



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, April 8, 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.

NEWPORT PLANNING COMMISSION Monday, April 8, 2013, 6:00 P.M.

AGENDA

A. Unfinished Business.

1. Review and discuss draft code relating to accessory dwelling units (ADUs).

B. New Business.

1. Review of the Appeal Procedure.
2. Review Port of Newport's new Strategic Business Plan and new Capital Facilities Plan and discuss corresponding updates to the Port element of the Newport Comprehensive Plan.

C. Adjournment.

Memorandum

To: Newport Planning Commission/Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: April 3, 2013
Re: Draft Accessory Dwelling Unit Provisions

Enclosed is a draft set of Zoning Ordinance Amendments that will allow Accessory Dwelling Units in the City's residential zoning districts. Please review the revisions and come prepared to discuss whether or not the changes accurately reflect the direction that the Commission and Advisory Committee provided staff at the last work session.

I look forward to the discussion and feedback on Monday!

Formatting Note: New language is shown with a double underline. Deleted language is in ~~strikeout~~. Staff comments are shown in *italics*.

CHAPTER 14.1 PURPOSE AND DEFINITIONS

14.01.020 DEFINITIONS

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Accessory Structure or Use.** A structure or use incidental and subordinate to the primary use of the property and which is located on the same lot or parcel as the primary use or is on a contiguous lot or parcel under the same ownership. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

Accessory Dwelling Unit. A second dwelling unit created on a lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home.

Staff: This definition is consistent with the Department of Land Conservation and Development's model code for small cities. It is also used by other jurisdictions, such as Portland.

CHAPTER 14.3 ZONING DISTRICTS

14.03.050 Residential Uses. The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed.

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		R-1	R-2	R-3	R-4
A.	Residential				
(1)	Single family	P	P	P	P
(2)	Two family	X	P	P	P
(3)	Multi family	X	X	P	P
(4)	Manufactured Homes	P	P	P	P
(5)	Mobile Home Park	X	P	P	P
(6)	<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

B.	Accessory Uses	P	P	P	P
C.	Home Occupations	P	P	P	P
D.	Community Services				
	(1) Parks	P	P	P	P
	(2) Publicly Owned Recreation Facilities	C	C	C	C
	(3) Libraries	C	C	C	C
	(4) Utility Substations	C	C	C	C
	(5) Public or Private Schools	C	C	C	P
	(6) Child Care Facilities	P	P	P	P
	(7) Day Care Facilities	C	C	C	C
	(8) Churches	C	C	C	C
E.	Residential Care Homes	P	P	P	P
F.	Nursing Homes	X	X	C	P
G.	Motels and Hotels	X	X	X	C
H.	Professional Offices	X	X	X	C
I.	Rooming and Boarding Houses	X	X	C	P
J.	Beauty and Barber Shops	X	X	X	C
K.	Colleges and Universities	C	C	C	C
L.	Hospitals	X	X	X	P
M.	Membership Organizations	X	X	X	P
N.	Museums	X	X	X	P
O.	Condominiums	X	P	P	P
P.	Hostels	X	X	X	C
Q.	Golf Courses	C	C	C	X
R.	Recreational Vehicle Parks	X	X	X	C
S.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
T.	Residential Facility*	X	X	P	P
U.	Movie Theaters**	X	X	X	C
V.	Assisted Living Facilities***	X	C	P	P
W.	Bicycle Shop****	X	X	X	C
X.	Bed and Breakfast Inns (Subject to endorsement requirements of 14.25.001)	P	P	P	P
Y.	Vacation Rentals (Subject to endorsement requirements of 14.25.001)	P	P	P	P

* Added by Ordinance No. 1622 (10-7-91).

** Added by Ordinance No. 1680 (8-2-93).

*** Added by Ordinance No. 1759 (1-21-97).

**** Added by Ordinance No. 1861 (10-6-03).

***** Amended by Ordinance No. 1989 (1-1-10).

Staff: Accessory Dwelling Units have been added as a residential use type that is permitted in all residential zoning districts. This option would not be available to dwellings in the City's commercial and industrial districts.

CHAPTER 14.16 ACCESSORY USES AND STRUCTURES

14.16.010 Purpose. The provisions of this section are intended to establish the relationship between primary and accessory structures or uses and to specify development criteria for accessory structures or uses.

14.16.020 General Provisions.

- A. Accessory uses and structures are those of a nature customarily incidental and subordinate to the primary use of a property. Typical accessory structures include detached garages, sheds, workshops, greenhouses, gazebos and similar structures not intended for habitation by people. The Community Development Director, or the Director's designee, shall determine if a proposed accessory use is customarily associated with, and subordinate to, a primary use and may at his/her discretion elect to defer the determination to the Planning Commission. A determination by the Planning Commission shall be processed as a code interpretation pursuant to Section 14.52.001, Procedural Requirements.
- B. An accessory use or structure shall be subject to, and comply with, the same requirements that apply to the primary use except as provided in this section.

14.16.030 Accessory Use or Structure on a Separate Lot or Parcel. An accessory use or structure may be located on a lot or parcel that is separate from the primary use provided:

- A. The lot or parcel upon which the accessory use or structure is to be located is contiguous to the property containing the primary use; and
- B. The subject lots or parcels are under common ownership and within the same zone district; and
- C. A deed restriction, in a form approved by the City, is recorded stating that the property on which the accessory use or structure is to be located cannot be sold or otherwise transferred separate from the lot or parcel containing the primary use. This restriction shall remain in effect until a primary use is situated on the same lot or parcel as the accessory building or the accessory building is removed.

14.16.040 Development Standards. Accessory buildings and structures, including Accessory Dwelling Units, shall conform to the following standards:

- A. The maximum floor area of the accessory structure in a residential zoning district shall not exceed 1,500 square feet or 65% of the total floor area of the primary structure, whichever is less.

- B. The maximum height of an accessory building in a residential zoning district shall not exceed that of the primary structure.
- C. Accessory buildings shall not extend beyond the required front yard setback lines of adjacent lots or parcels.
- D. Regardless of the setback requirements, a rear yard in a residential zone district may be reduced to five (5) feet for a one-story detached accessory building provided the structure does not exceed 625 square feet in size and 15 feet in height.

Staff: This change applies existing accessory use standards to Accessory Dwelling Units. Another approach would be to exclude Accessory Dwelling Units from these standards and then repeat those that the Commission wants to apply in the new section below. The Commission should consider whether or not the reduced rear yard setback is appropriate for a residential occupancy.

14.16.050 Accessory Dwelling Unit Standards. Accessory dwelling units shall conform to the following standards:

- A. Floor Area. Accessory Dwelling Units shall not exceed 600 square feet of floor area or, 50% of the area of the primary dwelling, whichever is less.**
- B. Type. Accessory Dwelling Units may be a portion of the primary dwelling, attached to a garage, or a separate free-standing unit.**
- C. One Unit. A maximum of one Accessory Dwelling Unit is allowed per lot or parcel.**
- D. Exempt from Density Limits. Accessory Dwelling Units are exempt from the housing density standards of residential zoning districts.**
- E. Architecture. Exterior materials used to construct an Accessory Dwelling Unit shall be the same as those of the primary dwelling or garage.**
- F. Utilities. An Accessory Dwelling Unit shall share water, sewer, electric, and gas connections with the primary dwelling.**
- G. Owner-Occupied. Either the primary residence or Accessory Dwelling Unit shall be owner-occupied. The property owner shall prepare and record a covenant or deed restriction in a form acceptable to the city, providing future owners with notice of this requirement.**
- H. Off-street Parking: One off-street parking space shall be provided for each Accessory Dwelling Unit. This requirement is in addition to off-street parking standards that apply to the primary dwelling.**

Staff: The Commission may want to consider dropping the off-street parking requirement. This would allow the City to forgo charging System Development charges because it could interpret the use as not increasing the parcel or structure's use of a public improvement system.

14.16.060 Conditional Use Approval of Accessory Dwelling Units. If one or more of the standards of this chapter cannot be met, an owner may seek approval of an Accessory Dwelling Unit as a Conditional Use, pursuant to Chapter 14.34. A Conditional Use Permit may allow relief from one or more of the standards of this chapter, but does not excuse the owner from complying with the standards that can be satisfied.

Staff: This language is consistent with a similar allowance provided for vacation rentals or bed and breakfast establishments that cannot satisfy the endorsement standards.

Memorandum

To: Newport Planning Commission/Advisory Committee

From: Derrick Tokos, Community Development Director 

Date: April 4, 2013

Re: Procedures for Quasi-Judicial Proceedings

Considering that it has been a while since the Planning Commission has considered an appeal of a quasi-judicial decision, I thought it would be helpful to review the City's procedures for such matters prior to the April 22nd appeal hearing on the Teevin Brother log yard traffic impact analysis approval. Enclosed is a copy of the relevant chapter of the Newport Municipal Code. I highlighted the most relevant language. For this work session, I'll be prepared to talk through each section and will be happy to answer questions. The City Attorney is not planning to attend the work session or hearing; however, if there are procedural questions that I cannot answer, I would be happy to forward them to her so that you have answers prior to the hearing.

Also, please note that there will not be a work session on April 22nd and we have noticed the appeal hearing to start at 6:00 pm.

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

14.52.010 Purpose. The purpose of this section is to designate and define the responsibilities of the approving authorities and to set forth the procedural requirements for land use actions requiring public notice before or after the decision.

14.52.020 Description of Land Use Actions/Decision-Making Procedures. The following is a description of four general types of land use actions/decision-making procedures utilized for land use and limited land use decisions within the City of Newport:

- A. **Type I Land Use Actions.** Type I decisions are generally made by the Community Development Director without public notice prior to the decision and without a public hearing. A notice of the decision and opportunity to appeal is provided. Type I decisions involve limited administrative discretion. An example of a Type I action is an estuarine review. An appeal of a Type I decision is heard by the Planning Commission.
- B. **Type II Land Use Actions.** Type II decisions are generally made by the Community Development Director with public notice and an opportunity to comment but without a public hearing. Type II decisions involve administrative discretion in the application of criteria but usually involve land use actions with limited impacts or involve limited land use decisions. Examples of Type II actions include Conditional Use Permits that generate less than 50 vehicle trips per day and involve property that is less than an acre in size, Property Line Adjustments, Minor Partitions, and Minor Replats. An appeal of a Type II decision by the Community Development Director is heard by the Planning Commission, and an appeal of a Type II decision by the Planning Commission is heard by the City Council.
- C. **Type III Land Use Actions.** Type III decisions are considered quasi-judicial land use actions and generally are made by the Planning Commission after public notice and a public hearing. Type III decisions generally use discretionary criteria or involve land use actions with larger impacts than those reviewed under a Type I or

Type II procedure. Examples of Type III actions include Conditional Use Permits that generate more than 50 trips per day, variances, preliminary and final planned development applications, interpretation requests, and tentative subdivision plat applications. An appeal of a Type III permit decision is heard by the City Council.

- D. Type IV Land Use Actions. Type IV decisions are made by the City Council as either quasi-judicial or legislative decisions involving land use action such as urban growth boundary amendments, Comprehensive Plan map/text amendments, Zoning map/text amendments, annexation requests, planned destination resorts conceptual master plans, and street/plat vacations for which an ordinance must be adopted by the City Council. Most Type IV decisions require a public hearing and recommendation by the Planning Commission prior to the City Council public hearing.

(Entire section amended by Ordinance No. 1989 (1-1-10).)*

14.52.030 Approving Authorities. The approving authority for the various land use actions shall be as follows:

- A. City Council. A public hearing before the Council is required for all land use actions identified below. Items with an "*" require a public hearing and recommendation from the Planning Commission prior to a City Council hearing.
1. Annexations*.
 2. Comprehensive Plan amendments (text or map)*.
 3. Planned destination resorts--conceptual master plans*.
 4. Urban growth boundary amendments*.
 5. Vacations (plat or street)*.
 6. Withdrawals of territory (public hearing required).
 7. Zone Ordinance amendments (text or map)*.
 8. Any other land use action defined in ordinance as a Type IV decision*.

9. Any land use action seeking to modify any action or conditions on actions above previously approved by the City Council where no other modification process is identified.

10. Appeals of a Planning Commission action.

B. Planning Commission. A public hearing before the Commission is required for all land use actions identified below. Items with an "*" are subject to Planning Commission review as defined in the section of the ordinance containing the standards for that particular type of land use action. Planning Commission decisions may be appealed to the City Council.

1. Conditional use permits*.

2. Nonconforming use changes or expansions*.

3. Planned destination resorts - preliminary and final development plans*.

4. Planned developments.

5. Subdivisions (tentative subdivision plat).

6. Variances.

7. Adjustments*.

8. Design review*.

9. Interpretations of provisions of the Comprehensive Plan or Zoning Ordinance that require factual, policy, or legal discretion.

10. Any land use action defined as a Type III decision.

11. Any land use action defined as a Type II decision for which the Planning Commission is the initial approving authority.

12. Any land use action seeking to modify any action or conditions on actions above previously approved by the Planning Commission where no other modification process is identified.

13. Appeal of the Community Development Director decision under a Type I or Type II decision.

C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an "*" are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action. Decisions made by the Community Development Director may be appealed to the Planning Commission.

1. Conditional use permits*.
2. Partitions, minor.
3. Replats, minor.
4. Estuarine review.
5. Adjustments*.
6. Nonconforming use changes or expansions*.
7. Design review*.
8. Ocean shorelands review.
9. Any land use action defined as a Type I or Type II decision for which the Community Development Director is the initial approving authority.
10. Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development Director where no other modification process is identified.

14.52.040 Application for a Land Use Action. All requests for land use actions shall be on forms prescribed by the city. The Community Development Department prepares the application forms and, from time to time, amends the forms as the need arises. At a minimum, the application shall require the following:

- A. Name and address of the applicant.

- B. Name and address of the property owner, if different and applicable.
- C. Legal description of the property, if applicable.
- D. A site plan drawn to scale, if applicable, which shows dimension, property lines, existing buildings, and/or the proposed development.
- E. A Lincoln County Assessor's map showing the subject property and the notification area, if applicable.
- F. Street address of the subject property, if applicable.
- G. Names and addresses of property owners within the notification area, if applicable, as shown in the records of the county assessor.
- H. Signature blocks for the applicant and property owner, if different and applicable.
- I. Comprehensive plan and zoning designation of the subject property, if applicable.
- J. Findings of fact and other information that support the request and address all the applicable criteria.
- K. A current list of the site addresses of any structure in the area proposed to be annexed, if applicable.
- L. Any other information as identified by ordinance for the applicable type of land use action.

14.52.050 Submittal of Applications. A property owner, any person with the written approval of the property owner, or the city manager, may apply for a land use action. All documents or evidence in the file on an application shall be available to the public.

- A. Not later than 30 calendar days after receipt, the Community Development Director or designate shall determine whether or not the applicant is complete and notify the applicant in writing of what information is missing and allow the applicant to submit the missing information. If the Community Development Director or designate does not make a determination of an incomplete application within 30 days after receipt, the

application is deemed complete. Complete applications shall be accepted and processed. If an application is deemed incomplete, the application shall be deemed complete upon receipt by the Community Development Department of:

1. All of the missing information;
 2. Some of the missing information and written notice that no other information will be provided; or
 3. Written notice that none of the missing information will be provided.
- B. The completeness determination is not a review of the merit of the application and a positive completeness determination is not a conclusion that the application can be approved.
- C. On the 181st calendar day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under subsection A above and has not submitted:
1. All of the missing information;
 2. Some of the missing information and written notice that no other information will be provided; or
 3. Written notice that none of the missing information will be provided.
- D. For applications subject to ORS 227.178, if the application was complete when first submitted, or if the applicant submits the requested information within 180 calendar days of the date the application was first submitted, approval or denial of the application shall be based on the standards and criteria that were applicable at the time the application was first submitted.
- E. For applications subject to ORS 227.178, the 120 day rule as specified in ORS 227.178 shall be applicable.

14.52.060 Notice. The notification requirements in general for the various types of land use actions are identified below. The applicant shall provide city staff with the required names and addresses for notice. Notice of hearings to individual

property owners is not required for Type IV legislative actions unless required by state law, such as ORS 227.186 (notice to owners whose property is rezoned). These notification requirements are in addition to any other notice requirements imposed by state law or city ordinance.

A. Information Required in all Notices of Actions and Hearings:

1. Name of applicant and property owner (if different), and file number.
2. Location of property (if applicable).
3. Date, time, and location for public hearing (for all hearings).
4. A brief summary of the nature and substance of the application or decision.
5. A list of applicable Newport Ordinance and/or Comprehensive Plan standards and where the applicable criteria may be found.
6. A statement that relevant information (decision, staff report, application or other materials) may be reviewed and providing information about where and when they can be reviewed, and a statement that copies are available at cost).
7. Staff contact information, including name, address, and phone number.
8. Date the notice is mailed.

B. Information Required in Specific Notices:

1. Date of decision (for Type I actions).
2. A statement describing the process and the deadline for filing comments (for Type II actions).
3. A statement that the failure to raise an issue with sufficient specificity to allow the decision maker an opportunity to respond to the issue precludes raising the issue on appeal, including an appeal to the Land Use Board of Appeals (for Type II and III and quasi-

judicial Type IV actions).

4. Date, time, and location of the hearing (all hearing notices).
 5. A statement that the staff report will be available for view at no cost and that copies will be available at a reasonable cost at least seven days before the hearing (Type III and Type IV quasi-judicial actions).
 6. A general description of the hearing process, including the process for submitting written materials (Type III and IV decisions).
 7. An explanation of the use or uses that could be authorized by the decision (Type IV decisions).
- C. Mailing of Notice. Notices of hearings and actions shall be mailed by first class mail at least 14 days prior to the deadline for providing testimony for Type II decisions and at least 20 days prior to the public hearing for Type III and Type IV quasi-judicial actions. Notices shall be mailed to:
1. The applicant and property owner (if different).
 2. Any affected public agency or public/private utility.
 3. Any person who has requested notice of the hearing or action in writing.
 4. Any officially recognized neighborhood association whose boundaries include the subject property.
 5. Record owners of property (as specified in the most recent Lincoln County Assessor's property tax assessment roll):
 - a. Within 200 feet of the subject property (Type I, Type II, and Type III actions).
 - b. Within 300 feet of the subject property (Type IV quasi-judicial actions).
- D. Written Notice for Rezoning of Mobile Home or Manufactured Dwelling Park. If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park, written

notice by first class mail shall be given to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days, but not more than 40 days, before the date of the first hearing on the application.

E. Written Notice to Airport Owners. Notice of a public hearing on a zone use application shall also be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if:

1. The name and address of the airport owner has been provided by the Aeronautics Division of the Department of Transportation to the City Community (Planning) Department; and
2. The property subject to the zone use hearing is:
 - a. Within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport," or
 - b. Within 10,000 feet of the side or end of the runway of an airport determined by the Department of Transportation to be an "instrument airport."
3. Notice of a zone use hearing need not be provided if the permit or zone change would only allow a structure less than 35 feet in height, and the property is located outside of the runway "approach surface" as defined by the Department of Transportation.

F. Published Notice. Notice of each Type III and Type IV hearing shall be published at least once in a newspaper of general circulation in the city at least 5 days, and no more than 14 days, prior to the date set for public hearing.

14.52.070 Staff Reports. Staff reports on any quasi-judicial land use action shall be available for public inspection at least seven (7) days prior to the date set for public hearing, and copies will be provided at the city's rate for photocopies.

14.52.080 Hearings Procedures (Quasi-Judicial/Limited Land Use). This section shall govern the conduct of quasi-judicial/limited land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of quasi-judicial and limited land use hearings and

may be supplemented by any duly adopted rules of procedure.

A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a land use action, is acting in a quasi-judicial capacity, and all hearings shall be conducted accordingly. Parties to the hearing are entitled to an opportunity to be heard, to present and rebut evidence, and to have a decision based on evidence supported by findings of fact and supporting information. Testimony shall be made with sufficient specificity so as to afford the approving authority and other parties an adequate opportunity to respond to each issue.

B. Disqualification, Ex Parte Contacts, Bias, Challenges to Participation. Proponents and opponents are entitled to an impartial tribunal that judge land use actions. A proponent or opponent may, therefore, challenge the qualifications of a member of the approving authority to participate in the meeting or decision. A challenge must state with sufficient specificity the facts relied upon by the submitting party relating the person's bias, prejudice, personal interest, or other facts from which the party has concluded that the member of the approving authority may be unable to participate and make a decision in an impartial manner. Challenges shall be incorporated into the record of the meeting.

