

**CITY OF CORVALLIS  
COUNCIL WORK SESSION**



**AGENDA**

**May 12, 2008  
7:00 pm**

**Downtown Fire Station  
400 NW Harrison Boulevard**

**COUNCIL ACTION**

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- I. ROLL CALL
  
- II. UNFINISHED BUSINESS
  - A. Planning Commission/Historic Resources Commission Interview Questions
  - B. Planning Division Work Program and Priorities
  - C. Business License Fee
  
- III. ADJOURNMENT

For the hearing impaired, a sign language interpreter can be provided with 48 hours' notice prior to the meeting. Please call 766-6901 or TTD/TDD telephone 766-6477 to arrange for such service.

**A LARGE PRINT AGENDA CAN BE AVAILABLE BY CALLING 766-6901**

*A Community That Honors Diversity*

**CITY OF CORVALLIS  
COUNCIL WORK SESSION MINUTES**

**May 1, 2007**

The work session of the City Council of the City of Corvallis, Oregon, was called to order at 5:35 pm on May 1, 2007, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Tomlinson presiding.

**I. ROLL CALL**

**PRESENT:** Mayor Tomlinson, Councilors Hamby, Wershow, Daniels, Zimbrick, Brauner, York, Brown, Beilstein

**ABSENT:** Councilor Grosch (excused)

**II. NEW BUSINESS**

**A. Planning Commission Applicant Interviews**

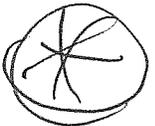
Mayor Tomlinson noted Councilor Grosch's absence and said Councilor Grosch will review the work session audio recording in order to be eligible to vote at the May 7th Council meeting. Mayor Tomlinson also noted that he will ask the candidates to avoid any discussion of current land use matters that may be appealed to the City Council.

The Mayor and Councilors reviewed the interview questions and discussed the three vacancies and the partial term left from Councilor Hamby's position. The Council then discussed the voting process and agreed to fill the three full-term vacancies on the first ballot. After reaching majority on the three vacancies, the Council will fill the partial-term position by voting for one of the remaining candidates, unless a majority cannot be reached.

The following Planning Commission applicants were interviewed: Karyn Bird, Denise Saunders, Dan Schofield, Patricia Weber, and Mark Knapp.

Ms. Weber noted at her interview a change of employment on her application; she will begin work with Devco Engineering in a few weeks.

During a break between interviews, the Council discussed the varied responses from the applicants to the interview questions. The Council concurred that a review of the interview questions is an appropriate work session item before next year's Planning Commission applicant interviews.

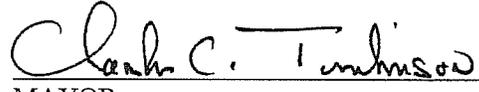


In response to Councilor Zimbrick's inquiry, Mayor Tomlinson indicated that written answers from two applicants contained information concerning Witham Oaks development. That information would become part of the record if the case were appealed.

III. ADJOURNMENT

The meeting was adjourned at 7:43 pm.

APPROVED:

  
MAYOR

ATTEST:

  
CITY RECORDER

## MEMORANDUM

**DATE:** May 7, 2008  
**TO:** Mayor and City Council  
**FROM:** Ken Gibb, Community Development Director   
**RE:** 2007-2008 Planning Work Program Update - Council Work Session

### **Background:**

In February 2007, staff met with the City Council to review the planning work program priorities as recommended by the Planning Commission. In addition, the Council also discussed the incorporation of the three 2007-08 City Council goals with Planning Division responsibilities relative to the planning work program. A summary memorandum following up on that discussion is attached as Appendix A.

### **Discussion:**

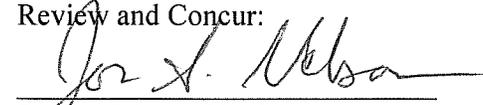
Staff will provide a briefing on the status of the work program and seek Council feedback. The following areas will be addressed:

1. Review of progress on work program items and City Council goals.
2. Discussion of factors that have or will impact the work program.
3. Discussion of an approach to providing staff support to the newly formed Downtown Commission - this relates to the Business License Fee discussion also on the work session agenda.
4. Presentation of a proposed series of Land Development Code (LDC) adjustments - As previously discussed with the City Council, in the course of implementing the LDC Update over the past 16 months, Staff has identified potential code changes. Other ideas have been identified by the Council, Planning Commission and public. Appendix B outlines a series of code amendment packages that could be processed as Staff, Planning Commission and City Council time permits.

### **Requested Action:**

No formal action is requested. Staff is looking for Council feedback on the work program.

Review and Concur:

  
\_\_\_\_\_  
Jon S. Nelson, City Manager

**MEMO**

**From:** Ken Gibb, Community Development Director   
**To:** Mayor and City Council  
**Date:** February 28, 2007  
**Re:** 2007-2008 Planning Division Work Program Followup

**I. Issue**

On February 20, 2007, the City Council reviewed the recommendations from the Planning Commission and other input regarding the 2007 work program for the Planning Division. This memo captures staffs' understanding of the Council's direction from the meeting. It also provides the requested discussion of work effort associated with newly-identified projects.

**II. Discussion**

A. Initial Priorities

At the meeting, the City Council gave direction that the work tasks associated with Council Goals are priorities, and that the scope of work associated with these goals will be refined over the coming months. The Council recognized that this work is likely to have direct effect on the ability to complete some of the tasks identified by the Planning Commission as first and second tier priorities. Council preferred keeping the Goals-related tasks separate from the list developed by the Planning Commission.

<b>Table 1. 2007-2008 City Council Goals with Planning Division Responsibilities</b>	
1.	Review possible development constraints in South Corvallis Area Refinement Plan (White Paper)
2.	Explore the need for a SW Corvallis Area Plan (White Paper)
4.	Develop Strategies to implement EVP and Downtown Strategic Plans (TBD)

The Council also indicated its priorities regarding the Planning Commission's list and identified two other possible tasks- development of a Benton County "Airport Industrial Zone" and "down-zoning" the higher density properties in the City's two National Register of Historic Places Historic Districts. Below are tables indicating the Council's priorities, and following the tables, a discussion of the work effort associated with these two additions.

Currently, Planning Division staff are actively working on Items 1 and 16 below (LDC-related items) and on Item 5, the Buildable Lands Inventory. We anticipate continuing our work on these items, cycling in the items related to Council Goals as directed, and accomplishing the remaining priorities, beginning with Item 6, to the degree that time allows. At Council's direction, Item 48,

tandem parking, has been moved to the second tier and is to be considered in conjunction with Item 22, parking requirements for multi-family dwellings. Council recognized that completion of all of these projects is likely to take a number of years, and that in addition to its Goals, other variables affecting work on and completion of the prioritized list of projects include:

- Current planning case load;
- Measure 37 responsibilities (may increase following passage of the revised Land Development Code); and
- Unknowns associated with the implementation of revised Land Development Code.

<b>Table 2. Top Priority Work Items- City Council</b>		
<b>ISSUE</b>	<b>STATUS</b>	<b>LEVEL OF EFFORT NEEDED</b> * = Lower Level ** = Medium Level *** = High Level
<b>A. Land Development Code Refinement Issues</b>		
<p>1. The following are not specific Code adjustments – they are mechanisms to implement the Code that need to be completed:</p> <ul style="list-style-type: none"> <li>• Establish a native plants list</li> <li>• Establish a tree canopy coverage list and standard coverage allowance by species</li> <li>• Establish a mechanism to keep track of transferred densities</li> <li>• Establish a mechanism to track easements, mitigation, and vegetation plans</li> <li>• Mechanism to keep track of modifications and LDO's on a site</li> <li>• Mechanism to track expiration dates and</li> <li>• Mechanism to track impervious surface increases in riparian areas</li> </ul>	<p>LDC implementation items that will facilitate Phase III Code administration.</p> <p>Underway, but not yet completed.</p>	<b>***</b>
<p>16. Identify and remedy unintended conflicts within the Revised Code that are substantive in nature and, therefore, could not be addressed in the consolidation effort that was just completed (raised by staff).</p>	<p>Initial efforts started and awaiting a window of opportunity to evaluate further.</p>	<b>** or ***</b>

**Table 2. Top Priority Work Items- City Council**

ISSUE	STATUS	<b>LEVEL OF EFFORT NEEDED</b> * = Lower Level ** = Medium Level *** = High Level
<p>6. Evaluate Chapter 4.2 - Landscaping, Buffering, Screening, &amp; Lighting to see how preservation of Significant Trees and Significant Shrubs not addressed via Phase III can be made more clear and objective. Phase III established clear and objective standards for vegetation in areas that were inventoried for WHA's, Isolated Tree Groves greater than 0.25 acres, Riparian Corridors, &amp; Wetland Areas. However, Significant Trees and Shrubs <u>outside of these inventoried areas</u> are still required, by Chapter 4.2, to be preserved to the maximum extent practicable. This is because they were too small to inventory and were, therefore, not part of the overall balancing that occurred as part of the Phase III of the Code Update. The uninventoried Significant Trees and Shrubs generally apply to individual trees, landmark trees, isolated tree groves that are less than 0.25 acres, and small groups of trees in developed areas. While the subject was discussed during Phase III of the Code Update, the effort was deferred by Council until adequate time could be allotted. (raised by staff). <i>Note: Historically Significant Trees, as defined in Chapter 1.6 - Definitions, were already addressed with the Code Update.</i></p>	<p>On hold, due to size of project, and pending opportunity in future work program (depending on CC goals and priorities).</p>	<p align="center"><b>***</b></p>
<p><b>B. Inventory and Policy Issues</b></p>		
<p>5. Update Buildable Lands Inventory following implementation of the Natural Features Project</p>	<p>Update of last year's LDIR data completed as part of LDIR. However, full update involving BLI numbers that reflect the impacts of the Code Update has not yet begun. It is hoped to be started in the first quarter of the year.</p>	<p align="center"><b>**</b></p>
<p>21. Need to develop a policy for how to calculate the 5-year supply of land for use in Annexations. (raised by Staff &amp; PC)</p>	<p>On hold, due to nature of project, and pending opportunity in future work program (depending on CC goals and priorities)</p>	<p align="center"><b>**</b></p>

Table 2. Top Priority Work Items- City Council		
ISSUE	STATUS	LEVEL OF EFFORT NEEDED * = Lower Level ** = Medium Level *** = High Level
<b>C. Other Issues</b>		
61. (A portion of #9 from Table 3) LDC Amendments to Downtown policies  <u>NOTE: Likely to occur during or following the work effort associated with City Council Goal #4 regarding the Downtown Strategic Plan</u>	On hold, due to size of project, and pending opportunity in future work program (depending on CC goals and priorities)	***
7. Consider/evaluate the merits of using the new downtown parking requirements (1:1000) for area along Monroe, north of the University, and between approximately 14th and 26th Streets. This issue was recently revisited during the OSU Bookstore Major Modification. (raised by citizens and PC member)  <u>NOTE: Re-evaluate and potentially increase this item's ranking based on findings from Downtown Strategic Plan and OSU Parking Study</u>	On hold, due to size of project, and pending opportunity in future work program (depending on CC goals and priorities).	***

Table 3. 2nd Priority Work Items- City Council		
ISSUE	STATUS	LEVEL OF EFFORT NEEDED * = Lower Level ** = Medium Level *** = High Level
11. Consider investigating the possibility of architectural design standards for the Riverfront District - these would be standards that are different from the Pedestrian Oriented Design Standards in Chapter 4.10. (raised by Planning Commission)	<i>Awaiting a window of opportunity to evaluate.</i>	***
15. Municipal Code provisions, developed in conjunction with other City Departments, for: <ul style="list-style-type: none"> <li>• preserving vegetation, especially prior to development; and</li> <li>• application of pesticides and herbicides.</li> </ul>	On hold, due to size of project, and pending opportunity in future work program (depending on CC goals and priorities)	***

Table 3. 2nd Priority Work Items- City Council		
ISSUE	STATUS	LEVEL OF EFFORT NEEDED * = Lower Level ** = Medium Level *** = High Level
17. Consider further revisions to the solar energy policies of Comprehensive Plan (Article 12.2) and/or the regulations in LDC Chapter 4.6, to recognize the lack of adherence to, and/or, as some have argued, the lack of necessity for these. (raised by PC member)	<p>First cut at accomplishing this task done as part of Natural Features Project Code Changes.</p> <p>A more thorough review is on hold, due to size of project, and pending opportunity in future work program (depending on CC goals and priorities).</p> <p>It is recommended that the effectiveness of the new solar access provisions be evaluated prior to embarking on any additional efforts.</p>	<b>** or ***</b>

**B. Additional Work Items Identified**

At the February 20, 2007, City Council work session, two additional work items were identified for which the Council requested information regarding the magnitude of effort required. Staff will scope and provide information back to Council through the Planning Commission and Historic Resources Commission regarding Historic District zoning. Similarly, staff will scope Airport Industrial zoning issues, including conversations with Benton County staff and the Airport Commission.

