



**CORVALLIS
CITY COUNCIL AGENDA**

**April 5, 2010
12:00 pm and 7:00 pm**

**Downtown Fire Station
400 NW Harrison Boulevard**

COUNCIL ACTION

PLEDGE OF ALLEGIANCE

I. ROLL CALL

II. CONSENT AGENDA [direction]

The following items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member (or a citizen through a Council member) so requests, in which case the item will be removed from the Consent Agenda and considered separately. If any item involves a potential conflict of interest, Council members should so note before adoption of the Consent Agenda.

- A. Reading of Minutes
 - 1. City Council Meeting – March 15, 2010
 - 2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Bicycle and Pedestrian Advisory Commission – February 5 and March 5, 2010
 - b. Willamette Criminal Justice Council – February 17, 2010
- B. Confirmation of Appointment to Committee for Citizen Involvement (Pierson-Charlton)
- C. Approval of an application for a "Full On-Premises Sales" liquor license for S & J Corvallis, Inc., of DK3, LLC, dba Flat Tail Brewing, 202 SW First Street (New Outlet - Brew Pub)
- D. Approval of an application for a "Full On-Premises Sales" liquor license for Adam Kakahuna, owner of Crazy Moon Hospitality Group, LLC, dba Loca Luna Restaurant and Bar, 136 SW Washington Avenue (New Outlet)
- E. Approval of an application for a "Full On-Premises Sales/Caterer" liquor license for Regina Iovino, owner of RIRC, LLC, dba Iovino's Ristorante, 1835 SE Third Street
- F. Authorization to proceed with a 2010 Local Share Grant application for Lincoln School tennis court resurfacing project

- G. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(i) (status of employment-related performance)

III. ITEMS REMOVED FROM CONSENT AGENDA

IV. UNFINISHED BUSINESS

- A. Deliberations relating to an appeal of a Land Development Hearings Board decision (VIO09-00648 – Phones Plus, Inc.) [direction]
- B. City Attorney Employment Agreement [direction]

V. MAYOR, COUNCIL, AND STAFF REPORTS

- A. Mayor's Reports [information]
 - 1. Proclamation of Arbor Month – April 2010 (immediately after Consent Agenda)
 - 2. Tree City USA awards presentation (immediately after Consent Agenda)
 - 3. Proclamation of Fair Housing Month – April 2010 (immediately after Consent Agenda)
 - 4. Proclamation of National Library Week – April 11-17, 2010
- B. Council Reports
- C. Staff Reports
 - 1. City of Corvallis Diversity and Inclusion Plan [direction]
 - 2. Council Request Follow-up Report – April 1, 2010 [information]
 - 3. Budget briefings with employees [information]

VI. VISITORS' PROPOSITIONS – 7:00 pm (*Note that Visitors' Propositions will continue following any scheduled public hearings, if necessary and if any are scheduled*) [citizen input]

VII. PUBLIC HEARINGS – 7:30 pm

- A. A public hearing to consider an appeal of a Land Development Hearings Board decision (LDO09-00016 – Smith)

VIII. & IX. STANDING COMMITTEE REPORTS, ORDINANCES, RESOLUTIONS, AND MOTIONS

- A. Human Services Committee – None.
- B. Administrative Services Committee – March 17, 2010
 - 1. Ambulance Rate Review [direction]
 - 2. Enforcement of Undeveloped Lots at SW Fairhaven Drive [information]

- C. Urban Services Committee – March 18, 2010
 - 1. Systems Development Charge Annual Review [direction]
ACTION: A resolution establishing Systems Development Charge rates, per Municipal Code Chapter 2.08, "Systems Development Charge," and stating an effective date, to be read by the City Attorney

- D. Other Related Matters
 - 1. *Second reading of an ordinance relating to busking, amending Corvallis Municipal Code Chapter 5.03, "Offenses," as amended, to be read by the City Attorney* [direction]
 - 2. *A resolution appointing Hal Harding as Municipal Judge Pro Tempore for July 4, 2010, for the purpose of performing a wedding ceremony, to be read by the City Attorney* [direction]
 - 3. *A resolution accepting a grant from the Oregon Department of Transportation (\$200,000) and authorizing the City Manager to sign all Intergovernmental Agreements with the Corvallis School District 509J and the Oregon Department of Transportation for Benton County Safe Routes to School projects, to be read by the City Attorney* [direction].

X. NEW BUSINESS

- A. eTec presentation (immediately after Consent Agenda) [information]
- B. Allocation of property taxes to the Transit Fund for Fiscal Year 2009-2010 [direction]

XI. ADJOURNMENT

For the hearing impaired, a sign language interpreter can be provided with 48 hours' notice prior to the meeting. Please call 541-766-6901 or the Oregon Communications Relay Service at 7-1-1 to arrange for TTY services.

A LARGE PRINT AGENDA CAN BE AVAILABLE BY CALLING 541-766-6901

A Community That Honors Diversity



CITY OF CORVALLIS
ACTIVITY CALENDAR

APRIL 5 - 17, 2010

MONDAY, APRIL 5

- ▶ City Council - 12:00 pm and 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

TUESDAY, APRIL 6

- ▶ Airport Commission - 7:00 am - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Human Services Committee - 12:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Downtown Parking Committee - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

WEDNESDAY, APRIL 7

- ▶ Administrative Services Committee - 3:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Planning Commission - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

THURSDAY, APRIL 8

- ▶ Citizens Advisory Commission on Civic Beautification and Urban Forestry - 8:00 am - Parks and Recreation Conference Room, 1310 SW Avery Park Drive
- ▶ Urban Services Committee - 4:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

SATURDAY, APRIL 10

- ▶ Government Comment Corner (Councilor Richard Hervey) - 10:00 am - Library Lobby, 645 NW Monroe Avenue

MONDAY, APRIL 12

- ▶ Ward 1 (Councilor O'Brien) meeting 7:00 pm - Corvallis Country Club Ballroom, 1850 SW Whiteside Drive

TUESDAY, APRIL 13

- ▶ Historic Resources Commission - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

WEDNESDAY, APRIL 14

- ▶ Citizens Advisory Commission on Transit - 8:20 am - Madison Avenue Meeting Room, 500 SW Madison Avenue
- ▶ Downtown Commission - 5:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

THURSDAY, APRIL 15

- ▶ Parks, Natural Areas, and Recreation Board - 6:30 pm - Downtown Fire Station, 400 NW Harrison Boulevard

SATURDAY, APRIL 17

- ▶ Government Comment Corner (host to be determined) - 10:00 am - Library Lobby, 645 NW Monroe Avenue

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

March 15, 2010

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Consent Agenda Pages 136-137			
New Business 1. Corvallis-to-the-Sea Trail Partnership Update 2. CAMPO 9th Street Improvement Plan Pages 137-138, 155-164	Yes		<ul style="list-style-type: none"> • Concurred Plan is consistent with LDC; no LDC text amendments are needed; removed parenthetical note from Traffic Flow Improvements Subsection F(b); accepted staff report and clarified Plan provides guidance but not criteria <u>passed U</u>
Unfinished Business 1. Planning Division Work Program Review 2. Extension of Land Use Application Expiration Deadlines Pages 138-142			<ul style="list-style-type: none"> • Approved list of priorities <u>passed U</u> • Directed staff to prepare special ordinance to extend land use approval deadlines <u>passed U</u>
Mayor's Report 1. Benton/Corvallis Enterprise Zone Expansion 2. Sustainability Fair and Town Hall Page 142	Yes Yes		
Council Reports 1. Sustainability Fair and Town Hall (Daniels, Hirsch, Beilstein) 2. Ward 2 Meeting (Daniels) 3. da Vinci Days Film Festival (Hirsch) 4. Library Atrium Mobile (Hirsch) 5. Sustainability Initiative Fee (Hirsch) 6. Animal Control Officer Position (Hirsch) 7. Weekend Events/Government Comment Corner (Raymond) 8. Ward 1 Meeting (O'Brien) 9. Behavior at Library and Central Park (O'Brien, Tomlinson, Brown, Daniels, Raymond, Beilstein) 10. NAACP Region I Conference (Beilstein) 11. COI Fundraiseir (Hervey) Pages 142-144	Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes		

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Staff Reports 1. Sustainability Annual Report 1. City Manager's Report – February 2010 2. Council Request Follow-Up Report – March 11, 2010 Pages 144-146	Yes Yes Yes		
Items of HSC Meeting of February 17, 2010 1. Municipal Code Review: Chapter 5.03, "Offenses" (Busking) Pages 146-150		<ul style="list-style-type: none"> • Ordinance second reading April 5 • Begging legislation referred to HSC 	
Items of ASC Meeting of March 3, 2010 1. Second Quarter Operating Report Page 151			<ul style="list-style-type: none"> • Accepted report <u>passed U</u>
Items of USC Meeting of March 4, 2010 1. Municipal Code Review: Chapter 1.16, "Boards and Commissions" (Airport Commission) 2. Council Policy Review: CP 07-1.10, "Advertising on Corvallis Transit System Buses" 3. Council Policy Review: CP 97-7.13, "Municipal Airport and Industrial Park Leases" Page 151			<ul style="list-style-type: none"> • ORDINANCE 2010-09 <u>passed U</u> • Amended Policy <u>passed U</u> • Amended Policy <u>passed U</u>
Other Related Matters 1. FAA Grant – Airport Facility Improvements Page 152			<ul style="list-style-type: none"> • RESOLUTION 2010-12 <u>passed U</u>
Executive Session 1. Labor Negotiations – CPOA 2. Labor Practice Complaints 3. Municipal Judge's Performance Evaluation 4. City Attorney Employment Agreement Page 152	Yes Yes Yes Yes		
Visitors' Propositions 1. Mayor's Interns' Homeless Report (Wu, Humphrey) 2. Corvallis Sustainability Coalition Update (Land Use Action Team) Pages 153-154	Yes Yes		
Public Hearing 1. Phones Plus, Inc. – Appeal of LDHB Decision Pages 164-171		Deliberations April 5	

Glossary of Terms

ASC	Administrative Services Committee
CAMPO	Corvallis Area Metropolitan Planning Organization
CM	City Manager
COI	Community Outreach, Inc.
CPOA	Corvallis Police Officers Association
FAA	Federal Aviation Administration
HSC	Human Services Committee
LDHB	Land Development Hearings Board
NAACP	National Association for the Advancement of Colored People
U	Unanimous
USC	Urban Services Committee

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

March 15, 2010

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 12:01 pm on March 15, 2010, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Tomlinson presiding.

PLEDGE OF ALLEGIANCE

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors Brown, Hirsch, Beilstein, Daniels, O'Brien, Hervey, Raymond (12:18), Brauner, Hamby

Mayor Tomlinson directed Councilors' attention to items at their places, including a letter from the League of Women Voters (LWV) regarding infill development (Attachment A); his letter to the Benton County Board of Commissioners, interested parties, and taxing jurisdictions regarding a March 30 joint informational meeting on possible expansion of the Benton/Corvallis Enterprise Zone (Attachment B); an e-mail from Councilor Hirsch regarding busking (Attachment C); and a letter from the Oregon Department of Justice regarding the City's Municipal Code provisions related to busking and begging (Attachment D).

II. CONSENT AGENDA

Councilors Daniels and Beilstein, respectively, moved and seconded to adopt the Consent Agenda as follows:

- A. Reading of Minutes
1. City Council Meeting – March 1, 2010
 2. City Council/City Planning Commission Work Session – February 22, 2010
 3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Airport Commission – February 2, 2010
 - b. Bicycle and Pedestrian Advisory Commission – February 5, 2010
 - c. Citizens Advisory Commission on Transit – January 13, 2010
 - d. Committee for Citizen Involvement – February 4, 2010
 - e. Corvallis-Benton County Public Library Board – February 3, 2010
 - f. Downtown Commission – February 10, 2010
 - g. Downtown Parking Committee – January 5, 2010
 - h. Historic Resources Commission– February 9, 2010
 - i. Housing and Community Development Commission – February 16 and 17, 2010
 - j. Land Development Hearings Board – February 17, 2010
 - k. Prosperity That Fits Committee – February 22, 2010
 - l. Watershed Management Advisory Commission – January 20, 2010
- B. Announcement of Vacancy on Parks, Natural Areas, and Recreation Board (Hohenlohe)

- C. Announcement of Appointment to Committee for Citizen Involvement (Pierson-Charlton)
- D. Confirmation of Appointment to Citizens Advisory Commission on Civic Beautification and Urban Forestry (Passmore)
- E. Schedule a public hearing for April 5, 2010 to consider an appeal of a Land Development Hearings Board decision (LDO09-00016 – Smith)
- F. Schedule a public hearing for April 19, 2010, to consider the Fiscal Year 2010-2011 CDBG/HOME Investment Partnerships Program action plan
- G. Authorization to enter into and for the City Manager to sign an Intergovernmental Agreement with Benton County Health Department for the Healthy Kids, Healthy Communities initiative
- H. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d)(h)(i) (status of labor negotiations; status of pending litigation or litigation likely to be filed; status of employment-related performance)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA – None.

X. NEW BUSINESS

- A. Corvallis-to-the-Sea Trail Partnership update (Gary Chapman)

Gary Chapman, President of Corvallis-to-the-Sea Trail Partnership (C2CTP), noted that he introduced the Partnership to the Council four and one-half years ago. He briefed the Council of the background of the C2CTP project and recent project activities:

- March 2003 – C2CTP was established by citizens of Corvallis, Philomath, Newport, and Waldport to pursue previous Siuslaw National Forest (SNF) and Bureau of Land Management efforts to develop a non-motorized trail from Corvallis to the Pacific Coast. Previous efforts were impeded by difficulties obtaining agreements to cross privately owned lands to access Federally owned lands.
- Volunteers invested 15,000 hours in the project, including more than 100 expeditions seeking routes through the Coast Mountain Range, 80 monthly meetings, more than 100 presentations, and informational meetings with property owners and interest groups.
- Four and one-half years ago – Mr. Chapman requested using Old Peak Road through the Corvallis Watershed.
- December 2006 – The Council approved the Corvallis Forest Stewardship Plan, which authorized C2CTP to use Old Peak Road.
- October 2007 – C2CTP received the last approval from private property owners along Old Peak Road to use the Road as a segment of the trail.
- May 2009 – C2CTP received 501(c)(3) status as a non-profit organization.
- July 2009 – C2CTP received approval from a private property owner at the Coast, allowing the organization to leave the last remaining segments of SNF land and reach

public right-of-way land. Two large timber companies denied access to their land, so the trail will end at Ona Beach, rather than South Beach.

- October 2009 – SNF committed to including the environmental assessment in its Fiscal Year 2011 work plan. C2CTP will submit its final plan to SNF by June 30, 2010; and SNF will conduct the assessment.
- C2CTP is awaiting land access approval from Oregon State University (OSU) College of Forestry; OSU is awaiting completion of the environmental assessment of the project.
- C2CTP requested from the Cities of Corvallis and Philomath, Benton and Lincoln Counties, and Oregon Department of Transportation (ODOT) tentative approval to use public rights-of-way and designate them as portions of the C2CTP route. This would include the Corvallis-to-Philomath bicycle path and sidewalks and bicycle paths from Benton County Fairgrounds to the aforementioned bicycle path. The C2CTP would also utilize County roads. One of the most difficult trail segments includes two, albeit less-desirable, options through downtown Philomath to Old Peak Road.
- Spring 2010 – C2CTP is finalizing approximately 20 miles of trail segments on National Forest Service land, including discontinued, overgrown logging roads.
- If the environmental assessment does not prompt any concerns, C2CTP will seek grant funding and assistance to develop the trail, install signage, and print maps and materials.

Mr. Chapman noted the C2CTP Web site (www.c2ctrail.org).

In response to Councilor Hervey's inquiry, Mr. Chapman said camping is only allowed on SNF land, which encompasses 23 to 24 miles of the 60-mile trail. The C2CTP recognized a need for camping accommodations with water availability at 10- to 14-mile intervals along the trail route and located four camping areas.

Councilor Daniels thanked Mr. Chapman for his work on the C2CTP project.

IV. UNFINISHED BUSINESS

A. Planning Division work program review

Community Development Director Gibb said the staff report summarizes discussions of the February 22 joint work session of the Council and the Planning Commission, based upon the Commission's earlier recommendations. The report outlines proposed direction, including nine work items that would be addressed during the next few months, if staffing time allows. He acknowledged that not all work program tasks can be completed during the next year or so, but the report provides some guidance in planning work efforts.

Mr. Gibb said the staff report also cites Council directions staff would like confirmed, including that work on the Buildable Lands Inventory would be postponed and that staff would present to the Council information regarding the concept, potential scope of work, and process for the suggested infill development task force. Issues related to the task force include the amount of work that can be accomplished without staff support, the amount of staff support that would be needed, the scope of work, and the capacity of the task force in relation to the City's efforts. Staff will meet this week with interested parties who proposed the task force and will provide additional information to the Council. Work tasks with

greater priority will receive additional attention, but staff would like flexibility to combine tasks to best utilize City resources.

Mr. Gibb confirmed for Councilor Hervey that the idea of removing a planned development overlay at the South Corvallis town center site would be addressed in the normal course of land use actions.

In response to Councilor Beilstein's inquiry, Mr. Gibb said staff intended that the work tasks were listed in the staff report in priority ranking. It may be possible to complete some tasks earlier because of related work that has been done.

Councilor Beilstein noted that the infill development task force generated much interest among Ward 5 residents. In response to Councilor Beilstein's question, Mr. Gibb said he had not seen the LWV's letter and proposal. Staff planned to meet with people who presented the task force idea to the Planning Commission to determine the scope and priorities of the task force. He does not know the LWV's desires.

Councilor Beilstein quoted from the LWV's letter that it supported formation of a citizen task force to address the issue of infill and the LWV's suggested task force composition.

Mr. Gibb responded that staff will present information in response to the LWV's letter, as the suggested task force represents an extensive work effort and considerable time investment by staff, the Planning Commission, the Council, and citizens.

(Councilor Raymond arrived at this time.)

Councilors O'Brien and Daniels, respectively, moved and seconded to approve the list of Planning Division work program priorities, as presented in the March 10, 2010, memorandum from Community Development Director Gibb. The motion passed unanimously.

B. Extension of land use application expiration deadlines

Mr. Gibb explained that the Prosperity That Fits (PTF) Steering Committee requested that the Council consider extending land use approval expiration deadlines because of the current economic conditions. The staff report outlines a variety of deadlines for different types of land use approvals. Several approved projects have deadlines within the next 18 months.

Mr. Gibb noted that the economic situation has slowed construction, making it difficult for some development projects to proceed. Residential developments are at one-third the typical pace, and commercial projects have decreased; this situation has been discussed locally and statewide. The Oregon Legislature did not approve mandating extension of land use approval deadlines. Several Oregon cities (including Albany, Ashland, and Bend) approved extending land use approval deadlines to deal with local economic conditions. The extensions give applicants more time to implement developments and avoid the time and uncertainty of repeating the land use application review process. Extending the

deadlines would avoid the investment of Council, Planning Commission, and staff time on reviewing re-submission of an application.

Mr. Gibb noted that expirations were established to ensure that land use approvals do not remain idle, especially under previous development standards. Staff proposed that any extension of approvals be for a limited duration. Staff presented two considerations:

1. The extension should be based upon the current economic conditions and be a one-time extension; and
2. The extension should be a simple, across-the-board approach. For example, all land use approvals scheduled to expire by December 31, 2011, would be extended one year, in addition to any extension available under current Land Development Code (LDC) provisions.

Staff and the City Attorney's Office suggested two ways of extending land use approval deadlines:

1. Initiate a LDC text amendment process. This would involve Planning Commission and City Council public hearings and, later, a separate LDC amendment to repeal the ordinance provisions.
2. Consider a special ordinance providing for a one-time, limited-duration extension of land use approval expiration deadlines. The Council could seek Planning Commission comments and conduct a public hearing prior to taking action on the ordinance.

Councilor Hamby asked why staff recommended a one-year, rather than a two-year, deadline extension and why only some land use approvals would be eligible for the extension.

Mr. Gibb clarified that the extension would apply to land use approvals expiring by December 31, 2011, resulting in some approvals being extended more than one year from now. Staff did not want to extend approvals too long because of concerns and reasons for approval expiration deadlines. Some land use projects have exercised approval extension opportunities under the applicable LDC.

Councilor Hervey noted that the extension would apply to development projects that had not broken ground because different regulations become effective when development begins.

Mr. Gibb responded that the situation Councilor Hervey described exists, as building permits are issued but can be extended upon specific circumstances. Building permit expirations are more flexible and are based upon different timelines.

Councilor Daniels noted that the staff report addressed only residential developments, and she asked whether other types of developments might be eligible for deadline extensions.

Mr. Gibb responded that the staff report chart was provided for illustration purposes and included a notation that several other land use approvals may expire by December 31, 2011; the chart lists only the significant residential development approvals. He confirmed that staff can provide the Council a full list of all land use approvals that would be eligible for a Council-approved extension. Some applications may be implemented before their approval expirations, but several are subject to expiration by December 31, 2011.

Councilor Beilstein observed that the approval deadline extension is being considered because developers are having difficulty obtaining financing in the current economic environment. It is unknown when the economic condition might improve and financing will be available. He questioned Council members' views of possibly considering another extension at the end of 2011 and having approved developments remain incomplete until the economy recovers over an unknown period of possibly several years.

Mr. Gibb noted that each land use case has different circumstances, and it is difficult to know when the economic environment will change. Not all of the approved development projects will be ready to break ground by the end of 2011 or 2012, but extending the approval deadline would give developers more time to obtain financing.

Councilor Raymond inquired about a situation of a development being delayed because of financial difficulties and another developer being interested in developing the property, yet the opportunity is missed because the original development deadline is extended.

Mr. Gibb explained that an existing approval that was still active could be assumed by another developer, with the approval deadline associated with the development plan. The subsequent developer could request a change in the subdivision, planned development, or other land use approval. At any time, anyone can proceed with an approved land use application or seek amendments to the plan.

Councilor Brauner opined that the special ordinance seemed the better of the two options staff presented. Amending the LDC would require two actions and would leave the extension in effect until the Council formally rescinded the extension. A special ordinance would require one action to clearly state a one-time extension. Another extension could be considered but would not become automatically effective. He believes the issue is based upon the general economy, rather than whether a specific developer is having difficulty obtaining financing. He would consider another extension, based upon the general economy, rather than individual project financing situations. He suggested that the Council consider a special ordinance for a one-year extension of land use approvals, following review by the Planning Commission.

Councilor Daniels concurred. She surmised that new applications would not be eligible for the one-year extension. Mr. Gibb confirmed, adding that staff would not recommend making the ordinance retroactive.

Councilor Raymond noted that staff recommended a public hearing prior to action on the ordinance but not focused on specific properties. She asked what a citizen could do if they objected to a specific land use approval being extended.

Mr. Gibb said staff recommended a "blanket" approach to the land use approval extension, with the ordinance applicable to all existing applications.

Councilor O'Brien concurred with Councilor Brauner and said he would like to proceed with the option of an ordinance.

Councilors Hamby and Brauner, respectively, moved and seconded to direct staff to prepare a special ordinance to provide for a one-time, limited-duration extension of land use approval expiration deadlines, with a public hearing prior to Council action on the ordinance.

Mayor Tomlinson noted that Planning Commission input would be solicited prior to the Council's public hearing of the ordinance. He clarified for Councilor Raymond that the motion indicates that the Council would conduct a public hearing and consider an ordinance, which has not been prepared.

The motion passed unanimously.

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Tomlinson referenced his letter regarding the March 30 informational meeting concerning possibly expanding the Benton/Corvallis Enterprise Zone. The letter, a tentative meeting agenda, and a map were mailed March 12 to property owners, tenants, and taxing jurisdictions.

Mayor Tomlinson estimated that more than 500 people attended the March 11 Sustainability Fair and Town Hall. He was impressed with the continued enthusiasm and commitment of volunteers who have worked on the community's sustainability initiatives over the past three years. He expressed pride in the people involved in the efforts and noted many City staff members at the event. Town Hall attendees expressed support for a fareless transit system.

B. Council Reports

Councilor Daniels noted that Public Works Administration Division Manager Steckel and Sustainability Supervisor Lovett staffed an energy table at the Sustainability Town Hall. She, Mayor Tomlinson, Councilor Brown, and Mayor Tomlinson's intern Julia Michaels staffed an energy table at the Sustainability Fair, with a display Ms. Michaels created. The display included opportunity for attendees to participate in a straw-poll and indicate sustainability topics they would like the next Council to focus on; topics of greatest interest were food and economic development.

Councilor Daniels reported that the March 9 Ward 2 meeting was very successful and elicited many good comments from attendees. She thanked David Livingston for providing the Depot Suites for the meeting, City Manager's Office Management Assistant Holzworth for coordinating the meeting logistics, and City Manager Nelson and other City staff members for their support at the meeting.

Councilor Hirsch reported that the da Vinci Days Film Festival March 13 and 14 attracted many people and included a good selection of films. He commended the people involved in coordinating the Festival.

Councilor Hirsch reported that the Public Art Selection Commission met recently to narrow its selection of an artist to create a mobile for the Library atrium. The Commission selected four artists to submit additional ideas for the artwork.

Referencing the successful Sustainability Fair and Town Hall, Councilor Hirsch said it was nice to be part of a community that places a high value on sustainability.

Councilor Hirsch reported that Public Works staff began the process of presenting the Sustainability Initiative Fee (SIF) to the City's advisory boards, commissions, and committees. Administrative Services Committee will conduct a public hearing April 21 and render a decision May 5. He encouraged citizens to learn the benefits of the SIF.

Councilor Hirsch reminded Council members of community concerns regarding retaining the animal control officer position. Citizens are concerned that the position will end with Officer Wendland's upcoming retirement

Councilor Raymond noted the number and variety of community events every weekend. Most of the people who visited her during Government Comment Corner March 6 had positive comments and opinions, which she forwarded to staff for follow-up action.

Councilor O'Brien announced a Ward 1 meeting April 1 at Corvallis Country Club, during which he will accept constituent feedback and respond to questions.

Councilor O'Brien read a prepared statement and submitted written notes, an excerpt from the February 3 Corvallis-Benton County Public Library Board meeting minutes, and letters to the editor of the *Corvallis Gazette-Times* regarding behavior outside the Library and in Central Park (Attachment E). He asked staff to provide information regarding what staff can do to address the threat to public safety and livability in and around the Library and Central Park, other remedies available to reduce the undesired behavior, and Council actions or policies that could assist staff in dealing with the situation. He asked that the situation be closely monitored to ensure that it does not worsen.

Mayor Tomlinson said several citizens expressed concerns to him regarding the Library and Central Park. He does not know the solution, but he is aware of extensive concerns.

Councilor Brown opined that Corvallis is a polite community, but the City is dealing with different types of impolite behavior. Libraries and parks are very important for young children, retired people, tourists, and people without finances or access to private facilities. He supports Councilor O'Brien's request.

Councilor Daniels concurred and thanked Councilor O'Brien for requesting additional information. She supports freedom of speech on public sidewalks; however, it is unacceptable when freedom of speech intimidates senior citizens and people with small children to the point they are afraid to access public facilities.

Councilor Raymond concurred. She reminded the Council that parks must be used to keep them usable. She visited Central Park yesterday and observed 15 families using the parks, along with people using the park in an undesirable manner. She observed similar

circumstances at the Library. She noted that many teenagers and adults in the community do not have homes. The cold-weather shelter will close today, resulting in more problems from people without homes. She does not want the Library to serve as a "home," but the situation must be discussed.

Councilor Beilstein said he was impressed with the public participation in the Sustainability Fair.

Councilor Beilstein announced that the National Association for the Advancement of Colored People Region I (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, Washington, Japan, and Korea) will conduct a conference in Corvallis March 26 through 28. Many of the conference events are open to the public.

Councilor Beilstein noted that many of the teenagers who are observed outside the Library participate in Library programs. He acknowledged behavior problems in the Library, which staff has addressed. He is happy that teenagers find the Library and Central Park attractive. The Library and parks provide services to all members of the community, and the community must be vigilant about behavior to ensure that the facilities do not become unpleasant places.

Councilor Hervey referenced the March 14 fund-raiser event for Community Outreach, Inc. The event was scheduled for two hours, but the soup was gone within one hour. He hopes the event was successful in raising funds for the agency and that next year's event will be more successful.

C. Staff Reports

1. Sustainability annual report

Ms. Lovett announced that Scott Dybvad, director of Green Town at daVinci Days, was hired as the Sustainability Program Specialist, effective March 16.

Ms. Lovett distributed additional information regarding the sustainability annual report (Attachment F). The additional information outlines energy projects, incentives, estimated savings, and estimated paybacks. The Osborn Aquatic Center (OAC) boilers were performing better than anticipated. The City pays for electricity for traffic signals, ODOT replaced three of its traffic signals during 2009, and the new light-emitting diode (LED) signals will require less electricity. All City-owned traffic signals were converted to LED signals approximately three years ago.

Ms. Lovett noted that staff initiated some projects through their daily activities; some projects are small but have large cumulative effects, including improving efficiencies.

The City's annual sustainability report cost almost \$3,000 because of external consulting assistance to utilize software, enter data, and prepare calculations. The \$3,000 includes the City's \$1,200 ICLEI membership, which included software access. The City will reap future benefits from the investment. Ms. Lovett stressed

the importance of the City preparing for State and Federal legislation, such as reporting of large emissions. Building projects and staff's emphasis on sustainability in operations are investments in the community's future.

Councilor Beilstein asked if the City could receive greenhouse gas credits through development of the city forest.

Ms. Lovett clarified that the annual report covered the greenhouse gas inventory. Staff hopes to develop this year a more-extensive report of the inventory, actions being taken, and possible offsets. Public Works staff has an inventory of the forest to quantify a possible offset. The forest may not be at a level that the City can receive an offset credit.

Councilor Beilstein noted that the largest source of City greenhouse gas emissions is buildings and facilities, which is also the source of the greatest gains.

Ms. Lovett said she hoped to see greater energy savings or gains in greenhouse gas emissions from buildings and facilities. The Library and OAC have significantly decreased energy consumption during the past year from installation of new heating systems.

Councilor Daniels commended Ms. Lovett and City staff for their efforts toward organizational sustainability. She looks forward to the community progressing toward inventorying greenhouse gases and reducing its environmental impact while reducing energy expenditures.

In response to Councilor Hervey's inquiry, Ms. Lovett said the annual report will be posted to the City's Web site, with a related announcement in *"the City"* newsletter. The report will also be posted to the Corvallis Sustainability Coalition's listserve. Staff is considering a visual means of presenting the report via public-access cable television.

Councilor Raymond commended staff for reporting on sustainability activities and determining gains.

2. City Manager's Report – February 2010

Mr. Nelson reported that he received positive feedback regarding the monthly City Manager's Highlights report. He thanked Assistant to City Manager/City Recorder Louie for facilitating preparation of the report without additional staff work.

3. Council Request Follow-up Report – March 11, 2010

Mr. Nelson reviewed issues addressed in the Report.

Mayor Tomlinson recalled that staff spoke to the Mayor and Council Leadership during 2006 regarding difficulties in completing the Riverfront Commemorative Park (RCP) signs. A goal was established to complete the signs for the City's 150th

birthday in 2007; the goal was not achieved. Staff approached the Council again during 2008 regarding the same concern. Councilor Daniels developed a plan to have the signs completed by the end of 2009; one sign was completed and installed near the Renaissance on the Riverfront building. A citizen spoke to the Council this year about the lack of signage. Mayor Tomlinson opined that the Council may need to adopt the project and have staff complete the work. He said he has been continuously disappointed that the signs have not been completed.

VIII. & IX. STANDING COMMITTEE REPORTS AND ORDINANCES, RESOLUTIONS, AND MOTIONS

A. Human Services Committee – February 17, 2010 (update)

1. Municipal Code Review: Chapter 5.03, "Offenses" (Busking)

Councilor Beilstein reported that the Committee recommended minor amendments to the Municipal Code regarding begging, specifically eliminating the restriction on the number of people who could participate in one busking performance. If other legislative provisions regarding noise and obstruction were met, the number of participants may not be important; however, larger groups may be more prone to creating noise and obstruction problems. The Committee also recommended amending the Code to indicate the correct location of a restroom in RCP.

City Attorney Fewel read an ordinance amending Corvallis Municipal Code Chapter 5.03, "Offenses," as amended.

Councilor Beilstein referenced the letter from the Oregon Department of Justice, distributed today (Attachment D), which does not provide a recommendation but does apprise the Council of case law and constitutional issues. He noted that the Council delayed action on the issue, pending input from the Department of Justice; however, he did not find the input helpful in making a decision.

Councilor Beilstein said he supported minor amendments to the legislation, believing the busking provisions were not enforceable and that a Municipal Court conviction would require someone to overtly beg. During the Committee's discussions, Deputy City Attorney Brewer offered to provide language specifying types of behavior that would be acceptable and unacceptable.

- Acceptable busking behavior: An open instrument case, cup, or hat into which people could place voluntary monetary donations.
- Unacceptable busking behavior: A sign requesting monetary payment, asking verbally for money as not part of the performance, or passing a container for people to place their donations.

Councilor Beilstein said he declined Mr. Brewer's suggested language because he believed the prohibition was unenforceable, so codifying the situation under which it would be enforceable, with clear evidence of begging, was not necessary.

Councilors Hirsch and Hervey, respectively, moved and seconded to amend the ordinance to allow buskers to place a receptacle to passively accept a donation when offered.

Councilor Hirsch opined that free speech was not the issue, as people could perform anywhere, provided they did not violate nuisance laws or did not perform in a park where a permit was required, and place a receptacle for acceptance of donations. Busking is allowed in RCP. The ordinance does not address begging, which is a separate issue and should be discussed separately. He considered the amendment a compromise to address citizens' concerns. The amendment may or may not encourage busking but, hopefully, will not encourage begging. The Council does not want to encourage active solicitation. The passive act of accepting monetary donations while expressing free speech seems to be an acceptable compromise.

Councilor Daniels noted that a Committee motion that would have accomplished the same objective died for lack of a second. Therefore, Councilor Hirsch's amendment does not coincide with the Committee's recommendation.

Councilor Daniels further noted that the Council had not had opportunity to review the Department of Justice's opinion, which was distributed at the beginning of today's meeting. She considered it premature to take actions beyond the Committee's recommendations until the opinion is reviewed and discussed. She was comfortable supporting the ordinance as the Committee's recommendation; any action that would complicate the issue regarding the Attorney General's concerns or the begging prohibitions seemed inappropriate. She suggested that the amendment be postponed until the Council could review the opinion.

Councilor Hirsch declined Councilor Daniels' suggestion.

Councilor Brauner referenced from the meeting packet Mr. Brewer's memorandum to Councilor Hirsch regarding busking language, which outlined some options for the Council's action. Councilor Brauner requested clarification of the options.

Councilor Hirsch said he requested from Mr. Brewer language "to passively accept a donation when offered," which would be the subject of his amendment to the proposed ordinance.

Mr. Brewer confirmed that the referenced language set out in his memorandum was the subject of Councilor Hirsch's motion. Other suggested language in his memorandum pertained to begging and other activities.

Councilor Hirsch confirmed that his motion would amend the ordinance by adding the following language:

"For the purposes of this Section 3, 'accepting alms or charity in or upon a public place' does not mean collecting alms or charity in a suitable container which the performer does not physically pass to the audience."

Councilor Brauner expressed support for the amendment. In response to Councilor O'Brien's inquiry, Councilor Brauner clarified that the language options stated earlier in Mr. Brewer's memorandum referred to begging. The quoted language pertains only to busking and clarifies that accepting alms and charity is not considered begging, which is the substance of the proposed ordinance amendment.

Councilor Beilstein said he recently learned that Corvallis Police Officers are concerned about having an unenforceable ordinance, leaving them with a decision of whether to enforce the ordinance. Some Officers would prefer not having an ordinance. He would like an ordinance amendment that clarifies when a violation occurs. He expressed his understanding that busking is not a violation, unless the performer passes a container to the audience, expecting receipt of donations. Mr. Brewer confirmed.

Councilor Brauner added that other provisions of the Municipal Code state that verbally asking for money constitutes a violation. The amendment before the Council pertains to whether the presence of an open container constitutes begging. Passing a container would constitute begging; having a container accessible to the audience would not constitute begging. Any requests for money, whether verbal or written (such as a sign) would constitute begging, despite the proposed ordinance amendment regarding busking. Mr. Brewer confirmed.

Councilor Hervey expressed support for the ordinance and the amendment. He observed that the Council's discussions have addressed actions that were legal or illegal, and he questioned whether such discussions best served the community. He believes it would be better to discuss the situation of an activity in a public environment that may impact businesses or attract people to areas of the community because of a desirable experience. He believes it would be better for the Council to discuss how to make the overall situation best work for everyone, rather than the narrow conversation of what can be legally done. He would like the Arts and Culture Commission to thoroughly and systematically review the issue to determine the best ways to meet the needs of Downtown businesses and the community.

Councilor Brown said he was generally satisfied with the existing legislation and would like to leave it unchanged to avoid unintended consequences. He noted that the Council did not discuss the fact that the Committee received communications from representatives of the business community, which supported not changing the legislation. The Committee did not discuss whether the law is enforceable.

Councilor Brown supports the City's ability to regulate commercial activity, including busking, which involves monetary transactions on public property. The City assesses a fee to businesses for use of public property, such as sidewalk cafés. If other people want to use public property for commercial purposes, the City should be able to assess a similar fee. He believes the alternative to the current scenario is full regulation, including rents and licensing. Allowing commercial activity on public property for free could create problems.

Councilor Raymond agreed with Councilor Daniels that the issue was becoming very complicated. She said only a few people want to have the privilege of busking. She considers the issue a citizen request to expand the busking area. She wanted no legislation regarding busking and wanted to allow it wherever a performer chose to entertain the public. Specifying where and when people can busk requires laws and enforcement.

Councilor Raymond said she measured various areas along NW/SW Second Street and found no location where someone could busk without being within ten feet of a public doorway. She believes the greater problem involves someone being a nuisance while busking or begging. The City has laws involving begging and nuisances; however, she believes the existing busking laws are illegal, as stated in a letter from the American Civil Liberties Union and in statements from two attorneys.

Councilor Raymond said she would support eliminating any ordinance involving begging or busking.

Councilor Hervey said he researched the Internet and found a wide range of approaches other cities take regarding busking. Larger cities can afford to have staff time devoted to administering and enforcing busking laws. He noted that Downtown Commission and Human Services Committee minutes indicated non-unanimous decisions and moderate support for retaining the current laws or taking an alternate action. The Committee had a thorough conversation involving various opinions. He supports the proposed amendment to the ordinance recommended by the Committee and forwarding the amended ordinance to the Arts and Culture Commission. He believes the community would be better served through a broader review of the issue by people with ability to balance various needs.

Councilor Brauner concurred with Councilor Hervey's suggestion that the Arts and Culture Commission review the issue of public entertainment. He acknowledged that the City regulates commerce and that begging involves asking for money. The proposed amendment would indicate that entertainment with no clear request for money has always been legal, provided noise and nuisance laws are obeyed. Entertainment with the presence of a receptacle for money or asking for money becomes begging, which is a commercial activity. The proposed ordinance amendment would eliminate from the definition of begging the passive act of having a receptacle available for monetary donations, so busking would become an entertainment act and not a commercial activity. This would maintain consistency in the City's position of regulating commercial activity. The proposed amendment would not allow begging everywhere in Corvallis, and he would oppose such action.

Councilor Hirsch confirmed for Councilor Daniels that his proposed amendment would only address the issue of a receptacle for voluntary monetary donations and would not change the location where busking is allowed.

Councilor Hirsch said he did not want to encourage begging. Nuisance behavior is and should be enforceable. He does not believe the proposed amendment would

encourage begging, but it would encourage people who want to exercise their right of free speech and perform in the community. He believes the City should regulate commercial activity and any other activity that is enforceable, such as nuisances. He further believes that the proposed amendment represents a compromise that will meet the community's needs.

Mr. Brewer clarified that, under the proposed ordinance amendment, busking without restriction would be allowed within RCP. In other areas the activity would not be considered busking because it is not considered begging if someone had a container open next to them. Previously, people could perform in public rights-of-way but were not been able to accept money while doing so. This aspect would change under the proposed amendment. The amendment would define solicitation for purposes of entertainment as not including a receptacle to receive money anywhere in the city.

Mr. Brewer clarified for Councilor O'Brien that having or passing a receptacle for voluntary monetary donations would be allowed in RCP; similar actions elsewhere in Corvallis would be illegal.

In response to Councilor Raymond's inquiry, Councilor Brauner said the ordinance amendment would not affect scenarios of people collecting money for charity and offering something in exchange in other public areas.

Councilor Brown opined that today's discussion involved the relationship of busking and begging. It is legal to entertain people anywhere in Corvallis, within the provisions of the City's noise and public access laws. A receptacle for monetary donations is the crux of the difference between busking and begging. David Picray's letter to the Council outlines the relationship of busking and begging. A container can implicitly or explicitly request monetary donations, which can be characterized as begging or commercial activity.

The motion to amend the ordinance passed five to four on the following roll call vote:

Ayes: Hirsch, Beilstein, Hervey, Raymond, Brauner

Nays: Brown, Daniels, O'Brien, Hamby

The ordinance passed eight to one, with Councilor Hamby opposing, and will be read a second time at the April 5 Council meeting.

Councilor Beilstein commented that he had not had opportunity to review the letter from the Oregon Department of Justice. He believes the City's begging legislation may not be fully constitutional, so the Council may desire to explore the issue, get advice from the City Attorney's Office and other attorneys in the community, and consider a recommendation. He suggested that the issue be added to the Committee's schedule.

B. Administrative Services Committee – March 3, 2010

1. Second Quarter Operating Report

Councilor Brauner reported that all financial activity is as expected. Tax collections are less than had been budgeted but in line with revised expectations. Other revenues and expenses are as planned.

Councilors Brauner and Hirsch, respectively, moved and seconded to accept the second quarter operating report. The motion passed unanimously.

C. Urban Services Committee – March 4, 2010

1. Municipal Code Review: Chapter 1.16, "Boards and Commissions" (Airport Commission)

Councilor Daniels reported that the Committee recommended amending the Corvallis Municipal Code to allow formation of subcommittees and task forces to enable the Airport Commission to conduct its work.

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapter 1.16, "Boards and Commissions," as amended.

ORDINANCE 2010-09 passed unanimously.

2. Council Policy Review: CP 07-1.10, "Advertising on Corvallis Transit System Buses"

Councilor Daniels reported that the Committee recommended broadening the Policy description of adult products not allowed for advertising on Corvallis Transit System buses. The amendment would encompass all types and formats of adult media available currently or in the future.

Councilors Daniels and Hervey, respectively, moved and seconded to amend Council Policy CP 07-1.10, "Advertising on Corvallis Transit System Buses." The motion passed unanimously.

3. Council Policy Review: CP 97-7.13, "Municipal Airport and Industrial Park Leases"

Councilor Daniels reported that the Committee recommended updating the Policy to be consistent with City Charter language regarding anti-discrimination.

Councilors Daniels and Hervey, respectively, moved and seconded to amend Council Policy CP 97-7.13, "Municipal Airport and Industrial Park Leases." The motion passed unanimously.

D. Other Related Matters

1. A resolution accepting a grant from Federal Aviation Administration (\$80,000) for airport facility improvements and authorizing the City Manager to sign grant agreements

Mr. Nelson noted that the subject grant requires a financial match from the City.

Mr. Fewel read a resolution accepting a grant from Federal Aviation Administration (\$80,000) for airport facility improvements and authorizing the City Manager to sign grant agreements.

Councilors Hamby and Daniels, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2010-12 passed unanimously.

Mayor Tomlinson read a statement, based upon changes in Oregon laws regarding executive sessions. The statement indicated that only representatives of the news media, designated staff, and other Council-designated persons were allowed to attend the executive session. News media representatives were directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions would be made during the executive session. He reminded Council members and staff that the confidential executive session discussions belong to the Council as a body and should only be disclosed if the Council, as a body, approves disclosure. He suggested that any Council or staff member who may not be able to maintain the Council's confidences should leave the meeting room.

The Council entered executive session at 1:52 pm.

Assistant City Manager Volmert briefed the Council regarding the status of pending labor negotiations with Corvallis Police Officers Association.

Ms. Volmert briefed the Council regarding unfair labor practice complaints filed with management.

The Council and Municipal Judge Donahue conducted Judge Donahue's annual performance evaluation.

The Council discussed a new employment agreement with Mr. Fewel for services as the City Attorney.

Mayor Tomlinson recessed the Council at 2:30 pm and reconvened the Council at 7:01 pm in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon.

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors Hirsch (7:03), Beilstein, Daniels, O'Brien, Hervey, Raymond, Brauner, Hamby

ABSENT: Councilor Brown

VI. VISITORS' PROPOSITIONS

A. Mayor's Interns' Homeless Report

Evan Wu and Alex Humphrey, Crescent Valley High School seniors, reviewed their report regarding gaps in the path from homelessness. The community's many resources, offered by churches and agencies, could be enhanced through coordination of efforts. Unemployment is the fundamental cause of homelessness and is exacerbated by mental illness, disability, and chemical addiction. They identified two groups of resources for each step of the path from homelessness: resources providing universal necessities and resources helping homeless people overcome individual barriers. The first group of resources is solid in the community. Homeless people may be able to sustain themselves at a place along the path from homelessness but may be unable to advance toward employment and housing.

Mr. Wu and Mr. Humphrey identified four key gaps that the community should focus on in addressing homelessness:

1. Lack of a medical detoxification center in or near Corvallis.
 - Many members of the local homeless population have drug and alcohol addictions.
 - Addiction impedes advancement to employment and housing.
 - Many local shelters deny admission to people under the influence of drugs or alcohol.
 - The nearest medical detoxification center is in Eugene, which is not readily accessible or financially feasible for Corvallis' homeless population.
 - COI has a residential drug and alcohol treatment program and a health clinic but is not a medical facility and cannot administer detoxification services. COI requires five days' sobriety before admission to the facility.
 - Benton County's ten-year plan for ending homelessness should place more emphasis on the need for a detoxification center in Corvallis.
2. Lack of free legal advocacy, particularly for Social Security Administration disability benefits.
 - Homeless people need legal advocacy.
 - Local, state, and federal programs are available for homeless people, but advocates with legal expertise are needed to help them through the associated bureaucracy.
 - The City needs a legal advocate to work with homeless people and connect them with services, ensuring receipt of resources from all sources.
3. Lack of a program in the Benton County Corrections Facility to help released inmates return to the workforce.
 - Providers of services for homeless people reported an increase in clients (at least 60 percent of America's homeless population) who were incarcerated.
 - Incarceration is often cyclical – homeless people are continuously in and out of jail.
 - Repeat incarceration of Corvallis' homeless population can be attributed to a general lack of preparation for discharge or aftercare assistance.
 - Many people are released from jail directly to the street because of a lack of transitional housing.
 - Benton County's ten-year plan to end homelessness should include emphasis on reintegrating recently released inmates, including developing in-jail programs to prepare inmates for release and developing more transitional housing.
4. Lack of a street-level outreach worker directly connecting with the homeless population.

- The Council should pursue the proposal for an outreach worker to work directly with homeless people.

Mr. Humphrey suggested that many of their recommended actions could be funded through the City's Community Development Block Grant, private donors, and agency budgets.

Councilor Raymond noted the increasing difficulty in funding programs for homelessness. She asked whether Mr. Wu and Mr. Humphrey explored the Housing First model, whereby homeless people are provided housing so they can address medical issues and obtain employment.

Mr. Wu said Community Services Consortium endorses the Housing First model, and he and Mr. Humphrey concur. They want to be sure that all existing community resources are utilized.

Councilor Raymond noted that a homeless person died during a period of cold weather this winter. The cold-weather shelter will close tonight for the season. She believes that not all necessary services are provided.

Councilor Beilstein concurred that a career re-integration program for jail inmates is important. He noted that Benton County has the smallest jail per capita in Oregon; the jail should be twice its current size. The Benton County Sheriff's Office cannot establish many programs at the jail because of a lack of space to house more inmates. He noted that inmates are released according to a matrix because of crowding conditions, and they often have few follow-up services beyond monitoring. A larger jail would enable the Sheriff's Office to provide more services.

Mayor Tomlinson thanked Mr. Wu and Mr. Humphrey for their report and recognized their parents in the audience.

B. Corvallis Sustainability Coalition update

Susan Morr  and Daniel Dalton of the Corvallis Sustainability Coalition's Land Use Action Team briefed the Council regarding the Team's vision, goals, projects, and activities. They distributed copies of the neighborhood inventory forms that will be used to assess amenities, walkability, and bikeability of Corvallis' various neighborhoods (Attachment G).

Councilor Beilstein noted that, when the City introduced the pedestrian-oriented design standards, the Council considered community livability issues, such as whether the new standards would increase commuting times. He believes the database derived from the inventories will be a good starting point for achieving the goals of a compact and livable city.

Ms. Morr  added that the results of the neighborhood inventories may be beneficial in grant applications for projects through the Public Works Department or Benton County Health Department.

X. NEW BUSINESS – Continued

B. Corvallis Area Metropolitan Planning Organization 9th Street Improvement Plan

Staff Overview

Senior Planner Potter reported that the Corvallis Area Metropolitan Planning Organization (CAMPO) submitted to the City a letter and draft 9th Street (9th) Improvement Plan (Plan) after receiving a Transportation Growth Management grant from ODOT. The Plan includes many recommendations for the portion of 9th from NW Polk Avenue (Polk) to NW Elks Drive (Elks). CAMPO asked staff to review the plan in relation to the City's Comprehensive Plan, LDC, and Transportation Plan to ensure that no aspect of the City's land use documents would prohibit implementation of Plan recommendations. Staff reviewed the Plan and determined that the Plan could be implemented without amendments to the City's land use documents. CAMPO would like the Council to concur that the Plan is consistent with the LDC and no LDC amendments would be needed to implement the Plan recommendations; remove a parenthetical phrase regarding traffic improvements; and accept the March 5, 2010, staff report to the Council and clarify that, to the extent the recommended improvements in the Plan provide guidance, they can be used to inform decision makers regarding future projects. The Plan would not be used to establish standards or specific criteria for land use permits or any building or construction permits issued by the City. The Plan, as a guidance document, would support the City's applications for grant funding of Capital Improvement Program projects included in the Plan. The City would not be obligated to any aspect of the Plan in terms of criteria.

Public Testimony

Rita Brown expressed concern regarding the pedestrian crossing at 9th and Polk and suggested a separate, expedited review of the traffic signal at that intersection. She noted that the cited traffic signal has been a long-standing issue at a very busy intersection that is utilized by customers and employees of nearby businesses and students and staff of Linn-Benton Community College's Benton Center. She believes a traffic signal is beneficial to increasing safety of pedestrians crossing four vehicle traffic lanes. The 9th/Polk intersection involves four streets with two opposing streets offset by several feet, creating a visibility logistical problem for drivers and pedestrians. Only 9th vehicle traffic is subject to the traffic signal. She described various scenarios involving vehicle and pedestrian traffic awkwardly mixing at the intersection.

Carol Harmon owns property along 9th. She noted that 9th is a vibrant, active, busy business district; and all businesses along 9th have off-street parking. Several businesses have multiple entrances. The Plan proposes eliminating some of the accesses, which could prevent semi-trucks from accessing the backs of buildings and exiting the properties. She explained that semi-trucks could not turn around without the existing multiple accesses at the Searing Electric and Plumbing/Express Your Home/Wild Birds Unlimited complex. Schaefer's Recreation Equipment Company shares access with an adjacent business, allowing access by delivery vehicles. She said the community stresses encouraging business, but she believes the Plan would discourage business. To attract businesses to

Corvallis, she believes the properties must be accessible for delivery services and customers. She said people will not stop using their personal vehicles, despite public transit.

Randy Jones was a member of the 9th Street Commission, which spent an extensive amount of time reviewing 9th and considering all related issues and concerns. He acknowledged that the Plan is not perfect, and he has some concerns. He said the design of 9th encourages bicycling, walking, and mass transit; however, almost all of the activity involves personal vehicles. The Commission and 9th businesses are aware of the City's and citizens' concerns of enhancing bicycling, walking, and mass transit. While the overhead power lines are unattractive, burying utilities is very expensive. Businesses along 9th are concerned about their perception in the community.