1. Disqualification. No member of the approving authority shall participate in discussion of an application or vote on an application for any land use action when any of the following conditions exist:

a. Any of the following have a direct or substantial financial interest in the proposal: members of the approving authority or a member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, or household, or there is an actual conflict of interest under state law.

b. The land use action involves a business in which the member is directly associated or has served within the past two (2) years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

- c. The member owns property within the area entitled to receive notice of the action.
 - d. For any other reason, the member has determined that participation in the decision cannot be in an impartial manner.
2. Disclosure of Potential Conflict of Interest. Even if an approval authority member chooses to participate, the member shall disclose any potential conflict of interest as required by state law.
3. Ex parte Contacts. In quasi-judicial matters, approving authority members shall reveal any ex parte contacts, including site visits. Parties to a hearing shall have the right to rebut the substance of an ex parte contact.
4. Challenges. Any person may challenge the participation of a member of the approving authority in a decision-making process. A challenge must state with sufficient specificity the factual and legal basis of the reasons for the challenge.
5. Rights of Disqualified Members of the Approving Authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum. A member who represents personal interest at a meeting may do so only by abstaining from voting on the proposal, vacating the seat on the approving authority, and physically joining the audience, and by making full disclosure of his or her status and position at the time of addressing the approving authority.
6. Requalification of Disqualified Members of the Approving Authority. If all members of the approving authority abstain or are disqualified, all members present, after stating their reasons for abstention or disqualification, shall by doing so be requalified unless prohibited by state law and proceed to hear the issues and make a decision.
7. Participation in Decision by Absent Member of Approving Authority. A member of the approving authority absent during the presentation of evidence in a land use action meeting may not participate in the

deliberations or final decision regarding the matter of the meeting unless the member has reviewed all the evidence in the record to date, including audio tapes of prior meetings.

8. Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a meeting at which there is scheduled a consideration of a land use action, the land use action shall be automatically set over to the next regularly-scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.
 9. Failure to Make a Final Decision on a Quasi-Judicial Land Use Action, Limited Land Use Action, or on Appeal. In the event an approving authority other than the City Council is not able to make a final decision on a quasi-judicial land use action within three meetings after the hearing or record is closed, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public or appeal hearing held. In the event that an approving authority other than the City Council becomes deadlocked through an even split in the approving authority such that a decision cannot be made, the approving authority shall forward the land use action to the next higher review authority for a new public or appeal hearing.
- C. Public Hearing. This subsection shall govern the conduct of all public hearings.
1. Nature of Hearing. All parties participating in a public hearing shall have an opportunity to be heard, to present and rebut evidence, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law. The presiding officer of the approving authority shall have authority to:
 - a. Regulate the course and decorum of the meeting.

- b. Dispose of procedural requests and similar matters.
- c. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimony.
- d. Question any person appearing, and allow other members to question any such person.
- e. Waive the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party substantial rights as provided herein or otherwise by law.
- f. Take such other action as authorized by the approving authority to appropriately conduct the hearing.

A ruling of the presiding officer may be challenged by any member of that approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

- 2. Conduct of Participants. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or may exclude from the hearing anyone who:
 - a. Is disorderly, abusive, or disruptive.
 - b. Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing.
 - c. Testifies without first receiving recognition from the presiding officer.
 - d. Presents irrelevant, immaterial, or repetitious evidence.
- 3. Order of Procedure. The hearing shall proceed in the

following manner:

- a. Open Public Hearing. The presiding officer shall open the public hearing and announce the nature and purpose of the hearing, identify the applicant, describe the general nature of the proposal, and state (or defer to staff to state) the applicable substantive criteria by which the application is being judged. The presiding officer shall also state that testimony and evidence must be directed toward the applicable criteria. In addition, for quasi-judicial land use actions or limited land use actions, the presiding officer shall state that failure to raise an issue with sufficient specificity to afford the approving authority and the parties an opportunity to respond to the issue precludes an appeal based on that issue, including to the Land Use Board of Appeals.
- b. Call for Abstentions. The presiding officer shall call for any conflicts of interest, and, if applicable, ex parte contacts, or site visits by members of the approving authority.
- c. Call for Objections. The presiding officer shall call for any objections to the approving authority hearing the matter before it.
- d. Staff Report. Staff present a staff report and any recommendations.
- e. Proponents' Presentation. The presiding officer shall call for testimony from the applicant and from any person supporting the application.
- f. Opponents' Presentation. The presiding officer shall call for testimony from any person objecting to the application.
- g. Rebuttal by Applicant. The presiding officer shall call for rebuttal from the applicant in response to evidence or issues raised by the opponents.
- h. Continuance. Review authorities may continue a public hearing or leave a record open to allow for additional testimony. In a quasi-judicial or limited land use action, prior to the conclusion of the initial

evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. If the request is made prior to the conclusion of the initial evidentiary hearing, the review authority shall grant the request by either continuing the public hearing or leaving the record open in conformance with the requirements of ORS 197.763.

- i. Close Public Hearing. Unless there is a continuance, the presiding officer shall close the public hearing and state that no further testimony will be received by the approving authority.
- j. Deliberation by Approving Authority. The approving authority shall consider the testimony and evidence before it in open discussion. The approving authority may ask questions of staff. The approving authority may ask proponents or opponents for clarification on a matter; but if they choose to do so, others must be given opportunity to rebut.
- k. Decision. Following deliberation, the approving authority shall vote on the matter, including on any conditions of approval to be attached (or in the case of a review and recommendation, any recommended conditions of approval).
- l. Adoption of Findings of Fact. The approving authority shall adopt findings of fact that support their decision. If there are no findings available to support their decision, staff may prepare findings of fact to be presented at a future meeting. The approving authority may also call for the preparation of findings of fact by the proponent or opponent, or any combination, including staff, of each to be presented at a future meeting. The approving authority may also request that findings of fact be presented at a future meeting other than the next regularly-scheduled meeting. For hearings that are for a review and recommendation only, no findings of fact are required.
- m. Final Decision. The decision of the approving

authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required.

- n. Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - i. Anyone who has made appearance of record (see Section 14.39.045); and
 - ii. Anyone who has filed a written request for notice of the approving authority's decision; and
 - iii. Anyone who has requested notice of any appeal hearing.

14.52.090 Public Hearings Procedures (Legislative). This section shall govern the conduct of legislative land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of legislative land use hearings and may be supplemented by any duly adopted rules of procedure.

- A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a legislative land use action, is acting in a legislative capacity, and all hearings shall be conducted accordingly.
- B. Disqualification. No member of the approving authority shall participate in discussion of an application or vote on an application for any land use action when there exists an actual conflict of interest under state law. Potential conflicts of interest under state law shall be disclosed by members of the approving authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum.
- C. Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a

meeting at which there is scheduled a consideration of a land use action, the land use action shall be automatically set over to the next regularly-scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.

D. Public Hearing. The public hearing process identified above in 14.52.080(C) for quasi-judicial/limited land use hearings shall be utilized with the following modifications noted for the legislative hearing process to the following subsections of 14.52.080(C)(3):

1. Final Decision. The decision of the approving authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required. Unless required by law to do so, the approving authority is not obligated to adopt a final order or ordinance if the approving authority chooses not to adopt a legislative amendment.
2. Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - a. Anyone who has made appearance of record (see Section 14.52.080(B)) and submitted a written request for a notice of decision; and
 - b. Anyone who has filed a written request for notice of the approving authority's decision.
 - c. The Department of Land Conservation and Development as required for a post acknowledgement plan amendment.

14.52.100 Appeals. Any person with standing may appeal a decision of the approving authority. No person shall have standing to appeal unless the person made an

appearance of record in the initial proceeding prior to the close of the public comment period, public hearing, or close of the record. All appeals shall be made no later than 15 calendar days after the date the final order is signed. "Appearance of record" shall mean either appearance in person or in writing. City Council decisions may be appealed to the Oregon Land Use Board of Appeals as provided by state law.

A. Appeal Document. All appeals shall be signed by the appellant or authorized agent and shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision.
2. A statement demonstrating that the appellant has standing to appeal.
3. A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the application shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to city code, an ordinance statute, or other law, the appeal shall identify the city code, an ordinance, statute, or other legal provision, and state how the applicable provision has been violated. For appeals of a quasi-judicial or limited land use action, a statement demonstrating that the appeal issues were raised with sufficient specificity in the hearing below.

B. Scope of Review. Unless the appeal is heard de novo, the appeal of a decision by a person with standing shall be limited to the specific issues raised during the hearing from which the decision is being appealed. Approving authorities may hear appeals on the record of the initial hearing (if a previous hearing was held) or de novo. An appeal from a land use action that had a previous hearing shall be held on the record unless the approving authority determines that a de novo hearing is warranted.

1. When de novo hearing is warranted.

- a. Where a land use decision was made without a public hearing, the appeal shall be heard de novo.

- b. Where a land use decision was made following a public hearing, the approving authority may consider holding the appeal de novo for any of the following reasons:
 - i. (The appellant(s) have documented as part of a petition to appeal a significant procedural error that resulted in a substantive harm to their ability to participate in the initial hearing that could be cured by a subsequent de novo hearing.
 - ii. The appeal of the decision is part of a package of land use requests submitted by the applicant that include other land use requests that will be considered in a new public hearing before the review authority, and it would be more efficient to conduct the appeal de novo in conjunction with the hearings for the other land use requests.
 - iii. A significant number of appeals have been filed such that the efficiency of the appeal process would be better served through a de novo hearing.
2. Procedure for determining when de novo hearing is warranted on appeal from a land use decision made following a public hearing:
 - a. Following the end of the appeal period for which an appeal has been filed with a request for a de novo hearing, the matter of the de novo appeal hearing request shall be scheduled at the next available approving authority meeting for consideration.
 - b. The appeal authority shall review the submitted request for de novo hearing along with any staff and applicant (if other than appellant) input on the matter and make a decision.
- C. Notice of Appeal. Notice of the appeal hearing shall be given to the applicant, the applicant's authorized agent (if any), and to interested persons. Interested persons are:
 1. Anyone who has made appearance of record.

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

D. Appeal Hearings. The following is a minimum set of procedures for appeal hearings and may be supplemented by any duly adopted rules of procedure:

1. Appeal hearings on the record shall be conducted as follows:
 - a. A record of hearing shall be prepared by the Community Development Department containing the written material involving the approval through the filing of the appeal. A transcript of the hearing shall be prepared and included with the record.
 - b. Following preparation of the record, a date for the on-the-record hearing shall be set by the Community Development Department, and notice of the date of the appeal hearing shall be given.
 - c. The appellant(s) shall have seven calendar days from the date the record is available to supplement the petition for appeal by identifying items in the record in support of the appeal ("support brief").
 - d. The applicant(s) (if other than the appellant) and city staff shall have seven calendar days from the date the appellant support brief is due to respond ("response brief").
 - e. The appeal hearing will allow for comments by city staff, argument from appellant(s), applicant(s) (if other than appellant), rebuttal, and questions and deliberation by the approving authority.
2. De novo appeal hearings may be held by the appeals approving authority. In cases of a de novo hearing, the same procedure shall be used as was employed in the initial hearing.
3. Ability for City Council to deny appeal without hearing. The City Council may deny an appeal from a Planning Commission decision where the Planning Commission

has held a de novo hearing following an appeal of a decision of the Community Development Director for land use actions subject to the 120-day rule in ORS 227.178. If the City Council votes to deny an appeal, the Council shall adopt the Planning Commission Final Order as the final decision of the City.

E. Appeals Decision. Upon review of the appeal, the appeals approving authority may, by final order, affirm, reverse, or modify in whole or part the initial decision. When the appeals approving authority modifies or reverses a decision of the initial approving authority, the final order shall set forth findings and reasons for the change. The appeals approving authority may also remand the matter back to the initial approving authority for further consideration or clarification. A notice of the decision made by the approving authority shall be given to:

1. Anyone who has made appearance of record; and
2. Anyone who has filed a written request for notice of the approving authority's decision; and
3. Anyone who has requested notice of any appeal hearing.

F. Judicial Finality. No permit shall be issued, no permit or approval shall be considered valid, and no project may proceed, based on any land use decision of the City of Newport for a land use action processed under this section of the Ordinance, until such time as all rights of appeal from such decision have been exhausted and such decision is "judicially final." A decision shall be considered judicially final at such time as any applicable period for the appeal of such decision shall have expired without initiation of an appeal, or any properly initiated appeal shall have been exhausted, whichever is later. However, this shall not preclude the making of an application for, or the conduct of proceedings to consider, the issuance of a permit or approval based on such land use decision.

14.52.110 Decision Time. Once a complete application is received by the City of Newport, the city shall take final action, including resolution of all local appeals, on applications subject to ORS 227.178 within 120 days unless otherwise

waived by the applicant in accordance with state requirements.

14.52.120 Conditions of Approval. All city decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be met.

14.52.130 Consolidated Procedure. Any applicant for a land use action may apply at one time for all related land use actions. Where different land use actions requiring different review authorities are submitted, decisions on applications made by a lower level review authority may be made contingent on the applicant receiving approval from the higher level review authority. Alternatively, the higher level reviewing authority may take action on all of the related land use actions. Fees for land use actions that are consolidated are set forth as established by resolution of the City Council for land use fees.

14.52.140 Expiration and Extension of Decision. Expiration or extension of all land use decisions shall be as follows:

- A. All land use decisions shall be void if within eighteen (18) months of the date of the final decision:
 1. All necessary building permit(s) have not been issued, if required; or
 2. In cases where building permit(s) are not required, the authorized use has been established.
- B. Notwithstanding Subsection (A) of this section, the approval authority may set forth in the written decision specific instances or time periods when a permit expires.
- C. The Community Development Department may extend any approved decision for a period of six months; provided the permit holder
 1. Submits a written request for an extension of time prior to expiration of the approval period;
 2. Has applied for all necessary additional approvals or permits required as a condition of the land use permit;

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- D. The granting of an extension pursuant to this section is an administrative action, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.
- E. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.
- F. If a permit decision is appealed beyond the jurisdiction of the city, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the city. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

14.52.150 Revocation of Decisions. In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the city's approval, the city may institute a revocation proceeding under this section.

- A. Type I, Type II, and Type III decisions may be revoked or modified if the Planning Commission determines a substantial likelihood that any of the following situations exists:
 1. One or more conditions of the approval have not been implemented or have been violated: or
 2. The activities of the use, or the use itself, are substantially different from what was approved or represented by the applicant.
- B. A revocation shall be processed as a Type III decision. The Community Development Department or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the city's approval.

C. Effect of revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the Planning Commission, unless the decision provides otherwise. In the event the Planning Commission's decision on a revocation request is appealed, the requirement to terminate the use shall be stayed pending a final, unappealed decision.

14.52.160 Applicability in the Event of Conflicts. The provisions of this section supersede all conflicting provisions in the Newport Zoning Ordinance.

Memorandum

To: Newport Planning Commission/Advisory Committee
From: Derrick Tokos, Community Development Director
Date: April 4, 2013
Re: Update to the Port Facilities Element of the Newport Comprehensive Plan

Port Facilities are part of the Public Facilities Element of the Newport Comprehensive Plan. The current plan language dates to 1986, when the Newport Urban Renewal Agency funded the Port's last master plan, titled "Update of Port Development Element of Comprehensive Plan." The Port of Newport recently completed a public outreach process to update this information. This led to the preparation of two documents, a "Strategic Business Plan" and a "Capital Facilities Plan."

Enclosed are copies of the current Port Facilities section of the Comprehensive Plan, and the related Goals and Policies element. I have also enclosed the executive summary of the new Strategic Business Plan and the new Capital Facilities Plan less its appendices. Both of the new plans were finalized in January of this year.

I talked with our Port Manager, Don Mann, and we agree that it would be helpful for the City to update its Port Facilities element to include pertinent information from the new plans. The City may also want to add a goal or policy emphasizing collaboration between the respective jurisdictions and that the Capital Improvement Plan for port infrastructure is a City priority. This would position the City so that it could more effectively assist the Port in working with other entities or in pursuing grant funds for priority projects.

Please take a look at the plans, and Capital Improvement Plan project list. It would be easiest to incorporate the plan language and associated projects verbatim, but the City is not obligated to do so should you, for example, believe that the City should not support one or more of the projects. That is the type of feedback that I am looking for at the work session (i.e. is it good as is, should we move forward with pieces of it, or not at all). Unfortunately, Don can't make this work session, but could be available for future meetings in the event that the Commission initiates the plan amendment process.

After reviewing the plans, I don't believe that there is a need for the City to adjust its upland zoning or estuary rules in order for the Port to achieve its objectives. Therefore, at this point, I am thinking that this would be strictly a text amendment to the Comprehensive Plan.

PORT FACILITIES

The upland areas adjacent to and development within Yaquina Bay are controlled by the City of Newport, Lincoln County, and the Newport Port Authority. The Newport Urban Renewal Agency has a significant development role on both sides of the bay. A brief listing and summary of Newport's major port facilities, their condition, where known, and plans for future development follows.

Existing Port Facilities:

An inventory of existing port facilities is provided in the document entitled "Update of Port Development Element of Comprehensive Plan" (hereinafter referred to as "Port Update").¹ Figures A-1 through A-5 show the location of the port facilities within the city.

The port consists of over 14,000 feet of waterfront property that borders the north and south shores of Yaquina Bay. Land uses on the north side of Yaquina Bay are primarily focused on tourism, commercial fishing and shipping, and support industries. The south side of the bay is used primarily for research and education facilities and marine-related recreation. Much of the area encompassed by the port is included in Unit 5 of the Yaquina Bay Estuary Management Plan, and approximately 250 acres of the area is undeveloped and zoned for water related/water dependent use. Table 9 on page 176 provides a list of existing port facilities and their condition.

The tourism, commercial fishing, and commercial shipping industries combine with research and educational interests to provide a very significant contribution to the local economy.

In 1987, the Port of Newport's International Terminals facility contributed more than \$8.5 million to the local economy, while providing 100 full-time jobs. In 1988, approximately 550,000 short tons of logs were exported on 33 ships calling at the facility. The Ship Berth One is used for the export of whole logs, while dimensioned lumber is loaded onto barges at the port's Barge Berth One at the International Terminals facility.

In 1986, the commercial fishing industry contributed approximately \$60 million in personal income and employed about 1,000

¹ This CH2M HILL report is a support document to the Comprehensive Plan but is not adopted by this reference as part of the plan itself.

Table 9
Port Facilities and Conditions

Existing Facilities	Condition
Port Dock One	Unknown
Public Rest Rooms	Adequate
Case Street Parking Facilities	Inadequate
U.S. Coast Guard Station	Unknown
Port Dock 3	Unknown
Port Dock 5	Inadequate
Army Corps Breakwater	Inadequate
Fuel Dock	Unknown
Maintenance Shop	Unknown
Port Office	Unknown
Swede's Dock	Unknown
Hoist Dock	Inadequate
Port Dock 7	Inadequate
Gear Storage	Inadequate
Embarcadero Marina	Adequate
International Terminals	Inadequate
Ship Berth I	Inadequate
Barge Berth I	Unknown
Ro/Ro Dock	Inadequate
Private and Commercial Fishing Moorage	Inadequate
Staging for Log Export	Inadequate
Water Front Nature Trail	Unknown
Hatfield Marine Science Center	Adequate
HMSC Dock	Adequate
Seawater Intake	Adequate
Research Vessel Moorage	Adequate
EPA Facility	Inadequate
South Beach Moorage and Boat Launch	Inadequate
Light Marine Repair and Staging Station	Inadequate
Public Fishing Pier	Adequate
Idaho Point Marina	Unknown
Idaho Point Boat Launch and Parking	Adequate
Ore-Aqua Dock	Unknown
Fishing Vessel Moorage and Dockside	Inadequate
Repair Area	Adequate
Navigation Channel	Unknown
Industrial Park	

Source: Condition was determined based on whether improvements were needed and if the facility was able to serve 1989 needs. Information on existing facilities and conditions was derived from the 1989 Newport Urban Renewal Agency publication.

people. In addition, close to \$12 million was contributed by the processing industry, and almost \$6 million in personal income was attributed to support activities such as equipment sales and maintenance. Facilities used by the commercial fishing industry include the Hoist Dock for servicing ships, gear storage areas (Port Dock 7 and the Hoist Dock), boat haulouts, moorage, Port Dock One, and the Ore-Aqua Dock for dockside repairs. Lack of moorage for commercial fishing vessels was identified as the most significant deficiency in the Port of Newport's facilities.

The Hatfield Marine Science Center, with over 300 full-time employees, performs a variety of functions and contributes significantly to the Newport economy. Research and education facilities for Oregon State University comprise the majority of the existing facilities. The U.S. Department of Fish and Wildlife and the Environmental Protection Agency also have major offices in these buildings.

Recommended Port Improvements:

Based on a review of published literature and statistics, information obtained in public meetings, committee meetings, and personal interviews, deficiencies in port facilities were identified and development plans prepared. The development plans consider the wide variety of needs presented and acknowledge the competition between the marine-related industries for certain tracts of waterfront property.

After the various improvements and developments were identified, a schedule was prepared establishing a potential time frame for completing the proposed developments. Additionally, order of magnitude costs were prepared for each of the major projects that would require public financing. Limited funding and environmental regulations will be the most likely restrictions to developing the identified projects. Section 7 of the Port Update provides a detailed discussion of the recommended time frames for development projects.

Information concerning costs, development priority, and funding source is listed in Table 10 (page 179). The location of new or additional facilities is provided in Figures B-1 through B-7 of the Facilities Plan.

The proposed improvements and developments that may be appropriate for partial public funding include the following.

Fisherman's Investment Site: This project involves the development of the Fisherman's Investment Company property into a multi-use commercial fishing facility. This property includes approximately seven acres and is located in the lower bay outside the urban growth boundary. The proposed facility would relieve

identified deficiencies in permanent and transient moorage, service docks, work docks, dockside repair, gear storage and staging, and marine industrial space.