**III. Action**

Staff request that the City Council review the information, determine if the Council's initial prioritization of projects has been accurately described, and determine at a later date where the additional work items fall within the overall list of projects (both the prioritized list from the Planning Commission and the complete list in Table III from the memo to Planning Commission dated January 10, 2007). Planning Division staff will use the resulting Work Plan priorities as in past years, focusing on completion of the top priorities within time/resource constraints, and completing other items as opportunities arise.

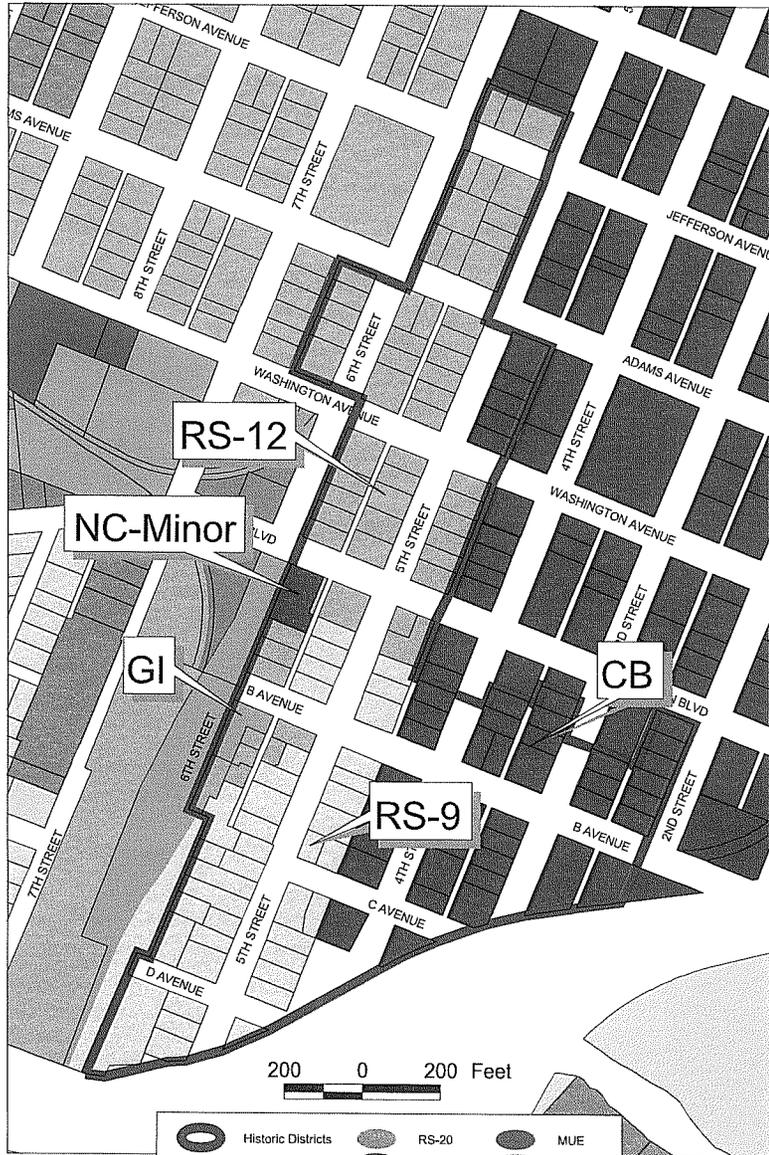
Review and Concur:

  
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 Jon S. Nelson, City Manager

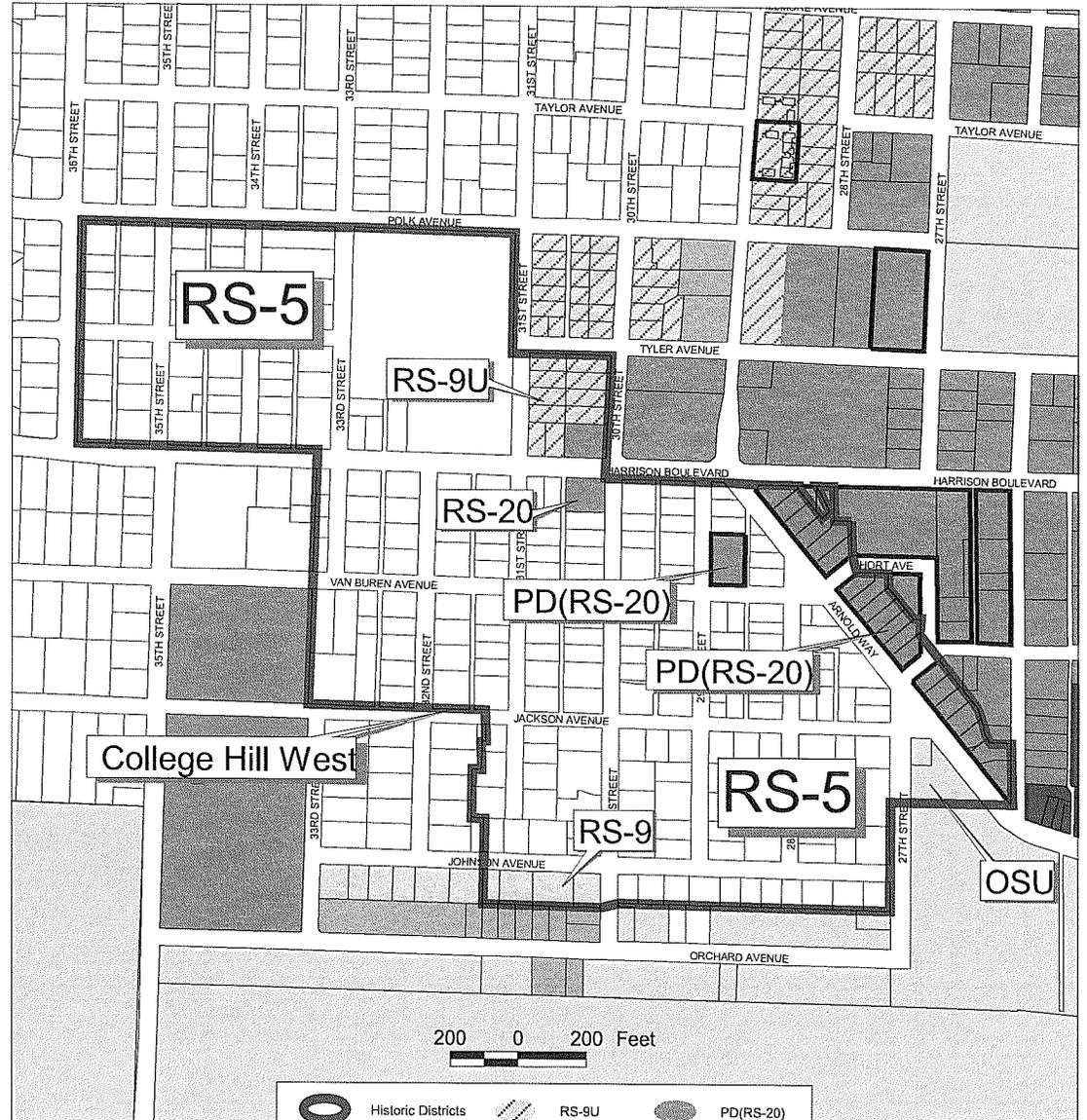
# Zoning in Historic Districts

Avery-Helm

College Hill West



	Historic Districts		RS-20		MUE
	Zoning.shp		NC-Minor		GI
	RS-9		MUCS		OSU
	RS-12		CB		AG-OS
	PD(RS-12)		RF		
			PD(MUC)		



	Historic Districts		RS-9U		PD(RS-20)
	Zoning.shp		PD(RS-9U)		NC-Minor
	RS-3.5		RS-12		OSU
	RS-5		RS-12U		AG-OS
	RS-9		RS-20		



**MEMORANDUM**

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**From:** Ken Gibb, Community Development Director

**To:** Mayor and City Council 

**Date:** May 7, 2008

**Re:** Land Development Code Text Amendments:  
Identify and Remedy Unintended Conflicts within the Revised LDC

Attached are four tables that identify issues that have arisen with the implementation of the 2006 LDC. Tables 1 through 3 describe the first several packages of amendments intended to remedy some of these issues. Table 4 is the master list of such issues.

Table 1 identifies issues that staff believe have few complexities. Staff could craft corrections to the LDC and present them directly to the Planning Commission and City Council through the standard Text Amendment procedures.

Table 2 identifies issues that are somewhat more complex. These could be addressed using work sessions before the Planning Commission to make refinements to staffs' proposed corrections for these issues. Following the Planning Commission's work session, staff would prepared a second Land Development Code Text Amendment for processing through the Planning Commission and City Council.

Table 3 identifies issues that staff believe have some policy implications. These would require input from the broader community to assist in crafting responses.

Staff propose that the first three packages be pursued as discrete projects as opportunities arise. Once these packages are complete, the balance of items on the master list and any new items could be reviewed and a new series of amendments developed.

Table 1  
Land Development Code Text Amendments  
Package #1

		CS = Customer Service C = Clarity/Efficiency L = Legal Consistency	
	Ch. #		Criterion
1	1.06	Create a definition for "Fractions" in Chapter 1.6 - Definitions - Definitions, and if needed, create a section in <u>Chapter 1.2 - Legal Framework regarding rounding?</u>	C L
2	1.06	Change Chapter 1.6 - Definitions so that the individual building type definitions allow multiple detached structures on a single lot (e.g. two duplexes, two detached single family dwellings, etc.	CS
3	1.06	Per ORS 657A.440, enacted in 2006, change the definition for "Day Care, Family" and "Day Care, Commercial" in Chapter 1.6 - Definitions. The number of allowed children in the "Day Care, Family" needs to be 16 instead of 12. Also per this ORS, check to ensure that this use is outright permitted in all residential dwellings located in an area zoned for residential or commercial use. <u>Also Chapter 3.0</u>	L
4	1.06	Create a definition for "Tract." Tracts are created through the same processes as lots or parcels, but in the Land Development Code, they are not intended for the same purposes.	CS C L
5	2.02	Although the definition of "Active Detailed Development Plan" was fixed via a Text Amendment, as of October 2007, there is still a discrepancy. The Planned Development chapter correctly uses the word " <u>or</u> " (section 2.5.50.09.c:), but the Zone Change chapter (section 2.2.50.06.b.3:) incorrectly retains the word " <u>and</u> . (Use one definition in the Definitions Chapter and cross-reference in the other Chapters).	L
6	2.06	Correct Charter references in the LDC. Chapter 2.6 - Annexations and <u>Chapter 2.7 - Extension of Services</u> incorrectly refer to the Corvallis Charter following the November 2006 voter approval of the new Charter.	L
7	2.12	Explore changes to the Lot Development Option provisions, including a review of differences and thresholds between the 2006 and 1993 LDCs.	CS
8	2.14	The new Lot Line Adjustment criteria allow creation of "common open space tracts." Under State and County surveying laws, the LLA cannot be used to create new tracts of land. The Code needs to be clarified to require a partition in cases where Significant Natural Features are present.	L
9	3.08	Modify Section 3.8.50.03.g as shown below to more clearly define "older persons."  "Housing complexes that include 20 or more dwelling units <u>reserved designed for older persons aged 55 or older</u> do not require tot lots. However, Common Outdoor Space shall be provided as specified in "a," through "," above.	C L

