



## **AGENDA & Notice of Planning Commission Work Session Meeting**

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The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, August 12, 2013**, at the Newport City Hall, Conference Room "A", 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting 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 of Newport Planning Commission 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.

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### **NEWPORT PLANNING COMMISSION Monday, August 12, 2013, 6:00 P.M.**

#### **AGENDA**

#### **A. New Business.**

1. Discuss changes to NMC Section 12.15 (System Development Charges (SDCs)); more specifically Credits (12.15.065).

#### **B. Adjournment.**

# Memorandum

To: Newport Planning Commission/Advisory Committee  
From: Derrick Tokos, Community Development Director   
Date: August 8, 2013  
Re: Changes to System Development Charge Credits

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At your June 24, 2013 work session, staff provided an overview of the City of Newport's System Development Charge Program. A similar presentation was made to the City Council on July 1, 2013. Both the Council and Commission expressed interest in making adjustments to the credits the City offers to ensure that System Development Charges (SDCs) are only being collected for development that has an impact on the system.

To assist with this conversation, I have enclosed a copy of the credit section of the City's SDC Ordinance, a memo that I prepared for the Council in May outlining potential revisions, a copy of the relevant statute, and copies of ordinances dealing with SDC credits from the following organizations:

- Ashland
- Bend
- Corvallis
- League of Oregon Cities (model code)
- Lincoln City
- Newberg

The only credit that cities are required to offer is for a qualified public improvement. That is the approach Corvallis has taken. It is common that jurisdictions offer a credit for existing improvements that are connected to services. Others go a step further and offer credits for not only what is on the property, but was previously on the property if it was a more intense use (e.g. Newport).

Some questions to think about:

- Should the City limit its credits to qualified public improvements?
- If the City offers credits to new development for pre-existing improvements, should the credits be 100% or a reduced amount?
- Should credits continue to be transferable?
- Is it appropriate for the City to continue to offer credits when a use no longer exists on a property?
- Might the city want to treat credits for some categories of capital projects different from others (storm drainage being a prime example)?

A valid reason to offer a credit to an existing use is that the impact of that improvement on the system has presumably been accounted for in the past. That is particularly true if SDCs were paid. Not so much, if they were not paid. There are also valid reasons to prorate credits for existing uses or not to offer them at all. They include the fact that costs for upgrading capital facilities only go up over time and that infrastructure doesn't last forever; so why should credits be perpetual as sites redevelop.

I look forward to your feedback on Monday!

## CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES

### 12.15.065 Credits

A. When redevelopment occurs, the amount of SDCs payable shall be determined by the following rules:

1. If SDCs had been previously paid for the property, a credit in the amount of the SDCs that would be payable for the existing structure and use under the current fee schedule shall be provided. For purpose of this section, "existing structure and use" means the structure and use for which SDCs have been paid. At the time of redevelopment, if the SDCs payable for the new structure and/or use exceed the amount of the credit, the difference shall be paid to the city. This rule applies regardless of the length of time between the end of the prior use and the redevelopment. Redevelopment to a use that results in a lower SDC amount does not reduce the amount of credit to be provided at the time of any future redevelopments.

Examples:

*SDCs had been paid for three dwelling units on a property and the property is redeveloped with five dwelling units. A credit for three dwelling units' worth of SDCs will be provided, so the amount payable would be the amount for two dwelling units.*

*SDCs had been paid for two dwelling units and the property is redeveloped with a large retail use, with both residential units eliminated. The SDCs would be the difference between the SDCs payable for the new commercial structure and use and the SDCs that would be charged for two dwelling units.*

*SDCs were paid based on restaurant use, but then the property was converted to another retail use with lower SDCs. The property is then reconverted back to restaurant use, using exactly the same configuration as the original restaurant. At the time of the conversion to retail use, no SDCs are payable, because the amount payable is less than the credit. The credit for restaurant use remains with the property, so at the time of reconversion to restaurant use, no additional SDCs are payable, because the credit remained in effect and the credit for the original use is exactly the same as the amount that is owed, so no payment is required, even if the SDC rates have increased in the interim.*

2. If no SDCs have been previously paid for the property, a credit in the amount of the SDC charges under the current fee schedule for any structure and use of the property in the previous 30 years shall be provided. No credit shall be provided if there has been no use of the property for 30 years, regardless of any structures that may exist on the property. No refund or credit shall be given if the redevelopment results in a lower SDC.

- B. On termination of a use for which SDCs have been paid, a credit certificate shall be issued on written request of the property owner.
1. The credit shall be for water, sewer and transportation SDC improvement fees only.
  2. The credit shall be based on a "unit" basis, not on a "dollar" basis. The credit shall be for a specific number of EDUs, trips, or other units on which the SDC amount is calculated.
  3. The amount of the credit issued in the certificate shall be deducted from the credit authorized by Subsection A.1 of this section for the property where the use was terminated.
  4. If all structures are removed from the property, the amount of the credit may equal the full amount of the credit the property is entitled to under Subsection A.1 of this section. If structures remain on the property, the issuance of the certificate may not cause the amount of credit remaining on the property to be less than the amount of SDCs to allow use of the property without payment of additional SDCs, assuming the structure is used for the type of use with the lowest SDC rates consistent with the type of structure.
  5. The credit certificate may be transferred and used anywhere in the city within five years of the date of issuance. If the credit is not used within five years, it shall be automatically applied to the property where the use was terminated.
- C. A credit of the improvement fee portion of the SDC only shall be given to the permittee against the cost of the SDC charged, for the cost of a qualified public improvement incurred by the permittee, upon acceptance by the city of the public improvement. The credit shall not exceed the amount of the improvement fee even if the cost of the capital improvement exceeds the improvement fee.
1. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request shall be filed in writing no later than 60 days after acceptance of the improvement by the city. The city may deny the credit provided for in this section if the city demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought is not included in the SDC Project List.

2. When construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project or otherwise imposed on the same property.
  3. Credits for qualified public improvements shall not be transferable from one property to another but may be used for future phases of development, redevelopment or change in use of the property.
  4. Credit for qualified public improvements shall not be transferable from one type of capital improvement to another.
  5. Credits for qualified public improvements shall be used within 10 years from the date the credit was given.
  6. If the public improvement for which a credit is sought is not on the SDC Project List, the applicant may submit an application for both the credit and for the placement of the improvement on the SDC project list. If the city manager determines that the project is of a type and location that is appropriate for inclusion, the project shall be added to the SDC Project List and a credit may be given, but the addition of the project shall not change the SDC amount payable by others.
- D. The extent of the property to be considered in computing and allocating credits shall be stated by the applicant, and the applicant must have written authorization from the property owner(s). If properties under different ownership are developed together, the city may require the applicants to specify where any credits for the provision of capital improvements may be used and under which circumstances. Two or more contiguous properties may pool existing SDC credit rights as part of a common scheme for redevelopment of the contiguous properties.
- E. For all credits under any portion of this section, the property owner is responsible for providing the facts justifying a credit.

# Memorandum

To: Newport City Council

From: Derrick Tokos, Community Development Director 

Date: May 16, 2013

Re: Potential Revisions to the City of Newport's System Development Charge Ordinance

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This memo outlines potential options for revising the System Development Charge (SDC) Ordinance to address issues of fairness that have come up in relation to how those charges are assessed to new development. Staff has vetted these options with legal counsel to confirm that they are conceptually within the bounds of what can be done considering statutes that govern the structure of SDC programs.

At the May 6<sup>th</sup> Council meeting, Dennis Bartoldus, attorney for the owner of the Coffee House, pointed out that the City does not collect SDCs for certain restaurant patio expansions. Nana's Irish Pub was cited as an example. He further noted the inequity in this considering that his client is being required to pay SDCs to enclose a restaurant deck area.

NMC 12.15.050(A) of the City's SDC Ordinance sets out when SDC charges are to be collected. It reads as follows:

***12.15.050 Collection of Charge***

***A. The SDC is payable on:***

- 1. Issuance of a building permit or any construction activity for which a building permit is required but not obtained.***
- 2. Issuance of a development permit or approval for development not requiring the issuance of a building permit. A permit or approval to connect to the water and/or sewer system;***
- 3. Issuance of a permit to connect to the water system or actual connection to the water system if a permit is not obtained.***
- 4. Issuance of a permit to connect to the sewer system or actual connection to the sewer system if a permit is not obtained.***

In the case of Nana's Irish Pub, no permit was required in order for the business to use the patio area. The business is not in an area where the City's Zoning Ordinance requires a condition use permit or other form of land use approval, no construction was done that would require a building permit, and there were no new connections to the water or sewer system. Therefore, while the use was clearly intensified, the Ordinance does not provide for the collection of SDC charges.

The City's SDC ordinance is very similar to the model ordinance put out by the League of Oregon Cities <http://www.orcities.org/portals/17/A-Z/finadm273c.pdf>. In fact, it appears that most jurisdictions in Oregon use the League's model language in some fashion. The City of Newport's SDC Ordinance does not include language from the model ordinance that would allow SDCs to be collected for development that does not otherwise require a permit. That language reads as follows:

*If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.*

A number of jurisdictions have elected not to use this language. I suspect that is because of the difficulty in implementing such a provision. While this approach would allow SDCs to be collected for uses such as Nana's restaurant patio expansion or say the pavement of privately owned gravel parking areas or driveways (which in most cases also does not require City permits) the City would be forced to collect those SDC after the development is initiated. In some cases, such as paving, it would be difficult to even identify when or where work was done. Further, those who conducted the development would be assessed fees that they would not have anticipated after they have committed to or completed the development. For these reasons, I would not recommend adding this type of language to the SDC Ordinance at this point in time.

With regards to SDC credits, the Council may want to take a fresh look at language in its Ordinance that applies to circumstances where an existing use on a property never paid SDCs. This would apply to development that occurred prior to the 1980's. In such cases, where SDCs were never paid, a credit is nonetheless given for any use of the property within the last 30 years. A number of jurisdictions allow credits for uses or structures that are present on a property but being replaced; however, none that I have observed allow a credit for uses or structures that cease to exist on a property for such a long period of time. The City's capital improvement system changes too much over a 30 year period for this type of credit to be effective. Alternative language that aligns with the League of Oregon Cities model ordinance is listed below. This same language is used by a number of jurisdictions and can be supplemented to ensure that circumstances such as replacement due to fire or similar casualty loss also receive a credit (Umpqua Bank would be an example). Adjustments to the language would also be needed to fit it into the structure of the existing ordinance. Had the 30 year credit not existed, then a project like Teevin Bros. log yard would have been required to pay SDCs for the impact of its project on the City's transportation system.

Another option would be to eliminate the credit for existing development where SDCs have never been paid. A number of jurisdictions take this approach, reasoning that the impact of the original development on the capital system (i.e. the need for the City to expand the system moving forward) was never captured so therefore a credit is not warranted. It would; however, mean that redevelopment in areas such as the City Center District would be subject to SDCs. For example, the new Walgreens, which took advantage of this credit, would have been subject to the charges.

#### **12.15.065 Credits**

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~~2. If no SDCs have been previously paid for the property, a credit in the amount of the SDC charges under the current fee schedule for any structure and use of the property in the previous 30 years shall be provided. No credit shall be provided if there has been no use of the property for 30 years, regardless of any structures that may exist on the property. No refund or credit shall be given if the redevelopment results in a lower SDC.~~

*When development occurs that is subject to a SDC, the SDC for the existing use, if applicable, shall be calculated and if it is less than the SDC for the use that will result from the development, the difference between the SDC for the existing use and SDC for the proposed use shall be the SDC. Current rates for SDC fees shall be used when calculating the SDC charge for the existing use. If the change in use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC shall be required. No refund or credit shall be given if the proposed use results in a lower SDC.*

Another change to the SDC Ordinance that the Council may want to consider gets at the proportion of SDC fees in relation to the overall cost of a project, a concern raised in The Coffee House appeal. The City could, for example, cap its assessments at 20% of construction value. Such a cap could be included in the credit section of the ordinance or a separate section that speaks specifically to limitations on SDC assessments. This approach is similar to that taken by the Oregon legislature with respect to compliance with ADA requirements, where out of pocket expenses for a developer are capped at 25% of project cost. Sample language is listed below. I am not aware of any other jurisdictions that have taken this approach.

*Notwithstanding the other provisions of this chapter, under no circumstance shall the SDC exceed 20% of the construction value of a proposed use. The value of proposed construction shall include labor and materials costs and the City may require that it be established by a detailed estimate from a licensed contractor. In the event an SDC exceeds the 20% limit, it shall be reduced proportionally for each capital improvement category so that the total SDC is 20% of the construction value of the proposed use.*

When considering these or other changes to the City's SDC Ordinance, the Council should keep in mind the purpose of assessing the charges. That is, that new development contributes to the need to expand/enlarge the City's water, sewer, and storm drainage systems; its street network; and parks program. Adjusting SDC credits influences how much of that burden is placed on the developer as opposed to the rate payers. Several of the capital projects driving the rate increases that the Council is currently considering are not simply needed to meet the demand of the City's existing businesses and residents, but are required to provide capacity to accommodate future growth.

If, after reviewing these options, the Council wants to see revisions made to the SDC Ordinance than it should specify the nature of those changes so that staff can prepare the necessary amendments for consideration at a future Council meeting.