Port Docks 5X and 5D Expansion: Because the wooden floats for these docks are nearing their useful service life, they need to be replaced with heavy duty concrete float units and expanded. Expansion and rehabilitation of these facilities would provide moorage for boats in the 80 foot and above class.

Corps of Engineers' Breakwater Relocation: The existing bulkhead is nearing the end of its service life and needs to be expanded and relocated to provide for the expansion of commercial moorage. Rehabilitation should include replacing portions of the breakwater that have been destroyed by storms over the years, and a condition survey should be performed to determine what additional repairs are needed.

Port Dock 5 Fill and Redevelopment of Port Dock 7 Fill: Various identified needs could be met by constructing a fill on the tidelands owned by the port between Port Dock 3 and the Port Dock 7 fill. Construction of this fill would be an integral part of the redevelopment of approximately 2,500 feet of waterfront from Port Dock 3 to the Embarcadero. Specific elements of the redevelopment include:

- > Constructing a public waterfront park
- > Providing additional parking for commercial fishing fleet
- > Widening Bay Boulevard
- > Constructing additional staging and gear storage areas
- > Creating new marine-related commercial development areas
- > Relocating Port buildings
- > Constructing a boardwalk from Port Dock 3 to the Embarcadero
- > Creating permanent and transient moorage

Public Dock: The public dock would provide additional access to the waterfront and would be incorporated into the Port Dock 5 fill project. The dock would be very similar in size and type of construction to the Abbey Street Pier.

South Beach RV Park Expansion: The expansion of the South Beach RV Park would provide approximately 120 new spaces. The additional space would eliminate much of the congestion that occurs in the overflow parking areas.

Table 10
Recommended Improvement Projects

Projects	Cost (\$ x 1,000)	Funding Source
<u>Priority 1 (develop in next 5 years)</u>		
Development of Fisherman's Investment Site	\$ 6,000	Port*
Rehabilitation of Port Docks 5Y and 5D	775,000	Port
Multi-level Parking Structure	2,000	UR
Additional Staging for International Terminals	Undetermined	Port
Rehabilitation of Existing Corps of Engineers Breakwater	125,000	Port
South Beach RV Park Expansion	860,000	Port
<u>Priority 2 (develop in 5 to 10 years)</u>		
Relocate Corps of Engineers Breakwater	2,600	Port
Port Dock Fill	Undetermined	Undetermined
Waterfront Park	200,000	Port
Commercial Fishing Center	Undetermined	Undetermined
Marine Commercial Lease Facility	Undetermined	Undetermined
Realignment of Port Docks 5 and 7	6,000	Port
Widening of Bay Boulevard	Undetermined	Undetermined
Public Viewing Dock	Undetermined	Undetermined
Transient Moorage	Undetermined	Undetermined
<u>Priority 3 (develop in next 10 to 15 years)</u>		
Second Ship Berth	32,000	Port
Second Barge Berth	5,800	Port

* "Port" refers to the Newport Port Authority and "UR" refers to the Newport Urban Renewal Agency.

Source: "Newport Urban Renewal Agency: Update of Port Development Element of Comprehensive Plan." 1989. Prepared by CH2M HILL, Inc.

South Beach Waterfront Park: The park would be located on the north end of the South Beach peninsula and would provide access to the waterfront and tide flats.

Commercial Fishing Fleet Moorage: The construction of this facility would provide much needed additional space. The most promising locations for these facilities are within the Port Dock 5 and 7 complex and at the Fisherman's Investment Site.

Dockside Repair Facility: The Port of Newport's Fishermen's Advisory Committee identified the lack of dockside facilities as one of several shortcomings limiting the growth of Yaquina Bay. The most favorable location for a new facility is at the Fisherman's Investment Site.

Ship Berth Two: Since 1982, there has been a steady increase in cargo movement through Ship Berth One. In 1988, 550,000 tons of short logs were moved through this facility. Because of the increasing demand, the existing facility is marginally adequate, and a second ship berth is needed. The most feasible location for this facility is on the southwest side of McLean Point.

Barge Berth Two: In 1988, there were 41 barge calls for approximately 235,000 short tons of lumber at Barge Berth Two. In 1989, approximately 60 barge calls were scheduled. If barge traffic continues to grow, or if an export cargo other than lumber materializes, a second barge berth will be needed. Suitable locations for this facility include the southwest corner of the International Terminals facility or between the International Terminals facility and McLean Point.

Rehabilitation of Corps of Engineers' Breakwater: If the existing breakwater is not relocated, it would need to be repaired to provide the originally intended protection.

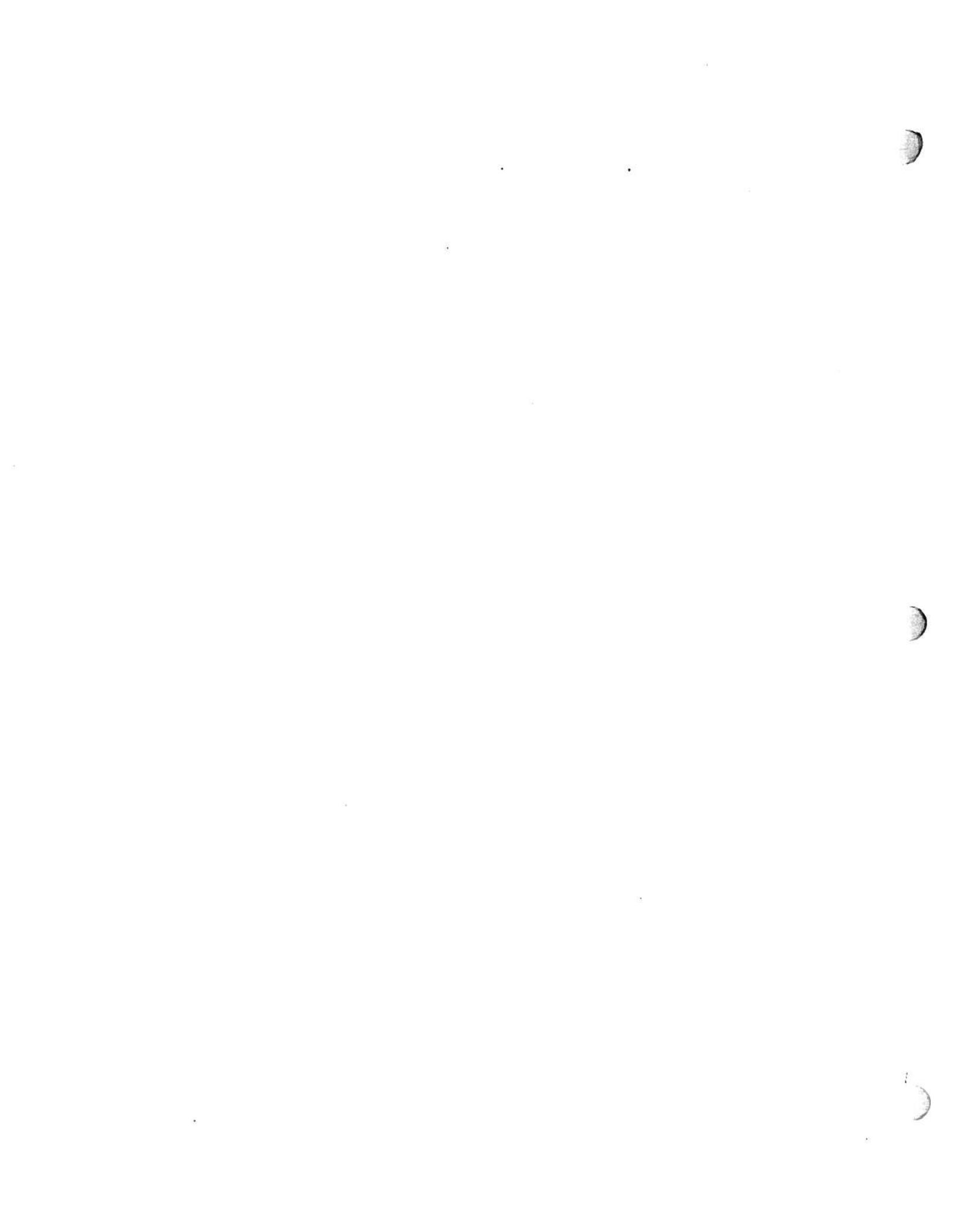
Public Parking Structure: The public parking structure would be a multi-level facility and would accommodate approximately 400 cars. The entrance and exit for the structure would be located on an extension of S.W. 13th Street that would connect to existing streets near the intersection of Fall Street and Canyon Way.

Other Facilities: Other proposed facilities include boat haulout facilities, the expansion of the Hatfield Marine Science Center, a conference center, the construction of a surimi processing facility, and the development and expansion of the Oregon Coast Aquarium. The cost, potential funding sources, and development plans for these facilities were not included in the Port Update study.

Funding:

- 1.) **The Port of Newport.** The port funds many of its projects through a combination of federal, state, and local funding sources. Federal funds can be obtained through special appropriation acts of Congress. These funds are managed by the Economic Development Administration (EDA) and usually require a high percentage of matching local funds. State of Oregon funds can be obtained from either the Special Public Works Fund (which involves a 50% grant and 50% loan program) or from the port revolving loan fund, which is frequently used as a local match for federal programs. Local funds can be obtained through industrial revenue bonds or from general obligation bonds.

- 2.) **Urban Renewal Funds.** The Newport Development Commission administers the city urban renewal program, which provides monies through tax increment bonds. The commission administers two urban renewal districts located on the north and south sides of the bay.



GOALS AND POLICIES **PUBLIC FACILITIES ELEMENT***

GENERAL

Goal: To assure adequate planning for public facilities to meet the changing needs of the City of Newport urbanizable area.

Policy 1: The city shall develop and maintain public facilities master plans (by reference incorporated herein). These facility plans should include generalized descriptions of existing facilities operation and maintenance needs, future facilities needed to serve the urbanizable area, and rough estimates of projected costs, timing, and probable funding mechanisms. Public facilities should be designed and developed consistent with the various master plans.

Policy 2: In order to assure the orderly and cost efficient extension of public facilities, the city shall use the public facilities master plans in the capital improvement planning.

Policy 3: The city shall work with other providers of public facilities to facilitate coordinated development.

Policy 4: Essential public services should be available to a site or can be provided to a site with sufficient capacity to serve the property before it can receive development approval from the city. For purposes of this policy, essential services shall mean:

- > Sanitary Sewers
- > Water
- > Storm Drainage
- > Streets

Development may be permitted for parcels without the essential services if:

- > The proposed development is consistent with the Comprehensive Plan; and
- > The property owner enters into an agreement, that runs with the land and is therefore binding upon future owners, that the property will connect to the essential service when it is reasonably available; and
- > The property owner signs an irrevocable consent to annex if outside the city limits and/or agrees to participate in a local improvement district for the essential service.

*entire chapter repealed & replaced by Ordinance No. 2049 (3-21-13)

Policy 5: Upon the annexation of territory to the City of Newport, the city will be the provider of water and sewer service except as specified to the contrary in an urban service agreement or other intergovernmental agreement.

WATER

Goal: To provide the City of Newport with a high quality water system that will supply residents and businesses with adequate quantities for consumption and fire protection.

Policy 1: The city will comply with state and federal laws concerning water quality and will take appropriate steps consistent with those laws to protect and maintain drinking water source areas.

Implementation Measure 1: The City shall work to establish a source water protection buffer in the Big Creek Watershed. The City declares the Big Creek Watershed a public facility consistent with the definition of Public Facility Systems in OAR 660-011-0005(7)(a)(A). The City will work to establish a source water protection buffer that is consistent with the findings of the Oregon Department of Environmental Quality / Oregon Health Department source water assessment report (PWS #4100566).

Policy 2: The water system will be designed and developed to satisfy the water demand of the various users under normal and predictable daily and seasonal patterns of use, and at the same time provide sufficient supplies for most emergency situations.

Policy 3: The city may extend water service to any property within the city's urban growth boundary, and may extend water service beyond the urban growth boundary if the extension of service is not inconsistent with an urban service agreement or other intergovernmental agreement. The city may require a consent to annexation as a condition of providing water service outside the city limits.

Policy 4: The city will acquire lands within the municipal watershed when available or necessary to protect water quality or improve its water system.

Policy 5: The city will reconstruct its municipal raw water storage and distribution facilities to address identified structural deficiencies to Big Creek Dam #1 and Big Creek Dam #2.

Implementation Measure 1: The city shall conduct necessary and appropriate engineering studies to determine the safest and most cost-effective approach to

ensure the integrity of the municipal water supply. The studies shall identify the cost and timing of needed capital projects to address identified structural deficiencies and comply with Policy 2 of this section.

Implementation Measure 2: The city shall explore financing mechanisms, and prepare a financing plan to fund construction needed to resolve the structural deficiencies by 2030.

Implementation Measure 3: The city shall use data and findings from Implementation Measures 1 and 2 of this section to update the Water Supply section of the Public Facilities element of the Newport Comprehensive Plan to reflect new information as a result of the engineering and finance studies.

WASTEWATER

Goal: To provide a wastewater collection and treatment system with sufficient capacity to meet the present and future needs of the Newport urbanizable area in compliance with State and Federal regulations.

Policy 1: On-site sewer systems shall not be allowed unless the city's sanitary sewer system is greater than 250 feet away. In any case, a subsurface permit from the Lincoln County Sanitarian must be obtained prior to any development that will rely on an on-site sewer system.

Policy 2: City wastewater services may be extended to any property within the urban growth boundary. Except for the very limited circumstances allowed by state law and regulations, the city will not generally provide wastewater services outside the urban growth boundary. The city may require a consent to annexation as a condition of providing wastewater service outside the city limits. Nothing in this policy obligates the City to provide wastewater services outside of the city limits. For property outside the city limits but within the urban growth boundary, wastewater services may be provided at the City's discretion only for:

- a) residentially zoned lands as allowed by county zoning without full services, and
- b) commercial and industrial zoned lands to existing lawful uses as of the date (9/4/07) of this amendment.

Policy 3: The city will design and develop the wastewater collection and treatment system in a way that addresses the demands of the various users under normal and predictable daily and seasonal patterns of use.

TRANSPORTATION

Transportation Goals and Policies repealed by Ordinance No. 1802 (January 4, 1999).

STORM WATER DRAINAGE

Goal: To provide a storm water drainage system with sufficient capacity to meet the present and future needs of the Newport urbanizable area.

Policy 1: The city will comply with state and federal laws concerning water quality.

Policy 2: The city will use existing, natural drainage systems to the greatest extent possible.

AIRPORT

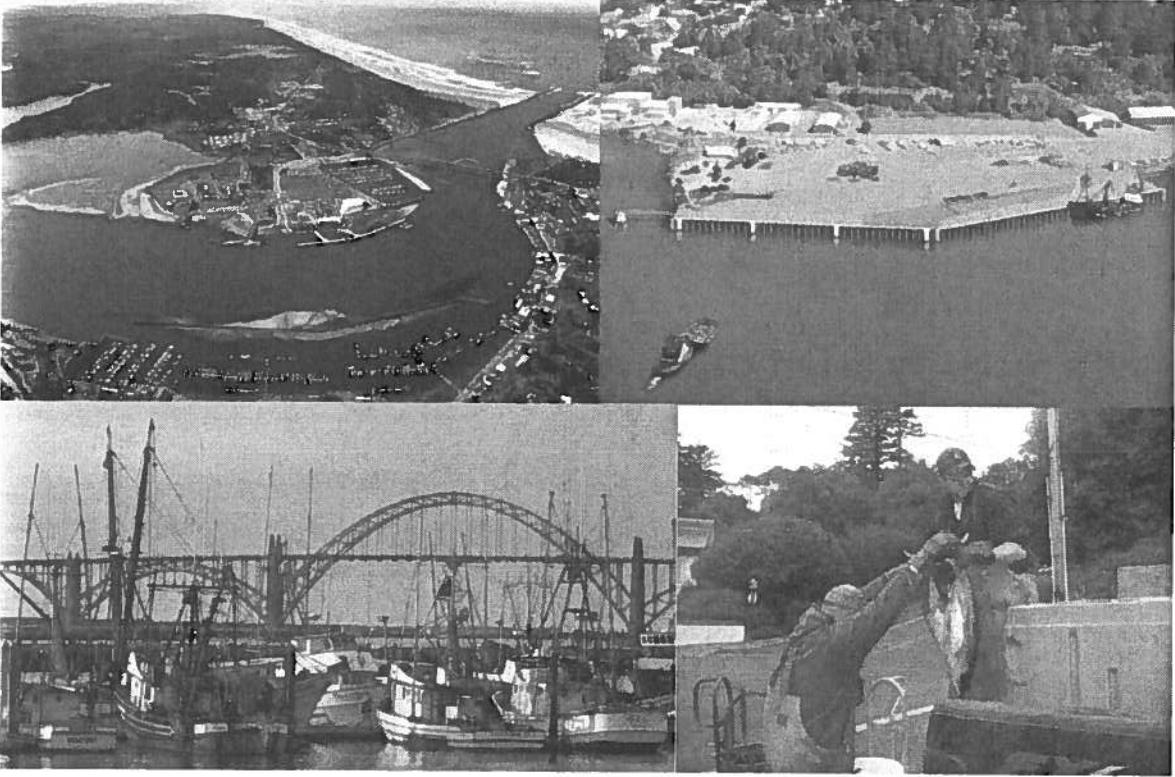
Goal: To provide for the aviation needs of the City of Newport and Lincoln County.

Policy 1: The city will ensure through zoning and subdivision ordinance provisions that the airport will be able to operate safely and efficiently.

Policy 2: The city will cooperate with state and federal agencies in the development of the airport.

Port of Newport

**STRATEGIC BUSINESS PLAN AND
CAPITAL FACILITIES PLAN**



JANUARY 14, 2013

ACKNOWLEDGEMENTS

PORT OF NEWPORT

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David Jincks
Don Matthews
Walter Chuck
Dean Fleck

Port Staff

Don Mann, General Manager
Pat Albaugh, Finance Director
Pete Dale, Project Manager/Engineer Technician
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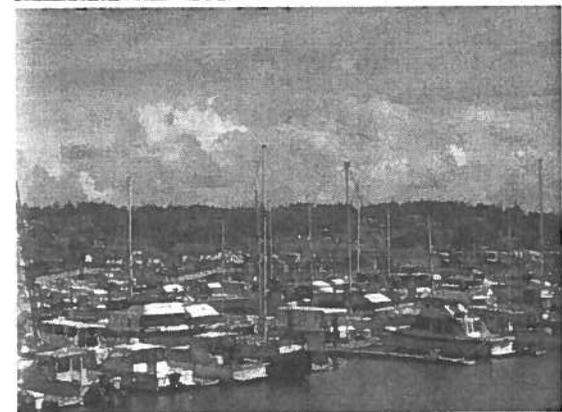
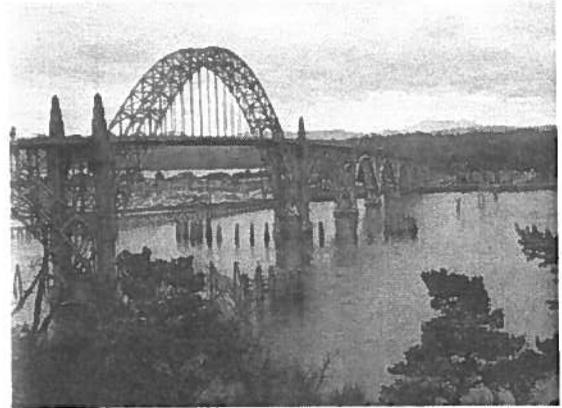


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INTRODUCTION

HISTORY OF THE NEWPORT PORT DISTRICT

The Port district was formed in 1910 to promote water-related commerce in Lincoln County. The Port is located on the central Oregon coast and encompasses the Yaquina Bay estuary. The Port boundaries extend north to Otter Rock, east up to six miles inland, south to Seal Rock and west to the Pacific Ocean. The Port of Toledo is adjacent to the Port of Newport's eastern boundary and the Port of Alsea adjoins the Seal Rock boundary.

In 1948, a private company sank two flat-bottom concrete barges at McLean Point to serve as wharves for cargo handling. The terminal was operated by private operators from the 1950s through the late 1970s. In 1982, the Port purchased the terminal and in 1987 contracted Jones Oregon Stevedoring/Newport Terminal Company to manage the facility. The Port terminated the contract in 1995 and assumed the management. The Port is currently completing a thorough renovation of the International Terminal which is expected to be complete in December, 2012.

To meet an ever-increasing demand for boat launching, parking and moorage facilities on the north shore of the bay, in 1978-79 the Port began construction of a 600 berth recreational boat basin, four lane launch ramp and harbor improvements in South Beach.

In 1991 Oregon Brewing located their brewing operations and a tasting room in a part of the former dry boat storage building at the South Bay Marina and now occupies the entire building for storage and distribution. In 2006, the Port completed a \$3.2 million Destination RV Park that includes 92 spaces, store, operations building and registration/activity center.