10	3.11	Fix Chapter 3.11 - Professional and Administrative Office (P-AO) Zone, the Chapter 3.15 - Riverfront (RF) Zone, and the RS-1 - Extra Low Density Zone to add the standard text requiring a reduced level of compliance with Chapter 4.10 - Pedestrian Oriented Design Standards where there is a lesser size of expansion. This standard provision is included in the other zoning chapters and appears to be an oversight.	<b>CS</b>
11	3.20	The only zone in the Code that allows the use type "Automotive and Equipment, 9 - Storage of Nonoperating Vehicles" is the MUGC Zone and even there the use would have to be in an enclosed building. However, the MUGC restriction about "being within an enclosed building" is an error. This was intended to be the zone that allowed outdoor storage. The Heading for Section 3.20.30.c states, "Commercial Uses - contained within an enclosed building." It should be amended as follows: " <del>Commercial Uses - contained within an enclosed building.</del> "	<b>CS</b>
12	3.26	Add "Schools" to the list of outright permitted uses in the RTC Zone. Because the Code now separates "Schools" from "Major Services" (old LDC grouped School uses in with Major Services"), this effectively but unintentionally made Ashbrook and Old Mill School nonconforming uses in the RTC Zone.	<b>L</b>
13	4.01	Modify Section 4.1.70.d.1 to also reference the Riverfront (RF) /Zone and Mixed Use Transitional (MUT) Zone in addition to the Central Business (CB) Zone.	<b>CS</b> <b>C</b> <b>L</b>
14	4.01	A parking requirement is needed for Social Service Facilities.	<b>C</b> <b>L</b>
15	4.02	Fix the typo in Section 4.2.20.a.1 so that "cases by case" reads "case-by-case" instead.	<b>L</b>
16	4.02	Modify Section 4.2.30.a.2 to add, at the end of the provision, the new sentence "This standard shall not apply to alleys located within the Central Business (CB) and Riverfront (RF) Zones." See if there are other provisions like this need adjusting in Chapter 4.10 - Pedestrian Oriented Design Standards or Chapter 4.1 - Parking, Loading, and Access Requirements etc.	<b>CS</b>
17	4.10	Clarify building orientation provisions to note that pedestrian access distance is measured as lineal ft. of walk instead of "as the crow flies." Clarify, if needed, that this building orientation criterion cannot be satisfied along secondary accesses like alleys.	<b>C</b>
18	4.10	Clarify that along shopping streets pedestrian plazas can trump the angled parking (e.g. as long as angled parking is provided along the street in areas where there is no pedestrian plaza, then the proposal is consistent). Identify an appropriate pedestrian plaza size (another standard in Chapter 4.10 - Pedestrian Oriented Design Standards requires 300 sq. ft. minimum). Also Chapter 4.0?	<b>C</b>
19	4.10	Address building orientation requirements for flag Lots for a small number of dwelling units. Some infill is being discouraged because where a single lot is proposed to be partitioned into 2 lots, sometimes the 100-ft. to the front door pedestrian access requirement can't be met.	<b>CS</b>
20	4.10	Fix graphics in Chapter 4.10 - Pedestrian Oriented Design Standards that are incorrect for Section 4.10.60.01.b (specifically Figures 4.10-16 and 4.10-17).	<b>L</b>

Table 2  
Land Development Code Text Amendments  
Package #2

			CS = Customer Service C = Clarity/Efficiency L = Legal Consistency
	Ch. #		
1	1.06	Define "Usable Yard" to reflect the goal of the term and provide flexibility.	CS C L
2	2.02	Add a review criterion to all Zone Change requests that requires all the applicable review criteria to be met up front without the application of a Planned Development Overlay to address special circumstances. (Related to Item #4)	CS
3	2.04	Change Notice Area for Residential Subdivisions to a 300-ft. radius instead of a 100-ft. radius around site. The new staff-level process for Residential Subdivisions referenced many of the Partition processes in Chapter 2.14 - Partitions, Minor Replats, and Lot Line Adjustments. This reference enabled Residential Subdivisions to only use a notice area of 100 ft. Use of the previous 300-ft. radius was the intent.	CS
4	2.05	Explore the implications of the State-mandated Planned Development Provisions for residentially zoned properties and identify solutions to address concerns with administratively: <ul style="list-style-type: none"> <li>● removing a Planned Development (PD) Overlay; and</li> <li>● nullifying a Conceptual Development Plan approval where no active Detailed Development Plan exists on the site.</li> </ul>	CS
5	2.09	Address Emergency Tree Removal provisions in Chapter 2.9 - Historic Preservation Provisions per suggestions from Urban Forester.	CS
6	2.14	Change Code sections regarding "completeness" review time and the 120-day decision deadline in ORS 227. Reference the State provisions consistently for all processes. This ensures adequate staff review time and ensures that as the State provisions change, the Code will not have to be changed each time. Include all General Development Chapters.	L
7	2.19	Expedited Appeal process for General Development Land Use cases	CS L

8	3.08	<p>Modify Section 3.8.50.03.c as shown below to clarify that if public access to preserved natural areas is chosen as the means to address Common Outdoor Space, the areas are not within resources protected by Natural Resource and/or Natural Hazard Overlays. (The Overlay areas are not necessarily intended to be accessed except for limited circumstances.)</p> <p>c. A Common Outdoor Space may include any of the following, provided that they are outdoor areas: recreational facilities such as <u>children's tot lots</u>, tennis, racquetball, and basketball courts, swimming pool and spas; gathering spaces such as gazebos, picnic, and barbecue areas; gardens; <u>and preserved natural areas where public access is allowed. However, such publicly accessed preserved natural areas cannot be in areas required to be protected by Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions, unless the area is located within areas that are developed under the Chapter 4.11 Minimum Assured Development Area provisions. and children's tot lots.</u></p>	C
9	4.00	<p>SWMP Appendix F exempts "sites draining directly into Mary's River or the Willamette River." Currently the LDC exempts "properties east of the Marys River and south of Highway 20/34." The purpose of either exemption is to disperse water quickly low in the drainage basin.</p> <p>Expand 4.0.130.b.3 - Exemptions to Storm Water Detention Requirements, to add that detention is not required for sites draining directly into the Marys or Willamette Rivers per Stormwater Master Plan Appendix F. This would exempt sites which drain to the rivers through an enclosed, separated, non-CSO storm drain with adequate carrying capacity. This expansion would affect mostly developed areas downtown and east to Oregon State University.</p>	CS
10	4.02	Clarify which internal sidewalks are subject to the requirements throughout the Code that ask for 5 ft. of landscaping on either side (both sides).	C
11	4.10	Allow straight-in Handicapped Accessible Parking on Shopping street. <u>Also Chapter 4.2?</u>	CS
12	4.11	Fix Chapter 4.11 - Minimum Assured Development Area (MADA) so that it is very clear that once MADA is used to encroach into a protected area, the encroachment area is considered to be unencumbered thereafter.	C

Table 3  
Land Development Code Text Amendments  
Package #3

		CS = Customer Service C = Clarity/Efficiency L = Legal Consistency	
	Ch. #		
1	1.06	Define "Outdoor Display Area" and "Outdoor Storage" and <u>evaluate the Zoning Chapters to see where these terms may need to be introduced.</u>	<b>C</b> <b>L</b>
2	4.01	Review possible solutions to parking impacts created by dwelling units that have a high numbers of bedrooms	<b>CS</b>
3	4.05	Address Landslide Runout Area requirements in the Code as they relate to geotech reports, etc.	<b>CS</b>
4	4.10	4.10.7 provisions to require visual compatibility for <u>all</u> facades that front streets.	<b>C</b>

**Table 4**  
**Master List**  
**Land Development Code Refinement Issues**

Ch.#	Topic
1.06	Address each zoning chapter of the Code to add the statement clarifying that Green Area pertains to portions of a site not subject to the Significant Natural Features provisions of the Code. Also address the Chapter 1.6 - Definition chapter for definition of Green Area in same manner. Also requires modification to Section 3.11.40.02 to clarify that percent landscaping excludes areas subject to Significant Natural Features provisions of the Code.
1.06	In Chapter 1.6 - Definitions create a definition for "Adaptive Re-use" - recommended by Councilor Brown.
1.06	Create a definition for "Tract." Tracts are created through the same processes as lots or parcels, but in the Land Development Code, they are not intended for the same purposes.
1.06	Create a definition for "Fractions" in Chapter 1.6 - Definitions - Definitions, and if needed create a section in Chapter 1.2 - Legal Framework regarding rounding.
1.06	Define "Usable Yard" to reflect the goal of the term and provide flexibility.
1.06	In Chapter 1.6 - Definitions create definitions for "Private Facilities" and "Public Facilities."
1.06	Define "Outdoor Display Area" and "Outdoor Storage" and evaluate the Zoning Chapters to see where these terms may need to be introduced.
1.06	Per ORS 657A.440, enacted in 2006, change the definition for "Day Care, Family" and "Day Care, Commercial" in Chapter 1.6 - Definitions. The number of allowed children in the "Day Care, Family" needs to be 16 instead of 12. Also per this ORS, check to ensure that this use is outright permitted in all residential dwellings located in an area zoned for residential or commercial use.
1.06	Change Chapter 1.6 - Definitions so that the individual building type definitions allow multiple detached structures on a single lot (e.g. two duplexes, two detached single family dwellings, etc.
2.00	Reconciling 2.0.50.15 (re-application following denial) with Section 1.2.130 (the 120-day provisions) and with ORS 227.178 (the State 120-day provisions). This issue requires a consult with the CAO to specifically identify the issues.
2.02	Check Section 2.2.70 regarding Map Errors to delete the ability for an administrative correction of instances where the Zoning Map is inconsistent with the Comprehensive Plan Map, unless such change was approved through a previous public hearing process. Otherwise, correcting such inconsistencies needs a public hearing process.
2.02	Although the definition of "Active Detailed Development Plan" was fixed via a Text Amendment, as of October 2007, there is still a discrepancy. The Planned Development chapter correctly uses the word " <u>or</u> " (section 2.5.50.09.c:), but the Zone Change chapter (section 2.2.50.06.b.3:) incorrectly retains the word " <u>and</u> ." (Use one definition in the Definitions Chapter and cross-reference in the other Chapters).

**Table 4  
Master List  
Land Development Code Refinement Issues**

2.02	Add a review criteria to all Zone Change requests that says that all the applicable review criteria can be met on their face without the application of a Planned Development Overlay to address special circumstances.
2.04	Change Notice Area for Residential Subdivisions to a 300-ft. radius instead of a 100-ft. radius around site. The new staff-level process for Residential Subdivisions referenced many of the Partition processes in Chapter 2.14 - Partitions, Minor Replats, and Lot Line Adjustments. This reference enabled Residential Subdivisions to only use a notice area of 100 ft. Use of the previous 300-ft. radius was the intent.
2.05	Explore the implications of the State-mandated Planned Development Provisions for residentially zoned properties and identify solutions to address concerns with administratively: <ul style="list-style-type: none"> <li>● removing a Planned Development (PD) Overlay; and</li> <li>● nullifying a Conceptual Development Plan approval where no active Detailed Development Plan exists on the site.</li> </ul>
2.06	Correct Charter references in the LDC. <u>Chapter 2.6 - Annexations</u> and <u>Chapter 2.7 - Extension of Services</u> incorrectly refer to the Corvallis Charter following the November 2006 voter approval of the new Charter.
2.09	Address Emergency Tree Removal provisions in Chapter 2.9 - Historic Preservation Provisions per suggestions from Urban Forester.
2.12	The new Lot Line Adjustment criteria allows creation of "common open space tracts." Under State and County surveying laws, the LLA cannot be used to create new tracts of land. The Code needs to be clarified to require a partition in cases where Significant Natural Features are present.
2.12	Explore changes to the Lot Development Option provisions, including a review of differences and thresholds between the 2006 and 1993 LDCs.
2.12	Change Code sections regarding "completeness" review time and the 120-day decision deadline in ORS 227. Reference the State provisions consistently for all processes. This ensures adequate staff review time and ensures that as the State provisions change, the Code will not have to be changed each time. <u>General Development Chapters</u>
3.08	Modify Section 3.8.50.03.g as shown below to more clearly define "older persons."  "Housing complexes that include 20 or more dwelling units <u>reserved</u> designed for <u>older persons aged 55 or older</u> do not require tot lots. However, Common Outdoor Space shall be provided as specified in "a," through "i," above.