Mr. Jones expressed concern regarding the number of pedestrian crosswalks that would be needed along 9th and urged that this issue be reviewed. He said residents and businesses in South Corvallis were not happy with the medians installed on South Third Street. The medians were intended to help pedestrians cross a busy street without walking several blocks to a signalized crosswalk. He urged the City to carefully consider the locations of medians along 9th, as the center left-turn lane is extremely important for business access. Businesses on the east side of 9th do not have side-streets for alternate access points. He acknowledged the large number of access points along 9th, which may be re-configured as properties are re-developed. He urged consideration of this issue because of the need to allow delivery truck access to the businesses.

Mr. Jones confirmed for Councilor Hervey that ODOT was represented in developing the Plan.

Warren "Skip" Volkmann supports improvement of 9th. He is an avid bicyclist but considers 9th unfriendly to bicyclists because of the lack of bicycle lanes. He believes bicyclists could avoid the intersection of 9th and NW Circle Boulevard (Circle), especially during "rush hour," if NW Garfield Avenue (Garfield) was extended via a pedestrian overpass to the bicycle path east of Oregon State Highway 99 West (Hwy 99W). He confirmed for Councilor Beilstein that a tunnel would be an acceptable alternative to an overpass.

Councilor Beilstein noted that the bicycle lanes disappear from 9th between Polk and NW Monroe Avenue (Monroe). Mr. Volkmann responded that NW Tenth Street (Tenth) serves as an alternative bicycle route in this area and at NW Buchanan Avenue (Buchanan).

Councilor Beilstein noted that the Bicycle and Pedestrian Advisory Commission considered alternatives for bicycle lanes along 9th between Polk and Monroe. He expressed concern regarding a connection between the northern and southern ends of 9th.

Mr. Volkmann commented that a pedestrian gate from NW Cornell Avenue to the bicycle path has been very beneficial.

Susan Morr  said many communities are considering bicycle boulevards; and she suggested that developing NW 11th Street (11th) into a bicycle boulevard might help reduce the conflict of pedestrians, bicycles, and vehicles along 9th.

Will Post and his wife own properties along 9th. He thanked the City, especially Public Works Director Rogers, for resurfacing 9th last summer with minimal disruption to businesses and users of 9th.

Mr. Post and his wife chose to locate their businesses along 9th because of the street's linear business district. He reiterated previous testimony that there are no side-streets to provide alternative access to businesses on the east side of 9th. These businesses need access for delivery trucks. He noted that, during early-morning hours, delivery trucks are often parked in the left-turn lane of 9th awaiting access to businesses. Some of these trucks are unloaded in the turn lane, and merchandise is transported to the businesses by handcart because the trucks cannot access the businesses. He said deliveries by semi-trucks are part of the survival of many businesses along 9th.

Mr. Post owns property across 9th from an auto parts store, which receives deliveries via a 52-foot-long semi-truck trailer. The truck does not fit in front of the business; so the driver utilizes all five lanes of 9th to back the truck alongside the business, unloads the merchandise, and utilizes all five lanes of the street to exit the business property. His businesses purchase products in barrels that are delivered by large trucks. He emphasized that many businesses along 9th are supplied by trucks with long trailers; medians along the center of 9th would make it almost impossible for these trucks to access the businesses. He said two committees recommended that medians not be installed along 9th.

Mr. Post expressed additional concern regarding a proposal that vehicles access and exit business properties along 9th via right turns only. This proposal would funnel all traffic for businesses along the east side of 9th to the intersection of 9th and Circle. He urged the City to review this aspect of the Plan.

Lou Ratzlaff said 9th is a commercial zone, and businesses need semi-trucks to deliver and remove freight. He noted that semi-trucks require parking and maneuvering space. Four businesses share three driveways on the east side of 9th just south of NW Hayes Avenue. Semi-trucks utilize this shared area to turn around and back across 9th to deliver merchandise to another business. A median in 9th at this point would create problems. He would prefer that the funds slated for crosswalks be utilized, instead, to re-pave streets. His business is approximately one block from two marked, signalized crosswalks, and he believes another crosswalk near his business is not needed. He has observed people cross South Third Street without using the medians and signals, so he believes the proposed crosswalks are not necessary. He understands and supports the intent of the Plan, but he stressed the need for delivery truck access to businesses. His customers purchase chemicals in five-gallon buckets that are not easily transported via bicycle.

Mr. Ratzlaff noted that a tire store (later replaced by a paint store) was unable to open until it provided covered bicycle parking. He believes bicycle parking is appropriate for restaurants but not for tire stores. He likes the idea of developing Tenth or 11th as a major bicycle pathway. If 9th is unfriendly, customers will go elsewhere.

Councilor Raymond commented that employees might want covered bicycle parking at their places of employment.

Mr. Ratzlaff responded that employers would have the option of providing covered bicycle parking for their employees. However, covered bicycle parking in front of a business appears intended for customers.

Dan Lindstrom commented that changing one intersection would cost \$1.5 million for a light system. He suggested that those funds could be invested in purchasing an available property at 9th and NW Harrison Boulevard for use by area youth as an alternative to undesired activities occurring at the Library.

Sue Napier said she admired the intent of the Plan, but she was concerned about access to businesses along 9th. She referenced the recent City Report Card, which indicated concerns regarding business and economic vitality, especially shopping, employment opportunities, job growth, and retail growth. She said several aspects of the Plan concern her, particularly the right-turn-only proposal for accessing and exiting businesses. She suggested that this proposal be applicable only to property on the west side of 9th with access from side-streets. Otherwise, she believes the values of businesses and properties will decrease. She noted that properties on the east side of 9th cannot be accessed by trucks if turning directions are restricted. She expects that customers will be frustrated if they are limited to right-hand turns when leaving businesses, and they really want to go the opposite direction. The proposed access changes may deter property re-development on the east side of 9th.

Ms. Napier also expressed concern regarding a Plan proposal to close westbound NW Conifer Boulevard (Conifer) between Hwy 99W and 9th, as this would impact approximately 15 convenience businesses south of Conifer and increase traffic on NW Walnut Boulevard (Walnut). She said CAMPO indicated that the closure was needed because of Good Samaritan Regional Medical Center's (GSRMC) transportation plan. At the last Plan discussion meeting, GSRMC representatives said they were not interested in closing Conifer and wanted the provision removed. She urged the City to re-consider the provision and not close Conifer. She noted that the Plan stated that closing westbound Conifer would divert traffic to Walnut; she believes this would create a situation similar to those of Circle at 9th and Hwy 99W. She added that turn lanes cannot be extended to the point that they hamper accesses to businesses.

Councilor Beilstein quoted from the staff report that, while the proposed Plan would provide guidance for decision-making on future projects, the Plan would not establish standards or criteria for land use permits or any other building or construction permits issued by the City. He said the City was concerned with having an adopted Plan that could be used to support grant applications for projects. The Plan would not change land use standards or force business owners to take action. The City wants to improve the environment for business owners and people who use 9th for transportation.

Councilor Beilstein said the City would not engage in a plan that a traffic study said would worsen traffic conditions.

Ali Bonakdar, CAMPO Director, reviewed the Plan.

- The City's Transportation Plan recommends improvement of safety and access management for 9th.

- During 2008, CAMPO received a Transportation Growth Management grant to review improvement of 9th, including operation of all transportation modes, access management, safety, and incorporating the Plan recommendations into the City's LDC.
- A Project Advisory Committee (PAC) was formed, extensive public involvement was sought, a Technical Review Team (TRT) analyzed technical data, and a consultant reviewed intersection capacities and projected future efficiencies.
 - The PAC included a City Councilor, the City's Public Works Department Director, the City's Transportation and Buildings Division Manager, a City Community Development Department planner, CAMPO staff, Oregon Cascades West Council of Governments planners, an ODOT representative, two business owners, a neighborhood organization representative, and a member of the City's Citizens Advisory Commission on Civic Beautification and Urban Forestry.
 - Public involvement included multiple public meetings, newspaper announcements, and a project Web site of information and input submission. Notices were mailed to businesses and property owners along 9th regarding Plan progress and recommendations. Meetings were held for business and property owners regarding the Plan recommendations. The Plan was publicized in the newspaper, with all articles and feedback presented to the PAC. Plan recommendations and alternatives were presented during public meetings. The PAC reviewed materials and feedback. Business and property owners were notified of the Planning Commission's public hearing. Citizens were asked to identify deficiencies and issues regarding 9th; they indicated that 9th was unfriendly to pedestrians and bicyclists, has too many accesses, lacks trees, is too commercially developed, and has unattractive overhanging wires and signs. Identified deficiencies include traffic congestion at the intersections of 9th with Circle and Conifer, the pedestrian crossing near Corvallis Market Center, and visual obstructions (especially at 9th and Buchanan).
 - The TRT inventoried existing conditions in terms of land use, zoning, vacant property, major activity centers, demographics, population, employment, public and private accesses, and transportation system (streets, sidewalks, marked crossings, bicycle facilities, transit, parking, traffic volumes, major trip generators, and crash studies).
 - The consultant reviewed the traffic operation of 9th by analyzing intersection capacities and coordination of traffic signals.
- The PAC considered and analyzed alternative designs, including converting 9th to two vehicle lanes with 12-foot-wide planted medians and park strips, five-foot-wide sidewalks, and eight-foot-wide bicycle lanes. The PAC considered a continuous planted median or short medians with left-turn pockets. The PAC recommended 12 short, planted medians strategically located. The PAC determined that an access road was not possible with a developed area, nor was a "jug handle" configuration, which would prevent left-hand turns.
- After analysis and public review, the PAC developed several recommendations:
 - Walking improvements –
 - Widen substandard sidewalks to five feet on both sides of 9th.
 - Five pedestrian crossings, similar to those on South Third Street, between the intersections of NW Fremont and NW Reiman Avenues, Buchanan and NW Grant Avenue (Grant), Grant and Garfield, Garfield and Circle, and Circle and Walnut. City traffic engineers must determine the most appropriate locations for the crossings.

- Study the location of the existing traffic signal at Polk in terms of possible re-location or removal.
- Bicycle improvements –
 - Widen bicycle lanes to six feet where the right-of-way is available.
 - Construct a bicycle lane on Grant between 9th and Tenth/NW Highland Drive.
 - Monitor the presence of debris.
 - The PAC reviewed the possibility of extending bicycle lanes south of Polk and developing Tenth or 11th into a bicycle boulevard. These issues are being reviewed by the Bicycle and Pedestrian Advisory Commission.
- Transit improvements –
 - Increase the number of bus shelters.
 - Provide for safe walking to bus stops.
- Landscape improvements –
 - Encourage businesses to plant appropriate trees.
 - Adhere to the 12-foot-wide planter strip required by the LDC.
 - Enforce maintenance of planter strips.
- Access management –
 - Reduce the number of driveways by eliminating, consolidating, or re-locating existing accesses.
 - Channel driveway ingress and egress to right-hand turns only.
 - All recommendations for access management apply to development and re-development that will occur in the future but not to existing businesses. The recommendations are not "blanket" in nature but indicate the need for a study by traffic engineers, for the location of driveway controls, and determination of whether such controls are appropriate for specific businesses and developments. The recommendation is relative to the location of the development and re-development and the presence or lack of an alternative access.
- Traffic flow improvements –
 - The intersections of 9th with Circle and Buchanan are under-capacity. Implementing the consultant's recommendation of additional turning lanes could address projected future deficiencies.
 - The recommendations are intended as guidelines, subject to a study by traffic engineers.
 - The recommendation for closing westbound Conifer and creating an additional left-turn lane at the intersection of 9th with Walnut are improvements City engineers and ODOT studied and are considering as part of the improvements of Elks and 9th. GSRMC is making improvements, prompting re-configuration of the intersection of 9th and Elks, resulting in ODOT recommending additional improvements, which must be negotiated with the City and are subject to additional engineering studies.
 - Coordinate traffic signals.
- Signs and hanging wires improvements –
 - Enforce City laws and seek opportunities to minimize visual impacts from these objects.
- Land use improvements –
 - Future developments and re-developments should be consistent with the principles of "smart growth development" (mixed use, parking behind

buildings, building facades facing the street, and emphasized alternate modes of transportation).

Mr. Bonakdar said the Plan included an implementation plan, identified possible funding sources for the recommendations, explained administrative requirements and pre-requisites for eligibility for receiving the funds, and estimated costs of implementing the recommendations.

Councilor O'Brien quoted from the Plan that implementation of the GSRMC expansion plan and the resulting improvement to the intersections of Elks with 9th and Hwy 99W warrant the closure of westbound Conifer between Hwy 99W and 9th, resulting in two left-turn lanes from Conifer to northbound Hwy 99W and diversion of a large amount of traffic onto Walnut. He requested clarification of this Plan provision and a recommendation to remove the provision.

Planning Division Manager Young explained that staff recently approved a master plan for GSRMC, which included three phases; only Phase 1 was approved, including construction within the first two years of the hospital's plan, with a limit on the amount of construction that could occur. A traffic mitigation was associated with the approval, specifically the re-location of the intersection of Hwy 99W and Elks and a re-configuration of the intersection of 9th and Elks. The closure of westbound Conifer was a potential mitigation that was considered in association with Phases 2 and 3 of the GSRMC master plan; those phases have not been approved. If the hospital requests approval for additional construction, staff will review the associated traffic impacts and assess what mitigation strategies may be warranted; the strategies would be subject to a public hearing. He emphasized that the closure of Conifer was not approved and is one potential mitigation strategy.

Councilor O'Brien noted that the Plan indicates that closure of Conifer was warranted, based upon the GSRMC expansion plan, yet the hospital requested that its project not be associated with the recommendation at the Planning Commission public hearing. Therefore, he questioned why the recommendation was still in the Plan.

Ms. Potter quoted from the Plan that improvements warranted by the hospital's master plan are contingent upon the consensus of the City, ODOT, and the hospital and will be financed mainly by the hospital. She explained that the contingency wording was included in the Plan because there has been no public hearing process associated with the hospital's plan; the City has not performed its final engineering analysis. The recommendations are potential solutions but are not mandated. The engineer who represented GSRMC at the Planning Commission public hearing requested removal of a parenthetical notation that some projects would be necessitated by re-configuring intersections involving Elks, as that statement was misleading. Staff does not know whether the potential projects would be implemented. Staff recommended removing the parenthetical notation, based upon the engineer's request. The Council's acceptance of the staff report would include clarification that the Plan can be used for guidance and as a reference for future projects but would not constitute review criteria or standards. Future development projects would follow the City's normal review procedures.

Councilor Raymond noted that other communities use medians to direct traffic flow and ease pedestrian access across streets. She noted the lack of side-streets for delivery truck turn-around and asked whether side-streets could be incorporated into the Plan to improve access to Hwy 99W and improve traffic flow on 9th.

Mr. Bonakdar responded that Hwy 99W is a limited-access highway, and ODOT will not allow any access from 9th.

Councilor Raymond said alleys would facilitate delivery truck access. She asked whether there would be enough room for delivery trucks to service businesses along 9th if medians are installed in 9th.

Mr. Bonakdar responded that the planted medians were removed from the recommendations, based upon strong opposition.

Councilor Daniels referenced Ms. Brown's request for an expedited analysis of the pedestrian signal at 9th and Polk.

Transportation and Buildings Division Manager Mitchell responded that the nature of the evaluation will determine the timeline for the review. Staff will review accident history, access, visibility, and related factors. The mid-block pedestrian crossing was designed during the late-1960s and previously served as a school crossing for the nearby Washington Elementary School (which was later converted to the Benton Center), with a 20-mile-per-hour speed limit. He believes confusion results by the offset alignment of the two sections of Polk, and the stop bars for the crossing creates a large empty zone between the stop bars and the actual crosswalk. Some drivers may not realize why drivers are stopped "so far" from the crosswalk and turn onto 9th, only to find a pedestrian in the crosswalk. Staff can review the severity of the problem at the crosswalk. The accident history is very low, and the crosswalk seems to function well and is extensively used. The pedestrian-activation signal was designed to provide a long period of red lights for vehicle traffic before the pedestrian crossing signal is activated; this ensures drivers are paying attention. Staff can investigate other pedestrian controls for the crossing and re-locating the crossing for improved function. Staff could conduct a preliminary investigation; funds are limited for an engineering study by an outside consultant. The problem may be more perceived than actual, prompting staff to not invest extensive funds in a study.

Mr. Gibb added that staff will provide a detailed response for the Council, addressing scope, issues, cost, and related factors.

Councilor Beilstein asked that staff's report be presented to the Bicycle and Pedestrian Advisory Commission for input before it is presented to the Council.

Councilor Beilstein referenced testimony regarding the difficulty of access along the east side of 9th and concern of losing accesses that are important to businesses. He opined that the current access situation is ineffective, so a reasonable approach might involve developing a few accesses with an alley system between the businesses and Hwy 99W. He asked whether this option was considered during Plan development discussions.

Mr. Bonakdar responded that all options were evaluated. Businesses want direct access, so an alley behind the businesses would not have been satisfactory to them.

Councilor Brauner was a member of the PAC. He said ODOT will not allow more accesses to Hwy 99W. There is not enough room for a frontage road between the businesses and Hwy 99W. This option and the medians were dismissed because of this access issue. The Plan states that the recommendations would only apply to new development and re-development when opportunities arise and in consideration of development locations relative to impacts on traffic flow or when requested by property owners. He noted that the Plan recommendations would be subject to the existing LDC; the Plan would not change the existing LDC. New developments and re-developments must comply with LDC provisions in effect at the time of development application. The LDC requires appropriate access to allow servicing the businesses. The Plan states that developments and re-developments should consider consolidating accesses and, where possible, use some of the recommended alternatives. The Plan does not require anything not required in the LDC, which has been reviewed through public processes.

Councilor Brauner said some options were declined because they were not feasible. He believes the Plan represents the best compromise between all the competing interests. The Plan would not be approved in a greenfield environment of new development. The Plan protects the rights of existing businesses and does not require any action by the current property owners until the properties are re-developed or property owners voluntarily agree to do something with their properties. Pedestrian crossings were recommended, but not required, for general locations where there are gaps in marked crossings. The Plan suggested that the City conduct a thorough study of appropriate locations for pedestrian crossings and work with business owners and the community to determine the best locations to meet pedestrian needs with minimal negative impacts to the businesses. The Plan creates a statement about 9th but does not change existing land use requirements. By compiling a description of the area, relevant LDC provisions, and development recommendations, the Plan would support grant applications for future projects. Grant funding would not control Plan implementation; the LDC would control Plan implementation, with grant funding providing a means to implement suggested improvements.

Councilor Brauner said he would prefer a stronger plan that businesses may not support. He considers the Plan a good compromise that the Council should approve as a concept document.

In response to Mayor Tomlinson's observation, Councilor Brauner confirmed that the Plan would support, but not prompt, grant applications. Often grant applications require a document such as the Plan. Grants could only fund projects approved through the City's normal review process.

Councilor Hirsch inquired whether access changes to Hwy 99W, if allowed by ODOT, would improve delivery truck access.

Mr. Bonakdar responded affirmatively, noting that shifting some traffic from 9th to Hwy 99W would improve the operation of 9th. Councilor Brauner added that such changes would negatively affect the operation of Hwy 99W.

In response to Councilor Hirsch's further inquiry, Mr. Bonakdar explained that Hwy 99W is classified as a regional arterial highway; this highway classification has limited access, regardless of its location. State highways are intended to carry state through traffic, not local traffic; 9th is intended to carry local traffic.

Councilors Brauner and O'Brien, respectively, moved and seconded to concur that the Corvallis Area Metropolitan Planning Organization 9th Street Improvement Plan is consistent with the Land Development Code, and no Land Development Code text amendments are needed to implement the Plan recommendations; remove the introductory parenthetical note from Subsection F(b) under Traffic Flow Improvements on page 49 of the Plan; and accept the March 5, 2010, staff report to the City Council and clarify that, to the extent that the recommended improvements in the Plan provide guidance, they can be used to inform decision-making for future projects, but the Plan will not establish standards or criteria for land use permits or any other building or construction permits issued by the City.

Councilor Daniels commended those involved in developing the Plan. She acknowledged that the Plan does not contain all elements she would like, and she was sorry that the recommended medians were removed from the Plan because 9th seems like a "desert" for pedestrians. She did not understand the opposition to the medians, since all access-related recommendations would apply only to new development or re-development. The Plan includes trade-offs. Numerous businesses along 9th are dependent upon vehicle traffic. She supports the motion.

The motion passed unanimously.

Mayor Tomlinson recessed the meeting from 9:00 pm until 9:12 pm.

Mayor Tomlinson directed Councilors' attention to items at their places, including the appellant's hearing memorandum for the upcoming public hearing (Attachment H).

VII. PUBLIC HEARINGS

- A. A public hearing to consider an appeal of a Land Development Hearings Board decision (VIO09-00648 – Phones Plus, Inc.)

Mayor Tomlinson reviewed the order of proceedings and opened the public hearing.

Declarations of Conflicts of Interest – None.

Declarations of Ex Parte Contacts – None.

Rebuttals to Declarations – None.

Declarations of Site Visits

Councilors Daniels, Beilstein, Hirsch, Hamby, Brauner, Raymond, Hervey, and O'Brien declared having visited the subject site.

Objections on Jurisdictional Grounds – None.

Staff Overview

Associate Planner Voice noted the location, Zoning District designation, and Comprehensive Plan Map designation of the subject site, which is owned by Phones Plus, Inc., a retail outlet for Verizon Wireless. He presented the vicinity map, an aerial photograph of the existing conditions surrounding the subject site, the Zoning District Map, and the Comprehensive Plan Map. He reviewed the timeline of activities regarding the violation leading to tonight's public hearing:

- October 12, 2009 – The City received an initial complaint regarding multiple illegal pennant-style signs on the property.
- October 13, 2009 – The City Land Use Inspector conducted an initial site inspection and observed signs in the public right-of-way and an electronic visual display approximately nine feet by five feet located inside a building window but exclusively visible from outside the building through the window. The sign was in a window facing the intersection of NW Third Street and NW Harrison Boulevard and visible from both streets. The electronic sign displayed various animated, scrolling, and otherwise moving images varying in color and intensity. The Inspector deemed the sign an illegal variable-message sign, based upon the LDC. The Inspector informed an on-site Phones Plus employee of the violation and provided a written correction notice; the employee immediately turned off the sign.
- October 14, 2009 – The City received a second formal complaint of violation. The Land Use Inspector conducted a follow-up inspection, noting that the variable-message sign was turned on but was compliant with the LDC in terms of changing images at intervals of at least 20 minutes.
- October 15, 2009 – The Land Use Inspector verified that the pennant-style signs were removed from the property, and the variable-message sign continued to be in compliance with the LDC. The Inspector left a notice of compliance at the site and closed the violation cases.
- October 26, 2009 – The City received appeal materials specifically regarding the variable-message sign and the frequency at which images could change. The appeal did not involve the pennant-style signs.
- December 16, 2009 – The Land Development Hearings Board (LDHB) conducted a public hearing to consider the appeal and upheld the Community Development Director's interpretation of the LDC provision, thereby denying the appeal.
- December 29, 2009 – The City received an appeal of the LDHB's decision.
- February 16, 2010 – The City Council was scheduled to conduct a public hearing of the appeal; however, at the request of the applicant/appellant, the hearing was re-scheduled to March 15, 2010, prior to notices of the hearing being mailed.

Mayor Tomlinson announced that failure to raise an issue, accompanied by statements or evidence sufficient to afford the City or other parties the opportunity to respond to the issue, precludes appeals to the State Land Use Board of Appeals based upon that issue. He also announced that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

Applicant/Appellant Presentation

George Heilig is an attorney representing Phones Plus, Inc. He referenced the Appellant's hearing memorandum (Attachment H). He believes the LDHB's decision should be reversed, based upon fundamental fairness. He noted that Phones Plus, on May 7, 2009, e-mailed Kevin Russell of the City's Development Services Division requesting a determination of whether the indoor sign would violate the applicable LDC provisions regarding signs. The e-mail indicates the concerns of Phones Plus' Manager, Chris Cheeley, regarding text. Based upon telephone conversations with City staff, Phones Plus invested \$40,000 and installed a sign inside its building, not knowing specifically why, in October, the sign was inspected.

Mr. Heilig contended that the text of the sign code is so "unartfully written" that staff, in May 2009, was unable to make the determination it has since made, thereby allowing Phones Plus to proceed, only to be cited for a violation. He said the main issue involves whether the sign code, as applied to Phones Plus, is unconstitutional restraint of commercial free speech. His hearing memorandum included an excerpt from Article I, Section 8, of the Oregon Constitution. He said the issue involves prior restraint of commercial speech. He elaborated that regulations that are content neutral and reasonably related to a public purpose are valid, but unreasonable regulations are invalid. He said ordinances are unconstitutional if they grant an official discretion to exercise personal subjective judgment in addressing a question of aesthetics, as he believes is the case with Phones Plus.

Mr. Heilig said the sign code specifically exempts signs that display time and temperature without respect to the frequency at which time and temperature are displayed or the size of the text; the code restricts commercial content. If staff believes the restriction on display of content is related to traffic safety or aesthetics, he noted that time and temperature can be displayed at very short intervals and in any size. He suggested that the sign code does not pertain to safety or aesthetics; otherwise, time and temperature would have been regulated.

Mr. Heilig said City staff contended that a variable sign that blinks, flashes, or fluctuates is not permitted; the staff report states that another section of the code indicates that a variable sign must maintain its content for 20 minutes, with any shorter time interval being considered blinking, flashing, or fluctuating. The applicant/appellant considers the interpretation unreasonable.

Mr. Heilig said the staff report states that animation scrolled through the messages Phones Plus displayed on its internal reader board. He presented a short video of the Phones Plus variable-message sign, indicating the ten-second pace at which the sign messages changed. He said the sign was not blinking, flashing, or fluctuating. If the sign code that prohibits signs blinking, flashing, or fluctuating had intended for the 20-minute change interval restriction to apply, the code would have specifically stated this fact. The applicant/appellant believes a restriction cannot be inserted into a code upon interpretation. He said his client believes the ten-second pace is reasonable and that the sign is not blinking, flashing, or fluctuating.

Mr. Heilig asked that the LDHB's decision be reversed, contending that the LDHB mis-read the sign code in relation to the content of the sign. Further, he asked that the Council approve the display on the internal sign, adding that internal signs do not require permits, but external signs need permits. This permitting issue is why Phones Plus requested a sign code interpretation last May, and invested significant funds in a sign, believing it would be legal. Phones Plus intends to have a mature presentation of content that does not flash, blink, or fluctuate. He asked the Council to approve Phones Plus' presentation of material on a ten-second change pace. He believes Phones Plus' sign meets the spirit of the sign code for internal signs that present commercial speech in an interval manner.

Questions of Applicant/Appellant

Councilor Hamby inquired whether an internal sign that is visible only from outside the building should be considered an internal sign.

Mr. Heilig said the Council was limited to interpreting a sign code that was drafted several years ago and merely states an indoor sign. He said another business in town has an internal sign that is visible from outside the building; that sign did not blink, flash, or fluctuate.

Councilor Hamby inquired whether Mr. Cheeley received a response from his e-mail to Mr. Russell prior to October 2009.

Mr. Heilig noted that the e-mail exchange involving Mr. Russell was incomplete in the staff report but was complete in his hearing memorandum. He said Mr. Cheeley indicated to him that he spoke with City staff. He did not represent Phones Plus prior to tonight's public hearing. He said he could not expect a business to invest \$40,000 in a sign without believing it had assurances that the sign complied with the text submitted to staff in a request for approval.

Councilor O'Brien asked how the applicant/appellant arrived at ten seconds as an appropriate interval for message changes.

Mr. Heilig said Phones Plus sent him the video he presented to the Council.

Councilor Hirsch asked whether Phones Plus intended to display community-related information on the subject sign.

Mr. Heilig said he did not know. He speculated that, because of the prominent location of the building and the desire to attract customers, the business would announce community activities in addition to their products.

Staff Report

Mr. Voice said the variable-message sign provisions were included in a LDC text amendment approved October 6, 2003, removing a prohibition on signs with copy that could be changed by other than manual means. Previously the City only allowed signs with messages that were changed manually. The amendment created the definition for signs with automatically controlled changeable copy. The amendment also created operational

standards for variable-message signs, including the standards of messages changing at intervals of at least 20 minutes, other than signs that display time and temperature information. He said this exemption for time and temperature information is common in sign codes in other jurisdictions. Prior to the 2003 text amendment, the LDC prohibited any type of sign that would fall under the current definition of variable-message sign, except for time and temperature signs that were part of permanent signs and signs with messages that were manually changed.

The primary concerns expressed regarding the 2003 LDC text amendment involved vehicle safety and aesthetics. The Council, in 2003, determined that the rate of change in any variable-message sign is the single most-important characteristic to regulate. The Council determined that the 20-minute interval for sign message changes best met the community's need to allow new sign technology without compromising community values related to safety and aesthetics.

The appeal stated that the LDC sign provisions, as written, allow the variable-message sign to change at intervals of less than 20 minutes. The appeal did not cite specific LDC sections, so staff interpreted the appellant's intent and focused on four specific sections:

- LDC Section 4.7.70.i, Window Sign Exemption – The sign is placed in the window but is only visible from outside the building. LDC Section 4.7.70.h discusses interior signs that communicate only to persons inside buildings. Section 4.7.70.i exempts signs displayed in windows from one or more requirements of the sign code, including restrictions on size and number of signs. The LDC language is somewhat vague and not specific about what is exempt, other than the size and number of signs allowed. The provision does not include other specific exemptions. Signs displayed in windows are not exempt from the prohibitions of LDC Section 4.7.50. Signs displayed in windows are the only exempt sign types specifically not exempt from prohibited functions.
- LDC Section 4.7.50.g, Prohibited Signs – LDC Section 4.7.50.g prohibits signs that flash, blink, fluctuate, or have chaser, scintillating, or speller effects, including search lights. The LDC does not specifically define these terms. The staff report includes some dictionary definitions, which help but are not precise. The point at which a sign is deemed to flash, blink, or fluctuate is left to interpretation. Staff determined that LDC Section 4.7.80.07 provides a clear and objective standard in terms of general requirements for variable-message signs. The interval of time at which a variable-message sign may change, whether by manual or automated means, may not be less than 20 minutes. A variable-message sign may not exhibit characteristics of signs prohibited in LDC Section 4.7.50.g.
- LDC Section 4.7.80.07.a, General Requirements for Variable-Message Signs – LDC Sections 4.7.50 and 4.7.80.07, together, provide clarity regarding the questions presented in the appeal: LDC Section 4.7.50.g. identifies the types of signs that are prohibited, and LDC Section 4.7.80.07.a states that signs with variable messages that change no more than once every 20 minutes are allowed. Staff determined that the 20-minute interval for sign message change is the clear and objective standard that is most consistent with the purposes of the LDC sign provisions, when compared with other potential standards.
- LDC Section 4.7.80.07.b, Time and Temperature Signs – The appellant argued that a message displaying any time and temperature information qualifies as exempt from the 20-minute message-change interval requirement. The 2003 LDC text amendment

documentation indicates that time and temperature information typically involves four or fewer characters, so the degree by which a driver is distracted is minimal. Based upon the Council's discussions of the amendment, as documented in Council minutes in the amendment record, the Council intended that LDC Section 4.7.80.07.b would exempt only the time and temperature portion of the sign from the message-change time interval restriction. The exemption applies to that interval of message change and not to additional elements of the sign. A time and temperature sign with a background that changes more than once every 20 minutes is prohibited under LDC Section 4.7.50.g.

Staff recommended that the Council affirm the LDHB's decision.

Public Testimony – Support

Shauna Akin is the district manager for Oregon Phones Plus stores. Referencing Councilor Hirsch's inquiry, she said Phones Plus wants to participate in community events and announce such events on its sign; this was a reason for spending funds on the sign. Phones Plus is involved in all of its local markets, participating in fund-raising events, sponsoring sports teams, and donating items to graduation parties.

Joan Wessell is Downtown Corvallis Association Executive Director. She said Phones Plus has been a good addition to the Downtown business community, beginning with investing \$6,000 in landscaping improvements to its property. Phones Plus' plan to utilize its sign to announce community events demonstrates its involvement in the community. She noted that the banner site over NW Harrison Boulevard is often unavailable for community organizations to market their events; the Phones Plus sign will be beneficial in these situations, as evidenced by the 3,000 people who participated in Rhapsody in the Vineyard March 13. She intends to use the Phones Plus sign, if it is approved, to market Downtown events. She supports the appeal to reverse the LDHB's decision.

In response to Councilor Raymond's inquiry, Ms. Wessell said she did not know whether community outreach could be done with messages that change at 20-minute intervals, rather than shorter intervals.

Public Testimony – Opposition – None.

Public Testimony – Neutral – None.

Rebuttal – None.

Council and Mr. Fewel discussed whether it was appropriate, according to parliamentary procedures, to allow Mr. Heilig to rebut the staff report. Mr. Fewel explained that the applicant/appellant could rebut any opposing public testimony; however, no one testified in opposition to the appeal. Parliamentary procedures do not afford applicants and appellants opportunities to rebut staff reports – only opposing testimony. Therefore, Mr. Heilig was not eligible for a rebuttal presentation. The Council and Mr. Fewel agreed that Mr. Heilig, on behalf of the applicant/appellant, could request seven days to submit additional written testimony.

Request for Continuance – None.

Request to Hold Record Open – None.

Right to Submit Final Written Argument

Mr. Heilig requested seven days to submit final written argument.

Questions of Staff

In response to Councilor Hirsch's inquiry, Mr. Young confirmed that size, frequency, and intensity of flashing of signs that only display time and temperature are not regulated. Mr. Voice added that signs inside windows are not regulated in terms of size. If the time and temperature information are part of a regular, free-standing or attached sign outside the building, there would be limits on the size of the sign. There are no specific limitations on signs that display only time and temperature.

Councilor Hamby inquired about the May 7 e-mail. Mr. Young referenced correspondence with the staff report. He and Mr. Voice spoke with Mr. Russell regarding communications with Phones Plus, and they recalled that, in his last communication to Mr. Cheeley, Mr. Russell indicated that he could not find that the proposed sign would comply with the LDC.

Councilor O'Brien inquired whether the Council could accept the proposed ten-second scroll without setting a precedent for future cases. He further inquired whether accepting a message that scrolled every ten seconds would open the sign code to interpretation by a sign owner. The sign code only specifies the 20-minute interval for sign messages to change.

Mr. Gibb responded that the Council would need to make a finding that it believed the sign code should be applied to allow sign messages to change more frequently than 20-minute intervals. Such a finding would be applied equally to similar circumstances. The Council would need to be definitive in its decision with a finding to support the decision.

In response to Councilor Brauner's inquiry, Mr. Fewel explained that the applicant/appellant would be given seven days to submit additional written argument in support of its position. The Council would not be precluded from stating a position tonight, subject to modification upon reading the additional testimony.

Councilor Daniels observed that the Council must decide whether to uphold staff's original decision that the subject sign is a violation.

Mr. Gibb responded that the Council was asked to affirm the LDHB's decision, which is consistent with the original staff decision, and that staff correctly interpreted the sign code in relation to the situation.

Councilor Daniels opined that, based upon Mr. Gibb's response, there was no reason for the Council to spend time worrying about LDC provisions they considered unusual. The Council must determine the law.

Mr. Fewel clarified that the applicant/appellant was determined to be in violation of the LDC; the applicant/appellant corrected the violation but now would like an interpretation whether it can resume using the window sign. Therefore, the Council was asked to determine whether the interpretations of staff and the LDHB or the interpretation of the applicant/appellant was correct. That decision would not mean the applicant/appellant is in violation of the LDC; the applicant/appellant would be in violation if it proceeded with using the sign, if the Council concurred with staff's and the LDHB's interpretations. He confirmed that the interpretations were based upon the existing LDC provisions.

Councilor Hirsch asked whether a sign that always displayed the time and temperature would be exempt from the 20-minute interval for message changes. He also asked whether there could be a compensating benefit of community information in interpreting the LDC provisions.

Mr. Gibb responded that time and temperature information with other information would not be exempt from the 20-minute interval for message changes; time and temperature information only would be exempt.

Councilor Hamby observed that Mr. Gibb's statement represented staff's interpretation of the LDC provisions, which the Council was asked to determine was correct.

Mayor Tomlinson closed the public hearing.

Mayor Tomlinson reviewed that additional written comments are due March 27 at 5:00 pm. The Council will deliberate to its decision during its April 5 afternoon meeting. Additional questions from Council members should be submitted to staff.

XI. ADJOURNMENT

The meeting was adjourned at 10:05 pm.

APPROVED:

MAYOR

ATTEST:

CITY RECORDER



LWV Corvallis

PO Box 1679 Corvallis, OR 97339-1679
541-758-2922 • <http://www.lwv.corvallis.or.us>

March 15, 2010

Mayor Charles Tomlinson and Members of City Council
Corvallis City Hall
501 SW Madison Avenue
Corvallis, Oregon 97333

RECEIVED

MAR 15 2010

CITY MANAGERS
OFFICE

Re: Infill Committee and Discussion

Dear Mayor Tomlinson and City Councilors:

The League of Women Voters of Corvallis is extremely pleased that the City Council has placed the issue of infill on the "high priority" list of the Planning Division Work Program.

To support and preserve resource lands in our area, LWV supports the formation of a citizen task force to address the issue of infill. The composition of the task force should be broad-based and representative of the community, including people of different ages, occupations and neighborhoods. We emphasize that the task force should be given clear directions as to their purpose and expected outcomes. Staff support is essential, at whatever level City Council and staff can justify at this time and for next year.

Councilor Daniels at the Feb. 22, 2010, work session, suggested that several "Code tweaks" listed in the Work Plan could be rolled into the infill staff work priority list. We strongly support Councilor Daniels' suggestion because these "tweaks" involve infill.

The formation of a task force is an excellent start to the hard work of identifying problems and solutions for infill that can be added to our Comprehensive Plan and Land Development Code. Commissioner Howell, at the February 22, 2010, work session, pointed out that our current infill policies were formulated for "greenfield" development. A valuable community service will be performed if the task force can articulate and propose additional infill policies to improve development and re-development for medium and high density zoned neighborhoods.

The League of Women Voters of Corvallis supports an "open governmental system that is representative, accountable and responsive." Our Community Planning position supports "urbanization policies which foster complete, healthy and diverse communities where people can live, work, shop and play."

The League welcomes the opportunity to be involved in the continuing process of the Land Development Code Update and in the infill policy and discussion. We are confident that our community can work together to solve the issues of growth and infill so Corvallis will be an ever better place to live and work.

Thank you for this opportunity to testify on League's behalf.

Sincerely,

Annette Mills, President
League of Women Voters of Corvallis



Office of the Mayor

501 SW Madison Avenue

P.O. Box 1083

Corvallis, OR 97339-1083

(541) 766-6985

FAX: (541) 766-6780

e-mail: mayor@council.ci.corvallis.or.us

March 12, 2010

Benton County Board of Commissioners
408 SW Monroe Avenue
Corvallis, OR 97330

Dear Commissioners:

RE: Enterprise Zone Expansion Informational Meeting

The Benton County Board of Commissioners and the City of Corvallis City Council are holding a joint informational meeting on March 30, 2010, at 5:00 pm in the Downtown Fire Station meeting room for the purpose of discussing an expansion of the Benton/Corvallis Enterprise Zone.

The expansion areas under consideration are the Hewlett Packard campus and Sunset Research and Technology Park. The current Enterprise Zone boundary is in South Corvallis and predominantly a greenfield site. The proposed expansion areas are sites with existing vacant buildings and substantial square footage availability.

An enterprise zone provides property tax abatements for up to five years for existing and new businesses meeting investment and job-creation thresholds.

Should interest in expanding the existing enterprise zone exist, the Board of Commissioners and the City Council will hold subsequent decision-making meetings.

Written comments may be submitted through either the Board of Commissioners or the City Manager's Office by 5:00 pm, Wednesday, March 24, 2010, if you are unable to attend the meeting.

Sincerely,

Charles C. Tomlinson
Mayor, City of Corvallis

2024

ATTACHMENT B

Page 171-b

DRAFT



**CORVALLIS CITY COUNCIL
AND
BENTON COUNTY
BOARD OF COMMISSIONERS**

JOINT INFORMATIONAL MEETING



AGENDA

**March 30, 2010
5:00 pm**

**Downtown Fire Station
400 NW Harrison Boulevard**

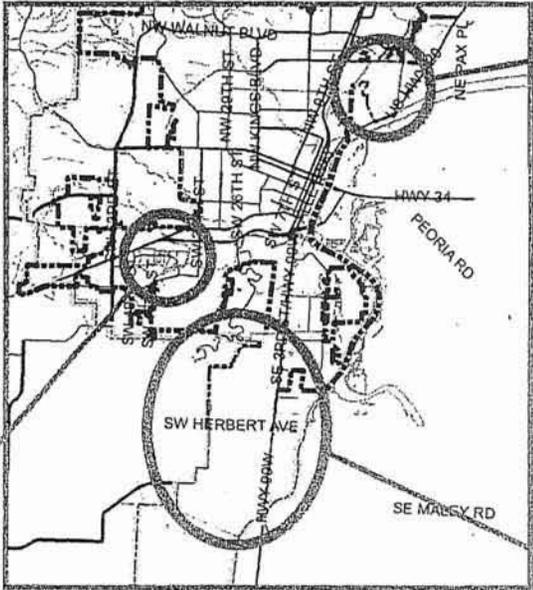
I. CALL TO ORDER

II. NEW BUSINESS

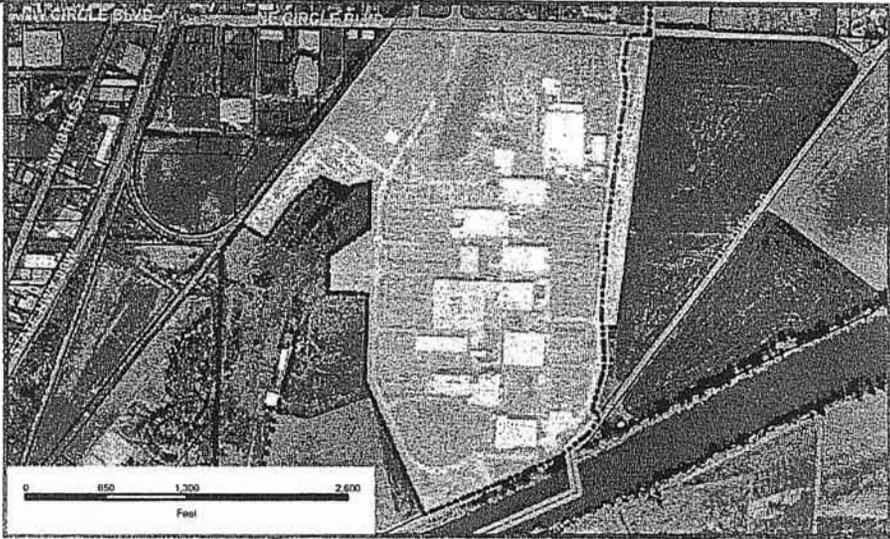
- A. Enterprise Zone Expansion
1. Welcome and Introductions
 2. Overview of Existing Enterprise Zone and Benefits
 3. Overview of Proposed Enterprise Zone Expansion
 4. Questions Regarding the Proposed Expansion
 5. Public Comment
 6. Discussion and Direction
 - a) Keep Current Boundaries?
 - b) Expand? If So, Schedule Next Meeting (Joint or Separate?)
 - c) Continue Discussion

III. ADJOURNMENT

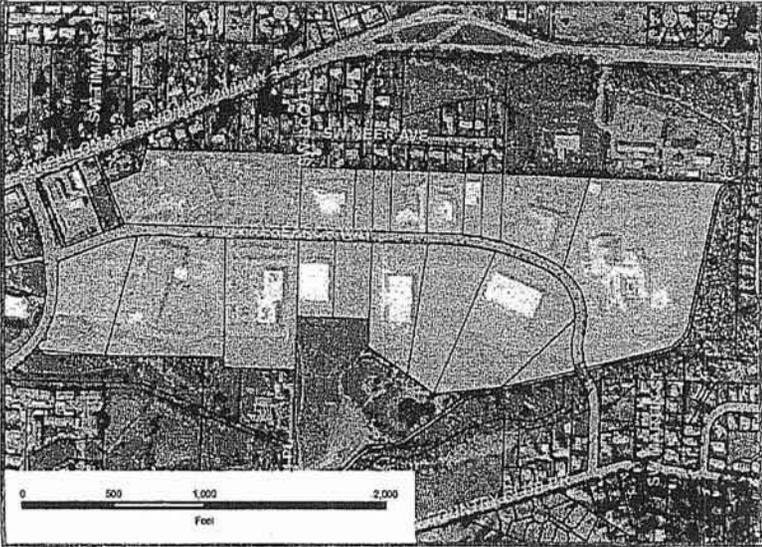
Existing and Proposed
Total Size: 2.52 square miles



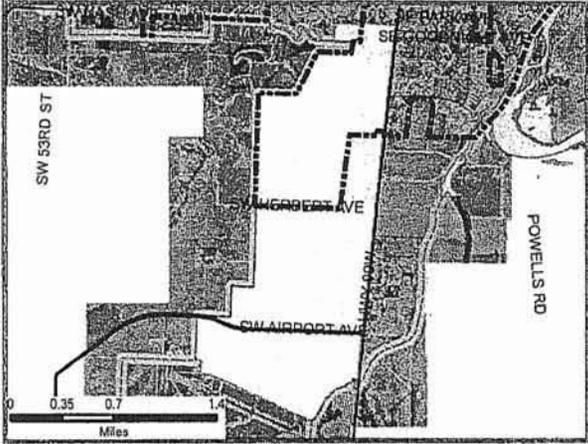
Vicinity Map



Proposed Hewlett Packard Expansion
180 acres / 0.28 square miles



**Proposed Sunset Research
and Technology Park Expansion**
78 acres / 0.12 square miles



**Existing
Benton / Corvallis
Enterprise Zone**
1,322 acres
2.12 square miles

Information: These maps represent the existing and proposed Enterprise Zone within the Corvallis Urban Growth Boundary. The proposed maps are for study purposes only and are not intended to represent officially adopted boundaries of an expanded Enterprise Zone.

Map Author: City of Corvallis - Community Development Department

Revised: March 8, 2010



Louie, Kathy

To: Nelson, Jon
Subject: RE: a compromise on busking

From: Joel Hirsch [mailto:ward6@council.ci.corvallis.or.us]
Sent: Sunday, March 14, 2010 1:22 PM
To: Mayor and City Council; Nelson, Jon
Cc: Sassaman, Jon; Boldizar, Gary; Emery, Karen; Gibb, Ken; City Attorney Brewer; City Attorney Fewel; cc
Subject: a compromise on busking

Councilors,

Assuming the Dept of Justice or Attorney General has weighed in on our busking ordinance and we are free to deliberate, page 132 of your council packet contains language from the City Attorney's office that would amend the busking ordinance but not alter what is considered nuisance behavior or begging, and so would strike a reasonable conciliation to simply allow the *accepting* of alms.

It is important to me that active solicitations of a donation continue to be framed as unacceptable behavior where legally consistent. However, to passively *accept*, and provide a receptacle to receive a donation, seems like a compromise that continues to allow the tolerant free speech policy that exists here in Corvallis, keeps all existing unambiguous nuisance behavior language in tact, and should ameliorate the complaints and fears of those wishing to lawfully express themselves by performing in public here.

In a perfect, well funded world, a well researched and administered comprehensive permit process for street performers I think would be the ideal, if it was the desire of the community to encourage street performers. From the public input we received, it seems to me that citizens are generally positive toward busking as long as there is no accompanying nuisance behavior.

At this Monday's meeting, if the state has weighed in by then, I intend to make a motion that adds Mr. Brewer's language to the ordinance that would in effect, simply allow the placing of a receptacle to *passively accept a donation* when offered. This diminutive change addresses the concerns of the performers and their advocates while still honoring the concerns of those who are worried about the wholesale opening up of busking in Corvallis.

Thank you for your support,

Joel Hirsch
City Councilor - Ward 6

ATTACHMENT C
Page 171-e

3/15/2010

JOHN R. KROGER
Attorney General



MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

March 11, 2010

Mr. James K. Brewer
Fewel, Brewer & Coulombe
456 SW Monroe, #101
Corvallis, Oregon 97333

Re: Corvallis Municipal Code Section 5.03.080.150

Dear Mr. Brewer:

Thank you for affording the Oregon Department of Justice sufficient time to submit written testimony for consideration of proposed changes to Corvallis Municipal Code Section 5.03.080.150. Please include these materials in the Corvallis City Council meeting packet for the hearing set on March 15, 2010.

I do not intend to appear personally on March 15, 2010 unless you and/or the City Council request that I do so. However, I remain available to meet with you and the City Council to explain the written testimony if there is interest in my doing so.

Thank you for your consideration of the issues raised in the enclosed materials.

Sincerely,

Diane Schwartz Sykes
Senior Assistant Attorney General

cc: Cheryl Pellegrini, Oregon Department of Justice



DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

PUBLIC TESTIMONY

Before the Corvallis City Council

March 11, 2010

Presented by
Diane Sykes
Senior Assistant Attorney General
Oregon Department of Justice Civil Rights Unit

Re: Corvallis Municipal Code Section 5.03.080.150; Begging

Nature of the State's interest

The following comments are neither offered nor intended to be construed as legal advice. The Oregon Department of Justice's interest in the City Council's proposed action to Section 5.03.080.150 (ordinance) arises from the possible impact that enforcement of the ordinance may have on the state's ability to defend convictions in which the initial contact was premised on a violation of the ordinance.¹ This testimony is offered to highlight aspects of the ordinance that may invite challenge from those affected by its restrictions.

Ordinance Restrictions on Busking/Begging

In its current form, the ordinance prohibits a person from begging, soliciting or accepting alms (defined as money, food, or clothes) or charity in a public place, without exception.² The ordinance also prohibits attracting attention to a person's disability by sign, act, look, word or gesture for this purpose.³ The ordinance further prohibits a person from selling, soliciting, offering or exposing for sale or exchange, or as a gift, any article, entertainment or service to induce the giving of an alm or charity.⁴

An exception to this rule exists within the boundaries of the Riverfront Commemorative Park, where people are permitted to offer entertainment, such as singing, dancing, playing musical instruments, and sleight of hand as an inducement to give alms (defined as "busking") under limited circumstances: (a) a person cannot require spectators to pay for the performance or entertainment; (b) signage must comply with other provisions of the Corvallis Municipal Code;

¹ It is unclear whether ordinance violations, which are designated as Class C misdemeanors, may be prosecuted in Circuit Court as well as municipal court. If they are, then the Department of Justice could be called upon to defend the ordinance in the context of defending the conviction.

² Corvallis Municipal Code, Section 5.03.080.150(1).

³ Corvallis Municipal Code Section 5.03.080.150(2).

⁴ Corvallis Municipal Code Section 5.03.080.150(3).

(c) no two entertainments may be within 50 feet of each other;⁵ (d) adhere to sound restrictions between the hours of 10:00 pm to 7:00 am; (e) limitations on the hours in which busking may occur; (f) busking that endangers the public, entertainers or otherwise violates the law is prohibited; (g) busking while biking, skating or using a scooter is prohibited; and (h) a permit is required for fires and fireworks.⁶ Other access restrictions on the manner of usage of the Riverfront Commemorative Park are imposed as well. Busking is permitted without exception, in other areas of the city, during “Art Walk.”⁷

The Oregon Constitution Broadly Interprets and Protects Speech

Article I, Section 8 of the Oregon Constitution states that “[n]o law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.”

The Oregon Supreme Court’s interpretation of the types of “speech” protected by Article I, Section 8 is quite broad, while the government’s ability to place restrictions on protected speech has been construed narrowly. In addition to spoken words, the Court has ruled that speech also includes certain forms of expressive conduct, such as dancing.

As a general rule, the Court has distinguished between laws that focus on the *content* of speech or writing and laws that focus on proscribing the pursuit or accomplishment of *forbidden results* (prohibited conduct).

