

Morgan, Annabelle
17235 NW Lonerock Ln
Beaverton, OR 97006-4613

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747 SE Vista Dr
Newport, OR 97365

Murphy, Molly
1314 SE Rio Vista
Newport, OR 97365

ODOT
Valerie Grigg Devis
3700 SW Philomath Blvd
Corvallis, OR 97333

Olson, Lloyd
882 SE Crescent Pl
Newport, OR 97365

Oregon Small Woodlands Assn
Jim James
187 High St NE Ste 208
Salem, OR 97301

****undeliverable****
Oregon Small Woodlands Assn
Peter Bregman
1679 Bayview Dr
Waldport, OR 97394

Patterson, Valerie
890 SE Bay Blvd #313
Newport, OR 97365

****intervenor****
Pelletier, Gerald & Judith
1147 NE Canyon Dr
Toledo, OR 97391

****appellant****
Peterson, Mike
PO Box 1985
Newport, OR 97365

Peterson, Christy
PO Box 1985
Newport, OR 97365

Pierce, Charles
1346 SE Rio Vista
Newport, OR 97365

Portune, Leslie J
15070 Siletz Hwy
Siletz, OR 97380

Randall, E
923 SE Bay Blvd #35
Newport, OR 97365

Redding, Kevin
890 SE Bay Blvd
Newport, OR 97365

Rose, Kathy
890 SE Bay Blvd #219
Newport, OR 97365

Ruddiman, William & Rita
1778 Redwing Ct NW
Salem, OR 97304

Ruddiman, Diana
1778 Redwing Ct NW
Salem, OR 97304

****Intervenor****
Ruddiman, Pat
209 NE 10th Ct
Newport, OR 97365

Ruddiman, Tom
1778 Redwing Ct NW
Salem, OR 97304

Shell, Stan
895 SE Crescent Pl
Newport, OR 97365

Shubert, Linda & Eugene
PO Box 1132
Newport, OR 97365

****appellant****
Smock, Nancy
923 SE Bay Blvd #26
Newport, OR 97365

****appellant****
The Landing At Newport
Dee Shannon
890 SE Bay Blvd
Newport, OR 97365

Toy, Erick
1190 SE Bay Blvd
Newport, OR 97365

Trahan, Jackie & Roger E
PO Box 393
Newport, OR 97365

Tucker, Leon
923 SE Bay Blvd #37
Newport, OR 97365

Amended

**Turner, Michael L
923 SE Bay Blvd #25
Newport, OR 97365**

**VanderHeul, Hugh & Kim
2660 SE 3rd St
Corvallis, OR 97333**

**Wakefield, Marie
3054 Hwy 20
Newport, OR 97365**

**White, Nancy
415 SE Scenic Lp
Newport, OR 97365**

**White, Stella
923 SE Bay Blvd
Newport, OR 97365**

**Williams, Delores
448 SW Surf St Apt J
Newport, OR 97365**

**Wood, Michael
923 SE Bay Blvd #43
Newport, OR 97365**

**Young, Vera Irene
1264 SE Shermer Ct
Newport, OR 97365**

**Zumhoff, Kirk
415 SE Scenic Lp
Newport, OR 97365**

**Mailing Labels
Written Testimony**

Remund

BARTOLDUS, DENNIS
PO BOX 1510
NEWPORT OR 97365

CATALANO D.O., GIOVANNI
425 SE SCENIC LP
NEWPORT OR 97365

****Intervenor****
HALVERSON, ROBERT
985 SE 1ST ST
NEWPORT OR 97365

ALBRECHT, A D
PO BOX 535
NEWPORT OR 97365

****undeliverable****
O'DELL, PATRICIA
408 NW 60TH ST
NEWPORT OR 97365

ANDERSON, KAREN
261 NE 17TH ST
NEWPORT OR 97365

FLANNERY, ELENOR
6 NW COTTAGE ST
NEWPORT OR 97365

CURRENT RESIDENT
RANDY M.
6165 NE DEER LN
NEWPORT OR 97365

MARGARET SANFILIPPO LINDMARK
45 VIA LA CUMBRE
GREENBRAE CA 94904

HAND, LARRY & KAREN
1830 DOVE TAIL LN
EL DORADO HILLS CA 95762

****Intervenor****
FOGARTY, YALE
606 SW 13TH ST
NEWPORT OR 97365