**Table 4  
Master List  
Land Development Code Refinement Issues**

3.08	<p>Modify Section 3.8.50.03.c as shown below to clarify that if public access to preserved natural areas is chosen as the means to address Common Outdoor Space, the areas are not within resources protected by Natural Resource and/or Natural Hazard Overlays. (The Overlay areas are not necessarily intended to be accessed except for limited circumstances.)</p> <p>c. A Common Outdoor Space may include any of the following, provided that they are outdoor areas: recreational facilities such as <u>children's tot lots</u>, tennis, racquetball, and basketball courts, swimming pool and spas; gathering spaces such as gazebos, picnic, and barbecue areas; gardens; <u>and</u> preserved natural areas where public access is allowed. <u>However, such publicly accessed preserved natural areas cannot be in areas required to be protected by Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions, unless the area is located within areas that are developed under the Chapter 4.11 Minimum Assured Development Area provisions, and children's tot lots.</u></p>
3.11	<p>Fix Chapter 3.11 - Professional and Administrative Office (P-AO) Zone, the Chapter 3.15 - Riverfront (RF) Zone, and the RS-1 - Extra Low Density Zone to add the standard text requiring a reduced level of compliance with Chapter 4.10 - Pedestrian Oriented Design Standards where there is a lesser size of expansion. This standard provision is included in the other zoning chapters and appears to be an oversight.</p>
3.20	<p>The only zone in the Code that allows the use type "Automotive and Equipment, 9 - Storage of Nonoperating Vehicles" is the MUGC Zone and even there the use would have to be in an enclosed building. However, the MUGC restriction about "being within an enclosed building" is an error. This was intended to be the zone that allowed outdoor storage. The Heading for Section 3.20.30.c states, "Commercial Uses - contained within an enclosed building." It should be amended as follows: "<del>Commercial Uses--contained within an enclosed building.</del>"</p>
3.26	<p>Add "Schools" to the list of outright permitted uses in the RTC Zone. Because the Code now separates "Schools" from "Major Services" (old LDC grouped School uses in with Major Services"), this effectively but unintentionally made Ashbrook and Old Mill School nonconforming uses in the RTC Zone.</p>
4.00	<p>SWMP Appendix F exempts "sites draining directly into Mary's River or the Willamette River." Currently the LDC exempts "properties east of the Marys River and south of Highway 20/34." The purpose of either exemption is to disperse water quickly low in the drainage basin.</p> <p>Expand 4.0.130.b.3 - Exemptions to Storm Water Detention Requirements, to add that detention is not required for sites draining directly into the Marys or Willamette Rivers per Stormwater Master Plan Appendix F. This would exempt sites which drain to the rivers through an enclosed, separated, non-CSO storm drain with adequate carrying capacity. This expansion would affect mostly developed areas downtown and east to Oregon State University.</p>
4.01	<p>Modify Section 4.1.70.d.1 to also reference the Riverfront (RF) /Zone in addition to the Central Business (CB) Zone.</p>

**Table 4**  
**Master List**  
**Land Development Code Refinement Issues**

4.01	Need a parking requirement for Social Service Facilities. Could be a new Section 4.1.30.b.10 and could be 1/400 or so.
4.02	Fix the typo in Section 4.2.20.a.1 so that “cases by case” reads “case-by-case” instead.
4.02	Review possible solutions to parking impacts created by dwelling units that have a high numbers of bedrooms
4.02	Modify Section 4.2.30.a.2 to add, at the end of the provision, the new sentence “This standard shall not apply to alleys located within the Central Business (CB) and Riverfront (RF) Zones.” See if there are other provisions like this need adjusting in Chapter 4.10 - Pedestrian Oriented Design Standards or Chapter 4.1 - Parking, Loading, and Access Requirements etc.
4.05	Address Landslide Runout Area requirements in the Code as they relate to geotech reports, etc.
4.10	Clarify building orientation provisions to note that pedestrian access is measured as lineal ft. of walk instead of “as the crow flies” distance. Also modify various portions of the Code to make it clear that this building orientation criterion cannot be satisfied along secondary accesses like alleys.
4.10	Clarify that along shopping streets pedestrian plazas can trump the angled parking (e.g. as long as angled parking is provided along the street in areas where there is no pedestrian plaza, then the proposal is consistent). Identify an appropriate pedestrian plaza size (another standard in Chapter 4.10 - Pedestrian Oriented Design Standards requires 300 sq. ft. minimum).
4.10	Fix graphics in Chapter 4.10 - Pedestrian Oriented Design Standards that are incorrect for Section 4.10.60.01.b (specifically Figures 4.10-16 and 4.10-17).
4.10	Address building orientation requirements for flag Lots for a small number of dwelling units. Some infill is being discouraged because where a single lot is proposed to be partitioned into 2 lots, sometimes the 100-ft. to the front door pedestrian access requirement can't be met.
4.10	Clarify which internal sidewalks are subject to the requirements throughout the Code that ask for 5 ft. of landscaping on either side (both sides). <u>Chapter 4.2?</u>
4.11	Fix Chapter 4.11 - Minimum Assured Development Area (MADA) so that it is very clear that once MADA is used to encroach into a protected area, the encroachment area is considered to be unencumbered thereafter.

**Table 4  
Master List  
Land Development Code Refinement Issues**

**To be Addressed in Future LDC Update Packages**

2.01	Consider removing the last sentence pertaining to designing streets along contours from Section 2.1.30.07.c.13, since this type of development topic doesn't apply to Comprehensive Plan Amendments. May want to leave it because it is possible that if a CPA Text Amendment is proposed, then this review criteria could be relevant.
2.04	Consider re-formatting the Subdivision Modification provisions to more closely match the format of the Conditional Development Modification provisions.
2.04	In Chapter 2.4 - Subdivisions and Major Replats, Chapter 2.14 - Partitions, Minor Replats, and Lot Line Adjustments, and Chapter 4.13 - Riparian Corridor and Wetland Provisions, address the issue of post development hydrology needing to support existing (or protected??) wetland and riparian areas. <u>Application requirement</u> Sections 2.4.30.01.f.6(b)(10) and 2.14.30.01.d.12(b)(2)(c) mandate that <i>"For Residential Development, excavation and grading shall maintain hydrology that supports existing wetland and riparian areas and the application shall demonstrate adherence."</i> <u>Review criteria</u> Sections 2.4.30.04.b.4 and 2.14.30.05.b(2)(d) mandate that <i>"Excavation and grading (for Residential Partitions) shall not change hydrology (in terms of water quantity and quality) that supports existing Locally Significant Wetlands and/or Riparian Corridors that are subject to this Code's Wetlands and/or Riparian Corridor provisions in Chapter 4.13 - Riparian Corridor and Wetland Provisions."</i> First, the application requirements appear to be more lenient than the review criteria, and that issue needs to be addressed. Second, the review criteria need to be amended to be more realistic. Third, once amended to be more realistic, the review criteria need to be applied to Residential and Nonresidential Subdivisions and Partitions alike. While the provisions of Section 4.13.10 - Purposes touch on the subject of maintaining hydrological conveyance and storage capacity and protecting riparian and wetland plants and animals, the rest of the chapter application requirements and development standards are fairly silent on the issue of maintaining hydrology to support riparian corridors and wetlands. This chapter needs to be amended to address, in some realistic and fair way, the issue of post development hydrology needing to support existing (or protected??) wetland and riparian areas.
2.06	Develop a Council Policy that outlines methodology for calculating 5-year supply of serviceable land.
2.06	Consider amending Section 2.6.30.03.g which mandates that Annexation applications include a Comprehensive Plan Amendment for Significant Natural Feature areas to change them to C-OS Comprehensive Plan designation.
3.00	Modify Section 3.0.30.02.j.2 (the use classification description for "Postal Services - Community Based") to add a sentence at the end of the description that states, " These facilities often include fleet storage."

**Table 4  
Master List  
Land Development Code Refinement Issues**

3.00	Should pet adoption facilities be classified as “kennels” given the differences in traffic patterns and minimum parking demand? Complaints from neighbors of the Heartland Humane Society indicate that the amount of on-site parking provided is not sufficient to avoid having several cars parked along the street on weekends.
3.00	Modify Section 3.0.30.02.o.2 (the use classification description for “Freestanding Wireless Telecommunication Facility”) to delete the words “A new” from the beginning of the description.
3.00	Modify Section 3.0.30.03v (the use classification description for “Medical Services”) to insert the phrase “physical therapists” so that the phrase in the third line reads “physicians, dentists, nurses, physical therapists, and other health”....
3.03	<p>Modify the purpose statement to the RS-6 Zone (Section 3.3.10) to add the new paragraph below, since this purpose statement says that the RS-6 Zone is now the primary zone that implements the Low Density Residential Comprehensive Plan designation.</p> <p style="padding-left: 40px;">“Properties within Comprehensive Plan Map areas designated for Low Density Residential and including a note indicating the opportunity for Extra-Low Density Residential, and which have the characteristics listed in Section 3.10.10, may be zoned Extra-Low Density Residential (RS-1) or RS-6.”</p>
3.05	<p>Modify Sections 3.5.90.02.b and 3.7.90.02.b as shown below to offer more architectural options that are contained in Chapter 4.10 - Pedestrian Oriented Design Standards, and to make more clear that “abutting structures” means “structures on abutting properties.”</p> <p><b>Building Materials (Exterior Walls)</b> - Lap horizontal <u>or shingle/scalloped</u> siding or walls of brick, masonry, or stone shall be required. Alternatives may be approved where the developer can demonstrate that <del>abutting structures</del> <u>on abutting properties</u> or the majority of structures within 300 ft. use materials similar to what is proposed.</p>
3.1	Consider modifying the Code requirements for air conditioning units and heat pumps to regulate them by sound rating instead of setback and screening. <u>Res. Zones</u>
3.10	Add to the RS-1 Zone the requirements for adherence to the standard provisions of Green Area and Pedestrian Oriented Design Standards.
3.11	Chapter 3.11 - Professional and Administrative Office (P-AO) Zone is missing some of the text and a graphic in Section 3.11.30.03 (step-down provisions for a certain distance when development is proposed on P-AO-zoned property that abuts a Low or Medium Density Residential zone). The missing text that is in other chapters of the Code addresses when an existing or planned street separates the land zoned PA-O from the land zoned Low or Medium Density Residential and includes a graphic that clarifies that an existing or planned street does not satisfy the distance for the step-down requirements. These same changes need to be made to Chapter 3.14 - Neighborhood Center (NC) Zone (but don't want to lose street “enclosure”).
3.18	Need a General Industrial - Office (GI-O) Zone to correspond with the new Comprehensive Plan designation of General Industrial - Office.