**223.304 Determination of amount of system development charges; methodology; credit allowed against charge; limitation of action contesting methodology for imposing charge; notification request.** (1)(a) Reimbursement fees must be established or modified by ordinance or resolution setting forth a methodology that is, when applicable, based on:

- (A) Ratemaking principles employed to finance publicly owned capital improvements;
- (B) Prior contributions by existing users;
- (C) Gifts or grants from federal or state government or private persons;
- (D) The value of unused capacity available to future system users or the cost of the existing facilities; and

(E) Other relevant factors identified by the local government imposing the fee.

(b) The methodology for establishing or modifying a reimbursement fee must:

(A) Promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.

(B) Be available for public inspection.

(2) Improvement fees must:

(a) Be established or modified by ordinance or resolution setting forth a methodology that is available for public inspection and demonstrates consideration of:

(A) The projected cost of the capital improvements identified in the plan and list adopted pursuant to ORS 223.309 that are needed to increase the capacity of the systems to which the fee is related; and

(B) The need for increased capacity in the system to which the fee is related that will be required to serve the demands placed on the system by future users.

(b) Be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(3) A local government may establish and impose a system development charge that is a combination of a reimbursement fee and an improvement fee, if the methodology demonstrates that the charge is not based on providing the same system capacity.

(4) The ordinance or resolution that establishes or modifies an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. A "qualified public improvement" means a capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

(a) Not located on or contiguous to property that is the subject of development approval; or

(b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(5)(a) The credit provided for in subsection (4) of this section is only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under subsection (4)(b) of this section may be granted only for the cost of that portion of such improvement that exceeds the local government's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under subsection (4)(b) of this section.

(b) A local government may deny the credit provided for in subsection (4) of this section if the local government demonstrates:

(A) That the application does not meet the requirements of subsection (4) of this section; or

(B) By reference to the list adopted pursuant to ORS 223.309, that the improvement for which credit is sought was not included in the plan and list adopted pursuant to ORS 223.309.

(c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. This subsection does not prohibit a local government from providing a greater credit, or from establishing a system providing for the transferability of credits, or from providing a credit for a capital improvement not identified in the plan and list adopted pursuant to ORS

223.309, or from providing a share of the cost of such improvement by other means, if a local government so chooses.

(d) Credits must be used in the time specified in the ordinance but not later than 10 years from the date the credit is given.

(6) Any local government that proposes to establish or modify a system development charge shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.

(7)(a) Written notice must be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the system development charge must be available at least 60 days prior to the first hearing. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the local government. The local government may periodically delete names from the list, but at least 30 days prior to removing a name from the list shall notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

(b) Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days following adoption or modification of the system development charge ordinance or resolution by the local government. A person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100.

(8) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge methodology if the change in amount is based on:

(a) A change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to ORS 223.309; or

(b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:

(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;

(B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and

(C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order. [1989 c.449 §4; 1991 c.902 §28; 1993 c.804 §20; 2001 c.662 §3; 2003 c.765 §§4a,5a; 2003 c.802 §21]

upon averages and typical conditions. Whenever the impact of individual developments present special or unique situations such that the calculated fee is grossly disproportionate to the actual impact of the development, alternative fee calculations may be approved or required by the City Administrator under administrative procedures prescribed by the City Council. All data submitted to support alternate calculations under this provision shall be site specific. Major or unique developments may require special analyses to determine alternatives to the standard methodology.

G. When an appeal is filed challenging the methodology adopted by the City Council, the City Administrator shall prepare a written report and recommendation within twenty (20) working days of receipt for presentation to the Council at its next regular meeting. The council shall by resolution, approve, modify or reject the report and recommendation of the City Administrator, or may adopt a revised methodology by resolution, if required. Any legal action contesting the City Council's decision in the appeal shall be filed within sixty (60) days of the Council's decision.

**4.20.060 Compliance with State Law**

A. The revenues received from the systems development charges shall be budgeted and expended as provided by state law. Such revenues and expenditures shall be accounted for as required by state law. Their reporting shall be included in the City's Comprehensive Annual Financial Report required by ORS Chapter 294. Reimbursement Fees shall be spent on capital improvements associated with the systems for which the fees are assessed. Improvement fees shall be spent only on capacity increasing improvements. The portion of such improvements funded by improvement SDCs must be related to current or projected development.

B. The capital improvement plan required by state law as the basis for expending the public improvement charge component of systems development charge revenues shall be the Ashland Capital Improvements Plan (CIP) or public facility plan and the CIP of any other governmental entity with which the City has a cooperative agreement for the financing of commonly used public improvements by the collection of systems development charges, provided the plan is based on methodologies conforming with State Law and is consistent with the City's CIP and the City's Comprehensive Plan. (ORD 2791, S3 1997)

**4.20.070 Collection of Charge** not included here

**4.20.080 Exemptions** not included here

**4.20.085 Deferrals for Affordable Housing** not included here

**4.20.090 Credits**

A. When development occurs that gives rise to a system development charge under Section 4.20.040 of this Chapter, the system development charge for the existing use shall be calculated and if it is less than the system development charge for the proposed use, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge required under Section 4.20.040. If the change is use results in the systems development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required; however, no refund or credit shall be given.

B. The limitations on the use of credits contained in this Subsection shall not apply when credits are otherwise given under Section 4.20.090. A credit shall be given for the cost of a qualified public

improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel of land that is the subject of the approval, the credit shall be given only for the cost of the portion of the improvement not attributable wholly to the development. The credit provided for by this Subsection shall be only for the public improvement charge charged for the type of improvement being constructed and shall not exceed the public improvement charge even if the cost of the capital improvement exceeds the applicable public improvement charge. Credits paid as a permit for development will expire five years after paid. The credit shall be apportioned equally among all single family residential lots (where such credit was granted for subdivisions). Credits for other types of developments shall be allocated to building permits on a first-come, first served basis until the credit is depleted. (Ord 2791, S9 1997)

C. Applying the methodology adopted by resolution, the City Administrator or designee shall grant a credit against the public improvement charge, for a capital improvement constructed as part of the development that reduces the development's demand upon existing capital improvements or the need for future capital improvements or that would otherwise have to be provided at City expense under then existing Council policies. (ORD 2791, S9 1997)

D. Credits for additions to dedicated park land, or development of planned improvements on dedicated park land, shall only be granted by the City Administrator upon recommendation by the Park and Recreation Commission for land or park development projects identified in the Capital Improvement Plan, referred to in Section 4.20.060(B).

E. In situations where the amount of credit exceeds the amount of the system development charge, the excess credit is not transferable to another development. It may be transferred to another phase of the original development.

F. Credit shall not be transferable from one type of capital improvement to another.

#### **4.20.100 Appeal Procedures**

A. As used in this Section "working day" means a day when the general offices of the City are open to transact business with the public.

B. A person aggrieved by a decision required or permitted to be made by the City Administrator or designee under Sections 4.20.010 through 4.20.090 or a person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or expenditure by filing a written request with the City Recorder for consideration by the City Council. Such appeal shall describe with particularity the decision or the expenditure from which the person appeals and shall comply with subsection D of this section. (ORD 2791, S10 1997)

C. An appeal of an expenditure must be filed within two years of the date of alleged improper expenditure. Appeals of any other decision must be filed within 10 working days of the date of the decision.

D. The appeal shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination should be.

An appellant who fails to file such a statement within the time permitted waives any objections, and

**12.10.130 Credits**

(1) Credit at Time of Change in Use or Redevelopment. When redevelopment or change in use occurs, the amount of SDCs payable shall be determined by the following rules:

- (A) SDCs Previously Paid on Property. If SDCs had been previously paid for the property, a credit in the amount of the SDCs that would be payable for the existing structure and use under the current rate schedule shall be provided. For purposes of this section, "existing structure and use" means the structure and use for which SDCs have been paid. At the time of redevelopment, if the SDCs payable for the new structure and/or use exceed the amount of the credit, the difference shall be paid to the City. This rule applies regardless of the length of time between the end of the prior use and the redevelopment. Redevelopment to a use that results in a lower SDC amount does not reduce the amount of credit to be provided at the time of any future redevelopments. Any credits provided under Subsection C shall be deducted from the credits authorized by this section.

**Examples:**

1. SDCs had been paid for three dwelling units on a property and the property is redeveloped with five dwelling units. A credit for three dwelling units' worth of SDCs will be provided, so the amount payable would be the amount for two dwelling units.
2. SDCs had been paid for two dwelling units and the property is redeveloped with a large retail use, with both residential units eliminated. The SDCs would be the difference between the SDCs payable for the new commercial structure and use and the SDCs that would be charged for two dwelling units.
3. SDCs were paid based on restaurant use, but then the property was converted to another retail use with lower SDCs. The property is then reconverted back to restaurant use, using exactly the same configuration as the original restaurant. At the time of the conversion to retail use, no SDCs are payable, because the amount payable is less than the credit. The credit for restaurant use remains with the property, so at the time of reconversion to restaurant use, no additional SDCs are payable because the credit remained in effect and the credit for the original use is exactly the same as the amount that is owed. Thus, no payment is required, even if the SDC rates have increased in the interim.

- (B) SDCs Not Previously Paid

1. Vacant Land. If SDCs have not been previously paid for the property, a credit in the amount of the SDC charges under the current rate schedule shall be provided for any structure on the property during the 10 years immediately prior to the filing of the building permit application. No SDC credit shall be provided under this subsection if there has been no structure on the property for 10 years or more. The credits shall be based on the predominant use of the structure in the last 10 years, or if there has been no use in the last ten years, on the last use of the structure.
2. No Prior Water Connection. Even if there is or has been a structure on the property, no water SDC credit shall be provided if the property has never been connected to the City water system.
3. No Prior Sewer Connection. Even if there is or has been a structure on the property, no sewer SDC credit shall be provided if the property has never been connected to the City sewer system.
4. Burden of Proof. The property owner shall have the burden to establish the facts to support the granting of a credit.
5. No Refund. No refund or credit shall be given if the change in use or redevelopment results in a lower SDC.
6. Implementation. The 10 year time period referred to in Subsection (1)(B)1 starts on the date that a property is demolished or July 1, 2011, whichever occurs later.

(2) Credit of Cost of Qualified Public Improvement.

- (A) A credit for the improvement fee portion of the SDC shall be given to a Developer for the Cost of a Qualified Public Improvement on acceptance by the City of the Qualified Public Improvement and compliance with this section. For transportation improvements, the credit shall be the full cost of the improvements as determined by the City. For water, sewer and other non-transportation improvements, the amount of the credit shall be the cost of the portion of the qualified public improvement that exceeds the improvements needed to serve the development as determined by the City. An application for credit for the Cost of a Qualified Public Improvement must be submitted and approved prior to the start of construction of the Qualified Public Improvement. The City shall deny the credit if the City determines that the application does not meet the requirements of this section or if the improvement for which credit is sought is not included in the SDC Project List. No interest shall accrue on a credit for a Qualified Public Improvement.

- (B) The person seeking a credit based on providing a Qualified Public Improvement has the burden of proving the Cost of the Qualified Public Improvement. Only immediate acquisition, construction, design and engineering costs may be included in the Cost of a Qualified Public Improvement. Immediate acquisition costs include only the cost of acquiring rights-of-way or easements required as a condition of development approval and does not include property already owned by the applicant. Engineering and design costs shall not exceed 15 percent of actual construction costs. When the cost is the incremental cost of providing excess capacity, engineering and design costs shall be allocated in the same percentage as the qualified construction cost as a portion of the total construction costs. The City Engineer's determination of the Cost of a Qualified Public Improvement shall be final.
- (C) Credits for the Cost of Qualified Public Improvements shall not be transferable from one property to another but may be used for future phases of development, redevelopment or change in use of the property. For property owned by the Bend LaPine School District, "property" includes all properties owned by the Bend LaPine School District within the same High School attendance boundary.
- (D) Credit for qualified public improvements shall be only for the type of improvement provided and shall not be transferable from one type of capital improvement to another.
- (E) Credits for qualified public improvements may be used only within 10 years from the date the Qualified Public Improvement was accepted by the City.
- (F) The extent of the property to be considered in computing and allocating credit for construction of a Qualified Public Improvement shall be stated in the application for the credit, which will be accepted only if authorized in writing by the property owner(s). If properties under different ownership are developed together, the City may require specification where any credits for the provision of capital improvements may be used and under which circumstances. Two or more contiguous properties may pool existing SDC credit rights as part of a common scheme for development of the contiguous properties. Non-contiguous property may not be included as a property for determining where the credit may be issued or used.
- (G) At the time of application for the credit for a qualified public improvement, the applicant shall indicate which option for using the credit is to be used. Once an option is chosen, the option cannot be changed and will be applied to all SDC credits for Qualified Public Improvements of all types

for all phases of development on the property. The two options are:

1. A credit usable at the time SDCs become payable within the property to reduce the amount of the improvement fee payable; and

2. A credit personal to the person providing the Qualified Public Improvement to be paid from improvement fees collected for development on the property. If this option is chosen, payment amounts shall be payable annually by the City on or before January 31 for SDC improvement fees collected in the previous calendar year. If this option is chosen, the 10-year expiration applies to the date the SDC is paid to the City, not the date the City passes on the payment. No interest shall accrue on any amounts received by the City.