Laws that focus on the *content* of speech or writing violate Article I, section 8, unless the prohibition comes within a well-established “historical exception” to the Oregon Constitution. The term “historical exception” refers to laws that were in effect at the time our state constitution was enacted and which target conduct deemed to be harmful to the public. Such laws or ordinances have been upheld by the Oregon Supreme Court, even if they end up restricting some types of speech. Some examples include laws that prohibit libel, perjury and forgery.⁸

In determining whether laws that focus on *forbidden results* are constitutional, caselaw suggests that the Court will look at how the law is constructed. These laws may be divided into two categories. The first are laws that prohibit certain conduct - forbidden results, or effects - and expressly prohibit the use of certain language or other form of expression to achieve those effects. Such laws are analyzed for “overbreadth.” A law is overbroad in violation of Article I, section 8 if it appears to reach and restrict protected speech. The second category are those laws that prohibit only conduct – forbidden results, or effects – and which do not refer to any form of expression at all. In certain circumstances, the enforcement of such laws may implicate speech,

⁵ This subsection was amended by unanimous vote to remove the reference to limiting the number of buskers to five at a time. See Draft Minutes of Human Service Committee public meeting, 02/17/2010, p.11.

⁶ Corvallis Municipal Code Section 5.03.080.150(4).

⁷ Id.

⁸ See *State v. Henry*, 302 Or 510, 515 (1987).

such as a trespassing statute that is enforced against picketers.⁹ Challenges to the second category of laws are based on the application of the law to a person who used particular words or other protected expression to commit the alleged violation.¹⁰

While the key to determining whether a law will be viewed as constitutional under Article I Section 8 seems to be whether the law targets speech or conduct, that distinction is a difficult one to make under the current body of Oregon jurisprudence.

The ordinance permits some forms of speech and expression while restricting others

The stated purpose of the ordinance is to regulate commercial activity.¹¹ Another goal of the ordinance appears to be to draw people to gather downtown and to encourage live performances in the Riverfront Commemorative Park on a free or donation basis.

Certainly, the City Council has a legitimate interest in making sure that members of the public have access to and are able to use and enjoy city park areas. The ordinance recognizes that public areas such as parks are attractive venues for many different types of activities, from individual and family outings to street artists, musicians and performers, to those seeking charity from others. Its intent to strike a balance between permitting individual use and enjoyment and guarding against certain activities that could threaten public health, safety or welfare (such as traffic congestion, overcrowding or overly aggressive panhandling) is evident.

But in articulating this balance, the ordinance appears to place restrictions on the ability of individuals to speak or engage in certain forms of expression that involve soliciting donations of money or other essential items, while permitting other forms of speech or expression related to entertainment for which a donation may be sought.

The ordinance's distinction between forms of expression may be problematic if it is deemed to be directed at the content of expression or speech. In other words, if the ordinance prohibits or restricts a person from saying certain words or expressing him/herself by engaging in certain conduct to convey a message, the ordinance may be found to be content-based as opposed to content-neutral. As noted above, the Oregon Supreme Court has consistently ruled that content-based laws violate Article I, Section 8 of the Oregon Constitution.

To achieve its goal, the City Council could narrowly describe the conduct perceived to present a risk to public health, safety and welfare and narrowly tailor restrictions to minimize the described harm.

For example, one way to address aggressive panhandling could be to draft a provision to specifically prohibit this type of conduct. The ordinance could prohibit aggressive panhandling, defined as seeking money or other things of value from another by any means that would cause a

⁹ *City of Salem v. Lawrow*, 233 Or App 32, 33 (2009)

¹⁰ *Id.*

¹¹ See Draft Minutes of Human Service Committee public meeting, 02/17/2010, p.10.

reasonable person to feel physically threatened, harassed or annoyed. Begging, arguably a form of expression, would be permitted but aggressive behavior related to the activity of begging would not.

Additionally, the restrictions on busking apply to some locations, but not others. As currently drafted, the ordinance permits performances at city parks other than the Riverfront Commemorative Park, but performers seeking payment in other parks require a vendor permit, issued on a first-come basis. A fee is assessed for those permits. Performers who do not seek payment do not need to procure a permit.

Although the Oregon Supreme Court has recognized that state and local governments have a legitimate interest in enacting "time, place and manner" restrictions in order to protect the public from certain types of harm that may reasonably result from some forms of speech, there are no cases addressing this exception.

Councilors-

Over the last several months there has been a notable increase in the amount of anti-social and criminal behavior at the public library and Central Park. This fact was recently reflected in two letters to the Gazette Times as well as the February Public Library Board minutes.

Large and intimidating groups of teens can often be found gathered at the library plaza and within the library itself. They in turn mix with any number of the shiftless adults loitering in Central Park, at the fountain, the gazebo and the playground. Bad behavior among this bunch includes lewdness, vulgarity, intimidation, harassment, public intoxication, fighting, drug dealing and general chaos.

I've personally witnessed this negative behavior many times and other citizens have shared their concerns with me as well. Due to the unruly and sometimes illegal behavior in this area I believe that many citizens no longer feel safe or comfortable visiting the park and library. For folks with children and the elderly these conditions are especially troubling. I know that many have quietly conceded Central Park to the miscreants and so it is only natural that we haven't heard a major outcry. This doesn't mean a problem doesn't exist and it also does not bode well for our upcoming "festival" season.

Having already spoken about this matter with Director level staff I would like to respectfully request that the City Manager return to a subsequent meeting of the City Council with a report on the following:

1. What measures are we taking to address the current threat to public safety and livability occurring in and around the public library and Central Park?
2. What other remedies, if any, are available to Council or staff to help reduce this unacceptable intrusion into the safe and carefree use of our public facilities by all?
3. What actions or policy dictates does the Council currently have within its authority that could assist staff in responding to this degradation of City livability?

In addition, I request that we continue to closely monitor this situation in the interim to ensure that conditions do not worsen. Based on my conversation with Police Chief Boldizar, I am confident that his department is addressing this situation proactively and I encourage them to continue to do so.

With the impending closure of the emergency cold weather shelter and the arrival of spring, I believe the time to address this issue is now.

Sincerely,
Mark O'Brien

Sources of information-

Mark O'Brien- fighting, littering, harassment, intimidation, chaos, smoking

Tracey O'Brien- fighting, lewd behavior, vulgar language, intoxication

C. O. - intimidation (walks several blocks out of way to avoid confronting the mob)

E.B. - harassment, intoxication, destruction of public property, (trash can lids)

intimidation (in the bushes)

H.B. – intimidation, criminal behavior (drug dealing), choose not to expose 5 year old to the Central Park environment

B.B. – intimidation (father of three who would not subject his children to the environment at Central Park

B.D. – intimidation, harassment, (subject and spouse subject to aggressive begging)

Staff as declared above

Problems related to the library-

Loitering, smoking, intimidation, retaliation, vandalism, harassment, littering, crass behavior, noise and chaos within the confines of the library

Problems related to Central Park-

Fighting, drug dealing, public intoxication, loitering, intimidation, public indecency, human waste, harassment, abuse to public property,

VII. DIRECTOR'S REPORT

Carolyn also gave further details about the recent incidents involving some young adults at the Corvallis Library. Carolyn has received numerous phone calls by offended patrons. Last week, a meeting was held at the Library with the Corvallis Police, Jackson Street Youth Shelter, Juvenile Probation, and Library staff. The Police gave everyone a lot of helpful tips on working with this particular population such as introducing yourself, treating them like human beings, looking them in the eye, and consistently applying the Library's Code of Conduct. Juvenile Probation plans to talk with the young adults one-one-one whom they are in contact with about what the Library personally means to them and how they would feel about losing their privileges. Also, Juvenile Probation officers are coordinating with Circulation Supervisor, Lori Johnston, to have some of the kids work off their large fines. Erlinda pondered what has changed to cause this sudden spike in disrespectful behavior? Carolyn said they really are not sure, but if the problems continue to escalate and the offenders do not comply with the Code of Conduct, then they will be banned from the Library. Linda inquired what time of day these incidents are occurring and Carolyn replied mostly afternoons and evenings, but some during the morning too. She surmised that many of them have minimal parental supervision. Andrew opined these incidents have probably spurred from only a couple of individuals, but a group has formed around them. With the realization that the Library is not a social welfare institution, Jacque is still hopeful that there is some way the Library can help these young adults. Sammi Fisher added that usually this type of behavior is just a cry for attention. Martha Fraundorf questioned if the banning of patrons is effective and Carolyn responded if the patron ignores the ban, he or she can be arrested. Martha further inquired if there had been any retaliation and Carolyn said nothing to report.

- Breaking News: Alsea Schools have 2 hour delay

Home / News / Opinion

Letter: The darker side of Central Park is becoming more evident

- Story
- Discussion

Posted: Wednesday, March 10, 2010 9:00 am | (24) Comments

Font Size:

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Over the past few weeks, I have noticed an increase in anti-social behavior in Central Park (across from the Corvallis public library).

It started with groups of people hanging around in the gazebo and near the portable toilet at the north end of the park. At first they were quiet, but as they have started to make the park their own, their behavior has become louder and more disturbing.

Over the last few weeks, I have witnessed loud swearing, a fight and public urination (not to mention being asked for money).

Most recently, I saw a man laying half in and half out of the portable toilet; although there may be a perfectly innocent explanation for this, I think that the one that first came to my mind was probably the right one.

This would be a problem anywhere in town, but in a park that is often used by families with young children, it is very worrisome.

Central Park quickly is becoming a place where families do not feel they can safely take their children.

Perhaps it is time for the Corvallis police department to start cruising past Central Park on their way to and from normal patrols. Would surveillance cameras be going too far?

Ian R. Downie

Corvallis

Posted in Opinion, Mailbag on *Wednesday, March 10, 2010 9:00 am* Updated: 10:57 pm. | Tags: Ian R. Downie

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- Alsea Schools have 2 hour delay
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- Signs of restoration
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- Retail sales rise unexpectedly in February
- Finley refuge marks historic date with open house

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- Breaking News: Alsea Schools have 2 hour delay

Home / News / Opinion / Mailbag

Letter: Central Park no longer is a place suitable for children to play

- Story
- Discussion

Posted: Friday, March 12, 2010 9:00 am | No Comments Posted

Font Size:

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In response to the March 10 letter from Ian R. Downie about the after-dark population of Central Park:

I have had much the same bad experience. One evening last week, a group of vulgar, loud-talking men gathered immediately after dark near the playground even before the children had all left. Their language was loud, coarse and close to the swings.

Most of the group were clustered in the shrubbery just east of the play area. We didn't stay long enough to witness more bad behavior; the taste we had made it obvious that this was no place for children. The park after dark definitely should be on the police patrol route, early and often.

Willa Kenoyer

Corvallis

Posted in Mailbag on Friday, March 12, 2010 9:00 am | Tags: Willa Kenoyer

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Similar Stories

- Letter: Last year, not first, defines the scope of an era or decade
- Letter: Physicians do a good job of 'policing' the rogues among them
- Letter: 'Tea Party' has no national leaders behind it, just populist concerns
- Letter: Aren't you sick and tired of being sick and tired of politics as usual?
- Letter: Morse's half-baked idea on kicker doesn't merit a rave editorial
- Letter: Where did coverage of OSU men's soccer game with the pros go?
- Letter: Corvallis' government isn't attracting business; it's stifling it

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Mortgage Rates	Rate	APR		FHA Rates	Rate	APR	
30 Year Fixed	4.250%	4.601%	Amerisave	30 Year Fixed	4.375%	4.976%	Amerisave
15 Year Fixed	3.750%	4.160%	Amerisave	15 Year Fixed	4.000%	4.553%	Amerisave
3 Year ARM	2.250%	3.292%	Amerisave	3 Year ARM	3.750%	3.253%	Amerisave

©2010 Kiewit, Justia (425 K Loan, FL 30%, CL TV, Chas 3 wa 03/12/09 10, Term 1 apply)

I. Energy Projects

Project	Cost	Incentives received or in progress	Est. annual \$\$ savings	Est. payback from energy savings at current utility rates
Library lighting	\$2,350	\$1,544	\$420	2 years
OAC boilers/EMS upgrade	\$229,000	\$70,000	\$65,000	2.5 years
Madison & PW solar hot water	\$19,690	\$8,565	\$700	16 years
ODOT LED traffic signal conversion	\$0	\$0	\$480	0 years

II. Staff-initiated Projects

“The Library reformatted its daily 'pick list' of hold items, reducing it from 60 pages to 12.”

✓ Annual savings ≈ \$400

“Finance staff began saving their nightly updates in PDF format instead of printing them, saving enough paper each month to fill two 4-inch binders.”

✓ Annual savings ≈ \$160

“All Police patrol cars are equipped with battery-powered LED “PowerFlares” to reduce the use of traditional road flares to mark road hazards.”

✓ Annual savings ≈ \$382

“The Majestic Theatre seismic upgrade called for the contractor to remove and reuse all existing wood trim and molding.”

Majestic Theatre Seismic Upgrade			
Bidder	Base Bid	Alternate Bid No.1	Total
Company A	\$128,934	\$420	\$129,354
Company B	\$152,894	\$400	\$153,294
Company C	\$155,000	\$1,437	\$156,437
Company D	\$171,000	\$2,000	\$173,000
Company E	\$198,754	<\$500>	\$198,254
Company F	\$218,675	1,755	\$220,430
Company G	\$235,000		\$235,000

III. Greenhouse Gas Inventory

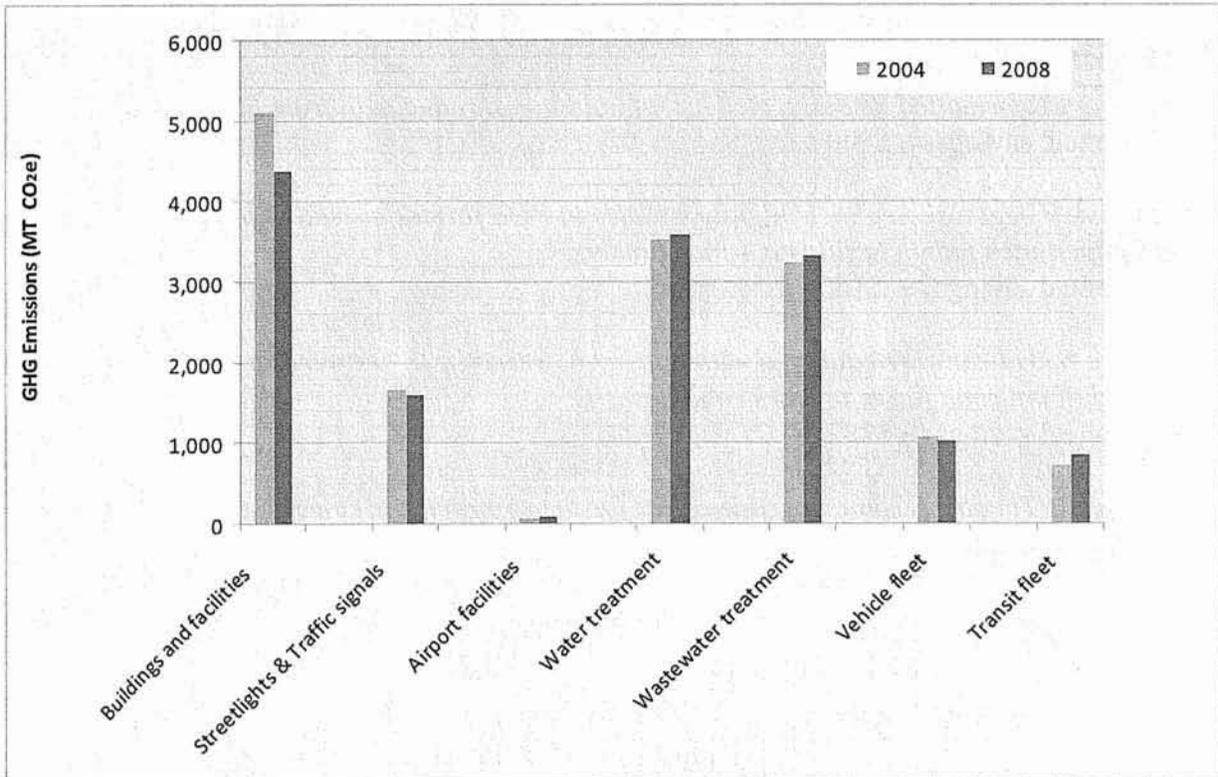
“A major accomplishment for 2009 was the completion of a greenhouse gas inventory for municipal operations.”

Cost

- \$2818 (\$1,618 consulting time; \$1200 ICLEI membership)

Benefit

- Address inefficiencies
- Prepare for state and federal legislation—and money!
- Manage risk



**CORVALLIS SUSTAINABILITY COALITION LAND USE ACTION TEAM
NEIGHBORHOOD AMENITIES AND WALKABILITY INVENTORY**

Inventory Date: _____ Start time: _____ Stop time: _____

Map section: _____ Street name: _____

From intersection of _____ to _____ (street or landmark)

Amenities data collected by: _____ on foot ___ bike ___ auto ___

Walkability/bikeability data collected by: _____ on foot ___ bike ___ both ___

Photographer: Amenities _____ Walkability/bikability _____

Part 1. LAND USE DIVERSITY (Check all amenities visible along this street. If photo is taken, enter viewing direction and photo number next to item.)

1a. What types of land use are visible along this street segment? (Estimate percentages.) **PHOTO #**

Residential _____% Commercial _____% Office/service _____% Govt/Public bldgs _____%
 Industrial _____% Parks/Open space _____% Agricultural _____% Forest/wooded _____%
 Vacant buildings _____% Other _____% (Type: _____)

1b. Is there vertical mixed use? (first floor retail/office, upper floors residential/other use)? Yes No

2a. What types of residences are visible on this street segment? (Enter # of buildings of each type.)

- a. Single-family home, detached: # bldgs _____ average # stories _____ approximate age _____
- b. Multiple attached, 2 – 5 units (duplex, triplex, townhouse): # bldgs _____ # stories _____
- c. Multiple attached, 6 or more units (apartment building/condo): #bldgs _____ # stories _____
- d. Apartment over retail in multi-story building # bldgs _____ # stories _____
- e. Mobile home or trailer park: # trailer parks _____ approximate # units _____
- f. Nursing home/assisted living: # homes _____ # stories _____
- g. Other (specify): _____

2b. What is the predominant type of residence along this segment? (Estimate percentage of each type.)

3. What types of commercial destinations (retail, recreation, entertainment) are visible?

(Number of each type and name to identify locally owned or national chain. Note if open 24 hours.)

3a. Commercial retail destinations:

#	Type (circle type if multiple options listed)	Name
_____	Convenience store or corner store	_____
_____	Small grocery, health food store or ethnic market	_____
_____	Large grocery/supermarket	_____
_____	Farmers market/produce stand	_____
_____	Restaurant	_____
_____	Fast food restaurant (dine-in, carry-out or drive-through)	_____
_____	Coffee shop or café	_____
_____	Bakery/ice cream /candy shop	_____
_____	Art/craft/camera/frame shop	_____
_____	Auto dealer (new, used?)	_____
_____	Auto parts/tires/accessories	_____
_____	Bike shop (new, used, repair?)	_____
_____	Bookstore (new, used?)	_____
_____	Clothing store (new, resale?)	_____
_____	Department store	_____
_____	Equipment sales, service (type)	_____

#	Type (circle type if multiple options listed)	Name	PHOTO #
_____	Fabric/knitting/beads/other	_____	_____
_____	Florist/flower stand/ gift shop	_____	_____
_____	Furniture, appliance, mattress, home store	_____	_____
_____	Garden center, soil/bark/compost/landscape supply/farm supply	_____	_____
_____	Gas station/fuel sales (gas, diesel, biodiesel, propane, other)	_____	_____
_____	Hardware/building supplies	_____	_____
_____	News stand or newspaper boxes	_____	_____
_____	Office equipment/computers/supplies	_____	_____
_____	Pet shop/pet supplies (type)	_____	_____
_____	Pharmacy/drugstore	_____	_____
_____	Resale shop (clothing, furniture, equipment, other)	_____	_____
_____	Sporting goods store	_____	_____
_____	Wine/Liquor store	_____	_____
_____	Other (specify)	_____	_____
_____	None		

3b. Commercial recreation/leisure destinations:

#	Type (circle type if multiple options listed)	Name
_____	Art gallery or studio	_____
_____	Hotel, motel, bed and breakfast	_____
_____	Movie theatre	_____
_____	Music store (instruments, recordings, etc.)	_____
_____	Participant sports court/field/track, playground	_____
_____	Performance hall or theater	_____
_____	Pub, bar or nightclub	_____
_____	Spectator sports field/arena	_____
_____	Studio/classes (dance, music, singing, yoga, martial arts, fitness, etc.)	_____
_____	Video rental/sales	_____
_____	Other (bowling, indoor soccer, gym, etc. - specify)	_____
_____	None	

3c. Commercial destination form: (Circle all that apply.)

Free-standing single store Big box store Small multi-shop center Medium/large shopping center
 Commercial street Mixed use buildings (commercial/residential)

3d. If no commercial destinations are on this street segment, what is the approximate distance to the nearest commercial destination? (in miles)

Form and distance away (e.g. single store, small multi-shop center, etc.)

4. What types of offices or services are visible? (Number, type and name)

#	Type (circle type if multiple options listed)	Name
_____	Auto repair/body shop/oil change/car wash	_____
_____	Bike or equipment repair shop	_____
_____	Building construction/maintenance (plumbing, electrical, landscape, roofing, construction, remodeling)	_____
_____	Type/name	_____
_____	Copy center, mail/package center, internet access	_____
_____	Day care center (adult, child, animal)	_____
_____	General office building (record presence of any first floor retail, underground parking, etc.)	_____
_____	Financial: Bank, credit union, ATM, check cashing facility	_____
_____	Funeral and interment services	_____
_____	Hair salon, barber shop, nail or tanning salon, spa, tattoo parlor, etc.	_____
_____	Health care: doctor, dentist, eye care, chiropractor, massage or physical therapy, counseling, other	_____

Type (circle if multiple options listed) **Name** **PHOTO #**

Laundry, dry cleaners, sewing, alterations, shoe repair _____

Pawn shop _____

Pet care: veterinarian, animal hospital, grooming, kennel, humane society, other (specify) _____

Professional offices: lawyer, accountant, financial services, real estate, architect, engineering, insurance _____

Rental center (auto, equipment, party supplies, etc.) _____

Research or consultant services _____

Small recycling facility _____

Storage facility _____

Other _____

None

5. What types of public, institutional, or government service destinations are there?

Type (circle type if multiple options listed) **Name**

Post office, letter drop box, ballot box, library, museum _____

Place of worship _____

Day care or preschool _____

Elementary school _____

Middle school or high school _____

Community college or university campus _____

Health or social services (e.g., hospital, adult care facility, health dept) _____

Airport, train station, bus station, parking lot/garage, transportation facility _____

Police or fire station (specify) _____

Community center _____

Other (courthouse, utilities, military, jail, landfill, cemetery) Specify type: _____

None

6. What industrial or resource production uses are located along this street?

Type (circle type if multiple options listed) **Name**

Green industry: solar, wind, bioenergy, bike, furniture, other manufacturing _____

Brewery or winery _____

Computer/high tech manufacturing _____

Factory, mill, refinery, chemical plant, other industrial building _____

Food processing facility (canning, slaughterhouse, meatpacking plant) _____

Large recycling center _____

Warehouse or distribution center _____

Other (community garden, etc.) _____

None

7. What types of recreation facilities, natural areas or parks are visible?

Type (circle type if multiple options listed) **Name**

Indoor fitness facility _____

Park type: large community park (e.g. Avery), neighborhood park (e.g. Porter), pocket (Peanut), dog park _____

Playground (park or school) _____

Swimming pool (public or neighborhood) _____

Riverfront /water body/boat launch _____

Golf course (public or private?) _____

Sports/playing field, basketball or tennis court (park or school) _____

Sports track (park or school) _____

Other recreational facility (specify) _____

None (If none are present on this segment, distance to nearest one: _____ miles Type _____)

8. What types of natural features or views are here? (Circle type and name if known to you.)

Type (circle if multiple options listed)

Name

PHOTO #

- River, stream or creek
 - Pond or lake
 - Wetland, marsh, bog
 - Forest, woodland, or woodlot
 - Hill or mountain
 - Valley
 - Big trees
 - Open space, undeveloped lot
 - Vineyard, orchard, agricultural or pasture land
 - Other _____
- None

STREET LIFE AND AESTHETICS

PHOTO #

9. Outdoor public gathering spaces (List number of each type and amenities at each location.)

Example of amenities: trash cans, recycling bins, water fountain, clean well-lit restrooms, lighting, payphone, newspaper stand, art, food, beverages, benches, tables/chairs, gazebo, playing field, transit, bike/car parking, bike paths, trails, sidewalks, landscaping, other.

TYPE **AMENITIES**

- Plaza or public square _____
- Outdoor café or tables _____
- Playground or park _____
- Garden (open to public) _____
- Other _____

None (If none, distance to nearest one: ___ miles Type: _____)

10. Are people present on the street (walking, biking, sitting, or engaging in other activities)?

- a. When: Daytime (none, some, a lot) Evening (none, some, a lot) Both (none, some, a lot)
- b. Type of activities: _____

11. Types of views, odors, noises or other features:

- a. Is there a significant open view of an object or scene that is not on this street segment? Yes No
If yes, how attractive is the open view? Attractive Neutral Unattractive
- b. Describe attractive views or features (tree canopies, architectural interest, vistas, etc.)

- c. Describe unattractive elements (overhead power lines, litter, graffiti, pollution, noise, odors, abandoned cars or upholstered furniture, etc.)

If it varies through the day or year, when is it most noticeable? _____

- d. Describe comfort/image:
Very inviting, Somewhat inviting, Somewhat uninviting, Very uninviting
Very vibrant, Somewhat vibrant, Somewhat lifeless, Very lifeless
Very safe, Somewhat safe, Somewhat dangerous, Very dangerous

12. Street landscaping and trees (circle all that apply)

- a. Presence: None, A few scattered trees or landscaped areas, Tree-lined street
- b. Location: Between buildings & sidewalk: None, Some, Many
Between sidewalk & street: None, Some, Many
- c. Average height of trees: Small (5 – 15 feet) Medium (15 – 30 feet) Large (over 30 feet)
- d. How much of the sidewalk area has a tree canopy on this street? (average; note if highly variable)
None 25% 50% 100% Fairly similar along street Highly variable along street

13. Architectural qualities (fill in blank, circle all that apply)

PHOTO #

- a. Average building height (feet or # stories) _____ Varies a lot? Yes No
- b. How alike are the building designs? Very similar Variety of designs No buildings here
- c. What percentage of buildings appear to be historic (pre-World War II) or modernist (1950-60s)?
None 5 – 25% 26 – 50% 51 – 75% 76 – 100%
- d. How interesting is the architecture/urban design of this segment? (details, materials, diversity)
Uninteresting (few details, little diversity) Somewhat interesting Very interesting
- e. Proportion of windows at street level compared with blank walls:
No windows, 10 – 25% windows, 26 – 50% windows, over 50% windows
- f. How many of the buildings have front porches or decks you can sit on (big enough for at least one chair)? None A few Some Most
- g. Building setbacks from sidewalk: At edge of sidewalk Within 10 ft. Within 20 ft. More than 20 ft.

Part 2. TRANSPORTATION ENVIRONMENT – Walkability and bikability

PHOTO #

14. Street characteristics and connectivity: (Circle all that apply.)

- a. Number of traffic lanes, excluding parking lane: _____
- b. Direction of traffic: One way Two way Center turn lanes present
- c. On-street parking available: None Parallel to curb Angled Time-limited Parking meters
- d. Speed limit: _____ mph None posted
- e. Traffic calming devices: None, traffic circle, roundabout, median, speed bumps, curb bulbouts, marked crosswalks; signs for school zone, pedestrians, children, speed limit, stop ahead
- f. Block length average: _____ (Short = good connectivity; very long = barrier.)
- g. Cul-de-sacs or dead ends? Yes No If yes, is there a pedestrian/bike throughway? Yes No
- h. Alleys present? Yes No
- i. Street lights: average number per block _____ average height _____
- j. Connects to bikeway or greenbelt? Yes No
- k. Steepness of street: Level, gentle slope Moderately steep Very steep
- l. Bus stops: Yes If yes, how far apart? _____ No If no, how far to the nearest bus stop?
< ¼ mile ¼ - ½ mile ½ - 1 mile > 1 mile Don't know
If yes, what amenities are provided? Bench Covered shelter Lighting Other: _____
Bus frequency at peak times: don't know; 6 – 10 am _____ per hour; 3:30 – 8 pm _____ per hour
- m. Other public transit available (pedicab, taxi, etc.) _____

15. How would you rate the walkability of this segment? Circle all that apply and fill in blanks:

- a. Sidewalks: None One side of street Both sides of street Varies Width: _____
Continuous? Yes, on one side of street Yes, on both sides of street Varies No
Surface material: _____ Condition: good, fair, poor, under repair, N/A
Slope: Level/ gentle, moderate, steep Cover: awning, shade trees, none Benches? Yes No
Obstructions for wheelchair or stroller: None Yes If yes, type: _____
- b. Buffer between walk and street: None One side of street Both sides of street
Width: _____ Buffer type: parking lane, grass, low plants, trees, other _____
- c. Street crossing aids: marked crosswalks, pedestrian crossing sign, pedestrian-activated signal, traffic signal, stop sign, yield sign, flashing light, ramps, curb cuts, adequate time to cross
Suggested improvements: _____
- c. Multi-use path/trail: None One side of street Both sides of street Width: _____
- d. Street shoulder: None One side of street Both sides of street Width: _____
- e. How attractive is this area for walking? Very attractive Moderately attractive Not attractive
- f. How safe do you feel walking on this segment? Very safe Moderately safe Not safe
Describe any concerns you have about walking here:

16. How would you rate the bikability of this segment? (Circle all that apply, or describe.)

PHOTO #

- a. Shared lane with autos: Yes No Feels very safe Feels relatively safe Feels unsafe
- b. Marked bike lanes: None One side of street Both sides of street Width: _____
Continuity of lane: Continuous (one side, both sides) Discontinuous (one side, both sides)
- c. Marked shoulder: None One side of street Both sides of street Width: _____
- d. Bike path separate from road: None One side of street Both sides of street Width: _____
- e. Levelness and condition of bike lane: level, moderate, steep; good, poor, under repair, N/A
- f. Obstructions: None Type _____
- g. Presence of bike racks? Yes No Adequate number and placement? Yes No
- h. How attractive would you rate this segment for cycling? Very Moderately Not attractive
- i. How physically difficult would you rate this segment for cycling? Easy Moderate Very difficult
- j. Describe any concerns you have about biking here:

17. How would you rate the availability of greenbelt trails or paths for this segment? (Circle all that apply.)

- a. Presence of path or trail: away from road along river or creek through park, forest, meadow
multi-use biking walking/running horse trail wildlife travel route . none (go to 17g)
- b. Signage for multi-use? Yes No
- c. Trail width: _____ Slope: level/gentle, moderate, steep Surface material: _____
- d. Trail condition: Good, fair, poor, under repair, N/A
- e. Trail obstructions: None Type _____
- f. Trail connects to other transportation routes? Yes No If yes, where do they lead?

- g. If none, how far is it to the nearest off-road trail?

Additional observations or comments you would like to add about this segment or neighborhood:

Compiled from numerous inventory tools, including Audit Tool Checklist and Inventory, SPACES, Irvine-Minnesota Inventory, Annie E. Casey, LEED for Neighborhoods, PEDS, UMaryland Urban Design Tool, Walkable neighborhoods checklist, and City of Corvallis Land Development Code, Comprehensive Plan and 2020 Vision Statement.

APPELLANT'S HEARING MEMORANDUM
Appeal of Notice of Violation - Sign Ordinance
V10 09 - 00645

I. **Background**

- A. The date of the violation notice is October 12, 2009.
- B. On May 7, 2009, Appellant contacted the City inquiring whether the electronic message center to be located inside the 3rd Street building was subject to Section 4.7.50(g). That contact is Exhibit 1 to this Memorandum.
- C. Based on phone conference(s) with staff, Appellant installed the \$40,000 message board inside the structure.
- D. It is submitted that the sign ordinance is so un-artfully written that staff could not advise the Appellant regarding the indoor sign interval interpretation that staff has now adopted.

II. **Questions Presented**

- A. Is Section 4.7.50 an unconstitutional restraint of commercial free speech?

Article I, Section 8 of the Oregon Constitution provides:

“No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever, but every person all be responsible for the abuse of this right.”

Freedom of speech means free from prior restraint. *City of Portland v. Welch*, 229 Or. 308, 322 (1961).

Ordinances regulating signs are valid if they are content neutral and are reasonably related to a public purpose.

Unreasonable regulations are invalid.

Ordinances will be held unconstitutional where it grants an official discretion to exercise personal subjective judgment in addressing the question of aesthetics.

Section 4.7.80.07(b) provides:

“Signs that display time and temperature information are exempt from the interval of change limitations of Section 4.7.80.07(a)” (20 minutes)

There is no restriction on size or frequency for time and temperature. Therefore, the restrictions regarding flashing, blinking, or fluctuating can not be related to safety or aesthetics.

Restricting change in content to not less than a 20 minute interval is therefore subjective prior restraint unrelated to a valid public purpose.

- B. The prohibitions of Section 4.7.50g (signs that flash, blink, fluctuate) apply to signs for which a permit is required. No permit is required for an indoor sign. Thus there is an inconsistency between the exemption in Section 4.7.70i and the specific permitting references regarding prohibited signs.
- C. Is the 20 minute interval reasonably consistent with the prohibited characteristics of flashing, blinking or fluctuating? Each word has a different dictionary definition. If the authors of the requirements for indoor signs wanted a 20 minute interval for indoor signs, why is not Section 4.7.80.07 incorporated by reference in to the exemption provisions of Section 4.7.70? Only Section 4.7.50 is cross referenced. It is submitted that the 20 minute interval does not apply to indoor signs.

III. **Requested Result:**

- 1. Reverse the Land Development Hearings Board.
- 2. Approve the scrolling message presentation accompanying this appeal with authorization for a 10 second interval.



George B. Heilig, OSB #731312
Attorney for Appellant

From: Chris Cheeley [mailto:chris@phonesplusinc.com]

Sent: Thursday, May 07, 2009 4:08 PM
To: 'Kevin.Russell@CI.Corvallis.OR.US'
Subject: sign code

Kevin: we spoke yesterday about the building at 3rd & Harrison. I've attached a rendering drawn from the perspective of the front door, showing the diagonal face (to the right of the front door) where I'm considering an interior screen. As I read through the code, Section 4.7.70 leads me to believe that anything inside the glass is out of the purview of the sign code, as long as the sign is not prohibited in 4.7.50.

Section 4.7.50 "g" dictates what could not be on the screen. Some of those terms might be subject to interpretation, so perhaps you can let me know if any of them have been defined in any other official document?

Thanks much.

Section 4.7.70 - EXEMPTIONS FROM SPECIFIC REQUIREMENTS OF REGULATIONS

The following types of graphic communication are exempt from one or more requirements of this Chapter, but shall comply with other applicable provisions. They are not subject to allocation limits specified in sections 4.7.80 and 4.7.90 below. Limitations on number and size of these classes of signs, if any, are noted below.

i. Signs, decorations, and displays inside of windows or attached to the inside of a window are exempt from these requirements, except those signs prohibited by Section 4.7.50.

Exhibit 1
Page 1 of 3

Section 4.7.50 - PROHIBITED SIGNS

No person shall erect, install, maintain, alter, repair, remove, or use (or cause or allow such action) any sign unless specifically authorized by these regulations. No permit shall be issued for the erection, display, or maintenance of any sign in violation of these regulations.

The following types of signs are specifically prohibited:

- a. Signs that obstruct the Vision Clearance Area, as defined by the City Engineer, of a street or driveway intersection in zones that have a front-yard setback requirement;
- b. Signs that obstruct ingress or egress through any door, window, fire escape, standpipe, or like facility required or designated for safety or emergency use;
- c. Signs that may be confused with public traffic signs or highway identification signs, or appear graphically similar to these types of signs;
- d. Signs that use words such as STOP, SLOW, CAUTION, LOOK, DANGER, or any other word, phrase, symbol, or character that may mislead or confuse motorists
- e. Signs or sign structures determined by the Building Official to constitute a hazard to the public safety or health by reason of poor structural design or construction, inadequate maintenance, lack of repair, or dilapidation;
- f. Signs located on or above public rights-of-way without written consent of the applicable jurisdiction, unless permitted by Sections 4.7.70 through 4.7.90, below. This includes, but is not limited to: sandwich boards, posters on utility poles, political signs in parking strips, and signs on sidewalks;
- g. Signs that flash, blink, fluctuate, or have chaser, scintillating, or speller effects,

including search lights;

h. Signs that move or have any moving part. This includes movement by mechanical, electrical, or kinetic means, wind currents, or any other means;

i. Signs that inflate, including balloons and blimps;

j. Pennants, flags, and banners. See Section 4.7.70.b regarding official national, state, and local flags and Section 4.7.80.05 regarding temporary banners;

k. Roof signs including those projecting more than four ft. above an eave on sloped roofs, or four ft. above the parapets on flat roofs;

l. Signs with visible A-frames, trusses, or guy wires as part of the sign or sign structure;

m. Signs placed on, affixed to, or painted on any motor vehicle, trailer, or other mobile structure not registered, licensed, and insured for use on public highways; and

n. Handbills, including any notice, placard, poster, showbill, dodger, circular, pamphlet, booklet, letter, folder, sheet, sticker, or banner, except as permitted by the Corvallis

Criminal Code.

Chris Cheeley, Managing Member
A Thousand Hills, LLC
1700 Northwest Blvd.
Coeur d'Alene, ID 83814
Direct line: 208-765-7590
Fax: 877-853-6238
Store line: 208-664-4229

**BICYCLE AND PEDESTRIAN ADVISORY COMMISSION
MINUTES
February 5, 2010**

Present

Brad Upton, Chair
Joel Rea
Rosie Toy
Andy Ross
Mike Beilstein, City Council

Absent

Susan Christie
Gerry Perrone
Dan Herford

Staff

Jo Morgan, Public Works
Steve Rogers, Public Works

Visitors

Annette Mills
Vernon Huffman
Dean Codo
Laura Duncan Allen
Joel Spector
Ali Bonakdar
Bruce Moffatt

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Call Meeting to Order/ Introductions	X		
II. Review of January 8, 2010 Minutes			Approved as amended
III. Visitor Comments			
• CAMPO Report on 9th Street Plans	X		
IV. Old Business			
• 9 th Street Bike Lanes			BPAC directed staff to recommend bike lanes be added to 9 th Street
V. New Business			
• Bike Boulevard Presentation			
• Busking Ordinance	X		Moved to March meeting
VI. Information Sharing			
• CBUF Exchange Invitation	X		
VII. Commission Requests and Reports	X		
VII. Pending Items			
• Bike Parking	X		
• Draft Education Plan			

CONTENT OF DISCUSSION

I. Call Meeting to Order/ Introductions

Chair Upton called the meeting to order. The Commission and staff introduced themselves.

II. Review of Minutes

Chair Upton asked for a change to the January 8 minutes, adding specifics as to what will cause a failure at the intersections of 9th Street at Tyler, Harrison, and Van Buren Avenues. The new sentence would read:

"He stressed that although this option will work today, it would cause the intersections of Tyler, Harrison, and Van Buren to fail at some point in the future if past trends in increased motor vehicle use and vehicle size continue. If that were to occur, possible options would include:

1. Eliminating the bike lanes and returning to the current lane configurations
2. Widening the street to accommodate an additional travel lane—this option would require significant tree removal
3. Accepting gridlock in this section, including the likely migration of traffic to nearby local streets—this may also require a modification of the Transportation System Plan.

Commissioner Rea moved to approve the minutes as amended. Commissioner Toy seconded the motion, which passed unanimously.

III. Visitor Comments

Annette Mills of the Corvallis Sustainability Coalition invited BPAC members to attend the Sustainability Town Hall Meeting on March 11. Councilor Beilstein suggested that this is a good opportunity to promote bicycling and asked if Public Works will host a booth. Mr. Rogers responded that staff may not participate this year because of a concern about staff overtime, but would supply alternate mode use information. Ms. Morgan will contact the Mid-Valley Bike Club to ask them to host a booth and to provide promotional items for the booth. Visitor Vernon Huffman suggested that the OSU Co-op might want to collaborate on the effort.

Mr. Huffman presented a petition for secure covered bike parking at all rental properties as an information item to BPAC. Councilor Beilstein signed the petition and stated that because Mr. Huffman took a 'carrot' as opposed to a 'stick' approach he could support the petition. Mr. Huffman intends to deliver the petition to the City Council. Commissioner Rea and others advised that the definition of what constitutes 'covered and secure' is important to consider. For instance, does it have to be in a locked cage or room? Mr. Rogers discussed the proposed Sustainability Incentive Fee (SIF) that could include an incentive grant to encourage businesses and property owners to provide secure and covered bike parking. The SIF proposal will be presented to BPAC in March and the Administrative Services Committee in April.

Visitor Laura Duncan Allen is not satisfied with the Urban Services Committee's decision to not refer a study on the need for bike lanes on the section of Harrison between 31st and 35th Streets to BPAC for consideration. Chair Upton stated that BPAC did recommend looking at options for the installation of bike lanes along this corridor and advised Ms. Duncan Allen to review the USC minutes for background and to pursue the matter herself if she is inclined to do so. Chair Upton also indicated that, while BPAC is not pursuing the matter with USC at this time, the Commission is alert to every future opportunity to have bike lanes on Harrison. Mr. Rogers clarified for BPAC that Harrison is likely to be patched during the next one to four years, but that will not precipitate a reconstruction. When reconstruction occurs, bike lanes will be installed.

CAMPO Report on 9th Street Plans

Corvallis Area Metropolitan Planning Organization (CAMPO) Director Ali Bonakdar presented a plan for bike and pedestrian improvements on 9th Street. The details can be found online at <http://www.corvallisareampo.org/gpage9.html>. Improvements include:

- Five-foot sidewalks,
- Five mid-block pedestrian crossings (Circle to Walnut is uncertain though),
- A study of the Polk crossing,
- Widen bike lanes to six feet,
- More bus shelters,
- Landscaping improvements, and
- Manage access by limiting driveways and installing structures that only allow a right turn per the current Land Development Code

The next steps will be a Corvallis Planning Commission review on February 17, followed by a recommendation to the City Council.

Mr. Rogers reported that 24,000 cars use 9th Street daily at Buchanan.

IV. Old Business

9th Street Bike Lanes

BPAC briefly discussed the 9th Street Bike Lane proposal. BPAC heard a presentation about the details at their January meeting. Chair Upton asked all visitors their opinion of the proposal. The Commission and all visitors are supportive of the change. **The Commission directed staff to recommend, via staff report to the Urban Services Committee, that bike lanes be provided on 9th Street between Monroe and Polk Streets, as proposed by City engineers (stripe removal and re-stripping). Commission Rea motioned and Rosy seconded, with unanimous support.**

V. New Business

Bike Boulevard Presentation

Chair Upton reported that the Bike Boulevard presentation will be moved to the March meeting.

Busking Ordinance

Chair Upton opined that BPAC's interests are served if existing language that maintains pedestrian access to sidewalks is preserved. Councilor Beilstein will convey BPAC's message on February 17th at the Human Services Committee meeting, noting that for BPAC pedestrian access should be the same as that maintained for sidewalk cafés, i.e. 48 inches. The existing requirement is 36 inches.

VI. Information Sharing

CBUF Exchange Invitation

Ms. Morgan provided background information about the Civic Beautification and Urban Forestry's (CBUF) invitation to BPAC to attend each other's meetings to introduce themselves and provide general background information. CBUF's intent is to build understanding and support between the two groups. Mr. Rogers explained that there are times when the missions of the two groups may be in conflict, such as when trees must be removed to widen a street for bike lanes. Mr. Rogers also noted that 75% of damage to sidewalks is by tree roots. BPAC directed staff to invite CBUF to a future meeting. BPAC will then decide who might attend a future CBUF meeting.

Chair Upton reported that the Downtown Commission and BPAC's sidewalk café code recommendations to the USC were similar (aside from the timing of when enforcement occurs) and expressed the likelihood that the recommendations will be upheld as the issue progresses to the City Council.

Chair Upton asked for input for the upcoming Bike Summit in Washington, D.C. He will be meeting with key Congressional leaders from Oregon to advocate for bicycling interests.

VII. Commission Requests and Reports

Commissioner Rea asked staff to provide alternatives for a possible multi-use path that would better serve bicyclists that want to reach Carmike, Home Depot, Safeway and other businesses at the Four-Acres Shopping Center location. Mr. Rogers advised the group against spending too much time on the project because the Texas-based owner and Union-Pacific Railroad have not been open to the idea. Ms. Morgan agreed to provide some alternatives.

VIII. Pending Items

Bike Parking

Chair Upton reported that the BPAC's recommendation to not relax bike-parking requirements for new development was noted by the Downtown Commission. The issue will be added to the Commission's on-going work program with the hope that additional dialogue with BPAC and the Downtown Commission might mutually resolve both interests.

Draft Education Plan

Not Discussed.

The meeting was adjourned at 9:00 a.m.

NEXT MEETING: March 5, 2010, 7:00 a.m., Madison Avenue Meeting Room

**BICYCLE AND PEDESTRIAN ADVISORY COMMISSION
MINUTES
March 5, 2010
DRAFT**

Present

Brad Upton, Chair
Joel Rea
Susan Christie
Dan Herford
Rosie Toy
Gerry Perrone
Mike Beilstein, City Council

Staff

Jo Morgan, Public Works
Lisa Namba, Public Works
Steve Rogers, Public Works
Mary Steckel, Public Works
Tim Bates, Public Works
Becky Merja, Parks and Recreation
David Philips, Parks and Recreation

Absent

Andy Ross

Visitors

Joel Hirsch, City Council
Walter Prichard
Bruce Moffatt
David Sandrock

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Call Meeting to Order/ Introductions	X		
II. Review of February 5, 2010 Minutes			Approved as amended
III. Visitor Comments • David Sandrock, Community Beautification and Urban Forestry Committee	X		
IV. Old Business • None			N/A
V. New Business • Bike Boulevard Presentation • Sustainability Initiatives Fee		X	Postponed to the April meeting Supported the package and ranked the initiatives
VI. Information Sharing	X		
VII. Commission Requests and Reports			N/A
VIII. Pending Items • Bike Parking • Draft Education Plan			

CONTENT OF DISCUSSION

I. Call Meeting to Order/ Introductions

Chair Upton called the meeting to order. The Commissioners and staff introduced themselves.

II. Review of Minutes

Chair Upton suggested some corrections to the February 5, 2010 meeting minutes. Under Visitor Comments, he pointed out that the Sustainability Town Hall Meeting is scheduled for March 11, not February 25. He also clarified his response to visitor Laura Duncan Allen's comments regarding the Urban Services Committee's decision about bike lanes on Harrison Blvd, adding that he told her that BPAC did recommend the addition of bike lanes, but USC decided to not pursue that recommendation.

Commissioner Rea moved to approve the minutes as amended. Commissioner Toy seconded the motion. The minutes were unanimously approved.

III. Visitor Comments

David Philips from the Corvallis Parks and Recreation (P&R) Department presented and reviewed a handout describing the proposed Sustainability Initiatives Fee (SIF) that P&R is working on with Public Works. The City Council adopted an Urban Forestry Management Plan in October 2009 and the Urban Forestry portion of the SIF would implement some of that plan.

David Sandrock, Community Beautification and Urban Forestry Commission (CBUF)

Visitor David Sandrock presented a brief slideshow to share what CBUF is and what they do. Becky Merja, Corvallis Urban Forester, provided some historical background on the formation of CBUF.

IV. Old Business

None.

V. New Business

Bike Boulevard Presentation

The Commission decided to postpone this discussion in favor of providing feedback on the Sustainability Initiatives Fee options.

Sustainability Initiatives Fee

Mr. Rogers presented information on the proposed Sustainability Initiatives Fee (SIF). He said that the five items on the SIF have been discussed at different times over the past few years. Staff has assembled them and is presenting them together, but in a pick-list, not a package; each proposal can be supported independently from the others. Outreach will take most of March and possibly part of April. Staff will present the package of five items, along with the input received prior to that time, to the City Council Administrative Services Committee meeting on April 21. Along with stakeholder outreach, there will be an insert in *the City* newsletter that comes out at the end of March and a copy of the briefing paper has been provided to the Corvallis Sustainability Coalition. Mr. Rogers is asking for input from BPAC about the five items in the proposal and overviewed them briefly:

- Transit Service Fee. This fee would add a charge to the City services bill and is proposed to be based on a trip-generation formula, exactly as is done with the Transportation Maintenance Fee. This would provide a fareless transit system; it would replace all

property tax funding for the transit system, removing it from competition with other property tax-funded activities; and it would provide a mechanism for funding future enhancements to transit service. The transit master plan indicates that the transit system should provide one hour of transit service per capita per year; currently, the transit system provides about half of that. In response to a question, Mr. Rogers stated that little, if any, of the current revenue from transit group pass programs would be lost.

- Sidewalk Safety Program. This would change the ordinance, making sidewalks the responsibility of the City to maintain, which would require a funding source. This fee would be based on every property in the city paying an equal portion of the total, unlike those based on trip generation.
- Urban Forestry Program. This fee would provide funding to begin implementing the Urban Forestry Plan, which was adopted by the City Council last year. It has the potential for positive impacts on sidewalks and bike lanes. Mr. Rogers noted that there was conversation about using the fee to manage vegetation encroaching on sidewalks and bike lanes, but that this proposal would not replace the existing method for dealing with encroaching vegetation.
- Alternate Transportation Modes. This program focuses on bicycle and pedestrian infrastructure. Ms. Steckel pointed out that this is a separate concept from the other proposals because it would create new infrastructure rather than working with existing infrastructure.
- Energy Conservation/Renewable Energy Projects. This item came out of the City Council's Energy Sustainability discussion at least two different times. It is proposed to be a granting program funded through the fee.

The Commission agreed that they support the entire package, but also ranked the initiatives by importance: 1) Alternative Modes, 2) Sidewalk Safety 3) Transit, 4) Urban Forestry, 5) Additional Transit Service and 6) Energy. One represents BPAC's highest priority and six the lowest.

VI. Information Sharing

Chair Upton reported that he will be going to the National Bike Summit in Washington, D.C. next week for a conference and to lobby Congress to consider bicycle legislation. He stated that he has convinced the Oregon group, which typically focuses only on Portland, to promote the Corvallis-to-Albany path.

Councilor Beilstein reminded the Commission about the upcoming Sustainability Town Hall.

VII. Commission Requests and Reports

None.

VIII. Pending Items

Bike Parking

Not discussed.

Draft Education Plan

Not discussed.

The meeting was adjourned at 8:55 a.m.

NEXT MEETING: April 2, 2010, 7:00 a.m., Madison Avenue Meeting Room

MINUTES

Wednesday – February 17, 2010 3:00-4:30 PM

In Attendance:

- | | | | | |
|---|--|---|---|---|
| <input checked="" type="checkbox"/> Angie Baca | <input checked="" type="checkbox"/> Mike Beilstein | <input checked="" type="checkbox"/> Gary Boldizar (p) | <input checked="" type="checkbox"/> Ed Boyd (p) | <input checked="" type="checkbox"/> Floyd Collins |
| <input checked="" type="checkbox"/> Mark Cotter | <input type="checkbox"/> Bill Currier | <input checked="" type="checkbox"/> Jay Dixon | <input type="checkbox"/> Ken Elwer | <input type="checkbox"/> Liz Foster |
| <input type="checkbox"/> Max Frederick | <input type="checkbox"/> John Haroldson | <input type="checkbox"/> Rick Hein | <input type="checkbox"/> Linda Hukari | <input type="checkbox"/> Justin Jones |
| <input checked="" type="checkbox"/> Sharon Konopa (p) | <input type="checkbox"/> Jim Kramer | <input type="checkbox"/> Al Krug | <input type="checkbox"/> Jeff Lanz | <input checked="" type="checkbox"/> Jeanne Nelson |
| <input type="checkbox"/> Jon Nelson | <input checked="" type="checkbox"/> Gail Newman | <input type="checkbox"/> Joe Pickens | <input checked="" type="checkbox"/> Jack Rogers | <input type="checkbox"/> Jon Sassaman |
| <input checked="" type="checkbox"/> Dan Schwab (p) | <input checked="" type="checkbox"/> Diana Simpson | <input checked="" type="checkbox"/> Angie Stambuk | <input type="checkbox"/> Kate Welter | <input type="checkbox"/> Deb Williams |
| <input checked="" type="checkbox"/> Locke Williams | <input type="checkbox"/> Karen Zorn | | | |
| <input checked="" type="checkbox"/> Present | <input type="checkbox"/> Absent | | | |

Members Present: **16 = No Quorum** (32 positions filled: quorum requirement **17**)

Vacancies:

Adair Village Citizen Rep, Adair Village City Councilor, OSU: Director -Dept. of Public Safety, Philomath City Manager/Rep, Benton County Citizen Rep, Rep of Crime Victims, School District Rep

Staff:

Michele Spaulding

Guests:

Justin Carley, David Clark, Jeff Hinrichs, Dan Hendrickson, Janet Holcomb

ACTIONS:

FUTURE AGENDA ITEMS:

- Alternative Incarceration Programs -- what are they and do they work? DA's Office could present

UPCOMING MEETINGS (3:00pm – 4:30pm):

- March 17th
- April 21st
- May 19th
- June 16th
- No July Meeting

2009 - 2010 WCJC - Full Council Meeting

Call to Order & Introductions

Jack Rogers called the meeting to order at 3:02pm. Introductions were made; the attendance roster was circulated.