**Table 4  
Master List  
Land Development Code Refinement Issues**

4.00	Consider modifying Section 4.0.60.a.1 so that instead of the City Engineer defining the scope of a TIA, the registered professional engineer will present one to the City Engineer and the City Engineer will review and ultimately define the scope based on established procedures.
4.01	<p>Clarify Section 4.1.20.p so it reads something like the text below instead of the currently confusing text.</p> <p>All parking created to satisfy the minimum parking requirements must be accommodated in parking lots, unless the underlying zone states otherwise;  Up to 200 total spaces per floor for the first 3 floors of a development are allowed as surface parking. This includes minimum requirements plus excess parking, not to exceed 130% of the minimum parking standard;  All non-required parking spaces in excess of the provision above must be placed in underground or structured facilities. Use of such facilities allows parking to increase to a maximum of 150% of the minimum required parking;  When a development site has multiple buildings, the parking associated with each floor of all buildings must be added together when calculating the 200-space threshold above; &amp; Handicapped spaces do not count toward the minimum parking requirements.</p>
4.02	Establish minimum standards for arborist reports per Urban Forester's suggestions. <u>Chapter 1.6</u>
4.04	Delete requirements in Code for specific lot depth to lot width ratios, since the new Code provisions don't lend themselves to compliance with these old provisions.
4.07	Section 4.7.90.05.a does not provide clear standards for signs that are "inside the exemption area" AND which do not comply with item a-3. "The sign doesn't function as a graphic communication to people outside the exemption area." What if the sign DOES communicate to people outside the exemption area? Are they permitted at all? If so, what are the standards? (same or different as the same section??)
4.07	Section 4.7.70.b references the US Flag Code as "Section 4 of the U.S. Flag Code." This reference is incorrect based on context of this part of LDC. Currently, it is Section 3 of the US Flag Code, but we will need to double-check this when we finally decide to update Chapter 4.7, to make it consistent with the US Flag Code (or remove the specific reference)
4.10	Evaluate what changes (if any) need to be done to Chapter 4.10 - Pedestrian Oriented Design Standards to clarify that they are not applicable to Accessory Dwelling Units etc.
4.10	Address the problem regarding what level of adherence to Chapter 4.10 - Pedestrian Oriented Design Standards is required for what level of "expansion" is proposed. Sometimes there may be an overall "reduction" in square footage, yet large shifts and reconfigurations in square footage and changes to a site. For these circumstances, where there is no overall "expansion," there is a gap in the development standards. This problem showed up with the redevelopment of the existing Rite Aid building. No adherence to design standards for the building were required. This is an unintended gap in the provisions.

**Table 4  
Master List  
Land Development Code Refinement Issues**

4.11	After further experience with the implementation of the MADA provisions, consider if changes are needed to create a graduated system allowing larger percentages of encroachment for small properties and smaller percentages for large properties.
4.11	Evaluate the merits of modifying Section 4.11.50.02.c.3. This provision is specifically limited to detention facilities and people have asked if water quality facilities can be added. After discussion with Fred and Keith Turner, the consensus was that water quality facilities that are part and parcel of a detention facility system (e.g. water is cleansed through a water quality facility and detained somewhat while it is being cleansed, and then moves on to the actual detention facility), are okay to consider as detention facilities as mentioned in this provision (Section 4.11.50.02.c.3). However, other water quality facilities that are not associated with the detention facilities could not. Any consideration of adding these latter types of facilities to this provision would need to be carefully considered so as to not end up allowing people to develop into prime resource areas under the auspices of mitigation etc.
4.13	Fix discrepancies in terminology in Code and Riparian Corridors and Wetlands Map pertaining to Wetlands of Special Concern etc.

**\* \* \* M E M O R A N D U M \* \* \***

**MAY 6, 2008**

**TO: MAYOR AND CITY COUNCIL**

**FROM: JON S. NELSON, CITY MANAGER** 

**SUBJECT: PROSPERITY THAT FITS (PTF) PLAN: CITY ACTION ITEMS**

**DISCUSSION**

The non-funded City action items in the PTF Plan were estimated to be \$167,000.

- Annual staff support for the Downtown Strategic Plan, including the Downtown Commission and Urban Renewal District (URD) program, was estimated at \$105,000.
- Annual support for consultant services and special projects (urban renewal, market study, marketing, parking related, way-finding plan, etc.) was estimated at \$50,000.
- Annual City "share" of monitoring, facilitating, and communicating progress on the PTF Plan was estimated at \$12,000.

There are other staff efforts (Blue Ribbon Panel, Barrier Buster Team, transit alternatives, project coordinator) that were not costed out because they were either short term and absorbed within existing work plans (primarily Directors) or were funded using development services fees.

As Council knows, the Downtown and Economic Vitality Plans Implementation Committee (DEVVIC) original "charge" was to determine an appropriate method for funding PTF Plan City action items requiring additional resources. The committee expanded this charge to include all PTF action items.

Because this issue relates to the work session issues of the Business License Fee and Planning Division work program update, a discussion of Council alternatives for achieving the City PTF Plan action items is appropriate.

**ASSUMPTIONS**

Discussions to date have assumed that a Downtown URD program will eventually pay for the staff support of the program (\$105,000). Additionally, there may be annual tax increment funds available for selected consultant and special projects (\$50,000). Realistically, and assuming a positive May 19, 2009, election, district funding to pay for the eligible staff and perhaps some of the consultant/projects, will not occur until at least Fiscal Year 2011-2012. From a staff perspective,

it is important to continue, at a minimum, the staff support for the Downtown Commission and URD.

### **FUNDING ALTERNATIVES**

A. **Business License Fee (BLF)**

Discussions, to date, assume a competitive process with a total \$250,000 available. This is a good source for the City's share of monitoring the PTF Plan (\$12,000) and special projects (up to \$50,000). Assuming all \$167,000 of the City-related action items was not supported by DEVPIC and would use 70% of the projected BLF.

B. **Economic Development Allocations**

Competition is stiff, allocations are relied upon by recipient agencies for operating support, and the Council Policy would need to be amended to allow city eligibility to compete for funding. This could be considered during the next policy review, or sooner, if directed by City Council.

C. **General Fund Support**

Two options exist:

*Option 1:* Assume continued staff support for the Downtown Commission and URD effort without additional resources. This approach prioritizes this activity in the Planning Division work program and absorbs much of the planning position added through the Budget Commission process. Restoring staff resources to work on the Planning Division work plan initiatives would occur when the tax increment funding source becomes available to pay for this support (Fiscal Year 2011-2012 at the earliest).

*Option 2:* Add funding to the Fiscal Year 2008-2009 budget for continued support for the Downtown Commission and URD efforts. This may not require the full \$105,000 because the URD program is not approved and passed. There may be challenges in defining, specifically, how much staff time is necessary. Additionally, attracting a qualified, part-time candidate to work on Planning initiatives promises to be challenging.

### **RECOMMENDATION**

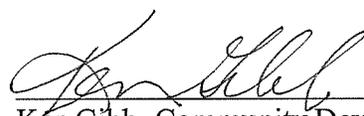
As a discussion starter, staff suggests the following:

1. Continue Downtown Commission and URD effort support with current staff, until the URD has funding to provide support. Review the staff impact assumptions in one year.

2. Downtown and URD consultant and special projects funding support competes for BLF funding.
3. City share (Fiscal Year 2007-2008 – \$12,000) of monitoring, facilitating, and communicating progress on PTF Plan to come from BLF.
4. City share of monitoring, facilitating, and communicating progress on PTF Plan for Fiscal Year 2008-2009 be added to the budget by Council at June 2 meeting.
5. Also at the June 2 meeting, the Fiscal Year 2008-2009 budget be amended to include \$250,000 appropriation and expenditure placeholders for a BLF.

Review and concur:

  
\_\_\_\_\_  
Nancy Brewer, Finance Director

  
\_\_\_\_\_  
Ken Gibb, Community Development Director

**\* \* \* M E M O R A N D U M \* \* \***

**MAY 6, 2008**

**TO: MAYOR AND CITY COUNCIL**

**FROM: JON S. NELSON, CITY MANAGER**



**SUBJECT: BUSINESS LICENSE FEE (BLF)**

Discussion

At your May 5, 2008 meeting, the City Council accepted the Downtown and Economic Vitality Plans Implementation Committee's (DEVVIC) recommendation to develop a Business License Fee (BLF).

An initial City Council discussion on key issues will ensure that products developed are consistent with City Council intent.

Issues we have asked Mayor Tomlinson to facilitate with City Council include:

1. Does City Council wish to proceed with a BLF? (All other questions assume the answer to #1 is "yes").
2. Should the BLF be implemented through City Charter and Council Policy or City Ordinance and Council Policy?
3. Should the products in #2 come to City Council through Administrative Services Committee (ASC), with initial material development occurring through a stakeholders group appointed by Mayor Tomlinson working with Finance staff?

A Chamber Coalition Committee report and subsequent DEVVIC review and action communicates certain BLF preferences. Initial Council reaction will help ASC, stakeholders, and staff working on the products in #2.

4. Council reaction to an annual BLF of \$50 minimum and \$1,000 maximum?
5. Council reaction that funds from the BLF be used exclusively (with the exception of license fee administration and Prosperity That Fits (PTF) plan administration) for PTF plan action items?
6. Council reaction that the City PTF action items compete for funding with all other PTF action items?
7. Council reaction to a sunset provision, similar to the Transportation Maintenance Fee, implying program assessment and discussion before continuing for another set number of years?

Mayor and City Council  
May 6, 2008  
Business License Fee  
Page 2

8. Council reaction to the proposed advisory/allocation committee?
9. Council reaction to the BLF being applied to out-of-city businesses doing business in Corvallis?
10. Council reaction to the goal of using a BLF for data collection purposes?
11. Council reaction to the \$250,000 annual BLF target and intent to review license fee structure if implementation proves significantly different (high or low)?
12. Other issue(s) Councilors believe requiring advance discussion?

Thank you for your discussion and initial direction.

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## **City Council Work Session May 12, 2008**

### **1. Work Program Status**

- Various Code Mechanisms (Table 2A)
  - Some progress on “tracking technology”
- Code Tweaks
  - Experienced gained, packages developed
- Buildable Land Inventory
  - Staff work on BLI model nearly complete
  - Draft consultant RFP developed
- Council Goals
  - South Corvallis and Southwest Corvallis white papers scoped
  - Significant staff resources spent on EVP/Downtown Strategic Plans

### **2. Factors Impacting Work Program**

- LDC Implementation
  - More time required to apply non-discretionary standards
  - Planning providing support for review of general land use applications, e.g., minor land partitions – more resources may be needed in future
- LUBA Appeals
  - Significant commitment to support City Attorney’s Office
- Resources Dedicated to Implementation of EVP/Downtown Strategic Plans
- Staff Changes
  - Vacancies and transition to new staff

### **3. Supporting the New Downtown Commission**

- Anticipated that it will require .30 – .40 of Planner’s time plus Community Development Director’s time, perhaps more during start-up and after Urban Renewal Plan is handed off to the City.
- Planner’s time will be back-filled by additional Planning position included in FY 08-09 budget.
- This will impact the progress on Planning work program that is the goal of adding additional staff capacity.

**CITY OF CORVALLIS  
DOWNTOWN AND ECONOMIC VITALITY  
PLANS IMPLEMENTATION COMMITTEE  
MINUTES**

**March 27, 2008**

The regular meeting of the Downtown and Economic Vitality Plans Implementation Committee of the City of Corvallis, Oregon, was called to order at 4:02 pm on March 27, 2008, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Tomlinson presiding.

**I. ROLL CALL**

**PRESENT:** Mayor Charles Tomlinson, City Manager Jon Nelson; Committee Members Rich Carone, Judy Corwin, Dave Gazeley, Pat Lampton, Elizabeth Foster, Larry Plotkin, Barbara Ross, Councilor Bill York; and Recorder Mark Lindgren.

**ABSENT/EXCUSED:** Belinda Batten, Patricia Daniels, Jay Dixon, Linda Modrell, Bennett Hall, Pam Folts, Elizabeth French, Julie Manning, Dave Livingston, and Vincent Remcho.

**II. REVIEW AND APPROVAL OF MINUTES**

September 20, 2007 minutes approved as presented.

**III. CORVALLIS-BENTON CHAMBER COALITION SUBCOMMITTEE REPORT- BUSINESS LICENSE FEE**

Mayor Tomlinson highlighted the distributed March 14, 2008 revised business license fee recommendation and stated the presentation would be made before the first public comment period. Councilor Bill York highlighted minor revisions.

Committee members received a "Business license Fee Talking Points" and revised "Business License Fee" memorandum

Curt Wright stated that an unofficial business license fee committee met six or seven meetings since November; the group was asked by DEVPIC and the mayor to explore the idea of a business license fee. He noted that several other funding sources for economic development, such as the restaurant and entertainment tax and the transient occupancy tax, were rejected because they asked single industries to fund the effort.