****Intervenor****
GOBLISCH, GINNY
6720 OTTER CREST LP
OTTER CREST OR 97369

DAVIDSON, RIO
123 NW HURBERT ST
NEWPORT OR 97365

COOTER, TAJI
No address given

Mailing Labels
Additional comments
@ public hearing & open record

Remind

**SEAN T MALONE
ATTORNEY AT LAW
259 E 5TH AVE STE 200-G
EUGENE OR 97401**

**OREGON COAST ALLIANCE
PO BOX 5464
CHARLESTON OR 97420**

**MICHAEL PETERSON
PO BOX 1985
NEWPORT OR 97365**

**THE LANDING AT NEWPORT
CONDOMINIUM ASSN
ATTN: DEE SHANNON
890 SE BAY BLVD
NEWPORT OR 97365**

**NANCY SMOCK
923 SE BAY BLVD #26
NEWPORT OR 97365**

**Mailing Labels
Appellants**

Amend

SARA SKAMSER
PO BOX 311
NEWPORT OR 97365

ROB HALVERSON
985 SE 1ST ST
NEWPORT OR 97365

GINNY GOBLIRSCH
6720 OTTER CREST LP
OTTER CREST OR 97369

DALE SAUSE
1500 OAK TER
LAKE OSWEGO OR 97034-4674

GERALD PELLETIER
1147 NE CANYON DR
TOLEDO OR 97391

GRANT SNYDER
PO BOX 1230
DEPOE BAY OR 97341-1230

STEVE CULLEN
PO BOX 809
ASTORIA OR 97103-0809

YALE FOGARTY
606 SW 13TH ST
NEWPORT OR 97365

ILWU LOCAL 53
606 SW 13TH ST
NEWPORT OR 97365

PAT RUDDIMAN
209 NE 10TH CT
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ove, runners take off from the start of the 2013 Turkey Trot at the Port of Newport's South Beach Marina on Thursday, Nov. 28. The annual event, sponsored Coast Hills Running Club, is a fundraiser for the Newport Food Pantry's programs to provide weekend food packages to disadvantaged children throughout the community. (Photo by Rockne Roll)

ght, Evan Pardi of Yachats crosses the finish line to win the 10K Turkey Trot. Pardi, an All-American triathlete at the University of Oregon, finished the event in 34:23. Newport High School cross-country runner Michael Capri won the 5K event in a time of 17:42. (Photo by Rick Beasley)



OUTDOOR RECREATION REPORT

Mid Coast Lakes

The Siltcoos and Tahkenitch es wild coho fisheries are en for the season (Oct. 1-Dec. 1). Although the fishery remains w, this time of year is typi- the most productive. Look - the next good rain event to ally move some fish. Anglers have good success trolling casting spinners, spoons or s plugs near the lake outlets the major lake tributaries. An- rs are reminded that the daily lit is one adult coho per day d five for the season in agree- with the other lake and river ho fisheries.

Trout stocking in the Mid ast is done for the season and ll start back up in February 14. Many water bodies get cked multiple times per sea- n and can have a good num- r of carry-over fish available nglers with the fall and win- mths still productive. Fishing for warm water spe- s is slowing as lake tempera- es are starting to drop but can ll provide good opportunities. remouth bass, perch, blue- d and brown bullhead are the st common warm water fish. Florence area offers the st opportunity along the Mid -st such as Siltcoos, Tah- nitch, Woahnik, Sutton, and ceer lakes.