1. Minutes

No action taken without a quorum.

2. WCJC Committees, Projects, LPSCC Activities

▪ **DUII VIP Grant – Jack Rogers**

More than \$20,000 worth of grant requests were received for the Executive Committee to review. \$5,000 was budgeted for this grant cycle, but the Reserves (who work at panels) donated their salaries for the year, so a total of \$5,499.90 was granted. Grants were made to:

- Adair Village Police Department - Community Education Package
- Albany Police Department - Advance Crash Training (benefits all of Benton County)
- Corvallis Police Department - Video Recording Systems
- Oregon State University - Intoximeters – Alcohol Sensors

▪ **Drug Treatment Court (DTC) Update**

Juvenile DTC: (Lock Williams)

Current Active Participants 12

- One participant graduating tomorrow.
- One participant recognized by the Kiwanis at Corvallis High School as the Most Improved Student, one participant was recognized by College Hill and is returning to Crescent Valley High School.

Adult DTC (Janet Holcomb):

Current Active Participants 44

- River House Recovery House- looking for a house breathalyzer if anyone has an extra one; space for one more participant; would like to get a house for women next.

With the passage of M66 and M67, drug courts are not currently at risk.

3. Other Business

▪ **Benton County Health Department 2011-2013 Plan: Jeanne Nelson** (Handout available)

The 2011-2013 Biennial Plan handout is not really a biennial plan, but a more statement of how general funds are being spent through short (350 word max) responses to specific questions. Jeanne highlighted a couple of areas including: Benton County Health Services (BCHS) utilization of a hospital liaison, community-based mental health (meeting clients where they live), services to serve transitional youth (18-25), a worker who can work with clients receiving Temporary Aid for Needy Families, and developing integrated care through Electronic Health Records. This is a draft, please contact Jeanne with any questions or comments.

▪ **10 Year Plan to End Homelessness: Jay Dixon, Benton County Commissioner**

This three county (Benton, Lincoln, Linn) effort was two years in the making and is part of a larger state and federal effort to end chronic homelessness. There was broad participation from within the community. The two dominate themes of the plan are housing first and permanent supportive housing (for people with mental illness, substance abuse or medical issues). Connecting homeless with services is a primary goal of the plan.

To give you an idea of homelessness in Benton County, a one night shelter count found 76 singles, 65 people/families with children with 23 children less than 11 years old and 20 children between 12-17. A committee of 13 is meeting monthly to look over the 34 initiatives that came out of the plan to pick two to five to get started on. There are many efforts underway, so hopefully some will be joined together. The committee wants to track what it costs to jail and hospitalize the homeless.

More plan details can be found at the Community Services Consortium website: <http://www.csc.gen.or.us/>.

Call for Additional Agenda Items

None noted.

Adjournment: The meeting was adjourned at 3:38pm.

MEMORANDUM

To: City Council Members
From: Charles C. Tomlinson, Mayor 
Date: March 30, 2010
Subject: Confirmation of Appointment to Committee for Citizen Involvement

As you know, at our last regular meeting I appointed the following person to the Committee for Citizen Involvement for the term of office stated:

Candace Pierson-Charlton
Term Expires: June 30, 2012

I ask that you confirm this appointment at our next Council meeting, April 5, 2010.

1031

MEMORANDUM

To: Mayor and City Council

From: Tony Krieg, Customer Services Manager 

Subject: LIQUOR LICENSE INVESTIGATION -Flat Tail Brewing

Date March 29, 2010

The City has received an application from Flat Tail Brewery located at 202 SW 1st, Corvallis, OR 97330. This application is for a New Outlet with a Brewery Public House Liquor License.

An affirmative recommendation has been received from the Police, Fire, and Community Development Departments. No citizen comments or input were received regarding this application for endorsement.

Staff recommends the City Council authorize endorsement of this application.

Allows the manufacture and sale of malt beverages to wholesalers, and the sale of malt beverages, wine and cider for consumption on or off the premises.

MEMORANDUM

To: Mayor and City Council

From: Tony Krieg, Customer Services Manager *JK*

Subject: LIQUOR LICENSE INVESTIGATION - Loca Luna Restaurant and Bar

Date March 29, 2010

The City has received an application from Adam Kakahuna, owner of Crazy Moon Hospitality Group, LLC , doing business as, Loca Luna restaurant and Bar located at 136 SW Washington Corvallis, OR 97330. This application is for a New Outlet with a Full on premise sales liquor license.

An affirmative recommendation has been received from the Police, Fire, and Community Development Departments. No citizen comments or input were received regarding this application for endorsement.

Staff recommends the City Council authorize endorsement of this application.

1

Full On-Premises Sales License

Allows the sale and service of distilled spirits, malt beverages, cider, and wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off the licensed premises.

MEMORANDUM

To: Mayor and City Council

From: Tony Krieg, Customer Services Manager AK

Subject: LIQUOR LICENSE INVESTIGATION -Iovino's Ristorante

Date March 29, 2010

The City has received an application from Regina Iovino, owner of RIRC, LLC, doing business as, Iovino's Ristorante located at 1835 SE Third Street, Corvallis, OR 97330. This application is for a New Outlet for a Full On- Premise sales/Caterer License.

An affirmative recommendation has been received from the Police, Fire, and Community Development Departments. No citizen comments or input were received regarding this application for endorsement.

Staff recommends the City Council authorize endorsement of this application.

¹

Full On-Premises Sales License

Allows the sale and service of distilled spirits, malt beverages, cider, and wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off the licensed premises.



MEMORANDUM

To: Mayor and City Council
From: Karen Emery, Director
Jackie Rochefort, Park Planner
Date: March 12, 2010
Subject: Local Share Grant Funds - Application Authorization

Issue:

The Department has been notified that the grant cycle for the Local Share Fund has begun. The application process requires the City Council authorize the application for the grant.

Background:

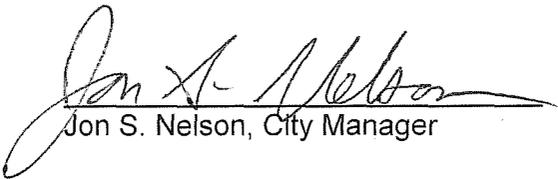
The Lincoln School Tennis Courts are in need of redevelopment. In 2009 the Parks, Natural Areas and Recreation Board recommended the Lincoln School Tennis Courts be included in the Capital Improvement Plan. The courts have suffered significant cracks and frost damage that have made them unsuitable for play. Presently, staff can not use these courts in their recreation programs. Based on citizen recommendations, and The Healthy Kids Healthy Communities program which promotes physical activity in South Corvallis, this project has been recommended as a high priority. The project entails adjusting the slope with crushed rock with an asphalt overlay, and new nets and posts. The new surface will overlay the existing surface thereby reducing waste on site.

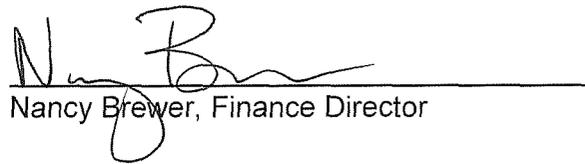
Based on available funds, the project will be completed in one phase. City matched funds of \$26,000 or 50% of the grant application are only partially appropriated in FY 09/10 CIP. If staff is successful in receiving grant funds, we will propose that funding from the Willamette Park Capital Improvement project be re-appropriated to the tennis court project to provide the necessary match money. Staff anticipates 50% grant funding.

Recommendation:

To authorize application for the 2010 Local Share Fund process to fund the Lincoln School Tennis Court Re-surfacing project.

Review and Concur:


Jon S. Nelson, City Manager


Nancy Brewer, Finance Director

MEMORANDUM

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director 

DATE: March 29, 2010

RE: Phones Plus Appeal of Notice of Violation (VIO09-00648):
Staff Response to Appellant's 3/15/10 Hearing Memorandum, 3/19/10
Supplement to Hearing Memorandum, and Councilor Questions

This purpose of this memo is to provide a brief Staff response to issues raised by the appellant within the Appellant's Hearing Memorandum, submitted during the March 15, 2010, City Council hearing, and the supplement to the Appellant's Hearing Memorandum, submitted to the Mayor on March 19, 2010 (both documents are attached as **Attachment A**.) The following analysis presents appellant arguments, followed by Staff responses to the arguments. In addition, a response to Councilor question(s) is also provided.

Appellant's Hearing Memorandum, 3/15/10

- I. **Background.** The appellant states that Staff was consulted prior to installation of the variable message sign, and that the variable message sign was installed based on direction provided during a phone conference with Staff.

Staff Response: A chronology summarizing Staff contacts with the appellant prior to installation of the Variable Message Sign is attached as **Attachment B**. In short, Staff ultimately advised the appellant that the type of sign he was describing during a telephone conversation would be prohibited, whether located inside or outside a window, unless programmed to meet the 20-minute interval of change requirement.

II. **Questions Presented.**

- A. Are Sections 4.7.50 (Prohibited Signs) and 4.7.80.07.b (Time and Temperature Sign exemption) an unconstitutional restraint of commercial free speech?

Staff Response: Although this question does not identify any specific provision of LDC 4.7.50 subject to the assertion, the prohibitions of LDC 4.7.50 and LDC 4.7.80.07.b appear to be content-neutral, posing no danger of official censorship. Moreover, the content-neutral regulations appear to have been imposed for reasons of public safety, aesthetics, and other important public purposes, and imposed under reasonable time, place and manner restrictions. With respect to the time and temperature exemption, time and temperature typically involve four or fewer characters, so the amount of time for a motorist to be potentially distracted is minimal (see additional discussion on Pages 11 - 12 of the March 8, 2010, City Council Staff Report.) Based on this, it can be

presumed that an exemption to the 20-minute interval of change restriction, applied exclusively to time and temperature, is consistent with community values related to public safety and aesthetics. Therefore, the regulations imposed by LDC 4.7.50 and LDC 4.7.80.07.b do not constitute an impermissible prior restraint on expression.

- B. The prohibitions of Section 4.7.50.g (signs that flash, blink, fluctuate) apply to signs for which a permit is required. No permit is required for an indoor sign. Thus there is an inconsistency between the exemption in 4.7.70.i and the specific permitting references regarding prohibited signs.**

Staff Response: It is unclear what “specific permitting references regarding prohibited signs” the appellant is referring to. There are no provisions within the Land Development Code that state that Section 4.7.50 (Prohibited Signs) applies only to signs for which a permit is required. Since the appellant has not cited any specific sections that contain such a reference, Staff can only assume that the appellant is referring to the introductory paragraph of Section 4.7.50, which states the following:

Section 4.7.50 – Prohibited Signs

No person shall erect, install, maintain, alter, repair, remove, or use (or cause or allow such action) any sign unless specifically authorized by these regulations. No permit shall be issued for the erection, display, or maintenance of any sign in violation of these regulations.

The fact that Section 4.7.50 states that no permit shall be issued for a sign in violation of “these regulations” does not mean that prohibitions apply only to signs for which a permit is required. Generally, prohibitions listed in the Land Development Code apply broadly, not just to development that specifically requires a permit. For example, signs and other structures that obstruct the Vision Clearance Area are prohibited under Section 4.7.50.a. Certain signs directing traffic and parking on private property are exempt from having to obtain a sign permit (under Sections 4.7.60 and 4.7.70.f), but are still prohibited if they obstruct the Vision Clearance Area.

Similarly, a sign displayed inside of a window is exempt from having to obtain a sign permit (Sections 4.7.60, 4.7.70.i). This permit exemption does not automatically exempt a sign displayed inside of a window from the prohibitions listed under LDC Section 4.7.50. Additionally, as is discussed on Page 8 of the City Council Staff Report, of all the exempt sign types listed under Section 4.7.70, signs displayed in windows are the only type specifically not exempt from the prohibitions listed under Section 4.7.50. Regardless of “any specific permitting references regarding prohibited signs”, it is clear that the intent of the Code is to specifically subject window signs to the prohibitions listed under Section 4.7.50. Staff find no conflict in these Code provisions.

- C. Is the 20-minute interval reasonably consistent with the prohibited characteristics of flashing, blinking or fluctuating? Each word has a different dictionary definition. If the authors of the requirements for indoor signs wanted a 20-minute interval for indoor signs, why is not Section 4.7.80.07 incorporated by reference in to the exemption provisions of Section 4.7.70? Only Section 4.7.50 is cross referenced. It is submitted that the 20 minute interval does not apply to indoor signs.**

Staff Response: Staff emphasizes that Section 4.7.70 includes two distinct exemptions for indoor signs: Section 4.7.70.h exempts signs that communicate only to persons inside buildings, and Section 4.7.70.i exempts signs displayed in windows, except those signs prohibited by Section 4.7.50. The exemption for signs that communicate only to persons inside buildings does not reference the prohibitions of Section 4.7.50, and does not apply to the Variable Message Sign, since it is exclusively visible from the exterior of the Phones Plus building.

As is discussed in the May 8, 2010, City Council staff report, the Land Development Code does not define the terms flash, blink, fluctuate, etc., and dictionary definitions for the terms are not exact. One person's interpretation of what constitutes "fluctuating" may be very different from another's. In looking to other provisions of the Code to inform one about how to interpret what "fluctuates" and what does not, Staff find that Section 4.7.80.07.a provides a clear and objective standard by which to base an interpretation. This is not to say that Section 4.7.80.07.a independently applies to signs displayed inside windows, but that it is the most clear and objective standard existing within the Code by which one can make a reasonable determination of what does and does not flash, blink, fluctuate, etc. There is nothing within the Code to inform or support the 10-second interval proposed by the appellant, or any other interpretation, whether it be 3 seconds or 24 hours, other than the 20-minute interval set forth in Section 4.7.80.07.a.

Supplement to Appellant's Hearing Memorandum, 3/19/10

The supplement to the Appellants Hearing Memorandum, submitted March 19, 2010, constitutes the appellants final written argument. Within the supplemental memorandum, the appellant cites ORS 174.010 and ORS 174.020(2), and states (in part) the following:

Despite this clear exemption (Section 4.7.70.i), staff argues that Section 4.7.80.07, which prohibits a change of message in less than twenty minutes still applies to the sign in this case. Clearly it does not. If that had been the intent of the drafters, then they would have provided in Section 4.7.70(g) that indoor signs "are exempt from these requirements, except those signs prohibited by Section 4.7.50 and 4.7.80.07." Staff is arguing to insert that which has been omitted. Clearly that violates ORS 174.010.

Staff Response: Staff re-emphasizes that Section 4.7.80.07.a is useful to inform one about how to interpret the terms used in Section 4.7.50.g, rather than an independent restriction.

As was discussed in the City Council staff report (pages 5 – 7), the text amendment that incorporated the current variable message sign restrictions was LDT03-00003. This amendment removed a prohibition on signs that have changeable copy by other than manual means, created a definition to include signs with automatically controlled changeable copy ("Variable Message Signs"), and created operational standards for the newly permitted Variable Message Signs. The amendment did not change Sections 4.7.50.g or 4.7.70.i; these both existed prior to adoption of the Variable Message Sign regulations. In reviewing the record for the text amendment, it doesn't appear as though the relationship between these various sections of the Code was considered. Staff find

that there was not specific intent to exempt variable message signs placed in windows from the standards of 4.7.80.07; otherwise, this would have been clearly stated under 4.7.80.07, just as the specific exemption for time and temperature signs is stated. Regardless, what is clear in the record is that the primary concerns with allowing automatically-controlled variable message signs were vehicular safety and aesthetics, and that, according to the Council's findings, "the rate of change in any variable message sign is the single most important characteristic to regulate." Based on these concerns, a Variable Message Sign displayed inside of a window, but exclusively visible from the outside, would be regulated in a similar manner as a Variable Message Sign installed on the exterior of a building, since they are both equally visible from adjacent public rights-of-way, and would thus have the same potential impact on vehicular safety and aesthetics. Similarly, a Variable Message Sign (or other sign) placed so as to communicate only to persons inside of a building, would not be of concern. This is consistent with the language of LDC Sections 4.7.70.h and i, which, although existing prior to the adoption of the Variable Message Sign regulations, specifically subjects only signs placed in windows to the prohibitions of Section 4.7.50.

With respect to ORS 174.010:

ORS 174.010 is a codification of a common rule of statutory construction to not omit or add terms, and to interpret so as to give effect to all provisions of the legislation. ORS 174.020 codifies the "cardinal rule" to pursue and give effect to the intention of the legislation. In the context of a land use regulation, as provided by ORS 197.829, LUBA must affirm a city's interpretation of its code unless that interpretation is "inconsistent with the express (plain) language" of the code. The Court of Appeals has rendered 'inconsistent' with the language of the ordinance to mean "implausible," given the interpretive principles that ordinarily apply to the construction of ordinances under the rules of *PGE v. Bureau of Labor and Industries*--an Oregon Supreme Court case. In sum, LUBA is required by state law (ORS 197.829) to defer to a local government's interpretation of local land use regulations, so long as the local government's interpretation is consistent (plausible) with the express language, is consistent (plausible) with the apparent purpose of the language, and is consistent (plausible) with the underlying policy that provides the basis for the language of the local land use regulation. Rules of construction are generally applied *if* legislative intent is *not* discernable when considering the plain language in context, legislative history and the purpose of the text. Staff find that in the case of the Code sections under appeal, the Director's interpretation of the language is consistent with the express language, the purpose of the language, and the underlying policy that provides the basis for the language.

Councilor Questions

- 1) Councilor Daniels inquired if accident data was available for the NW 3rd St. / NW Harrison Blvd. intersection.

Staff Response: The following numbers were drawn from electronically accessible crash data provided by the Oregon Dept. of Transportation (ODOT), and includes accidents reported from January 2, 2005 through January 31, 2008:

Rank	Intersection	Count
1	9 th St. & Circle Blvd.	70
2	3 rd St. & Harrison Blvd.	53
3	Circle Blvd. & Pacific Hwy. 99W	43
4	35 St. & Corvallis – Newport Hwy.	32
5	4 th St. & Harrison Blvd.	31
6	9 th St. & Buchanan Ave.	30
7	26 th St. & Western Blvd.	26
8	53 rd St. & Corvallis – Newport Hwy.	26
9	15 th St. & Corvallis – Newport Hwy.	24
10	5 th St. & Harrison Blvd.	24

According to City Transportation and Buildings Division Manager Jim Mitchell, it was mostly north-bound rear-end accidents that occurred at the 3rd St. / Harrison Blvd. intersection during this period. More accidents occurred during the early part of the reporting period (2005 – 2006) than later in the reporting period. It is possible that improvements made by ODOT (upsized signal heads) resulted in fewer accidents towards the end of the period. Preliminary data from ODOT for the year 2009 indicate that only 5 accidents occurred at the intersection for that year (compared to an average of over 13 per year from 2005 through 2008.)

NOTE: The accident data listed above is being provided at the request of a City Councilor, for informational purposes only. The Council's decision on the Phones Plus Variable Message Sign should be based on it's interpretation of the language of the applicable Land Development Code sections.

Attachments

- Attachment A-** 3/15/10 Appellant's Hearing Memorandum and 3/19/10 Supplement to Appellant's Hearing Memorandum
- Attachment B-** Chronology summarizing Staff contacts with the appellant prior to installation of Variable Message Sign

Review and Concur:



 Jon S. Nelson,
 City Manager

APPELLANT'S HEARING MEMORANDUM
Appeal of Notice of Violation - Sign Ordinance
V10 09 - 00645

I. **Background**

- A. The date of the violation notice is October 12, 2009.
- B. On May 7, 2009, Appellant contacted the City inquiring whether the electronic message center to be located inside the 3rd Street building was subject to Section 4.7.50(g). That contact is Exhibit 1 to this Memorandum.
- C. Based on phone conference(s) with staff, Appellant installed the \$40,000 message board inside the structure.
- D. It is submitted that the sign ordinance is so un-artfully written that staff could not advise the Appellant regarding the indoor sign interval interpretation that staff has now adopted.

II. **Questions Presented**

- A. Is Section 4.7.50 an unconstitutional restraint of commercial free speech?

Article I, Section 8 of the Oregon Constitution provides:

“No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever, but every person all be responsible for the abuse of this right.”

Freedom of speech means free from prior restraint. *City of Portland v. Welch*, 229 Or. 308, 322 (1961).

Ordinances regulating signs are valid if they are content neutral and are reasonably related to a public purpose.

Unreasonable regulations are invalid.

Ordinances will be held unconstitutional where it grants an official discretion to exercise personal subjective judgment in addressing the question of aesthetics.

Section 4.7.80.07(b) provides:

“Signs that display time and temperature information are exempt from the interval of change limitations of Section 4.7.80.07(a)” (20 minutes)

There is no restriction on size or frequency for time and temperature. Therefore, the restrictions regarding flashing, blinking, or fluctuating can not be related to safety or aesthetics.

Restricting change in content to not less than a 20 minute interval is therefore subjective prior restraint unrelated to a valid public purpose.

- B. The prohibitions of Section 4.7.50g (signs that flash, blink, fluctuate) apply to signs for which a permit is required. No permit is required for an indoor sign. Thus there is an inconsistency between the exemption in Section 4.7.70i and the specific permitting references regarding prohibited signs.
- C. Is the 20 minute interval reasonably consistent with the prohibited characteristics of flashing, blinking or fluctuating? Each word has a different dictionary definition. If the authors of the requirements for indoor signs wanted a 20 minute interval for indoor signs, why is not Section 4.7.80.07 incorporated by reference in to the exemption provisions of Section 4.7.70? Only Section 4.7.50 is cross referenced. It is submitted that the 20 minute interval does not apply to indoor signs.

III. **Requested Result:**

- 1. Reverse the Land Development Hearings Board.
- 2. Approve the scrolling message presentation accompanying this appeal with authorization for a 10 second interval.


George B. Heilig, OSB #31312
Attorney for Appellant

From: Chris Cheeley [mailto:chris@phonesplusinc.com]

Sent: Thursday, May 07, 2009 4:08 PM
To: 'Kevin.Russell@CI.Corvallis.OR.US'
Subject: sign code

Kevin: we spoke yesterday about the building at 3rd & Harrison. I've attached a rendering drawn from the perspective of the front door, showing the diagonal face (to the right of the front door) where I'm considering an interior screen. As I read through the code, Section 4.7.70 leads me to believe that anything inside the glass is out of the purview of the sign code, as long as the sign is not prohibited in 4.7.50.

Section 4.7.50 "g" dictates what could not be on the screen. Some of those terms might be subject to interpretation, so perhaps you can let me know if any of them have been defined in any other official document?

Thanks much.

Section 4.7.70 - EXEMPTIONS FROM SPECIFIC REQUIREMENTS OF REGULATIONS

The following types of graphic communication are exempt from one or more requirements of this Chapter, but shall comply with other applicable provisions. They are not subject to allocation limits specified in sections 4.7.80 and 4.7.90 below. Limitations on number and size of these classes of signs, if any, are noted below.

i. Signs, decorations, and displays inside of windows or attached to the inside of a window are exempt from these requirements, except those signs prohibited by Section 4.7.50.

Exhibit 1
Page 1 of 3

VIO09-00648
Attachment A.3

Section 4.7.50 - PROHIBITED SIGNS

No person shall erect, install, maintain, alter, repair, remove, or use (or cause or allow such action) any sign unless specifically authorized by these regulations. No permit shall be issued for the erection, display, or maintenance of any sign in violation of these regulations.

The following types of signs are specifically prohibited:

- a. Signs that obstruct the Vision Clearance Area, as defined by the City Engineer, of a street or driveway intersection in zones that have a front-yard setback requirement;
- b. Signs that obstruct ingress or egress through any door, window, fire escape, standpipe, or like facility required or designated for safety or emergency use;
- c. Signs that may be confused with public traffic signs or highway identification signs, or appear graphically similar to these types of signs;
- d. Signs that use words such as STOP, SLOW, CAUTION, LOOK, DANGER, or any other word, phrase, symbol, or character that may mislead or confuse motorists
- e. Signs or sign structures determined by the Building Official to constitute a hazard to the public safety or health by reason of poor structural design or construction, inadequate maintenance, lack of repair, or dilapidation;
- f. Signs located on or above public rights-of-way without written consent of the applicable jurisdiction, unless permitted by Sections 4.7.70 through 4.7.90, below.
This includes, but is not limited to: sandwich boards, posters on utility poles, political signs in parking strips, and signs on sidewalks;
- g. Signs that flash, blink, fluctuate, or have chaser, scintillating, or speller effects,

including search lights;

h. Signs that move or have any moving part. This includes movement by mechanical, electrical, or kinetic means, wind currents, or any other means;

i. Signs that inflate, including balloons and blimps;

j. Pennants, flags, and banners. See Section 4.7.70.b regarding official national, state, and local flags and Section 4.7.80.05 regarding temporary banners;

k. Roof signs including those projecting more than four ft. above an eave on sloped roofs, or four ft. above the parapets on flat roofs;

l. Signs with visible A-frames, trusses, or guy wires as part of the sign or sign structure;

m. Signs placed on, affixed to, or painted on any motor vehicle, trailer, or other mobile structure not registered, licensed, and insured for use on public highways; and

n. Handbills, including any notice, placard, poster, showbill, dodger, circular, pamphlet, booklet, letter, folder, sheet, sticker, or banner, except as permitted by the Corvallis

Criminal Code.

Chris Cheeley, Managing Member
A Thousand Hills, LLC
1700 Northwest Blvd.
Coeur d'Alene, ID 83814
Direct line: 208-765-7590
Fax: 877-853-6238
Store line: 208-664-4229

RECEIVED

MAR 22 2010

CITY MANAGERS
OFFICE

HEILIG MISFELDT & ARMSTRONG, LLP

ATTORNEYS AT LAW
310 NW 7TH ST., SUITE 100
P.O. BOX 546

CORVALLIS, OREGON 97339

George B. Heilig
Email: heilig@hmalaw.net

PHONE (541) 754-7477
FACSIMILE (541) 754-0051

March 19, 2010

Charles C. Tomlinson, Mayor
City of Corvallis
PO Box 1083
Corvallis OR 97339

**RE: Appeal of Notice of Violation - Sign Ordinance
V10 09-00645
Our Client: Phones Plus**

Dear Mayor Tomlinson:

This letter is intended to supplement the Appellant's Hearing Memorandum regarding the above referenced appeal. This is being submitted pursuant to the Appellant's request that the record be held open until March 22, 2010.

The Appellant is requesting the City Council reverse the Land Development Hearings Board which affirmed Staff's sign code interpretation that the electronic message center located inside the Phones Plus building on Third Street was not in compliance with the terms and conditions of the Corvallis Sign Code, Chapter 4.7. We further confirm that there is no continuing violation of the sign code and this is strictly a land use decision regarding the interpretation of the sign regulations.

Consistent with the quasi judicial nature of the land use decision, the Council is bound by the general rules for construction of statutes as set forth in Oregon Revised Statutes (ORS) 174.010. That statute states:

"In the construction of a statute, the office of the judge is simply to ascertain what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit has been inserted; and whether there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."

VIO09-00648
Attachment A.6

In addition, ORS 174.020(2), regarding legislative intent, states:

“(2) When a general and particular provision are inconsistent, the later is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.”

In other words, the specific controls the general.

Chapter 4.7 of the City Code regulates signs. Section 4.7 contains the City’s many regulations of signs. One of the prohibited signs are those that: “Flash, blink, fluctuate, or have chaser, scintillating, speller effects, including such lights.” 4.7.50(g) That prohibition applies to all signs - both outside signs and inside signs.

Section 4.7.70 provides that “the following types of [signs] are exempt from one or more requirements of this Chapter [Chapter 4.7]. One of the signs listed as exempt are “signs . . . inside of windows or attached to the inside of a window . . . except those signs prohibited by Section 4.7.50.” Thus, indoor signs are exempt from the regulations of Section 4.7 except to the extent that they “flash, blink, etc. . . “ That is expressly prohibited by 4.7.50.

Despite this clear exemption, staff argues that Section 4.7.80.07, which prohibits a change of message in less than twenty minutes still applies to the sign in this case. Clearly it does not. If that had been the intent of the drafters, then they would have provided in Section 4.7.70(g) that indoor signs “are exempt from these requirements, except those signs prohibited by Section 4.7.50 and 4.7.80.07.” Staff is arguing to insert that which has been omitted. Clearly that violates ORS 174.010.

As staff pointed out in its report, the use of the indoor electronic message center by the Appellant was to communicate commercial information in a scrolling manner. The example presented at the hearing of a 10 second delay, and the time and temperature display currently occurring on the sign, clearly shows that the 10 second scrolling method is not flashing, blinking or fluctuating. The Appellant therefore believes that the Council can opine that a 10 second delay is not in derogation of Section 4.7.50(g).

An additional note regards legislative intent. Councilman Brauner announced that he possesses a recollection of his intent with respect to the passage of the sign ordinance in 2003. While we respect councilman Brauner’s personal recollection of his intent, we caution the Council not to attribute his personal beliefs as being the subjective mental state of the other council persons who acted on this legislation. Just as the 9th Street Improvement Plan is the result of the legislative dynamics of compromise, the same might also have been true in 2003 with the sign ordinance.

CONCLUSION

This case presents the Council with a unique opportunity to make a decision which favors business without violating an interpretation that the 20 minute interval applies to outside variable signage which need a sign permit. To deny Phones Plus the opportunity to communicate with the community by scrolling (not flashing, blinking or fluctuating) content not less frequently than every 10 seconds will send a message to businesses that politically, Corvallis is not willing, in these times to make interpretations of ordinances which retard the everyday needs of business.

It is therefore, respectfully requested, that for the constitutional issues previously advanced, the legislative reasons herein stated, and the fundamental fairness argument of how the sign was designed in the first place, the Council should reverse the Hearings Board.

Very truly yours,



George B. Heilig

GBH:skm

pc: Phones Plus, Inc. (via email)
Scott Fewell (via email)
Jared Voice, Associate Planner (via email)

Voice, Jared

From: Russell, Kevin
Sent: Friday, March 19, 2010 12:07 PM
To: Gibb, Ken
Cc: Young, Kevin; Voice, Jared
Subject: Phones Plus

Attachments: doc20100319114642.pdf

I have included a chronology outlining my contacts with Mr. Cheeley.

- To the best of my knowledge I was first contacted by Mr. Cheeley on or around May 10, 2009. He had several questions about placing new signage on the lot. He stated he would email his sign proposal to me so that I could conduct a preliminary review.
- On May 14, 2009 Mr. Cheeley contacted me to discuss his sign package. I had not received the package via email. I sent him a test email to see if his email was working properly. It was determined the size of the email attachment exceeded the allowable file size. Mr. Cheeley decided to fax over his signage proposal.
- I called Mr. Cheeley shortly after receiving his fax. We discussed several sign issues related to conflicts with their proposed freestanding sign and wall mounted signs. We also discussed placing a sign inside of the window. Mr. Cheeley was aware of Section 4.7.70, which would allow him to place a sign inside of the window without obtaining a sign permit. We also discussed the prohibited sign types identified in Section 4.7.50. I clearly explained to Mr. Cheeley that signs exhibiting flashing, speller effects, or other similar characteristics would not be permitted unless programmed to meet the 20 minute interval of change requirement. I also explained to him that this requirement applies to signs located both inside and outside of the window. He asked several questions about how the City defines "fluctuating" and "flashing". I acknowledged the LDC does not specifically define "fluctuating" or "flashing", however, I informed him that if the sign was flashing, fluctuating or blinking it would be considered a prohibited sign type. I further stated that the type of sign he was describing would not be allowed on either the inside or outside of the window (unless programmed to meet the 20 minute interval of change requirement). He said he understood these requirements and would select a sign that would comply.
- A sign permit was issued on 8/07/09 for their exterior wall sign.
- I had no further contact with Mr. Cheeley about his signage until the violation case in 10/09.

Please let me know if you have questions. I have attached the "test email" I sent to him in May.



doc2010031911464
2.pdf (31 KB)

Kevin Russell, Senior Planner
City of Corvallis Development Services
541.766.6709 (phone)
541.766.6936 (fax)

Russell, Kevin

From: Russell, Kevin
Sent: Thursday, May 14, 2009 3:48 PM
To: 'chris@phonesplusinc.com'
Subject: Test Email

Kevin Russell, Senior Planner
City of Corvallis Development Services
541.766.6709 (phone)
541.766.6936 (fax)

CITY OF CORVALLIS, OREGON

CITY ATTORNEY EMPLOYMENT AGREEMENT ADDENDUM

This agreement addendum, dated _____, 2010, amends the employment agreement entered into on March 22, 2006, by and between the City of Corvallis, Oregon, a municipal corporation of the State of Oregon (hereinafter referred to as "CITY"), and the law firm of Fewel, Brewer & Coulombe (hereinafter referred to as "LAW FIRM").

1 The City and Law Firm agree to modify the original employment agreement as follows:

1.1 Compensation for Services. ~~As compensation for services included in the retainer, the City shall pay the Law Firm \$21,496.57 per month effective April 1, 2009. This monthly payment is to be paid on or before the 10th day of each month. This monthly payment will be adjusted effective July 1, 2009 in the same amount as inflationary adjustments to the City Manager and Department Director salaries. As compensation for services included in the retainer, the Law Firm's monthly payment is \$22,195.21 effective April 1, 2010. The City shall make an inflationary adjustment of this compensation to the Law Firm beginning July 1 of each year during the term of this agreement, by two percent or the percentage set forth annually in the February National CPI-W as reported by the U.S. Bureau of Labor and Statistics, whichever is less. At 2%, this monthly payment shall be \$22,639.11 effective July 1, 2010. The monthly payment is to be paid on or before the 10th day of each month.~~

1.2 Compensation for Services Performed Outside of the Retainer. As compensation for services performed outside of the retainer, the City will pay the Law Firm for the services of the City Attorney and Deputy City Attorneys at a rate of ~~\$115.00 per hour effective June 1, 2009;~~ \$120.00 per hour effective April 1, 2010, and \$125.00 per hour effective April 1, 2011. Charges for work performed outside of the retainer in a given month will be invoiced the following month and will be paid to the Law Firm with the next regular monthly retainer payment.

1.3 Term of Employment. This agreement shall commence on the 1st day of April, 2006, and shall terminate on the 31st day of March, ~~2011~~ 2013. This agreement may be terminated by either party with written notice of intent to terminate provided to the other party at least 180 days prior to such termination. This agreement may also be terminated without notice in the event that City Attorney or any Deputy City Attorney is indicted of any illegal act.

1.4 Attachment A - Cost of CAO to be Carried by City of Corvallis. 5. One **electronic** set of McQuillan's Municipal Legal Forms and updates as required.

2 All other terms and conditions in the original agreement remain as originally identified.

IN WITNESS WHEREOF, the parties have herewith executed their signatures.

CITY OF CORVALLIS

FEWEL, BREWER & COULOMBE

Charles C. Tomlinson, Mayor

Scott A. Fewel

ATTESTING AS TO THE MAYOR

Assistant to City Manager/City Recorder



Office of the Mayor

501 SW Madison Avenue

P.O. Box 1083

Corvallis, OR 97339-1083

(541) 766-6985

FAX: (541) 766-6780

e-mail: mayor@council.ci.corvallis.or.us

PROCLAMATION

ARBOR MONTH

APRIL 2010

WHEREAS, Corvallis' urban forest of public and private woodlands is part of a larger ecosystem that extends from coastal foothills to the Willamette River and is fundamental to our region's water quality; and

WHEREAS, Our urban forest graces our city streets, parks, and natural areas. These trees provide habitat for wildlife, contribute to clean air, clean water, and a livable climate; and

WHEREAS, Our urban forest includes a diversity of trees and shrubs that improve the quality of urban environments by preventing erosion, controlling the wind, reducing noise and air pollution, and enhancing the aesthetic quality of life; and

WHEREAS, The City of Corvallis recognizes that our citizens do so much to enhance the natural systems and livability of neighborhoods through the stewardship of trees, greenspaces, streams, and watersheds.

WHEREAS, The City of Corvallis is recognized as a "Tree City USA" recipient for fostering programs which increase the number and health of our trees.

NOW, THEREFORE, I, Charles C. Tomlinson, Mayor of the City of Corvallis, do hereby proclaim **April 2010** as **Arbor Month** in the City of Corvallis and encourage everyone throughout Corvallis to become more involved with the planting and preservation of the urban forest in celebration of Arbor Month.

Mayor Charles C. Tomlinson

Date

1026



Office of the Mayor

501 SW Madison Avenue

P.O. Box 1083

Corvallis, OR 97339-1083

(541) 766-6985

FAX: (541) 766-6780

e-mail: mayor@council.ci.corvallis.or.us

PROCLAMATION

FAIR HOUSING MONTH

APRIL 2010

WHEREAS, April 11, 2010, marks the 42nd anniversary of the enactment of Title VIII of the Civil Rights Act of 1968, commonly known as the Federal Fair Housing Act; and

WHEREAS, Equal opportunity for all – regardless of race, color, religion, sex, disability, marital status, familial status, source of income, national origin, sexual orientation or gender identity – is a fundamental goal of our nation and our state; and

WHEREAS, In Corvallis, this equal opportunity protection extends further to prevent discrimination based on an individual's citizenship status, level of income, religious observance, gender expression, or their age if eighteen or older; and

WHEREAS, Housing is a critical component of family and community health and stability; and

WHEREAS, Housing choice impacts our children's access to education, our ability to seek and retain employment, the cultural benefits we enjoy, and the safe conduct of our daily lives; and

WHEREAS, The laws of this nation, our state, and the City of Corvallis seek to ensure equality of choice for all transactions involving housing; and

WHEREAS, Ongoing education, outreach, and monitoring are critical to raising awareness of fair housing principles, practices, rights, and responsibilities; and

WHEREAS, Only through the continued cooperation, commitment, and support of all citizens can the occurrence of barriers to fair housing in Corvallis be prevented;

NOW, THEREFORE, I, Charles C. Tomlinson, Mayor of the City of Corvallis, do hereby proclaim **April 2010** as **Fair Housing Month** in the City of Corvallis and call upon citizens to share in the responsibility of ensuring fair housing choice for all members of our community.

Charles C. Tomlinson, Mayor

Date



Office of the Mayor
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6985
FAX: (541) 766-6780
e-mail: mayor@council.ci.corvallis.or.us

PROCLAMATION

NATIONAL LIBRARY WEEK 2010

APRIL 11-17, 2010

- WHEREAS, Libraries everywhere play a vital role in supporting the quality of life in their communities; and
- WHEREAS, Our nation's school, academic, public, and special libraries make a difference in the lives of millions of Americans, today, more than ever; and
- WHEREAS, Librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn, and work in a challenging economy; and
- WHEREAS, Libraries serve as crucial technology hubs for people in need of free World Wide Web access, computer training, and assistance finding job resources; and
- WHEREAS, Libraries are part of the American Dream – places for opportunity, education, self-help, and lifelong learning; and
- WHEREAS, Library use is up nationwide among all types of library users, continuing a decade-long trend; and
- WHEREAS, Libraries, librarians, library workers, and supporters across America are celebrating National Library Week.

NOW, THEREFORE, I, Charles C. Tomlinson, Mayor of Corvallis, do hereby proclaim **April 11 through 17, 2010**, as **National Library Week** with the theme "Communities thrive @ your library" and encourage all residents to visit the Library to take advantage of the wonderful resources available at your Library.

Charles C. Tomlinson, Mayor

Date

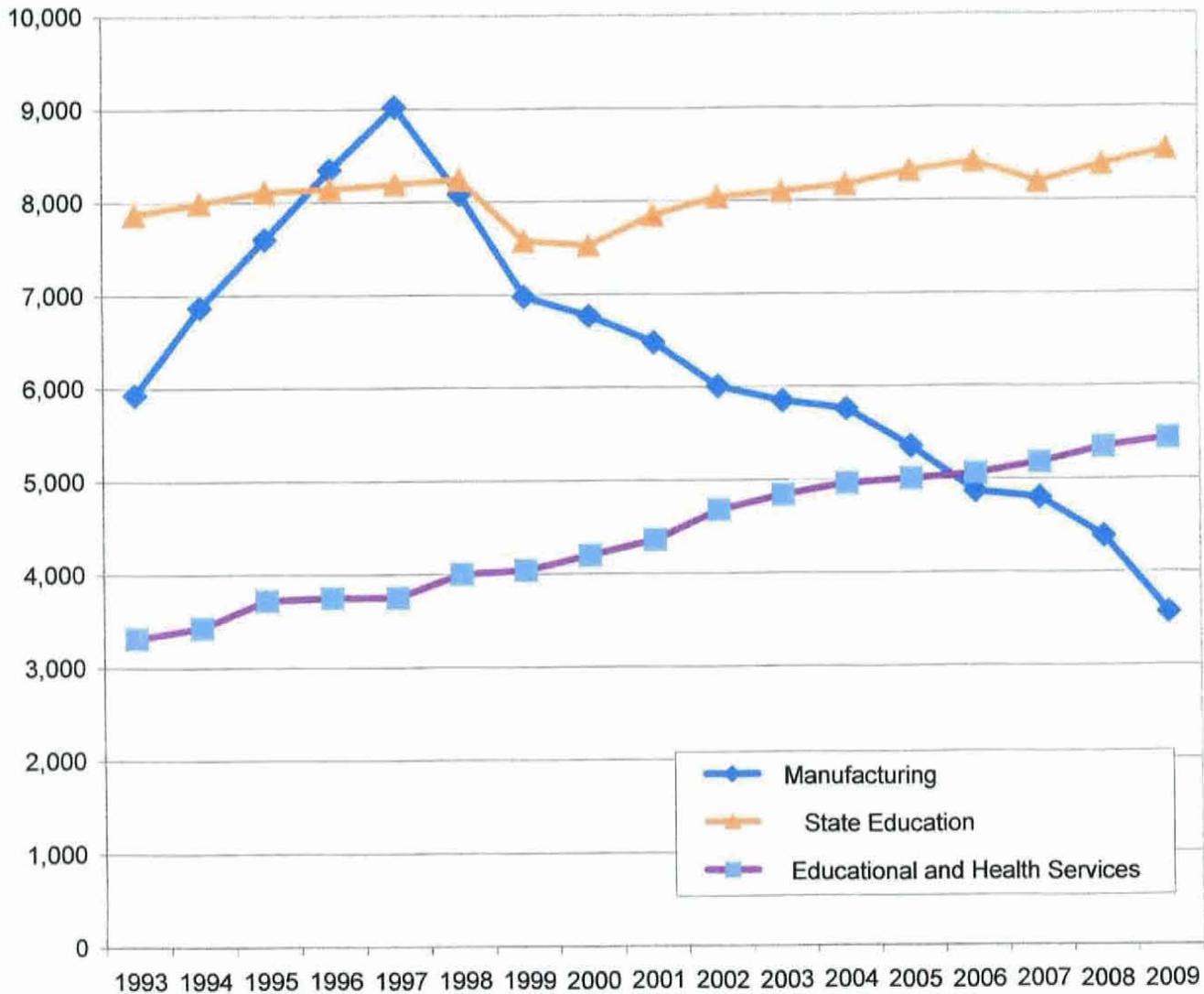
1032

To: City Council
From: Dan Brown, Ward 4

April 5, 2010

We are still working feverishly to get an Economic Development white paper to the Council for the April 19 meeting. Here are some highlights which you may find interesting. Recent editorials indicate community interest in this topic.

Jobs in Benton County



The manufacturing part of this graph is startling. Most important to the Council is that it directly affects property taxes. The graph traces out a dramatic reduction in expensive, taxable equipment that manufacturing employees use in their jobs. (The more automated the company is -- the bigger the multiplier for revenue shortfalls when jobs disappear.) Although educational service providers and the hospital benefit the community in many ways, and although they have expensive property, buildings, and equipment -- they do not pay property taxes. Today the choice is stark: the reduction in business taxes must be replaced by residents (i.e. new Sustainability Fees for transit), or public services must be cut.

The table below shows that in addition to loss of jobs, there has been a structural shift in unemployment. Although local unemployment is affected by the current national recession, skilled workers will not be going back to work here until there are new jobs -- and most likely, new employers.

	1995	1997	1999	2001	2003	2005	2007	2009
Corvallis Unemployment	2.4%	2.5%	3.1%	4.7%	6.1%	4.8%	4.1%	7.3%
Benton County Unemployment	2.2%	2.4%	2.9%	4.5%	5.8%	4.9%	4.1%	7.9%

The peak of the manufacturing jobs graph and low unemployment coincide with the creation of *Vision 2020* and the *Corvallis Comprehensive Plan*. The "vibrant economy" has turned around since then, and some assumptions ("Findings") in the *Comprehensive Plan* are of questionable value in planning for the future.

8.2.f	<i>For the period 1986 to 1996, employment in Corvallis and in Benton County grew more than <u>twice as fast</u> as the population as a whole.</i>
8.3.a	<i>The unemployment rate for Benton County in 1996 was <u>2.7%</u>, representing 1,150 unemployed persons. This was the lowest unemployment rate in Oregon.</i>
8.3.c	<i>Benton County's <u>low unemployment rate</u> has made it difficult for many Corvallis employers to locate qualified, skilled workers for available jobs.</i>
8.9.i	<i>Recent <u>growth in high-tech manufacturing</u>, especially at Hewlett - Packard, has led to relocation and local creation of numerous high-tech related enterprises.</i>
8.9.o	<i>Large parcels of general industrial land are key elements of the industrial land market that serve as <u>magnets for development</u>.</i>

Send letters to the editor:

By mail to the Corvallis Gazette-Times,
600 S.W. Jefferson Ave., Corvallis OR 97333

By e-mail to opinion@gtconnect.com

By fax to 758-9505

www.gazettetimes.com

Publisher: Mike McNally, 758-9502 City editor: Theresa Novak, 758-9527

Opinion

Thursday, March 25, 2010
Corvallis Gazette-Times, Corvallis, Ore.

A9

Focus on fostering private sector

We were meeting recently with a smart fellow, someone who's active in local politics and pretty well plugged in. We started talking about a chart that's been making the rounds recently on the Internet.

The chart, produced by Oregon Department of Employment economists, shows what's happened to Benton County's manufacturing jobs over the past decade. The trend line, fueled by the thousands of manufacturing jobs that have been lost at the Hewlett-Packard campus as well as many smaller losses, shows a steady decline over the past 10 years.

It gets worse: As we have pointed out in this space from time to time, Benton County now has fewer private-sector jobs than it

EDITORIAL

had a decade ago. That's been disguised a bit by some modest increases in the public sector and in health-care jobs, but the overall point is worth repeating: The county has fewer private-sector jobs than it had 10 years ago, again according to data from the Oregon Department of Employment.

Here's the kicker: Our companion said — and we have no reason whatsoever to doubt this — that these job trends aren't widely known.

Well, let us try to shout this from the rooftops: Benton County is having trouble creating and hanging onto private-sector jobs. We've been able to overlook this a bit

because we're so reliant on the public sector (one of every three jobs in the county is in the public sector), but even that is showing signs of weakness lately, with pink slips being handed out at Oregon State University and possibly the city of Corvallis.

Plenty of factors have helped to create our job-creation problem, and it will take a number of different solutions to help turn it around.

The good news is that a number of possible solutions are bubbling along: There's new steam behind an idea to push the idea of economic development on a regional level, possibly under the auspices of the Council of Governments. (The idea that there's a regional dimension to economic development won't be lost on anyone who

drives on Highway 20 or Highway 34 at 8 a.m. or 5 p.m.)

There's interest in this idea of "economic gardening," as evidenced by recent legislation. There's continuing interest in streamlining the commercialization of research from OSU into companies that we hope will locate here.

If it seems a bit like people are throwing a lot of ideas at the wall to find which ones stick — well, there's a measure of truth in that. But, again, we won't solve our jobs problems with just a single solution. And it's likely that this will be a messy process.

But it seems to us that a creative mess is far preferable to wringing our hands and being bystanders as the trend lines on the charts continue to decline. It all starts with this realization: We've got a problem.

Editorial: Biz license fee merits a second look

Posted: Monday, March 22, 2010 9:15 am | [\(10\) Comments](#)

As officials labor to trim some \$2.4 million from the city of Corvallis' budget for the next fiscal year, it's probably safe to assume that just about everything is fair game — and that includes a good chunk of money that the city traditionally has set aside for economic-development activities.

Here's the story to date in a nutshell: As the economy stumbles, property-tax collections for the city have not kept pace with the growth of city government. And this has happened with startling speed: It wasn't too long ago that city officials were toying with the idea of having surpluses to the tune of \$9 million.

Now, just a couple of years later, those surpluses are gone — and the initial forecasts for the fiscal year that starts in July suggested the city was looking at a property-tax shortfall of \$3.6 million. Work by city officials since has trimmed that deficit to about \$2.4 million.

Now, the city is working on a draft budget to present to its Budget Commission that will offer suggestions on where to find that \$2.4 million. At a recent commission meeting, a lot of attention was spent on the prospect of making cuts totaling about \$1.3 million to the police and fire departments.

In terms of budgetary logic, that makes sense, because those departments draw so much of their money from property taxes.

But it seems unlikely that either the Budget Commission or the City Council will approve cutbacks of that magnitude to those departments. Cuts like that would force layoffs. (But let's be honest: Barring some sort of economic miracle, the city's budget woes seem almost certain to trigger cutbacks in personnel, sooner or later.)

Nevertheless, in the months to come, you can expect budget commissioners and city councilors to look elsewhere in the budget to try to ease the impact on emergency services.

Here's one of the areas they'll examine: The current city budget allocates about \$600,000 collected from transient room taxes (the tax visitors pay when they check into hotels) to economic development. In the current budget, that money is divided between Corvallis Tourism, fairs, festivals and various other economic-development activities.

State law gives at least some protection to the amount of money — about \$350,000 in the current budget — that goes to tourism agencies such as Corvallis Tourism. But that leaves at least another \$250,000 in play.

Now, that doesn't cover the entire hole facing police and fire services. But it helps.

Ironically, a couple of years ago, when Corvallis was debating whether to implement a business-license fee, the amount of money that city officials thought it might raise was just about \$250,000.

The idea behind the fee originally was pretty simple: Money raised would help pay for economic development in Corvallis — specifically, items suggested in the Prosperity That Fits plan. Eventually, though, the proposal underwent so many twists and turns that it fell apart.

Is it time to revive this idea? Maybe.

Any successful proposal will have at least two attributes: Money raised must go to pay for economic development. And since the money would be raised from businesses, businesspeople would have to have the critical say in how it gets spent. That was one of the biggest stumbling blocks two years ago.

But, then again, two years ago, city officials thought they had money in the bank. How times have changed.

Send letters to the editor:

By mail to the Corvallis Gazette-Times,
600 S.W. Jefferson Ave., Corvallis OR 97333
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By fax to 758-9505

www.gazettetimes.com

Publisher: Mike McNally, 758-9502 **City editor:** Theresa Novak, 758-9527

Opinion

Thursday, April 1, 2010
Corvallis Gazette-Times, Corvallis, Ore.

A9

Expanded enterprise zone a useful option

Corvallis city and Benton County officials met this week to ponder the merits of expanding the county's current enterprise zone, and we were encouraged by the discussion.

The right questions were asked, and the gathered officials made the right decision: To move ahead with continued exploration of the proposed expansion.

An enterprise zone provides tax exemptions for new buildings and equipment in the zone. In essence, governments forego a certain amount of property taxes for a certain length of time, typically three to five years. The idea is that over time — a state official at the meeting said it was typically seven years or so — a company pays back the money it saved early on with the abatement.