A new chapter in the Port's history will be written in the next two years as it plans and constructs a new Port of Newport Administration office building on the north shore of Yaquina Bay.

PORT COMMISSIONERS

The Board of Commissioners is elected, at large, from the Port District. The Board is comprised of five members elected for four year terms. The current Board is comprised as follows:

JoAnn Barton, President, was first elected to the Commission on July 1, 2007 and re-elected July 1 2011. Her current term expires on June 30, 2015. Ms. Barton is retired from a career as a therapist in primary education.

David Jincks, Vice President, was appointed to the Board on February 2, 2009 and his current term expires on June 30, 2013. Mr. Jincks is a commercial fisherman.

Don Mathews, Treasurer, was appointed to the Board on January 30, 2001 and elected to the Board on July 30, 2001. His current term expires on June 30, 2013. Mr. Matthews owns a business in Newport.

Walter Chuck, Secretary, was appointed to the Commission November 22, 2011. Mr. Chuck's term expires June 30, 2013. Mr. Chuck is the operator at several water treatment plants in the region.

Dean Fleck, Assistant Secretary-Treasurer, was first elected to the Board July 1, 2007 and re-elected in 2011. Mr. Fleck's term expires on June 30, 2015. Mr. Fleck is the manager of Englund Marine Supply in Newport.

PORT MANAGEMENT STAFF

Mr. Don Mann, General Manager joined the Port in January 1996. Mr. Mann has over 30 years of experience in the port industry and economic development. He previously worked for the Oregon Economic Development Department where he proceeded to conclude his career with the state as the Regional Development Officer for Clackamas and Hood River Counties. He serves on several local and regional Boards including as Secretary of the Oregon Ports Group and currently serves on the Boards of Directors for the Pacific Northwest Waterways Association and the Greater Newport Chamber of Commerce.

Pat Albaugh, Finance Director has more than two decades of public, private and non-profit experience at the Finance Director/Controller level. Prior to joining the Port, Pat spent seven years at the Port of Cascade Locks as Director of Finance & Operations.

Pete Dale, Project Manager/Engineer Technician joined the district in October, 2006 and has over thirty years experience in marine and heavy construction project management.

Maureen Keeler, Special Projects Manager/Administrator Coordinator, has been with the Port District since 1986. Ms. Keeler assists the General Manager with business administration and planning and is responsible for special projects and grant writing.

In addition, to the staff described above, other Port employees include a Facilities Lease Manager for NOAA MOC-P, an administrative assistant, four accounting clerks and ten operations and maintenance personnel.

OVERVIEW OF STRATEGIC BUSINESS PLANNING PROCESS

The Strategic Business Planning process for the Port of Newport is consistent with the process recommended in Ports 2010: A New Strategic Business Plan. The Plan was prepared by the Oregon Business Development Department and adopted by the Infrastructure Finance Authority and the Oregon Business Development Commission in May and September, 2010, respectively. The Scope of Work includes preparation of a

Public Outreach Plan, including coordination with the Port’s primary lessees and patrons, and the commercial fishing fleet.

The technical analysis is comprised of five primary tasks:

- *Management and Coordination with the Port staff and Commission.*
- *Data Collection regarding the existing conditions of the Port including management policies and procedures, financial status, and facilities, including International Terminal and the NOAA Marine Operations Center – Pacific (MOC-P).*
- *Draft SBP including a definition of the problems and opportunities, the policy and regulatory context within which the Port operates and proposals and recommendations to guide the future of the Port.*
- *Final SBP including goals, objectives and strategies to guide the management of the port including its financial resources, environmental context and marketing opportunities. And, a Capital Facilities Plan which will address the needs of the Port’s marine facilities, equipment, properties and buildings and utilities.*
- *The fifth task is preparation and implementation of a public Outreach Plan which will assure that all of the Port’s constituents have an opportunity to express their points of view and comments during the planning process.*

The final Strategic Business and Capital Facilities Plans are intended to serve the Port Commission and staff for the next five years.

VALUES, VISION AND MISSION

Values Statement

Values represent the Port’s most deeply held driving forces, which help us determine our highest priorities. They are the foundation on which we as Port Commissioners and as staff conduct ourselves and perform work for the Port. They serve as our guiding principles – the motivation for our goals, strategies and actions to accomplish our mission. They clarify who we are as the Port of Newport, articulate what we stand for, and express what we deem as acceptable standards for how the Port of Newport interacts with users, customers, partners, and our own team members.

Governing Values

Leadership. The Port of Newport accepts **responsibility** for taking the lead role on behalf of the citizens of the Port district in actively pursuing **economic progress**, which we believe means building and maintaining an economically diverse and thriving community that is resilient in its ability to respond positively to changing conditions and circumstances.

Service. Our business is public service – to the commercial and recreational fishing fleets, to the tourist and marine industries, to our lessees and visitors, and to the citizens of the Port District. Our intent is to strive constantly for **quality** in all the services we provide.

Collaboration. We pursue and maintain mutually supportive partnerships with our neighbors, including the private sector and local, state and federal government agencies. In the Port’s experience, the greater Newport community owes a significant part of its success to the foundational belief of governments and citizens alike to work with determination toward common goals in a spirit of mutual respect and cooperation.

Accountability. The Port serves as a steward of public resources. We manage our properties in a responsible manner, and support our personnel – our human resources – through regular feedback and evaluations designed to improve competence and performance.

Sustainability. The Port recognizes that we must manage the resources of the built environment and the natural environment in a manner that does not compromise the ability of future generations to meet their needs. To that end, we will maintain our capital facilities in working order, we will manage the funds entrusted to us wisely, prudently and ethically, and we will maintain policies that guide us in helping nurture a healthy estuary that is the foundation of our working waterfront.

Optimism. We have confidence in the importance of our mission, and in our ability to overcome obstacles, seize opportunities, and pursue our vision through steadfastness of purpose, awareness of our core values, and persistent focus on achievement.

Vision Statement

The idea behind a vision statement is to express, more or less in future tense, what we want the Port (and Newport) to be at some future point. Since a mission statement and the Strategic Business Plan itself are typically five-year efforts, the Vision Statement looks a little farther (10 or 20 years) into the future. Our vision expresses what we want to see, what we believe we can accomplish if we stretch our capabilities and aim for the vision.

- **Vision:** The Port of Newport will serve as the premier Oregon coast port for the commercial fishing fleets, for recreational fishing and tourism, and for ocean observation and marine research support. We will be one of the top two Oregon coast ports for waterborne commerce while protecting and enhancing the beauty and integrity of the natural environment which is the foundation of our working waterfront community.

Mission Statement

A Mission Statement defines the Port of Newport’s purpose – what we do and why we do it. The intention of having a mission statement is to give the Port’s public, its customers (and ourselves) a succinct awareness of that purpose.

Current Mission Statement: “Promote and support projects and programs in cooperation with other community organizations and businesses, that will create new jobs and increase community economic development.”

New Mission Statement: “Build and maintain waterfront facilities, and promote/support projects and programs in cooperation with other community organizations and businesses that will retain and create new jobs and increase community economic development.”

PUBLIC PARTICIPATION

The Strategic Business Planning process was initiated by the Port in August 2012. A press release was provided to the Newport News Times in order to alert the community to the initiation of the Port business planning program.

In September, two Focus Group workshops were conducted to learn the primary stakeholder’s opinions of the port and its future. The 14 participants were organized in to two groups representing the Port’s facilities and development on the north and south side (South Beach) of Yaquina Bay. More specifically, the participants represented port tenants such as commercial fishers, business owners such as the Rogue Brewery, Hatfield Marine Science Center and NOAA MOC-P. The opinions of the stakeholders were presented as Strengths, Weaknesses, Opportunities and Threats (SWOT) to the Port. The senior Port staff and representatives of the Commission also participated in a SWOT session with the consulting Team.

In addition to the workshops, specific telephone and in-person interviews with representatives of the City of Newport, Lincoln County and the Economic Development Alliance of Lincoln County were conducted.

I. EXECUTIVE SUMMARY

The Strategic Business Plan is one of two documents. The Port's Capital Facilities Plan is included as a separate document.

ECONOMIC AND MARKET TRENDS

The national economy is currently expanding at a modest rate, following the most severe recession in the post WWII era. The State and local economies have been performing marginally better, and are expected to continue that trend through the current expansion cycle.

Relative to other areas in Oregon, the economy of the North Coast has performed well by comparison. Combined unemployment in Clatsop, Tillamook, and Lincoln County is currently at 7.0%, significantly below 7.6% at the state and national level. The Port district's economic composition is highly reliant upon fishing, forestry and logging, and tourism. The Port of Newport plays an important role in each of these sectors, as well as the emerging marine and ocean observing research and education sector identified by the City of Newport as a target industry.

MARKET OPPORTUNITIES

The Port of Newport has a number of key market opportunities, many of which are related to leveraging existing investments. The new Marine Terminal has the potential to serve a broader range of business types over time, providing for the direct accommodation of new businesses as well as supporting the broader economy of Lincoln County and the State of Oregon.

The Port is well positioned to contribute substantively to the regional economy, with major investments in key industries such as fishing, tourism and shipping. The commercial fishing fleet is already a major contributor to the region's economy, but the terminal and improvements to facilities have the potential to expand Newport's share of that industry. The emerging marine science cluster in Newport has future potential, as well as ongoing efforts to promote and expand the tourism sector.

PLAN OBJECTIVES AND STRATEGIES

The objectives and strategies provide the overall direction of the Port's major programs. The objective is a specific target or milestone the Port wishes to achieve and the strategies describe how you are going to accomplish the objective. There are four major categories of objectives which include: Management, Economic Development, Coordination and the Business Units. The Port is managed by its governance, financing, human resource and environmental policies.

The Port owns and operates five different, yet complementary, types of businesses. These include: Commercial Fishing Fleet facilities and services, a Sport Marina and Recreational Vehicle (RV) Park, vacant available properties and real estate leased to complementary businesses. The Port is completing the rehabilitation of its International Terminal which will provide facilities and equipment to import and export specific commodities. A new NOAA MOC-P facility was dedicated on Newport Bay in the Spring of 2012. The facility provides many new opportunities for the Port in the marine science arena as described further in the plan

FACILITIES AND PROPERTY

The Port's facilities and real estate are divided by Yaquina Bay in to two distinct development areas, namely the North Shore Development Area and the South Beach Development Area.

- North Shore Development Area is Newport's "working waterfront" and comprised of the land and water side improvements between Bay Boulevard and the limits of the commercial fishing docks and the leased water areas. This area is primarily utilized by Commercial fishers and the Distant Water Fleet.

The International Terminal is in the final stages of renovation and is expected to be completed by early 2013. The facility is a multi-use facility serving both the cargo shipping needs and the commercial fishing Distant Water Fleet.

- South Beach Development Area is comprised primarily of facilities designed to service sport and recreation fishers, traveling tourists via RVs and facilities designed to provide a positive experience for active visitors as well as those enjoying the beauty of the Yaquina Bay and its environs.

Completion of the NOAA MOC-P facility brings an expanded vision an opportunity of the potential for Marine Science research to this part of the Oregon coast.

CAPITAL FACILITIES PLAN

The Capital Facilities Plan (CFP) is a separate document and establishes a vision of the Port's facilities and properties. The needed facility improvements, estimated project costs and the scheduling over time of improvement implementation are the essential components of the CFP.

Capital Facilities Plan

Prepared for:

Port of Newport

SH Consulting Engineers & Geologists, Inc.

275 Market Ave.
Coos Bay, OR 97420-2219
707/441-8855

January 2013
612023

Reference: 612023

Capital Facilities Plan

Prepared for:

Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

Prepared by:



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275 Market Avenue
Coos Bay, OR 97420-2219

As a member of the:

Northwest Port Planning Team
Strategic Solutions

January 2013

QA/QC: SKD

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Introduction

Objectives

The Port of Newport's Strategic Business Plan establishes the vision of the future within the Port's sphere of influence. It embodies what the Port wants to be at a chosen point in time. The determination of needed facility improvements, estimated project costs, and the scheduling over time of improvement implementation are the essential tasks of Capital Facilities Plan (CFP). The scheduling is based on a series of priorities according to need, desire, and importance, and to the Port's ability to pay. Capital improvement planning provides the vital link between the Ports' Strategic Plan and the actual construction of improvements. The CFP states when the improvements will be built and what they will cost.

Important advantages and benefits gained from capital improvement planning include the following:

1. Ensure required facilities projects established by the Port's CFP will be carried out so as to provide uninterrupted service
2. Maintain the Port in compliance with regulatory requirements
3. Call the Port's attention to facility deficiencies and promote corrective actions
4. Produce cooperation and coordination among various interest groups as well as different governmental units, (state, county and city)
5. Ensure projects are not built before they are needed, or so late that costs become prohibitive and stymie orderly growth.
6. Ensure project funds can be provided in a logical manner
7. Guarantee review of new facilities to determine whether policy decisions were properly made on how a new project would be financed, and
8. Help protect the Port from pressure groups demanding pet projects.

The primary goal of the capital facilities plan is to; 1) identify the needed public improvement projects related to the Port facilities; 2) provide estimated project costs; and 3) prepare a scheduling plan, over time, of improvement implementation. The scheduling is based on a series of priorities which consider need, desire, importance, and financing options/capabilities.

Capital Improvement Projects

The term "capital improvement" refers to new or expanded physical facilities for the Port that are of relatively large size, are relatively expensive, and are considered permanent with respect to usefulness to service area customers. Large-scale replacement and rehabilitation of existing facilities also falls within this category. Equipment, such as a utility truck, is not classified as a capital improvement for the purposes of this report.

Design Criteria and Level of Service

Design Life of Improvements

The design life of the Port's infrastructure components is sometimes referred to as its useful life or service life. The selection of a design life is a matter of judgment based on such factors as the type and intensity of use, type and quality of materials used in construction, and the quality of workmanship during installation. The estimated and actual design life for any particular component may vary depending on the above factors. The establishment of a design life provides a realistic projection of service upon which to base an economic analysis of new capital improvements. The typical design life for system components are discussed below.

Floating Docks

Modern concrete floating docks are estimated to have a useful life of 35 to 50 years. Lightweight dock systems, such as timber, aluminum and steel typically have a life of 20 to 30 years.

Piling Supported Docks/Piers

On average, industry experts estimate that a galvanized, epoxy coated or galvanic protected steel pile has 8 – 10 years before it will require constant maintenance and up keep. These piles typically have a lifespan of 30 years. Steel pile lifespan can be significantly extended with the use of HDPE sleeves and caps. The service life of timber pile in a marine environment is dictated by the type of wood used and treatment. The life span of a treated timber pile in a marine setting ranges from 30-50 years. The disadvantage of timber pile is the limited diameter choices and difficulty in splicing for longer lengths needed for many applications.

Buildings, Upland Structures and Equipment

Major structures and buildings should have a design life of approximately 50 years. Mechanical equipment such as motors, pumps, lifts etc. usually have a useful life of about 15-20 years. The useful life of equipment can be extended when properly maintained.

Asphalt Surfaced Parking/Storage Areas

Asphalt surfaces for parking and storage areas typically have practical service lives of 15-20 years in the mild coastal climate. With the absence of base material failures (as typically represented by extensive cracking or "alligatoring" asphalt surface life may be extended an additional 5-10 years through seal coating.

Basis for Cost Estimates

The cost estimates presented in this Plan will typically include four components: construction cost, engineering cost, contingency, and legal and administrative costs. Each of the cost components is discussed in this section. The estimates presented herein are preliminary and are based on the level and detail of planning presented in this Study. As projects proceed and as site-specific information becomes available, the estimates may require updating.

Construction Costs

The estimated construction costs in this Plan are based on actual construction bidding results from similar work, published cost guides, and other construction cost experience. Where required, estimates will be based on preliminary layouts of the proposed improvements.

Future changes in the cost of labor, equipment, and materials may justify comparable changes in the cost estimates presented herein. For this reason, common engineering practices usually tie the cost estimates to a particular index that varies in proportion to long-term changes in the national economy. The Engineering News Record (ENR) construction cost index is most commonly used.

It is anticipated that construction of any necessary projects will start by the summer of 2014. Cost estimates presented in this Plan for construction performed in later years should be projected with an increase of three percent per year. Future yearly ENR indices can be used to calculate the cost of projects for their construction year based on the annual growth in the ENR index.

The cost estimates provided within this Plan assume that all projects are constructed under public contract. Port construction projects or "in-house" projects can often be performed at a lower cost than the contracted rates represented herein. This would allow the Port to do more with the funding that is available to them.

It is also recommended that in the event other public works projects are being performed in the same location, (i.e., sewer, street, storm, etc.), planning priority be given to combining these water projects with the projects at hand. The Port can save money in doing this by eliminating repetitive mobilization, demolition, and road patching in the same locations.

Contingencies

A contingency factor equal to approximately 15 percent (15%) of the estimated construction cost has been added. In recognition that the cost estimates presented are based on conceptual planning, allowances must be made for variations in final quantities, bidding market conditions, adverse construction conditions, unanticipated specialized investigation and studies, and other difficulties which cannot be foreseen at this time but may tend to increase final costs.

Engineering

The cost of engineering services for major projects typically includes special investigations, a predesign report, surveying, foundation exploration, preparation of contract drawings and specifications, bidding services, construction management, inspection, construction staking, start-up services, and the preparation of operation and maintenance manuals. Depending on the size and type of project, engineering costs may range from 15 to 25 percent of the contract cost when all of the above services are provided. The lower percentage applies to large projects without complicated mechanical systems. The higher percentage applies to small, complicated projects. The engineering costs for design and construction projects within this Plan will average 18 percent of the construction cost.

Additional engineering services may be required for Port specialized projects. This could include geotechnical evaluations, structural evaluations, and other specialized consulting activities. Due to the nature of some projects and the high skill level of current Port personnel, comprehensive engineering support may not be required for all projects. In some cases, details, specifications, and contract administration services may be appropriate for the development of some projects. The cost for these services will depend on the individual projects and the level of support requested.

Legal and Administrative

An allowance of four percent (4%) of construction cost has been added for legal and administrative services. This allowance is intended to include internal project planning and budgeting, grant administration, liaison, and interest on term loan financing, legal services, review fees, legal advertising, and other related expenses associated with the project.

Land Acquisition

Some projects may require acquisition of additional right-of-way or property for construction of specific improvement. The need and cost for such expenditures is difficult to predict and must be reviewed as a project is developed. Effort was made to include costs for land acquisition, where expected, within the cost estimates included in this Plan. However, it should be noted that the cost of land is subjective and depends on the seller, current land use practices, the size of the plot to be acquired, options available to the Port and many other issues.

Existing Facilities

The Port of Newport was originally formed to promote water related commerce in Lincoln County and throughout its history has evolved and refined the provision of services to the commercial and recreational fishing fleets, to the tourist and for ocean observation and marine research support. Port facilities are situated in three distinct areas bordering portions of The Yaquina Estuary. The South Beach facilities primarily support the recreational fleet, ocean observation and marine research and tourism activities. The Ports' "Bay Front" facilities on the north shore of the bay support primarily the commercial fishing fleet along with some tourism. The Ports' International Terminal is also located on the north shore of the Bay, to the east of the "Bay Front" facilities, adjacent to the Northwest Natural Gas LNG tank.

Service Facilities

The South Beach Port facilities consist of a 600 berth recreational boat basin originally installed in 1978-79, a four lane boat launch facility with parking which was installed to replace the original marina launch facility in 2005, a 92 space RV Park installed in 2006, an older 52 space RV Park, the recently completed NOAA Marine Operations Center – Pacific (MOC-P) pier, office/operations building and Warehouse, several buildings leased to Oregon Brewing and other leased properties associated with ocean observation and marine research organizations (Oregon State Hatfield Marine Science Center, USA of Fish and Wildlife Service, Oregon Coast Aquarium, etc).

The Commercial Marina facilities consist of Port Dock’s 3, 5,7, Swede’s Dock and the Hoist Dock along with upland dry storage and parking. The Port’s Bay Front facilities also include Port Dock 1, which is used for some transient vessel berthing along with providing a tourist platform for bay viewing and sea lion observation.

The International Terminal area contains facilities which consist of the Terminal Dock Facility (currently under complete reconstruction), along with some commercial fleet dry storage area and several leased properties and structures. Appendix A contains mapping of existing leased facilities.

A comprehensive inventory of Port owned facilities associated with all properties are presented in Appendix B. The inventory includes an estimated current value of each facility along with an estimated replacement cost. The following table indicates a summary of Port owned facilities and estimated current values and replacement costs.

		Replacement Costs	Estimated Exist. Value
Buildings	\$	30,200,295	\$ 26,611,254
Docks/Piers	\$	52,283,864	\$ 36,883,726
Parking	\$	4,889,105	\$ 3,854,041
Other Facilities & Structures	\$	787,000	\$ 338,999
Equipment	\$	759,500	\$ 496,000
	\$	88,919,764	\$ 68,184,020

While the numbers presented above are estimated, they give a perspective of the extent what the Port owns and has responsibility for.