Alesea River: chinook, coho, steelhead

The wild coho fishery is slow fair in the river above tider. The recent rain and big les will keep some new fish oving in but the run is slowing wn for the season. The wild ho fishery is scheduled to run ough November. Anglers are lowed one wild adult coho per y and two wild adult coho for e season in aggregate with her coastal rivers with open ho fisheries.

The chinook fishery is slow. Most fish have moved onto the spawning grounds. This time of year is typically the tail end of the run with small pulses of new fish likely to continue moving in through the month. The new permanent salmon fishing dead- line is at Rivers Edge Park boat ramp.

Winter steelhead are just start- ing to show up in the lower-to mid-river. As river conditions continue to drop this week, an- gers should focus efforts in the lower river for the first returning steelhead. Casting spinners or drifting jigs or bait can be effec- tive techniques.

Big Creek: steelhead

A handful of winter steelhead have been collected at the hatch- ery. Fishing is slow, especially in the low, clear, cold water. Look for fishing to improve with more rain and additional fish entering the system.

Kilchis River: chinook, steelhead

Fishing for chinook is fair. Good numbers of fish entered the system on the last storm. Wa- ter conditions were getting low and clear over the weekend. The lower part of the system will pro- duce the best chance at brighter fish. Bobber fishing, backbounc- ing or pulling plugs should all produce some action. Small numbers of winter steelhead are in the river. Look for fishing to improve in the coming weeks.

Necanicum River: chinook, steelhead

Chinook fishing is past the peak, but a few fresh fish should be available. Target the deeper holes in the lower river for best chance at fresh fish. The first winter steelhead of the season have entered the system. Until

more rains draw fish upriver, fish the lower river as fish will likely hold up in the first few holes above tidewater. Clear cold water will make fish slug- gish, so fish slowly with light gear until conditions change.

Nehalem River and North Fork: chinook, coho, steelhead

Chinook fishing success is rapidly diminishing. High flows hurt fishing conditions, but the chinook run is well past its peak anyway. Fishing for wild coho in the bay is slow, and the season ends today. A few winter steelhead are available in the north fork. Fishing will be slow until conditions improve and more fish arrive.

Anglers who catch a steel- head or salmon with numbered tag(s) are encouraged to report catch information via the inter- net at or by calling ODFW at 503-842-2741 and asking for Derek Wiley. All live tagged fish that are not legal to retain or are voluntarily not kept should be released quickly and un- harmed with tags intact.

Nestucca River and Three Rivers: steelhead, chinook, coho

Fall chinook remains remains fair overall, with some good catches at times. Many fish are getting dark and should be released. Concentrate on the lower river for brighter fish. Backbouncing and bobber fishing are productive, with pulling plugs also more effective now that leaves are being washed out. The last open day for the wild coho fishery was Nov. 25. Fishing for winter steelhead has been slow, but there are some fish showing in the lower river. Three Rivers below the hatchery should provide the best opportu-

nity for early winter steelhead.

Salmon River: chinook

The chinook fishery has slowed way down and is near- ly over for the season. A small number of late returning chi- nook may still return through the month. Most fish have moved onto spawning grounds by this time of year. There are tempo- rary harvest regulations and new permanent gear restrictions in place. Anglers are advised to review all regulations prior to fishing the Salmon River.

Siletz River: chinook, coho, steelhead

The chinook fishery is slow as most fish have moved above the deadline and onto spawn- ing grounds. A small number of later returning chinook should continue to pulse in through the month. The coho fishery has also slowed with the best chances being above tidewater this time of year.

Summer steelhead fishing is slow but the winter steelhead run is just starting to kick in. Typically, the winter run does not get going well until later December but a few fish have already been caught or collected at trapping sites. Good bank ac- cess is from Moonshine Park up to the deadline. A variety of tactics can be effective such as bobber and jig, casting spinners or drifting egg patterns.