And that, of course, doesn't include the benefits from additional jobs generated by

EDITORIAL

the businesses that settle inside the zone.

Last summer, the state granted Benton County's first enterprise zone, south of town in the area around the airport. Three Corvallis companies are either building in the zone or considering it.

The question now facing city and county officials is whether to expand the zone into at least two additional areas inside the urban growth boundary. Specific discussion has focused on the Sunset Research Park in southwest Corvallis and the Hewlett-Packard campus on the northeast edge of town.

That proposal has been fueled by worries that Hewlett-Packard will at some point tear down some of the vacant buildings on its campus, removing them from

the property-tax rolls. Granted, that worry seems a little extreme — but you can see why city officials, who are suffering through severe property-tax shortfalls, are haunted by the prospect.

Other discussion at the meeting focused on the idea of including in the zone expansion all the property inside the urban growth boundary that's zoned industrial. (Only land with that zoning designation can be included in enterprise zones.) That's a worthwhile idea to explore, if only to ensure that the expansion occurs in a fair manner.

We also were gratified by the idea that any expansion should go hand-in-hand with redoubled efforts to develop the original enterprise zone south of Corvallis.

Expanding the zone will not by itself be sufficient to turn around our economic fortunes. But it is one piece, one important

piece, of a larger puzzle. It gives us another tool to use in our economic-development efforts.

Best of all, it's a tool that can give a hand to growing companies that already are located here. The testimony of Nick Fowler, the head of Perpetua Power Systems, was particularly instructive. Fowler said Perpetua is considering a \$5 million investment to ramp up its manufacturing. (The company, which currently is headquartered in the Sunset Research Park, makes devices that turn waste heat into electricity.)

The money that Perpetua could save on its taxes if the enterprise zone were expanded adds up to \$35,000 to \$50,000 a year. That's not a lot of money — but it's one more check to add to the column of reasons to stay in Corvallis.

We need more checks like that. Expanding the enterprise zone gives us one more.

Editorial: Act locally to enliven sluggish jobs recovery

Gazette-Times editorial board | Posted: Wednesday, March 3, 2010 9:15 am | [1 Comment](#)

Tuesday's news about Oregon's unemployment rate could have been worse, we suppose, but the numbers didn't give us much reason for cheer.

Oregon's jobless rate for January was 10.7 percent. The rate has been stagnant since October, giving additional fuel to economists' worries that we're in for a long and dreary jobless recovery.

We won't see county unemployment numbers for January until next week. Our best guess is that we might see a little bump in Benton and Linn county unemployment figures, as we continue to absorb job losses from the shuttered International Paper mill and other employers.

All of which lends a certain urgency to the proposal to expand Benton County's so-called "enterprise zone," in an attempt to lure new businesses here.

Such enterprise zones provide tax exemptions to new buildings and equipment; in essence, governmental entities forego a certain amount of property tax in hopes that the additional jobs provided by business will more than make up for the loss. If the zone is placed over existing buildings and property, only new equipment and construction would be granted tax-exempt status.

Benton County was the last county in Oregon to be granted an enterprise zone - we have one in place south of Corvallis near the airport. Two home-grown businesses have announced plans to build new headquarters in the zone.

Now, however, Mayor Charlie Tomlinson is pushing for the zone to be expanded. Tomlinson worries in particular that with Hewlett-Packard downsizing at its Corvallis campus, HP might decide to tear down some of its buildings, a move that obviously would remove them from the property-tax rolls. There's empty space as well at the Sunset Research Park in southwest Corvallis, in particular at the Nypro building.

Since the law governing enterprise zones doesn't require the expansion to occur in a contiguous manner, an expansion could include both of those locations.

We're under no illusions that the expansion will single-handedly turn around our employment woes. After all, the creation of the enterprise zone south of Corvallis merely put Benton County on an even playing field with every other Oregon county. (If the zone is expanded, by the way, we urge the entities in charge of the zone to keep working for development in the original south Corvallis area; it would be a shame to neglect it at a point when it was just starting to get some traction.)

But expanding the zone gives us a little bit of additional firepower in our attempts to bring jobs to Corvallis. And the financial risk to government is relatively low, considering that businesses wouldn't be able to claim tax breaks on existing structures and facilities.

The expansion should be a relatively easy process. Considering the very tough decisions we have looming beyond this one, let's not make this any more difficult than it needs to be.

INTER

OFFICE

MEMO

To: City Manager Jon Nelson
From: Assistant City Manager Ellen Volmert
Subject: City of Corvallis Diversity and Inclusion Plan
Date: April 5, 2010

PURPOSE

This report presents the City's Diversity and Inclusion Plan to the City Council for their acceptance and approval.

BACKGROUND

In 2005, the City Council named diversity as an overarching City value and created a goal to complete an organizational diversity needs assessment. That assessment was completed in 2006 and included a recommendation to form an employee diversity committee that would develop a diversity plan. In 2007, this committee was formed and in 2008 it began worked with consultant Joseph Bailey to develop a unified vision of the ideal organizational state. Created through discussions with the City Council and senior staff, that leadership vision of the City organization of the future is:

- Broaden the current overall positive perception of working for the City that most employees have so all employees share this positive perception, including employees of color and seasonal employees.
- Recognize the rise of Spanish speaking cultures and seek ways to increase participation of these cultures in City governance and activities.
- Serve as a catalyst for celebrating diversity in the community.
- Develop a description of what a supportive environment includes.
- Identify and address the question of why more minorities do not apply for employment with the City.
- Increase the diversity of its internal and external applicant pool.
- Increase awareness of employment opportunities by all employees.
- Investigate the relationship-oriented culture concept (as described in the needs assessment).

The Diversity and Inclusion Committee (DISC) has been working since the formation of that vision to create a plan that would position the organization to close the gap between the current status and the ideal future. The attached City of Corvallis Diversity and Inclusion Plan is designed for that purpose.

DISCUSSION

The Plan document describes the Committee's mission statement, the process used by the DISC to create the plan, and specific diversity action items to be implemented over the next three years. Many of the actions require work over multiple years. Each action is also associated with specific measured outcomes which would be reported on annually. Next steps include rolling out the plan to employees and adding it and other content to the current diversity and inclusion intranet site. Some action items have already begun, such as adding the Google translator function to the City's website and adding both diversity and sustainability into City job descriptions. Others will be coordinated by departments and the Committee as we move forward. The Plan also includes attached appendices including the 2006 needs assessment

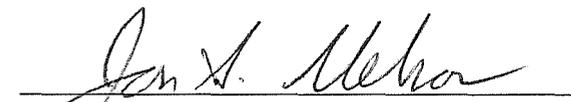
report, a glossary, a listing of diversity resources, and the most current equal employment opportunity reports for the organization.

FINANCIAL

Projected costs where known are included in the action plan. However, like other City strategic plans, the individual actions are dependent upon annual budget funding and may be impacted by required budget cuts over the next few years. The City Manager's Office currently has \$20,000 in project funding for the diversity initiative as a part of its base budget. There is also some action plan item overlap with other plans such as career development or communications which also have existing base funding. Funding limitation impacts on progress will be noted in the annual progress reporting.

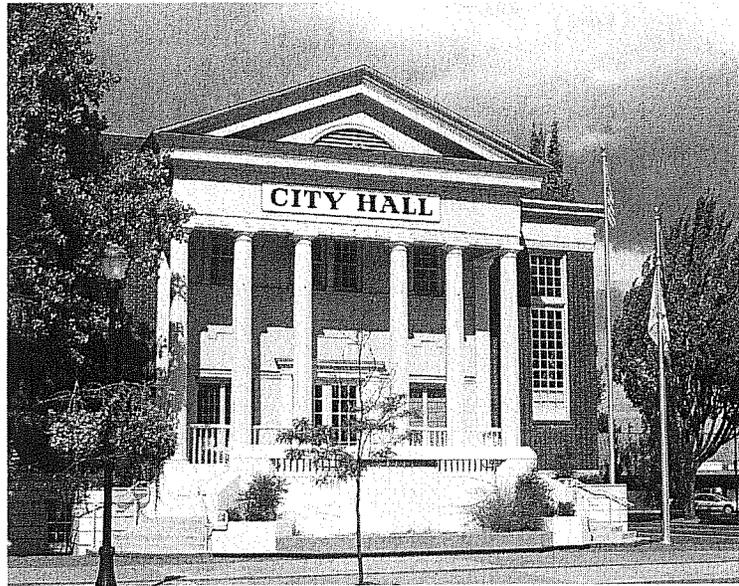
RECOMMENDATION

That the City Council accept and approve the attached Diversity and Inclusion Plan.



Jon Nelson, City Manager

City of Corvallis
Diversity and Inclusion Plan
March 2010



Prepared by the Diversity and Inclusion
Steering Committee

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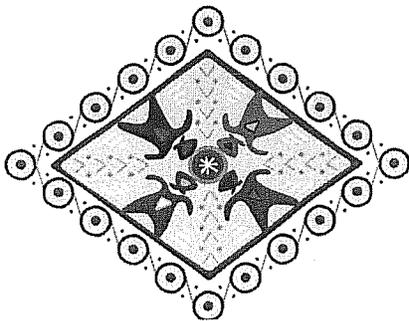


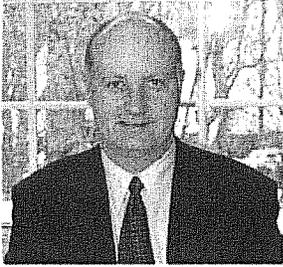
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You must be the change you
wish to see in the world.
Gandhi

A Message From Jon Nelson, City Manager



The Corvallis Vision 2020 Statement proclaims that Corvallis will be a community that honors diversity and is free of prejudice, bigotry, and hate. It envisions a community which is a good place for all kinds of people to live. For the City organization to fulfill its mission to “enhance community livability”, we must therefore, be a welcoming and inclusive place that recognizes that the health and survival of our organization depends on all of our members being included and valued.

The City Council has recognized this need by making diversity an overarching City value and providing leadership and resources towards assessing organizational diversity needs and creating a plan to take us from where we are, to that ideal future. An understanding of the value diversity brings to our organization is essential to understanding and meeting the needs of our changing community and our changing workforce. We remain steadfast in our conviction that the value added from diverse thinking enhances the entire organization. And by providing public leadership on diversity issues, we also provide a model for others reaching for the same goals.

Diversity and inclusion are not just concepts, but commitments. Becoming more welcoming and inclusive can only be accomplished through both our policies and how we interact every day – by remaining curious, open, and respectful. As we look to the future, embracing the values of diversity and inclusion is critical to the way the City provides services and conducts its employment practices. As we travel this path, we become more aware of how important it is for us to learn from one another. Please join us on this journey.

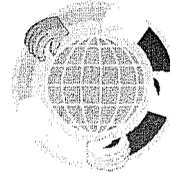
Jon Nelson
City Manager

*Example is
leadership.
Albert Schweitzer*

Introduction

The City Council has established four overarching values in support of the City's mission of enhancing community livability:

- Citizen Involvement
- Sustainability
- Diversity
- Cost Efficiency



Through meetings with the Corvallis City Council and senior staff, the following ideal future organizational state was defined.

The City of Corvallis organization in the future will:

- Broaden the current overall positive perception of working for the City that most employees have so *all* employees, share this positive perception, including employees of color and seasonal employees.
- Recognize the rise of Spanish speaking cultures and seek ways to increase participation of these cultures in City governance and activities.
- Serve as a catalyst for celebrating diversity in the community.
- Develop a description of what a supportive environment includes.
- Identify and address the question of why more minorities do not apply for employment with the City.
- Increase the diversity of its internal and external applicant pool.
- Increase awareness of employment opportunities by all employees.
- Investigate the relationship-oriented culture concept (in Assessment).

Success in the future is not about technology, government, management or even power; it is all about people and their dynamic and emergent patterns of relationships.
Lewis M. Branscomb

The Diversity and Inclusion Steering Committee (DISC) was formed in March 2008 in response to the recommendations in the 2006 Organizational Diversity Needs Assessment and to create a plan to move the organization towards this ideal future. For purposes of this plan, diversity is defined as a focus on our human similarities and differences and ways that we can respect, appreciate, and understand one another on both a personal and professional level.

Mission Statement

The objective of the Diversity and Inclusion Steering Committee is to develop an action plan that achieves the recommendations of the City Council, senior staff, and the 2006 Diversity Assessment.

That objective is reached through diversity initiatives which support our similarities and differences and increase effectiveness and organizational value. To that end, the Diversity and Inclusion Action Plan (DIAP) will benefit the *entire* organization by promoting:

- Openness to differences,
- Respect for individuals, and
- Inclusive participation.

*"Where there is true hospitality, not many words are needed."
Arapaho proverb*

These values will:

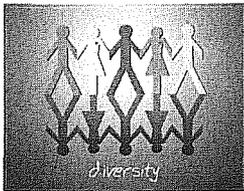
- Inform and engage the organization,
- Improve the quality of the work environment and the services we provide,
- Increase job and customer satisfaction,
- Enhance the organization's diversity skills, and
- Honor both longevity and new perspectives.

Diversity Assessment Summary

The complete report of the Diversity Needs Assessment for the organization conducted in 2006 is attached as Appendix D. Significant findings and recommendations include:

Findings

- There are supportive, defensive, and uncertain perceptions and attitudes among City employees in regard to diversity which together lead to an overall climate of minimization. Generally employees think that people are all the same: people are people. From the minimization stage, the organization and individual employees should work to move towards the stages of Acceptance and ultimately, Cognitive and Behavioral Adaption to differences.
- There is a perception that diversity adds more and different perspectives leading to a better product and that more training for employees is needed.
- There is a quota anxiety issue, meaning a fear that hiring a more diverse workforce would mean hiring someone other than the most qualified. There is also a perception of language and accents as barriers to serving the community and that the community we serve is not diverse.
- There is a perception that people are the same and diversity does not matter, that diversity does not include all employees, and that there is not enough money and time to learn about differences.
- There is a narrow view of what diversity means and a fear of offending someone unintentionally which can suppress honest conversation around diversity. More diversity is seen as adding potential conflict and diversity as a topic is seen as just politically correct.

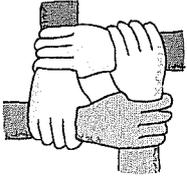


Recommendations

- Form a Diversity Catalyst Team (completed March 2008).
- Develop a multi-year diversity plan using these results as a guide (completed November 2009).
- Establish a Diversity Award.
- Determine a vision for the City as a pluralistic organization (see leadership statement above on the ideal future).

*With wisdom grows doubt.
Goethe*

- Increase Spanish speaking staff.
- Conduct cross department meetings to improve communication.
- Notice and acknowledge staff for serving a broad citizenry.
- Provide support for employees of color.
- Continue working with and strengthening the Corvallis Employer Partnership for Diversity.



If you do not tell the truth about yourself, you cannot tell it about other people.
Virginia Woolf

Methodology

The DISC reviewed the information from the needs assessment and the direction from the City Council and senior staff regarding the ideal future. Working with a consultant, the

The most successful regions welcome all kinds of people.
Richard Florida

Committee conducted additional research into diversity action planning, demographic and workforce trends, employee attitudes, and resources available as well as additional resources needed. The Action Plan is the result of those

efforts and has been additionally reviewed with the City's consultant, the needs assessment consultant and other experts to ensure the plan is both ambitious and realistic. Once adopted by City leadership, the DISC will begin implementation of the Action Plan.

Diversity Action Plan

The purpose of this narrative is to summarize the Action Plan Table for interested readers.

The Table itself contains all of the specific details. The principal function of The City of

Corvallis Diversity Action plan is to provide concrete steps for

completing the actions necessary to fulfill the City of Corvallis'

Diversity Initiative. The City of Corvallis Diversity Action plan

document contains an Action Plan Table composed of three

distinct focus areas: the City of Corvallis as an Employer, as a

Service Provider, and as Employees. This table addresses each

of the areas in terms of: Goal, Outcome, Measured Result, Responsible Party, Timeline, and

Priority Listing. Like the concept of diversity itself, these three focus areas share similarities

and differences.

Knowledge is the antidote to fear.

Ralph Waldo Emerson

The City of Corvallis as an Employer has five major components listed here with an example and its planned action:

- Recognize current diversity efforts – The City has a Respectful Workplace Policy which will be kept current and promoted during recruitment
- Increase multilingual/multicultural staff and access to interpreters – Increase 2nd language skills opportunities and maintain a list of employees who are available for translating by qualifying for the bilingual pay incentive

- Increase intercultural/multicultural skills of City employees – Improve the climate for retention and recruitment by providing onsite training annually, including intercultural communication training.



City employees participating in the Inclusive Corvallis Forum

- Promote partnerships and collaboration with other groups – The City will link to a calendar of multicultural events to increase employees' awareness.

The City of Corvallis as a Service Provider also has five major components and they are listed below with an example and its planned action.

- Recognize current diversity efforts – The City will use an intern from the Promise Intern Program to research best practices for diversity efforts from other local governments to determine which practices can be adapted for the City of Corvallis.
- Provide multilingual staff & access (Non-English & ASL) – The City subscribes to a multilingual phone service which is currently used primarily by emergency services personnel. The city will survey employees to determine what languages are

*You can not hold a man down without staying down with him.
Booker T Washington*

frequently encountered, and train all public service employees on the use of this service.

- Be cognizant of similarities & differences – The City provides services that are

responsive to all types of differences not limited to language. The City has available diversity and inclusion materials that are in use in some departments. The City will use Department meeting and other training opportunities to make these programs available to all employees.

- Make services & facilities available for all abilities – The City complies with the Americans with Disabilities Act. A list of volunteers who can assist with accommodation will be created.
- Collaborate with providers of multilingual services for outreach (County, OSU, 509J) – The City of Corvallis promotes awareness of City services at some events. An updatable list of contacts of where and when city services can be promoted will be created.



Dancing at the Senior Center

The City of Corvallis as Employees has two major components and they are listed below with an example and its planned action:

- Recognize, foster & celebrate diversity efforts – The City promotes awareness of diversity within the organization by instituting the DISC group. The first annual heritage Potluck was a successful example of the employees gathering to share in their own diversity.

- Understand and respect similarities and differences of each other – The City seeks to develop a greater understanding of the ways people exist in the world. The City of Corvallis will provide for its employees a central site on the intranet of diversity resources.



*Employees enjoy diversity
at the Heritage Feast*

**Appendix A
Diversity Action Plan**

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCE S REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs	
1	EMPLOYER														
1A	Employee Benefits	Provide or improve flexibility in coverage and contributions.	Investigate & implement ways for more flexibility w/regard to individual choice. Communicate options available.	Increased options & improved employee satisfaction in yearly survey.	HR	6	1. Audit existing benefits and policies for options. 2. Identify and evaluate options to current practices. 3. Department and DISC review of possible changes. 4. Begin to implement recommendations, revise labor contracts as needed.	LCHB	1. 80 hrs Benefits Officer 2 & 3. summer intern project at 400 hours. 4. wrap into normal review processes = no cost.	\$2560 Audit and options	\$4,400 Review and recommendations	Implementation	\$ 4,400	80	
1B	Recruitment/Retention	Recruit a diverse pool of qualified applicants.	Plan created to close gap between need & availability. Establish priorities for recruitment - 3-5yr. Action plan to respond to demographic scan and current census.	# of diverse applicant interviewees based on new hires EEOC.	HR/Depts/DISC	6	1. Use current census data, needs assessment, and environmental scan to create initial priorities. 2. Identify needs to create a welcoming environment and reduce quota anxiety through training, onboarding and panel preparation 3. Review priorities based	HCHB	1 Diversity plan establishes priorities based on needs. 2. Revise recruitment manual, and onboarding process and train hiring authorities within departments on changes. 3. Review results and needs changes with new census data.	1100 hours of staff time for training, manual creation, additional onboarding meetings, creating changes, consultant/trainer costs etc. and divide costs over 2 years = \$38,000/2 = \$19,000 ea.	1100 hours of staff time for training, manual creation, additional onboarding meetings, creating changes, consultant/trainer costs etc. and divide costs over 2 years = \$38,000/2 = \$19,000 ea.	Review demographics and needs based on new census data and revise the plan = 40 hr. x 11 mbrs = 400 hrs. avg \$45 est. = \$20,000.		1,500	
1C	INCREASE INTERCULTURAL/MULTICULTURAL SKILLS OF CITY'S EMPLOYEES														

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPON-SIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIO NS	CODES	RESOURCE S REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
1C1	Recruitment/	Employee evaluations reflect an increase in multi-cultural skills.	Revise employee evaluation form and process to include a multi-cultural skills component.	% of evaluations incorporating measures for multi-cultural skills.	HR/Depts		Year 1. Align with the CDC evaluation improvement process schedule with focus groups Year 2. Revise forms and pilot test Year 3. Implement citywide. Estimated total cost 475/5 staff hours. No additional cost anticipated to include diversity skill.	HCHB	No additional resource required.	x	x			
1C2		Improved climate.	Departments provide one onsite training annually & make training calendar available to all employees - include intercultural communication training which incorporates skill building in how to communicate effectively across communication style differences along with value and belief differences.	% of employees attending cultural training.	HR/Depts	11	1. HR to assist in tracking compliance and in outreach on partnership trainings and other options already available. Depts. are responsible for planning specific trainings based on their needs (CPD's DVD series and tracking). 2 hrs per employee per year.	HCHB	Trainer costs when outside trainer is used.	900 hrs	900 hrs	900 hrs	Dependent on whether outside trainer is used.	2,700

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs	
1C3		Increased comfort & confidence level w/cultural difference.	Develop mentor program.	% of employees surveyed rating their own confidence level at good or greater.	DISC		1. Research successful programs and develop recommendation for the organization. 2. Begin pilot project and revise as needed based on results. 3. Implement citywide, starting with mentor training.	HCHB	\$ 4,400 for Intern.	Develop information on best practices and models to use in creating a program - existing staff resources.	\$4,400 for intern plus 10 participants @ 200 hrs .	20 participants (10 and 10) at 16 hrs training for mentors and 4 hr orientation for mentees +2 hrs ea.	\$ 4,400	400	
2	SERVICE PROVIDER														
2A	MULTILINGUAL STAFF & ACCESS (NON-ENGLISH & ASL)														
2A1	Provide more multilingual written/electronic materials.	Priority list of items to provide in languages other than English created from department input and items on the list are translated.	Translate written/electronic materials into multiple languages (Spanish +) and/or for ADA accessibility (speech).	% of priority list translated.	Communications staff/MIS/Web Team/DISC/Depts	4	Take the FAQ messages developed in 2010 for the citizen relationship management (CRM) system and prioritize those needed in other languages. Identify staff, technology, and/or consultant resources to translate. Post multilingual versions to CRM. Evaluate	LCHB	Research translation software and cost. Evaluate publications for inclusion of some Spanish content. 40 hrs for online. = \$1200 plus staff time to review translations for accuracy.	Develop list of documents already translated. Implement Google translator with appropriate navigation for improving access on the website.	Identify priorities for items which need to be translated and implement a schedule for completing.	Conduct survey of effectiveness of translation and document needs. Est. 80 hrs staff time and make recommendations for change.	\$ 1,200	120	
2B	COGNIZANT OF SIMILARITIES & DIFFERENCES														

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPON-SIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
2B1	Make services responsive to all types of differences not only language.	Priority list of accessibility improvements for City services & facilities.	Assess accessibility of City services & facilities & create priority list.	% of items on priority list accomplished.	Depts/CMO/Facilities		1. Expand parks accessment process citywide through use of a consultant. 2. Prioritize multiyear plan based on assessment and include in the 5 year CIP where appropriate. 3. Identify funding sources for planned projects.	HCHB	Staff time to choose a consultant for the project and implement recommendations.	Develop RFP and select consultant. Estimated 80 hours.	Based on costs and scope of parks project, consultant cost for assessment est. at \$50,000 plus staff time to assist in assessment.	Staff hrs to create prioritized plan based on assessment and begin to place into the CIP. Estimated 80 hours.	\$ 50,000	160
2C	COLLABORATE W/PROVIDERS OF MULTILINGUAL SERVICES FOR OUTREACH (COUNTY, 509J, OSU)													
2C1	Maximize existing collaborations & create new ones.	Network with other agencies.	Create a baseline list of multilingual service providers in the community. Survey and evaluate for potential partnerships.	Baseline list of current practices is identified; % of collaborations yielding actionable events.	DISC/ depts	8	Can be completed within existing staff resources, plus minimal intern assistance.	LCHB	Staff and intern.	Begin list of partners and providers.	Intern to identify providers and develop survey = \$800. Depts evaluate for possible partnerships and track results.	Implement priority partnerships.	\$ 800	
2C2		Increased City presence at community events.	Promote awareness and receive feedback on services, needs, opportunities.	# of new contacts/collaborations.	DISC/ depts		Staff time and possible event fees, unknown prior to determination of what the events might be.	HCHB	Depts. report on events attended re: diversity needs encountered or what they have learned. DISC to analyze reports for trends, needs and report back to depts.	Develop form for depts to evaluate events and create a baseline number of contacts/collaborations.	Collect forms and evaluate results, report and recommend based on findings.	Increase City presence based on prioritized list. Reevaluate results of the change.		Unknown at this time. TBD
3	EMPLOYER													
3A	RECOGNIZE CURRENT DIVERSITY EFFORTS													

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
3A1	Employees aware of and follow the Respectful Workplace Policy.	Updated policy maintained and City workplaces are respectful.	Keep policy current. Train employees routinely and when updated. Promote policy in recruitment. Incorporate both what needs to be avoided and what is wanted.	1. Increase % of EE who have attended training on the policy within the last 5 yrs. 2. Increase % of employees indicating their workplace is respectful at least most of the time.	HR		Updating the policy is part of ongoing HR work program. Develop training targeted for ea. dept. (2 hrs each). Two hours to present per work group with target to complete 3 depts. per yr.	LCHB	12 hrs. staff time for trainer plus staff time for participants 150 or so per yr. = 312 staff hrs annually.	312 hours	312	312		936
3A2	Employees and Job Applicants are aware of Domestic Partnership Benefits	Employees and applicants are aware of and use the policy.	Incorporate into onboarding information and open enrollment.	Keep policy current & promote policy in recruitment.	HR		Incorporation into onboarding review is already part of the work plan.	LCHB	No additional resource required.					
3A3	Increase 2nd language skills.	Recruitment policies updated. Employees aware of language incentive. Supervisors aware of the available resources.	Maintain intranet list of employees who have qualified for the incentive. Update recruitment manual and materials. Create translators Outlook group.	Job descriptions and recruitments identify 2nd language skills preferred where applicable. Increase # of employees testing annually.	HR		Incorporate into normal review of job descriptions.	LCHB	As more employees are eligible for the incentive, additional funding will be required.					
3B	INCREASE MULTILINGUAL/CULTURAL STAFF AND ACCESS TO INTERPRETERS													

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
3B1	Retention of multilingual/multicultural staff.	Increased staff retention.	Create more followup meetings for new employees.	Improved "onboarding" based on ee evaluation.	HR		Utilize OSU study results, best practices, career development recommendations, and revision of recruitment policy. Create more followup meetings for new employees. Add mtgs at 1 month, 3 mo. and 6 mo. Facilitate "basket" of information about the community.	LCHB		216 hrs	216 hrs	216 hrs		648 hrs
3B2			New employee "meet & greet".	All new employees hired after 07/01/10 are celebrated in this manner.	Depts		Each department responsible at 1 hr ea. per group.	LCHB						
3B3	Recognition of existing diversity by engagement of employees.	Increased staff awareness of diversity within the organization.	Heritage potluck.	Increased attendance and # of votes for best dish.	HR/picnic committee		Existing work plan for recognition committee.							
	Increased awareness of resources available.	More multilingual staff.	Create a resources area on the DISC intranet site; i.e. language database.	# of EE's qualified for bilingual incentive.	DISC/MIS		Increased hours for MIS.							

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
3B4	Recruit multilingual applicants.	Outreach effectively communicates the City's second language benefits.	Marketing includes multicultural publications. Recruitment materials clearly promote bilingual incentive for ASL and Spanish skills.	Increase % of applicants w/2nd language skills.	HR/Depts		Increased cost of advertising.	LCHB						
3C	INCREASE INTERCULTURAL/MULTICULTURAL SKILLS OF CITY'S EMPLOYEES													
3C1	Increase cultural competency.	Increased cultural competency average for organization & individual EE based on Needs Assessment.	Conduct Needs Assessment at the end of the action planning window; compare assessments.	Net results and resulting needs from assessments.	CMO/Depts	5	New consultant Needs Assessment est. same cost as in 2006 plus 12% as estimate.	LCHB	\$16,500				\$16,500	\$ 16,500
3D	PARTNERSHIPS OR COLLABORATING W/OTHERS													
3D1	Maintain partnership with Employers Partnership for Diversity.	Increase EE participation in partnership opportunities.	Continue membership and market opportunities.	# of employees participating.	Assist City Mgr/Supervisors		Broader marketing of partnership events. Incorporation of diversity into performance management system. Add opportunities to training calendar. Use existing communication vehicles. Supervisors to incorporate in their employee meetings.	LCHB						

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
3D2	City will link to calendar of multicultural community events/activities.	EE's aware of multicultural events.	Make available & contribute to centrally located multicultural community events calendar; i.e. CAD.	# of hits on website regarding multicultural community events calendar or # of click throughs to the site.	CAD/City Communications position	5	City's training calendar links to community calendars.	LCHB						
3D3	Enhance partnership efforts w/OSU Office of Community & Diversity (ex. Diversity Dialogues).	More opportunities to participate.	Increase EE participation in partnership opportunities.	Increase # of partnership activities from joint efforts.	Dept/HR/OSU	8	Costing dependent upon activities.	LCHB						
4	SERVICE PROVIDER													
4A	RECOGNIZE CURRENT DIVERSITY EFFORTS													
4A1	Research best practices in other local gov'ts.	Produce document of best practices.	Research & document best practices.	# of new adaptable ideas generated.	CMO/DISC	5	Promise intern project \$4,400.	LCHB			\$4,400		\$ 4,400	
4B	MULTILINGUAL STAFF & ACCESS (NON-ENGLISH & ASL)													
4B1	Multilingual phone service.	Service available & EE's are trained in use.	Survey EE's on what languages encountered & make service available to all public service providers/train.	Increase # of times used.	Depts	4	Approval has been given to take this citywide. Marketing materials for employees via read and recycle, ee meetings, and intranet.	LCHB	City-wide contract.	Cost per min.				
4C	COGNIZANT OF SIMILARITIES & DIFFERENCES													
4C1	Services responsive to all types of differences not only language.	# of EE's with a goal aware of "culture grams" & other diversity/inclusion opportunities.	Make culture grams & other diversity/inclusion materials; i.e. Chicago PD & Power DMS, dept mtgs, etc. accessible to all EE's.	EE's survey reports improved interactions with diverse customers.	Depts/Lib	6	Library subscribes to culture grams database.	LCHB	Yr. 1 - price online "culture gram" subscriptions & budget for intranet access.	\$2,200	2,200	2,200	\$ 6,600	

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs	
4C2	Members of Boards & Commissions are more representative of the diversity of the community	A broader representation & broader participation on Boards & Commissions	Identify & implement new B & C recruiting opportunities. Add question to citizen attitude survey if consideration has been given to volunteering on a board. Get feedback from the mayor on most common reasons citizens say no. Examine new ways to personally invite people to participate to attract more people from relationship based cultures such as Latinos and African-Americans.	Multiple candidates for each open position.	CMO/Depts	6	No additional cost for the assessment unless question quota reached/	LCHB		Add question to the survey.	Develop plan to address findings--TBD.	Implement plan--TBD.			
4D	SERVICES & FACILITIES AVAILABLE FOR ALL ABILITIES														
4D1	Maintain volunteer list who can assist w/accommodation	Skills list created for EE's w/accommodation skills.	Create database of volunteers & associated skills.	# of employee/volunteer entries on skills inventory.	DISC/Depts	8	Bilingual resources identified and published--completed. Incorporate new questions onto the volunteer application form to assess competencies such as language, accessibility, and cultural skills.	LCHB	Communication Specialist updates form.	To be completed.				1 hr	
4E	COLLABORATE W/PROVIDERS OF MULTILINGUAL SERVICES FOR OUTREACH (COUNTY, 509J, OSU)														

REF. #	GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
4E1	City services are promoted to a diverse population	Contact list is communicated & updated.	City participates.	# of actionable events w/City presence.			Incorporated in action item above for intern project.	LCHB						
5	EMPLOYEES													
5A	RECOGNIZE, FOSTER & CELEBRATE DIVERSITY EFFORTS													
5A1	Create celebration event to increase inclusion	Awareness of existing diversity in the organization.	DISC develops annual celebratory events.	# of attendees	DISC	7	Evaluate data from the best practices intern project for ideas and estimated costs for alternatives. Disc to evaluate and develop a proposal. 10 hrs x 10 members = 100 hrs at 30= 3000.	LCHB						100
5A2	EE's recognize, understand and respect the value of a diverse workforce	Diverse workforce is reflected in the design of performance evals.	DISC provide input to evaluation instrument.	# of diversity opportunities acknowledged by EE's in their evaluation. All job descriptions include diversity language by June 2012.	Dept/HR	7	Discussed above in redesign of job descriptions and performance management system.	LCHB	No additional resource required.	0	0	0	\$ -	
5B	UNDERSTAND & RESPECT SIMILARITIES & DIFFERENCES OF EACH OTHER (OBVIOUS & SUBTLE)													

REF. #		GOAL	OUTCOME	ACTION	MEASURED RESULT (1st 3 yrs)	RESPONSIBLE PARTY	PRIORITY LISTING	COSTING ASSUMPTIONS	CODES	RESOURCES REQUIRED	2009/2010	2010/2011	2011/2012	total 3 year financial cost	total 3 year staff hrs
5B1		Greater understanding of "culture" & ways people exist in the world (including themselves)	Better understanding of co-workers.	Take advantage of culture grams & other diversity/inclusion materials; i.e. Chicago PD & Power DMS, dept mtgs, etc. accessible to all EE's.	Increased % of EE's answering related survey questions positively.	DISC/Depts	8	Provide a clear "one stop shopping" intranet site for diversity resources (calendar, partners and community resources/links) available to EE's to include materials for borrowing. Links and calendar items addressed above. Build remainder once these are open.	LCHB	Consultant time to develop the intranet site and coordinate resources available throughout the organization.	Costs to be identified by MIS.			88,300	

Appendix B

Diversity Resources to Explore Further

<u>RESOURCE</u>	<u>LINK</u>
AT&T Language Line Use Procedure	(forthcoming)
Books About Culture, Difference, and Inclusion	www.thebestlibrary.org or on-line bookstores
Census Data Links	www.census.gov
Chicago Police Training Videos	(forthcoming)
City Training Library – Diversity section	cityshare/city-wide resources/training
Community Opportunities /Calendar	www.oregonstate.edu/diversity/com_resources.html
Culturegrams Database	www.thebestlibrary.net/remotearchive.htm and sign in to search the list of all data bases
Employees Receiving Bilingual Certification Pay	cityshare/city-wide resources/bilingual resources
Films About Culture, Difference, and Inclusion	www.thebestlibrary.org or www.afi.org
Oregonian Article - Population Change	(forthcoming)
Other Community Groups/Partners	www.oregonstate.edu/diversity/inclusive.html
Sample Diversity Plans	(forthcoming)
Templates/Forms	(forthcoming)

*The driving force for human beings is
the way they see the world - their
perspective on it, what they think
about it, and what they emotionally
connect with. That perspective is why
they do what they do.*

Warren Bennis

Appendix C
Data Table / Equal Employment Opportunity (EEO) Report
Affirmative Action Statistics Reported October 1, 2009
Prepared by the Human Resources Division of the City Manager's Office
Total City Work Force on 6/15/09

COMPARISON OF CITY EMPLOYEES TO LINN AND BENTON COUNTY POPULATIONS									
Department	Total	Male	Female	Minority	Black	Hispanic	Asian or Pacific Islander	Native Amer.	2 or More
City Manager's Office	11	2	9	2	0	0	1	0	1
Community Dev.	36	21	15	0	0	0	0	0	0
Finance	40	17	23	8	1	4	2	0	1
Fire	69	63	6	8	1	2	1	1	3
Library	59	8	51	4	0	1	3	0	0
Parks and Recreation	44	26	18	3	1	2	0	0	0
Police	84	55	29	7	2	2	0	2	1
Public Works	116	96	20	8	0	0	3	3	2
Total Regular	459	288	171	40	5	11	10	6	8
Percent 10/08		62%	38%	8.4%	0.9%	1.6%	1.6%	1.4%	2.0%
Percent 10/09		63%	37%	8.7%	1.1%	2.4%	2.2%	1.3%	1.7%
Change		1%	-1%	0.4%	2.1%	0.8%	0.6%	-0.1%	-0.2%

Benton/Linn Counties							
2000 Census Total Population 181,222							
Male	Female	Minority	Black	Hispanic	Asian	Native Amer.	Other
89,836	91,386	19,044	934	8,208	4,599	1,964	3,339
49.6%	50.4%	10.5%	.51%	4.5%	2.5%	1.0%	1.8%
Population Excluding OSU Students 2000 (total 164,434)							
89,836	83,486	15,627	741	7,700	3,230	1,772	2,184
48.7%	50.8%	10.5%	.45%	4.6%	2.0%	1.1%	1.3%

Affirmative Action Statistics Reported October 1, 2009
Prepared by the Human Resources Division of the City Manager's Office
Total City Full-Time Work Force on 6/15/09

COMPARISON OF CITY EMPLOYEES TO LINN AND BENTON COUNTY POPULATIONS									
Department	Total	Male	Female	Minority	Black	Hispanic	Asian or Pacific Islander	Native Amer.	2 or More
City Manager's Office	9	1	8	2	0	0	1	0	1
Community Dev.	31	21	10	0	0	0	0	0	0
Finance	35	16	19	7	1	4	2	0	0
Fire	69	63	6	8	1	2	1	1	3
Library	28	6	22	0	0	0	0	0	0
Parks and Recreation	40	25	15	3	1	2	0	0	0
Police	79	54	25	7	2	2	0	2	1
Public Works	114	96	18	8	0	0	3	3	2
Total Regular	405	282	123	35	5	10	7	6	7
Percent 10/08		69%	31%	8.5%	1.0%	2.6%	1.3%	1.6%	2.1%
Percent 10/09		70%	30%	8.6%	1.2%	2.5%	1.7%	1.5%	1.7%
Change		1.0%	-1.0%	0.2%	0.2%	-0.1%	0.4%	-0.1%	-0.4%

Benton/Linn Counties 2000 Census Total Population 181,222							
Male	Female	Minority	Black	Hispanic	Asian	Native Amer.	Other
89,836	91,386	19,044	934	8,208	4,599	1,964	3,339
49.6%	50.4%	10.5%	.51%	4.5%	2.5%	1.0%	1.8%
Population Excluding OSU Students 2000 (total 164,434)							
89,836	83,486	15,627	741	7,700	3,230	1,772	2,184
48.7%	50.8%	10.5%	.45%	4.6%	2.0%	1.1%	1.3%

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	TOTAL
Officials/Administrator	18	17	1	0	0	0	0	18
Professionals	103	93	0	4	0	3	3	103
Technicians	45	41	0	2	0	1	1	45
Protective Service	119	107	3	0	3	4	2	119
Administrative Support	95	86	1	3	1	0	4	95

Skilled Craft	36	35	0	1	0	0	0	36
Semi Skilled Craft	29	27	0	0	2	0	0	29
Laborers	14	13	0	0	0	0	1	14
Total	459	419	5	10	6	8	11	459

MALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2 or More	H	Total
Officials/Administrator	18	12	1	0	0	0	0	13
Professionals	103	54	0	1	0	0	2	57
Technicians	45	29	0	1	0	1	1	32
Protective Service	119	93	3	0	2	3	1	102
Administrative Support	95	11	0	1	0	0	0	12
Skilled Craft	36	30	0	1	0	0	0	31
Semi Skilled Craft	29	27	0	0	2	0	0	29
Laborers	14	11	0	0	0	0	1	12
Total	459	267	4	4	4	4	5	288

FEMALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	18	5	0	0	0	0	0	5
Professionals	103	39	0	3	0	3	1	46
Technicians	45	12	0	1	0	0	0	13
Protective Service	119	14	0	0	1	1	1	17
Administrative Support	95	75	1	2	1	0	4	83
Skilled Craft	36	5	0	0	0	0	0	5
Semi Skilled Craft	29	0	0	0	0	0	0	0
Laborers	14	2	0	0	0	0	0	2
Total	459	152	1	6	2	4	6	171

EEO Categories

W = White B = Black A = Asian/Pacific Islander NA = Native American/Alaskan Native 2 = 2 or more H = Hispanic

CITY OF CORVALLIS
REGULAR FULL-TIME EMPLOYEES on 6/15/09

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	TOTAL
Officials/Administrator	18	17	1	0	0	0	0	18
Professionals	90	82	0	3	0	2	3	90
Technicians	45	41	0	2	0	1	1	45
Protective Service	116	104	3	0	3	4	2	116
Administrative Support	57	51	1	1	1	0	3	57
Skilled Craft	36	35	0	1	0	0	0	36
Semi Skilled Craft	29	27	0	0	2	0	0	29
Laborers	14	13	0	0	0	0	1	14
Total	405	370	5	7	6	7	10	405

MALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	18	12	1	0	0	0	0	13
Professionals	90	53	0	1	0	0	2	56
Technicians	45	29	0	1	0	1	1	32
Protective Service	116	92	3	0	2	3	1	101
Administrative Support	57	8	0	0	0	0	0	8
Skilled Craft	36	30	0	1	0	0	0	31
Semi Skilled Craft	29	27	0	0	2	0	0	29
Laborers	14	11	0	0	0	0	1	12
Total	405	262	4	3	4	4	5	282

FEMALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	18	5	0	0	0	0	0	5
Professionals	90	29	0	2	0	2	1	34
Technicians	45	12	0	1	0	0	0	13
Protective Service	116	12	0	0	1	1	1	15
Administrative Support	57	43	1	1	1	0	3	49
Skilled Craft	36	5	0	0	0	0	0	5

Semi Skilled Craft	29	0	0	0	0	0	0	0
Laborers	14	2	0	0	0	0	0	2
Total	405	108	1	4	2	3	5	123

EEO Categories

W = White B = Black A = Asian/Pacific Islander NA = Native American/Alaskan Native 2 = 2 or more H = Hispanic

Affirmative Action Statistics
Prepared by the Personnel Division of the City Manager's Office
City of Corvallis New Hires
June 16, 2008 through June 15, 2009

COMPARISON OF NEW HIRES TO LINN AND BENTON COUNTY POPULATIONS									
Department	Total	Male	Female	Minority	Black	Hispanic	Asian or Pac. Isldr.	2 or More	Native Amer.
City Manager's Office	1	1	0	0	0	0	0	0	0
Community Dev.	5	3	2	1	0	0	0	1	0
Finance	1	1	0	1	0	0	1	0	0
Fire	2	2	0	0	0	0	0	0	0
Library	2	0	2	1	0	0	1	0	0
Parks and Recreation	17	14	3	2	0	2	0	0	0
Police	9	7	2	1	1	0	0	0	0
Public Works	7	4	3	1	0	0	1	0	0
Total Employees Hired	44	32	12	7	1	2	3	1	0
Percent 2008		55%	45%	10.6%	0.0%	6.4%	0.0%	4.3%	0.0%
Percent 2009		73%	27%	15.9%	2.3%	4.5%	6.8%	4.3%	0.0%
Change		18%	-18%	5.3%	2.3%	4.5	0%	0.0%	0.0%

Benton/Linn Counties							
2000 Census Total Population 181,222							
Male	Female	Minority	Black	Hispanic	Asian	Native Amer.	Other
89,836	91,386	19,044	934	8,208	4,599	1,964	3,339
49.6%	50.4%	10.5%	.51%	4.5%	2.5%	1.0%	1.8%
Population Excluding OSU Students 2000 (total 164,434)							
89,836	83,486	15,627	741	7,700	3,230	1,772	2,184
48.7%	50.8%	10.5%	.45%	4.6%	2.0%	1.1%	1.3%

Sources of Information:

1. U. S. Department of Commerce Bureau of the Census 2000 Population. Issued August 2001 (updated every 10 years).
2. City of Corvallis data files July 1, 2004 - June 30, 2005.

CITY OF CORVALLIS
NEW HIRES June 16, 2008 through JUNE 15, 2009

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	TOTAL
Officials/Administrator	1	1	0	0	0	0	0	1
Professionals	5	2	0	1	0	1	1	5
Technicians	6	4	0	2	0	0	0	6
Protective Service	11	10	1	0	0	0	0	11
Administrative Support	2	2	0	0	0	0	0	2
Skilled Craft	4	4	0	0	0	0	0	4
Semi Skilled Craft	1	1	0	0	0	0	0	1
Laborers	14	13	0	0	0	0	1	14
Total	44	37	1	3	0	1	2	44

MALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	1	1	0	0	0	0	0	1
Professionals	5	2	0	0	0	1	1	4
Technicians	6	1	0	1	0	0	0	2
Protective Service	11	8	1	0	0	0	0	9
Administrative Support	2	1	0	0	0	0	0	1
Skilled Craft	4	2	0	0	0	0	0	2
Semi Skilled Craft	1	1	0	0	0	0	0	1
Laborers	14	11	0	0	0	0	1	12
Total	44	27	1	1	0	1	2	32

FEMALE EMPLOYEES

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	1	0	0	0	0	0	0	0
Professionals	5	0	0	1	0	0	0	1
Technicians	6	3	0	1	0	0	0	4
Protective Service	11	2	0	0	0	0	0	2
Administrative Support	2	1	0	0	0	0	0	1
Skilled Craft	4	2	0	0	0	0	0	2
Semi Skilled Craft	1	0	0	0	0	0	0	0

Laborers	14	2	0	0	0	0	0	2
Total	44	10	0	2	0	0	0	12

EEO Categories

W = White B = Black A = Asian/Pacific Islander NA = Native American/Alaskan Native 2 = 2 or more H = Hispanic

CITY OF CORVALLIS APPLICANTS
June 16, 2008 through June 15, 2009

EEO CATEGORY	TOTAL POSITIONS	UNKNOWN	TOTAL APPLICANTS	TOTAL MINORITIES
Officials/Administrators	1	2	53	4
Professionals	5	5	153	17
Technicians	6	11	258	24
Protective Service	11	22	654	62
Administrative Support	2	6	207	16
Skilled Craft	4	4	197	13
Semi Skilled Craft	1	0	23	2
Laborers	14	6	197	22
Total	44	56	1742	160

MALE APPLICANTS

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	1	36	1	0	0	2	0	39
Professionals	5	102	3	2	0	4	2	113
Technicians	6	170	4	3	0	8	4	189
Protective Service	11	426	2	4	2	19	17	470
Administrative Support	2	39	0	1	0	1	0	41
Skilled Craft	4	169	0	1	1	5	6	182
Semi Skilled Craft	1	20	1	0	0	0	1	22
Laborers	14	155	0	1	4	6	9	175
Total	44	1117	11	12	7	45	39	1231

FEMALE APPLICANTS

EEO CATEGORY	TOTAL POSITIONS	W	B	A	NA	2	H	Total
Officials/Administrator	1	11	0	0	0	0	1	12
Professionals	5	29	1	2	0	3	0	35
Technicians	6	53	0	3	0	2	0	58
Protective Service	11	144	5	2	0	5	6	162
Administrative Support	2	146	1	3	0	3	7	160
Skilled Craft	4	11	0	0	0	0	0	11
Semi Skilled Craft	1	1	0	0	0	0	0	1

Laborers	14	14	0	0	0	2	0	16
Total	44	409	7	10	0	15	14	455

EEO Categories

W = White B = Black A = Asian/Pacific Islander NA = Native American/Alaskan Native 2 = 2 or more H = Hispanic

Affirmative Action Statistics
Prepared by the Human Resources Division of the City Manager's Office
City of Corvallis Applicants
June 16, 2008 through June 15, 2009

APPLICANTS BY DEPARTMENT									
Department	Total	Male	Female	Minority	Black	Hispanic	Asian or Pac. Islldr.	2 or More	Native Amer.
City Manager's Off.	26	12	14	4	1	0	1	2	0
Community Dev.	128	100	28	14	4	2	3	5	0
Finance	43	38	5	1	0	0	1	0	0
Fire	103	99	4	9	0	3	1	5	0
Library	93	32	61	10	1	3	3	3	0
Parks and Rec.	418	376	42	35	1	11	3	15	5
Police	551	393	158	53	7	20	5	19	2
Public Works	380	231	149	34	4	14	5	11	0
Total Applicants	1742	1281	461	160	18	53	22	60	7
Percent 10/08		50%	50%	7.5%	0.5%	2.6%	2.1%	2.0%	0.2%
Percent 10/09		74%	26%	9.2%	1.0%	3.0%	1.3%	3.4%	0.2%
Change		24%	-24%	1.7%	0.5%	0.4%	-0.8%	1.4%	0%

Benton/Linn Counties 2000 Census Total Population 181,222							
Male	Female	Minority	Black	Hispanic	Asian	Native American	Other
89,836	91,386	19,044	934	8,208	4,599	1,964	3,339
49.6%	50.4%	10.5%	.51%	4.5%	2.5%	1.0%	1.8%
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48.7%	50.8%	10.5%	.45%	4.6%	2.0%	1.1%	1.3%

1. U. S. Department of Commerce Bureau of the Census 2000 Population. Issued August 2001 (updated every 10 years).
2. City of Corvallis data files July 1, 2004 - June 30, 2005.

**WORK FORCE ANALYSIS
2003 EEO-4**

Oregon Statewide

Job Class	Total All	Un-known	Male						Female			
			Total	W	B	A	NA	H	Total	W	B	A
Officials/ Administrators	56,737	4,000	24,392	21,850	524	648	290	1,080	28,345	25,392	609	753

Professionals	52,613	4,722	26,018	22,641	700	1,207	312	1,158	21,873	19,034	589	1,01
Technicians	18,793	1,383	10,389	8,854	218	510	147	660	7,021	5,983	148	344
Protective Services	9,037	623	6,678	5,670	233	140	266	369	1,736	1,475	60	36
Administrative Support	162,583	12,444	44,138	37,259	1,672	1,321	850	3,036	106,001	89,478	4,015	3,17
Skilled Craft	54,148	2,957	49,095	42,842	740	914	955	3,644	2,063	1,799	31	38
Service/Maintenance	196,405	13,332	125,094	93,826	3,787	4,845	2,648	19,988	57,979	43,487	1,755	2,24
Total	550,316	39,461	285,804	232,942	7,874	9,585	5,468	29,935	225,018	186,648	7,207	7,60

W = White

B = Black

A = Asian/Hawaiian/ Pacific Islander

NA = Native American/Alaskan Native

H = Hispanic

Source: Oregon Statewide EEO-4 Survey, Oregon Employment Department for the period including June 30, 2003 reported on a bi-yearly basis.

**WORK FORCE ANALYSIS
2009 EEO-4**

**City of Corvallis
Full Time Employees**

Job Class	Total All	Male							Female				
		Total	W	B	A	2	NA	H	Total	W	B	A	2
Officials/ Administrators	18	13	12	1					5	5			
Professionals	90	56	53		1			2	34	29		2	2
Technicians	45	32	29		1	1		1	13	12		1	
Protective Services	116	101	92	3		3	2	1	15	12			1
Administrative Support	57	8	8						49	43	1	1	0
Skilled Craft	36	31	30		1				5	5			
Service/ Maintenance	43	41	38				2	1	2	2			
Total	405	282	262	4	3	4	4	5	123	108	1	4	3

W = White
 B = Black
 A = Asian/Hawaiian/ Pacific Islander
 2 = 2 or More
 NA = Native American/Alaskan Native
 H = Hispanic

Source: City of Corvallis EEO-4 Survey Report for the period including July 1, 2004 to June 30, 2005 reported on a bi-yearly basis.

Based on the Work Force Analysis, findings are as follows:

INTERNAL DEMOGRAPHICS

All Employees, Full and Part-Time

1. 1.1% of the City's 459 employees are Black.
2. 2.4% of the City's 459 employees are Hispanic.
3. 2.2% of the City's 459 employees are Asian/Pacific Islander.
4. 1.3% of the City's 459 employees are Native American/Alaskan Native.
5. 1.7% of the City's 459 employees are 2 or More Ethnicities.
6. Females comprise 37% of the 459 City employee population.
7. There are no employees who have self-identified as disabled.
8. Veteran status of employees is undetermined.