Utilities

Along with the more visible Port owned facilities used for providing Port services and associated with lease holds, there exists considerable utility infrastructure supporting the Port and its operations. Much of the utilities providing services to the Port are owned and operated by outside agencies (City of Newport, Central Lincoln PUD, etc) however, the Port does own and operate some underground utilities primarily associated with storm drainage and area lighting. Appendix C presents an inventory of utilities which are situated on Port properties which are necessary for Port Operations and identifies the controlling agency of the Utility. Appendix C contains mapping of existing utilities serving the Ports various service areas.

Recommended Projects

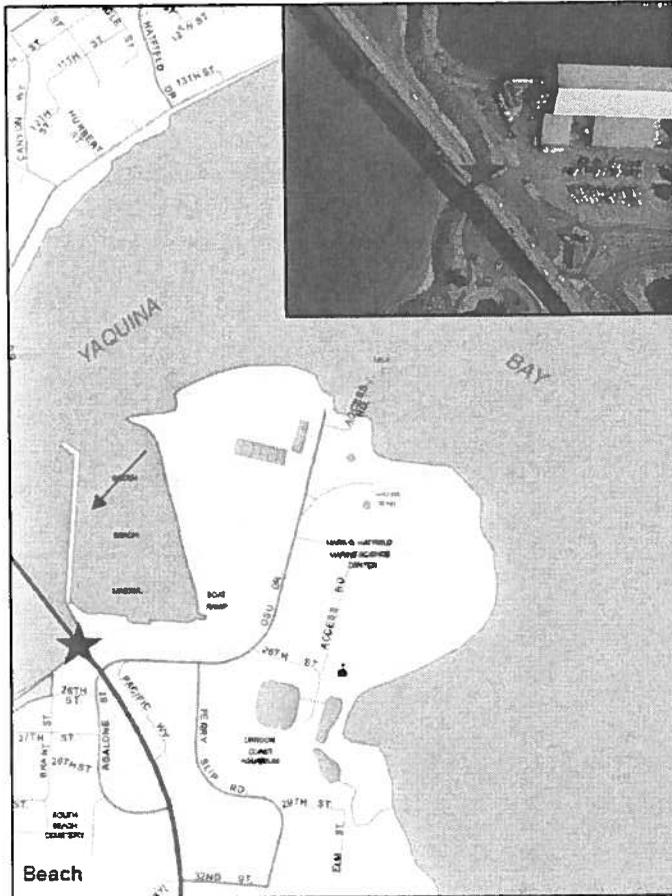
Projects identified through the Port's capital facilities planning process are listed in the table below:

Project	Est. Cost
South Beach/Fishing Pier Storm Sewer Outfall Replacement	\$80,685
Old Boat Ramp Fill	\$64,116
Reconstruction of Recreational Marina Docks	\$130,000
Renovate RV Park Annex	\$660,000
Fishing Pier Replacement	\$1,567,000
Additional fish Cleaning Station	\$40,000
Rogue Brewery (Dry Moorage Building) North Wall/Siding Replacement	\$150,000
Rogue Brewery (Dry Moorage Building) Foundation/Seawall Stabilization	\$300,000
Picnic Bunker Rebuild	\$36,000
Pavement Reconstruction/Seal Coating (all areas)	\$400,030
Wastewater Pump Station Replacement - South Beach Marina	\$30,000
South Beach Marina Fuel Facility - Tank Replacement	\$210,000
South Beach Marina Fish Dumpster Cleaning Area	\$40,000
Port Dock 1 Replacement	\$750,000
Port Dock 5 Improvements	\$775,000
Port Dock 7 Replacement	\$3,400,000
Hoist Dock Center Section Replacement	\$637,500
New Port Offices/Parking Area - Construction	\$878,149
International Terminal Fire Water Line Loop	\$127,355
Dredging of Marina's - North and South	\$4,732,302
Electrical Load Centers - South Beach Marina	\$100,000
North Operations/Shop building - Replacement or remodel	TBA
Hand Launch Vessel Storage Building	TBA

All of the proposed projects will be consistent with the Port's adopted policies and plans, i.e. environmental values and utilization of best management practices.

The projects listed above are more thoroughly described below in a format which presents each project on a single page without specific priority numbers allocated. This format is presented as a means of using the document for ongoing revisions and prioritization as needs and funding availability for projects change. Project prioritization is presented in the following section.

Project: South Beach/Fishing Pier Storm Sewer Outfall Replacement



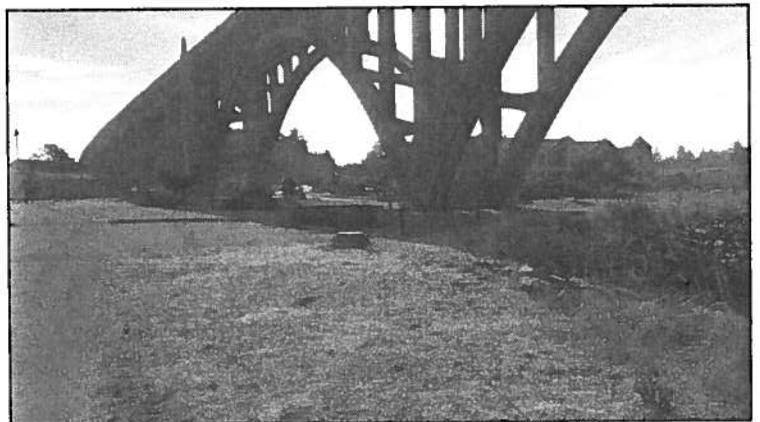
The storm water collection system which primarily serves the parking and roadway surface runoff associated with the Rogue Brewery Buildings and the adjacent City streets delivers storm water to the bay through a 30" diameter outfall pipe which has failed. The original outfall was installed in the 1978-79 original construction of the recreational marina. The existing outfall pipe is buried 12-15' deep on the landside portion, passes under the shoreline rock slope protection and extends out into the intertidal area.

Project Priority:

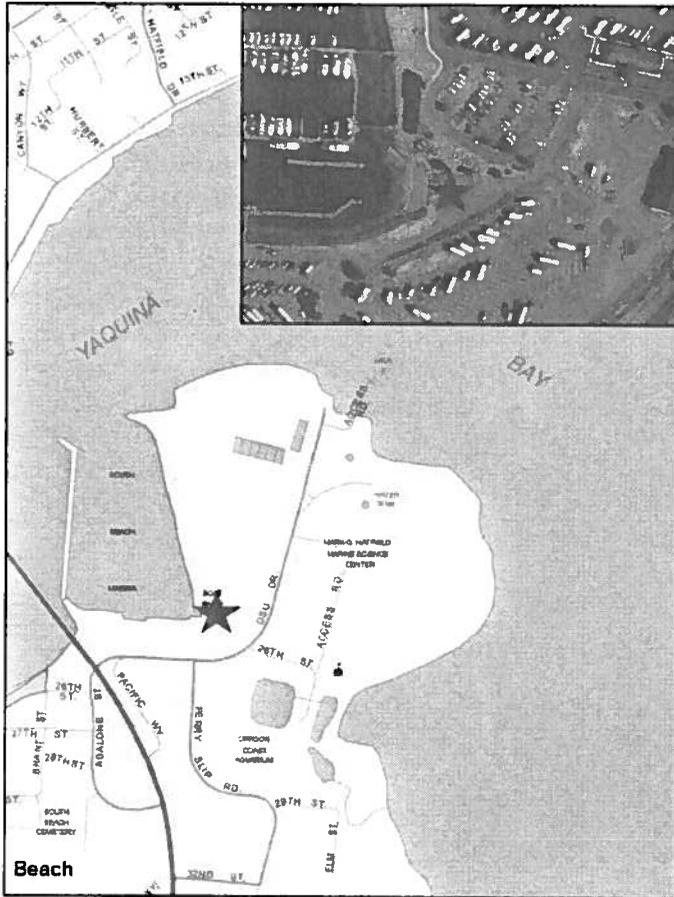
Estimated Project Cost: \$80,685

Project Features:

- Permitting required
- Work during "in-water" work period
- Deeply buried pipe day lighting in bay with tide gate



Project: Old Boat Ramp Fill



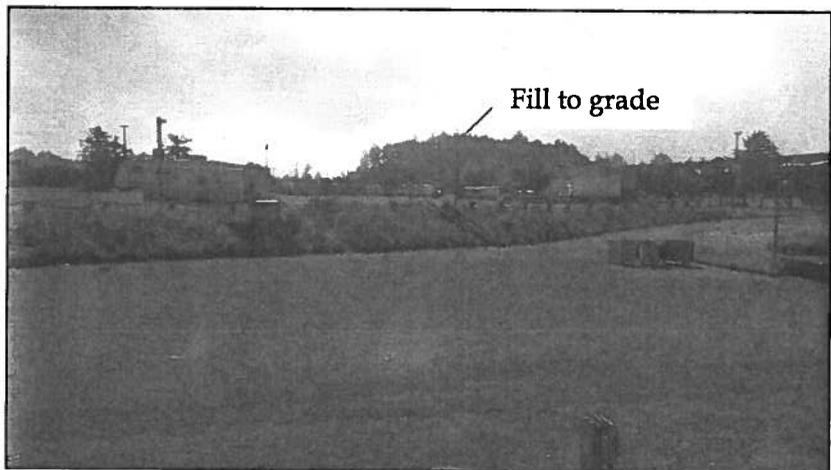
Fill and Level the old marina boat ramp to match grade of existing dry camping area at South Beach Marina. This old boat ramp was abandoned upon commission of the recently installed boat ramp located farther north in the vicinity of the marina store. Placing an engineered fill in this area would provide additional, usable space for Port leased properties or activities. Fill materials could be imported from the dredge spoil stockpile north of the new boat ramp parking area. The area is currently used for shoreline access by the public and lightweight boat (kayak) launching which should be taken into consideration for final design.

Project Priority Number:

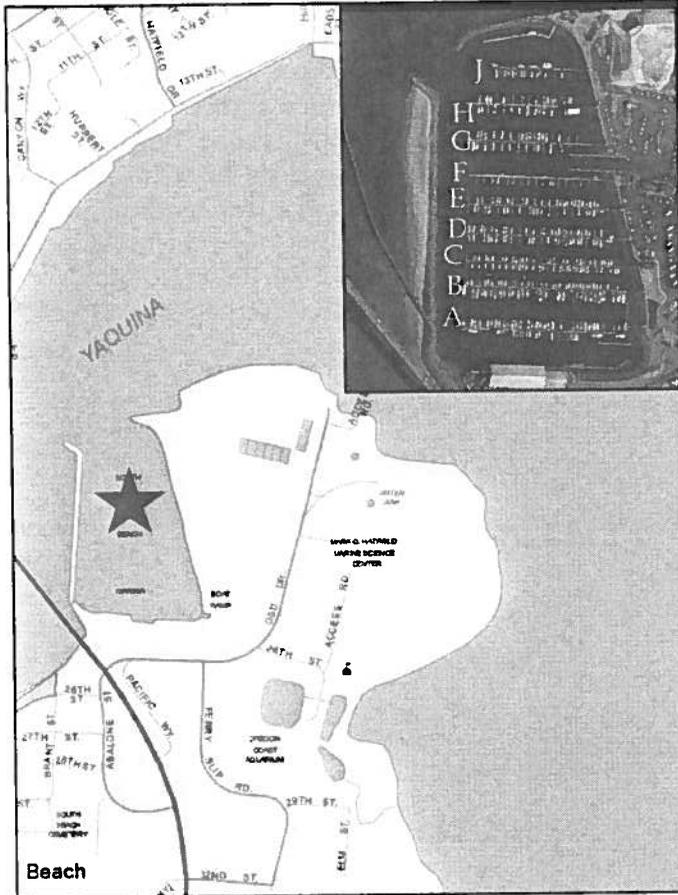
Estimated Project Cost:
\$64,000 (engineered fill) +
\$63,000 (gravel base and
pavement)

Project Features:

- Permitting may be required
- Maintain water access for hand launch craft



Project: Continued Re-Building Recreational Marina Docks



The Port has started a program of re-building/re-furbishing the existing concrete docks of the recreational marina. Dock H was completed the summer of 2011 and Dock G is currently being renovated and should be completed soon. Each of the docks is having new tie-rods installed along with whalers and electrical services for each slip. The concrete floats are being pressure cleaned and new finger fillets and piling guides installed. Dock G is being completed with in-house labor at a cost to the Port of approximately \$130,000. This process does impact the Port's revenues as moorage fees are lost for the season as each dock is renovated.

Project Priority:

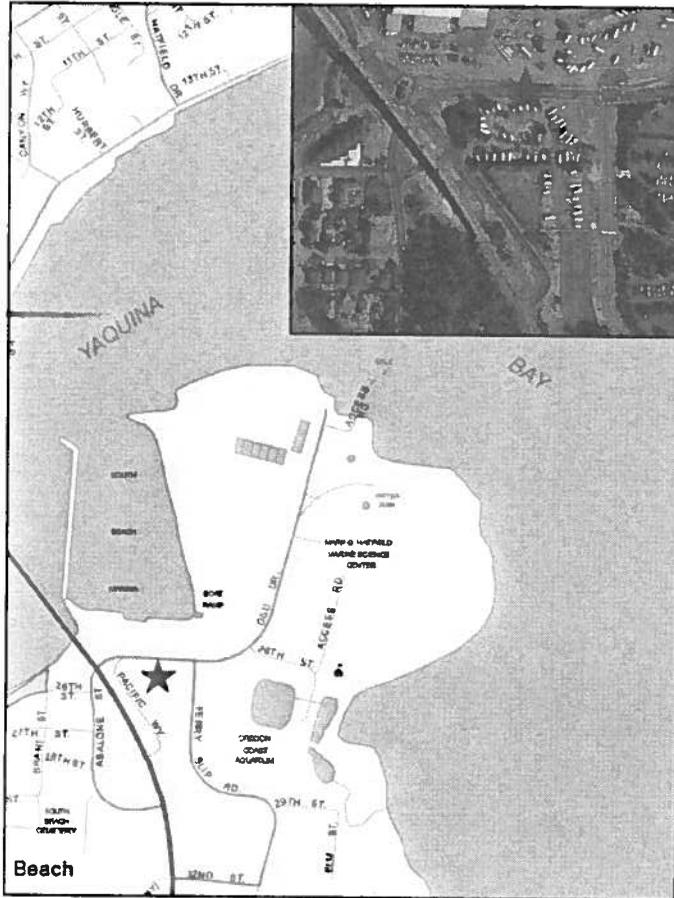
Estimated Project Cost:
\$130,000 per dock

Project Features:

- Work performed in-house
- Temporary loss of revenue from displaced moorage during construction



Project: Renovate RV Park Annex



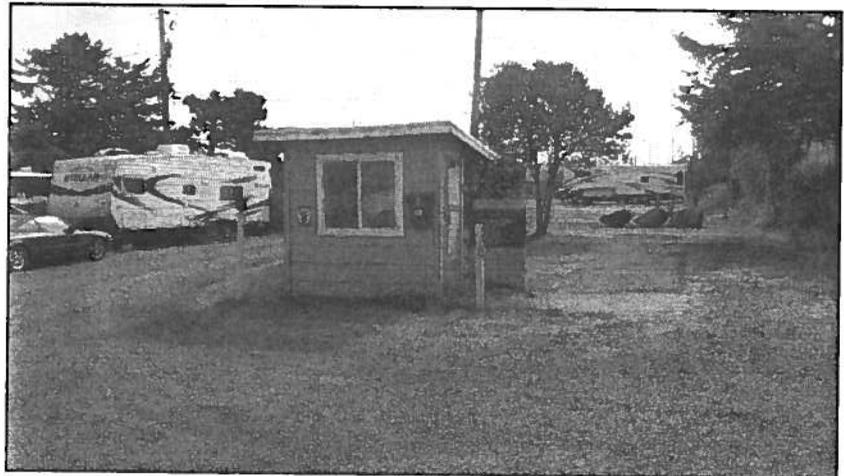
The RV Park Annex has aged water and electrical hook up facilities and poorly delineated gravel spaces with minimal aesthetic value. While there is a need for availability of “lower-end” RV sites, this area needs some renovation. This project includes the replacement of site underground facilities, and sprucing up the surface and landscaping for the 52 spaces contained at the facility.

Project Priority:

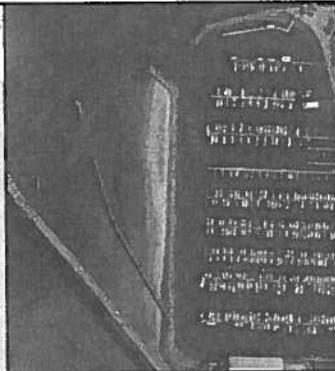
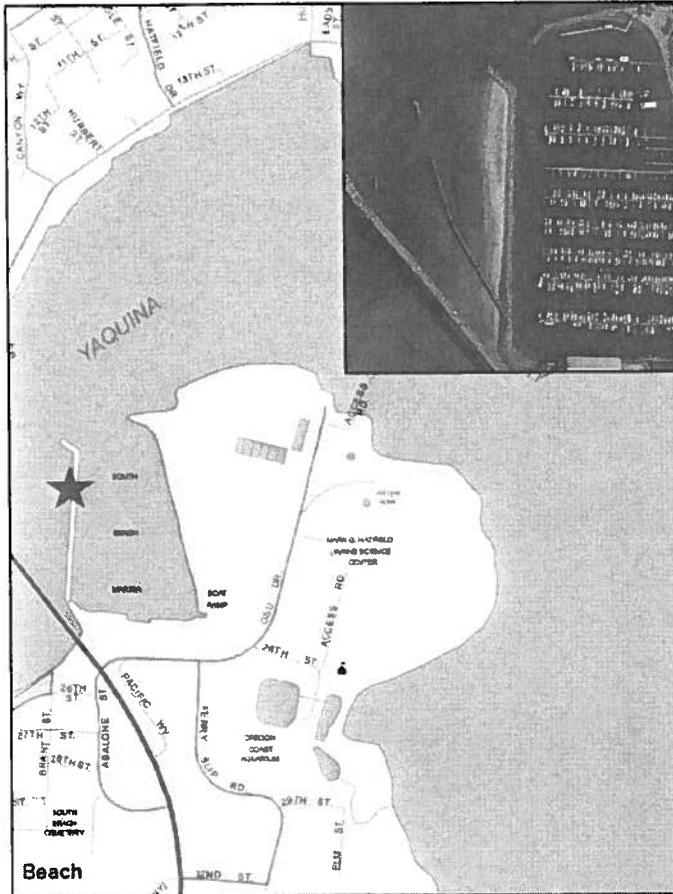
Estimated Project Cost:
\$780,000

Project Features:

- Improve appearance and utilities/facilities while accommodating mid to lower RV camper expense range.



Project: Fishing Pier Replacement



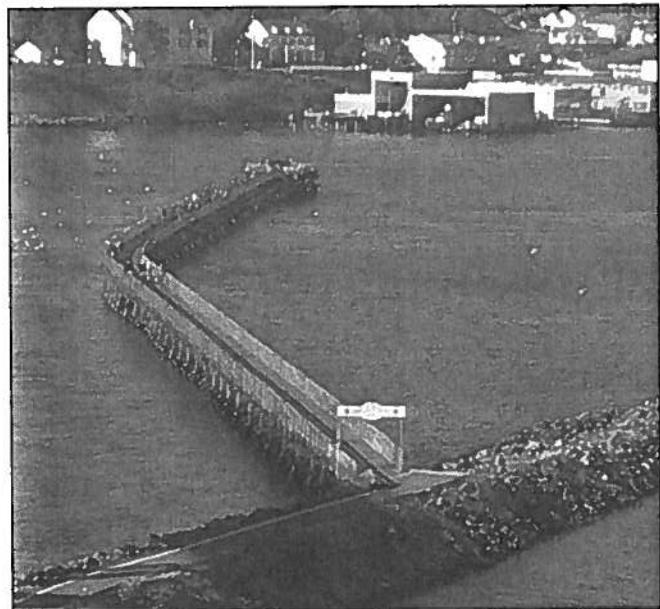
The timber fishing pier is a very popular attraction for tourists, especially for catching crab. The fishing pier railing and decking is showing wear and some minor deformation indicating minimal lateral and/or vertical movement in the pier. The pier appears to be sound; however, some planking and rail replacement and maintenance needs to be performed and total replacement should occur within the next 5 - 10 years.