The following example is provided as an illustration of how the credit for Qualified Public Improvements under Option "1" are applied. A Developer plans to build an off-site qualified public transportation improvement. The Developer must apply for the credit before starting the improvement. If the City approves the credit and the Developer completes the project and proves that the qualified costs total \$400,000 for the qualified transportation public improvement that is 100% SDC eligible under the SDC project list, the Developer would be entitled to a credit of \$400,000 on acceptance of the completed capital improvement. If the amount of transportation improvement fees payable is less than \$400,000, no transportation improvement fees would be paid and a credit for the difference would be provided to be usable for future development of the property. If the amount of transportation improvement fees is more than \$400,000, the Developer would pay the difference between \$400,000 and the amount of the credit.

- (H) The credit for the cost of qualified public improvements is in addition to other methods of financing public improvements and may be combined with other means of financing public improvement agreements, including reimbursement agreements under Chapter 12.10 or Developer agreements, provided that the total amount of credit under a reimbursement agreement and a credit for Qualified Public Improvements shall not exceed the approved cost of the public improvement.
- (I) If a Developer has applied for a credit for qualified public improvements, the Developer may defer payment of the improvement fee for the type of improvement provided in an amount reasonably estimated to not exceed the amount of anticipated credit. Payment shall not be deferred more than one year unless an extension is provided and may not be deferred beyond the date of occupancy. An extension of the one-year deadline

may be provided if satisfactory progress is being made towards completion of the Qualified Public Improvement. Deferral under this section is available only if the development does not involve a land division.

**(3) Advance Credit for Qualified Public Improvement**

The City, by a development agreement approved by Council, may provide a credit for construction of a public improvement on the SDC project list. The credit shall be a credit only towards improvement fees of the same type of SDC. The locations where the credit may be used and transferability of the credits shall be established in the development agreement. The credit provided by this section shall be used only as a credit and the credit recipient shall not be provided the right to payment from SDCs collected by the City. The credit provided by this section may be used only within 10 years of the date the improvement was accepted by the City.

**(4)** On termination of a use for which SDCs have been paid, a credit certificate shall be issued on written request of the property owner.

**(A)** The credit shall be for water, sewer and transportation SDC improvement fees only.

**(B)** The credit shall be based on a "unit" basis, not on a "dollar" basis. The credit shall be for a specific number of trips, square footage, dwelling units or other units on which the SDC amount is calculated.

**(C)** The amount of the credit issued in the certificate shall be deducted from the credit authorized by Subsection A.1 of this section for the property where the use was terminated. The deduction may not remove all credit from the property unless all structures are removed from the property. A credit in the lowest reasonable amount for any remaining structure must be maintained on the property. The credit in the certificate shall be the difference between the total amount of credit authorized by Subsection 4.1 and the amount to be retained on the property.

**(D)** The credit certificate may be transferred and used anywhere in the City within five years of the date of issuance. If the credit is not used within five years, it shall be automatically applied to the property where the use was terminated.

**(4)** For all credits, the applicant has the burden of proof to justify the credit. For credits based on the Cost of a Qualified Public Improvement, the applicant shall provide receipts, cancelled checks or other written proof of actual costs incurred.

**12.10.140 Notice**

**(1)** The City shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any SDC. Written

updates, and an ongoing evaluation of systems needs; and/or

2) The City's established capital improvement program.  
(Ord. 91-33 § 14, 1991)

**Section 2.08.160 Credits.**

1) A credit shall be given for a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off or contiguous to the parcel that is the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement providing greater capacity than is necessary for the particular development project to which the improvement fee is related.

2) A credit shall be given against the parks and recreation Improvement Fee for dedications or improvements approved by the City which meet the conditions established in Park Fee Offset Standards. The City Manager is authorized to develop Park Fee Offset Standards. The standards and any amendments shall be filed with Council at least 15 days prior to their effective date.

3) The credit provided for by this Section shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.  
(Ord. 2000-23 § 6, 8/21/2000; Ord. 92-17 § 7, 1992; Ord. 91-33 § 15, 1991)

**Section 2.08.170 Appeals.**

1) Any person who believes an improper expenditure of SDC revenues has occurred may appeal that decision to Council by filing a written request with the City Recorder, describing with particularity the decision of the City Manager from which the person appeals. In determining the appeal, Council shall determine whether the City Manager's decision is correct and may affirm, modify, extend or overrule that decision.

2) If Council determines there has been an improper expenditure of system development charge revenues, Council shall direct that a sum equal to the misspent amount shall be deposited within one year from the determination to the credit of the account from which it was spent. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.  
(Ord. 91-33 § 16, 1991; Ord. 79-61 § 3, 1979; Ord. 72-4 § 8, 1972)

**Section 2.08.180 Scope.**

The SDC provided herein is separate from and in addition to any applicable tax assessment, charge or fee otherwise provide by law. The SDC is in the nature of a charge for service rendered or to be rendered.  
(Ord. 91-33 § 17, 1991; Ord. 72-4 § 9, 1972)

**Section 2.08.190 Penalty.**

Violation of any provision herein is punishable by a fine of not less than \$100 and not more than \$500. Each day during which the violation continues shall be deemed a separate offense.  
(Ord. 91-33 § 18 (part), 1991)

**Section 2.08.200 Methodology challenge.**

A legal action challenging the methodology adopted by Council pursuant to Sections 2.08.040 or

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MODEL CODE (2010)

- (6) Upon written request of the (appropriate city department), the (appropriate city official) is authorized to cancel assessments of SDCs, without further Council action, where the new development approved by the building permit is not constructed and the building permit is cancelled.
- (7) For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the city.

Section 11. Exemptions

- (1) Structures and uses established and legally existing on or before (effective date of ordinance) are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.
- (2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.
- (3) An alteration, addition, replacement or change in use that does not increase the parcels or structures use of the public improvement facility are exempt from all portions of the system development charge.

Section 12. Credits

- (1) When a development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this Section.
- (2) A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.
- (3) If a qualified public improvement is located in whole or in part on or contiguous to

the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the city.

**(a) The city may deny the credit provided for in this section if the city demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought was not included in the improvement plan pursuant to Section 8 of this resolution.**

- (4) When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.
- (5) Notwithstanding subsections 1-4, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.
- (6) Credits shall not be transferable from one development to another.
- (7) Credits shall not be transferable from type of system development charge to another.
- (8) Credits shall be used within 10 years from the date the credit is given.

Section 13. Notice.

- (1) The city shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge. The methodology supporting the system development charge shall be available at least 60 days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the city.
- (2) The city may periodically delete names from the list, but at least 30 days prior to

*LINCOLN CITY***13.08.100 Calculation where there is existing use – Credits.**

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A. When development occurs that must pay a systems development charge under this chapter, and if there already is an existing use on the development site, then each of the system development charge components that would comprise the systems development charge for the existing use shall be calculated using current systems development charge rates. In addition, each of the system development charge components that would comprise the systems development charge for the proposed use shall be calculated using current systems development charge rates. If, for a particular system, the calculated charge component for the existing use is less than the calculated charge component for the proposed use, then the system development charge component for that particular system shall be the system development charge component for the proposed use using current systems development charge rates. If, for a particular system, the calculated charge component for the proposed use is less than the system development calculated charge component for the existing use, then no system development charge shall be required; however, no refund or credit shall be given.

B. A credit shall be given for the cost of a qualified public improvement associated with a development. A "qualified public improvement" means a capital improvement that is required as a condition of development approval, is identified in the capital improvement plan adopted under LCMC 13.08.070, and is:

1. Not located on or contiguous to property that is the subject of the development approval; or
2. Located in whole or in part on or contiguous to property that is the subject of the development approval and required to be built larger or with greater capacity than is necessary for the particular development to which the improvement fee is related.

If a qualified public improvement is located in whole or in part on or contiguous to property that is the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The credit provided for by this subsection shall be only for the improvement fee portion, if any, of the system development charge component for the system of which the improvement being constructed will be a part and, except as provided in subsection (D) of this section, shall not exceed the improvement fee portion even if the cost of the capital improvement exceeds the applicable improvement fee portion.

C. Credit shall not be transferable from the system development charge component for the system of which the improvement being constructed is a part to the system development charge component for another system.

D. Credit shall not be transferable from one development or development phase to another, except that the city may enter into an agreement to allow a credit to be transferred when the city, at its sole discretion, determines it will be in the interest of the affected system to do so.

E. A person seeking a credit under this section shall have the burden of demonstrating that the person is entitled to the credit. (Ord. 2003-13 § 5; Ord. 96-1 § 1; Ord. 91-30 § 2)

*CITY OF NEWBERG*

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**13.05.130 Credits.**

A. Credits shall be given for the computed system development charge to the extent that prior structures existed and services were established on or after the effective date of the ordinance codified in this article. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of such credit.

B. A credit shall be given for the cost of a qualified public improvement associated with a development or for the cost of an oversized improvement established by a resolution of the city council. If a qualified public improvement is the subject of the development approval, the credit shall be given only for the cost of the eligible portion of the improvement. The credit provided for by this subsection shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

C. Credit shall not be transferable from one development to another.

D. Credit shall not be transferable from one type of capital improvement to another. [Ord. 2306, 6-18-91. Code 2001 § 50.13.]

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## AGENDA & NOTICE OF PLANNING COMMISSION MEETING

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The Planning Commission of the City of Newport will hold a meeting at 7:00 p.m. **Monday, August 12, 2013**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting 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 of Newport Planning Commission 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 meeting.

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### NEWPORT PLANNING COMMISSION Monday, August 12, 2013, 7:00 p.m. AGENDA

**A. Roll Call.**

**B. Approval of Minutes.**

1. Approval of the Planning Commission regular session meeting minutes of July 8, 2013.

**C. Citizens/Public Comment.**

1. A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

**D. Consent Calendar.**

**E. Public Hearings.**

Legislative actions:

1. File No. 2-Z-13. Consideration of proposed legislative text amendments to Chapter 14.6 of the Newport Municipal Code to replace fixed minimum lot size and minimum acreage requirements for manufactured dwelling parks with maximum density and minimum common open space benchmarks. The changes should make it easier for manufactured dwelling parks to provide space for smaller units such as park models or recreational vehicles. The revisions also clarify that recreational vehicles may be used as a place of habitation within manufactured dwelling or RV parks. The Planning Commission will make a recommendation on this matter to the City Council.

**F. New Business.**

1. Upcoming Planning Commissioner Training in Portland on 9/26/13, sponsored by the Oregon City Planning Directors Assn.

**G. Unfinished Business.**

1. Update on status of City's applications for the Urban Growth Boundary amendment and the Transportation System Plan amendment considered at public hearings before the Lincoln County Planning Commission.

**H. Director Comments.**

**I. Adjournment.**

**Draft Minutes**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, July 8, 2013**

**Commissioners Present:** Jim Patrick, Jim McIntyre, Rod Croteau, Mark Fisher, Glen East, and Bill Branigan.

**Commissioners Absent:** Glen Small (*excused*).

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

**A. Roll Call.** Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:01 p.m. On roll call, McIntyre, Croteau, Patrick, Fisher, East, and Branigan were present; with Small absent but excused.

**B. Approval of Minutes.**

1. Approval of the Planning Commission work session and regular session meeting minutes of May 28, 2013, and the work session minutes of June 24, 2013.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner McIntyre, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

**C. Citizen/Public Comment.** No comments on non-agenda items.

**D. Consent Calendar.** Nothing on the consent calendar.

**E. Public Hearings.**

Patrick opened the public hearing portion of the meeting at 7:03 p.m. by reading the statement of rights and relevance. He asked the Commissioners for any declarations of conflicts of interest, bias, ex parte contacts, or site visits; of which none were declared. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

**Legislative Actions:**

1. **File No. 1-CP-13:** Consideration of proposed legislative text amendments to the "Port Facilities" section of the "Public Facilities" element of the Newport Comprehensive Plan to incorporate projects in the Port of Newport's January 2013 Capital Improvement Plan (CIP) update. The amendments also include goals and policies for how the City and the Port will collaborate on implementation of the CIP. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 1-CP-13 at 7:04 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that as mentioned this is an amendment to the City's Comprehensive Plan. Two sections are being revised. One is the Port Facilities section, which was last updated in 1986 via Urban Renewal funding for the Port's CIP at the time. Tokos said these are pretty straight-forward changes, and the importance is noted here. Tokos noted that Don Mann is present to give more context in the relationship between the City and the Port and their role with the City. Tokos said this is important collaboration, and there is a long history of collaboration. By encapsulating this in our plan, it shows well as we push for limited resources. As we prioritize, partner, and leverage our own limited resources, it helps to move those along as best we can. The code is written to reflect the Port's CIP that was adopted in January. Also we have added a goal and a couple of policies to the Public Facilities element. He said that was an oversight in the past. We had goals for other types of public facilities. This provides that we will collaborate with the Port and will work together to leverage resources to achieve mutually beneficial outcomes. It also provides that we will assist the Port in its efforts to secure funding for capital projects.