Full-Time Employees Only

1. 1.2% of the City's 405 full-time employees are Black.
2. 2.5% of the City's 405 full-time employees are Hispanic.
3. 1.7% of the City's 405 full-time employees are Asian/Pacific Islander.
4. 1.5% of the City's 405 full-time employees are Native American/Alaskan Native.
5. 1.7% of the City's 405 employees are 2 or More Ethnicities
6. Females comprise 30% of the 405 full-time City employee population.

City of Corvallis New Hires

1. 15.9% of the new hires for the period June 16, 2008 to June 15, 2009 were minorities.
2. 2.3% of the new hires are Black.
3. 4.5% of the new hires are Hispanic.
4. 6.8% of the new hires are Asian/Pacific Islander.
5. 4.3% of the new hires are 2 or More Ethnicities.
6. 27% of the new hires are females.
7. There were 47 employees hired during the period June 16, 2008 to June 15, 2009.

EXTERNAL DEMOGRAPHICS

Linn and Benton Counties

1. .51% of Linn and Benton Counties' population are black.
2. 2.5% of Linn and Benton Counties' population are Asian/Pacific Islander.
3. 4.2% of Linn and Benton Counties' population are Hispanic.
4. 1% of Linn and Benton Counties's population are Native American/Alaskan Native.
5. Females comprise 50.4% of Linn and Benton Counties' population.
6. No comparison was made for disabled individuals.
7. No comparison was made for veteran status.

Linn and Benton Counties data issues August 2001, U.S. Department of Commerce Bureau of the Census 2000 Population, updated every 10 years.

Appendix D

Glossary

Action Planning - Action plans specify the actions needed to address each of the top organizational issues and to reach each of the associated goals, who will complete each action and according to what timeline.

Career Development - The process by which individuals establish their current and future career objectives and assess their existing skills, knowledge or experience levels and implement an appropriate course of action to attain their desired career objectives.

Career Plan - An individual action plan that serves as a road map to meet their changing goals, interests and needs and include short term (one year) goals, midterm goals (next five years) and ultimate career goals for the long term.

Culture - A complex system of learned beliefs, attitudes, perceptions, and customs which, when shared, make a group of people unique.

Diversity - Focus on our human similarities and differences and looks at ways that we can respect, appreciate, and understand one another at both a personal and professional level. Diversity work in an organization is about creating systems of support for our similarities and differences which increase effectiveness and organizational value from different ways of thinking.

Ethnocentrism - The belief of people in one group that their culture has the best beliefs, values and norms.

Employee Development - A joint, on-going effort on the part of an employee and the organization for which he or she works to upgrade the employee's knowledge, skills, and abilities. Successful employee development requires a balance between an individual's career needs and goals and the organization's need to get work done.

Employer Branding - "The image of the organization as a 'great place to work' in the minds of current employees and key stakeholders in the external market (active and passive candidates, clients, customers and other key stakeholders)." Employee branding captures the essence of a company in a way that engages employees and stakeholders. It expresses an organization's "value proposition" - the entirety of the organization's culture, systems, attitudes, and employee relationship.

Employer of Choice - a public or private employer whose practices, policies, benefits and overall work conditions have enabled it to successfully attract and retain talent because employees choose to work there.

Environmental Scanning - A process that systematically surveys and interprets relevant data to identify external opportunities and threats.

Employee Engagement - The means of creating a work environment that empowers employees to make decisions that affect their jobs. The extent to which employees commit to something or someone in their organization; how hard they work; and how long they stay as a result of that commitment.

Employee Life Cycle - Consists of the steps employees go through from the time they enter a company until they leave. It can be summarized in different ways such as four steps (hire, inspire, admire, and retire or put another way, recruitment, training, development, and retention, etc.).

Employer of Choice - A term used to describe a public or private employer whose practices, policies, benefits and overall work conditions have enabled it to successfully attract and retain talent because employees choose to work there.

Gainssharing Plan - A group incentive plan used to enhance productivity by sharing with a group a percentage of the gains the organization realizes from specific group efforts.

Goal - A statement outlining the long-term results, accomplishments or objectives an organization seeks to attain.

Human Capital - The collective knowledge, skills and abilities of an organization's employees.

Inclusion - The act of involving and welcoming "others" with respect as part of a group.

Indicator - Also referred to as metric or measure, an indicator is specific data compiled to illustrate whether or not targets are met and progress towards identified goals. Measures such as return on investment also indicate the effectiveness and value of implemented programs in increasing performance. A baseline value is determined as well as a target value and progress is monitored based on the movement from baseline to target within the targeted timeframe.

Intercultural Sensitivity - How we understand the experience intercultural differences at the cultural level.

Lifelong Learning - A lifelong learning framework encompasses learning throughout the life cycle, from birth to grave and in different learning environments, formal, non-formal and informal.

Measure - See Indicator.

Metric - See Indicator.

Multiculturalism or Cultural Pluralism - An ideal in which diverse groups in a society/organization coexist amicably while each maintains its own cultural identity.

It is not the strongest of the species that survive, nor the most intelligent, but the ones most responsive to change.
Charles Darwin

Organizational Development - The process through which an organization develops the internal capacity to most efficiently and effectively provide its mission work and to sustain itself over the long term. It is both a planned effort, organization-wide, managed from the top, to increase organization effectiveness and health, and a complex strategy intended to change the beliefs, attitudes, values, and structure of organizations so that they can better adapt to new technologies, markets, and challenges.

Overall Compensation - Defined in Oregon's Public Employee Collective Bargaining Act (PECBA) as including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

Phased Retirement - A broad range of flexible retirement arrangements, both informal practices and formal workplace policies, which allow employees approaching normal retirement age to reduce the hours worked or work for their employers in a different capacity after retirement.

Respectful Work Environment - Respect is to show honor, esteem, courtesy, or consideration for others. To respect another person is to appreciate them, to be polite, to take their considerations into account, and to value their dignity as a human being. It is the policy of the City of Corvallis that all employees, customers, contractors, and visitors to the City's worksites enjoy a positive, respectful, and productive work environment, free from behavior, actions, or language constituting workplace disrespect, bullying, or mobbing. The work environment should be safe and harmonious with open and honest communications.

Strategic Planning - The process of identifying an organization's long-term goals and objectives; and, then determining the best approach for achieving those goals and objectives.

Strategies – Broad, general action areas which form the plan for achieving defined goals. Within strategies, more specific tactics are identified which implement the strategies.

Succession Planning - The process of identifying long-range needs and cultivating a supply of internal talent to meet those future needs. Used to anticipate the future needs of the organization and assist in finding, assessing and developing the human capital necessary to the strategy of the organization.

Sustainability - Sustainability means using natural, financial and human resources in a responsible manner that meets existing needs without compromising the ability of future generations to meet their own needs.

Tactic – Individual action items within a goal which is designed to accomplish the ultimate goal and which is evaluated through the chosen indicators and targets.

Talent Management - Broadly defined as the implementation of an integrated strategies or systems designed to increase workplace productivity by developing improved processes for attracting, developing, retaining and utilizing people with the required skills and aptitude to meet current and future organization needs.

Target – Represents the desired outcome level of an indicator for a specific time frame and are designed to mark progress towards the more general goal to be achieved and illustrate when the goal has been achieved.

Total Rewards – All compensation, benefits, perks, and any other direct or indirect payments to employees.

Workforce Planning - The assessment of current workforce content and composition issues used to determine what actions must be taken to respond to future needs.

Work/life Balance - Having a measure of control over when, where and how individuals work, leading to their being able to enjoy an optimal quality of life. Work/life balance is achieved when an individual's right to a fulfilled life inside and outside paid work is accepted and respected as the norm, to the mutual benefit of the individual, organization and society.

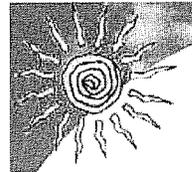
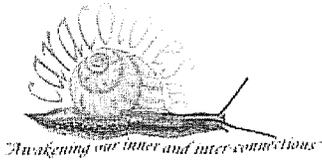
Appendix E
Diversity Assessment

**City of Corvallis
Assessment of
Diversity Efforts**

October 3, 2006

Ann C. Schaubert

Amber Wilburn



OSU
PROMISE

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Assessment of Diversity Efforts by the City of Corvallis

Our Charge

To advance the City organizational value of “honoring diversity” by assessing organizational diversity efforts which will lead to a diversity action plan with doable goals and objectives.

Findings at a Glance

- Overall Diversity Climate of Uncertainty in the City Organization, which includes supportive and defensive as well as uncertain attitudes and perceptions. These attitudes and perceptions result in a hesitancy to move forward with diversity issues.
- Intercultural Sensitivity at the Minimization Stage, which means that overall employees have limited experience with cultural difference and believe that generally “all people are the same.”
- City documents support a respectful workplace environment within the dominant cultural values
- Seasonal and casual employees feel that the city is a great place to work and that their supervisor respects them.

Theoretical Framework of Assessment

The process of changing an organizational culture to become more inclusive of cultural differences is a slow, intentional process. Fundamentally, the change must include the development of intercultural competency of all employees. Central to the development of one's intercultural competency is the awareness that every one of us has a culture. Culture is defined as a complex system of learned beliefs, attitudes, perceptions, and customs which, when shared, make a group of people unique. Culture determines how things are done within a given group. It is rooted in tradition. Edward T. Hall, author and scholar, says *“There is an underlying, hidden level of culture that is highly patterned – a set of unspoken, implicit rules of behavior and thought that controls everything we do.”*

We add to this complexity when we consider all of the dimensions of our diversity, as shown in the following diagram. Our own culture emerges out of the learned beliefs and values which come from each of these dimensions of

diversity – some more salient than others. Added to all of these dimensions are our individual personalities.

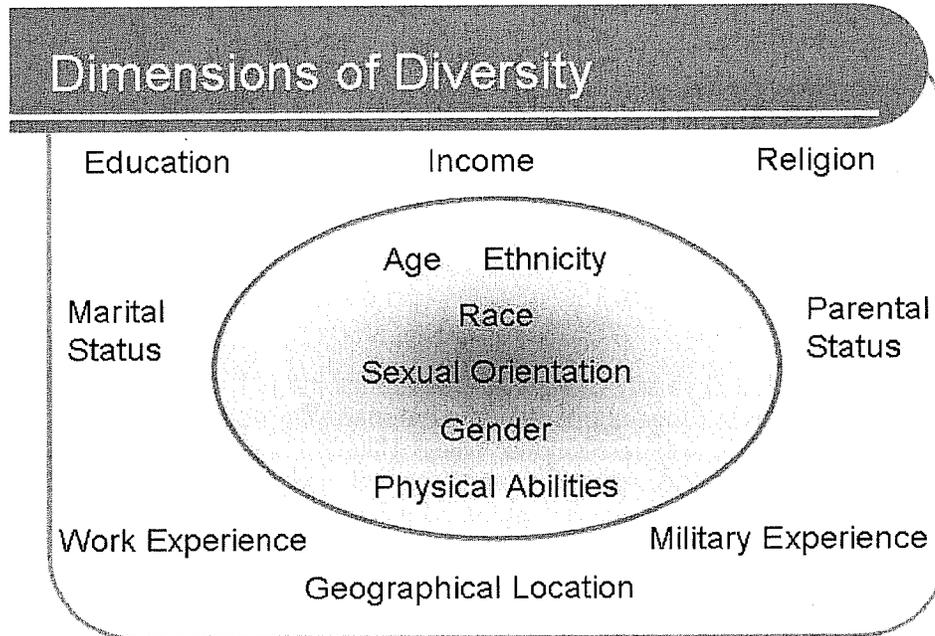


Figure 1 – Dimensions of Diversity

Where we are in our own intercultural development is the result of our life experiences. This is good. The process of becoming interculturally competent is an additive process, not one in which we are trying to take away anyone's beliefs or values.

While an organization is made up of individual employees, each of whom have a culture, the organization itself has its own culture which has evolved over time. Not only is there a City organization culture, but each department has its own culture.

Evidence of the organizational culture is found in its public language: the printed documents such as brochures that describe the organization's vision, values, and mission, and its policy and procedures manuals. Organizational culture changes very slowly. One reason is that the deeper values and beliefs implied in the language of the organization's culture may not be within the conscious awareness of the organizational members and leaders.

Organizational climate, which is integral to and yet only a part of an organization's culture, is easier to change than its culture. Organizational climate is found in the private language of the organization, such as the conversations about work among staff during coffee breaks. The organizational diversity climate is manifested in the attitudes and perceptions of the organizational members and the practices of the organization.

As the private language of an organization changes, the public language slowly begins to change as well. Thus, the key to changing the culture of an organization towards an effective multicultural perspective is to change the organizational climate.

If a mainstream organization wants to incorporate cultural diversity as a resource, it needs to begin by strategically focusing on what the current organizational climate towards diversity is. Organizations are made up of the people in them. Therefore, if the people do not change, then the organization cannot change. Determining an organization's climate involves three levels of analysis: the individual (employee), the groups (departments, units, program areas), and the overall organization.

This assessment looked at the organizational, departmental, and individual cultures within the City organization. The results are reported at the organizational and aggregate individual level (so as to maintain confidentiality). The organizational results are the City of Corvallis's Organizational Diversity Climate Dimensions. The aggregate individual results are the overall Stage of Intercultural Sensitivity Development. Both of these results provide insights on how to move the organization to become more "honoring of diversity."

Assessment Tasks

The following tasks were undertaken to assess the organizational diversity efforts of the city:

1. Conducted 11 focus groups at the departmental level (random sample with replacement, focus group with each department)
2. Conducted 14 interviews of City leaders (City council members, deputy City attorney, president of AFSCME, chair of MLK Commission, assistant City manager, head of Senior Services)
3. Audited City documents to assess organizational culture.
4. Surveyed small sample of seasonal and casual employees, and full time employees of color.
5. Analyzed data to determine the City Organizational Diversity Climate and the Overall Stage of Intercultural Sensitivity Development of the employees.

Organizational Diversity Climate Findings

The following is a table of participants in the focus groups and interviews by department and category, followed by a presentation and discussion of the organizational diversity climate findings.

Full Time Employees	Total	Invited	Attended	Refused		
				No Response	Conflict in Schedule	No Reason Given
Departmental Focus Groups						
Community Development	32	14	9	1	-	4
City Manager's Office	7	7	5	1	-	1
Finance	32	12	5	5	2	-
Fire Group 1	61	8	0	-	8	-
Fire Group 2		7	7	-	-	-
Library	36	13	9	4	-	-
City Managers (Group 1)	52	13	10	1	1	1
City Managers (Group 2)		16	8	-	8	-
Parks and Recreation	36	12	7	3	1	1
Police (Group 1)	66	12	0	-	12	-
Police (Group 2)		10	7	-	3	-
Public Works (Group 1)	92	12	9	-	-	3
Public Works (Group 2)		11	7	-	-	4
Interviews						
City Council Members	9	9	8	1	-	-
City Staff (Key Leaders)	5	5	5	-	-	-
TOTAL	428	147	96	16	35	14

Table 1- Focus Group and Interview Participants

Presentation and Discussion of Findings

The focus group and interview discussions were analyzed to identify employee and city leaders' attitudes and perceptions about diversity which were categorized into organizational climate dimensions. These dimensions were supportive of diversity, defensive toward diversity, and uncertain about diversity. We found nine supportive dimensions, six defensive dimensions, and six uncertain dimensions to the City of Corvallis's Diversity Climate. Three of the supportive dimensions do not directly relate to diversity, but they do relate to a

positive work climate. The following sections describe each dimension with excerpts from the focus group and interview transcripts:

Supportive Diversity Climate Dimensions

A supportive diversity climate consists of organizational members' attitudes and perceptions which are supportive of cultural groups other than the dominant cultural group in the organization both as staff and clientele.

1. ***Diversity adds more and different perspectives*** – the perception that as people from a wider variety of cultural backgrounds begin to work for the City, a wider variety of ideas will be brought to the organization.

Excerpts from the transcripts:

You get different perspectives on everything, if they were raised from a different culture...and ideas, a new way to do things.

Wider range of attitudes. Different perspectives.

...just be a more interesting organization...the more perspectives you bring, the more interesting life is....

2. ***Like working with people*** – the attitude that staff enjoy working with their co-workers and the public.

Excerpts from the transcripts:

People just always bring exciting new things that you hadn't heard about before...

It's the people I like working with....

3. ***Diversity brings richness and a better product*** – the perception that the contribution of people's more diverse perspectives will lead to better outcomes.

Excerpts from the transcripts:

...learning opportunities...opportunities to produce better products...you make better decisions.

...have an open environment where people feel free to speak and that values diversity of opinion...brings a richness to the dialogue...makes it a healthy place for people to work, makes it a place where people want to stay...

4. **Enjoy variety in my work** – the perception that staff enjoy their jobs.

Excerpts from the transcripts:

I like the variety in my work.

I enjoy the variety I get in my position...

5. **Need for Training** – the perception that staff need training in how to work with more culturally diverse groups.

Excerpts from the transcripts:

...for our work group to be responsive and be able to work together, we again need some kind of interaction or educational piece...

...we need more opportunities to learn foreign languages...all kinds of training that's on City time...

I would be interested in some kind of workshop situation where people who are in minority populations...talk directly about what is bad and what is good for them....

6. **City organizational culture supports diversity in sexual orientation** – the attitude that employees are accepting of gay and lesbian staff.

Excerpts from the transcripts:

We're at a point now where we have gay police officers that are open, recognized; it's not even thought of anymore.

State recognizing domestic benefits...has helped ...gay women are more acceptable, in the City and in my workplace. I have never felt second class.

7. **A more diverse staff will serve the community better** – The perception that the City will better serve the needs of the growing minority populations with a staff who represent and are sensitive to their needs.

Excerpts from the transcripts:

...better connection to our community for us if we have someone who knows how to speak Spanish...lends a degree of legitimacy in the public's eye, to see that representation.

You have a better understanding of the people in your community and what they want and need...enhancing community livability...make it more of a place that people would want to come...

8. **The need to recruit a more diverse staff** – the perception that current strategies for hiring staff may need to be adjusted to more intentionally diversify the staff.

Excerpts from the transcripts:

Maybe we need some type of recruitment that would better able us to reflect the cultural and gender diversity of the community.

Business as usual is not going to get us a workforce that we need to have to best match with the direction we're going in the future...We need to think about different tools and approaches that will provide different results.

9. **The City is a good employer** – the attitude that the City offers good salaries and benefits and is generally a good place to work.

Excerpts from the transcripts:

I feel that we're a pretty good organization to work in currently, and I've been struggling all day with reasons why we aren't and giving you good ideas on how we can get better. I don't have any.

People like working (here), it's a healthy environment. We have good pay and benefits, good working conditions.

Defensive Diversity Climate Dimensions

A defensive diversity climate consists of organizational members' attitudes and perceptions which are resistant to including culturally diverse groups other than the dominant cultural group in the organization either as staff or clientele.

1. **Quota anxiety** – the perception that hiring people of color in the organization is to meet a quota rather than based on qualifications. As a result, people of color enter the organization under suspicion by current employees that they are not fully qualified for their jobs. There is a perception that the people of color have an advantage in the hiring process and that hiring is no longer on a “level playing field.”

Excerpts from the transcripts:

I don't think you should actively recruit any particular ethnic group, gender, or whatever. I think it's just across the board, you put a blanket request for an opening...come in on their own merit.

...the whole diversity issue is not a factor in what you're doing with your recruitment process...you're looking at the qualifications of the individual...

I really hate, quite frankly, to go after group X because we don't have enough of X in that organization.

...if a person from a minority group was hired and we perceived it as 'well, we had to meet a quota and somebody got passed over that was more qualified...the person coming in would have a huge barrier....

2. **Not enough time, money, or people to do work** – the perception that staff have been asked to do more with less as fiscal resources become tighter. For any diversity effort to be successful, time, money, and people will be required.

Excerpts from the transcripts:

...I wonder if there's really time to do that (learn how to relate to another's culture) or if we're all so busy in our jobs that we'll all just plowing along doing it our own way.

A challenge is... having enough employees to do the job.

We have staff shortages; staff work overtime.

3. **Language and accent barriers** – the perception that staff cannot adequately serve people who speak a language other than English or that hiring people who have heavy, thick accents will negatively affect staff performance.

Excerpts from the transcripts:

It's always a challenge when someone comes to the counter and doesn't speak English...a patron would bring his little girl to translate. So, you're trying to explain these somewhat complicated things to an 8-year old.

If English is a second language for people, that could be an issue; maybe they have an accent that is a little hard for others to understand or they have trouble understanding our accents; maybe a lot of our work is written communication and it needs to be clear and precise...

4. **We are all the same, just people** – the perception that race, ethnicity, and other cultural differences do not matter. The belief that we are all the same may create a pressure for conformity perceived by people of color, who then try to hide who they are in order to survive.

Excerpts from the transcripts:

It's hard for me because I don't think in black and white; people are people to me.

I think working with diverse groups, they have the same skills as you have, they're no different, as far as a person isn't any different than you are.

5. **Fear that diversity will not include me** – the perception that White people will lose status in the efforts toward creating more inclusive organizations.

Excerpts from the transcripts:

...there's a little voice that says (I don't want) my diversity to get lost in the overall diversity.

The way the City deals with religious holidays is to completely ignore them. I think, there may be other ways to approach that...(as a Christian who celebrates Christmas).

...we hurt ourselves more when we are constantly trying to be diverse...In doing that, making people who may be in the majority and who may have been excluded before feel left out...

6. ***Equate diversity with political correctness which "rubs me the wrong way"*** – the perception that diversity is about saying what is the currently acceptable thing to say, which tends to limit one's true opinions. This perception runs counter to the positive intentions of the organization and results in discounting the merits of diversity. This perception suggests how we "should" be acting, which implies it is not really what we want to do. Someone is forcing me to do this, because somebody else thinks it is the proper way.

Excerpts from the transcripts:

...some of the people want to be so PC because they are so educated that they go overboard and really when I look at this and I look at the numbers, I think as a City we're doing very well.

...being politically correct has become a big thing now in the last ten to twelve years. Before then, if you saw something that offended you or heard something that offended you, you turned your back or walked away from it or just tuned it out.

If you include the minorities who work in the City and put them in this focus group that would not be politically correct because then they'd feel they were singled out.

Uncertain Diversity Climate Dimensions

An Uncertain diversity climate consists of attitudes and perceptions within the organization, which are neither supportive nor defensive, but rather indicative of a state of hesitancy due to numerous barriers.

1. ***Fear of offending someone and misunderstanding meaning in communication*** – the attitude that we might say something which was not intended to be offensive to someone who is culturally different but was

interpreted to be offensive as well as the perception that communication with people who come from differing cultural backgrounds may carry differing meanings on either side which result in misunderstandings.

This attitude and perception result in a hesitancy to communicate with culturally different others.

Excerpts from the transcripts:

You make a comment not meaning to hurt someone's feelings...can be interpreted in different ways...which may be insulting and cause friction.

Putting your foot in your mouth...being disrespectful and not knowing it. Doing something that might offend when certainly you didn't intend to.

...there will be misunderstandings. Different cultures have different understandings about what constitutes respect...a few regulations where our City regulations conflict with cultural traditions...

...trying to explain things so that they will understand it...if you try to give an analogy as to why we do something...to make it so they'll understand it without disrespecting their culture or religion.

- 2. Corvallis is a highly educated, white community. There is no diversity in Corvallis** – perception that City government exists in a community where there is not a lot of diversity. Therefore, it would be difficult to hire a diverse workforce from Corvallis. So why is the City concerned about diversity? Also, a perception that a highly educated, white citizenry has a lot of input into City governance.

Excerpts from the transcripts:

We have a very White staff, we live in a very White community, I'm not even sure there's that much economic diversity in this community relative to others...in Corvallis, there are a lot of well-to-do upper-middle-class White people...

...this is an expensive place to live and if you're talking about 90% White people, what's the lure for minorities to live here?

...this kind of study is driven by whether we have a diverse group ethnically vs. whether or not...we don't have – if you look at our stats in Corvallis – we aren't diverse.

I haven't really seen any changes that indicate Corvallis is becoming more diverse.

3. **Limited understanding of what diversity is** – the perception that diversity is mostly diversity of thought, even though other cultural dimensions were mentioned. Participants rarely mentioned the word “race” in defining diversity and appeared uncomfortable in choosing words to define diversity.

Excerpts from the transcripts:

It's almost like we're looking to put labels on things that don't much matter. I like the idea of diversity of thought.

Trying to understand defining cultural diversity...It seems that you are looking at just cultural diversity and I'd like to know how you define diversity.

I don't know that you necessarily have to have diversity based on skin color or race.

Diversity to me means just a variety of different things...it could be diversity in your socks or racial diversity....

Our Council is kind of diverse...Even though we don't have Colored, people of color, we have women, we have characters....

4. **Diversity brings potential for conflict** – the perception that the greater the differences, the greater the possibility for conflict.

Excerpts from the transcripts:

A diverse organization promotes conflict, just based on diversity.

You might have more conflict but it may not be as deep because you'll have the resources to resolve and work through it.

If you have actual diversity, the first and greatest conflict will be between people whose deeply held beliefs are opposed to each other...

5. **No apprehensions about working with cultural differences** – the perception that there is nothing to worry about in working with culturally different others. This could imply a lack of experience working with cultural

groups other than one's own or it could imply an openness to issues of cultural complexity.

Excerpts from the transcripts:

It's hard to have a worry about something that you really haven't had to deal with in the workplace. We're all White.

I don't personally have a lot of apprehensions or worries about working with people.

6. ***Our group is already diverse*** – the perception that while there may not be ethnic diversity in the work group, the group is still diverse. While at first glance, this may be seen as a supportive dimension, the statements in the transcript imply a limited awareness of the impact of differences in values, beliefs and communication styles among racial, ethnic, and other cultural groups.

Excerpts from the transcripts:

I think we currently have ...a very diverse work group. They're predominately White males, they're all White males, ...but I've got people from different socioeconomic backgrounds, states, age groups, religious convictions to none at all....

We don't have a diversity in ethnicity, we do have a diverse group in a lot of ways – where we've come from, our experiences....

**Organizational Diversity Climate Dimensions
City of Corvallis**

<i>Supportive</i>	<i>Uncertain</i>	<i>Defensive</i>
Diversity adds more and different perspectives (84%)	Fear of offending someone or misunderstanding meaning in communication (71%)	Quota Anxiety (64%)
Like working with people (67%)	Corvallis is a highly educated, white community. There is no diversity in Corvallis (65%)	Not enough time, money, or people to do work (64%)
Diversity brings richness and a better product (56%)	Limited understanding of what diversity is (43%)	Language and Accent Barriers (58%)
Enjoy variety in my work (51%)	Diversity brings potential for conflict (31%)	We are all the same, just people (37%)
Need for Training (49%)	No apprehensions about working with cultural differences (29%)	Fear that diversity will not include me (23%)
City organizational culture supports diversity in sexual orientation (47%)	Our group is already diverse (24%)	Equates diversity with political correctness which "rubs me the wrong way" (26%)
A more diverse staff will serve the community better (41%)		
The need to recruit a more diverse staff (37%)		
The City is a good employer (30%)		

* Percentages relate to the frequency of statements in the focus groups and interviews combined. Focus groups were given twice the weight of the interview to account for difference in group vs. individual responses.

Figure 2 – Organizational Diversity Climate Dimensions

Dynamic Interplay of Supportive and Defensive Dimensions

When we consider the supportive and defensive climate dimensions from an overall perspective, we recognize that four of the supportive dimensions in interaction with four of the defensive dimensions move these dimensions into the uncertain category. For example, City employees believe that diversity adds more and different perspectives, and those perspectives may be lost if employees misunderstand the meanings of someone who is culturally different. If there is a language or accent barrier, then City employees cannot appreciate the richness that diversity brings. Hiring a more diverse staff may be considered suspect by those who are experiencing quota anxiety. Recruiting a more diverse staff will take a commitment of time, money, and people. Through this dynamic interplay, the four categories from the supportive and defensive columns move to the uncertain column. As you consider all of the dimensions, you may find others that interact with one another.

Diversity adds more and different perspectives	→	Fear of misunderstanding meaning in communication
Diversity brings richness and a better product	→	Language and Accent Barriers
A more diverse staff will serve the community better with	→	Quota Anxiety
We need to recruit a more diverse staff	→	Not enough time, money, or people to do work

Figure 3 – Dynamic Interplay of Climate Dimensions

These interactions result in five supportive dimensions, three defensive dimensions, and ten uncertain dimensions. There is an overall sense that the Organizational Diversity Climate is one of uncertainty, that is, a hesitancy to move forward. Insight into this hesitancy comes out of an examination of the Stage of Intercultural Sensitivity.

Stage of Intercultural Sensitivity Development

The Path to Intercultural Competency

The construct of intercultural sensitivity is based on the premise that everyone has a subjective culture, that is, a set pattern of beliefs, values, and behaviors that are maintained by a group. Differing groups, say a national, racial, or ethnic group, have differing subjective cultures. Intercultural sensitivity, as defined by Milton Bennett, is how we understand and experience intercultural differences at this cultural level.

The construct of intercultural sensitivity is about developing an ever increasing awareness of differences that affect communication among differing cultural groups. With an increase in intercultural sensitivity, the assumption is that a person's intercultural communication skills will also increase. The result is effective cross-cultural communication, the building blocks for a more inclusive organization.

We can see the path to intercultural competency as a developmental learning process. This implies that it is possible, for everyone who is willing, to take the steps forward to learn to become interculturally competent.

Underlying a person's intercultural sensitivity is the degree to which each has experienced difference and how ethnocentric the person is:

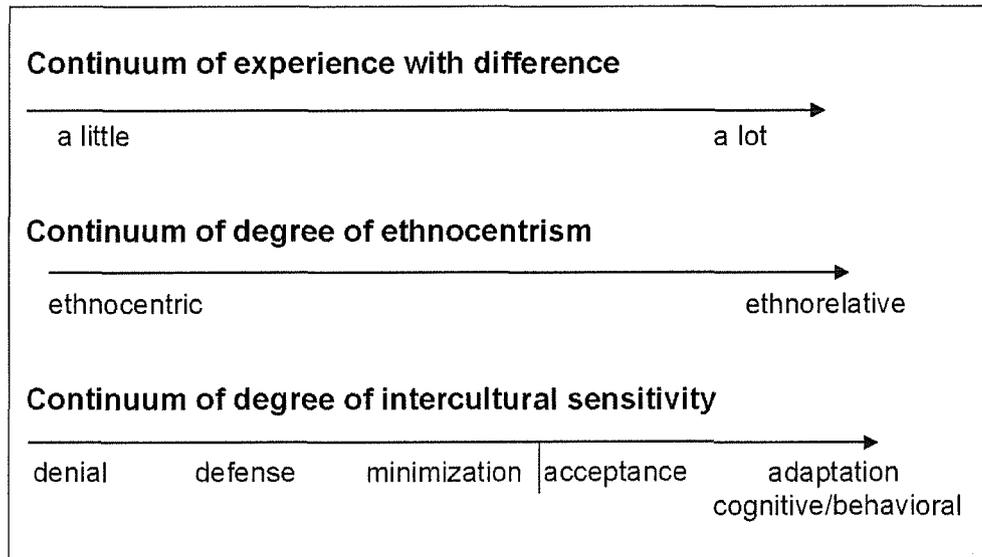


Figure 4 – Continuum of Differences

The three continuums in Figure 1 tend to parallel one another. The third continuum, the developmental model of intercultural sensitivity, is a continuum of development in a person's acknowledgment of difference. On one end of the continuum is "Ethnocentrism," which consists of three stages, --- **denial** (a lack of acknowledgment of difference), **defense** of one's personal reality as the one true reality, and **minimization** (a recognition of difference but with a greater importance perceived in our commonalities).

From "ethnocentrism", the continuum moves toward "ethnorelativism" which also has three stages- acceptance, cognitive and behavioral adaptation.

The **acceptance** stage focuses on an awareness of the integrity of all cultures which includes one's own.

- At the behavioral level of acceptance, an individual recognizes and respects differences for cultural variations in linguistics and communication style.
- At the value level, individuals in this stage recognize and respect differing values among cultural groups.

The next stage is **adaptation**, which consists of having competence in relating to people of differing cultures. It is an additive process, not a substitutive one: one does not give up one's own culture, but rather expands one's scope of awareness. This stage consists of cognitive and behavioral adaptation:

- Cognitive adaptation includes the skill of empathy which is defined as being able to take another person's cultural perspective.
- Behavioral adaptation includes pluralism, which is defined as having two or more frames of reference. People who are bicultural or multicultural have a pluralistic perspective.

There is no ideal place to be on the continuum; it is one way of understanding why people behave in the way that they do. (See *Figure 5 on page 19*). Even more, it is a guide for organizational change leaders. If a leader must balance challenge and support in moving employees to the next level of complexity in how we think about and act around cultural differences, this intercultural sensitivity model suggests how to accept employees where they are in relation to their attitudes toward difference. The model helps leaders know what the next steps are to help the employees increase awareness and to ultimately bring about intercultural competence. These steps will be discussed in more detail in the recommendations.

Stages of Intercultural Sensitivity Development

Denial is the first ethnocentric stage in which a person does not have categories for differences or sets up barriers to create distance from the "other".

What People Say: Society would be better off if people kept to themselves.

Defense is an ethnocentric stage in which difference is seen as a threat. It protects privilege and the superiority of one's own culture. It includes negative stereotyping. It can also be a protection of one's own identity.

What People Say: People from other cultures are generally inferior compared to people from my culture.

Minimization is an ethnocentric stage in which it is believed that people are all the same. Cultural differences are seen as differences within the perspective of one human reality, and that reality is one's own reality.

What People Say: I am sick and tired of hearing all the time about what makes people different; we need to recognize that we are all human beings, after all.

Acceptance is an ethnorelative stage in which cultural differences are both acknowledged and respected.

What People Say: I am fascinated by differences between myself and people from other cultures.

Cognitive Adaptation is an ethnorelative stage in which an individual recognizes the value of having more than one cultural perspective. It is about empathy.

What People Say: When problems arise, I often analyze the problems from two or more cultural perspectives.

Behavioral Adaptation is an ethnorelative stage in which an individual is able to comfortably take on the behaviors of two or more cultures.

What People Say: I adapt my manner of communication with people depending on their cultural background.

Based on a model by Milton Bennett and Mitchell Hammer

Figure 5– Stages of Intercultural Sensitivity Development

Findings of the Stage of Intercultural Sensitivity

After each focus group and interview, and after reviewing the transcripts, Amber and Ann categorized the statements made in each focus group and interview to determine the predominant stage of intercultural sensitivity.

We found no evidence of the Denial stage and almost no evidence of the Defense stage. The Minimization stage was clearly evident, characterized best by the statement "People are people, we are all the same." It is worth noticing that in the two focus groups that included participants who were not White, the statement that people are all the same was not made. Also, the three focus groups of departments (police, library, and parks) which currently serve the most diverse populations did not say that people are all the same. Nonetheless, there were other minimizing statements made by all of these focus groups.

There was some evidence of the Acceptance stage of difference and a few focus group members and interviewees made statements that would indicate the Adaptation stage of difference. Measuring an organization's intercultural sensitivity is not a simple task, because a person may be in acceptance or even adaptation around one dimension of diversity but in minimization or defense in regard to another dimension of diversity. For example, a person might be in acceptance and even adaptation with gender differences and at the same time be in defense or minimization with racial differences.

In this assessment, we found people rarely using the word "race." They would use other words such as "those statistics" or the "demographics." People appeared more comfortable saying "sexual orientation" than "race."

Other than comments that minimized differences, we also heard comments which suggested that the participants were unaware of their own culture. These statements were indicated by comments which included "those people" or "they're the ones who don't get it" which indicates that diversity is about others, not about me. Ultimately, any efforts made by individuals or the organization must address an awareness of the self as a person who has a cultural world view. Diversity, in essence, is about "us" not "them." There were some exceptions, in which reference was made to one's own culture. On five occasions, men mentioned their "White male lens" and one participant said, "What do twelve White guys know about diversity?"

Overall, the stage of Intercultural Sensitivity is likely to be one of minimization. The advantage of identifying the stage of intercultural sensitivity is that it gives clues about how to move the organization forward. We will discuss these in the recommendations.

Audit of City Documents

We audited selected City documents for an indication of organizational culture. We looked for inclusive language, organizational values, and commitment to diversity. The following documents were reviewed:

1. Administrative Policies
 - Recruitment, Selection, Transfer, and Promotion of Employees
 - Position Classification
 - Flexible Schedules for City Employees
 - Employee Behavior Complaint Response Policy
 - Code of Ethics
 - Prevention of Violence in the Workplace
 - Anti-Harassment
 - Discrimination
 - Family Medical Leave
 - Respectful Work Environment
2. Employee Handbook
3. City Newsletters
4. City of Corvallis Information and Services Guide
5. Training documents
6. Corvallis Partnership for Diversity information

Findings of the Audit

In reviewing the documents, it was evident that City policies were written to:

- Honor and respect each employee
- Provide effectiveness in the workplace
- Maintain the public trust
- Meet the needs of the citizenry
- Be carried out at the level of supervision closest to the employee
- Be reviewed and revised on a regular basis

Both the **Discrimination** and the **Respectful Work Environment** policies begin with the following statement:

As "A Community that Honors Diversity," the City organization must promote tolerance in the workplace and a respectful work environment. It is the policy of the City of Corvallis that all employees, customers,

contractors, and visitors to the City's worksites enjoy a positive, respectful, and productive work environment.

The "honoring diversity" statement indicates an organizational commitment to diversity. A commitment to diversity is an essential first step in effectively diversifying an organization.

Overall, the City documents reveal an organizational culture which is characteristic of dominant cultural values. For example, documents reflect the importance of "accomplishing or doing activities" which is reflective of a task-oriented culture as opposed to a relationship oriented culture.

It makes sense that the City organization culture currently reflects dominant cultural values because it exists within a state and national culture which currently reflects the dominant cultural values. We are not suggesting any specific changes in city documents, only an awareness that the culture has been built over time within a "White, male cultural lens."

Reflections and Suggestions for Changes in City Documents

1. Continue to revisit and renew policies on a regular basis as a means of staying flexible and current with changing times. As the City increases its diversity, some of the policies will need adapting to the varying values of the new employees and customers. For example, in one focus group, one participant talked about a situation in which a City regulation forbade a culturally appropriate act of gratitude:

We've had a few regulations where our City regulations conflict with cultural traditions. We're not supposed to take gratuities and we had a customer, years ago, would literally come in with hand trucks full of candy and coffee because that was his cultural belief...and he was truly offended if we didn't take it...weeks went by and eventually our supervisor said it was ok and it was trouble for each side to understand the other side.

Right now, it may be difficult to know how to revise some policies, but as situations arise, and as employees learn more about culturally appropriate behaviors in other cultures, you will know how to rewrite your policies to be flexible enough to show respect across cultures. At the same time, you will know which practices are not acceptable in City government, such as accepting bribes to get work completed. At the same time you will also know that "mordidas" or bribes are acceptable in some cultures. In other words, you will be recreating your culture within the context of a greater

cultural awareness and a conscious choice about what is appropriate for City government.

2. Consider having the **Welcome to your City! Information Guide** translated into Spanish with information about employment with the City included. Distribute the brochure through existing networks within the Spanish-speaking communities in Corvallis. (A contact with the OSU Foreign Languages Department – Joseph Krause, 737-1508, could be made to seek a volunteer student to translate the brochure.)
3. Consider changing the language in City policies from “promoting tolerance” to “being respectful.” Tolerance implies that you will put up with the situation, whereas respect implies that you will regard the situation with honor.
4. Consider using pictures of a more diverse community in the City newsletter.
5. Continue to work with and strengthen the Corvallis Partnership for Diversity. The trainings that you have offered together have been excellent. Also be sure that all of the employees of color in the City are invited to attend the Social Gatherings (Corvallis' version of Say, Hey!) that have begun in Corvallis. This is one way to provide support to the few employees of color that you currently have.

Survey Results

To gain a broader insight of workplace climate and how employees felt about working within the City, we distributed a survey to full-time employees of color (N = 5) as well as seasonal and casual employees in the Parks and Recreation Department (N = 41). A total of 47 surveys were distributed of which 45 were returned, giving a response rate of 95%. There were approximately 100 seasonal and casual City employees this past summer. Thus, we surveyed approximately 45% of this summer's seasonal and casual employees. Sample copies of the surveys can be found in the Appendix.

Of those who filled out and returned the climate surveys, 57.8% (N = 26) were male, 33.3% (N = 15) were female, 2.2% (N = 1) were transgender and 6.7% (N = 3) failed to indicate a gender. The majority of survey respondents were heterosexual (95.6%, N = 43), with bisexual and uncertain individuals being 2.2% (N = 1) each.

Gender of Respondents		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	male	26	57.8	57.8	57.8
	female	15	33.3	33.3	91.1
	transgender	1	2.2	2.2	93.3
	decline to respond	3	6.7	6.7	100.0
	Total	45	100.0	100.0	

Table 2 – Survey Respondents by Gender

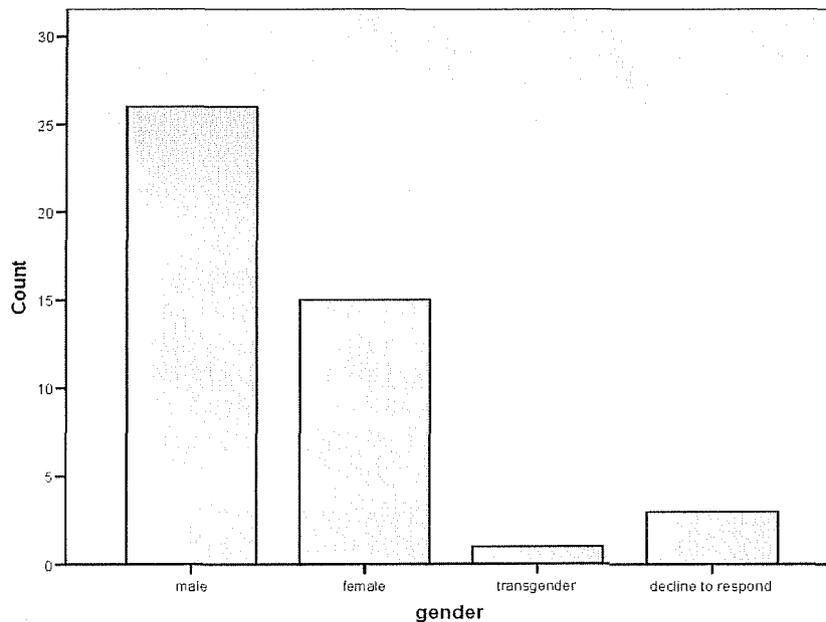


Figure 6 - Survey Respondents by Gender

The most prevalent age group of respondents was 22 and under (48.9%, N = 22), followed by 33-52 years of age (31.2%, N = 14), 53 years of age and older (11.1%, N = 5) and 23- 32 years of age (8.9%, N = 4).

Age of Respondents		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	22 and under	22	48.9	48.9	48.9
	23- 32 years	4	8.9	8.9	57.8
	33- 42 years	7	15.6	15.6	73.3
	43- 52 years	7	15.6	15.6	88.9
	53 and over	5	11.1	11.1	100.0
	Total	45	100.0	100.0	

Table 3 – Survey Respondents by Age

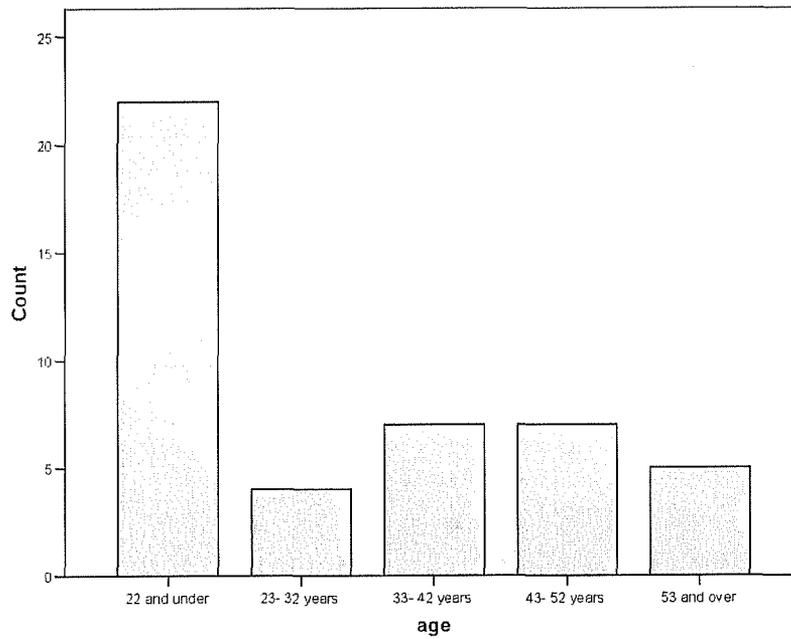


Figure 7 – Survey Respondents by Age

Almost fifty-six percent (N = 25) of the respondents identified themselves as White/Caucasian, followed by 22.2% (N = 10) either not indicating a race or identifying with all/any race(s), 8.9% (N = 4) identified themselves as Asian American/Pacific Islander, and 4.4% (N = 2) identifying as African American/Black, Latino/Hispanic and Native American each.

Race/Ethnicity of Respondents		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	White/Anglo/Caucasian	25	55.6	55.6	55.6
	African American/Black/African	2	4.4	4.4	60.0
	Asian/Asian American/Pacific Islander	4	8.9	8.9	68.9
	Latino/Hispanic	2	4.4	4.4	73.3
	Native American	2	4.4	4.4	77.8
	Decline to Respond/Other/Identify with All/Any	10	22.2	22.2	100.0
	Total	45	100.0	100.0	

Table 4 – Survey Respondents by Race/Ethnicity

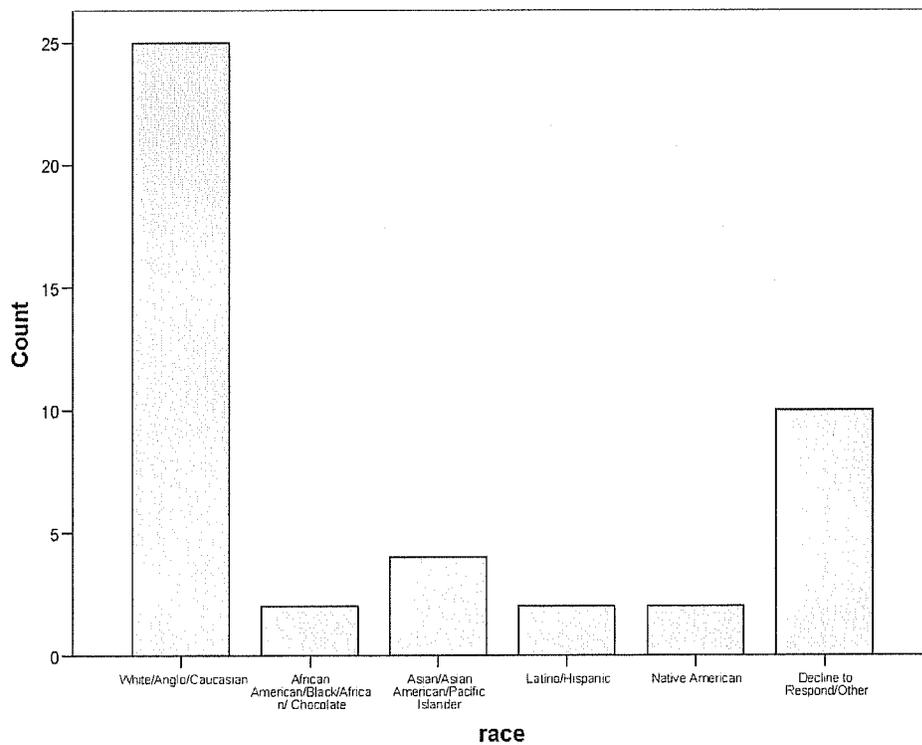


Figure 8 – Survey Respondents by Race/Ethnicity

Seasonal employees (N = 27) made up 60% of the respondents, casual employees (N = 11) were 24.4% of respondents, full-time employees (N = 4) were 8.9% and employees who did not respond to that item made up 6.7% (N = 3). No respondent indicated part-time employment.

Respondent's Type of Employment		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	seasonal	27	60.0	60.0	60.0
	casual	11	24.4	24.4	84.4
	full-time	4	8.9	8.9	93.3
	decline to respond	3	6.7	6.7	100.0
	*Total	45	100.0	100.0	

*No respondent identified self as a part-time employee

Table 5 – Survey Respondents by Type of Employment

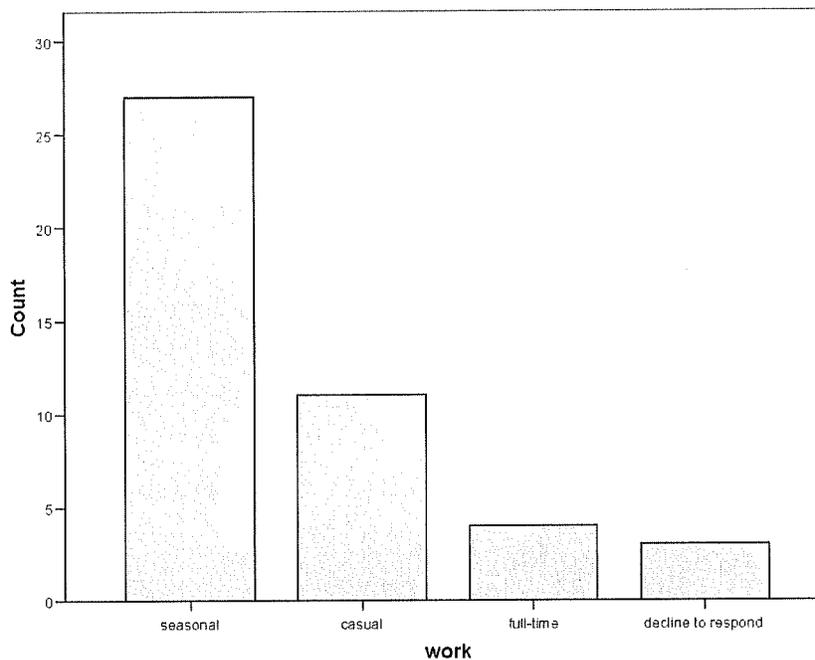


Figure 9 – Survey Respondents by Type of Employment

Overall, the survey results were positive. The majority of the responses to all the survey questions were either agree (response of 4.0) or strongly agree (response of 5.0). The response to question 3 ("I feel my Supervisor respects me") was overwhelming positive with 82.2% (N = 37) of the total respondents indicating they either agreed or strongly agreed with the statement. When broken

down by gender, age, racial, and work type groups, there is not much variation. See the tables in the Appendix.

Seventy-three and one-half percent (N = 33) of the total respondent population either agreed or strongly agreed that they felt the “City of Corvallis is a great place to work.”

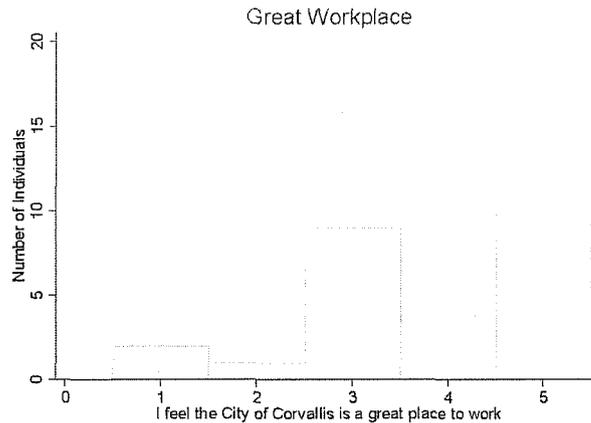
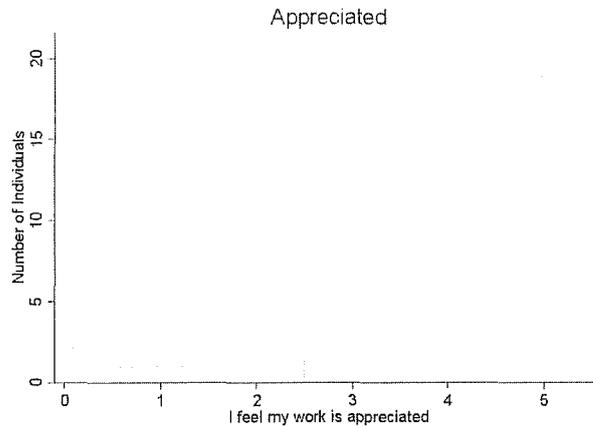


Figure 10- City of Corvallis is a Great Place to Work
(Scale: 5-strongly agree; 4-agree; 3 slightly agree; 2 disagree; 1strongly disagree)

Seventy-three percent of both males (N = 19) and females (N = 11) responded this way; whereas, the transgendered individual disagreed with this statement. When looking at this information based on age, we found that 13.6% of employees 22 and under disagreed or strongly disagreed with the statement while nearly 95% of all other age groups either agreed or strongly agreed. Eleven percent of seasonal workers disagreed or strongly disagreed with the statement while 45.5% of casual employees and 75% of full-time employees either agreed or strongly agreed. With regards to race, 76% of White employees, 50% of African American employees, 50% of Asian American employees and 100% of both Latino/Hispanic and Native American employees either agreed or strongly agreed that the City of Corvallis was a great work place.