Project Priority:

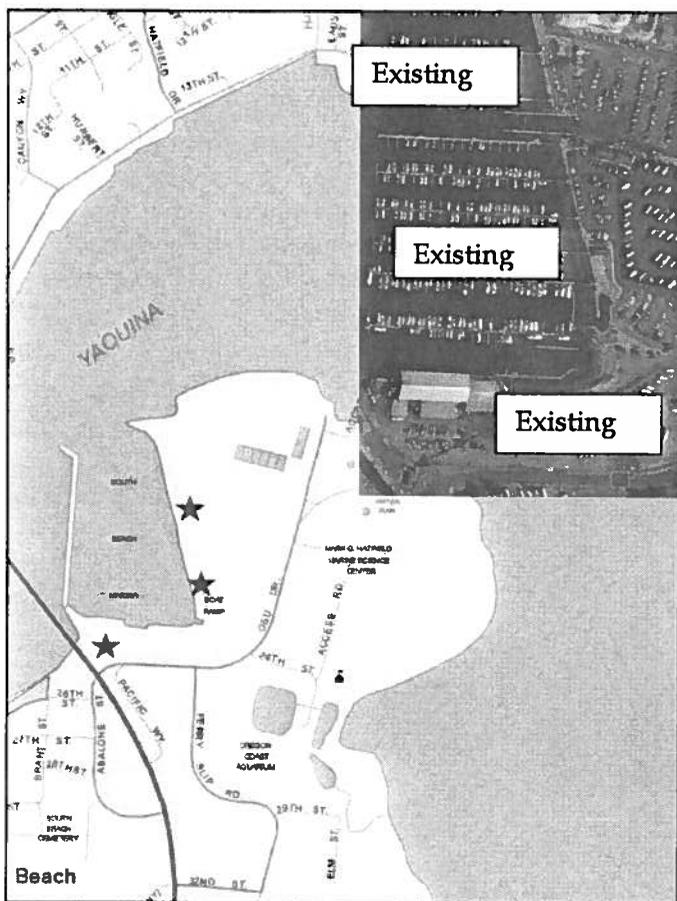
Estimated Project Cost: \$1,567,000

Project Features:

- Permitting
- Work during "in-water" work period



Project: Additional Fish Cleaning Station



During peak season use of the boat ramp and marina facilities, the five existing fish cleaning stations do not provide enough capacity to satisfy the demand. It is recommended that two new fish cleaning stations (side by side - double cleaning tables) be sited in the South Beach area.

Project Priority:

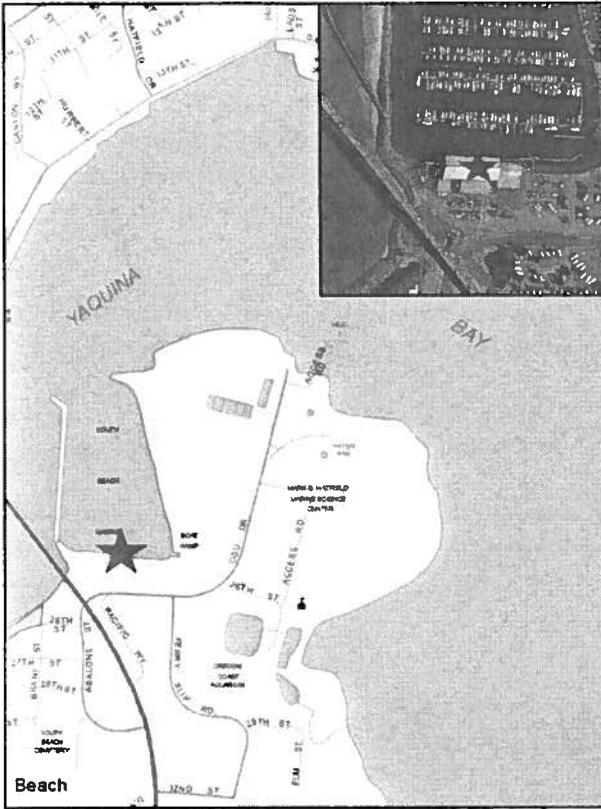
Estimated Project Cost: \$46,000

Project Features

- Facilities could be best sited for targeted use by charter boat customers.



Project: Rogue Brewery, (Dry Moorage Building) North Wall/Siding Replacement



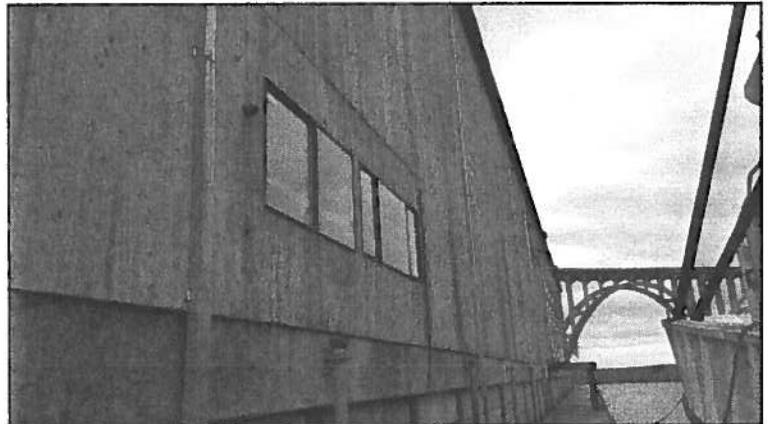
The Dry Moorage Building portion of the Rogue Brewery building has the original north wall siding which is extremely deteriorated. Access to this side of the building is problematic and has precluded siding replacement in the past. Rogue Brewery has made considerable improvements to the building along with several expansions. The North wall siding needs replaced.

Project Priority:

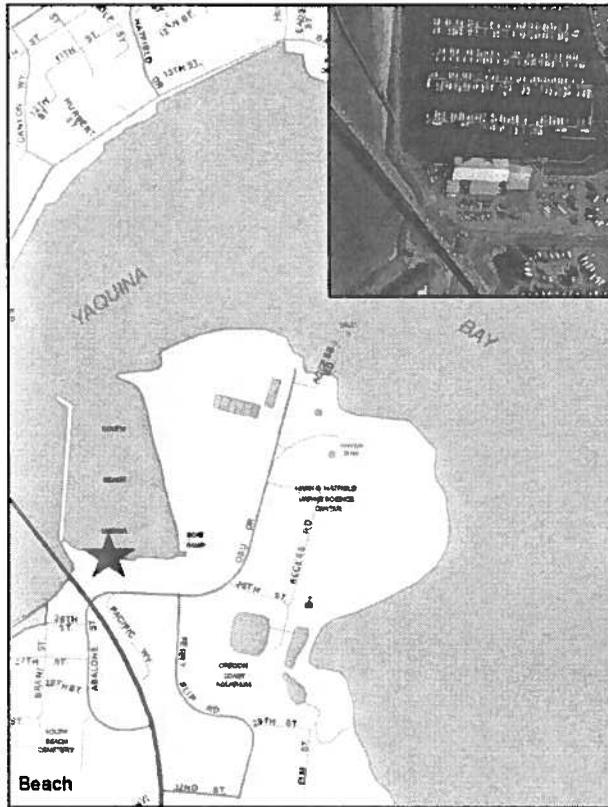
Estimated Project Cost: \$150,000

Project Features:

- Waterside work from barge or float
- Established leasehold



Project: Rogue Brewery, (Dry Moorage Building) Foundation/Seawall Stabilization



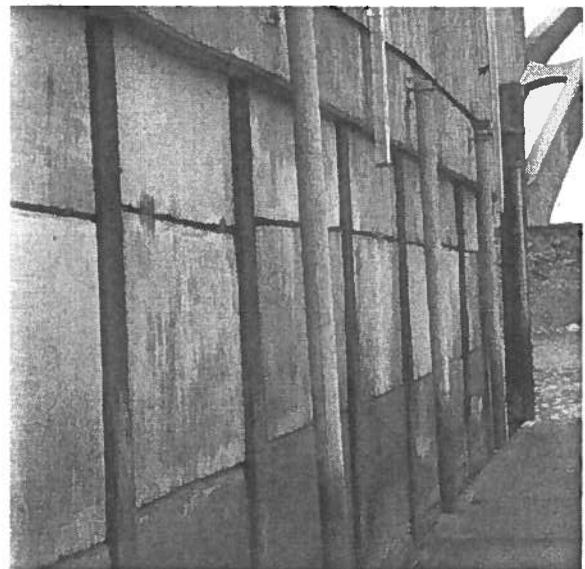
Original construction of the South Beach Marina in 1979 included a soldier pile seawall with integral foundation for the Dry Moorage Building portion of the Rogue Brewery building. The foundation/sea wall consists of approximately 60' 'H-pile' with concrete lagging and a concrete pile cap which supports the structures north wall. Over the past several years, the seawall has been moved laterally several inches. The sea wall needs to be stabilized or replaced. It is estimated the cost for stabilizing the seawall would be approximately \$250,000 - \$300,000.

Project Priority:

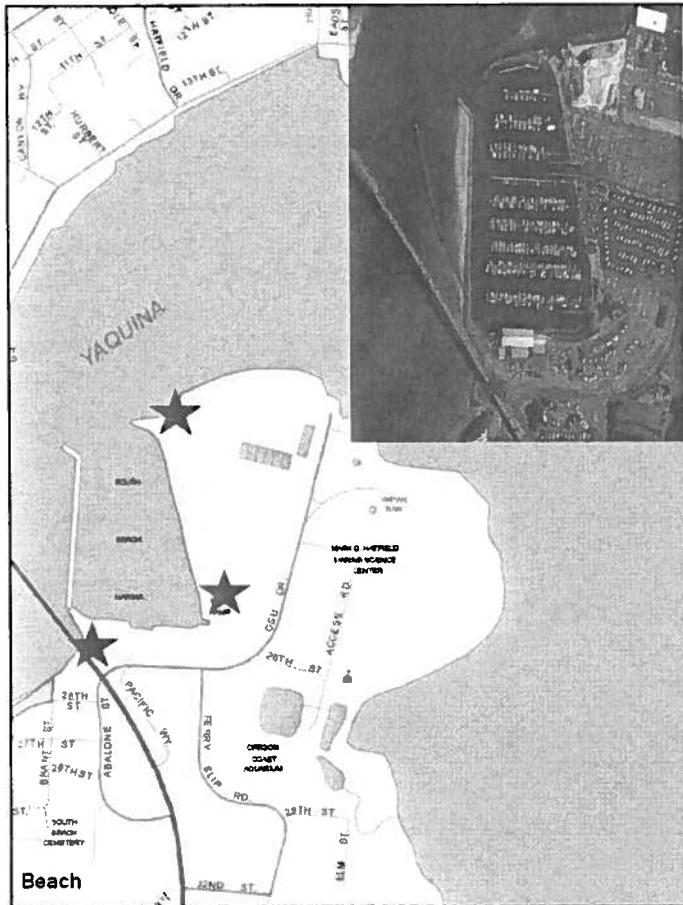
Estimated Project Cost: \$300,000

Project Features:

- Waterside work from Barge
- Geologic Investigation for Design
- Needed for continuation of established leasehold



Project: Rebuild Picnic Bunkers at South Beach Marina Complex



In the South Beach Marina Complex, there are three separate areas which contain picnic bunkers which were installed in the original 1978-79 construction of the facilities. One area, located at the south end of the Yaquina Bridge, near the fishing pier contains 6 bunkers. An area near the old boat ramp, up on the level with the Rogue Distillery contains 3 bunkers and on the north point there are another 3 bunkers, near the fueling dock. These facilities are also very popular during summer months for use by tourists. Each bunker consists of a concrete slab with a half wall surrounding a picnic table. In all the current facilities, the half walls are very deteriorated and tables need replaced. The proposed project recommends using the existing slab after cleaning along with replacing all wood structures, half wall and picnic table top and benches as designed. All picnic table steel supports need to be cleaned and

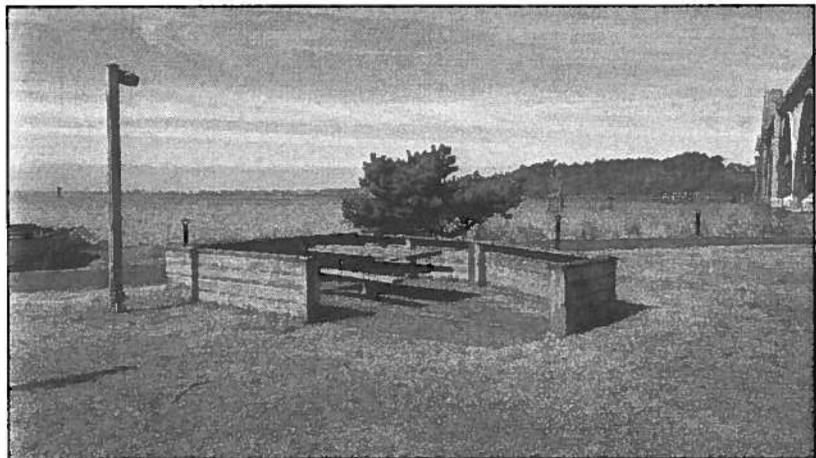
coated prior to installation of new benches and table top.

Project Priority:

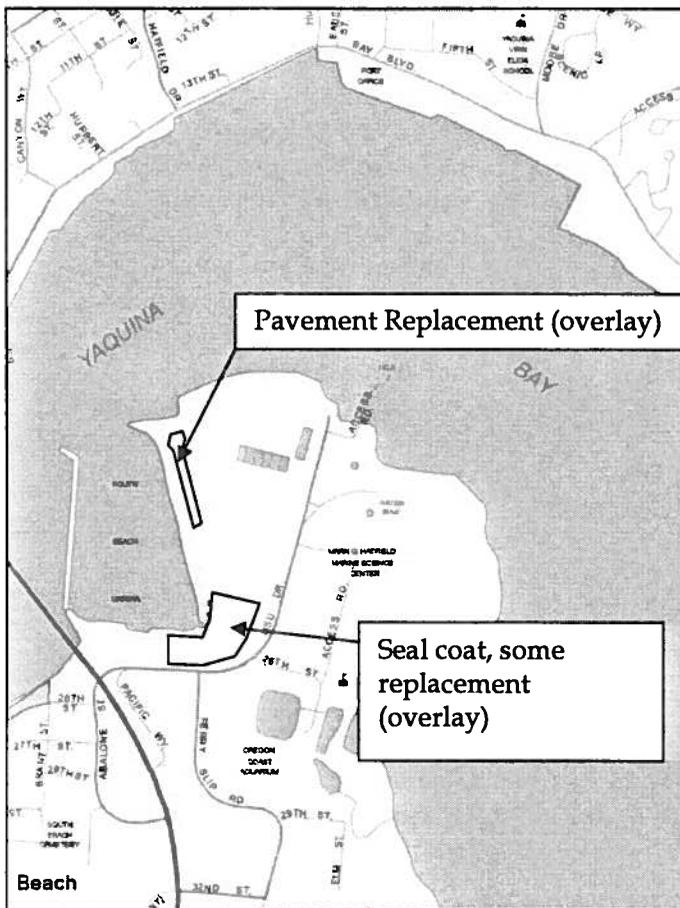
Estimated Project Cost:
\$36,000

Project Features:

- Use existing design, clean and seal concrete and replace wooden elements with pressure treated



Project: Pavement Reconstruction and Seal Coating



Between 40-50% of paved areas on the South Beach Marina Area (excluding RV parks), that are maintained by the Port, consists of the original pavement installed in the 1978-79 marina construction. The areas in which this pavement is located are in portions of; the Rogue Ales Brewery paved parking and storage areas; the dry camping area, the Rogue Ales Office paved storage and parking area; and the Rogue Distillery, old Boat ramp picnic bunker and fish cleaning station parking area. The frontage, loop road which extends north from the new boat ramp to the turn-around loop at the north point area is also original pavement. The majority of these paved areas appear to be structurally sound and show only loss of surface asphalt indicated by an exposed aggregate surface texture. Approximately 10% of these paved areas need to be

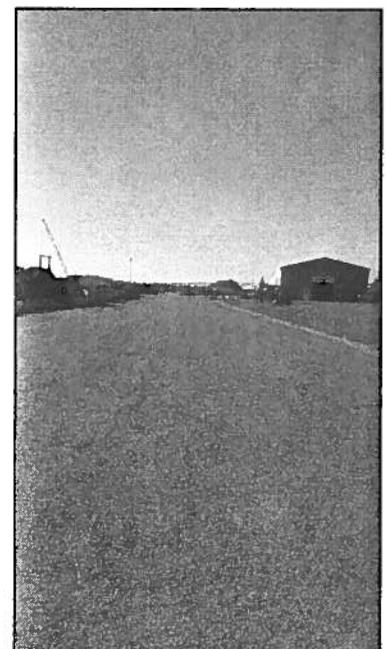
reconstructed starting with the aggregate base and installing new paved surfaces. The remainder of the paved areas could have the service life extended through replacement of eroded asphalt by surface or seal coating.

Project Priority:

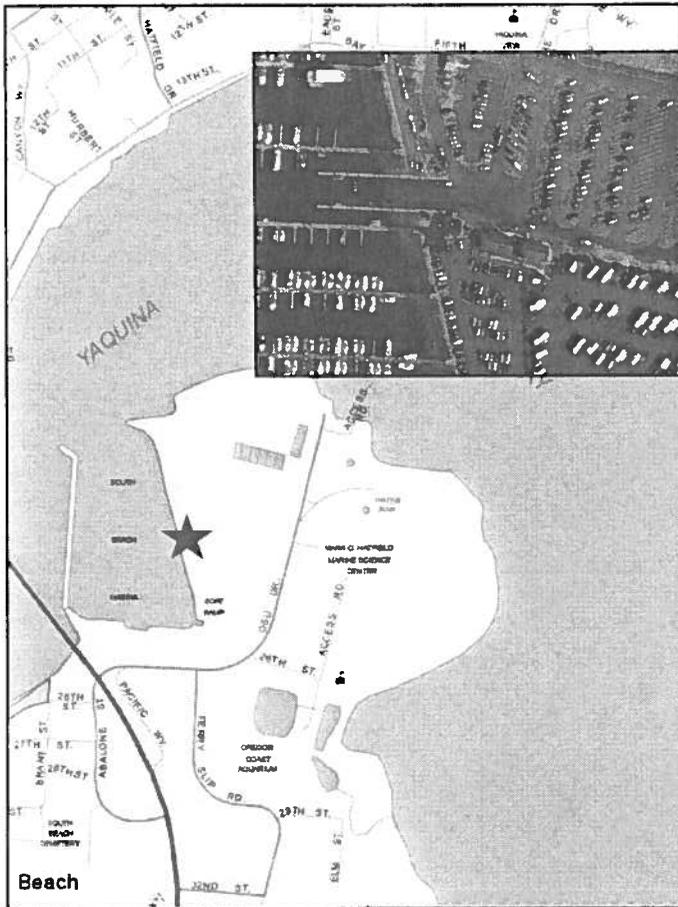
Estimated Project Cost: \$200,000

Project Features:

- Replace failed pavement areas with new overlay
- Re-surface areas with sound surface with appropriate seal coat



Project: Wastewater Pump Station Replacement



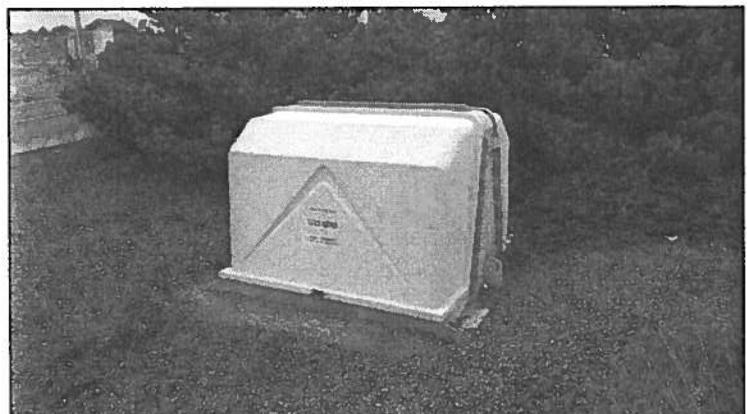
A small wastewater lift station which serves the RV park, Structure and restrooms located in the vicinity of the new boat ramp is aged and needs replacement. While the pump station is being operated and maintained by the City of Newport, the ownership of the facility is not clear. The existing pump station does not comply with City standards for pump stations and experiences high volumes of sand intake which quickly erodes pump impellers. Aside from replacing the pump station, an investigation needs to be performed in the collection system to identify and curtail the source of sand introduced into the system.