Siuslaw River: chinook, coho, steelhead

The chinook fishery is very slow as most of the run has moved onto the spawning grounds. Some later returning fish may continue to move in through the month. The wild coho fishery has also slowed way down but some can still be caught above tide water. Cast-

ing spinners tends to produce the best results for coho. Lake Creek is open to both chinook and coho angling (Oct. 16 - Nov. 30). The salmon fishing deadline is at Indian Creek.

The winter steelhead run is getting close and a small num- ber of fish may begin to return at any time. Fishing the lower river during lower flows should produce the best result early in the season. The fishery typically does not get into full swing until later December.

Tillamook Bay: chinook, coho

Fall chinook fishing is slow, but some fish will continue to be caught for several weeks. Troll- ing herring or spinners is the most common technique in the bay, with bobber and bait being effective in tidewater. The wild coho fishery is open Fridays and Saturdays only, through November. The last open day is today. Fishing overall remains slow.

Trask River: chinook, steelhead

Fishing for chinook has been good. Fresh fish were on the move and should be spread throughout the river. Water lev- els are dropping and clearing rapidly, with cold water tem- peratures during this stretch of clear weather. Look for all techniques to produce fish, in- cluding bobber and bait, back- bouncing, and pulling plugs. Casting large spinners could also produce some fish as the water drops and clears a little. An occasional winter steelhead is angling up also.

Anglers who catch a steelhead or salmon with numbered tag(s) are encouraged to report catch information via the internet at or by calling ODFW at 503-842-2741 and asking for Derek

Wiley. All live tagged fish that are not legal to retain or are voluntarily not kept should be released quickly and unharmed with tags intact.

Wilson River: steelhead, chinook

Fall chinook fishing has been good, but success is drop- ping off as the river drops and clears. Cold water is also mak- ing fish sluggish at times. The lower section of the river and tidewater still offers the best prospects for bright fish. Many fish are being caught on bobber and eggs/shrimp, backbounc- ing, or pulling plugs. Diver and bait can be effective also. Early winter steelhead are available in small numbers. Fishing is slow at this point, but expect to see improved numbers soon, espe- cially if we get more rain.

Yaquina River: chinook, coho, steelhead

The chinook fishery is slow- ing down quickly. Upper tide water has been the best place to focus on this time of year. The recent rains and big tide series helped move some more fish in but the run is nearing the end. Bobber fishing has been pro- ductive in upper tidewater and trolling spinners or herring are producing as well.

The wild coho fishery has also slowed down considerably with some catch still being reported from mid-to upper-tidewater. Anglers are having the best suc- cess for coho trolling spinners during the incoming tide.

Winter steelhead are just start- ing to return to Big Elk Creek. This fishery typically peaks De- cember and January. Look for the next good rain event to kick start the season. Casting spin- ners or drifting jigs or bait un- der a bobber can produce good results.

Newport News - November 30, 2013

PUBLIC NOTICES

LEGAL DEADLINES

WEDNESDAY
EDITION: 5:00pm
Thursday Prior

FRIDAY EDITION:
5:00pm Tuesday
Prior

NOTICE OF SHERIFF'S SALE #13-1273
On December 9, 2013, at 10:00 a.m. at the Lincoln County Sher- iff's Office, 225 W Olive St, Room 204, in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemp- tion, in real property commonly known as 23 NW 37th St, Lin- coln County, Oregon 97127. The court case number is 119. Aurora Bank, a creditor and plaintiff, vs. David L Berger and all other parties unknown interest in the real property or interest in the real property commonly known as 23 Northwest 37th Street, Lincoln County, Oregon 97127 defendants. This is a public auction to the highest bidder for cash. The sheriff's check in hand, or more details go to <http://www.oregonsheriff.com> or <http://www.lincolncounty.com/sales> or call N-8-15-22 (971-291)