Mr. Wright related that the Chamber Coalition, the Downtown Corvallis Association and the Corvallis Independent Business Alliance sent out questionnaires to members on the matter and received feedback. He related that the unofficial business license fee committee contained members from these groups, as well as the Corporate Roundtable and interested, involved citizens. The groups sought to address concerns that had been raised by the business community and came up with solutions to them.

He cautioned that any businessperson, if asked if they would like to pay a business license fee, would probably reply "No"; however, he said, the real issue is whether the community wants to take control of its economic future and well-being by implementing the Prosperity That Fits Plan. He noted the PTF Plan was put together over three years with the involvement and feedback by the community and all business groups; it was adopted by all Economic Vitality Partners, and County and City government. Mr. Wright stated that the PTF Plan was designed to benefit existing business and enhance the community quality of life. It is intended to grow diverse business start-ups and strengthen and retain existing businesses and create a range of jobs at a range of wages.

He stated that the business license fee is what would make the PTF Plan a reality. He emphasized that funding the plan is the sole purpose of the fee and it cannot be diverted to any other use. He added that if a future Council attempted to divert it to another use, the fee would be automatically terminate. The fee would automatically sunset in six years, the length of time called for in the PTF Plan.

He contended that the proposed fee was fair; everyone doing business in the community must pay it. The proposed \$50 minimum covers all businesses under ten employees; the fee rises in graduated steps, up to businesses with over 1,000 employees, where the fee is capped at a maximum of \$5,000. He stated that \$50 per year was not too much for even the smallest business to invest in community economic development and \$5,000 won't break the few multi-million dollar firms in the city.

Mr. Wright related that as structured, the business license fee would generate about \$250,000 per year, to fund implementing fourteen strategies and 48 action items in the PTF Plan. The committee recommended that decisions on allocating the funding be made by a separate, seven-member committee; one member would be a City Councilor appointed by the Mayor, with the other six being business representatives, selected in an open public ballot, from candidates nominated by the sixteen partner organizations participating in the creation and implementation of the PTF Plan. Funding allocations would be made through a public, competitive grant application process, with requirements that all organizations submitting requests show how their requests respond to PTF Plans, what economic benefits the community would gain, and how the promise of performance would be measured. Applicants must demonstrate how each grant dollar will be leveraged with \$3 in matching funds.

Councilor York noted that the original charge of the DEVPIC was to find a way of raising the \$170,000 that the city had committed to as its portion of responsibility in the PTF Plan. This included a one-time software allocation and \$10,000 per year for coordination. He noted that this seems to be lost in this new proposal. Mr. Wright replied that the committee felt it would be preferable if the business license fee addressed funding all the PTF Plan action steps, not just those of the City. The City would be free to apply for funding for its action steps like all other applicants.

Dave Gazeley asked about the \$3:1 leveraging formula. Mr. Wright replied that it was modeled on the City's current economic allocation program. He added that it was intended that grant contracts would include measurement points to insure delivery on economic return.

Larry Plotkin commented that the DEVPIC committee originally did look at funding the City's \$170,000 portion of PTF. That scope of purpose was expanded following extended discussions to find a way to fund the plan.

Judy Corwin asked if the committee had projected how many businesses fall into each business tax license fee bracket. She asked for an explanation for why the recommendation was to house the fee in the City Charter. Mr. Wright replied that months ago, the city put together from public information a list of sizes of businesses, including categories of funding, that added up to fund the City's \$170,000 portion of the PTF Plan. (The document, "Revenues Generated by Business License Fee", was distributed). He highlighted the breakdowns of categories in the document (for Benton County, he noted the assumption was that about 85% of county economic activity occurred in the City).

Mr. Wright stated that the committee expanded the document's initial step of one to four employees up to one to nine employees. He related that Rich Carone did the rough financial projections to get to the desired amount of funding from the business size categories. Mr. Carone cautioned that the figures are rough estimates but do add up to the same as those of the City's figures. Finance Director Nancy Brewer clarified that the numbers came from a State Employment Department report, probably from 2006.

Mr. Wright related that the committee voted to recommend that the Council immediately adopt the plan and put the business license fee in place and begin collecting the money in order to start moving on the PTF Plan action items. At the same time, it was recommended that the Council should be moving to make the fee a charter amendment. The reason for a charter amendment reflected the feeling that portions of the business community have a significant distrust of what future Councils might do with the funding (they might spend it in ways unrelated to economic development).

Councilor York noted that it was unusual to suggest a charter amendment; this would be a lot of work and expense for something that has only a six-year life; he asked for precedent for doing this. Mr. Wright responded that the assumption is that the plan would not sunset in six year, but instead, new action items would come forward and be adopted through the PTF Plan public process, and that the business community be surveyed every eighteen months to determine whether it feels good about its investment and whether it should keep going after six years and after the 48 original action items are completed. He anticipated that many members of the business community would feel that there was still much to be done after six years and that they would ask the Council to extend the period of the fee. He clarified that the commission making PTF allocations would only be making recommendations to the City Council, which would make the final decision.

Ms. Corwin asked why the need was felt to put the business license fee in the City Charter. Mr. Wright replied that he personally did not see the need; however, the committee voted to recommend that, because some members felt that only by making it part of the charter could the Council be prevented for using the fee for purposes other than economic development.

Pat Lampton asked whether the committee had gotten advice from the City's attorneys regarding the Charter amendment proposal and whether the committee had considered any other mechanisms that could make a similar guarantee without the pain of going through a charter

amendment. Mr. Wright replied that his understanding was the group had not consulted an attorney.

Manager Jon Nelson added that a similar model is the Transportation Maintenance Fee, implemented with a specific use for a specific time (sunsetting after five years). It was passed by the Council as an ordinance; there have been no objections regarding its amount or use over the past three years. The thought at the time the ordinance was drafted was that if a future, different Council tried to redirect those funds, the initiative process would be more efficient than going through a charter process. He opined that there are more efficient models that give assurances about future Councils' uses of funds.

Barbara Ross stated that an ordinance would seem sufficient to prevent a future Council from changing the use of business license fee, unless it went through a clear public process to do so; Mr. Nelson concurred that an ordinance process would be an adequate safeguard and that a charter would not be necessary. He added that he thought there would be little interest by a Council in changing the purpose of those funds.

Ms. Corwin asked what a charter process would entail. Mr. Nelson replied that it would take direction from elected officials to pursue what would be the equivalent of a major Council goal. The charter has been amended twice in the last fifteen years; each time required roughly a year-long process. He related that when charter changes are broached, other community stakeholders are typically brought in and often pitch additional amendments, as well. He noted the business license fee is a \$250,000 in a \$100 million City budget.

Liz Foster asked if the committee looked at how the fee would be collected and enforcement. Mr. Wright responded that the group deferred all such questions and concerns to the City Council, staff and attorneys.

Councilor York noted that the current Economic Development allocations process has three City Councilors and three citizens. However, the committee proposal has only one Councilor and six businesspersons; he asked how that ratio was developed. Mr. Wright replied that reflects the desire to keep allocations strongly focused on the PTF Plan and covering the spectrum of the 14 strategies and 48 action items. Since it was all business related, it made sense to have as many business people on that committee as possible. Mr. Lampton added that the ratio reflects the thinking about the kinds of choices that are made in the current Economic Development allocation process and whether they are purely economic development programs that the business community feels are outside the boundaries of the PTF approach.

#### IV. PUBLIC COMMENT

**Gary Rodgers**, 950 NE Angelee, stated that he is a Corvallis realtor; he asked for clarification on language regarding whether the fee applied to all businesses *located* in the area or *doing business* in the area. He asked whether the fee would apply to independent contractors; he cited some businesses located outside the city, that regularly do business in the city. He pointed out that the estimate of realtors doing business in the city was too low (he estimated that there were around 1,000). He asked who would police the fee.

**Amanda Dalton**, PO Box 981, Salem, stated that she represented the Willamette Association of Realtors; the group has yet to take an official position on the matter. She presented an information piece provided to WAOR members (attached). A major concern is what will happen once the cap of the funds to be collected is reached: would there be refunds at that point? The groups was also concerned about there would be fines. She asked whether there had been any research on whether other cities have established contractual agreements with local Chambers; with built-in percentages on funds collected. The group was also interested in whether the information collected would be accessible by the public.

**Malcolm Rose**, 1417 NW 9<sup>th</sup> Street, asked how the proposed business license fee would find or impact low-income businesses, such as lawn-maintenance or automotive companies. He assured the group that he could not have started up his business in Corvallis had there been a business license fee. He stated that despite talk of sustainability, there are too many fees and taxes and Corvallis residents must go to Albany to shop. He said Corvallis was making it too expensive for businesses to operate. He asked how many businesses of only one or two employees were polled regarding the license and how it would impact them.

**Keta Tom** submitted written testimony (attached). She cited a negative experience regarding her own business and used merchandise licensing to support her contention that having a license gives the city the power to give or take away a business. She noted that a business license and a business license fee were actually two different things; she opposed having a business license; however, a business fee was acceptable. She added that the city already spends \$500,000 per year for economic development, including \$300,000 for tourism, which is part of the PTF Plan.

She noted that little research and development is actually occurring on Technology Drive; however, part of the cost of developing the site was assessed on adjacent residents, forcing many of them to move. She noted the cost of administration and enforcement had not been addressed in the proposal.

**Andrew Perry** stated that as a representative of larger businesses in the community, the plan as devised is right on in almost all cases. The plan raises funds in order to create a platform by which businesses can start and grow in Corvallis, benefitting all. The PTF Plan needs funding and this is probably the best plan to come forward so far to do so. His major concern was regarding the fee structure. He noted that the statistics distributed show about 2,200 businesses; so to raise \$250,000, that comes to about \$115 per business. Because there are so many small businesses, to decrease \$10 from the one to nine employees group cost-shifts about \$20,000 to the larger businesses. He stated that he did not believe that \$50 or \$100 was that significant to any business.

Mr. Perry stated that the plan would find more support by altering its fee structure. He suggested starting the fee at \$100 and escalating it to a cap of \$500. Businesses with one to twenty employees could be charged \$100; twenty to 100 employees could be charged \$200; and businesses with over 100 employees could be charged \$500.

He noted that businesses that come to the community to work (but are located elsewhere) should be charged a fee, reducing the burden on local businesses; they do not appear to be represented in the current fee structure. He stated that his large for-profit business already pays sizable taxes and provides significant charitable care and services; he stated the business would rather not incur an additional large business fee when it could be proportionately shared better.

**Kate Lindberg**, 826 NW 35<sup>th</sup> Street, stated that most of the PTF Plan action steps were valuable and that the plan should be funded and moved forward. However, the fee structure should not be prejudicial to small businesses; many of the anticipated revenue is coming from small businesses. While \$50 may not seem like much, any business will want to see value for money from their fees, (which will expand and grow their businesses). She noted that \$50 may not sound like much, but it represents a half-day's wage for her part-time workers. Also, this amount over six years totals \$300.

Ms. Corwin asked that if \$50 seemed too high, what amount would be more reasonable for small business; Ms. Lindberg that a flat registration fee of \$5-10 for registration to develop a database of local businesses seemed reasonable, especially if that database were to be made available to the local business community for marketing.

Following public testimony, Mayor Tomlinson asked Curt Wright to answer more questions. The mayor noted that many questions had to do with issues that the committee chose not to deal with, because they are rightly staff and Council issues.

Councilor York noted that Corvallis was unusual in not having a business license fee. He asked whether the committee had confirmed that; Mr. Wright replied that it had not done such research. He added that most cities that he had lived in had a business license and most of those had a fee attached to that. Manager Nelson added that some survey work was previously done on the issue and that information can be provided.

Mr. York asked about the coverage of fair and festival participants. Mr. Wright replied that the proposed language referred to an umbrella that covered them if they participate less than one day per week over the course of the year (52 days); this also covers Saturday market participants. Also, the fee is applied on an FTE basis; so two 0.5 FTE employees equal 1.0 FTE. Also, contractors are not employees. Mr. York added that a contractor is a business, so they too would be paying \$50 under this proposal.