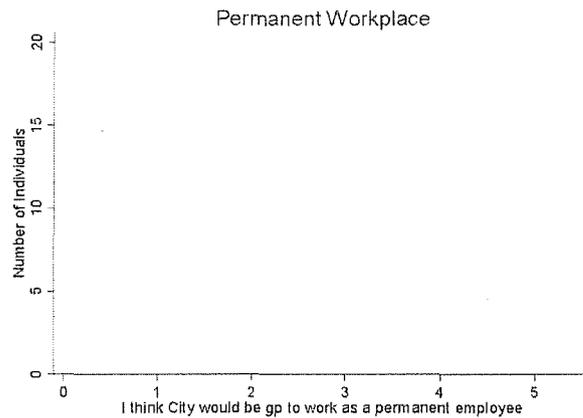
More than 70% of respondents (75.6%, N = 34), either agreed or strongly agreed that they felt their work is appreciated.



*Figure 11- I feel my work is appreciated
(Scale: 5-strongly agree; 4-agree; 3 slightly agree; 2 disagree; 1strongly disagree)*

Seventy-seven percent of males and 73.3% of females felt this way, while the transgendered individual did not; more than 70% of each age group either agreed or strongly agreed with the statement; 88.% of seasonal employees, 54.5% of casual employees and 75% of full-time employees either agreed or strongly agreed; and 76% of White employees either agreed or strongly agreed (16% either disagreed or strongly disagreed), 50% of African American employees either agreed or strongly agreed (50% disagreed or strongly disagreed), 50% of Asian American employees agreed (25% disagreed or strongly disagreed) and 100% of both Latino/Hispanic and Native American employees either agreed or strongly agreed with the statement.

The question with the most variation was the final question regarding whether the respondents thought the City of Corvallis would be a great place to work as a permanent employee. Sixty-four percent of respondents either agreed or strongly agreed with the statement while 28.9% (N = 13) either disagreed or strongly disagreed with the statement. Casual employee respondents, however, had the greatest disagreement for this statement with 63.6% (N = 7) indicating they disagreed or strongly disagreed that the City would be a great place to become a permanent employee whereas 22.2% (N = 6) and 0% of seasonal employees and full-time employees, respectively, disagreed or strongly disagreed with the statement. Fifty-eight percent (N = 15) of males and 73.3% (N = 11) of females either agreed or strongly agreed while 30.7% (N = 8) of males, 20% (N = 3) of females and 100% (N = 1) of transgendered individuals either disagreed or strongly disagreed. Fifty percent of employees in the 22 years and



*Figure 12- City as a permanent workplace
(Scale: 5-strongly agree; 4-agree; 3 slightly agree; 2 disagree; 1strongly disagree)*

under age group and 53 year and older age group either agreed or strongly agreed (50% of both groups disagreed or strongly disagreed). Among White employees, 60% either agreed or strongly agreed with the statement, whereas 32% disagreed or strongly disagreed; 50% of African Americans strongly agreed while 50% where uncertain (a circled response of both disagree and slightly agree); 50% of Asian American employees either agreed or strongly agreed. (50% disagreed or strongly disagreed) and 100% of Latino/Hispanic and Native American employees either agreed or strongly agreed with the statement.

All other questions received favorable responses as well with at least 60% (N = 27) of respondents agreeing or strongly agreeing with the statements. Though overall the responses were positive, when breaking down these questions by groups (age, gender, race, sexual orientation and work-type) we find disparate perceptions. For example, the transgendered individual responded as either agreeing or strongly agreeing with only 2 statements (“My own work is recognized” and “My Supervisor is committed to making the work environment free of offensive behavior”) and uncertain to 1 statement (“I think that the City of Corvallis would be a great place to work as a permanent employee). The uncertain individual responded affirmatively to 2 statements (“I feel that my work is recognized” and “My supervisor is committed to making the work environment free of offensive behavior”) and uncertain to 1 statement (“I think that the City would be a great place for me to work as a permanent employee”). The bisexual individual responded positively to all eight statements.

With regards to age group, 60% of respondents 53 years and older either “slightly” agreed with question 6 (“I am respected by my co-workers), whereas

14.3% of employees 43-52 years, 18.2% of employees 22 years and under and 0% employees 23-43 years old felt similarly.

Of Seasonal employee respondents, 14.8% either disagreed or strongly disagreed with statement 2 ("I feel respected as a City employee) and 18.5% slightly agreed with the statement. Likewise, 9% (N = 1) of casual employees respondents disagreed with the statement and 54.5% slightly agreed. Exactly 36.4% of casual employee respondents and 7.4% of seasonal employee respondents disagreed or strongly disagreed with statement 5 ("My own work will lead to recognition as a good performer"). All full-time employee respondents agreed or strongly agreed with that statement.

Finally, with regards to race, 50% of the African American respondents disagreed with statements 1 ("I feel that the City of Corvallis is a great place to work"), 2 ("I feel respected as a City employee"), 3 ("My supervisor treats me with respect") and 4 ("I feel that my work is appreciated"); 25% of Asian American respondents disagreed with statements 4 ("I feel that my work is appreciated") and 7 ("My supervisor is committed to ensure the work environment is free of offensive behavior") and 50% disagreed or strongly disagreed with statement 8 ("I feel that the City would be a great place to work as a permanent employee"). All of the Native American and Latino/Hispanic respondents either agreed or strongly agreed with all statements. *Cross tabulated data and graphs can be found in Appendix.*

Overall, the survey responses indicate that City of Corvallis employees (full-time, seasonal and casual) have a positive perception of working as City employees. However, when looking at the data broken down by groups (race, age, sexual orientation, work type and gender), different findings do arise. Employees of color (particularly African American and Asian American employees), seasonal employees, transgendered employees, employees who are uncertain about their sexual orientation and employees 22 years and under and 53 years and over had the least positive perceptions about working within City.

Limitations of Survey Sample

We administered the survey late in the season and many employees had already completed their employment with the city. Thus, we missed the opportunity to survey a more diverse group. Because of the varying schedules of the employees, we left the survey with a supervisor for employees to complete when they came in for their shift. Thus, we do not know the conditions under which employees completed the survey which raises questions of confidentiality and validity. Also, there is such a small number of full-time Employees of Color, that maintaining confidentiality is a challenge. Finally, there were no employees who identified as part-time or homosexual in our survey sample.

Overall Assessment Discussion and Recommendations

There is always a risk in conducting focus groups and interviews that people will tell you what they think you want to hear rather than letting you know exactly what they think and feel. We were reminded of this after one focus group. One participant had talked very positively about diversity. After the focus group, we were putting away the equipment when this participant returned to ask Amber if she was the “token” Black person that the City hired to do this diversity work. Ann was not asked if she was the “token” White person hired by the City.

While we admire this participant for saying what was on her mind, how she said it was hurtful. Her assumptions were degrading to Amber and to the City. We do not think she knew the impact of those few words.

Thus, our conclusions are based on what we heard, fully recognizing there may be more that we did not hear.

The City employees are a part of a predominantly White organization. While some employees have grown up in much more culturally diverse communities, others have had very limited experience with people from cultural groups other than their own. Everyone is doing the best they know how, given their life experiences. With this in mind, we offer the following recommendations to move the City organization towards greater pluralism:

1. Capitalize on the supportive climate dimensions to develop strategies for moving the underlying perceptions in the defensive and uncertain dimensions towards a more supportive climate. We can discuss ways to do this in the action planning process.
2. Develop a realistic multi-year diversity action plan which includes
 - An innovative recruitment strategy
 - An all-staff development plan which focuses on developing intercultural competency skills to move from minimization towards acceptance and adaptation. (See the Path to Intercultural Competency in the Appendix).
 - Provide cross-cultural conflict management training for managers, after initial staff development is completed
 - Strategies for how to legitimize new more culturally diverse staff into the work group
3. Establish an annual diversity award to acknowledge work that departments and individuals are doing. Recognize positive behaviors and programs which respect and support cultural diversity. Involve City staff in identifying these positive examples. Current examples found in the focus groups and interviews include:
 - Library’s efforts to give library cards to homeless persons; teach staff Spanish and encourage them to practice with patrons,

- provide intergenerational learning, and be a haven for children who come from dysfunctional families.
- Planning's willingness to change a person's house number because the number they had was unlucky.
 - The Police, who did not enter a home with their shoes on, when they were asked to take off their shoes before entering the home. Instead, they conducted their business outside.
4. Have a leadership discussion about what constitutes an ideal diverse organization. See the appendix for ideas which came from the focus groups and interviews.
 5. Increase the number of staff who can speak Spanish.
 6. Occasionally, have cross department meetings so that employees understand the work and issues that other departments are facing. This will lessen the "us and them" attitude that we heard in a few of the focus groups.
 7. Encourage top City leaders to notice and acknowledge staff for serving a broader range of citizenry.
 8. Ensure that all staff of color are invited and encouraged to attend the new Corvallis Meet and Greet functions (The Corvallis version of Say, Hey!) to provide support to them as a group. Or provide opportunities for staff of color to get together among themselves for support in working in a predominately White organization.
 9. Continue working with and strengthen the Corvallis Partnership for Diversity.

About the Consultants

As consultants, we understand that this report is filtered through our own cultural lenses. We have done our best to be objective, and yet we know there is no such thing as pure objectivity. With this in mind, we share a little about our own cultural background. Amber Wilburn is an African-American woman from Los Angeles. She has a master's degree in Public Health and is currently an OSU Doctoral student in Public Health. Amber worked on this project as an OSU PROMISE Intern for the City. She will continue to work on this project as a part of her doctoral work.

Ann Schauber is a White woman who currently lives in Corvallis and is originally from the East Coast. She has a doctorate in Intercultural Communication and Organizational Change. She is retired from Oregon State University Extension Service and is currently working with Caracolores, LLC, a diversity consulting business.

List of Appendices

1. The Path to Intercultural Competency
2. Definition of Terms
3. City of Corvallis as an Ideal Diverse Organization
4. Survey Responses – Cross tabulated
5. City of Corvallis Focus Group and Interview Questions
6. City of Corvallis Organizational Diversity Climate Survey
 - a. Seasonal and Casual Employees
 - b. Full Time Employees of Color
7. Bibliography

COUNCIL REQUESTS

FOLLOW-UP REPORT

APRIL 1, 2010

1. Traffic Order Implementation (Nelson)

Oregon State University's Business Solutions Group has been working with selected City programs for the purpose of re-engineering processes with an eye to efficiency and sustainability goals. One such process is traffic order reviews, which involve Public Works, Community Development, Police, and City Manager's Office reviews and approval. The final step in the process is notification to City council of the traffic order. The Municipal Code section and 2007 minutes discussion regarding this issue are attached.

An efficient and paperless process has been developed up to the point of Municipal Code Section 6.10.020.040(3) requiring Council notification, which adds time and resources (scanning, copying) at the last step.

Does City Council pay particular attention to traffic orders, or could we try a test period without the notification? Even if the traffic order is not shared with Council, under the Charter, a citizen could always appeal the City Manager's administrative decision to City Council.

2. Traffic/Pedestrian Signal at NW Ninth Street and NW Polk Avenue (Council)

At the March 15 Council meeting, Rita Brown said she thinks the existing pedestrian traffic signal on NW Ninth Street between the east and west legs of NW Polk Avenue is confusing and requested that the City analyze the safety of the signal. Councilor Beilstein requested that staff take this issue to the Bicycle and Pedestrian Advisory Commission (BPAC) before returning it to Council.

Staff will do some analysis on the this pedestrian signal to include a review of the accident history and frequency of use and what options are available to improve the safety at this signal. Staff will preset that data to the BPAC for discussion and consideration of options and form a recommendation that we will then bring to Council in June or July.

3. Establishment of a Sustainability Commission (Nelson)

In July 2009, City Council discussed the community-wide sustainability work program (Attachment 1). The discussion included bringing back to City Council in nine months consideration of establishing a Sustainability Commission. Subsequent to this discussion, City Council approved the community-wide sustainability work program (Attachment 2 minutes and work plan). City Council further discussed the sustainability work plan in February 2010, resulting in assimilating the energy strategy into the sustainability work program, including an evaluation of a community energy information center (Attachment 3).

With the recent hiring of the Sustainability Program Specialist, staff will be able to spend more time on the community aspects of the sustainability work program. Balance of the year focus will be on enhancing program communications, including creating outreach pieces, identifying and developing metrics, and working on grant opportunities.

Given the current workload and associated care and feeding to develop and maintain a Sustainability Commission, I recommend this effort be referred to the 2011-2012 City Council for consideration as a Council goal.

4. Undesirable Behaviors at Library and Central Park (O'Brien)

Councilor O'Brien's Council request is attached. Councilor O'Brien's request also includes an attachment (Library Director's report) that outlines time and effort to date in addressing the issues. Both the Library and Parks and Recreation Departments also have "code of conduct" that are used by respective staff in monitoring behaviors. Responses to questions follow.

a. Measures taken to address current threat to public safety and livability...

In addition to previous efforts, the Corvallis Police Department has undertaken a tactical action plan where the site is visited almost every hour, especially during daylight. Police patrols are intended to reduce unlawful behaviors, not to disrupt the legal activities of any person or group.

b. Other remedies...

All of the public are invited to use public facilities. We encourage civil and polite interaction among citizens but cannot enforce or legislate away free speech and the right to congregate. Citizens being threatened are encouraged to dial 9-1-1. Arrests are based on the nature of the illegal activity.

c. Actions, policy by City Council to assist staff...

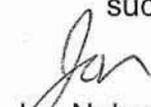
The Parks, Natural Areas, and Recreation Board and Library Board are aware of the challenges facing staff on this issue. At this time, no one is suggesting resources be taken away from existing programs to provide more targeted staff action. Staff is unaware of a specific action by City Council that would resolve everyone's concerns while appropriately balancing all people's interests and protected rights.

5. Retaliatory Landlord Complaint (Update) (Nelson)

In October 2009, the City Council asked Housing Division staff to contact staff in the Albany office of Legal Aid Services of Oregon about the possibility of expanding their services to provide more frequent, broader assistance to low-income tenants who are facing retaliatory evictions. The impetus for Council's direction was concern that tenants receiving "30-day no-cause" eviction notices that they felt were retaliatory in nature had nowhere to turn for assistance because of Legal Aid's limited capacity.

Conversations with Legal Aid shortly after Council provided its direction led staff to learn that the agency was planning a January expansion that would bring on an additional attorney whose primary focus would be housing issues, including retaliatory evictions. In February, Housing staff met with Legal Aid representatives to learn more about their organizational changes; an additional attorney has, indeed, been hired, and is now available to work on housing issues for low-income households (generally, those who are eligible to receive food stamps) and elderly (aged 60 years and older) households at any income level. This increased capacity has been achieved because, as of the beginning of this year, Legal Aid can now sue for and collect attorney fees when they prevail in legal cases. Where Legal Aid cannot help someone because their income does not qualify, they refer them to the Oregon Lawyer Referral Program, through which a private attorney will provide a low-cost consultation, or to the Modest Means Program, which provides reduced-fee representation for those with low incomes.

Legal Aid is optimistic that, because of their recent expansion, they will be able to work more frequently with eligible clients in Corvallis. They caution, however, that proving retaliation in cases of eviction remains very difficult; and, while they anticipate being available more often to investigate and assess complaints, they feel successful outcomes for retaliatory claims will still be relatively rare.


Jon Nelson
City Manager

Section 6.10.020.040 Procedure for exercising authority.

1) Any activity undertaken by the City Manager or person designated by the City Manager pursuant to Section 6.10.020.030 herein shall be in writing and in the form of an order. All such traffic orders shall be filed, maintained, and available to the public in the Community Development Department.

2) The final traffic order shall bear thereon its effective date and shall be provided to the Chief of Police. When a traffic order becomes effective, the City Manager shall ensure that appropriate steps are taken to implement the order.

3) Upon filing of a traffic order, the City Manager or person designated by the City Manager shall notify Council of the order at its next regularly scheduled meeting.
(Ord. 89-19 § 1 (part), 1989)

Councilor York recommended that community members review the staff report regarding remands, land use application completeness, appeals, and related issues, noting that the report addresses several issues of recent concern.

3. Community Alliance for Diversity Contract

Mr. Nelson noted that the City's contract with Community Alliance for Diversity (CAD) expired and was reconsidered in a modified format. Staff appreciated CAD's work and intends to continue the contractual relationship. Council members indicated support for the contract.

Mr. Nelson announced that Assistant to City Manager/City Recorder Louie was recently elected First Vice President of the Oregon Association of Municipal Recorders and is working on behalf of municipal recorders throughout Oregon.

4. Traffic Orders

Mr. Nelson explained that traffic orders are submitted to the Council for informational purposes and are implemented without Council action, unless the Council directs otherwise.

Mayor Tomlinson referenced from the meeting packet a letter from Mid-Valley Housing Plus (MVHP) requesting \$20,000 in funding assistance so the program can continue operating while seeking additional funding sources.

Councilor Brauner reported that MVHP's funding request was considered, but not approved, through the social services allocation process. MVHP's circumstances have changed since the request was reviewed, but those changes may not warrant additional City funding. He suggested that MVHP's request be referred to Human Services Committee for review and recommendation. The Council concurred.

VI. VISITORS' PROPOSITIONS

Tom Clancey-Burns, Community Services Consortium (CSC) Executive Director, distributed an information packet regarding CSC's services. He highlighted CSC's history, programs, and services:

- CSC was formed in 1980 by combining Linn-Benton-Lincoln Manpower Consortium, Linn-Benton-Lincoln Community Action Program, and Comprehensive Youth Program. These organizations performed activities established under former-President Lyndon Johnson's "War on Poverty" initiatives.
- CSC is a public, non-profit organization operating in Linn, Benton, and Lincoln Counties with 150 staff members and approximately 3,000 volunteers.
- CSC is entirely funded by approximately 188 grants and has direct and indirect administrative rates of less than five percent.
- CSC received the government's Financial Office Award for Excellence in Reporting for 15 years.
- CSC seeks solutions to poverty and attempts to present as many programs as possible in a case-management style to alleviate poverty. Programs are developed to fill needs gaps, based upon census data for the counties served and tailored for the unique circumstances and needs of each community. Programs include:

\$26 to remove a couch. He recalled that 60 percent of AWS' operation involves recycling; so AWS should be characterized as a recycling company, rather than a solid waste disposal company. He requested information regarding the previously expressed interest in food waste composting.

Ms. Dion responded that food waste can be characterized as "pre-consumer" and "post-consumer"; each type must be processed differently. Pre-consumer food waste could be processed with yard debris; post-consumer food waste (including food waste at homes and leftovers from restaurant buffet lines) must be handled differently to ensure that no negative germs or bugs have infested the material. AWS is interested in beginning a pre-consumer, commercial food waste program. The facility that processes yard debris can accept pre-consumer food waste for composting, and the Department of Environmental Quality (DEQ) would approve this system. At this time, there is nowhere to take post-consumer food waste. AWS would need to solicit businesses to participate in the pre-consumer food waste program and supply them with collection carts.

Mayor Tomlinson referenced input received from Jeanne Riha (Attachment F), Florian Cerklewski (Attachment G), and Eric White (Attachment H) regarding AWS' proposed recycling program and service rate changes. He noted that he received a communication from Dennis Jarvis, who supported a cart recycling program, and a communication from Councilor York regarding the issue.

Mayor Tomlinson noted that no one spoke in opposition to the traffic orders presented to the Council, and the Council did not express opposition to the orders; therefore, staff will implement the actions authorized in the orders.

VIII. & IX. STANDING COMMITTEE REPORTS AND ORDINANCES, RESOLUTIONS, AND MOTIONS

- A. Human Services Committee – None.
- B. Administrative Services Committee – October 4, 2007
 - 1. Solid Waste Franchise Amendment

Councilor York reported that AWS proposed changing the hours and location of the recycling depot at its headquarters. Theft, vandalism, and deposits of unauthorized materials prompted the proposed change. Relocating the depot behind a fence and limiting hours of access to when staff is available should alleviate the problems. AWS determined that 95 percent of material collected at the depot is deposited during the proposed hours of operation. The proposed change would allow AWS to collect items not currently collected at the depot, such as household batteries, fluorescent light tubes, and scrap metal. The Committee unanimously recommended approval of the proposed change.

City Attorney Fewel read an ordinance amending Ordinance 98-54, as amended, and declaring an emergency.

Councilor Brauner expressed support for the ordinance, based upon the expressed necessity for the change. He said it was unfortunate that the actions of a few people

Councilors Daniels and O'Brien, respectively, moved and seconded to amend the motion to direct staff to conduct preliminary discussions with key partners regarding the feasibility of and need for a partner summit on capacity assessment on homelessness issues.

Councilor Daniels said she recently met with representatives of agencies that would be key partners with experience in addressing projects related to homelessness. Rather than announcing a summit, she would like staff to conduct preliminary discussions and inform the Council of the nature of the discussions regarding issues addressed today.

Councilor Brauner noted that Mayor Tomlinson, Council members, and administrative staff need to be involved in the proposed meeting, the discussions of which would help focus existing efforts. Other staff would not be involved, thereby reducing costs, so he can support the motion.

The amendment motion passed unanimously.

Councilor Hervey said he would have supported Councilor Hamby's earlier amendment if it had been limited to the daytime drop-in center.

Councilors Hervey and Raymond, respectively, moved and seconded to amend the motion to direct staff to report to the Council the feasibility and resource requirements for establishing a full-time drop-in center.

Councilor Brauner opined that the proposed information request may be appropriate after the summit discussion but seemed premature at this time; therefore, he would oppose the motion. Councilors Brown and Hamby concurred.

The amendment failed two to seven on the following roll call vote:

Ayes: Hervey, Raymond

Nayes: Hamby, Brown, Hirsch, Beilstein, Daniels, O'Brien, Brauner

Mayor Tomlinson reviewed the main motion.

The main motion passed unanimously.

C.

Community-wide sustainability coordinator funding next steps

Mr. Nelson said the Council directed that \$40,000 in community-wide sustainability coordinator funding be administered through his office. He met with the Coalition's co-facilitators, Council leadership, and staff and developed proposed administrative "next steps" to meet the Council's direction. Initially, the Fiscal Year 2009-2010 budget would be enhanced for the community-wide sustainability program with an additional \$10,000 not spent for a previously directed sustainability survey. There are now \$50,000 available for the program.

Mr. Nelson noted, per his staff report, that a successful sustainability program should integrate the organizational and community-wide activities. Operating the program from his

office, with more contact with elected officials, would ensure the community's awareness of the Council's values. He did not want placement of the program within the organization to detract from the excellent work conducted by Public Works Department staff on the organizational and community-wide sustainability efforts. He acknowledged that his department's staff could not have undertaken one-half of the work performed by Public Works Director Rogers, Public Works Administration Division Manager Steckel, and Sustainability Supervisor Lovett.

Mr. Nelson further acknowledged that the Coalition is a self-appointed, self-advocating organization. A community-wide sustainability program needs a commission or advisory body with participation by more community members. Therefore, he suggested establishing a Sustainability Commission. After reviewing input from Mayor Tomlinson and Councilors Daniels and Brown, he suggested establishing a commission following development of an energy strategy, provided the Council identified a Council subcommittee to work with a group to develop the strategy and guidance on implementing actions. He said staff would want to be involved in developing the policy and strategy, as staff will be responsible for their administration. He will want to ensure that the City's administrative needs are met as the policy and strategy are developed.

Mr. Nelson summarized that the Council should confirm whether his proposed actions should be pursued. Staff would then discuss how to accommodate the work program and report to the Council.

Councilor Beilstein inquired whether the organization would have one sustainability coordinator for the combined internal and community-wide efforts or different programs under coordination by different people.

Mr. Nelson responded that, ultimately, the internal and community-wide programs would be integrated. He presented a possible scenario: Ms. Lovett may focus on an energy policy and strategy within the first six months of the work program, and the previously referenced \$40,000 to \$50,000 in additional funding would be used to hire someone to work on other organizational issues. Staff would want to ensure that the programs were integrated but that resources and talents were respected.

Councilor Beilstein expressed concern that a Sustainability Commission and a sustainability supervisor may create too much focus on the City's involvement. He questioned whether the City would have a commitment to the Community Sustainability Action Plan in terms of activities that are not the City's responsibility, or the Commission and Supervisor would be focused only on those actions with direct City involvement.

Mr. Nelson responded that the Council indicated a preference to focus on energy and transportation issues, which would be the focus on the community sustainability coordinator. He opined that some foundation work was needed regarding the Coalition and the new position in terms of communications and ensuring maximum coordination.

Councilor Beilstein said he was happy with staff proceeding as proposed in Mr. Nelson's staff report.

Councilor Brown referenced information he submitted in the meeting packet. He emphasized that a strategy should be developed.

Councilor Raymond concurred that the sustainability coordinator position could focus on the Council's stated goals of energy and transportation. She said the Coalition's energy and transportation action teams were consulted and will continue to be consulted.

Councilor Raymond did not want the Coalition to be discouraged by the Council establishing a Sustainability Commission. The Council should continue working with the Coalition. The sustainability coordinator should have access to the Coalition's Steering Committee. She was not inclined to agree with the need for a Sustainability Commission, since the community has an active sustainability coalition.

Councilor Hervey recalled that the Coalition requested \$40,000 for a paid staff person to assist in administering the Coalition's various action teams for optimal efficiency. When the funding request was submitted, the Coalition was undergoing leadership and organizational changes; and the Council was uncomfortable with allocating the funds. The Council discussed how it could assist the Coalition and approved allocating the funds to a City position; the allocation was not restricted to supporting the Coalition's actions and providing staffing, but that was the context of the Council's discussions. He opposed the action out of concern that the City would subsume the funds for purposes more aligned with the City's goals than the Coalition's goals, which he considers to have happened. He expressed concern that a Sustainability Commission could be comprised of a greater cross-section of the community than have joined the Coalition. If the Commission directed the Coalition, it would curb the efforts of the Coalition's members. He believes a Commission or coordinator attempting to apply the Council's internal goals to the Coalition would not be aligned with the original intent of the funding. He would like the Commission's or coordinator's role to be aligned with the original funding, so the Coalition's members remain organized and motivated and achieve their objectives. He considers a Sustainability Commission a key element for the community. However, creation of a Commission within the next 18 months could hamper the community's efforts thus far.

In response to Mayor Tomlinson's comment, Councilor Hervey clarified that a Sustainability Commission would be charged with pursuing the community's agreed-upon goals. The Coalition is a self-selected group of people actively engaged in pursuing sustainability. A more-balanced Commission might slow, rather than assist, the Coalition's actions.

Mr. Nelson concurred that some Coalition members might be disappointed with the City pursuing a Sustainability Commission, while others would support the Commission.

Councilor Brauner concurred with the "next steps" outlined in Mr. Nelson's staff report. He believes establishing a Sustainability Commission could be postponed for a while. As a community-wide sustainability program is developed, the appropriateness of a Commission can be evaluated. He opined that placing a sustainability coordinator in the City Manager's Office to direct a community effort was a key issue. He expects that a Commission will eventually be needed, but it should be established in concert with the Coalition and not interfere with the Coalition's efforts and momentum. He objects to statements regarding community efforts and Council efforts. He believes the Council and the City represent the

community. He believes Councilor Brown's proposal regarding energy aligns with the proposal before the Council. He expects the sustainability coordinator position to help develop the energy strategy. He was concerned with Councilor Brown's earlier proposal but supports the amended proposal as a necessary first step to pursue the Council priority of the energy aspect of the sustainability program. He emphasized that the sustainability coordinator position should be in the City Manager's Office to work with the entire community in concert with staff members involved in the organization's sustainability program. He urged the Council to support the sustainability coordinator position.

Councilors Brown and Daniels, respectively, moved and seconded to direct Mayor Tomlinson, at the July 20, 2009, Council meeting, to propose appointments to an *ad hoc* committee consisting of as many as three Councilors plus select members of the Corvallis Sustainability Coalition Energy Action Team to create a Corvallis Energy Strategy for submission to the City Council and direct staff to provide support consisting of arranging times and locations of meetings, announcing meetings consistent with requirements of public meeting laws, and taking notes at the meetings.

Councilor Beilstein requested clarification that the sustainability effort would continue and not be substituted by pursuit of an energy policy. He does not want \$40,000 invested in developing an energy policy and no support of a sustainability program; if this is the proposal, he cannot support the motion.

Councilor Brown clarified that his proposal would involve a very small portion of the \$40,000 allocation and was intended to reduce the tasks required of staff. He envisioned the proposal as the beginning of work that would continue into the future, with the Council developing a community sustainability plan. The energy policy was identified as a Council priority for the next two years. Over time, a complete sustainability plan can be developed. His proposal would include all sustainability issues important to the community.

Councilor Brauner concurred with Councilor Beilstein's concern. He summarized that the proposal would not direct use of all of the sustainability coordinator's time for support of the Sustainability Commission. He said he could support the motion, based upon Councilor Brown's explanation that the \$40,000 would be dedicated to working with the broader community sustainability issues.

(Councilor Brauner left the meeting at 2:45 pm.)

Mr. Nelson said staff needs to be involved with the actions proposed in the motion. He believes staff would need to be more involved than arranging and publicizing meetings. Rather, staff would need to be more directly involved with the Sustainability Commission and developing a policy. He further believes that asking staff to hire a sustainability coordinator while another group develops an energy policy is not appropriate. He would prefer spending some of the \$40,000 allocation to ensure sufficient staff support for the actions proposed in the motion; this would ensure success of the program and support of involved staff.

Councilor Daniels stated that, when Urban Services Committee considered development of an energy strategy, Mr. Nelson indicated that the City did not have staff to support the

proposal. She opined that Mayor Tomlinson and Councilor Brown revised their proposal in hopes of gaining grant funding to replace staff expertise. The grant was not awarded, but the proposal did not need to be completed within the 120-day timeline. She said it appeared Mayor Tomlinson and Councilor Brown found other means of providing expertise to help develop the energy strategy.

Mr. Nelson responded that the earlier proposal was very specific. He clarified that the City should take more time and use some of the staff resources to facilitate development of the energy strategy. The current proposal would require more than a minor amount of staff time. He anticipates extensive public interest in a community-wide energy policy and strategy, requiring more than minimal staff support.

Councilor Hervey inquired whether a compromise was possible. He interpreted Mr. Nelson's preference as administrative with a desire for technical staff support to ensure the energy strategy could be administered later, in which case he would like a process to control costs and have Councilor Brown's proposal proceed with a staff review and possible revision before Council approval. He said he was willing to spend funds on the proposal, if the amount could be confirmed.

Councilor Brown read the motion.

Councilor Raymond asked whether the sustainability coordinator would serve as a liaison to the Coalition. Mayor Tomlinson asked that Mr. Nelson's staff report be addressed after the current motion was decided.

Councilor Brown said he wanted his motion separated from discussion of the staff position and the \$40,000 allocation and that the motion would have a minor impact on the staff position.

Councilor Hamby questioned the proposed activity having minor impacts on the sustainability coordinator. He asked what portion of the \$50,000 position would be needed for a technical staff member to attend and participate in the energy strategy-development meetings.

Mr. Nelson responded that, if the Council approved \$50,000 according to the proposed work program, he would try to hire a part-time sustainability planner to work on many of the issues in the Coalition's proposal, including communications links, records and reporting, fund raising, outreach, special events, and Coalition Steering Committee and action team support. The City needs a staff member to help the Coalition continue being successful with the Community Sustainability Action Plan. He would also try to develop an energy strategy to ensure that meeting minutes, packets, and material development related to the energy policy and strategy are completed. He believes this will require more work than Councilor Brown suggested.

Councilor Hamby concurred that the proposed staff work is greater than Councilor Brown suggested. He asked what portion of the \$50,000 allocation would be invested in a staff member being involved in developing an energy strategy, although not necessarily taking the lead role in writing the policy.

Mr. Nelson responded that developing the strategy and policy would entail a six- to nine-month process at five hours of administrative support per week and technical support (supervisor or planner). He urged the Council to equate development of the energy strategy with development of some of the City's master plans. An energy policy and strategy with implementing actions affecting the entire community will generate extensive public input. The process will involve outreach and staff support.

Councilor Hamby said he could support the motion, if the Council realized that it would involve spending some of the \$50,000 allocation.

Mr. Nelson said the City could easily spend \$10,000 in support work on notices, meetings, outreach, and open houses, after an action plan is developed. One third of the remaining \$40,000 would likely be invested in professional planning time. The final strategy will serve as a good policy to help develop future policies in terms of public process.

Councilor Hervey observed that the Council was considering two different visions of how the strategy would be developed. Councilor Brown seemed to envision that the Coalition's Energy Action Team already conducted research to know the nature of the final strategy and would be charged with reviewing the Council's discussions. Conversely, Mr. Nelson envisioned the energy strategy affecting the larger community as a whole, resulting in extensive public input; the Energy Action Team's previous decisions might not result from the larger process. The Council should decide which process to use in achieving the final strategy.

Councilor Brown concurred with Councilor Hervey's assessment of the decision before the Council. The approach outlined in the document he and Mayor Tomlinson submitted differs from the City's typical procedure and relies upon previous Council work, previous public input, and the expertise of the Coalition's Energy Action Team. He believes the Team can assist in developing an energy strategy. Under his proposal, the Team would maintain contact with City staff and others interested in the activity and develop a strategy that would be subject to public review and Council approval. If the strategy does not meet the standards of the Council or the community, it can be denied. His proposal would accomplish the Council's goal for energy-focused sustainability.

Councilor Daniels referenced Councilor Brown's proposed timeline and process, noting public information and Council review throughout the process. She believes his proposal is a good plan for utilizing the work and enthusiasm of the Coalition's Energy Action Team to develop a coherent document based upon all of the policy work already conducted. She noted that similar discussions have occurred in Corvallis over the past few decades. She urged the Council to support Councilor Brown's proposal.

Councilor Hirsch expressed support for the motion. He acknowledged Mr. Nelson's concerns, which are based upon how the City conducts planning processes. He agreed that staff support could require more time than currently envisioned. He believes it is important that the Council support a process that is already underway and continue to express support to the Coalition and people willing to devote time and effort to the process of developing an energy strategy. He opined that it was important to proceed with the proposal.

Councilor Beilstein said he would like to proceed with the proposal but was concerned that it would decrease the momentum of the sustainability effort. He acknowledged the conflicting views of staff support necessary under the proposal. He will support the motion with the admonition that Mr. Nelson must be firm regarding the conflict of need for staff support but lack of funding for staff support. The proposed task force would need to operate independent of staff support, other than the actions cited in the motion.

Councilor Raymond agreed that the Council should support an energy strategy and the Coalition's Energy Action Team. She expressed concern regarding the limited financial resources for the proposed staff position. She would like to be able to allocate \$10,000 to support for the proposed *ad hoc* committee and \$40,000 for other Coalition activities.

The motion passed seven to one on the following roll call vote:

Ayes: Hamby, Brown, Hirsch, Beilstein, Daniels, Hervey, Raymond

Nays: O'Brien

Mayor Tomlinson referenced from Mr. Nelson's staff report a list of activities to be included in a potential work program. He noted that the work program would be reviewed by the Council before it is undertaken.

Councilors Hamby and Daniels, respectively, moved and seconded to proceed with City Manager Nelson's proposed community-wide sustainability work program, except establishment of a Sustainability Commission, and review appropriateness of establishing a Sustainability Commission in six months to one year.

Councilor Brown did not recall previous Council discussions regarding a Sustainability Commission; therefore, he did not know the details of the proposed Commission. He would like the Council to discuss the Commission during the next six months.

Councilor Hirsch referenced Councilor Brauner's earlier indication of support for the proposed Sustainability Commission. He agreed that the Commission was a necessary part of a sustainable community.

Councilor Raymond concurred, adding that a Sustainability Commission will ultimately be desired. She believes the Council should appreciate the Coalition's work and continue close, collaborative communications with the Coalition to ensure understanding of each entity's goals.

Councilor Hervey said he would prefer establishing a date when the Council would consider establishing a Sustainability Commission. He offered, as a friendly amendment, that the Commission be considered in nine months. Councilors Hamby and Daniels accepted the friendly amendment.

The motion passed unanimously.

On September 29, two action teams and two partner organizations will make presentations during the noon hour at the Library.

Councilor Beilstein expressed concern that the Coalition would feel a loss of ownership and the level of responsibility felt by the volunteers would lessen when the City brought the funding internally. He will follow the issue to ensure the City keeps a high level of citizen involvement.

Ms. Mills said it is the Coalition’s hope and expectation that the work will be enhanced through communication and collaboration. The fact that City staff invited the Coalition to comment and provide input for the proposed work plan is a good indicator of increased communication and collaboration.

Ms. Schuster added that Ms. Lovett is on the Coalition’s Steering Committee and she assumes the Sustainability Coordinator will also be a member and/or be in frequent contact with the Coalition. This should enhance the ability to retain and obtain volunteers.

Councilor Hervey commended staff for including the Coalition in the development of the work plan.

Councilor Raymond agreed with Councilor Hervey and thanked the Coalition for being responsive to staffs collaborative efforts.

IV. UNFINISHED BUSINESS – continued

A. Community-wide sustainability

Mr. Nelson said the community-wide sustainability item includes two discussion areas: work program and program placement. Council previously agreed to discuss the work program prior to continuing the program placement discussion.

1. Work program

Public Works Director Rogers said staff developed a “program,” not a “position.” Mr. Rogers reviewed the staff report that considered what Council and the Coalition requested as desired outcomes. He noted that \$40,000 buys .625 full-time equivalency (FTE) of a program specialist position. The Sustainability Coordinator position is proposed at the same level of staff who run the bicycle-pedestrian, water conservation, and storm-water programs.

Mr. Rogers reviewed the six tasks areas identified in the work program:

- Measurement and metrics
- Communication
- Grant opportunities
- Records and reporting
- Support for Coalition
- Policy creation

Mr. Rogers noted that not all of the tasks can be completed at one time so a program was developed that responds to metrics, collaboration, and grant opportunities, and

includes the Energy Strategy Ad-Hoc Committee, the promotion of electric vehicles, and consideration of a Sustainability Commission in April 2010. It also includes continuing the internal work that the City organization has been working on for the last several years.

Mr. Rogers added that the work program is specific to a work group that includes the Sustainability Coordinator, Sustainability Supervisor, and perhaps the Franchise Utility Specialist.

Councilor Beilstein said the work program will satisfy what Council is trying to accomplish; however, he expressed concern that having a program without a position could mean there is no focus or accountability.

Mr. Rogers said the discussion about position placement will help answer some of the accountability questions. There are multiple levels of supervision involved that begins at the Sustainability Supervisor level. The work program includes reporting to Council and the community, similar to the established staff reporting of internal sustainability activities to Council.

Councilor Raymond stated support of the proposed plan. Communication tools, beyond the newspaper and City Web site, are very important to the community.

Public Works Administrative Division Manager Steckel said efforts have already begun with the City's Communications Specialist. Web site upgrades and new categories makes access more intuitive. As new tools become available, they will be utilized to communicate the sustainability message and enhancements of the program.

Councilor Raymond said communications is a key point and she encouraged staff to expend considerable time and energy on this issue. She has heard from other agencies, programs, and groups who have expressed a desire that Web sites and electronic calendars be more available and accessible.

Councilor Hamby commended Mr. Rogers and his staff for their work and for reaching out to the Coalition for input. He opined that in addition to energy and transportation, policy development and communications are high priorities for Council. If the work program is amended, he would prefer those two issues rise to a higher priority in the plan.

Councilor Daniels agreed with Councilor Hamby and said the issue of looking at how to best use the \$40,000 and integrating it as a program instead of a position is creative and appreciated. She opined that during previous discussions, communication and policy development were the two highest priorities discussed by Council.

Councilor Brown said, although the list in the staff report is not prioritized, he would not expect to see "policy creation" last on the list. Mr. Rogers confirmed that the list is not prioritized.

Councilor Brauner agreed that the plan is a good work program. He clarified that it is a program utilizing positions the City has with the addition of a part-time position.

Councilor Hervey opined that Support for Coalition and Grant opportunities should be the highest priorities.

Councilor Hamby noted that the seven bulleted items listed after the six numbered items in the staff report are the priorities.

Mr. Rogers confirmed that the intention is for the bulleted items on page three of the staff report be the work plan for the sustainability program.

Councilor Raymond opined that the second bullet should read "...develop and carry-out a sustainability communications plan...".

Ms. Steckel said staff attempted to develop a work plan for twelve months at a .625 FTE with progress made in all areas. The intention is to implement the plan and be conservative in what can be promised within the first year.

Councilor Raymond expressed hope that implementation can be started and be visible to the community.

Councilors Hervey and Brown, respectively, moved and seconded to adopt the seven bulleted items on page three of the staff report as the 2009-2010 Sustainability Program work plan.

Councilor Daniels said one challenge of the staff report is that there are three interests being discussed: Council, Coalition, and staff observations. She expressed interest in focusing on what will be done and not the details of how it will be done.

Councilors Daniels and Hamby, respectively, moved and seconded to amend the motion to revise the second bullet to read: "Collaborating with the community to develop public information programs for selected sustainability issues, such as electric vehicle use, in current City Council topic areas (energy and transportation), and begin to create a community sustainability communications plan to raise visibility and awareness."

Councilor Daniels said she did not include "working with the Coalition's Communications Committee" in the amended motion because there might be other groups in the community that staff may want to work with. It does not make sense to single-out a specific group when "collaboration" can involve a range of groups, including the Coalition's Communications Committee.

Councilor Hamby opined that electric vehicle use should be pursued, but it does not have the same level of the other bullets in the staff report.

Councilor Daniels confirmed that if the amended motion is approved, she will move to remove the bullet specific to electric vehicle use.

Councilor Raymond said she understands Council has specifically made energy and transportation a priority; however, the communications plan should involve all sustainability areas. She agrees the collaboration should include groups beyond the Coalition's Communications Committee, such as public schools, Oregon State University, and other groups who might have a need to increase visibility of their project.

Councilor Beilstein said he will not support the amended motion. He does not agree with excluding the Coalition from the bulleted item. Collaborating with the Coalition's Communications Committee is not exclusionary and if other organizations have an interest in sustainability they are a part of the Coalition. The amended motion appears to be slighting the Coalition and promoting Council projects as being more important.

Councilor Daniels said she suggested amended language because of the number of items in the sustainability plan that include developing a public information plan prior to implementation. She does not want the new position to only work on developing a communications plan for the first twelve months. It is possible to work with groups and people to develop a communications plan and allow the new position to start implementing action items at the same time. She intended for the amended motion to broaden the collaboration instead of only identifying one group. Councilor Daniels added that she is not opposed to leaving the "Coalition's Communications Committee" in the language.

Councilor Brown said the Coalition is working on its own communications plan. The Communications Committee does not necessarily represent all Coalition organizations and is mostly comprised of citizens with marketing backgrounds. The motion provides focus on what the work plan would include. He is comfortable focusing on the initiatives Council has already expressed interest in pursuing.

Councilors Daniels and Hamby, respectively, accepted Councilor Hervey's friendly amendment to include the Coalition's Communications Committee as an example in the amended motion.

Councilor Daniels restated the motion: Collaborate with, for example, the Coalition's Communications Committee to develop public information programs for selected issues, such as electric vehicle use, in current Council areas, and begin to create a sustainability communications plan to raise visibility and awareness.

Councilor Beilstein said he will oppose the amended motion due to the narrowing of the item. He understands Councilor Daniels' point, but does not believe this is the best way to proceed.

In response to Councilor Hervey's inquiry, Councilor Beilstein said the amendment specifies that the program must promote Council mandated programs, such as the

electric vehicle charging stations, while developing the entire communications program. Developing the communications program is important, but the best way to develop it is not necessarily through Council initiatives. Staff should not be mandated to concentrate on Council programs.

Councilor Brauner said when Council considered bringing this money in-house, some Councilors expressed concern that it would become a City program and not a collaborative program with the Coalition. The amendment could be perceived as taking this program away from the Coalition and making it a City program because the amended motion emphasizes Council priorities. The bullet already addresses collaboration and developing a plan. The original motion allows the communications plan to endorse all items without limiting future projects.

Councilor Raymond stated agreement with Councilor Brauner and added that the new person might have very creative ideas that will enhance the entire sustainability effort of the City.

Councilor Hamby stated support for the amended motion. He said as it is originally written, the bullet is narrow. Councilor Daniels has tried to broaden the communications effort to other groups including the Coalition's Communications Committee. Promoting Council items is exactly what Council has been discussing for the last six months.

Councilor Brown said with limited resources, Council must focus on narrow issues. The Coalition has a communications plan and the amended motion allows Council to collaborate with other groups to develop a city-oriented plan. Council has spent a lot of time providing focus and direction for that purpose.

Councilor Daniels clarified that Council agreed to focus on a few areas of the sustainability plan; not all twelve. Her amended motion does not speak to Council programs, it refers to the topic areas Council chose from the community activity and action items listed in the sustainability plan under energy and transportation. She never intended that the new position would only focus on what the Council or City organization is doing. The motion is to "collaborate" or "work with" the Coalition and other groups to develop public information programs to support sustainability, specifically in energy and transportation.

Councilor Daniels reiterated the amended motion: Collaborate with, for example the Coalition's Communications Committee, to develop public information programs for selected issues in current Council-designated topic areas (for example electric vehicle use); and begin to create a community sustainability communications plan to raise visibility and awareness.

Councilor Daniels explained that these efforts are concurrent. Specific items would include outreach while work continues to develop a formal overarching plan.

Councilor Brauner said the specific areas Council is directing this program to work on is embodied in the other elements of the work plan. The plan speaks to the entire program, not just specific areas.

Based on the following roll-call vote, the amended motion passed six to three:

Ayes: Daniels, O'Brien, Hervey, Hamby, Brown, Hirsch

Nays: Raymond, Brauner, Beilstein

Councilors Daniels and Hamby, respectively, moved and seconded to amend the motion to delete the bullet related to electric vehicle use and charging station promotion. The motion passed unanimously.

Councilor O'Brien referred to #3 in the staff report related to assisting in grant writing. He noted that Council previously discussed the inappropriateness of staff participating in grant writing for community groups.

Mr. Nelson clarified that the prior discussion was related to the Community Development Block Grant (CDBG) program that Council makes recommendations on to the federal government based on a competitive process. What is proposed in item #3 is a community-wide effort that includes the City's sustainability plan approach.

Ms. Steckel said it was not staff's intent to write grant proposals for the Coalition. The intent of #3 on page two of the staff report is to write grants for the City organization. Staff would only write grants for City government, not for the Coalition or other groups.

Councilor Daniels clarified that the corresponding bullet is to "Research and facilitate connections between grant opportunities and community groups." This is a form of networking to leverage contacts and resources.

The main motion passed unanimously.

Mayor Tomlinson recessed the meeting from 1:58 until 2:09 pm.

2. Position placement

Mr. Nelson said the staff report includes options and actions that staff believe will help bring attention to the sustainability efforts that are underway, recognizing that the previous discussions included necessary investments if the Sustainability Program is brought into the City Manager's Office.

Mr. Nelson said one idea is to establish Sustainability Program office hours in City Hall. None of the specificity has been determined, only the idea of transitioning the community into visiting City Hall to discuss sustainability.

Mr. Nelson said the second piece relates to not having the supervisor infrastructure for this program in City Hall. Staff suggests accelerating a budget enhancement

MEMORANDUM

TO: Mayor and City Council
FROM: Steve Rogers, Public Works Director
SUBJECT: Sustainability Program Proposed Work Plan
DATE: August 26, 2009

Issue

Staff seeks Council acceptance of a work plan for the new Sustainability Coordinator position.

Background

The City Council appropriated \$40,000 in FY 09-10 for support of a community sustainability program. The desired tasks to be accomplished by this program were gleaned from the City Manager's June 22nd memo to Council, Councilor Daniels' June 21st memo to Council, and the Corvallis Sustainability Coalition's April 28th coordinator position summary document (all attached). The resulting list of tasks to be considered when developing a community sustainability program were:

Council's desired outcomes

- provide for coordinating and monitoring activities
- integrate organization and community-wide programs
- build on the successful organizational sustainability efforts
- develop, coordinate, and help to implement selected public information programs
- provide support for sustainability policy development

Coalition's desired outcomes

- research and develop grant proposals and fund-raising
- help support the activities of the Action Teams
- assist with developing and monitoring metrics
- maintain records of organization
- assist in providing reports to grantors, Council and the Steering Committee
- assist volunteers with meeting or special event set-up
- improve communications and reduce maintenance of various communication tools
- assist in recruitment of partner organizations and volunteers

Subsequent to the Council action creating a City staff position, the Coalition Steering Committee did an internal review of their organizational structure and needs. This work resulted in the assignment of a number of tasks in the original Coordinator position description to the Coalition's Communications, Finance, and Membership Committees, such as fund-raising, developing/disseminating reports on Coalition activities, newsletter/website maintenance, recruiting new members, and meeting/special event set-up. As a result, the Coalition Steering Committee's desired tasks for the Coordinator position changed from ones that support the Coalition to ones that provide collaboration and coordination with Coalition activities. This new information was used by staff when developing the work plan proposal.

In addition, staff made several assumptions about the new sustainability program.

1. There will be \$40,000 in new funding available to support the program, which will be ongoing in future years. The FY 09-10 funding will be subsidized by \$10,000, the amount the City extended to the Coalition for a community survey, which has been returned. Efforts are underway to determine how much of this funding will be used to provide limited support to the Corvallis Energy Strategy Ad Hoc Committee for minute-taking and other miscellaneous expenses.
2. The \$40,000 budget will provide funding for a position to work 25 hours per week (.625 FTE), at a Program Specialist level in the City's classification structure.
3. The program will concentrate the community efforts in the City Council's current priority areas of energy and transportation.

These assumptions set the boundaries for the number of new tasks that could be incorporated in a proposed work plan and the level of effort possible for each one.

Discussion

The most efficient use of the new funding is to create a sustainability program that integrates the internal and external efforts into one, thereby eliminating the duplication of effort that would result from two separate programs. The current Sustainability Supervisor will supervise the new Coordinator and, in the integrated program, the tasks will be distributed between the two such that the Supervisor will focus on strategy (i.e., higher-level program development) and the Coordinator will focus on tactics (i.e., implementation and support). Because of this, staff is proposing a work plan that is program-based, not individual-based.

The integrated sustainability program will build on the successful work of the current, internal program, and expand that to the wider community. The new resources will be used to fill the gaps in the current program and further Corvallis' progress toward sustainability. Staff identified the main deficiencies in the current program to be in the areas of metrics and communications, which align with the desired outcomes listed in the Background section above.

The new funding is not sufficient to meet all the identified needs or desires at once. In the near term, the limited funding will be used to maximize the tasks accomplished by creating a program that makes connections between people and ideas, coordinates activities, and facilitates action. Ultimately, a successful program will include progress in the following areas:

1. Measurement and metrics--research and recommend metrics, determine baselines, assist with design of performance measures for reports, and monitor and/or conduct data gathering and reporting.
2. Communications--communicate progress on sustainability projects/items that involve City departments for both the organization and the community, concentrating on Council-priority areas. Facilitate development of education and public outreach programs identified in the Coalition's Reference Guide in the Council-priority areas.
3. Grant opportunities--connect opportunities with appropriate people for both organization and community, research options for the Coalition as requested and time allows, and assist with and/or write grants for the organization.