Project Priority:

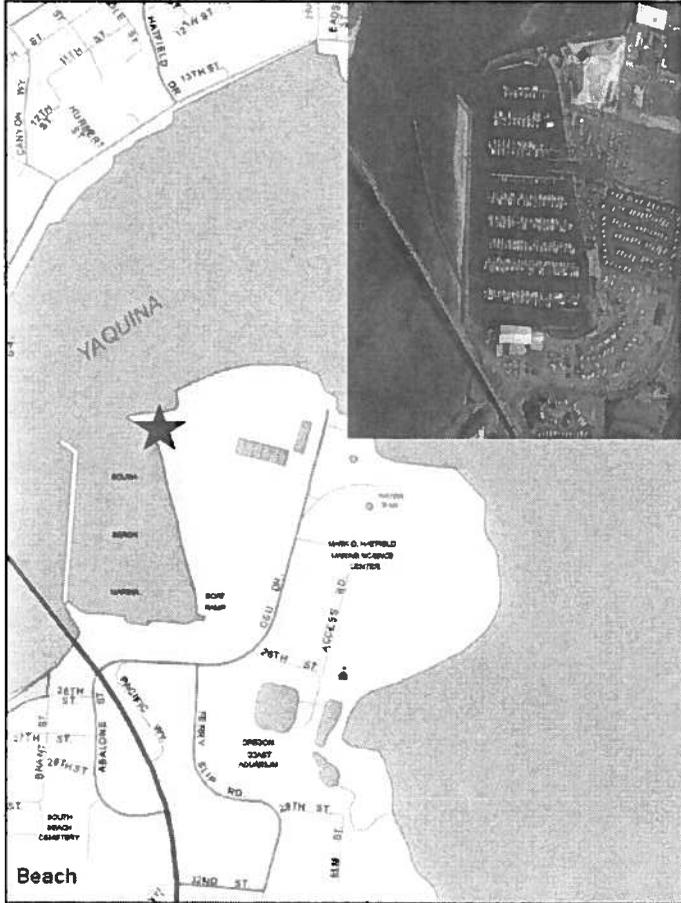
Estimated Project Cost: \$30,000

Project Features:

- Replace Station with City of Newport approved facility



Project: Fuel Tank Replacement – South Beach Marina



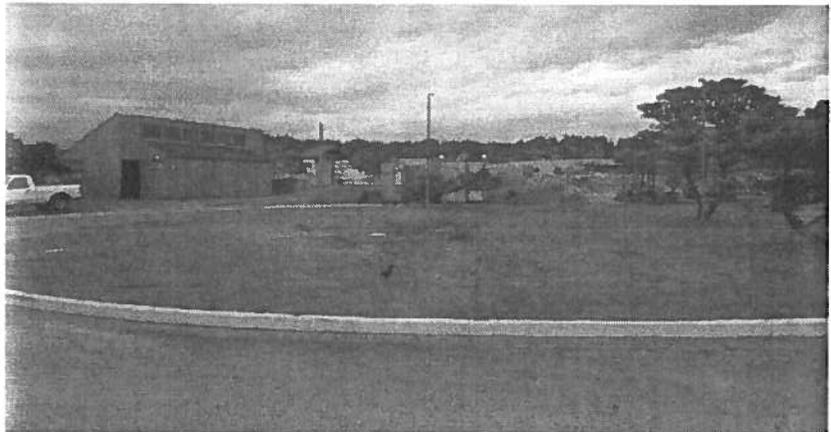
The South Beach Marina currently has a vessel fueling facility located at the very north end of the marina. The facility consists of floating docks, fuel dispensers, control building, fuel lines and two 20,000 gallon fiberglass lined fuel tanks. The fuel tanks are located underground in the vehicle turn-around loop at the north end of the frontage road adjacent to docks H, J, and F. New fuel lines, electrical service and dispensing facilities have recently been replaced with the facility. The underground tanks will need to be replaced within the next 7 - 10 years. The tanks would be replaced with above ground, self contained, spill-proof facilities. The estimated cost for replacing the tanks is \$210,000.

Project Priority:

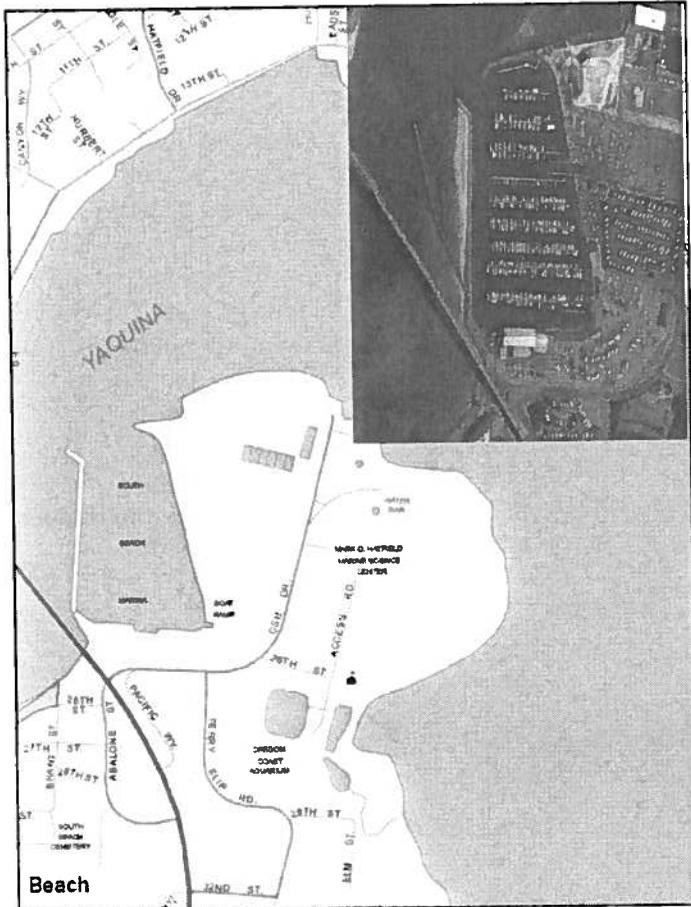
Estimated Project Cost:
\$210,000

Project Features:

- Above ground, self contained fuel tanks



Project: Fish Dumpster Washdown Area - South Beach Marina



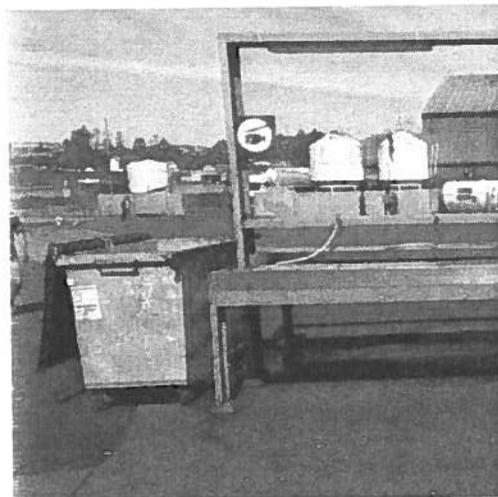
The South Beach Marina currently maintains three fish cleaning stations and has an identified need for a fourth. Each station has a waste dumpster located adjacent to the cleaning sinks in which all fish and crab waste is deposited. There is a need for a self contained, environmentally friendly site where the emptied dumpsters can be washed down. The estimated cost for a washdown site is \$40,000.

Project Priority:

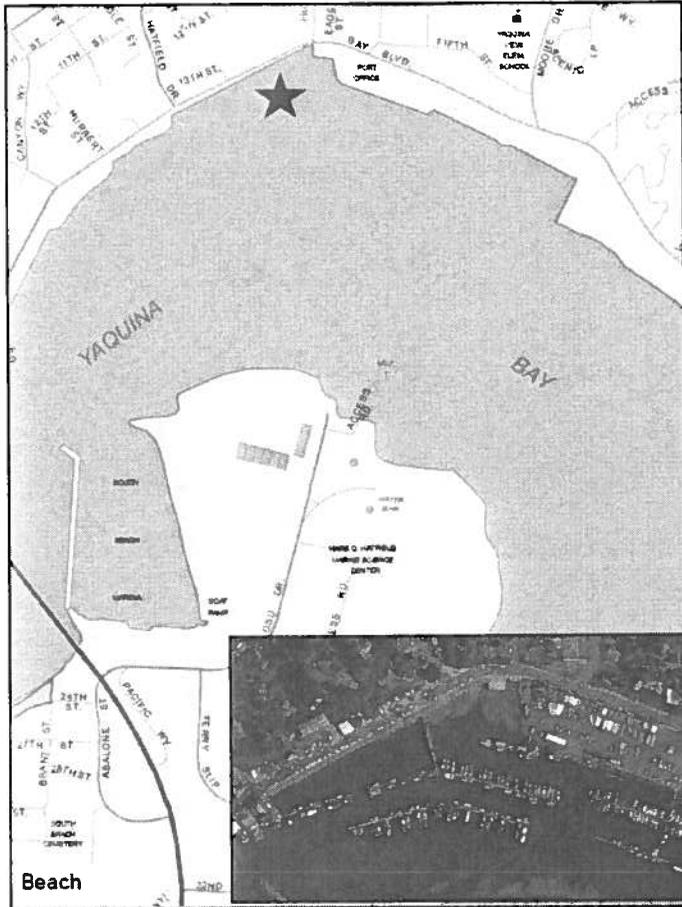
Estimated Project Cost: \$40,000

Project Features:

- Self contained
- Use of Best Management Practices for Environmental controls



Project: Port Dock 5 Improvements



Currently approximately 25% of the steel piling associated with this dock is in a state of deterioration

Several other improvements/ additions have been identified for this facility. The 235 foot long 22 foot wide access pier and the landing float need replacing. This facility has also been identified as needing a restroom facility for moorage customers. The restroom facility could be added adjacent to the access pier or be an "on-the-water" structure, dependent upon further siting analyses.

Project Priority:

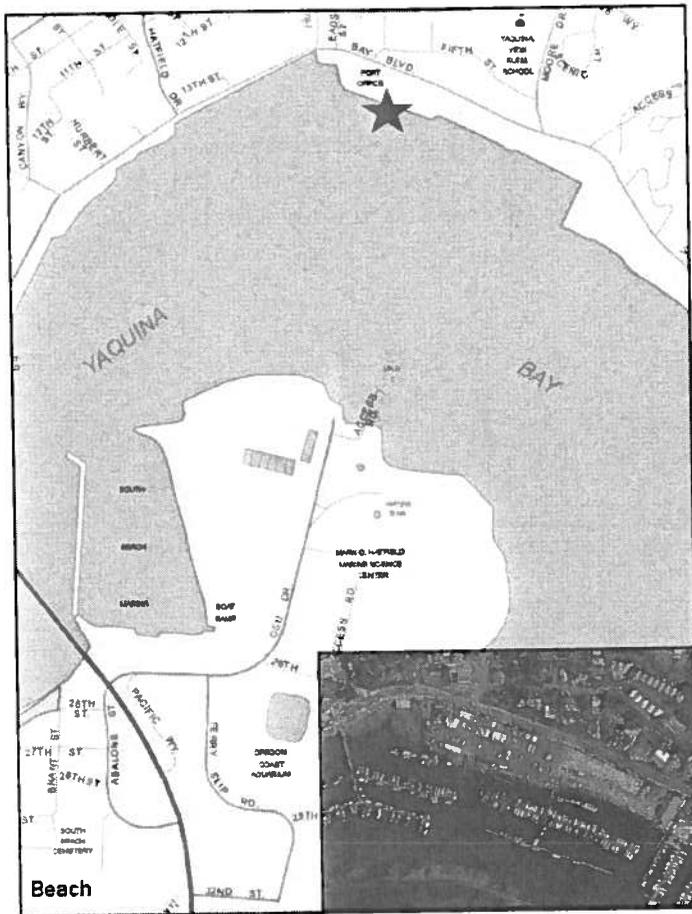
Estimated Project Cost: \$1,115,000

Project Features:

- Access Pier and Fleet moorage floating docks involved
- New Restroom facility for serving fleet users



Project: Hoist Dock Center Section Replacement



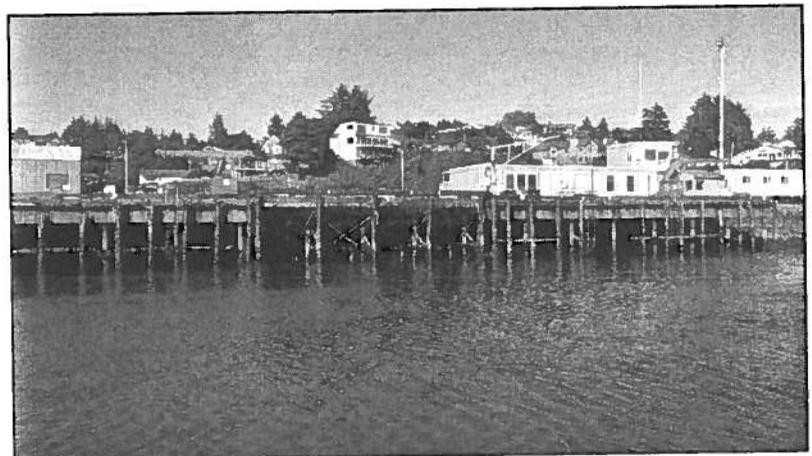
The Hoist Dock located adjacent to the old Port office building is experiencing failure in the old timber construction section situated in the center of the structure. The Hoist Dock currently fronts the Bay along a 220 foot length. The two end sections (approximately 70 ft long for each) are made up of a steel piling supported concrete structure. The interior section is timber construction. The wooden dock fender piles and whalers structure is also in need of replacement.

Project Priority:

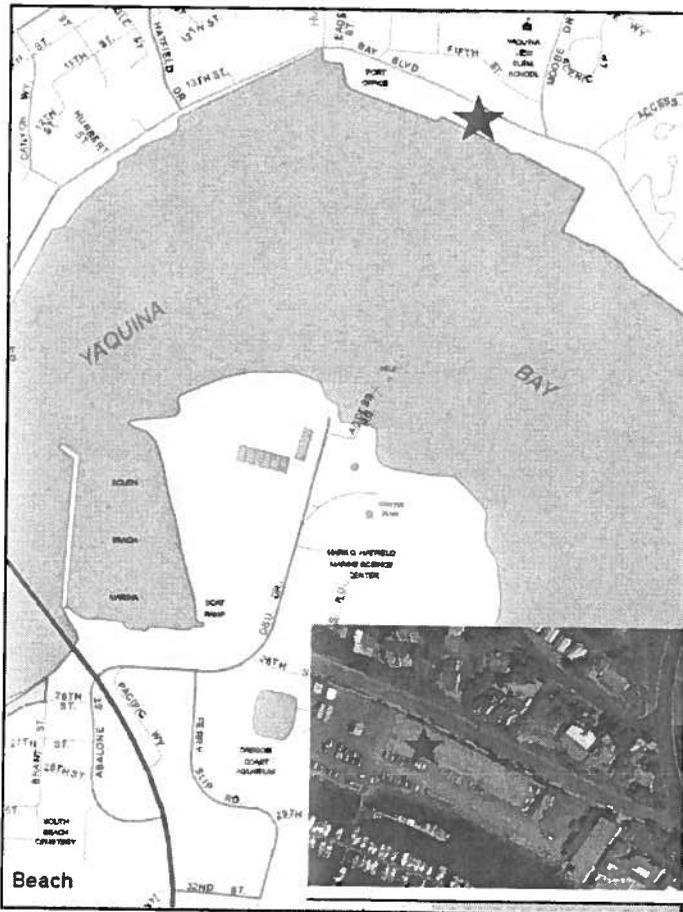
Estimated Project Cost: \$637,500

Project Features:

- Facility Needed to maintain good revenue generating facility for Port
- Permitting required



Project: New Port Offices, Utilities and Parking



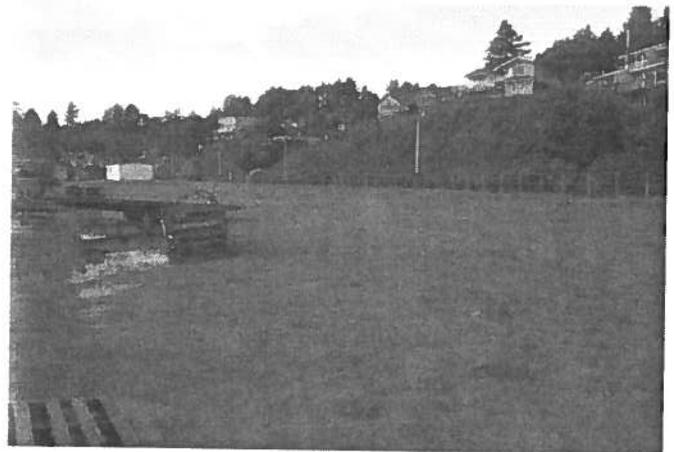
The Port offices are currently located in a temporary structure since the old offices have been declared uninhabitable.

Project Priority:

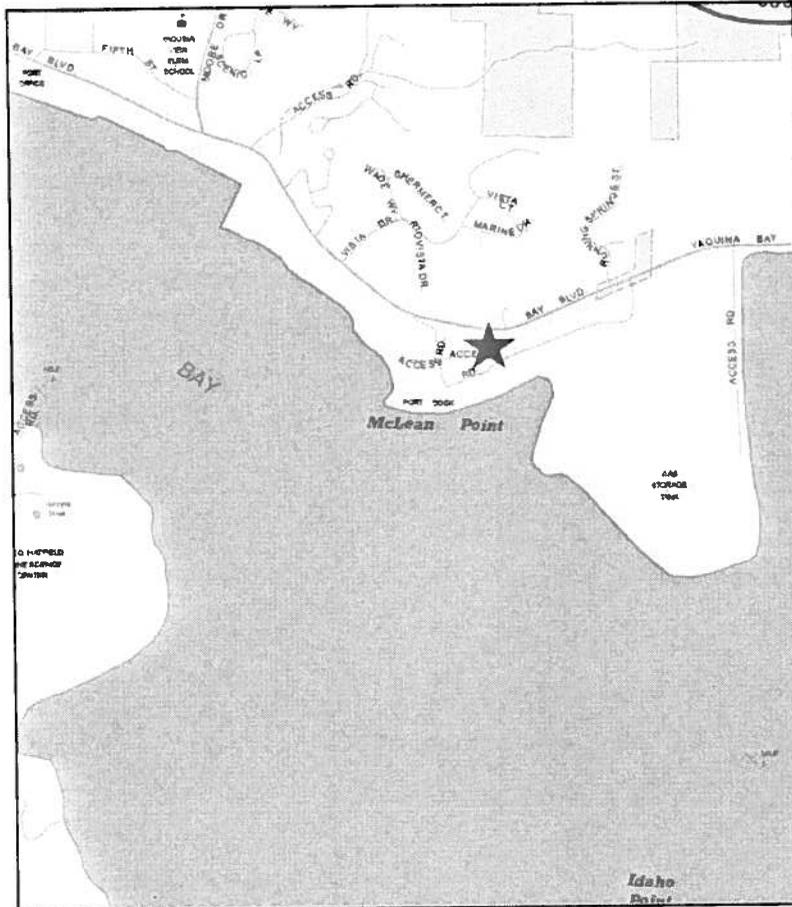
Estimated Project Cost: \$878,000.

Project Features:

- Complete office facilities with Board meeting room/Conference room
- Associated parking facilities



Project: International Terminal Fire Water Loop



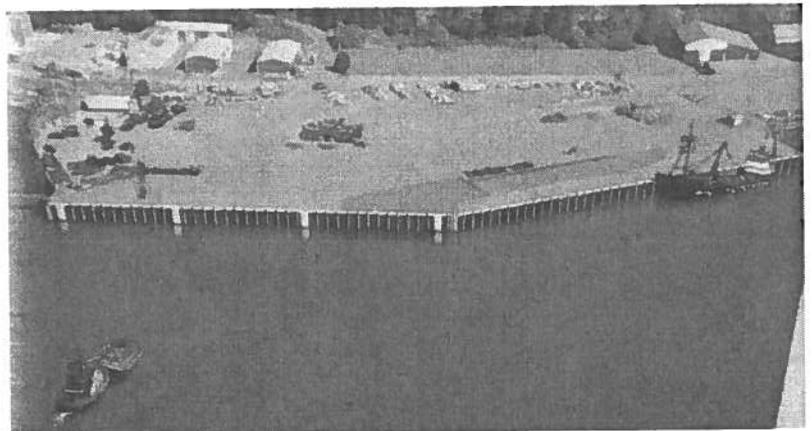
The International Terminal area needs to have the fire water supply lines looped to provide for adequate fire water supply.

Project Priority:

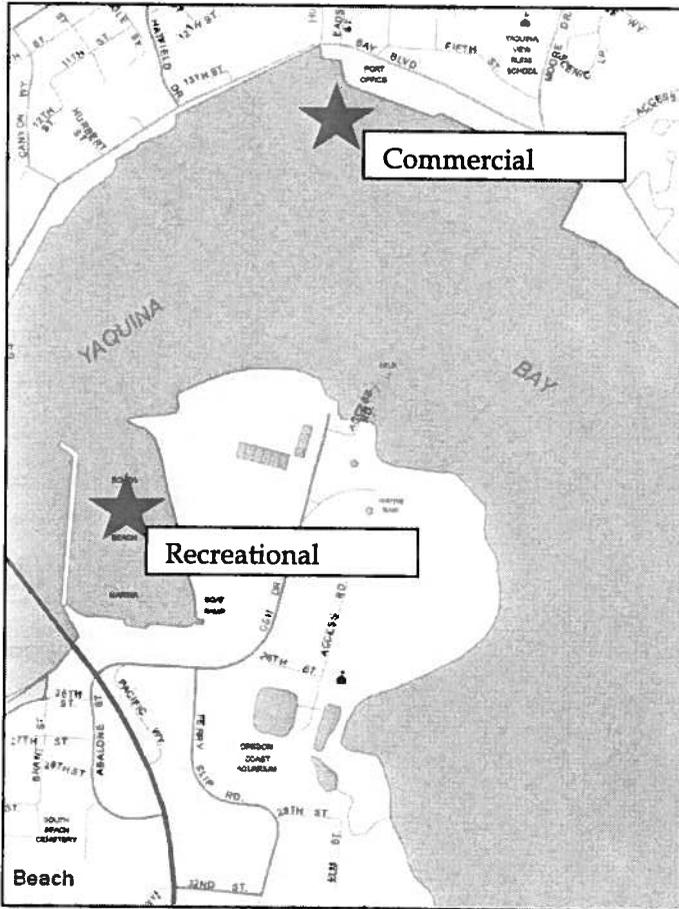
Estimated Project Cost: \$258,000

Project Features:

- Approx 1,000 lineal feet of 8" PVC Water Main



Project: Marina Dredging



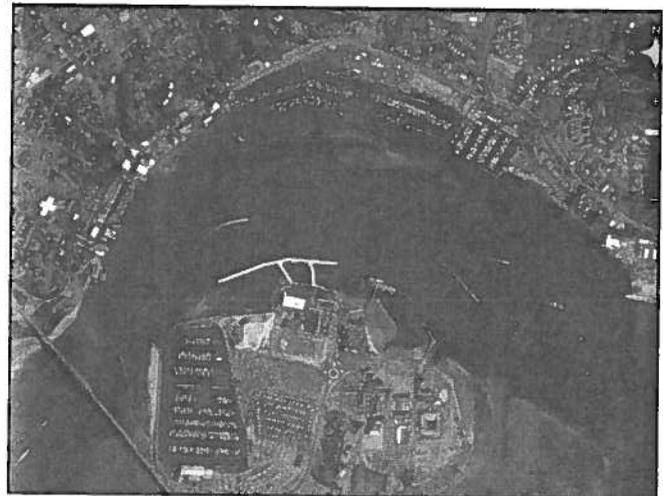
Both the Recreational and Commercial marinas need to be dredged. It has been approximately 30 years since either has been dredged and the shoaling is starting to cause issues. The recreational marina needs to be dredged to a 10 foot depth (below Mean Lower Low Water) and the commercial marina needs to be dredged to between 10 and 15 foot depths. The project would involve removing approximately 4' depth of materials in each of the marinas.