Mr. Wright replied that becomes a political and practical question for the Council to address; the Council will have to define what defines a business and how hard it wants to chase \$50 (in some cases it may not be worth the effort). He related that some cities do require businesses from out of town that come into town to do business, to get a license. The committee voted to not require itinerant businesses to have a license. Councilor York pointed out that the phrase, "businesses doing business within the community" should cover itinerant businesses.

Ms. Ross asked whether the committee had addressed the cost of collecting, administering and enforcing the fee. Mr. Wright replied that in the recommendation, there is a one-time (up to \$40,000) software charge that the city had identified earlier; also, a need was identified for staffing charging and collecting the fee (up to \$10,000). Manager Nelson added that estimate was based on the experience of the Finance Department in collecting license fees; the actual amount may vary depending on several factors. Mr. Wright related that the committee recommended allocating an ongoing 15% of the fee to fund collecting the fee; the Chamber Coalition is the current staffing body for the PTF Plan.

Mayor Tomlinson thanked the committee for its work.

V. NEXT STEPS

Mayor Tomlinson asked DEVPIC whether it would recommend that the Council consider a business license fee, recognizing and considering the testimony heard today (generally around administrative issues and fee matrices); and that the Council should work through these issues and others that may come up during their deliberations.

Mr. Carone suggested it might be worthwhile to discuss a maximum fee. Mr. Gazeley concurred, saying some testimony from small business was to get the numbers where small business could live with it. There was also compelling testimony about doing research on imposing the fee on businesses from outside the community doing business within the community, to see if they could help carry part of the load.

Mr. Carone noted that the CIBA President was part of the unofficial business license fee committee and helped develop the proposal for the minimum \$50 fee. Ms. Lindberg related that there were still too many unresolved details for CIBA to come to a consensus on the issue. Mr. York noted that DEVPIC has heard that \$50 is a hardship for very small businesses and relief for large businesses can't be accomplished without increasing the \$50 minimum (about 30% of the revenue comes from the \$50 fee). Mr. York stated he was supportive of a \$50 fee but wouldn't want that raised to provide relief for larger businesses.

Mr. Carone suggested modifying the fee structure, so that businesses with 50 or more employees pay a license fee of \$1,000; this should raise roughly the same amount of money. Ms. Ross concurred, noting that larger businesses might otherwise have asked whether they would be getting \$5,000 of benefit from the fee they were charged; a \$1,000 cap makes more sense.

Ms. Ross stated that she felt that it was appropriate for people doing a substantial amount of business in Corvallis to pay a business license fee, even if they are located in Salem. They drive on Corvallis streets, pollute the air and make money here. She suggested imposing a flat \$50 fee on out of town businesses, to avoid having to determine how many employees an out of town company has. Mr. York related that any landscape business in California, regardless of size, must have a business license; the license number sticker must be placed on the vehicle. If such a vehicle is spotted without the sticker, an offender will be cited; they must then pay a penalty and obtain a business license. The license fee taxes itinerant businesses.

Mayor Tomlinson determined that there was consensus on a \$50 flat fee for out of town businesses.

He asked for discussion of the charter proposal. Mr. Carone related that he and Mr. Wright were the two on the committee who opposed the charter approach; Mr. Nelson's testimony is new information that argues against the charter approach. Mr. Plotkin stated he opposed the charter amendment. Ms. Corwin stated she had serious concerns with the charter amendment and that other alternatives should be explored. Ms. Ross opined that if appropriately crafted, an ordinance path would provide an adequate safeguard for a six-year project; an ordinance is a more practical and appropriate mechanism than going the charter route. Mr. Tomlinson found consensus to recommend using an ordinance, rather than a charter amendment, in implementing a business license fee.

Mayor Tomlinson clarified for Ms. Dalton that following discussion, the business license fee schedule would be: \$50 for 1-9 employees; \$175 for 10-19 employees; \$275 for 20-49 employees; \$1,000 for 50 and above employees.

Ms. Ross noted the public will want to know more about enforcement. She recommended that city staff look at how other cities address the issue and see what has proved most practical and worked best; then have staff bring a recommendation to the Council; then the Council would hold public hearings on administrative rules.

Mr. Carone suggested DEVPIC address the realtors' expressed concern that each of them would be charged \$50; the unofficial business license fee committee did not address this. Ms. Foster added that the issue goes beyond just realtors; there are many independent contractors; the issues of employees versus independent contractors is a gray area. Mr. Plotkin replied that his assumption is that his small, one-person LLC consulting business would be paying a \$50 fee.

Mr. Gazeley highlighted the issue of addressing those who live in the county but make their living within the city. He noted that a number of businesses are located just outside the city limits, but they have a Corvallis address; he asked whether the \$50 flat fee for out of town businesses was appropriate. Mayor Tomlinson related that the committee previously determined that the business license fee would only be effective within the city limits of Corvallis and not Benton County; the business license fee is only a City of Corvallis administrative issue, not the County Commissioners. Manager Nelson added that a contractor coming into town to do business would be required to pay a \$50 fee.

Ms. Foster asked if there had been a breakdown of what kinds of businesses were in each category of the fee schedule. Mr. Nelson replied that information was in members' packets; it was derived from 2006 State Employment Department figures; he cautioned that these figures do not have the definition that she was looking for and emphasized they should be viewed with some suspicion.

Mr. York related that his wife has a small, sole-proprietorship consulting business run out of the home; he expected that she would be required, as an independent contractor, to pay \$50 as a cost of doing business. He would also expect an independent contractor realtor to pay \$50, as well. He added that if a business hires contractors, as proposed to employees, the contractors themselves would be expected to pay a \$50 fee.

Ms. Foster asked how the \$50 fee would be collected from a realtor agent coming down from Salem to sell a Corvallis home. Mayor Tomlinson asked Ms. Foster if she personally, as a realtor, found a \$50 fee acceptable; she replied it was fine for her. She added that her firm, along with many others, would only be paying the fee for administrative staff, not the independent contractors. It was pointed out that the State of Oregon would have information on local businesses filing tax forms: Mr. Lampton cautioned that the State may not share that information. Manager Nelson stated that such issues under discussion have all been dealt with elsewhere already; if the decision is to move forward, the Council will assign someone to work on municipal code language to address these and many other questions and concerns.

Mr. Carone asked if there was a good mechanism to collect fees from businesses who come into Corvallis from elsewhere. Mr. Nelson replied that his experience in other Pendleton and Missoula

was that business license fees were requested by businesses who became tired of itinerant merchants coming in and setting up shop, without having to contribute to the community. The best policing for the business license fees turned out to be the businesses themselves; there was very little municipal court or police activity, once businesses knew the procedure. He anticipated that the process would not be as enforcement heavy as some had expressed.

Mayor Tomlinson asked for committee sentiment on the issue of what happens if significantly more or less funds are raised than the projected \$250,000. Councilor York stated that if more income is raised, then faster progress can be made on the Prosperity That Fits plan, accelerating completion of the program and realizing its benefits. If additional good ideas pass the test of public scrutiny, then the program can continue; otherwise, it goes away.

Mr. Plotkin that if the stated goal is to raise \$250,000, then the city should stick with that and as a show of good faith and credibility, lower the fees. Mayor Tomlinson noted the committee was in consensus that there should be a future conversation on whether, if amounts raised differ significantly from the projected \$250,000, whether the community wants faster progress on PTF or another course. Mr. Plotkin noted that one approach is measurable and the other is very subjective; the public will have more trust in a measurable approach.

Mayor Tomlinson highlighted the issue of data collection; this was originally a way of capturing information on who's doing business in Corvallis. This is still a primary effort of the business license fee, which has now been expanded to raise funds for PTF. He asked whether the information should be public. Manager Nelson opined that it would be public information, but there may be issues related to additional proprietary information.

Mr. Carone commented on realtor testimony related to concerns of 40% of the fee being spent on overhead. He clarified that 15% is specified for ongoing EVP administrative support for the PTF Committee; it is not for the Chamber. While the Chamber is currently hired to do that administration, someone else could be hired, instead. While the Chamber is currently the fiscal agent, perhaps that should be clarified.

Manager Nelson suggested it could be helpful to the Council, if the decision is to move forward with the fee, to recommend which group the Council could assign to work on municipal code language. He noted that it was not clear whether that group would be DEVPIC or the unofficial Business License Fee Committee. Mayor Tomlinson stated he expected the Administrative Services Committee would probably look at a potential ordinance and Council policy; they would hear public testimony from stakeholder groups and citizens on the work product as it progresses. Councilor York added that the ASC would not want to see a raw product that did not already include a lot of stakeholder input.

Mayor Tomlinson noted that Mr. Carone, Mr. Plotkin, Mr. Gazeley and Mr. Lampton are members of the Chamber Coalition and DEVPIC; he asked Manager Nelson whether that was a representative working group to develop work product. Mr. Gazeley emphasized the need for a representative of small business, such as CIBA; he suggested including CIBA President Pat Sardell, also active in PTF steering committee. Manager Nelson stated he would work with that group to sharpen administrative issues. *[Mr. Plotkin subsequently clarified that he was not yet a member of the Coalition.]*

Mr. Lampton moved and Mr. Plotkin seconded to move the business license fee forward to the City Council for their consideration, given the testimony and questions raised today (especially regarding administrative issues; the revised schedule; out of town businesses; ordinance work vs. charter; public hearings in the future; the amount of dollars raised; and data collected); and the deliberations of DEVPIC.

Ms. Corwin asked that the DEVPIC meet again to accept the content of the minutes. Mayor Tomlinson stated that the motion would include that DEVPIC would meet again to be clear on the content of the minutes and accept them. Motion passed unanimously.

Members asked to be able to review the minutes before they are sent to the City Council's April 7, 2008 meeting. Mayor Tomlinson stated he will email the draft minutes for members' review.

VI. SCHEDULE NEXT MEETING

The next Committee meeting was set for April 24, 2008 at 4:00 pm. (Ed.- Subsequently changed to May 1, 2008).

VII. PUBLIC COMMENT

General desire to see and comment on draft minutes before the April 7 Council meeting. Ms. Lindberg asked what would happen if significantly less than \$250,000 was collected, especially due to lack of compliance.

VIII. ADJOURNMENT

The meeting was adjourned at 5:59 pm.

**CITY OF CORVALLIS  
DOWNTOWN AND ECONOMIC VITALITY  
PLANS IMPLEMENTATION COMMITTEE  
MINUTES**

**May 1, 2008**

The regular meeting of the Downtown and Economic Vitality Plans Implementation Committee of the City of Corvallis, Oregon, was called to order at 4:03 pm on May 1, 2008, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Tomlinson presiding.

**I. ROLL CALL**

**PRESENT:** Mayor Charles Tomlinson, City Manager Jon Nelson; Committee Members Rich Carone, Judy Corwin, Patricia Daniels, Pam Folts, Dave Gazeley, Pat Lampton, Elizabeth Foster, Elizabeth French, Larry Plotkin, Barbara Ross, Councilor Bill York; and Recorder Mark Lindgren.

**ABSENT/EXCUSED:** Belinda Batten, Jay Dixon, Linda Modrell, Bennett Hall, Julie Manning, Dave Livingston, and Vincent Remcho.

**II. REVIEW AND APPROVAL OF MINUTES**

Judy Corwin noted that wording in paragraph 3, page 9 seems to leave open-ended the issue of what to do with any amount raised over \$250,000; she stated that her understanding was that the committee was in agreement that funds over that amount should be given back. Bill York concurred, except that his recollection was that excess funds collected would result in a fee reduction the following year. Ms. Corwin added that the committee thought that it was important for public trust to stick to the budget numbers, rather than using excess funds to move Prosperity That Fits (PTF) progress faster.

Pat Lampton cautioned that returning a marginal amount would likely incur a cost greater than the savings. Larry Plotkin stated that keeping extra money for faster PTF progress was squishy; whereas sticking to a firm figure was measurable. Mr. Plotkin said that he didn't recall agreement on the issue; Manager Jon Nelson concurred. He suggested inserting after the second sentence in the third paragraph of page 9, "This could be accomplished by lowering the next year's fee". Barbara Ross remembered the discussion but not an agreement. Mr. Nelson suggested separating approval of minutes from clarifying what the committee intended to communicate to the City Council.