CONSTRUCTIVE NOTICE
LEGAL NOTICE
I, D. O. D. that Chris- topher Walker, Laura-LaVerna Walker, Maya-Laurita Walker, and Christopher Robert Walker, are the owners of the property known as 450 NE Lane Street, Clatsop County, Oregon 97131. The court case number is 124027. JP Bank Chase Bank National

Association, plaintiff(s) vs. Gary D. Northeast, Logan K. Nelson, Karen McCallister, Riverview Commu- nity Bank, Occupants of the Property defendant(s). This is a public auction to the highest bidder for cash or cashier's check. For more details go to <http://www.oregonsheriff.com/sales-lincoln.htm>. N-22, D-8, 13 (08-13)

NOTICE OF SHERIFF'S SALE #13-1340
On December 30, 2013, at the hour of 10:00 a.m. at the Lincoln County Sher- iff's Office, 225 W Olive St, Rm 204 in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemp- tion, in the real property commonly known as: 5010 Northeast Logan Ave, Lincoln City, Ore- gon 97127. The court case number is 113392. U.S. BANK NATIONAL ASSO- CIATION, AS TRUSTEE FOR SASCO 2007 BNC1, Plaintiff, vs. CHRISTOPHER ROBERT WALKER, LAURA LAURITA WALKER, MAYA-LAURITA WALKER, and CHLOE SKY WALKER, who- ever shall have any lawful claim to the contrary has sixty (60) days from the date of this publication to pre- sent your claim or title, or forever hold your peace. CHRISTOPHER ROBERT WALKER, LAURA LAURITA WALKER, MAYA-LAURITA WALKER, and CHLOE SKY WALKER, are the owners of the property known as 450 NE Lane Street, Clatsop County, Oregon 97131. The court case number is 124027. JP Bank Chase Bank National

Association, plaintiff(s) vs. Gary D. Northeast, Logan K. Nelson, Karen McCallister, Riverview Commu- nity Bank, Occupants of the Property defendant(s). This is a public auction to the highest bidder for cash or cashier's check. For more details go to <http://www.oregonsheriff.com/sales-lincoln.htm>. N-22, D-8, 13 (08-13)

NOTICE OF SHERIFF'S SALE #13-1321
On December 30, 2013, at the hour of 10:00 a.m. at the Lincoln County Sher- iff's Office, 225 W Olive St, Rm 204 in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemp- tion, in the real property commonly known as: 151 N.W. Ginstead Street, Siletz, OR 97130. The court case number is 123698. Deutsche Bank National Trust Company, as trustee for Long Beach Mortgage Loan Trust 2007-1, plaintiff vs. Cole W. Washington, Mutual Capital One Bank, JPMorgan Chase Bank, National Association, successor in interest by purchase from the Fed- eral Deposit Insurance Corporation as receiver of Washington Mutual Bank successor in inter- est to Long Beach Mor- gage Company, State of Washington, Mutual Capital One Bank (USA) N.A., other persons or parties, including occu- pants of unknown claim- ing any right, title, lien, or interest in the property described in the com-

plaint herein defendants. This is a public auction to the highest bidder for cash or cashier's check. For more details go to <http://www.oregonsheriff.com/sales-lincoln.htm>. N-22, D-8, 13 (08-13)

CITY OF TOLEDO REQUEST FOR PROPOSALS REAL ESTATE AGENT OF RECORD
The City of Toledo invites applications from licensed agents or brokers to act as Real Estate Agent of Record for the City of Toledo in the areas of property bonding, and liability. The City invites qualified individuals or firms to submit proposals based upon the scope of work contained in the RFP. Proposal instructions and documents are available at <http://www.cityoftoledo.com> or by contacting the City Manager, PO Box 220, Toledo, OH 41601-0220, on December 5th, 2013 at 3:00pm. Facsimile proposals will not be accepted. Late proposals will be returned to the applicant unopened. ORS 27B.025 provides that the public contracting agency may reject any proposal not in compliance with all pre- scribed public bidding procedures and require- ments. The City of Toledo may accept or reject any and all proposals in accordance with ORS 27B. 100. The City of Toledo's pro- grams, services, employ- ment opportunities, and policies do not discriminate on the basis of race, religion, color, national origin, sex, age, marital status, or disability. The City of Toledo will hold an evidentiary hearing on December 5, 2013, at 7:00 p.m. or thereafter in the City Hall Council Chambers in order to consider