**Proponents:** Don Mann, Port General Manager, 600 SE Bay Blvd, came forward to testify. To reiterate, Mann said that the Port has been working closely with the City for many years. He noted that if there was interest, he had brought copies of the CIP and the Strategic Business Plan; which are on line as well. Mann had provided a small handout to the Commissioners for a quick sketch of the Port and some of the facilities their CIP identified as part of their future planning. There are \$15 million in capital improvements they still need at the Port. They have completed some. The major infrastructure for NOAA and the International Terminal was \$70 million in build-out combined, which is an asset to the City as well. As a result of NOAA, the Port worked closely with the City and the transportation system in South Beach for road improvements and helping each other in seeking grant funding where available. With the importance of NOAA, transportation planning over there was made possible. Mann said that these are the kinds of collaboration that can occur as we continue through planning processes. The Port is hoping to continue that with the City. They

also work closely with the County, which is another important partner. Mann said that the Port will continue to work with the City in planning processes. They appreciate being part and made part of the Comprehensive Plan so they can continue that partnership. He said that Tokos covered this well; and with the information the Commissioners have before them under goals and policies and public facilities that they plan on implementing into the City's plan, the two will continue to work together for the betterment of the community.

Branigan wondered if the CIP didn't put in the new Port offices. Mann said when the Port rebuilt the South Beach RV Park in '05 and '06, it included new offices over there. Branigan noted that the Port is replacing Port Dock 7 and 5, and he asked how old those are. Mann said they possibly date back 25-30 years. The Port has done bits and pieces. They had to replace the piling in there. Mann said that although the Port is operating in the black, it goes into general operations and not into infrastructure. About every year they have replaced a dock at the South Beach Marina. There are new water service, power, whalers and sinkers. Now Port Dock 7 will get an electrical upgrade, and they have started stockpiling electrical materials. Getting the International Terminal up and going will be beneficial. They are having a really good year in the RV Park and Marina. Funding will be in place. The Port is in one of the best positions now for infrastructure repair. Branigan asked if these facilities have reached the end of their life, and Mann confirmed that. Mann answered Branigan's question that the Rogue leases their building and the Servin Building.

Patrick asked if one project is to fill in the old boat ramp on the north side. Mann said that was part of the mitigation for putting in the new ramp at the center of the marina. The DSL and ODFW wants a revetment. The Port ended up cleaning out all of the old concrete ramps and created dynamic revetment in there. It is used for launching kayaks. It is becoming more useful. It creates an added interest in the water. The Port doesn't charge for it; it's just part of the marina. It's a gravel entrance into the Bay now.

Fisher noted that the Port also had a problem in that they owed quite a bit of money to purchase the South Beach Marina a number of years ago, and they had to pay that back. Mann said it was paid back two years ago, which leave more money for work. Fisher agreed that was a couple of thousand dollars to pay off bonded debt; and that also helped.

Croteau asked about the status of the revetment along the south trail that runs along the Hatfield. Mann said Hatfield is still working on it in bits and pieces. They are losing a lot of that bank; it keeps falling into the Bay. They did get part of it repaired with dynamic revetment. The agencies weren't on line to put rip rap on the bank. Hatfield will have to move the trail back to the southwest some or not have a trail. Tokos confirmed they have been working on it. He said that the State agencies cooled to the concept of cobble revetment and didn't permit them to put it on the entire stretch. They monitored what they did put in, and Hatfield thinks they have enough monitoring information to seek to extend that revetment. They would like to reconstruct the trail, but they have no firm plans at this point. Mann agreed that it is a work in progress.

There were no other proponents present to testify.

**Opponents:** There were no opponents present to testify.

Patrick closed the hearing at 7:18 p.m. for Commission deliberation. Branigan thought the request and the work that has been done at prior meetings and what the Port has worked on updating is straight forward, and he believed the Commission should recommend going forward with it. East thought everything was on track and agreed with recommending it. Fisher agreed. Croteau thought it was necessary and a forward-looking document and was in favor of moving it forward. McIntyre agreed and thought the Commission should move it forward. Patrick agreed. He noted that this updates the CIP, and we now have goals.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner East, to recommend that the City Council consider adopting the proposed text amendments to the "Port Facilities" element of the Newport Comprehensive Plan to incorporate projects in the Port of Newport's January 2013 Capital Improvement Plan as presented in File No. 1-CP-13. The motion carried unanimously in a voice vote.

**F. New Business.** No new business.

**G. Unfinished Business.** No unfinished business.

**H. Director's Comments.**

1. Tokos confirmed that the Commission will not have a meeting on July 22<sup>nd</sup>. He will be attending the County Planning Commission that night. They are holding the hearing for our UGB expansion for the reservoir site and on the TSP that the City adopted a year ago. He expects the County to move these along.

2. Tokos noted that on July 10<sup>th</sup> he will be in Albany to help score the STIP grant applications. He said that Newport has one big one, which is the 35<sup>th</sup> and Hwy. 101 intersection and finishing off Ferry Slip. We will be closing the access to 101 at Ferry Slip where there is that odd angle. The signal will be relocated to 35<sup>th</sup>. There will be added bicycle and pedestrian facilities on 101 and Ferry Slip. Tokos said it is a \$2.6 million project; and we are asking for \$1.1 million from the State. He expects that our project

will come out high for our area and will be competitive with the area; especially since we are bringing close to a 60% fund match to the table.

3. Tokos said that the ADU code was unanimously adopted by the City Council on June 17<sup>th</sup>. It will be effective July 17<sup>th</sup>, and then those are allowed throughout the City.

4. Tokos noted that the recruitment for a City Manager is ongoing. At their last meeting, the City Council adopted a resolution outlining a schedule. Tokos expects they will be doing interviews sometime in October. If they have a good pool, they should make an offer shortly thereafter. The City also has a vacant position for Finance Director. Tokos anticipates that the Council will want to have that position filled before a new City Manager comes on board. We want to position ourselves for the new budget. If we wait, we won't have a Finance Director on board to assist. The Council will be talking about that.

5. The Planning Commission's next meeting will be August 12<sup>th</sup>. There will be a hearing on the changes to the manufactured dwelling code to make it easier to site park models within RV parks and manufactured dwelling parks. There will be a work session on reviews to SDCs; the credits section particularly. Tokos did the PowerPoint presentation with the City Council and they agree there is a need to make changes to the credits section. The Council agreed with the Commission's recommendation that we adjust the methodology for water and transportation and hold off on storm and sewer until those updates catch up.

6. Tokos said that the workforce housing has not been adopted by the Council. There was an issue with the CDC; but those have been resolved and the final changes are being drawn up. The County will back up the CDC. Tokos expects it to go to City Council at one of their August meetings.

Branigan asked about the status of the appeal of the Teevin TIA. Tokos said that we submitted the record on Wednesday by sending copies to the petitioner and to LUBA, which is required by administrative rules. They have fourteen days to object to the record. There were twenty-one days for intervening on behalf of Teevin or to join the appellants; and that deadline is Friday. Tokos said that he expects that the Port is going to intervene and possibly Teevin to support and help defend the decision. He said he doesn't know who might join the appellants. Tokos will be talking to the City Council some more in executive session on the 15<sup>th</sup>. That is where they will talk about how they want to defend it.

Fisher recalled that when we approved the Wilder development, there was going to be a very small strip mall near the entrance to the college. There was also a conditional use permit for a taco truck or similar use. He wondered if nothing was going on. Tokos said that he recently met with Bonnie Serkin to go over the project. Right now Will Emery is really focused on industrial and looking to partition off and create industrial sites off 50<sup>th</sup> Street south of the sewer treatment plan. Work is being done on getting a right-of-way in place to loop 62<sup>nd</sup> back into 101 opposite of Southshore. Bonnie is looking to pursue a plat of the next residential phase to the west of the current development; and those would be view lots. They haven't made a decision just yet because it will require further investments in infrastructure; and they are unsure if they want to do that just yet. They are also looking at an apartment development, which would be east of what they are doing right now. They don't have to build additional infrastructure for that so that might be an easier route for them. Tokos said there is nothing new at this point; it's not economically viable at this juncture. They feel they are better getting additional residential going in the initial phase and hire someone full time to promote it.

East asked about the property down on the corner of 40<sup>th</sup> and 101. Tokos noted that the little piece by the boat is outside the City limits. The GVR Property owned by the Tryons is an industrial site opposite Ash Street and is within the City. There is a bunch of fill on it as part of the Ash Street project. They are just looking to level off their site. They are trying to make the site more attractive for development; likely retail. There is about 14.5 acres total; some is encumbered with wetlands. There is a pond there. They recently harvested timber on the property. They are trying to get the property positioned for new development. Tokos said the City did a huge water and sewer project from 40<sup>th</sup> to 50<sup>th</sup> Streets that was funded by Urban Renewal dollars. Most of those properties are unincorporated but in our UGB. One City Council goal is to discuss the City's annexation policy and how aggressive we want it to be. McIntyre noted that the entrance to Southshore was finally repaired, but they missed one street internally; and Tokos said that they are aware of that.

**I. Adjournment.** Having no further business to discuss, the meeting adjourned at 7:33 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant

**PLANNING STAFF MEMORANDUM**  
**FILE No. 2-Z-13**

I. **Applicant:** City of Newport.

**Request:** The request before the Planning Commission is to review and provide a recommendation to the City Council on proposed legislative text amendments to Subsection 14.06.040 (Manufactured Dwelling Parks), and Subsection 14.06.050 (Recreational Vehicles: General Provisions) of the Newport Zoning Ordinance (Ordinance No. 1308, as amended), as codified in the Newport Municipal Code. The amendments make it easier for park models and other types of recreational vehicles to be used as a place of habitation within manufactured dwelling parks. The revisions also clarify that, within the city limits, recreational vehicles may be used as a place of habitation within manufactured dwelling and recreational vehicle parks.

II. **Findings Required:** As this is a legislative action, there are no required findings. In deliberating on this request, the Planning Commission must consider whether or not the amendments further a public necessity and are needed for the general welfare of the community (NMC Section 14.36.010).

III. **Planning Staff Memorandum Attachments:**

Draft Ordinance  
Planning Commission Minutes, dated May 28, 2013 and June 24, 2013  
Markup copy of the amendments  
ORS 197.493  
Notice of Public Meeting

IV. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendments in accordance with its requirements on July 1, 2013. Notice of the date and time for the Planning Commission hearing was also published in the Newport News-Times on August 2, 2013.

V. **Comments:** As of August 8, 2013, no comments were received regarding this proposal.

VI. **Discussion of Request:** With Policy 8, Goal 2 of the Housing Element of the Newport Comprehensive Plan (updated in 2011) the City committed to undertaking a review of its Zoning Ordinance to allow and encourage "park model" recreational vehicles as a viable housing type. In conducting the review it became apparent that minimum lot size standards, maximum density limitations, and minimum acreage requirements currently in place for manufactured dwelling parks serve as a barrier to the placement of park models. Additionally, existing language in the Zoning Ordinance dealing with the storage and use of recreational vehicles can be read to prevent them from being used as a place of habitation within manufactured dwelling and recreational vehicle parks, which would be inconsistent with the requirements of ORS 197.493. Amendments addressing both of these issues have been prepared by staff for consideration at this hearing.

Consideration was given to allowing park models outside of manufactured dwelling and recreational vehicle parks; however, it is not recommended that those types of changes be made to the Ordinance at this time. At 400 square feet in size, a park model unit is relatively small, and may not be compatible in established residential neighborhoods. Further, more time is needed to see how the units hold up in a coastal environment given that they are constructed to recreational vehicle codes as opposed to the Oregon Residential Specialty Code or Federal Manufactured Home Construction Safety Standards.

VII. **Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council on the request. The Commission recommendation can include suggested changes to the proposed amendments.