It was noted that Dave Gazeley's name was misspelled several times throughout the minutes. There was consensus to delete the last sentence of the third paragraph on page 7. Larry Plotkin highlighted the last paragraph of page 9, noting that he was not a member of the Chamber Coalition yet. Bill York moved and Dave Gazeley seconded to **approve the March 27, 2008 minutes as corrected**; motion passed unanimously.

Discussion of Business License Fee Next Steps followed.

### III. PUBLIC COMMENT

**Amanda Dalton**, PO Box 981, Salem, stated that she represented the **Willamette Association of Realtors**. She noted the organization requested a small clarification of the March 27, 2008 minutes; she noted that the email memo from herself to her organization should not have been entered into the record.

She clarified that the primary concern of the organization was the impact that the business licensing would have on independent contractors doing business in the City of Corvallis as well those brokers and contractors from outside the city coming in to do business. She submitted her group's list of questions and concerns for the record; as well as letters from Suzanne Rushman of Town and Country Realty and Barbara Hartz of Landmark Realty.

Ms. Dalton stated her organization was concerned about significant aspects of the proposed fee that have gone unanswered; also, that small businesses may not have time to respond to the proposal before it is enacted into an ordinance. She stated that if passed, Corvallis would be the only city in this area of the Willamette Valley with such a fee.

Ms. Corwin asked Ms. Dalton how the business license fees in Tigard and Hillsboro were working; Ms. Dalton said they had a similar structure to the DEVPIC proposal but she did not know how they were working out.

**Deborah Weaver**, real estate broker and member of the **Willamette Association of Realtors**, stated she was present on behalf of WAOR President Geri Cuomo. She noted that the WAOR represents 450 members located in or doing business in Corvallis; most of these are independent contractors. She expressed concern about the increased cost of doing business in Corvallis as well as the impact on many businesses located outside of Corvallis that provide affiliated services to the industry, such as inspectors, landscapers, appraisers, roofers, lenders, repair people, etc. Many of these are small businesses that can do business anywhere in the valley without incurring additional cost.

She stated that the proposed fee would put Corvallis at a competitive disadvantage with other nearby communities and sends the message that Corvallis may be not friendly to business. She related that while the WAOR is supportive of economic development, it couldn't support a business license fee. Since economic development is of benefit to everyone in the community, funding for it should come from the general fund.

**Stanley Rich** stated he is a commercial real estate agent and represents many small businesses directly; many lease directly through him. He also represents landlords that charge a property tax residual to tenants. He said the business license fee is not fair to small business and is not needed to attract businesses to the community. He said that when he attended the PTF events, it was his impression that funding would come from the general fund; the funding is already there in the city budget; it simply needs to be allocated more appropriately. Rich Carone contended that the city did not have an extra \$250,000 in its budget to fund economic development. Mr. Rich stated that economic development should be done, in part, by city urban and regional planning staff.

**Larry Kampfer**, 218 NW 6<sup>th</sup> Street, stated that he hadn't heard of the proposed fee until yesterday and it hadn't been well publicized. He stated that a business license fee was offensive and counterproductive. He noted that realtors relied on bringing people from outside the community to do work here.

Mr. Plotkin asked if he had read the PTF plan; Mr. Kampfer replied that he had not. Mr. Plotkin related that the committee spent a considerable amount of time to figure out how to fund the PTF plan. He contended that the community is unique, south of Tualatin and Hillsboro, in its potential to create and enhance high tech businesses good for raising the whole economy, which should greatly help the real estate market. More money is needed to try to attract the kind of businesses discussed in the PTF plan. He said the proposed business license fee rates as proposed were not a disincentive to him as a businessman. Mr. Plotkin added that the Gazette-Times had covered the proposed fee well and the PTF plan was widely publicized.

**Gary Rodgers**, 950 NE Angelee, stated that he was a local realtor; the proposed business license fee was awkward for the industry. He said it needed to be clear who the fee was aimed at. He asked if an appraiser from Portland, an out of town title company or a realtor from Philomath would pay the fee. He asked for clarification on who would be considered an employee or an independent contractor.

Mr. York replied that the questions raised would be dealt with in the next phase of the process, as staff and the stakeholder group look at existing programs in other communities (several in Oregon and most in California) over the next several months. Ms. Ross asked if he thought a business license fee should be used to fund the PTF plan. He replied that he was not enthusiastic about it; he feared it set a precedent that could eventually cause every community in the area where he potentially works to impose a similar fee on himself and other realtors. He predicted that if this happens, many realtors would drop out of the profession.

Mayor Tomlinson stated that this and other testimony will go into the record that goes to the City Council. He added the committee recognized that many administrative issues still must be worked through; there will be further opportunities for testimony in the next several months.

There followed discussion of forming a stakeholder committee in Business License Fee Next Steps.

#### IV. BUSINESS LICENSE FEE NEXT STEPS

In discussion on clarifying its intent of what would happen if more than the goal of \$250,000 was collected in one year, Councilor Patricia Daniels suggested wording, "If more than \$250,000 was raised, the excess would not be applied to additional PTF projects. Instead, it could be applied to the following year's fee". Ms. Corwin emphasized that the issue was not *whether* to return excess funds, but *how* to do so.

Mayor Tomlinson asked if there was consensus that the committee recommended not collecting an increment over the \$250,000 in the following year and to implement that by reducing the fee in the next year, to try to get to the \$250,000 for two years running. He observed that the amount collected may always be hovering above or below the \$250,000 benchmark. Mr. Gazeley added that the committee needs to recognize that if the amount is exceeded by enough, fees could be adjusted by

enough in order to come close to the figure; however, collecting exactly \$250,000 will never be achieved.

Mr. Plotkin stated that an inflation clause should be built into the \$250,000. He anticipated that the amount collected would fluctuate; he suggested that a 2 or 5% excess figure should trigger reduction of the fee in the following year. Elizabeth French cautioned against incurring administrative costs and burdensome complexity in trying to return relatively small amounts; the important thing is the intent; it will never be exact. She suggested that the community may need a couple years' experience to make any re- adjustments, then come back to the table to balance the fees.

Ms. Corwin stated that hastening the progress of the PTF shouldn't be the goal the first year. Manager Nelson said that the recommendation that came to DEVPIC from the subcommittee was a proposal whose sole purpose was raising approximately \$250,000 per year; a sub-clause was that an increase was allowable, but should not exceed the US Consumer Price Index for the previous year.

Ms. Ross said that some amount of carry over could be a cushion against not collecting enough. She noted that if the fee was adjustable every year depending on how much was carried over, so that the amount levied was \$47.50 instead of \$50, for example, it could be exasperating. She cautioned against making a commitment to adjust the fee the first year, especially when it is not even certain how much will be raised. Mr. Plotkin added that the amount raised could be way under or over the \$250,000 figure; that won't be known until after the first year. Ms. Daniels suggested the committee simply ask the City Council consider options but not specify them.

Ms. Corwin noted that the subcommittee had recommended that the fee be part of the City Charter; while the Committee as a whole felt that that would be too burdensome, the recommendation reflected some people's concern that funds might be used for other purposes.

Mayor Tomlinson asked if there was consensus that the fee should be targeted at about \$250,000 per year for now; and to recommend to the City Council that if there are significant overages or underages, the Council needs to bring that figure back to the \$250,000 in some administrative way; and if it's significantly over, the committee does not recommend a spending spree; and if it's significantly under, then the fee structure will need to be adjusted. Mr. Lampton stated that due to inflation, he would not want to lock the figure at \$250,000 in following years. After the first two years, there shouldn't be significant differences, since the numbers of businesses will probably not fluctuate wildly.

Mr. Nelson summarized that \$250,000 is the committee's target; significant overages or underages need to come back to \$250,000 annually, as adjusted (thus taking into account inflation). Mr. Plotkin suggested modifying the language to "*about* \$250,000". He added that initially, there would likely be compliance variation, as there is outreach to business owners. Ms. Ross added that the Council shouldn't be locked into adjusting the fees in the second year, since it won't be known until the end of the first year how it has gone. She recommended leaving the details to staff and the City Council.

Mr. Lampton added that the committee should recommend that carryover should go to even things out in the long term. During discussion to clarify what "significant" overages should mean, Mr. York noted that a small excess over \$250,000 wouldn't have to be spent, it could simply be a reserve. Mr. Plotkin suggested that exceeding a margin of 10% overage could trigger an evaluation of the fee structure or compliance.

**Ms. Corwin moved and Pat Lampton seconded that approximately \$250,000 in annual revenues and expenditures is the committee target. Significant (10%) overage or underage needs to come back to \$250,000 annually, as adjusted; motion passed unanimously.** Ms. Ross noted that this is simply a recommendation, not the final product.

Mayor Tomlinson then moved the agenda to III, Public Comment.

Following the period of public comment, Mayor Tomlinson said that there was previous discussion of forming a stakeholder committee that would work with the City Council and the Administrative Services Committee. The minutes call out Rich Carone, Larry Plotkin, Dave Gazeley and Pat Lampton to be part of that. He suggested considering inviting Pat Sardell, CIBA President, to participate. A member of the real estate community should also be involved.

He stated that in the past, the Urban Services Committee has worked with stakeholder groups as the committee sets policy on a significant issue; a similar model would be used with the ASC. Mr. Carone suggested including representatives of single-employee business owners and independent contractors. Mr. French suggested including a representative from non-profits. Mr. Plotkin suggested getting a member of the high tech industry.

Ms. Ross noted that given the testimony, there should be a look at how other towns deal with the issue of out of town businesses doing business in the city.

Mayor Tomlinson stated that the City Council would have a work session on the issue at its May 12 meeting; while the public is invited, there would be no public testimony. Manager Nelson clarified that in preliminary discussions, the committee has given direction towards requiring a business license fee for businesses located outside of the city that come into the city to do business.

#### V. COMMITTEE SUNSET DISCUSSION

**Judy Corwin moved and Pat Lampton seconded to recommend to the City Council that the committee feels that it has finished its work and recommends that DEVPIC sunset; motion passed unanimously.**

#### VI. PUBLIC COMMENT

**Gary Rodgers** asked whether it would be the listing office for a property that would be responsible for paying and policing the fee. Mayor Tomlinson stated that there were a number of administrative issues that exist and need to be worked through; there will be opportunities to comment on what they look like. Rodgers highlighted the process of how houses are shown and noted that realtors are not necessarily paid when a transaction closes. Mr. York replied that it was his understanding that showing a house would not necessarily be defined as "doing business" though selling a house would be, though paying a license fee would not be part of the real estate transaction. Mr. Plotkin stated that a contractor is not an employee; contractors typically have their own company and pay taxes and are responsible for their own business. Ms. Foster encouraged Mr. Rodgers to ask his friends to bring ideas, concerns and issues forward.

Mr. Nelson related that when the process started, the focus was on the city of Corvallis PTF action items; since then, it was expanded to look at all the action items. He thanked the committee participants for their work. Ms. Daniels recognized Julie Manning for first broaching the idea for looking at funding PTF action items beyond just the city's portion. Mayor Tomlinson thanked the committee for its thoughtful work.

VII.ADJOURNMENT. The meeting was adjourned at 5:15 pm.



RECEIVED

MAY 12 2008

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OFFICE

9 May 2008

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Trish Daniels,  
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Corvallis Police Dept.  
Corvallis Tourism  
Corvallis-Benton Chamber Coalition  
Associated Students of OSU

Mr. Jon Nelson, City Manager  
Corvallis City Hall  
501 SW Madison Avenue  
Corvallis OR 97333

Dear Jon:

Re: Proposed Business License Fee

At their May 8th meeting, Downtown Corvallis Association Board of Directors took the following position on the proposed Business License Fee:

“The DCA Board endorses the concept of a Business License Fee, with nominal/equitable fees, and justification of the proposed fees structure before giving their final recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Pedersen".

Bruce Pedersen,  
DCA Board President

Copy: Mayor Charlie Tomlinson