NOTICE
You are invited to attend Lincoln Soil and Water Conservation Districts 58th Annual Meeting. WHEN: December 12, 2013. WHERE: Newport, Oregon. 6:00 PM - 7:00 PM, Pre- sentation and Awards: 7:00 PM - 10:00 PM. WHERE: Newport, Ore- gon. The Staff Presents - A Year in Review. This year's meeting is a business meeting with a dinner. Seating is limited and RSVP for dinner is required by Decem- ber 9, 2013. Phone: 541- 265-2631. Email: lanyn@lincolncounty.com. N-29, D-4, 6, 11 (1-11)

CITY OF NEWPORT NOTICE OF PUBLIC HEARING REGARDING A LUBA REMAND ON TEVIN BROS. TRAFFIC IMPACT ANALYSIS
The Land Use Board of Appeals (LUBA) issued a decision on an appeal that was filed on the approval of ORS 660-01-006. The appeal is for affected non-highway facilities, the TIA establish- ers that any Level of Ser- vice (LOS) standard the City have been met, and development will not cause excessive queuing or delays at affected inter- sections, as determined in the City Engineer's sole discretion. The propo- sed public improve- ments are designed and will be constructed to meet the standards specified in NMC Chapter 14.44 (Transportation Standards) or Chapter 12.05 (Subdi- vision and Partition), as applicable. Testimony and evidence must be presented toward the cri- teria described above. Failure to raise an issue in a timely manner will preclude its consideration. The City Council of Newport, Ore- gon, will hold an evidentiary hearing on December 5, 2013, at 7:00 p.m. or thereafter in the City Hall Council Cham- bers in order to consider and prepare supplement- ary findings on this nar- row issue. The following criteria will be evaluated in the narrow context of the remand: (Criteria for Traffic Impacts: NMC 14.45.020; 1) The analysis complies with the requirements of NMC 14.45.020; 2) The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or identifies mitigation measures that resolve a traffic safety problem in a manner that is satisfac- tory to the City Engineer and where state highway facilities are affected, to ODOT; and 3) Where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect existing or planned transportation facilities, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of ORS 660-01-006. For affected non-highway facilities, the TIA establish- ers that any Level of Ser- vice (LOS) standard the City have been met, and development will not cause excessive queuing or delays at affected inter- sections, as determined in the City Engineer's sole discretion. The propo- sed public improve- ments are designed and will be constructed to meet the standards specified in NMC Chapter 14.44 (Transportation Standards) or Chapter 12.05 (Subdi- vision and Partition), as applicable. Testimony and evidence must be presented toward the cri- teria described above. Failure to raise an issue in a timely manner will preclude its consideration. The City Council of Newport, Ore- gon, will hold an evidentiary hearing on December 5, 2013, at 7:00 p.m. or thereafter in the City Hall Council Cham- bers in order to consider

PUBLIC SALE ANNOUNCEMENT
On December 18th 2013 a public sale will be held at Deal Stores, 205 SW Dahl Ave, PO Box 1559, Willaport, OR 97146. 841-683-8111. Fax: 841-683-7373. Contents of unit #WB020, rented by Natasha Hernandez. The aforementioned party/parties can contact us prior to the sale. We reserve the right to reject all bids/sales. N 30, D 6 (13-06)

LEGAL DEADLINES
WEDNESDAY Edition: 5:00pm Thursday
FRIDAY Edition: 5:00pm Tuesday