Derrick I. Tokos, AICP  
Community Development Director  
City of Newport

August 8, 2013

**CITY OF NEWPORT**

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

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE  
(ORDINANCE NO. 1308, AS AMENDED) RELATING TO  
MANUFACTURED DWELLING PARKS AND RECREATIONAL VEHICLES**

**Findings:**

1. On June 24, 2013 the Newport Planning Commission initiated amendments to the Newport Zoning Ordinance to make it easier for park models and other types of recreational vehicles to be used as a place of habitation within manufactured dwelling parks. The revisions also clarify that, within the city limits, recreational vehicles may be used as a place of habitation within manufactured dwelling and recreational vehicle parks.
2. With Policy 8, Goal 2 of the Housing Element of the Newport Comprehensive Plan, adopted July of 2011 (Ordinance No. 2015), the City of Newport committed to undertaking a review of its Zoning Ordinance to allow and encourage “park model” recreational vehicles as a viable housing type.
3. The Newport Planning Commission conducted such review at work sessions on May 28, 2013 and June 24, 2013 and determined that the minimum lot size standards, maximum density limitations, and minimum acreage requirements currently in place for manufactured dwelling parks prevent park models from being a viable housing option. The Commission further determined that language in the ordinance dealing with the storage and use of recreational vehicles could be read to prevent them from being used as a place of habitation within manufactured dwelling and recreational vehicle parks, which would be inconsistent with the requirements of ORS 197.493.
4. The Planning Commission considered whether or not the Newport Zoning Ordinance should be amended to allow park models outside of manufactured dwelling and recreational vehicle parks and determined that it would be inappropriate to do so at this time. At 400 square feet in size, a park model unit is relatively small, and the Commission was concerned about compatibility of the units in established residential neighborhoods. Further the Commission felt that more time is needed to see how the units hold up given that they are constructed to recreational vehicle codes as opposed to the Oregon Residential Specialty Code or Federal Manufactured Home Construction Safety Standards.
5. The Newport Planning Commission held a public hearing on August 12, 2013 and voted to recommend adoption of amendments to address the shortcomings of the Newport Zoning Ordinance noted above.
6. The City Council held a public hearing on \_\_\_\_\_ regarding the question of the proposed revisions and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
7. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

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

**Section 1.** The above findings are hereby adopted as support for the Newport Zoning Ordinance amendments, below.

**Section 2.** Subsection 14.06.040 of Ordinance No. 1308 (as amended), codified as Newport Municipal Code 14.06.040, Manufactured Dwelling Parks, is repealed and replaced in its entirety with the following language:

**14.06.040 Manufactured Dwelling Parks.** Manufactured dwelling parks are permitted subject to the following:

- A. Construction of the manufactured dwelling park and placement of manufactured dwellings shall comply with the Oregon Manufactured Dwelling and Park Specialty Code, 2002 Edition, as amended.
- B. Streets within the manufactured dwelling park shall adhere to the standards outlined in Newport Municipal Code Chapter 13.05.040 where the construction or extension of such street is identified in the City of Newport Transportation System Plan.
- C. The maximum density allowed in a manufactured dwelling park is one unit for every 2,500 sq. ft. of lot area in the R-2 zoning district and one unit for every 1,250 sq. ft. of lot area in R-3 and R-4 zoning districts.
- D. Recreational vehicles may be used as a place of habitation provided they are connected to the manufactured dwelling parks water, sewage, and electrical supply systems. In such cases, the recreational vehicles shall be counted against the density limitations of the zoning district.
- E. Any manufactured dwelling park authorized under this section shall have a common outdoor area of at least 2,500 sq. ft. or 100 sq. ft. per unit, whichever is greater. Common outdoor areas shall be landscaped and available for the use of all park residents.
- F. If the park provides spaces for 50 or more manufactured dwelling units, each vehicular way in the park shall be named and marked with signs that are similar in appearance to those used to identify public streets. A map of the vehicular ways shall be provided to the fire department for appropriate naming.
- G. Public fire hydrants shall be provided within 250 feet of manufactured dwelling spaces or permanent structures within the park. If a manufactured dwelling space or permanent structure in the park is more than 250 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.
- H. The manufactured dwelling park may have a community or recreation building and other similar amenities.

I. All dead end streets shall provide an adequate turn around for emergency vehicles.

**Section 3.** Subsection 14.06.050 of Ordinance No. 1308 (as amended), codified as Newport Municipal Code 14.06.050, Recreational Vehicles: General Provisions, is repealed and replaced in its entirety with the following language:

**14.06.050 Recreational Vehicles: General Provisions.**

- A. Recreational vehicles may be stored on property within the City of Newport provided they are not used as a place of habitation while so stored unless the recreational vehicle is located within a manufactured dwelling or recreational vehicle park, or is authorized as a temporary living quarters pursuant to NMC Chapter 14.9.
- B. Removal of the wheels or placement of a recreational vehicle on a permanent or temporary foundation shall not change the essential character of any recreational vehicle or change the requirements of this section.
- C. It shall be unlawful for any person occupying or using any recreational vehicle within the City of Newport to discharge wastewater unless connected to a public sewer or an approved septic tank in accordance with the ordinances of the City of Newport relating thereof. All recreational vehicle parks within the City of Newport shall comply with the sanitary requirements of the City of Newport and the State of Oregon.

**Section 4.** This ordinance shall take effect 30 days after passage.

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

Signed by the Mayor on \_\_\_\_\_, 2013.

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

ATTEST:

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

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Conference Room 'A'**  
**Monday, May 28, 2013**

**Planning Commissioners Present:** Bill Branigan, Jim Patrick, Rod Croteau, and Jim McIntyre.

**Planning Commissioners Absent:** Mark Fisher (*excused*), Glen Small (*excused*), and Gary East.

**Citizens Advisory Committee Members Present:** Lee Hardy, Suzanne Dalton, and Bob Berman.

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

Chair Patrick called the Planning Commission work session to order at 6:02 p.m. and turned the meeting over to CDD Tokos.

**A. Unfinished Business.**

1. Review the draft amendment of the Port Facilities element of the Newport Comprehensive Plan. Tokos noted that the packet included the new draft of the Port Facilities element, which was discussed at an earlier work session. He did include the old, out-of-date Port Facilities language that is in the Comprehensive Plan. The capital improvements listed in the existing plan date to the 80s and are no longer relevant. Because the Port just completed their new Strategic Business Plan and Capital Improvements Plan, it is time for the City to update our Comprehensive Plan to roll in their priorities and put in policy for how the City and the Port should coordinate with each other. Tokos said that he has shared this with Port General Manager Don Mann; and when this moves to actual hearing, Don will be in attendance to testify. Tokos noted that he borrowed a lot from the Port's planning documents and reworked it so it was more abbreviated. The document begins with the Port's background, explaining that the Port District was formed in 1910 to promote water-related commerce in Lincoln County. It talks about the boundaries. The vision statement comes from Port documents. Berman noted that it says "we will be" one of the top Oregon coast ports. He wondered if Newport isn't number one. Tokos said he will change that language to "strives to be". Tokos said the vision and mission statements get at the focus being on waterborne commerce that will respect the natural environment while maintaining a working water front. It recognizes recreational fishing and ocean observing. There is a reference to economic development. The Port took that economic development work the City did and used that for a lot of what they did. The mission statement talks about economic development and working with partners. The Governance section notes that the Port District is governed by a Board of Commissioners. The Existing Port Facilities section talks about where those are located. The Service Facilities section is descriptive about what facilities the Port has and lists those located on the south side and those on the north side. There are more details in the appendix. Then there is the estimated value of their assets. A typographical error in the first sentence of the last paragraph (prior to the table) under service facilities was pointed out where the word "are" should be removed. Under the Utilities section, it notes that the Port has a detailed utilities plan, which is cross referenced. The Design Criteria and Level of Service section Tokos worked in because it is useful when talking about capital improvements so it seemed to be a logical piece. This section covers the Port's docks, piers, buildings, and parking areas. The next section is Capital Improvement Projects, which explains what constitutes a capital improvement and presents how projects have been prioritized. The projects have been listed here with an estimated cost of improvements. Additional details are included in the actual facilities plan. Then the document goes into the Financing section. This lists different funding options, and Tokos did add a few such as the marine board grants because the Port pursues those periodically. Tokos said that is the part of the Comprehensive Plan under the Public Facilities component, which is the descriptive piece. He said the next part moves into the goals and policies. The City had goals and policies for water, wastewater, storm drainage, and airport; but never for the Port before. So Tokos put together language for the goals for the Port and two policies. The goal is for the City to collaborate with the Port on the implementation of its Capital Improvement Plan. Policy 1 is that the City will coordinate with the Port when planning to upgrade public facilities within the Port District and seek to partner on projects to achieve mutually beneficial outcomes. Policy 2 is that the City will assist the Port in its efforts to secure funding for capital projects. When looking for grants, funding agencies are looking to see that we do communicate and coordinate. There are certain types of grants where the City has to be the lead. This is committing us to do that sort of thing from time to time. This says that yes we do coordinate. He said this is almost just housekeeping; things we should do so information is current and coordinates well with the Ports policies. Berman wondered if it was appropriate that their capital improvement projects should be listed in our plan; or just as a cross-reference. He wondered if we would have to update everything when the Port does; for instance, if they prioritize annually. Tokos said that the Port hadn't updated since the Newport Urban Renewal District paid for the last update, which was the early 90s. It is not a routine document they update. He said that it should be good for the next ten to fifteen years. He noted that the City's Public Works Department looks at this part of the Comprehensive Plan, which gives them something to compare. Croteau agreed that it is a forward-looking document, and it should be another ten years before we see it again.

2. Review draft language regarding park models for an amendment to the Newport Zoning Ordinance. Tokos noted that this is the additional material distributed tonight that the Commissioners didn't have the benefit of reviewing prior to the meeting; so he wanted to walk through it. The first piece was the excerpt from the Housing element of the Comprehensive Plan. He noted that when the City did the housing study and needs analysis that was adopted in 2011, one of the key priorities of the Planning Commission was to do some work on encouraging park model RVs in residential districts to make it more of a housing option. That is noted under Implementation Measure 8.2 in this text. Tokos thought this was a good opportunity to talk about this and make sure that everyone is on the same page as to what a park model is, create a regulatory plan, and for him to get the Commission's direction on this. Tokos had included some illustrations of what these structures look like. The next page of materials provided answers to common questions about park models from the State Building Codes Division. Tokos noted that park models basically are RVs covered under those statutes and designed under RV codes. The first answer defines a park model as an RV that does not exceed 400 square feet, built on a single chassis, mounted on wheels, and may be connected to utilities. They are basically small manufactured dwellings. They may have a deck or carport. That is the definition in state law, and our rules dovetail with that. Tokos noted that park models are designed to look more like homes and typically are not hauled around. The wheels and other trailer features are taken off at the site. Branigan asked that if we do the zoning change, what the difference would be if someone hauled in a 40-foot travel trailer. Tokos said that is what the Commission needs to talk about. He said that he can bring examples of how other jurisdictions tackle it. He noted that it excludes motorized vehicles. Lofts are not included in the square footage. The next FAQ is how a park model should be titled or registered. If a park model is 8.5 feet or less, it can be titled and registered with the DMV. If it is more than 8.5 feet wide, it is defined as a manufactured structure and ownership documents are recorded as a conventional manufactured home would be. The Q and A talks about permits to transfer; which would be an oversize permit or a trip permit. A park model can be installed in manufactured dwelling parks. Tokos noted that we made changes to the manufactured home and RV code in order to make it consistent with state law. An issue has to do with the minimum lot size the Commission set. When you look at the RV park rules, if you put two or more RVs on a single lot, you have an RV park. Park models can be parked on individual lots with the approval of the local planning department. Park models do require installation permits, which is covered under OARs. That talks about the need for specific anchoring, which is in Lincoln County because of high winds; skirting; etc. The transporter or manufacturer who delivered the park model can remove the axles, wheels, tires, and hitch; but the detached transportation equipment must be left on the site somewhere for future use. Installers have to be licensed contractors and have proper certifications. The Q and A talks about decks adjacent to a unit, which would be covered under the typical state residential structural code. That is the same for a cabana. Cabanas are limited to a maximum of 240 square feet by OAR. Tokos noted that when dealing with RVs, park models, and manufactured dwellings, a lot of the rules are under OARs or state statutes; so the City has to live by those, and sometimes they may not make a whole lot of sense. Tokos said that limitations of zoning are that RV parks are not allowed in all residential districts, and when you put two RVs on a lot, that makes it an RV park; which is a different set of rules. Patrick noticed that it says that you can't use the RV to power a cabana. Tokos said that is because the electrical system is designed for the park trailer itself; and anything accessory has to be separate. Tokos said that the next sheet of paper is from the OAR. It talks about the allowable floor area, which is 400 square feet. That does not apply to a motorized RV. With a fifth wheel, you get a little extra square footage; 430 square feet. It goes into some other specific elements; bay windows, use of awnings, etc. Details are spelled out in the Administrative Rule. Safety Standards talks about standards for RVs as published by the National Fire Protection Assn. and other agencies. These are not standards that we apply to houses and not things that the Building Official applies; they are implemented at the manufacturer. Accessory structures are the only one that triggers for us; the residential code applies to accessory structures on the property. The next page contains definitions. There are three for RVs in the zoning code. The RV definition mentions the 400 square-foot limitation. These definitions were added in 2010. Patrick wondered if we needed to put in the 430 square feet for a fifth wheel. Tokos agreed that we could. He noted that the RV park definition conforms to state law. The RV storage is for more than two with no occupancy allowed. The next pages are the Manufactured Dwellings and RV code itself (Chapter 14.6). It contains the rules for manufactured dwellings on individual lots, which does not permit RVs. We have rules for manufactured dwelling parks and then for RVs generally (14.05.050). If we allow park models to be set up for habitation, we would have to change 14.06.05 (A) and (B). Item (C) about it being unlawful to discharge waste water unless connected to sewer would be okay. RV parks are limited to R-4 districts, where it is a conditional use. Then the code goes into that RV spaces shall not be less than 600 square feet. Tokos said the Commission had a lot of conversation about that.

One thing under Manufactured Dwelling Parks was a standard under 14.06.040(D) that each manufactured dwelling space shall contain at least 5,000 square feet. That 5,000 square feet requirement would have to be worked with for park models. There is no way that with that kind of lot size it could pencil out for such a modest structure. Patrick said that Longview Hills probably has lots that size; but Pacific Shores isn't anywhere near that. Tokos said that Pacific Shores would be nonconforming and would fall under those rules. Tokos said that setting some sort of minimum lot size for park models might be something to consider. The decision would be whether the minimum size is adequate or if we should allow a smaller lot. Another question is if we should allow this type of use in all residential districts. Tokos said that is the kind of feedback he needs. He can draft rules in a range of different scenarios. Tokos said that he needs guidance for where these units would be appropriate within the community. Berman wondered what the minimum lot size is in nonresidential districts, and Tokos said typically 5,000 square feet. Nye Beach is different with its old platted lots.