Project Priority:

Estimated Project Cost: Recreational Marina
- \$2,685,000
Commercial Marina
- \$2,050,000

Pending Activities:

- Permitting required
- Spoils disposal monitoring (testing)



Additional Projects

Miscellaneous projects that have been identified as needed for the provision of Port services also include:

- Replacement of two electrical load centers located at the South Beach Marina
 - Estimated Cost: \$100,000
- Replacement or remodeling of the Commercial Marina operations/shop Building
 - Estimated Cost: Yet to be determined
- South Beach Marina "Hand Launch" vessel storage facility
 - Estimated Cost: Yet to be determined

Capital Facilities Plan (CFP)

The improvements, which have been discussed in the previous sections, were assessed by Port commissioners and staff related to prioritization of the projects. Projects were evaluated on a basis of physical need, desire, importance and availability of funding. Appendix D contains an example of a table which was used for ranking projects. The prioritization process placed the projects in three priority categories, Priority 1-3. The priority 1 projects are projects to be scheduled for work within the next 1-5 years. Priority 2 projects to be scheduled within the next 10 years and Priority 3 projects within the next 15 years.

Because almost all of the proposed projects are actually upgrades or reconstruction/replacement of existing facilities necessary for the provision of Port services and/or revenue sources, it is extremely difficult to place definitive priorities on the proposed work. The reality is that project performance will most likely be driven by availability of funding to perform the work. The following is an initial cost and priority summary table of the identified projects for the Port:

Project Description	Priority	Estimated Cost of Improvement
Port Dock 7 Replacement	1	\$3,400,000
Wash down facility for the South Beach Marina fish waste trash bins	1	\$40,000
Hoist Dock (Center Section) Replacement	1	\$637,500
Reconstruction of Recreational Marina Docks	1	\$130,000
Port Dock 5 Improvements	1	\$775,000
New Port Offices/Parking Area	1	\$878,149
Marina Dredging	1	\$4,732,302
SUBTOTAL - PRIORITY 1 PROJECTS		\$10,592,951
Renovate RV Park Annex	2	\$660,000
Rogue Brewery (Dry Moorage Building) North Wall/Siding Replacement	2	\$150,000
Electrical Load Center South Beach Marina	2	\$100,000
International Terminal Fire Water Line Loop	2	\$127,355
Wastewater Pump Station Replacement - South Beach	2	\$30,000
Port Dock 1 Replacement	2	\$750,000
SUBTOTAL - PRIORITY 2 PROJECTS		\$1,917,355
South Beach/Fishing Pier Storm Sewer Outfall Replacement	3	\$80,685
Picnic Bunker Rebuild	3	\$36,000
Pavement Reconstruction/Seal Coating (all areas)	3	\$400,030
Fishing Pier Replacement	3	\$1,567,000
Old Boat Ramp Fill	3	\$64,116
SUBTOTAL - PRIORITY 3 PROJECTS		\$2,147,831
TOTAL ALL PROJECTS		\$14,658,137

Financing

Grant and Loan Programs

Some level of outside funding assistance in the form of grants or low interest loans will help assure that the proposed improvement projects are affordable to the Port of Newport. The amount and types of outside funding will dictate the amount of local funding that the Port will have to secure. In evaluating grant and loan programs, the major objective is to select a program, or a combination of programs, which are most applicable and available to the intended project.

A brief description of the major Federal and State funding programs, which are typically utilized to assist qualifying ports in the financing of improvement programs, is given below. Each of the government assistance programs has its own particular prerequisites and requirements. These assistance programs promote such goals as aiding economic development, benefiting areas of low to moderate-income families, and providing for specific community improvement projects. Not all ports or projects may qualify for all programs.

The Oregon Business Development Department (OBDD) is an excellent source of funding to help finance public improvements.. The OBDD has three separate programs offering funding assistance, including Community Development Block Grants (the Port is only eligible for this program if the grant is sponsored by the City of County on behalf of the Port), the Special Public Works Fund, and the Water/Wastewater Financing Program.

The Infrastructure Finance Authority (IFA) helps ports develop infrastructure and public facilities and address their utility and economic needs through these programs:

Connect Oregon

In 2005, the Oregon Legislature created the Multimodal Transportation Fund to invest in air, marine, rail, and public transit infrastructure improvements. The Fund is part of what is known as the Connect Oregon program; providing grants and loans to non-highway transportation projects that promote economic development in Oregon. The legislature authorized issuance of \$100 million in lottery-backed revenue bonds to fund the program in each of the 2005-07, 2007-09, and 2009-11 biennia. An additional \$40 million was authorized in 2011 for the 2011-13 biennium.

In creating the Multimodal Transportation Fund, the Legislature found that local governments and businesses often lack sufficient capital and technical capacity (i.e. engineering, planning, labor and/or equipment) to undertake multimodal transportation projects and that public financial assistance can help support these long-term economic growth and job creation projects.

Connect Oregon projects have resulted in success from creating job opportunities to retaining major employers. The projects have also resulted in reduced transportation costs, barriers to economic development removed, and improved safety. Together, the initial three phases of the Connect Oregon program have improved multimodal connections and better integrated transportation

system components, thereby improving the flow of commerce and promoting economic development within Oregon. ODOT administers the program pursuant to OAR 731-035.

The Port of Newport's International Terminal Improvements, currently under construction have been partially funded through the Connect Oregon program..

Port Revolving Fund

The Port Revolving Fund is a loan program to assist Oregon ports in the planning and construction of facilities and infrastructure. Each applicant is limited to a total loan amount from this fund of no more than \$3 million at any one time. The loan term can be as long as 25 years or the useful life of the project, whichever is less. Interest rates are set by the IFA at market rates, but not less than Treasury Notes of a similar term minus one percent. Funds may be used for port development projects (facilities or infrastructure) or to assist port-related private business development projects. The variety of eligible projects is very broad and may include, but are not limited to:

- water-oriented facilities;
- industrial parks; and
- airports and commercial or industrial developments.
- Eligible project costs can include:
 - engineering;
 - acquisition;
 - improvement;
 - rehabilitation;
 - construction;
 - operation; and
 - maintenance or pre-project planning.

Port Planning and Marketing Fund

This grant program helps ports fund planning or marketing studies related to expanding their trade and commerce activities. Funding is provided through a transfer of the interest earned on the Oregon Port Revolving Fund. The Port Planning and Marketing Fund is primarily a grant program. Grants from the Port Planning and Marketing Fund are capped at \$50,000 or 75 percent of the total cost of the project, whichever is less. A 25 percent local cash match is required for all projects.

This includes developing and marketing facilities and services that support important industries in the state, including:

- agriculture
- aviation
- fishing
- maritime
- commerce
- transportation
- tourism/recreation

- wood products

Marine Navigation Improvement Fund

The Marine Navigation and Improvement Fund provides grants and loans that fund either: a federally authorized project that needs matching funds; or a non-federally authorized project that directly supports or accesses an authorized navigation improvement project.

Federally authorized projects

These include projects designed and operated by the U.S. Army Corps of Engineers. The federal government provides 75 percent of the funding; the state Legislature provides the 25 percent match.

Projects must be:

- authorized by Congress;
- large enough to have a positive national cost/benefit ratio;
- sponsored by a port; and
- listed in the port's business or strategic plan.

Non-federally authorized projects

These projects are smaller and cannot qualify for federal assistance. The proposed project must support a certain level of commercial or recreational activity in order to qualify for state funding.

These projects must:

- meet the criteria of a freight project or a commercial/recreation project;
- be a new water project that directly supports, or provides access to, a federally authorized navigation improvement or navigation channel project;
- be ready to begin in the biennium funding is requested; and be listed in a port's business or strategic plan.

Projects can be funded:

- up to 100 percent through a loan, if the port can support that level of debt from its general fund;
- up to 75 percent through a state grant for projects with a record of activity that meets the minimum criteria; or
- up to 50 percent through a state grant for new water projects anticipated to meet the minimum criteria within a couple of years of completion.

Low-interest loans

Interest rates are determined during the financial review. Loan terms will not exceed 25 years.

Grants

Grants are available for projects that meet one or more of the following criteria:

- Job creation and/or retention as a direct result for the project.

- The project deals with critical public safety issues and the IFA's financial analysis determines the port's borrowing ability cannot finance the project.
- There is an imminent threat that the port will lose permits and the IFA's financial analysis determines the port's borrowing ability cannot finance the project.

Local Funding Sources

Local revenue sources for capital expenditures include ad valorem taxes, various types of bonds, lease and tenant revenues. Local revenue sources for operating costs include ad valorem taxes, and lease and tenant charges and user fees.

Property Taxes

There are three types of property taxes that taxing districts may impose: taxes from the permanent rates, local option levies, and bond levies. Only the permanent rates are fixed. Bond levies typically are approved in terms of dollars, and the rates are calculated as the total levy divided by the assessed value in the district. Local option levies may be approved either in rate or dollar terms. If the local option levy is in dollar terms, then rates are calculated the same way as for bond levy rates.

Taxes from the permanent rates, typically referred to as operating taxes, are used to fund the general operating budgets of the taxing districts. They account for the single largest component of property taxes. Strictly speaking, the permanent rates are rate limits, so districts may use any rate up to their permanent rate. Local option taxes represent the only way taxing districts can raise operating revenue beyond the permanent rate amount. Even so, these taxes are the first to be reduced if the Measure 5 limitations are exceeded. Because voters at the local level must approve these levies, they represent one aspect of local control over the level of property taxes. Measure 50 requires that local option levies, in elections other than general elections, be approved by a majority of voters with at least 50 percent of all registered voters actually voting. Bond levies have remained largely unchanged. They are used to pay principal and interest for bonded debt. Under the provisions of Measure 50, new bond levies, like new

Local Option and Serial Levies

The Oregon Constitution allows a local government to levy annually the amount that would be raised by its permanent rate limit (Base) without further authorization from the voters. When a local government has to increase the permanent rate limit or when the rate limit does not provide enough revenue to meet estimated expenditures, the government may request a local option levy from the voters. Approval requires a "double majority." This means that at least 50 percent of the registered voters must vote, and a majority of those who vote must approve the levy. Since 1991, the constitution has limited the maximum amount of taxes to support the public schools to \$5 per \$1,000 of real market value. The maximum amount to support other government operations is \$10 per \$1,000 of real market value.

Voters can approve local option levies for up to five years for operations and up to 10 years or the useful life of capital projects, whichever is less. Local option levies require a "double majority" for

approval. A common funding mechanism for capital projects is to acquire voter approval for a serial levy (more than one year) to pay for the cost of specifically targeted projects.

Bonds

The municipal bond market is the source of most loans for public agencies in the United States, including Oregon. The municipal bond market will purchase one of two types of bonds from the Port – a general obligation bond or a revenue bond. The two types of bonds differ in how the Port chooses to repay the loan, and are discussed in more detail below.

General Obligation Bonds

General obligation (G.O.) bonds are backed by the Port's full faith and credit, as the Port pledges to assess property taxes sufficient to pay the annual debt service. This tax is exempt from the State's constitutional limit of \$10/\$1,000 of assessed value. The Port may, at its discretion, use any other source of revenue, including user fees or leasehold/tenant revenues, to repay the bonds. If it uses these other sources, it then reduces the amount to be collected from taxes.

Oregon Revised statutes limit the maximum bond term to forty (40) years for agencies. Except in the event that RD will purchase the bonds, the realistic term for which G.O. bonds should be issued is fifteen (15) to twenty (20) years. Under the present economic climate, the lower interest rates will be associated with the shorter terms.

Financing of capital improvements by G.O. bonds is usually accomplished by the following procedure:

1. Determination of the capital costs required for the improvement.
2. An election by the voters to authorize the sale of bonds.
3. The bonds are offered for sale.
4. The revenue from the bond sale is used to pay the capital costs associated with the project(s).

General Obligation bonds are preferable to revenue bonds in matters of simplicity and cost of issuance. Since the bonds are secured by the power to tax, these bonds usually command a lower interest rate than other types of bonds. General obligation bonds lend themselves readily to competitive public sale at a reasonable interest rate because of their high degree of security, their tax-exempt status, and public acceptance.

These bonds can be revenue-supported wherein a portion of the user fee is pledged toward payment of the debt service. Using this method, the need to collect additional property taxes to retire the bonds is eliminated. Such revenue-supported G.O. bonds have most of the advantages of revenue bonds, plus lower interest rate and ready marketability.

General obligation bonds are normally associated with the financing of facilities, which benefit an entire community and must be approved by a majority vote.

The disadvantage of G.O. bond debt is that it is often added to the debt ratios of the underlying agency, thereby restricting the flexibility of the agency to issue debt for other purposes. Furthermore, G.O. bond authorizations must be approved by a majority vote and often necessitate extensive public information programs.

Revenue Bonds

For revenue bonds, the Port pledges the net operating revenue of the port authority to repay the bonds. The primary source of the net revenue is user fees, leases and tenant fees, and the primary security is the Port's pledge to charge user fees sufficient to pay all operating costs and debt service. The lender requires the Port to provide two additional securities for the revenue bonds that are not required by a G.O. bond. First, the Port must establish a bond reserve fund equal to the lesser of maximum annual debt service or 10% of the bond amount. Second, the Port must increase user fees such that net the cash flow from operations plus interest earnings are equal to or greater than 125% of annual debt service, known as a 1.25 debt coverage ratio.

The general shift away from ad valorem property taxes and toward a greater reliance on user fees makes revenue bonds a frequently used option for payment of long term debt. Many agencies prefer revenue bonding, because it insures that no tax will be levied. In addition, debt obligation will be limited to system users and tenants since repayment is derived from such fees. An advantage with revenue bonds is that they do not count against a municipality's direct debt, but instead are considered "overlapping debt". This feature can be a crucial advantage for a municipality near its debt limit. Rating agencies evaluate closely the amount of direct debt when assigning credit ratings. Revenue bonds also may be used in financing projects extending beyond normal municipal boundaries. These bonds may be supported by a pledge of revenues received in any legitimate and ongoing area of operation, within or without the geographical boundaries of the issuer.

Successful issuance of revenue bonds depends on the bond market evaluation of the revenue pledged. Revenue bonds are most commonly retired with revenue from user fees. Recent legislation has eliminated the requirement that the revenues pledged to bond payment have a direct relationship to the services financed by revenue bonds. Revenue bonds may be paid with all or any portion of revenues derived by a public body or any other legally available monies. If additional security to finance revenue bonds is needed, a public body may mortgage grant security and interests in facilities, projects, utilities or systems owned or operated by a public body.

Normally, there are no legal limitations on the amount of revenue bonds to be issued, but excessive issue amounts are generally unattractive to bond buyers because they represent high investment risks. In rating revenue bonds, buyers consider the economic justification for the project, reputation of the borrower, methods and effectiveness for billing and collecting, rate structures, a provision for rate increases as needed to meet debt service requirements, track record in obtaining rate increases historically, adequacy of reserve funds provided in the bond documents, supporting covenants to protect projected revenues, and the degree to which forecasts of net revenues are considered sound and economical.

Agencies may elect to issue revenue bonds for revenue producing facilities without a vote of the electorate (ORS 288.805-288.945). Certain notice and posting requirements must be met and a sixty

(60) day waiting period is mandatory. A petition signed by five percent of the municipality's registered voters may cause the issue to be referred to an election.

Improvement Bonds

Improvement (Bancroft) bonds can be issued under an Oregon law called the Bancroft Act. The bonds are an intermediate form of financing that is less than full-fledged G.O. or revenue bonds, but is quite useful especially for smaller issuers or for limited purposes.

An improvement bond is payable only from the receipts of special benefit assessments, not from general tax revenues. Such bonds are issued only where certain properties are recipients of special benefits not occurring to other properties. For a specific improvement, all property within the improvement area is assessed on an equal basis, regardless of whether it is developed or undeveloped. The assessment is designed to apportion the cost of improvements, approximately in proportion to the afforded direct or indirect benefits, among the benefited property owners. This assessment becomes a direct lien against the property, and owners have the option of either paying the assessment in cash or applying for improvement bonds. If the improvement bond option is taken, the Port sells Bancroft improvement bonds to finance the construction, and the assessment is paid over 20 years in 40 semi-annual installments with interest. Cities and special districts are limited to improvement bonds not exceeding three percent of true cash value.

With improvement bond financing, an improvement district is formed, the boundaries are established, and the benefited properties and property owners are determined. The engineer usually determines an approximate assessment, either on a square foot or a front-foot basis. Property owners are then given an opportunity to object to the project assessments. The assessments against the properties are usually not levied until the actual cost of the project is determined. Since this determination is normally not possible until the project is completed, funds are not available from assessments for the purpose of making monthly payments to the contractor. Therefore, some method of interim financing must be arranged, or a pre-assessment program, based on the estimated total costs, must be adopted. Commonly, warrants are issued to cover debts, with the warrants to be paid when the project is complete.

The primary disadvantage to this source of revenue is that the property to be assessed must have a true cash value at least equal to 50 percent of the total assessments to be levied. As a result, owners of undeveloped property usually require a substantial cash payment. In addition, the development of an assessment district is very cumbersome and expensive when facilities for an entire community are contemplated. In comparison, G.O. bonds can be issued in lieu of improvement bonds, and are usually more favorable.

Capital Construction (Sinking) Fund

Sinking funds are often established by budget for a particular construction purpose. Budgeted amounts from each annual budget are carried in a sinking fund until sufficient revenues are available for the needed project. Such funds can also be developed with revenue derived from system development charges or serial levies.

A Port may wish to develop sinking funds for future improvements. This fund can be used to rehabilitate or maintain existing infrastructure, construct new infrastructure elements, or to obtain grant and loan funding for larger projects.

The disadvantage of a sinking fund is that it is usually too small to undertake any significant projects. Also, setting aside money generated from user fees without a designated and specified need is not generally accepted in agency budgeting processes.

Funding Recommendations

This Capital Facilities Plan outlines a plan for all necessary improvements, which represent a significant investment for the Port. Therefore, a strategy and plan for financing the recommended improvements must be developed.

While the financing package that the Port will ultimately utilize depends on the results of coordination with the various funding agencies, this section will summarize the general direction the Port should proceed with and provide some insight into the potential impacts to rate payers.

As outlined earlier in this section, improvements projects recommend for the Port total approximately \$14.7 million dollars. The Port should proceed with the following steps as it moves forward with the financing strategy for the water system improvement projects:

1. As soon as this Capital Facilities Plan is approved, the Port District should contact Infrastructure Finance Authority (IFA) to schedule a one-stop meeting. At this one-stop meeting, all of the potential agencies who may be able to provide funding will send representatives to discuss the funding needs and develop a funding package for the improvement projects. The agencies will make recommendations and will discuss what each agency can offer. The result will be a funding package made up of grants and loans from a number of agencies to fund the projects.
2. Following the one-stop meeting, the Port District should immediately process the necessary paperwork to apply for the funding included in the funding package recommended at the one-stop meeting. This will require numerous applications and other administrative efforts to apply for funding. The Port District should apply to any and all programs or agencies that have the potential to provide grant money to reduce the impact to rate payers.
3. Due to the magnitude of the required improvements, the Port District will not likely receive grants sufficient to cover all of the costs of the project. In fact, the Port District will most likely be required to take out loans for a significant portion of the project costs.
4. Once the Port District receives notification that they have secured the necessary funding to complete the work, they can begin the pre-design and design activities in preparation for bidding and construction of the improvements.



Notice of Cancellation of Planning Commission Meeting

Due to lack of agenda items, the City of Newport Planning Commission meeting typically scheduled for 7:00 p.m. **WILL NOT BE HELD** on **Monday, April 8, 2013**. There will be a 6:00 p.m. work session, however.