Tokos said that the next thing for the Commission to look at were examples to see what park models look like. He said that these are Oregon companies that manufacture park models. He said that looking at the Fleetwood information; they have a value model that Tokos said to him looks basically like a modular office. He said that looking at the floor plan; you have a living area, dining, bedroom, bathroom, and little kitchen. It doesn't necessarily come with washer and dryer space, but that is an option in some of the other models. He said it is pretty basic. There is an optional porch, and an optional closet. Moving on to the Dream Park model, which is at the top end, it has more architectural features. It has a dormer, a more elaborate porch, interior loft space, more windows, and a specific area for a washer and dryer. Tokos said that the Cascadia value series is a mirror image of the Fleetwood. There are some bay window options. The McKenzie has two different rooflines and looks less boxy. There is more in the way of windows. Croteau wondered what the cost range was, but Tokos said that he didn't print that off. The assumption was that prices would be more modest than manufactured dwellings; in a more affordable range. Tokos said that the Cascadia series offers more loft space, roof options, bay windows, and optional porch. Tokos said that his point is that if the Commission is looking for standards to differentiate between fifth wheels and park models, some of these features could be specified. Tokos said that if the Commission is looking to put together clear and objective standards that can be applied by staff, requirements could be put in for varied roofs, must have a porch, and things like that that would force them out of the basic model and into the higher end. In that way, staff is not left to something more objective; which we want to avoid. Tokos noted that these pictures and floor plans would give the Commissioners a sense of what a park model would look like. Just for information, Suzanne noted that she had just typed in park models in her search engine and got a cost of \$21,000. She had a question of what the timeline was for whether we establish a policy or code and the timeline for implementation. She said she was feeling a responsibility to first drive around town. Tokos said that we are not in a rush and there is no specific timeline to move this package forward. This is just one of the recommendations that came out of the housing piece. He said we will take a few work sessions where the Commission can put language together and put together a timeline that you want to move on. He said we will want to move quickly enough though that the subject matter remains fresh. We will move through it in a reasonable timeline, but there is no specific timeline.

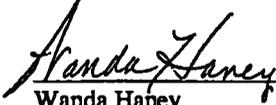
Tokos said that, in terms of what to focus on, the Commission can look at this narrowly and make this easier to put park models in manufactured dwelling parks or on individually-owned lots. You can look at allowing them in the full scope of residential districts or just in high density. Does the Commission want to see design standards in place for park models or just as they are? Tokos said that is the kind of feedback he would like to start with. For the next round of discussions, Tokos can bring more information; but he needs a better sense of what type of information the Commission would like. Hardy wondered if Tokos had any idea of the life span of park models versus manufactured homes versus stick-built. She said that might be some of the consideration for where you want to allow them.

Croteau said that he looks at these differently than ADUs and sees them as being fairly more high density. He said it defeats the purpose of the 50' x 100' lots. Hardy noted that the larger lots would allow them to have a garage and storage however. Berman noted that the objective is to have affordable housing. Croteau thought if density is a consideration that requiring a 5,000 square foot lot will likely preclude this type of structure. Smaller lots which increase density will allow them. Croteau thought that is a big issue we need to face. Patrick wondered if they could be allowed as ADUs, which can be detached. Tokos said that an ADU can't be over a certain percentage of the size of the primary dwelling; so park models wouldn't have an ADU. Park models could be an ADU, he could see that desire if the RV code were changed. Patrick said that he has no problem putting park models in manufactured home parks. He said if we allow park models on individual lots, he thinks we would have to have some standards for architectural treatments because that is the only way to separate them from trailers and fifth wheels. Dalton noted that Tokos had mentioned other jurisdictions and wondered if he could get examples of what they have done. Tokos said that they are more common in the county, but he will try to find cities that have allowed park models. Patrick said that it is state law that a manufactured home can be placed anywhere. Tokos agreed that we can't treat a manufactured home any differently than a stick-built home, but some CC&Rs can prevent them. Berman asked what about these in a geologic hazard area as it had been set up in the original draft of that code. Tokos said these would be handy on moving land. Tokos asked if for purposes of zoning, the Commission wanted to see language that would allow park models in typical residential zones. He said that he can bring a map and have further conversation whether other districts would be appropriate. Can we limit them just to parks or allow on individual lots? Patrick said that we have to be careful about opening it up. Maybe we need to designate an area and have an overlay. Tokos said that he is unsure park models could meet the architectural treatment requirements in Nye Beach. Perhaps they could with custom work, but most designs would run into problems with the overlay standards. Patrick agreed that we have to look at the zoning map to see if there are places for these. He said that there is a lot of R-3 zoning being used as single family because they have large lots. Croteau noted that there is language for RV parks now. That is R-4 and is conditional. Tokos said that the reason for RV parks being a conditional use is because of the review. RV parks have to have common area and some common facilities, consolidated storage areas maybe, and some common parking area. All of that gets looked at. That is why those standards exist. Croteau asked if when trying to adapt RV park language to park models there is an issue of their size and lot size. Tokos said that lot size is not driving it. They could put two on a lot if we keep the lot size high. He said we haven't been approached to put these on 5,000 square foot lots because the value of property is too high. Croteau said we have to have a way of making it square foot appropriate for park models to fit into what we already have for RV park language. Tokos said it will be independent of that. He said we need to think about it in terms of an RV pad versus an individual lot pad. He said that maybe the Commissioners want to drive around and visualize if we make it more permissible, how will that transform neighborhoods

and affect values. Patrick said that the area in Lincoln City south of Devils Lake would be a good area to see. Tokos suggested maybe if the Commissioners have time to drive around and take a look and think about that. Then when we get back to the conversation, you will have that context. Tokos agreed that we want to be very careful about how we approach these. He said it is different than ADUs.

**B. Adjournment.** Having no further discussion, the work session meeting adjourned at 7:00 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Wanda Haney  
Executive Assistant

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Conference Room 'A'**  
**Monday, June 24, 2013**

**Planning Commissioners Present:** Bill Branigan, Jim Patrick, Rod Croteau, Mark Fisher, Glen Small.

**Planning Commissioners Absent:** Jim McIntyre and Gary East (*both excused*).

**Citizens Advisory Committee Members Present:** Lee Hardy and Bob Berman.

**Citizens Advisory Committee Members Absent:** Suzanne Dalton (*excused*).

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

Chair Patrick called the Planning Commission work session to order at 6:02 p.m. and turned the meeting over to CDD Tokos. Tokos noted that he had included in the packet a letter received from some Nye Beach residents. The Design Review ordinance requires that a public hearing be held before the City Council by the end of the year to determine whether there is a need to do anything to the Nye Beach code. When the City Council held their town hall meeting recently in Nye Beach, they were approached by some of these folks about that ordinance; and the Council has asked that before that hearing is held that Tokos meet with the Nye Beach Merchants Association to find out if there are specific concerns so there is some focus when that meeting is held. The City Council will discuss whether there is sufficient need to direct the Planning Commission to do an ordinance review. Tokos noted that the letter mentions a Transportation and Growth Management Grant, and he agreed to meet with these folks later this week. Tokos said that he will fall back to what the City Council asked him to do. He felt that this letter is getting ahead of the game in presuming there is a need for change when that hasn't been determined yet. Because Patrick was copied, Tokos just wanted to share this letter with the entire Commission. He said there are a few people in the district that feel there is a need for changes; but he doesn't feel there is a strong desire in the larger Nye Beach area to do a full re-do of the overlay code. He feels that what we are seeing is more their frustration with the slowing in the pace of development, which is a function of the economy more than anything. He agreed that there are some things in the code that need to be cleaned up. Parking is one. The concept when the code was drafted changed a bit when the parking district formed. These things are more targeted than doing a whole new neighborhood plan. He doesn't see that happening, but the process is set by ordinance. Fisher asked if Nye Beach can't do another urban renewal district. Tokos said that they could seek to form a new district that includes portions of Nye Beach. There are limits on the amount of a city that can be in urban renewal districts; and that could be an issue. The north side district of US 20 and 101 came out of the economic analysis as the place to focus. There is no hard and fast rule that they can't put Nye Beach in a new district. It gets into how much of the land in the City is in urban renewal.

**A. New Business.**

1. **Draft Presentation on System Development Charges (SDCs).** Tokos said that the City Council asked for this overview, and he will be presenting this to them on July 1<sup>st</sup>. He wanted to get the Commission's take on this and if it makes sense and to get their thoughts on how the City's process to adjust the methodology should be. Tokos handed out a sheet with questions and answers on SDCs from the League of Oregon Cities. In his presentation he didn't spend a lot of time on that. He noted that five years have passed since the new methodology was adopted. Going through the slides, he noted that the purpose of SDCs is to impose a portion of the cost of capital improvements on developments and redevelopments that create the need for or increase the demands on capital improvements. He said these can be considered upgrades to the capital system. These fees are assessed on new development so they can help cover the enhancements. SDCs are driven by growth. These are improvements above what would normally be paid for. The thought is that at least some portion should come from new development. The definition of SDC is a reimbursement fee, an improvement fee, or a combination that is assessed at the time of increased usage of a capital improvement or issuance of a development permit, building permit, or connection to the capital improvement. He noted that the City can't charge SDCs for activities that we don't collect for a building permit; and that has been a rubbing point. The capital improvements are broken into five categories; wastewater, water, drainage, transportation, and parks and recreation. Newport is collecting all that jurisdictions can by law. Not all jurisdictions are doing that. He noted that on the League of Oregon Cities website, they have a 2010 study that lists what a lot of jurisdictions do. Capital improvements do not include costs for the operation of routine maintenance of these facilities; rates are supposed to cover that. SDC fees have to be kept in separate accounts and have to be spent in accordance with a plan. They can only be spent on SDC projects and only at the amount SDC eligible. He gave an example of restructuring the John Moore Road and Bay Blvd. intersection. Only 10% may be SDC eligible because of existing development. Tokos said the City has been charging SDCs as long as statutes have been in place; at least since 1981, maybe even earlier. How we calculated them was different back then.

There are two types of fees: improvement where we collect fees to build facilities; and reimbursement where the facility is already built using other funds, but now a certain amount can be paid back to cover future growth. He added that the City doesn't do that enough. Giving the history of SDCs, Tokos noted that it used to be fixture-based for water and sewer (how many fixtures were being added to a structure). Off-street parking demand was how it was assessed for streets, and it was based on dwelling units for parks. The City didn't collect for storm drainage until 2008 with the new methodology. That is when it was changed to an equivalent dwelling unit (EDU) basis. It was an impervious surface based approach for storm drainage; everything else was EDU. Water usage and number of vehicle trips was quantified in the methodology for nonresidential uses to establish equivalent units. For instance 1,000 square feet of restaurant would be equivalent to four dwellings. Fisher asked if that means that for gravel parking someone wouldn't be paying storm water SDCs; but for pavement they would. Tokos said that if a use adds five or more parking spaces, it has to be a paved surface on the lot. A new restaurant would be putting in pavement and would be paying for that. Patrick, having been on the committee reviewing SDCs back in 2008, noted the huge increase in fees for a single-family residence with total fees more than doubling. Tokos noted that homebuilders ran into situations where jurisdictions were all over the board with their SDC methodologies. They, along with others, convinced legislators there was a need to set ground rules for collecting SDCs. Every jurisdiction has to do it a certain way so they are treated as fairly as possible. State law does provide certain ground rules. SDCs have to be based on a Capital Improvement Plan for those systems, which notes that these are the projects we need to construct, and those capital projects should be based on growth projections. There needs to be evidence that capacity needs to be improved and that projected costs have to be passed on. We determine certain projects need to be done, and then the projected cost is what we base the SDC on. It is only taken on the new development portion because it is attributed to future demand. To determine the amount of SDC fee to charge per EDU, we take the SDC eligible cost and divide it by the projected growth in EDUs. Patrick noted that the Parks SDC turned out to be the biggest, but got cut in half. Tokos noted that jurisdictions are not required to collect 100% of eligible costs.

Tokos presented a slide showing a chart that provides an example of the SDC eligibility for water. It lists all the projects that are in the water system master plan that do not have dedicated funding sources. At the time this methodology was created, the City knew there would be an obligation bond for the water treatment plant, so it was taken off. Tokos said one conversation to have with the Council is now that the water treatment plant is constructed, the City should think about setting that up as a reimbursement fee. A portion for future growth is eligible for reimbursement. Each project is given a percentage of eligibility. The reimbursement fees are listed. Both are tallied up to get the maximum reimbursement SDC and the maximum improvement SDC. These are divided by the total growth EDUs to get the SDC fee per EDU. Tokos noted that this was in 2007 and adopted in 2008. The methodology suggested more robust development would occur than has in the last five years. Your SDC goes way up when you look at this. Tokos said that periodically we need to think critically if everything on that project list is needed. If they are not needed within 20 years, they shouldn't be on the list and we shouldn't be collecting an SDC for it. We need to look at growth projections and see if they are realistic. If it is overly rosy, we won't be collecting a lot in SDCs. Tokos said that he thinks a five year window is reasonable time to assess the methodology and decide whether certain projects should remain on the list. After five years, we are where we can take a hard look at how close we are; or if we have to make an adjustment. There is no requirement by statute for how often we review an SDC. The replacement of the dams is not in here. We would need to know the likely costs and what the timeframe will be. We can use SDC funds to update the capital plan itself. We could use the SDC for the parks master plan update for instance.

The next slide explained how the eligibility of capital projects for SDC assessments is determined. Based on the maximum daily demand and the projected demand, a ratio is established to determine the percentage that is for replacing existing capacity and the percentage to satisfy growth needs. Only that portion that is needed for future capacity is eligible for expenditure of SDC fees. Patrick noted that why a lot of this got taken out was the potential effect of this because the numbers hadn't been changed for ten to fifteen years. He said that now we are far enough along that we can add some of those back in. Croteau asked when the fees are paid. Tokos said that the fees need to be paid before the City can issue a building permit. Tokos said that part of this gets at managing the program. He said that a program can cost almost as much to administer. They have to get a building permit, so that is a good time to collect SDCs. It is easier to do it that way. The reason the City is not collecting on those where a building permit is not required is that we can't collect SDCs if we don't know something exists until someone tells us. By then, it has already been constructed and we hit them up to do what they should have.

Tokos discussed what triggers an SDC assessment, which would be new construction or alteration, expansion or replacement that increases usage. Fees are payable upon issuance of a building permit. Fees would trigger if someone connects to water or sewer systems or if there is a development permit. If someone goes and does it without a building permit and one was required, they have to pay and get a building permit.

The next couple of slides showed what we have collected since the new SDC system went on line; by year from 2008 to current, and by type. Small wondered at what point the level of the SDCs would actually discourage development. Tokos said it is tricky, but on the balance, he doesn't think it really has much. It would be more discouraging to small-scale development. The challenge with SDCs is that we can't treat small-scale development differently. Small said that the economy is driven by the small-scale; not the big developments. Patrick noted that on a remodel of a house, if there is an existing residence, they don't pay. Tokos noted that the fees are not fixture based anymore; so if someone is adding a bathroom, they are not paying SDCs. Tokos said the

storm drainage has fundamental problems with the methodology right now. Most projects don't pay; but the City didn't collect fees for storm drainage until 2008. Something to think about is why we are giving credits for something that was never paid for. A lot of those projects happen without permits. Someone (like the South Beach Church) paves a parking lot with no storm drainage; there is no permit, so they don't pay the SDC fee. If they take out a plumbing permit for storm drainage, they pay for adding impervious surface. Tokos said it's not fair. How can the City collect if we don't know it's occurring? We maybe would pick it up at a later date when they came in for something that requires a permit. Tokos said that SDCs are not coming in in a meaningful way.

Next, Tokos presented a graph showing how Newport stacks up against our peers; and he noted that we are on the inexpensive side. He noted that some jurisdictions have different costs based on elevation. Most jurisdictions are sitting in the \$12,000 to \$15,000 range; and we are sitting at \$10,400. He said the point is that this chart is helpful to see where we are in comparison with others. When looking at a change in the methodology, we don't want to be close to the \$30 thousand per EDU where West Linn is in some cases. Those that have similar terrain to us could have challenges similar to us. He noted that Newberg is mostly flat; but Depoe Bay is pretty similar to us. He said that Portland has similar issues, and they are at \$18 thousand per EDU. Lincoln City is ahead of us by a couple of thousand dollars base. Not all of these jurisdictions are EDU based. Some are fixture based, but on their website they provide what a typical number of fixtures are per dwelling unit.

Tokos had a pie chart showing how heavily influenced our collections are by large projects. It showed the amount collected for the NOAA MOC-P compared to all other projects in FY 2010 and FY 2011. Next, Tokos showed a comparison of collections versus transfers to capital projects. He noted that one of the things in the last few years is that we transferred funds to capital projects a lot more than what was collected; and that has to stop. Those water and sewer accounts are tapped out; there are no more SDC monies in the bank. The next pie chart showed the percentages collected by construction type. Most were paid on residential. Institutional was 16%. Patrick suggested that Tokos also run a slide showing the comparison in money. The next slide showed how much we are eligible to collect. Berman suggested that if it refers to a 20-year period, it should say that on the slide. Tokos said that this second slide shows that if we continue to collect at the rate we have been, after 20 years, we will have collected a little over 10% of what we said we need to for water; over 30% for sewer; less than 10% for streets; less than 10% for parks, and about 10% for storm drainage. Patrick said that means that realistically we would have to add 90%.

Tokos said that he is not trying to say to jack up the SDCs. That is way too hard. There is no way we are close to pulling all the SDCs. The projected need is driven by growth. This was the project list and what is SDC eligible back then. Tokos said the water treatment plant can be put back in as reimbursement SDC. Patrick thought that we could realistically cut the projects in half given the current growth rate. Tokos agreed that we have more projects on the list than the growth justifies right now. Growth projections are a little lower than was predicted. There have been some inappropriate credits that have peeled away revenue. He said that this feeds into the City Council conversation about having other revenue sources. There has been a lot of discussion happening about the 15% increase in water rates for example. That doesn't assume that we get a dime of SDCs. Public Works doesn't rely on that when pitching that. When they are looking at those rates, they are looking to cover capital projects with rates. We need to look hard at what we assume we need to build and make sure it is realistic in terms of need and thinking. Tokos said the question is if that list makes sense and is that what we really need. Maybe we can get by with a list that is more modest and reasonable. Berman wondered where the list comes from. Tokos said typically in the master plan updates. He said the storm water master plan will be fired up relatively soon; and there will be a sewer master plan, which hasn't been done since the 80s or early 90s. The water master plan was done in 2008, but it certainly needs tweaks. The transportation plan was just done. Patrick said that he knows there are projects that have been in there a while. Tokos said that just because a project is in the master plan doesn't mean it is in the SDCs. They are 20-year plans and have timing of 1-5 years, 5-10 years, and 15 plus years. It had different categories. It is taken from that into here. It will be a separate piece of that contract to work on the SDC methodology. Fisher wondered if the County have similar fees. Tokos said that he didn't look at the County. They have different development; they are rural. He would have to see if the rules are the same. Patrick thought the County has fees for streets. They are limited; they can't do water and sewer.

As far as amending SDC fees, some adjustments can be made without notice by resolution. Annually the methodology calls for adjusting the SDCs based on the construction cost index. Generally they go up; but one year they went down. The adjustment is a very small percentage. Changes to the methodology or an addition of a project that increases SDC fees requires a public hearing before the City Council with at least a 30-day notice to people requesting written notice. Nobody has made that request at this point.

Branigan asked what happens to fees collected and then a project disappears. Tokos said they are not on a project-specific basis. They are collected as a sum total. We collect based on total number of projects. Once complete, we have administrative responsibilities. We are not required to take them off the list per se. If collecting for a 20-year period, we are still collecting this rate for 20 years. There is a matter of housekeeping, like with the water treatment plant, by moving it into reimbursement fee as opposed to eligible fees. Berman wondered if fire protection falls into the same when a new fire station or new equipment is needed. Tokos said that state law defines the scope of what we can collect SDCs for, and that would be what we do.

Regarding authorized expenditures, reimbursement fees may only be spent on capital improvements associated with the systems for which the fees are assessed; improvement fees may only be spent on capital improvements that add capacity to the system (SDC eligible) and must be funded out of the account into which like type fees were collected. Any capital improvement receiving SDC funds must be included in the CIP and list of SDC eligible projects. Fees may be expended on updates to CIP and activities necessary to comply with SDC statutes. We collect 4.18% administrative fees. Patrick noted that transportation has all those projects, and some were to be done in five years. We still have to hold them on the list; but it's about what part should get into the SDC list.

Tokos talked about SDC credits. He noted that there is one that is required by law, which is if a developer has financed qualified public improvements. It is a dollar-for-dollar credit. None of the others are required; although a lot of jurisdictions do the second and third credits listed on the slide. If SDCs were paid in the past, a developer receives credit for what was paid. Credits are deducted from what is due. We go a step further and do something a little more generous. We provide credits for existing uses or development on the property that didn't pay SDCs. Walgreens paid zero SDCs; although the existing structures predated the SDC code, and SDCs were never paid. Tokos said that we need to take a hard look at being more generous than other jurisdictions are. We give credits for prior uses or developments that existed within the last 30 years; and no other jurisdiction does that. Because there was a log yard there 22 years ago, Teevin Bros. paid zero for transportation SDCs. They are putting in new asphalt so they are on the hook to pay the storm water SDC because there never was pavement. Tokos said because of this 30-year credit, we get weird things. There was a water meter left out there that was never utilized, but Teevin gets credit for a 2 inch meter. Patrick said a lot of this came about because of how high the SDC fees changed. It was a trade-off at that time. Berman wondered if SDCs could trigger with a change in ownership; but Tokos said that is tough. Tokos noted that any SDC credit that has been given has to be expended in 10 years so someone can't pay their SDC fees and hold off a long time on development in order to avoid higher fees. Tokos noted that because of what happened with the coffee shop where their SDC fees were going to be 40% of their overall project, we may want to add a cap of 20%. That is close to the 25% of project value that the State has for how much a developer would have to pay in terms of ADA accessibility on a project. We could set a credit that in no case can SDCs exceed 20% of the value of the project. NOAA was at about 4% of their project cost; Teevin is about 4.5% on storm water.

Small noted that you are paying the same \$10,400 SDCs whether you are doing a \$200,000 or a \$300,000 house; and he thought that seems discouraging for affordable housing. Tokos said that he is not saying that it's not worth looking at. It would require changing the methodology. Sometimes fixture-based gets at that, but that's still not perfect. Patrick said that any low-priced house has higher impact than a higher-priced house. The higher-priced homes are usually ocean view vacation homes; and the people are here only half the year. It's not the same impact as with workforce housing. Croteau agreed we could get bogged down looking at this. Patrick said that is why the committee went with EDUs; it's simpler.

Tokos went to the last slide listing recommendations. These are to deal with credits independently and consider revising them to eliminate those that are eliminating SDCs. Reviewing the CIP list to see if a project is actually needed in 20 years is important. He said it seems to make sense to do that review for the storm water and the sewer as those master plans are developed. For others that we are not looking at for a while in their master plans, such as transportation, we could do those separately. We might want to look at growth projects and if they are accurate. Tokos asked if these recommendations seemed reasonable. Patrick thought Tokos might want to add cutting the 30-year window for credits down to 10 years or something more reasonable. That ties into the 10-year life for SDC credits. Tokos wondered if we may want to charge some percentage for those that never paid SDCs to begin with. We could set a flat 50% if we want; it would have to be formula based. He said that could be a discussion.

Fisher asked if the City Council is bound by these or if they could just adjust the SDCs. Like if there is an appeal, they have flexibility of 25%. Tokos said the legislature put limits on SDCs to make sure we weren't treating people differently; so there wouldn't be too much flexibility. He said the only appeal option is if someone took offense with how the City spent SDC money. Small wondered if there was a way to build in incentives like in the Deco District to encourage people to address that. Tokos said we can't geographically say we are offering the city center credit. The way it has been done, like in Gresham, is that they waived the SDC in the city center as a business incentive. Then they actually used urban renewal funds and utility rates to pay them; but they couldn't waive the fees. They were paid by other city revenue sources so the developer didn't have to pay. Small thought it seemed like a legitimate urban renewal project. Tokos agreed that they are being used to offset development costs.

Tokos wondered if the structure of this presentation made sense. When he presents this to the City Council on July 1<sup>st</sup>, he will make similar recommendations to them. He said some of the information will also be digested by the task force working on paying for infrastructure. The presentation is to show them what SDCs are, how they perform, where we currently are in terms of how the system is working, and how they relate to urban renewal, utility rates, and bonding.

Tokos said that as the next step, we will probably be redoing the methodology for storm water at the same time as we work on that master plan. We will likely see changes done in bits and pieces; or we could push for a more holistic way. The challenge is knowing what Public Works is moving forward. Tokos knows that the storm water master plan is about to move; so it doesn't make much sense to do something on that separately. Sewer may come a year later as a master plan piece. We can tackle the

credits and how long we hold them, and reimbursement of the water plant. Transportation is done. He said the comparison chart is good tool to make sure we are not out of sync with our peers. We need to do something about growth projections. That was done as part of the housing and economic studies; and it's just a matter of working it back into here. If we reduce the projected growth, we should be taking projects off the CIP. Patrick thought for now we should stay away from sewer and parks, but definitely take a look at water and transportation projects.

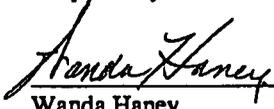
**B. Unfinished Business.**

1. Additional information regarding park models. Tokos noted that included in the packet was a minimum code change, which might address the immediate need. He wanted to see if the Commission was in agreement, or if more work is needed. What he did was a targeted change to eliminate the 5,000 square-foot minimum lot size in manufactured dwelling park space size and that it be at least an acre in size. The existing code requires at least one acre of contiguous land, no more than six spaces per acre, and that each dwelling has at least 5,000 square feet of space. That issue came up during testimony when the manufactured dwelling code was being cleaned up to comport with state law. The thought was that if we require 5,000 square feet, there is no way they would use park models. Tokos is proposing to eliminate the square footage requirement that says your park has to be so big and each lot has to be divided a certain way, and just go with density. It can't exceed the maximum density permitted in the district. The change requires that there be at least some common space. Portland took that route and does require at least some common open space so they are not stacking up. It is number of units; how many units per acre. The other change he's proposing has to do with the recreational vehicle provision, which is that you are allowed to let RVs in manufactured dwelling parks if you want to do so. It is a clarification piece.

Fisher noted that on page 1, it says a manufactured dwelling is allowed in any residential district, but it doesn't say it has to meet the standard setbacks and such. Tokos said they are still subject to setbacks. He said that he didn't set the code up for going with park models on individual lots. He couldn't find any examples where other jurisdictions allowed that. Small asked if this is consistent with what we are talking about for ADUs as well. Tokos said this is targeted to parks, and he can't see ADUs in parks. Patrick added that park models can't be put in as ADUs because they can't meet the requirements for ADUs. We can't permit it because it is an RV. Tokos said why jurisdictions don't allow park models on individual lots is the liability. If a park model burns down and takes out a block and the city has allowed it, does the city have liability for damages? But this code makes it so you can use park models in RV parks. Tokos said that he isn't optimistic that we will see a lot of change; but if the park owner were motivated to do park models, they would have the ability. Tokos said he can bring this forward as a package of code changes.

**B. Adjournment.** There was brief discussion about the intent of appeal to LUBA that has been filed for the approval of the Teevin Bros. TIA; and having no further discussion, the work session meeting adjourned at 7:45 p.m.

Respectfully submitted,

  
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Wanda Haney  
Executive Assistant

**Chapter 14.6. MANUFACTURED DWELLINGS AND RECREATIONAL VEHICLES.\***

**14.06.010 Purpose.** The purpose of this section is to provide criteria for the placement of manufactured dwellings and recreational vehicles within the City of Newport. It is also the purpose of this section to provide for dwelling units other than site-built structures.

**14.06.020 Manufactured Dwellings on Individual Lots.**

A. In addition to the uses permitted in the underlying zone, a single manufactured dwelling may be placed on an individual lot or parcel in any residential district where single-family residences are allowed subject to the following provisions:

- (1) Conform to the definition of a manufactured dwelling in Section 2-1-1 of this Ordinance.
- (2) Have the wheels and tongue or hitch removed.
- (3) Be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.
- (4) Have a pitched roof of at least two and one half feet for each 12 feet in width and be provided with gutters and down-spouts consistent with the standards contained in the current State of Oregon amended Council of American Building Officials.
- (5) Have exterior siding and roofing which, in color, material, and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on adjacent dwellings as determined by the Building Official.
- (6) Have a garage or carport constructed of like materials if an adjacent lot or parcel is developed with a dwelling that has a garage or carport.
- (7) Be multisectional and enclose a space of not less than 1,000 square feet as determined by measurement of exterior dimensions of the unit. Space within accessory structures, extensions, or additions shall not be included in calculating space.
- (8) Be connected to the public water system and an approved sewage disposal system.
- (9) Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

B. A manufactured dwelling constructed in accordance with current Federal Manufactured Home Construction and Safety Standards that does not meet criteria

listed in subsection (A), may be approved by the Planning Commission as a Conditional Use pursuant to Section 2-5-3 of this Ordinance. Requests of this nature shall be reviewed under a Type III decision making process consistent with Section 2-6-1, Procedural Requirements.

**14.06.030 Manufactured Dwelling Park Standards.** Manufactured dwelling parks may only be allowed in the R-2, R-3, and R-4 zoning districts, subject to the development standards contained in this section.

**14.06.040 Manufactured Dwelling Parks.** Manufactured dwelling parks are permitted subject to the following:

- A. Construction of the manufactured dwelling park and placement of manufactured dwellings shall comply with the Oregon Manufactured Dwelling and Park Specialty Code, 2002 Edition, as amended.
- B. Streets within the manufactured dwelling park shall adhere to the standards outlined in Newport Municipal Code Chapter 13.05.040 where the construction or extension of such street is identified in the City of Newport Transportation System Plan.
- ~~C. The number of spaces for manufactured dwellings shall not exceed an average of six (6) per acre of the total area in the manufactured dwelling park.~~
- ~~C.D. Each space for a manufactured dwelling shall contain at least 5,000 square feet. The maximum density allowed in a manufactured dwelling park is one unit for every 2,500 sq. ft. of lot area in the R-2 zoning district and one unit for every 1,250 sq. ft. of lot area in R-3 and R-4 zoning districts.~~
- ~~D. Recreational vehicles may be used as a place of habitation provided they are connected to the manufactured dwelling parks water, sewage, and electrical supply systems. In such cases, the recreational vehicles shall be counted against the density limitations of the zoning district.~~
- E. Any manufactured dwelling park authorized under this section shall have a contiguous area of not less than one (1) acre common outdoor area of at least 2,500 sq. ft. or 100 sq. ft. per unit, whichever is greater. Common outdoor areas shall be landscaped and available for the use of all park residents.
- F. If the park provides spaces for 50 or more manufactured dwelling units, each vehicular way in the park shall be named and marked with signs that are similar in appearance to those used to identify public streets. A map of the vehicular ways shall be provided to the fire department for appropriate naming.
- G. Public fire hydrants shall be provided within 250 feet of manufactured dwelling spaces or permanent structures within the park. If a manufactured dwelling space or permanent structure in the park is more than 250 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

- H. The manufactured dwelling park may have a community or recreation building and other similar amenities.
- I. All dead end streets shall provide an adequate turn around for emergency vehicles.

*Staff: The proposed changes make it clear that recreational vehicles, such as park models, may be used as a place of habitation within manufactured dwelling parks. This is required pursuant to ORS 197.493. Existing minimum acreage and lot size requirements have been replaced with density limitations and common open space requirements. The open space requirement is akin to what is contained in Portland's code. This should make it easier to site small units, such as park models, within a park while still ensuring that there is a reasonable amount of open space.*

**14.06.050 Recreational Vehicles: General Provisions.**

- A. Recreational vehicles may be stored on property within the City of Newport provided they are not used as a place of habitation while so stored unless the recreational vehicle is located within a manufactured dwelling or recreational vehicle park, or is authorized as a temporary living quarters pursuant to NMC Chapter 14.9.
- B. Removal of the wheels or placement of a recreational vehicle on a permanent or temporary foundation shall not change the essential character of any recreational vehicle or change the requirements of this section.
- C. It shall be unlawful for any person occupying or using any recreational vehicle within the City of Newport to discharge wastewater unless connected to a public sewer or an approved septic tank in accordance with the ordinances of the City of Newport relating thereof. All recreational vehicle parks within the City of Newport shall comply with the sanitary requirements of the City of Newport and the State of Oregon.

*Staff: The added language clarifies where it is permissible to occupy a recreational vehicle for purposes of habitation. It does not change the existing rules, which do not allow recreational vehicles to be used as a dwelling unit on an individual lot or parcel within the City of Newport.*

**14.06.060 Recreational Vehicle Parks.** Recreational vehicle parks are allowed conditionally in an R-4 zone and conditionally if publicly owned in the P-1 and P-2 zoning districts (excluding those P-1 properties within the Historic Nye Beach Design Review District), subject to subsections A through D below and in accordance with Section 2-6-1, Procedural Requirements. Recreational vehicle parks are allowed outright in C-1, C-2, C-3, I-1, and I-2 zoning districts (excluding those C-2 properties within the Historic Nye Beach Design Review District), subject to the subsections A through D as follows:

- A. The park complies with the standards contained in state statutes and the Oregon Administrative Rules.
- B. The developer of the park obtains a permit from the state.

- C. The developer provides a map of the park to the City Building Official.
- D. The park complies with the following provisions (in case of overlap with a state requirement, the more restrictive of the two requirements shall apply):
  - (1) The space provided for each recreational vehicle shall not be less than 600 square feet, exclusive of any space used for common areas (such as roadways, general use structures, walkways, parking spaces for vehicles other than recreational vehicles, and landscaped areas). The number of recreational vehicles shall be limited to a maximum of 22 per gross acre.
  - (2) Roadways shall not be less than 30 feet in width if parking is permitted on the margin of the roadway or less than 20 feet in width if parking is not permitted on the edge of the roadway, they shall be paved with asphalt, concrete, or similar impervious surface and designed to permit easy access to each recreation vehicle space.
  - (3) A space provided for a recreational vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide run-off of surface water. The part of the space which is not occupied by the recreational vehicle, not intended as an access way to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.
  - (4) A recreational vehicle space shall be provided with piped potable water and sewage disposal service. A recreational vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service.
  - (5) A recreational vehicle space shall be provided with electrical service.
  - (6) Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.
  - (7) The total number of off-street parking spaces in the park shall be provided in conformance with Section 2-3-6.015. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete, or similar material.
  - (8) The park shall provide toilets, lavatories, and showers for each sex in the following ratios: For each 15 recreational vehicle spaces, or any fraction thereof, one toilet (up to 1/3 of the toilets may be urinals), one lavatory, and one shower for men; and one toilet, one lavatory, and one shower for women. The toilets and showers shall afford privacy, and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or, if in the same building, shall be separated by a soundproof wall.
  - (9) The park shall provide one utility building or room containing one clothes

washing machine, and one clothes drying machine for each ten recreational vehicle spaces, or any fraction thereof.

- (10) Building spaces required by Subsection 9 and 10 of this section shall be lighted at all times of the night and day, shall be ventilated, shall be provided with heating facilities which shall maintain a room temperature of at least 62° F, shall have floors of waterproof material, shall have sanitary ceilings, floor and wall surfaces, and shall be provided with adequate floor drains to permit easy cleaning.
- (11) Except for the access roadway into the park, the park shall be screened on all sides by a sight-obscuring hedge or fence not less than six feet in height unless modified through either the conditional use permit process (if a conditional use permit is required for the RV park) or other applicable land use procedure. Reasons to modify the hedge or fence buffer required by this section may include, but are not limited to, the location of the RV park is such that adequate other screening or buffering is provided to adjacent properties (such as the presence of a grove or stand of trees), the location of the RV park within a larger park or development that does not require screening or has its own screening, or screening is not needed for portions not adjacent to other properties (such as when the RV park fronts a body of water). Modifications to the hedge or fence requirement of this subsection shall not act to modify the requirement for a solid wall or screening fence that may otherwise be required under Section 2-4-4.010 (Adjacent Yard Buffer) for non-residentially zoned property abutting a residentially zoned property.
- (12) Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest in the park.
- (13) Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

**197.493 Placement and occupancy of recreational vehicle.** (1) A state agency or local government may not prohibit the placement or occupancy of a recreational vehicle, or impose any limit on the length of occupancy of a recreational vehicle, solely on the grounds that the occupancy is in a recreational vehicle, if the recreational vehicle is:

- (a) Located in a manufactured dwelling park, mobile home park or recreational vehicle park;
- (b) Occupied as a residential dwelling; and
- (c) Lawfully connected to water and electrical supply systems and a sewage disposal system.

(2) Subsection (1) of this section does not limit the authority of a state agency or local government to impose other special conditions on the placement or occupancy of a recreational vehicle. [2005 c.619 §12]

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

The Newport Planning Commission will hold a public hearing on Monday, August 12, 2013, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-Z-13 in order to make a recommendation to the Newport City Council. A public hearing before the City Council will be held at a later date, and notice of that hearing will also be provided. The request is for legislative text amendments to Chapter 14. 6 (Manufactured Dwellings and Recreational Vehicles) of the Newport Municipal Code to replace fixed minimum lot size and minimum acreage requirements for manufactured dwelling parks with maximum density and minimum common open space benchmarks. The changes should make it easier for manufactured dwelling parks to provide space for smaller units such as park models or recreational vehicles. The amendments also clarify that recreational vehicles may be used as a place of habitation within manufactured dwelling or RV parks. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above).

***(FOR PUBLICATION ONCE ON FRIDAY, AUGUST 2, 2013)***



# PLANNING COMMISSIONER TRAINING

OREGON CITY PLANNING DIRECTORS ASSOCIATION is pleased to offer Planning Commissioner Training to City and County staff and Commissioners for the 3rd year in a row. This training program is offered in coordination with the 88th Annual Conference of the League of Oregon Cities.

The OCPDA is committed to offering affordable educational opportunities to elected and appointed officials on planning topics. This year's training features knowledgeable experts and practitioners from around the region to inform local decision-makers of best practices, lessons learned, legal considerations, and more. It is also a great opportunity for Planning Commissioners to discuss planning issues with Commissioners from around the state. Register now to reserve your seat at this training!



## TRAINING TOPICS AND SPEAKERS

**Ten Things Your City Attorney Wants the Planning Commission to Know**

By Tim Ramis, *Jordan Ramis, PC*

**Legislative Case Law Update for Planning Commissioners**

By Michael Robinson, *Perkins Coie LLP*

**Conversations with the State Department of Land Conservation and Development**

By Jennifer Donnelly, *DLCD Field Representative*

**Planning Commission Panel Discussion**

Various Planning Commissioner Representatives from Around the Region



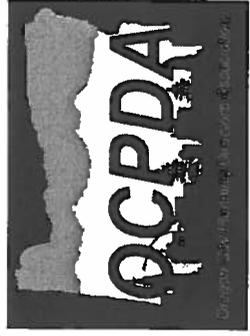
## PLANNING COMMISSIONER TRAINING

**September 26, 2013  
Thursday, 1 pm - 5 pm**

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