4. Records and reporting—expand record-keeping required by the organization’s Sustainability Management System Plan to include records on community projects in the Council-priority areas.
5. Support for Coalition—perform research and investigate alternatives on topics as requested and time allows, and facilitate efficiencies through connecting people and programs.
6. Policy creation—future research in support of policy creation by Council and gap analysis for policies needed.

However, progress in all these areas is not possible with the available resources. Staff prioritized the six areas, and propose the following as a work plan for the sustainability program (for the first 12 months from the hire date of the new staff person):

- Develop metrics for the organization and collaborate with the Coalition to develop metrics for the community in the Council’s priority areas.
- Collaborate with the Coalition’s Communications Committee to develop a sustainability communications plan to raise visibility and awareness of the program.
- Research and facilitate connections between grant opportunities and community groups.
- Promote electric vehicle use and charging stations as directed by the Council’s action item.
- Incorporate, as appropriate, priorities identified from the Council’s Energy Strategy.
- Facilitate the Council’s discussion of a possible Sustainability Commission in April 2010.
- Continue work on the internal Sustainability Management System Plan, facilitate staff involvement in efforts to achieve organization goals, and seek ways to use the Plan’s toolkit for the community effort.

Staff discussed this work plan with the Coalition Steering Committee and requested input. The Committee indicated they would submit a memo to the Council packet outlining their support.

Attached is a matrix showing how each of the original, desired outcomes from the source documents were assigned to a responsible entity under this proposal.

Next Steps

If Council approves the work plan, staff will begin a recruitment process, with an expectation to have the position filled by December 2009.

Recommendation

Approval of the proposed Sustainability Program work plan.

Reviewed and concur:

Jon S. Nelson, City Manager

AS
emended

Assignment of Desired Outcomes for the Sustainability Coordinator Position
August 2009

This matrix shows the assignment of a lead/responsible entity for the tasks identified in the guidance documents (the City Manager's June 22nd memo to Council, Councilor Daniels' June 21st memo to Council, and the Corvallis Sustainability Coalition's April 28th coordinator position summary document) as a result of the proposed work plan.

<i>Desired Tasks from Guidance Documents</i>	<i>Sustainability Program Responsibility</i>	<i>Coalition Committee Responsibility (committee name) based on restructuring proposal</i>
Action Team support	Facilitate connections	All other support (various)
Coalition meeting set-up		All activities (Membership)
Coalition special events		All (Communications)
Communications	City-related progress/ projects	Action Team progress/projects; website (Communications) E-updates; calendar of events (Steering)
Community sustainability policies	Limited research/assist/support for Council	
Fund raising		All activities (Finance)
Grant proposals	Facilitate connections for organization and community Limited writing for organization	Write for action items (Steering) Identify opportunities (Finance)
Metrics	In general for the organization In Council-selected areas for community	All other areas for community (Communications)
Monitoring activities	For organization	For Action Teams (Communications)
Outreach	In Council-selected areas	In other areas: Press releases/activity promotion (Communications) Specific action items (Action Team)
Public information programs	In Council-selected areas	In other areas (Communications)
Records	For organization and for projects w/city involvement from the Resource Guide	For other areas (various)
Recruitment		All activities (Membership)
Reports	For organization efforts	For Coalition efforts (Steering, Communications)
Steering Committee support	Research/facilitate as requested (within available time)	Agendas/minutes/other (Steering)

- E. Approval of an application for a "Full On-Premises" liquor license for Jon Gold, owner of Barking Cow Enterprises, Inc. dba Sunnyside Up, 116 NW Third Street (New Outlet)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA – None.

X. NEW BUSINESS

- A. Corvallis Sustainability Coalition partnership agreement amendment

City Manager Nelson said staff supports the requested amendments to the Corvallis Sustainability Coalition (Coalition) agreement, that include changes to reporting requirements, defining the Coalition as a grassroots organization operating as a recognized non-profit 501(c)(3) corporation, and other minor housekeeping issues.

Councilors Raymond and Beilstein, respectively, moved and seconded to amend the Corvallis Sustainability Coalition agreement.

Councilor Beilstein said the relationship between the City and the Coalition has changed since 2008. The City was the main financial provider of the Coalition's town hall meetings and the Coalition depended on Council for direction and assistance. The Coalition has evolved into a community project with less financial connection to the City. He said he supports the Coalition and is pleased with the amended agreement.

The motion passed unanimously.

IV. UNFINISHED BUSINESS

- A. Energy Strategy next steps and City Council Policy on Community Sustainability

Next Steps

Mr. Nelson said staff developed a matrix to identify existing work plans and needed support to bring the remaining work plans forward. He noted that some new initiatives are follow-up items to other projects currently being accomplished (e.g., methane gas). Twelve of the 21 proposed next steps are either planned or underway, leaving nine new initiatives. Of those nine, five are related to establishing a Community Energy Information Center.

Councilor Beilstein expressed concern that a similar initiative is already underway via a project with the Corvallis Environmental Center (CEC) and the Oregon State University (OSU) Sustainability Office. The current initiative is a follow-up project to the Energy Challenge that could be the starting-point for the information center.

Mr. Nelson noted that the City provided funds through Community Development Block Grants to the CEC and for the revolving loan funds for the energy efficiency upgrades to residents who participated in the Energy Challenge. It is not clear whether the other partners will have the capacity to establish an information center. Staff suggest initial discussions

on the scope of offering a center and location opportunities before deciding to develop the initiative further.

Councilor Beilstein said the City and the Corvallis Area Metropolitan Planning Organization are working on aspects of regional transportation systems. He noted that he is not opposed to new initiatives, but does not want to ignore efforts already in progress.

Mr. Nelson responded that the transportation initiative was a result, in part, to his involvement with the United Way Needs Assessment and discussions about future improvements for the community. The initiative recognizes the goals and aspirations for transportation that the City cannot do alone. Other partners will be included in this item.

Councilor Hervey said, as a member of the expanded Urban Services Committee that recommended funding to the CEC for Energy Challenge follow-up, he views the proposed initiative as an expansion and opportunity to address a wider audience.

Councilor Raymond expressed interest in the proposed information center providing a convenient location for the community to inquire about all environmental and energy use issues. She said the City needs to be involved with every aspect.

Council concurred with staff's recommendation to review and discuss the initiatives, time line, and resource implications necessary to initiate a Community Energy Information Center and related initiatives.

Policy

Mr. Nelson said the Energy Strategy Ad Hoc Committee (ESAHC) developed a document compiling existing City policies related to energy conservation and sustainability. The intent was to identify reference materials for the community and future Councils. Staff drafted a Council Policy for Community Sustainability separate from the previously adopted organizational policy. The draft policy accomplishes Council direction to have a reference point within an existing policy to include the energy sustainability policies.

Mr. Nelson added that there is opportunity to reference the approved community energy strategy under "Implementation." This would accommodate the 12-plus community initiatives related to sustainability without creating similar documents for each of the initiatives, which would overwhelm the policy manual.

Councilor O'Brien referred to Appendix A, Policy, f., and opined that including sustainability criteria in the City's Economic Development Allocation processes is superfluous.

Councilor Brown responded that ESAHC tried to identify places in existing City policies where energy sustainability issues would be found. The City's Economic Development Allocation process includes sustainability criteria, so it was added to the comprehensive list.

Councilor O'Brien said the subsection, "...Council will include sustainability criteria..." implies that it does not currently exist.

***** MEMORANDUM *****

JANUARY 27, 2010

TO: MAYOR AND CITY COUNCIL

FROM: STEVE ROGERS, PUBLIC WORKS DIRECTOR 

**SUBJECT: STAFF REVIEW OF CORVALLIS COMMUNITY ENERGY STRATEGY
NEXT STEPS**

BACKGROUND

On January 4, 2010, the City Council adopted the "Community Energy Strategy: A 2020 Framework," developed by the Energy Strategy Ad Hoc Committee (ESAHC). The Council directed staff to review the Strategy's Next Steps and provide feedback.

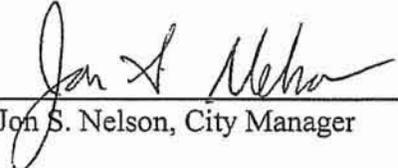
DISCUSSION

The Energy Strategy proposes 21 Next Steps under the topic areas of Conservation and Efficiency, Renewable/Low Carbon Sources, and Local Clean Energy Business. Staff has cross-checked the Strategy against City work plans, including the Sustainability Program work plan (attached), and determined that 12 of the Next Steps are already either fully or partly in a City program (planned or underway) and that nine would be new initiatives (see attached table). Of the nine new initiatives, five appear related to establishing a Community Energy Information Center (I. 1. C; I. 2. B; II. 1. A, C, D); three require additional experience or partner investment (I. 1. B.-revolving loan fund; I. 1. E-green building; I. 2. D-commuters); and one (III. 1. A-methane gas) is a logical extension of an existing methane project at the wastewater treatment plant (II.1. B).

RECOMMENDATION

Staff recommends that Council review and discuss the initiatives (in work program and new) and staff's understanding of them. The Community Energy Information Center-related five initiatives may merit a staff evaluation of timeline and resource implications necessary to success.

Reviewed and Concur:



Jon S. Nelson, City Manager

I. Next Steps - Conservation & Efficiency		In work program	New initiative
1. Built Environment	A: Implement followup communications and financial incentives to promote weatherization and efficiency measures in homes and businesses throughout the community.	Public Works	
	B: Seek ways to expand and/or extend the reach of the energy efficiency revolving loan program to benefit more participants.		X
	C: Establish a Community Energy Information Center to provide the public with information on weatherization and efficiency programs, energy improvement loans, ways to conserve energy use through common practices, consumer information about energy conservation devices, and other related matters. May be augmented with targeted public information campaigns as opportunities become available.		X
	D: Continue City of Corvallis programs to: 1) Provide incentives/rebates for energy efficient appliances, and 2) Promote community efforts to reduce water and wastewater usage.	Public Works	
	E: City adopts new Green Building Standards. NOTE: This important action is on hold due to the recession-caused delay in finalizing new statewide standards (based on the Portland model). It should become a key part of the city staff work program once the new state standards become official. For more information, see: www.cbs.state.or.us/external/bcd/bldg_newsletter/documents/Green_Building_Update.pdf		X
2. Transportation	A: Continue to support and uphold local land use policies that promote compact urban development and de-emphasize autocentric development.	Community Development	
	B: Provide an automotive energy conservation and efficiency component of the proposed Community Energy Information Center (see item C above). May include possible transportation audits and driving efficiency information. Augment with public information campaign as opportunities become available.		X
	C: Implement long-range planning for Corvallis Transit System.	Public Works	
	D: Work with regional partners to develop regional transportation system designed to serve commuters.		X
	E: Encourage electric vehicle use.	Sustainability Program	

II. Next Steps – Renewable/Low Carbon Sources		In work program	New initiative
1. Built Environment	A: Include information on renewable energy in the Community Energy Information Center (CEIC).		X
	B: Aggressively pursue funding for equipment at wastewater treatment plant to increase methane capture and use in providing power for additional buildings in Public Works complex (already in CIP).	Public Works	
	C: Enroll entire community in renewable energy programs provided through existing energy suppliers.		X
	D: Promote and encourage installation of renewable energy capability on highly visible public and private buildings.		X
2. Transportation	A: Promote more bicycle and pedestrian use through publicizing benefits, conducting safety training, and including comparative carbon footprint information at Community Energy Information Center.	Public Works	
	B: Continue to improve bicycle and pedestrian infrastructure such as increasing bike parking facilities, more frequent crosswalk repainting, maintaining safe sidewalks, increasing number of pedestrian routes and general safety of bike routes.	Public Works	
	C: Continue to uphold city policies and codes requiring pedestrian-oriented design standards, sidewalks, circulation networks, and multi-use paths.	Community Development	

III. Next Steps - Local Clean Energy Business		In work program	New initiative
1. Built Environment	A: Expand City wastewater treatment plant capacity for methane capture and use to provide power for additional buildings beyond Public Works complex.		X
	B: Redirect full or partial community support from utility company renewable energy programs to local renewable energy uses.	Public Works	
	C: Implement Corvallis Urban Forest Plan.	Parks and Recreation	
	D: Identify a site at the Airport Industrial Park that is suitable for a future electrical substation, and reserve it for that purpose.	Public Works	

Councilors-

Over the last several months there has been a notable increase in the amount of anti-social and criminal behavior at the public library and Central Park. This fact was recently reflected in two letters to the Gazette Times as well as the February Public Library Board minutes.

Large and intimidating groups of teens can often be found gathered at the library plaza and within the library itself. They in turn mix with any number of the shiftless adults loitering in Central Park, at the fountain, the gazebo and the playground. Bad behavior among this bunch includes lewdness, vulgarity, intimidation, harassment, public intoxication, fighting, drug dealing and general chaos.

I've personally witnessed this negative behavior many times and other citizens have shared their concerns with me as well. Due to the unruly and sometimes illegal behavior in this area I believe that many citizens no longer feel safe or comfortable visiting the park and library. For folks with children and the elderly these conditions are especially troubling. I know that many have quietly conceded Central Park to the miscreants and so it is only natural that we haven't heard a major outcry. This doesn't mean a problem doesn't exist and it also does not bode well for our upcoming "festival" season.

Having already spoken about this matter with Director level staff I would like to respectfully request that the City Manager return to a subsequent meeting of the City Council with a report on the following:

1. What measures are we taking to address the current threat to public safety and livability occurring in and around the public library and Central Park?
2. What other remedies, if any, are available to Council or staff to help reduce this unacceptable intrusion into the safe and carefree use of our public facilities by all?
3. What actions or policy dictates does the Council currently have within its authority that could assist staff in responding to this degradation of City livability?

In addition, I request that we continue to closely monitor this situation in the interim to ensure that conditions do not worsen. Based on my conversation with Police Chief Boldizar, I am confident that his department is addressing this situation proactively and I encourage them to continue to do so.

With the impending closure of the emergency cold weather shelter and the arrival of spring, I believe the time to address this issue is now.

Sincerely,
Mark O'Brien

Sources of information-

Mark O'Brien- fighting, littering, harassment, intimidation, chaos, smoking

Tracey O'Brien- fighting, lewd behavior, vulgar language, intoxication

C. O. - intimidation (walks several blocks out of way to avoid confronting the mob)

E.B. - harassment, intoxication, destruction of public property, (trash can lids)
intimidation (in the bushes)

H.B. – intimidation, criminal behavior (drug dealing), choose not to expose 5 year old to the Central Park environment

B.B. – intimidation (father of three who would not subject his children to the environment at Central Park

B.D. – intimidation, harassment, (subject and spouse subject to aggressive begging)

Staff as declared above

Problems related to the library-

Loitering, smoking, intimidation, retaliation, vandalism, harassment, littering, crass behavior, noise and chaos within the confines of the library

Problems related to Central Park-

Fighting, drug dealing, public intoxication, loitering, intimidation, public indecency, human waste, harassment, abuse to public property,

VII. DIRECTOR'S REPORT

Carolyn also gave further details about the recent incidents involving some young adults at the Corvallis Library. Carolyn has received numerous phone calls by offended patrons. Last week, a meeting was held at the Library with the Corvallis Police, Jackson Street Youth Shelter, Juvenile Probation, and Library staff. The Police gave everyone a lot of helpful tips on working with this particular population such as introducing yourself, treating them like human beings, looking them in the eye, and consistently applying the Library's Code of Conduct. Juvenile Probation plans to talk with the young adults one-one-one whom they are in contact with about what the Library personally means to them and how they would feel about losing their privileges. Also, Juvenile Probation officers are coordinating with Circulation Supervisor, Lori Johnston, to have some of the kids work off their large fines. Erlinda pondered what has changed to cause this sudden spike in disrespectful behavior? Carolyn said they really are not sure, but if the problems continue to escalate and the offenders do not comply with the Code of Conduct, then they will be banned from the Library. Linda inquired what time of day these incidents are occurring and Carolyn replied mostly afternoons and evenings, but some during the morning too. She surmised that many of them have minimal parental supervision. Andrew opined these incidents have probably spurned from only a couple of individuals, but a group has formed around them. With the realization that the Library is not a social welfare institution, Jacque is still hopeful that there is some way the Library can help these young adults. Sammi Fisher added that usually this type of behavior is just a cry for attention. Martha Fraundorf questioned if the banning of patrons is effective and Carolyn responded if the patron ignores the ban, he or she can be arrested. Martha further inquired if there had been any retaliation and Carolyn said nothing to report.

- Breaking News: Alsea Schools have 2 hour delay

Home / News / Opinion

Letter: The darker side of Central Park is becoming more evident

- Story
- Discussion

Posted: Wednesday, March 10, 2010 9:00 am | (24) Comments

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Over the past few weeks, I have noticed an increase in anti-social behavior in Central Park (across from the Corvallis public library).

It started with groups of people hanging around in the gazebo and near the portable toilet at the north end of the park. At first they were quiet, but as they have started to make the park their own, their behavior has become louder and more disturbing.

Over the last few weeks, I have witnessed loud swearing, a fight and public urination (not to mention being asked for money).

Most recently, I saw a man laying half in and half out of the portable toilet; although there may be a perfectly innocent explanation for this, I think that the one that first came to my mind was probably the right one.

This would be a problem anywhere in town, but in a park that is often used by families with young children, it is very worrisome.

Central Park quickly is becoming a place where families do not feel they can safely take their children.

Perhaps it is time for the Corvallis police department to start cruising past Central Park on their way to and from normal patrols. Would surveillance cameras be going too far?

Ian R. Downie

Corvallis

Posted in Opinion, Mailbag on *Wednesday, March 10, 2010 9:00 am* Updated: 10:57 pm. | Tags: Ian R. Downie

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- Breaking News: Alsea Schools have 2 hour delay

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Letter: Central Park no longer is a place suitable for children to play

- Story
- Discussion

Posted: Friday, March 12, 2010 9:00 am | No Comments Posted

Font Size:

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In response to the March 10 letter from Ian R. Downie about the after-dark population of Central Park:

I have had much the same bad experience. One evening last week, a group of vulgar, loud-talking men gathered immediately after dark near the playground even before the children had all left. Their language was loud, coarse and close to the swings.

Most of the group were clustered in the shrubbery just east of the play area. We didn't stay long enough to witness more bad behavior; the taste we had made it obvious that this was no place for children. The park after dark definitely should be on the police patrol route, early and often.

Willa Kenoyer

Corvallis

Posted in Mailbag on Friday, March 12, 2010 9:00 am | Tags: Willa Kenoyer

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- Letter: Aren't you sick and tired of being sick and tired of politics as usual?
- Letter: Morse's half-baked idea on kicker doesn't merit a rave editorial
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Mortgage Rates			FHA Rates				
	Rate	APR		Rate	APR		
30 Year Fixed	4.250%	4.601%	Amerisave	30 Year Fixed	4.375%	4.976%	Amerisave
15 Year Fixed	3.750%	4.160%	Amerisave	15 Year Fixed	4.000%	4.553%	Amerisave
3 Year ARM	2.250%	3.292%	Amerisave	3 Year ARM	3.750%	3.253%	Amerisave

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**CITY OF CORVALLIS – COUNCIL REQUESTS – TRACKING REPORT
PENDING REQUESTS**

Council Request Item	Requested By	Date of Request	CM Report Due Date	Assigned to	Response in CM Rpt No.	Comments
Traffic Order Implementation	Nelson	03-10-10	03-30-10	Nelson	CCR 04-01-10	
Undesirable Behaviors at Library and Central Park	O'Brien	03-15-10	04-13-10	Nelson	CCR 04-01-10	
Traffic/Pedestrian Signal at NW Ninth Street and NW Polk Avenue	Council	03-15-10	04-13-10	Rogers	CCR 04-01-10	
Establishment of a Sustainability Commission	Council	03-16-10	04-13-10	Nelson	CCR 04-01-10	
Retaliatory Landlord Complaint	Nelson	03-24-10	04-13-10	Gibb	CCR 04-01-10	

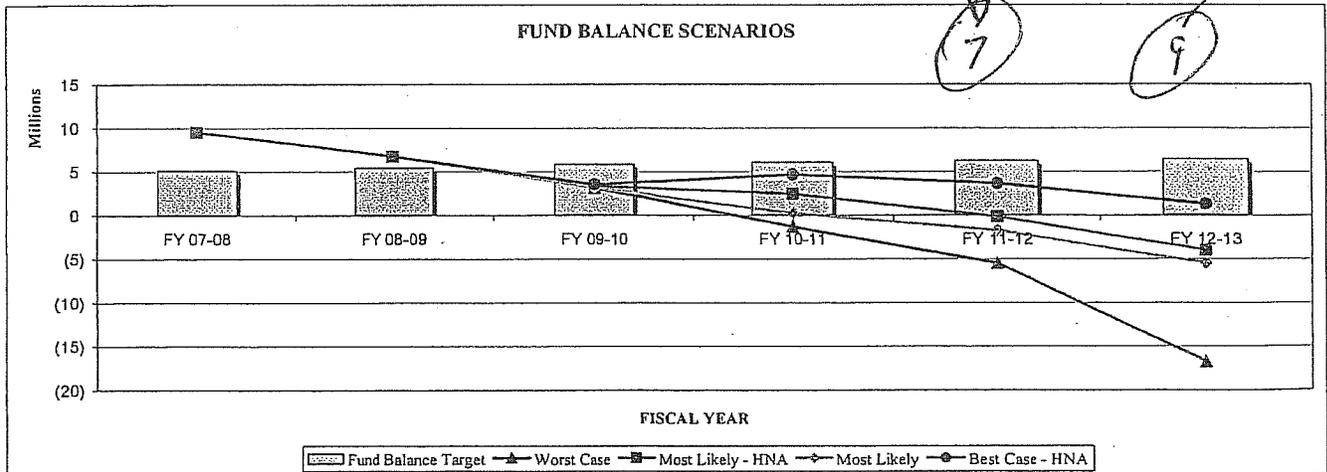
3-25-10
Nelson

- 5 Funds; OF (Plng), CPD, HRC, PPK, HO, Transit + Int. Serv.
- Not = Utilities, Transp, Hsg, Dev. Serv.

PROPERTY TAX FUNDS - COMBINED

BUDGETARY BASIS	AUDITED FY 07-08	ADDED FY 08-09	ADOPTED FY 09-10	REVISED FY 09-10	PROJECTED FY 10-11	FY 11-12	FY 12-13
POTENTIAL BEGINNING OPERATING FUND BALANCE	\$8,790,046	\$9,534,182	\$7,707,731	\$6,774,524	\$3,162,361	\$2,455,014	(\$155,718)
REVENUES							
Property Taxes	\$17,979,312	\$18,471,707	\$19,027,670	\$18,801,080	\$19,308,240	\$19,687,080	\$20,348,290
Other Taxes	1,147,594	1,076,629	1,194,350	979,520	950,190	969,190	988,570
Licenses, Fees & Permits	5,299,828	5,469,718	5,588,140	5,321,510	5,449,690	5,522,760	5,596,410
Charges for Services	5,746,940	5,679,936	5,759,950	5,743,790	5,809,880	5,968,330	6,074,180
Intergovernmental	4,124,892	5,088,048	5,906,500	6,364,440	5,579,470	5,284,960	5,616,110
Fines & Forfeitures	840,102	739,487	1,009,810	957,370	957,640	975,410	993,530
Miscellaneous	1,410,751	620,708	1,180,570	1,824,430	1,153,430	1,158,140	1,075,630
Other Non-Operating Revenue	30,768	15,837	0	26,270	0	0	0
Transfers In	14,459	2,331	0	0	0	0	0
TOTAL REVENUES	\$36,594,646	\$37,164,400	\$39,666,990	\$40,018,410	\$39,208,540	\$39,565,870	\$40,692,720
EXPENDITURES							
Community Development	\$1,277,255	\$1,390,460	\$1,722,190	\$1,495,610	\$1,765,110	\$1,840,220	\$1,929,200
Finance	515,177	565,953	684,130	622,490	621,220	668,230	699,430
Fire	9,105,461	9,930,884	11,524,260	11,178,860	10,952,220	12,234,490	11,765,580
Library	5,743,538	6,081,960	6,236,460	6,207,540	6,699,310	7,094,320	7,314,680
Parks & Recreation	5,179,067	5,592,299	5,991,290	5,722,330	6,133,380	6,489,680	6,827,950
Police	8,605,968	9,315,498	9,948,300	9,898,140	10,097,230	10,483,600	10,989,440
Public Works	2,976,750	3,882,094	4,878,890	4,804,410	4,395,080	4,097,410	5,077,750
Nondepartmental	1,367,740	1,435,348	1,525,230	1,572,010	1,522,660	1,477,170	1,493,880
Non-Operating Expenditures - Transfers Out & Debt Service	1,436,588	1,582,973	3,227,800	1,690,040	1,822,790	2,793,860	2,329,650
Reductions	0	0	789,340	0	(2,399,980)	(2,483,980)	(2,570,920)
Contingencies	0	0	0	0	385,190	0	0
TOTAL EXPENDITURES	\$36,207,544	\$39,777,469	\$46,527,890	\$43,191,430	\$41,994,190	\$44,695,000	\$45,856,640
REVENUE EXCESS (SHORTFALL) OVER EXPENDITURES	\$387,102	(\$2,613,069)	(\$6,860,900)	(\$3,173,020)	(\$2,785,650)	(\$5,129,130)	(\$5,163,920)
RESTRICTED BALANCES, Beginning of Year	\$2,545,048	\$2,188,014	\$2,252,131	\$2,334,604	\$2,773,747	\$2,933,397	\$1,989,831
FUND BALANCE (Including Restricted), End of Year	\$11,722,196	\$9,109,127	\$3,098,962	\$5,936,108	\$3,150,458	\$259,281	(\$3,329,807)
LESS: RESTRICTED BALANCES							
MANAGEMENT RESERVES	\$1,174,536	\$1,371,623	\$1,546,625	\$1,818,753	\$2,056,933	\$1,238,603	\$1,471,867
COUNCIL DESIGNATIONS	754,179	863,465	758,774	691,499	647,869	612,839	564,992
LEGAL RESTRICTIONS	259,299	299,515	178,272	263,495	228,595	138,389	96,856
UNRESTRICTED FUND BALANCE	\$9,534,182	\$6,774,524	\$615,291	\$3,162,361	\$217,060	(\$1,730,550)	(\$5,463,522)
HISTORICAL NORMING ADJUSTMENT				200,489	2,037,465	1,574,832	1,470,284
POTENTIAL UNRESTRICTED FUND BALANCE	\$9,534,182	\$6,774,524	\$615,291	\$3,362,850	\$2,455,014	(\$155,718)	(\$3,993,237)

FUND BALANCE SCENARIOS



Methodology
 "Share" at Reductas
 Starting point
 OO working on staff / bds

(B)

	Orig Prop Alloc	(2,670,970)	Incremental COLA	Proportion of Transit Fund Balance	Total to Reduce	09-10 savings & 10-11 prelim reductions	Remaining share of the Deficit	% of Exp Budget
	(4)	(5)	(6)	(7)	(8) = (5) + (6) + (7)	(9)	(10) = (8) - (9)	(8)/(1)
Community Development	5.4%	143,890	16,150	11,694	171,734	(13,090)	158,640	9.76%
Finance	2.3%	60,810	1,480	4,942	67,232	(74,200)	(6,970)	9.69%
Fire	24.4%	652,190	107,920	53,005	813,115	(136,500)	676,610	7.70%
Library	12.5%	334,730	22,660	27,204	384,594	(53,860)	330,730	6.02%
Parks & Recreation	14.7%	392,740	22,400	31,919	447,059	(26,460)	420,600	7.43%
Police	28.5%	762,050	43,310	61,934	867,294	(229,060)	638,230	8.48%
Public Works-Transit	0.7%	18,540	2,050	1,507	22,097	21,140	43,240	0.70%
Public Works-General	2.1%	56,670	3,300	4,606	64,576	3,890	68,470	8.31%
Admin Svcs - City Manager	2.2%	57,790	-	4,697	62,487	(143,290)	(80,800)	2.84%
Admin Svcs - Finance	2.7%	71,520	8,610	5,812	85,942	(76,990)	8,950	3.16%
Tech & Comm - MIS	2.5%	66,430	7,660	5,399	79,489	-	79,490	5.03%
Tech & Comm - PW	0.4%	10,340	760	840	11,940	-	11,940	4.15%
Fleet - PW	0.6%	17,100	1,620	1,390	20,110	-	20,110	2.78%
Facility - PW	1.0%	26,160	2,450	2,126	30,736	-	30,740	3.81%
	100.00%	2,670,960	240,370	217,075	3,128,405	(728,420)	2,399,980	6.53%

Note: Columns 1-3 are the same as the January table, left off here due to the size of the table.

(C) Future New Revenues ? : District, levy, services fees (> \$250k) } economy
 Reduce reliance : Services, support of partners

(D) Questions

Guide to the Handouts

A – the Financial Plan

- 1 This column represents the Budget under discussion.
- 2 This is the amount required to balance the FY 10-11 budget.
- 3 This is the ending fund balance, which is all associated with the Transit Fund.
- 4 The adopted to revised Unrestricted Fund Balance for the current fiscal year reflects the hard work by staff to save this year to help next year.
- 5 The City had a \$9.5 million beginning fund balance a couple of years ago.
- 6 Current revenue should equal current expenditures. If they don't the City needs a healthy fund balance to cover the difference. Future years look worse.
- 7 Besides making \$2.4 million in reductions in 2010-11, the City will still need to make \$2.24 million in additional revenue/expenditure savings to start FY 11-12.
- 8 FY 11-12 \$2.45 million Beginning Fund balance relies on making the Historic Norming Adjustment of \$2.24 million.
- 9 FY 11-12 will still need to cut \$1.7 million. This number could go up based on some of the FY 10-11 cuts being one-time in nature versus on-going.

B – the Reduction Methodology

This methodology was developed for the Budget Commission as a starting point for discussions. The method recognizes revenue each department brings in to fund their services, and allocates the cuts according to the amount of non-designated revenue each department uses. Department Directors are working with advisory boards and commissions – where they exist – to develop a list of cuts to meet the department's share.

C – the Future

The future may involve new revenues such as a district or local option levy, service fees (particularly those that generate \$250,000 or more annually), and hopefully growth in the economy. Alternatively, the future could bring further reductions in the services provided, and reduced support of partners currently funded by the City.

**ADMINISTRATIVE SERVICES COMMITTEE
SCHEDULED ITEMS**

April 1, 2010

MEETING DATE	AGENDA ITEM
April 7	<ul style="list-style-type: none"> • daVinci Days Loan Agreement Status Annual Report • Telecommunications Franchises
April 21	<ul style="list-style-type: none"> • Allied Waste Services Annual Report • Sustainability Initiative Fees (public input)
May 5	<ul style="list-style-type: none"> • Economic Development Allocations Orientation • Sustainability Initiative Fees (deliberations)
May 10 (special) 5:00 pm	<ul style="list-style-type: none"> • Economic Development Allocations Presentations
May 13 (special) 5:00 pm	<ul style="list-style-type: none"> • Economic Development Allocations Deliberations
May 19	<ul style="list-style-type: none"> • Economic Development Allocations Third Quarter Reports
June 9	<ul style="list-style-type: none"> • Third Quarter Operating Report • 2010-2011 City Council Team Building and Goal Setting Facilitator Process
June 23	
July 7	<ul style="list-style-type: none"> • Land Use Application Fees Review
July 21	<ul style="list-style-type: none"> • Municipal Code Review: Chapter 5.03, "Offenses" (Prohibit Feeding Wild Turkeys)
August 4	
August 18	
September 8	<ul style="list-style-type: none"> • Fourth Quarter Operating Report • Economic Development Allocations Fourth Quarter Reports
September 22	
October 6	<ul style="list-style-type: none"> • Council Policy Reviews: <ul style="list-style-type: none"> • CP 91-1.01, "Copying of City Material; Charges for" • CP 92-1.05, "Miscellaneous Property Ownership"
October 20	
November 3	<ul style="list-style-type: none"> • Utility Rate Annual Review • Economic Development Application Process and Calendar
November 17	<ul style="list-style-type: none"> • Comprehensive Annual Financial Report
December 3	<ul style="list-style-type: none"> • Economic Development Allocations First Quarter Reports

MEETING DATE	AGENDA ITEM
December 22	<ul style="list-style-type: none"> • First Quarter Operating Report

ASC PENDING ITEMS

- | | |
|--|--------------|
| <ul style="list-style-type: none"> • Lease – Clear Wire | Public Works |
| <ul style="list-style-type: none"> • Utility Rate Structure Review | Public Works |
| <ul style="list-style-type: none"> • Voluntary Donations on Electronic Utility Payments | Finance |

Regular Meeting Date and Location:
 Wednesday following Council, 3:30 pm – Madison Avenue Meeting Room

**HUMAN SERVICES COMMITTEE
SCHEDULED ITEMS**

April 1, 2010

MEETING DATE	AGENDA ITEM
April 6	<ul style="list-style-type: none"> • Willamette Neighborhood Housing Services Second Quarter Report
April 20	<ul style="list-style-type: none"> • Boys and Girls Club Annual Report • Municipal Code Review: Chapter 5.03, "Offenses" (Smoking Enforcement Hiatus)
May 4	<ul style="list-style-type: none"> • Liquor License Annual Renewals • Majestic Theatre Annual Report
May 18	<ul style="list-style-type: none"> • Corvallis Fall Festival Annual Report
June 8	<ul style="list-style-type: none"> • Boards and Commissions Sunset Review: <ul style="list-style-type: none"> • Committee for Citizen Involvement • Citizens Advisory Commission on Civic Beautification and Urban Forestry • Council Policy Review: <ul style="list-style-type: none"> • CP 07-4.15, "Use of Computer Lab Equipment & Public Internet Access at Senior Center" • Corvallis Farmers' Markets Annual Report
June 22	<ul style="list-style-type: none"> • Social Services Allocations – Fiscal Year 2010-2011 • Council Policy Review: <ul style="list-style-type: none"> • CP 98-4.12, "Guidelines for Public Art Selection"
July 6	
July 20	<ul style="list-style-type: none"> • Willamette Neighborhood Housing Services Third Quarter Report
August 3	<ul style="list-style-type: none"> • Parks and Recreation Annual Fee Review
August 17	<ul style="list-style-type: none"> • Social Services Semi-Annual Report
September 8	
September 21	<ul style="list-style-type: none"> • Rental Housing Program Annual Report
October 5	<ul style="list-style-type: none"> • Council Policy Reviews: <ul style="list-style-type: none"> • CP 91-1.02, "Liquor License Approval Procedures" • AP 08-1.11, "Identity Theft Prevention and Red Flag Alerts" • CP 91-1.04, "Official Flower" • CP 95-1.07, "Policy Regarding the City Flag"
October 19	
November 2	<ul style="list-style-type: none"> • Willamette Neighborhood Housing Services Fourth Quarter Report
November 16	

MEETING DATE	AGENDA ITEM
December 7	<ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 94-4.07, "City-Owned Art Objects on Private Property"
December 21	

HSC PENDING ITEMS

- Municipal Code Review: Chapter 5.01, "City Park Regulations" Parks & Recreation
 (Alcoholic Beverages in Parks)
- Municipal Code Review: Chapter 5.03, "Offenses" (Begging) City Attorney's Office
- Revision to Municipal Code Chapter 1.16, "Boards and Parks & Recreation
 Commissions" (Public Art Selection Commission)

Regular Meeting Date and Location:

Tuesday following Council, 12:00 pm – Madison Avenue Meeting Room

**URBAN SERVICES COMMITTEE
SCHEDULED ITEMS**

April 1, 2010

MEETING DATE	AGENDA ITEM
April 8	<ul style="list-style-type: none"> • Downtown Transit Center Restroom Maintenance • Council Policy Review: <ul style="list-style-type: none"> • 2010-1.12, "Community Sustainability"
April 22	<ul style="list-style-type: none"> • SW Eighth Street Parking • Circle Boulevard Traffic Calming Six-Month Review
May 6	<ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 95-7.12, "Integrated Vegetation Pest Management (IVPM) Program"
May 20	
June 10	<ul style="list-style-type: none"> • Boards and Commissions Sunset Review: <ul style="list-style-type: none"> • Airport Commission
June 24	
July 8	
July 22	
August 5	
August 19	
September 9	
September 23	
October 7	
October 21	
November 4	<ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 98-9.06, "Transportation Corridor Plans"
November 18	
December 9	<ul style="list-style-type: none"> • Council Policy Review: <ul style="list-style-type: none"> • CP 91-9.03, "Residential Parking Permit District Fees"
December 23	

USC PENDING ITEMS

- Council Policy Review: CP 91-7.08, "Sidewalk Policy"
- Fire Protection Services in Health Hazard Residential Areas
- Reducing Potential for Fire Spread Involving Natural Resources
- Renewable Energy Sources
- Traffic Calming Program

Public Works
Fire
Fire
City Manager's Office
Public Works

Regular Meeting Date and Location:

Thursday following Council, 4:00 pm – Madison Avenue Meeting Room

UPCOMING MEETINGS OF INTEREST



City of Corvallis

APRIL - AUGUST 2010
(Updated April 1, 2010)

APRIL 2010

Date	Time	Group	Location	Subject/Note
1	6:30 pm	<i>Parks, Natural Areas, and Rec Brd</i>	<i>Parks and Rec Conf Rm</i>	<i>special budget mtg</i>
1	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
2	7:00 am	Bicycle and Pedestrian Adv Cmsn	Madison Avenue Mtg Rm	
3	10:00 am	Government Comment Corner	Library Lobby - Charles Tomlinson	
5	12:00 pm	City Council	Downtown Fire Station	
5	7:00 pm	City Council	Downtown Fire Station	
6	7:00 am	Airport Commission	Madison Avenue Mtg Rm	
6	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
6	5:30 pm	Downtown Parking Committee	Madison Avenue Mtg Rm	
7	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
7	7:00 pm	Planning Commission	Downtown Fire Station	
7	7:30 pm	Library Board	Library Board Room	
8	8:00 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
8	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
10	10:00 am	Government Comment Corner	Library Lobby - Richard Hervey	
12	7:00 pm	Ward 1 mtg (O'Brien)	Country Club Ballroom	(not City sponsored)
13	7:00 pm	Historic Resources Commission	Downtown Fire Station	
14	8:20 am	Citizens Adv Cmsn on Transit	Madison Avenue Mtg Rm	
14	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
15	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
17	10:00 am	Government Comment Corner	Library Lobby - TBD	
19	12:00 pm	City Council	Downtown Fire Station	
19	7:00 pm	City Council	Downtown Fire Station	
20	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
21	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
21	5:30 pm	Watershed Mgmt Advisory Cmsn	Madison Avenue Mtg Rm	
21	7:00 pm	Planning Commission	Downtown Fire Station	
22	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
24	10:00 am	Government Comment Corner	Library Lobby - Mike Beilstein	
27	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
27	7:00 pm	Historic Resources Commission	Madison Avenue Mtg Rm	
28	5:30 pm	<i>Downtown Parking Committee</i>	<i>Downtown Fire Station</i>	<i>Downtown Free Customer Parking Area enforcement and parking controls</i>

MAY 2010

Date	Time	Group	Location	Subject/Note
1	10:00 am	Government Comment Corner	Library Lobby - TBD	
3	12:00 pm	City Council	Downtown Fire Station	

Date	Time	Group	Location	Subject/Note
3	7:00 pm	City Council	Downtown Fire Station	
4	7:00 am	Airport Commission	Madison Avenue Mtg Rm	
4	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
4	5:30 pm	Downtown Parking Committee	Madison Avenue Mtg Rm	
4	7:00 pm	Budget Commission	Downtown Fire Station	
5	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
5	7:00 pm	Planning Commission	Downtown Fire Station	
5	7:30 pm	Library Board	Library Board Room	
6	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
6	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
7	7:00 am	Bicycle and Pedestrian Adv Cmsn	Madison Avenue Mtg Rm	
8	10:00 am	Government Comment Corner	Library Lobby - Patricia Daniels	
10	5:00 pm	Administrative Services Committee	Madison Avenue Mtg Rm	econ dev allocations presentations
11	7:00 pm	Budget Commission	Downtown Fire Station	
11	7:00 pm	Historic Resources Commission	Madison Avenue Mtg Rm	
12	8:20 am	Citizens Adv Cmsn on Transit	Madison Avenue Mtg Rm	
13	8:00 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
13	5:00 pm	Administrative Services Committee	Madison Avenue Mtg Rm	econ dev allocations deliberations tentative
13	7:00 pm	Budget Commission	Downtown Fire Station	
15	10:00 am	Government Comment Corner	Library Lobby - TBD	
17	12:00 pm	City Council	Downtown Fire Station	
17	5:00 pm	<i>Parks and Recreation</i>	<i>Library Meeting Room</i>	<i>Herbert Farm/Natural Area Mgmt Plan</i>
17	7:00 pm	City Council	Downtown Fire Station	
18	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
19	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
19	5:30 pm	Watershed Mgmt Advisory Cmsn	Madison Avenue Mtg Rm	
19	7:00 pm	Planning Commission	Downtown Fire Station	
20	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
20	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
22	10:00 am	No Government Comment Corner	Library Lobby - TBD	
25	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
29		No Government Comment Corner	Library Lobby - TBD	
31		City holiday - all offices closed		

JUNE 2010

Date	Time	Group	Location	Subject/Note
2	7:00 pm	Planning Commission	Downtown Fire Station	
2	7:30 pm	Library Board	Library Board Room	
3	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
4	7:00 am	<i>Bicycle and Pedestrian Adv Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	
5	10:00 am	Government Comment Corner	Library Lobby - David Hamby	
7	12:00 pm	City Council	Downtown Fire Station	
7	7:00 pm	City Council	Downtown Fire Station	
8	7:00 am	<i>Airport Commission</i>	<i>Madison Avenue Mtg Rm</i>	
8	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
8	5:30 pm	<i>Downtown Parking Committee</i>	<i>Madison Avenue Mtg Rm</i>	
8	7:00 pm	Historic Resources Commission	Downtown Fire Station	

Date	Time	Group	Location	Subject/Note
9	8:20 am	<i>Citizens Advisory Cmsn on Transit</i>	<i>Madison Avenue Mtg Rm</i>	
9	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
10	8:00 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
10	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
12	10:00 am	Government Comment Corner	Library Lobby - Dan Brown	
14	5:00 pm	City Council work session	Madison Ave Mtg Rm	Plng Cmsn interviews tentative
14	7:00 pm	Mayor/City Council/City Manager quarterly work session	Madison Ave Mtg Rm	tentative
15	5:00 pm	City Council work session	Madison Ave Mtg Rm	Plng Cmsn and Hist Res Cmsn intrvws - tentative
15	5:00 pm	<i>Parks and Recreation</i>	<i>Library Meeting Room</i>	<i>Herbert Farm/Natural Area Mgmt Plan</i>
16	5:30 pm	<i>Watershed Mgmt Advisory Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	
16	7:00 pm	Planning Commission	Downtown Fire Station	
17	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
19	10:00 am	Government Comment Corner	Library Lobby - TBD	
21	12:00 pm	City Council	Downtown Fire Station	
21	7:00 pm	City Council	Downtown Fire Station	
22	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
22	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
23	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
24	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
26	10:00 am	Government Comment Corner	Library Lobby - TBD	

JULY 2010

Date	Time	Group	Location	Subject/Note
2	7:00 am	<i>Bicycle and Pedestrian Adv Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	
3		No Government Comment Corner		
5		City holiday - all offices closed		
6	7:00 am	<i>Airport Commission</i>	<i>Madison Avenue Mtg Rm</i>	
6	12:00 pm	City Council	Downtown Fire Station	
6	5:30 pm	<i>Downtown Parking Committee</i>	<i>Madison Avenue Mtg Rm</i>	
6	7:00 pm	City Council	Downtown Fire Station	
7	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
7	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
7	7:30 pm	Library Board	Library Board Room	
8	8:00 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
8	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
10	10:00 am	Government Comment Corner	Library Lobby - TBD	
13	5:00 pm	<i>Parks and Recreation</i>	<i>Library Meeting Room</i>	<i>Herbert Farm/Natural Area Mgmt Plan</i>
14	8:20 am	<i>Citizens Advisory Cmsn on Transit</i>	<i>Madison Avenue Mtg Rm</i>	
15	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
17	10:00 am	Government Comment Corner	Library Lobby - TBD	
19	12:00 pm	City Council	Downtown Fire Station	
19	7:00 pm	City Council	Downtown Fire Station	
20	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
21	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
21	5:30 pm	<i>Watershed Mgmt Advisory Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	

Date	Time	Group	Location	Subject/Note
22	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
24	10:00 am	Government Comment Corner	Library Lobby - TBD	
27	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
31	10:00 am	Government Comment Corner	Library Lobby - TBD	

AUGUST 2010

Date	Time	Group	Location	Subject/Note
2	12:00 pm	City Council	Downtown Fire Station	
2	7:00 pm	City Council	Downtown Fire Station	
3	<i>7:00 am</i>	<i>Airport Commission</i>	<i>Madison Avenue Mtg Rm</i>	
3	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
3	<i>5:30 pm</i>	<i>Downtown Parking Committee</i>	<i>Madison Avenue Mtg Rm</i>	
4	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
4	7:30 pm	Library Board	Library Board Room	
5	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
6	<i>7:00 am</i>	<i>Bicycle and Pedestrian Adv Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	
7	10:00 am	Government Comment Corner	Library Lobby - Charles Tomlinson	
11	<i>8:20 am</i>	<i>Citizens Advisory Cmsn on Transit</i>	<i>Madison Avenue Mtg Rm</i>	
12	8:00 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
14	10:00 am	Government Comment Corner	Library Lobby - David Hamby	
16	12:00 pm	City Council	Downtown Fire Station	
16	7:00 pm	City Council	Downtown Fire Station	
17	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
18	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
18	<i>5:30 pm</i>	<i>Watershed Mgmt Advisory Cmsn</i>	<i>Madison Avenue Mtg Rm</i>	
19	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
19	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
21	10:00 am	Government Comment Corner	Library Lobby - TBD	
24	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
28	10:00 am	Government Comment Corner	Library Lobby - TBD	

Bold type – involves the Council ~~Strikeout~~ type – meeting canceled *Italics* type – new meeting

TBD To be Determined

**February 18, 2010 Minutes
Access Benton County**

Present: Edith Yang, Judy Heath, Kate Hunter Zaworski, Mary Marsh King, Hugh White, Bob Fenner, Tony Albert, Ronald Naasko, Greg Dinkens, Jim Smith.

Meeting began at 12:00 Noon.

A. Minutes of January 21, 2010 approved as submitted.

B. Treasurer: Annual Post Office Box expense was \$44.00. Balance of \$360.00.

C. Correspondence: To Oregon Disabilities Commission concerning reciprocity of foreign travelers who have placards from their country. Several contacts related to Keith's Award.

D. Continuing Business:

- 1. Keith E. Billings Award. Discussed wording of plaque to be presented to Kearney Hall. Will work on presentation arrangements with contacts Engineering Department at OSU.**
- 2. Wheel Chair Day/Ability Awareness Day Event. ABC will co-sponsor the activity again this year. Please mark your calendar for August 7 from 10 a.m. to Noon! First planning committee meeting will be held soon. Volunteers welcome.**
- 3. ABC Website Resources Update. Mike Mullett has provided the information that ABC will display as a resource for grab bar program. We also will have Dial-A-Bus information link to their website. Other resources will be added as we determine benefit for our readers.**
- 4. Access Update on Corvallis Businesses ABC has contacted to improve access concerns. ABC will ask one business to consider larger sign with universal handicapped symbol near the buzzer that is used to request access assistance by person who can't enter the store independently.**
- 5. Wheel Chair Basketball Team at OSU. ABC has learned from the team contact that practices are at Dixon Recreation Center on Thursday evenings from 8 to 10 p.m. on Court 3. There are no games scheduled at this time. We hope to encourage attendance when there are exhibitions scheduled.**

E. New Business:

- 1. Our Special Guest for the March 18th meeting is Chris Westfall, Code Enforcement Supervisor, Development Services Division, City of Corvallis.**
- 2. ABC received an e-mail from a citizen of Benton County who is concerned about access in a restroom in a public restaurant in downtown Corvallis. We discussed the known access situation at this business and decided that ABC will write a letter to the owner asking for an opportunity to meet and discuss the concern. This is a especially old building and would clearly be challenging to readily achieve more space. However, the primary concern was an obstruction in front of the toilet.**

Meeting closed at 1 p.m. Please join us for our next monthly meeting on March 18, 2010 at Noon, Commissioner's Meeting Room, Benton Plaza.

MEMORANDUM

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director 

DATE: March 31, 2010

RE: 2215 NW 16th Street Major Lot Development Option (LD009-00016)

I. ISSUE

The applicant, Sean Smith, has submitted an application seeking approval of a Major Lot Development Option (LDO) to construct an eight foot tall fence within the street side yard setback. The first seven feet of the proposed fence is solid wood and the top foot is an attached trellis. The proposed fence is 166 percent taller than the allowable 3-ft. height of fences in the proposed location.

On February 17, 2010, the Land Development Hearings Board (LDHB) held a duly advertised public hearing on the request. At that hearing the LDHB deliberated and voted 2-1 to deny the applicant's request (**Exhibits I and VII**). The LDHB Chair signed the Notice of Disposition from that decision on February 18, 2010 (**Exhibit I**). On March 2, 2010, the applicant appealed the LDHB's decision (**Exhibit II**). A City Council public hearing has been scheduled for April 5, 2010, to consider the appeal of the LDHB's decision to deny the proposed Major LDO application.

II. BACKGROUND and DISCUSSION

Site and Vicinity

The subject site is located at 2215 NW 16th Street, which is at the northeast corner of the intersection of NW 16th Street and NW Maple Avenue. The site is roughly 0.25 acres in size, and is currently developed with a single family residence. The residence is oriented towards NW 16th Street with the street side yard adjacent to NW Maple Avenue. As currently developed, the residence has two windows on the south side of the house adjacent to NW Maple Avenue, with mature hedges planted below the windows. A mature hedge also extends from the southeast corner of the house east to the rear property line (**Exhibit X**).

The subject site and all abutting properties have a Comprehensive Plan designation of Low Density Residential (**Exhibit III**). Consistent with the Comprehensive Plan, the subject site and all abutting properties are zoned RS-3.5 Low Density

Residential (**Exhibit IV**). The neighboring properties are primarily single family detached dwellings. There are two Major Neighborhood Centers located a few blocks to the southwest and a few blocks to the northwest of the site.

The site does not contain any mapped Natural Resources or Natural Hazards. Additionally, the subject application will not affect any Significant Vegetation that may be located on the site.

Land Use History

1983 - On January 14, the Community Development Director approved a Conditional Development Permit for a Home Occupation (**Exhibit V**). The business is no longer operated from the home and no conditions of approval are associated with the subject approval. Therefore, staff find the current Major LDO application is not subject to Conditional Development review and approval.

Proposal

The applicant requests approval of a Major LDO to vary from one Land Development Code (LDC) standard involving fence height. Land Development Code Section 4.2.50(a) limits the height of hedges, fences, and walls within a required yard adjacent to a street to three feet in height. The required exterior side yard setback for this site is 20 ft. The applicant proposes to construct an eight foot tall wood fence, the top one foot of which is an attached trellis. The fence will be located on the south side of the lot parallel with NW Maple Avenue. It is proposed to be set back three feet from the edge of the sidewalk, with alternating three foot off-sets every six lineal feet. At a point roughly 54 feet west from the southeast corner of the lot, the fence will transition from the sidewalk diagonally to the front southwest corner of the existing house. The proposed location of the fence is outside of the vision clearance area for the intersection of NW 16th Street and NW Maple Avenue.

Land Development Hearings Board Action

Specific criteria and policies that apply to the proposed Major LDO were addressed in the February 5, 2010, Staff Report to the LDHB (**Exhibit VI**). Specifically, pages 2 - 13 of the February 5, 2010, Staff Report address compliance with LDC criteria applicable to the proposed Major LDO.

As reflected in the February 5, 2010, Staff Report to the LDHB, and approved minutes from the February 17, 2010, LDHB meeting (**Exhibit VII**), City Staff recommended that the LDHB deny the applicant's request. The LDHB reviewed the application, heard public testimony, and voted to deny the application based on findings from the February 5, 2010, Staff Report to the LDHB and minutes from the February 17, 2010, LDHB meeting that support the decision to deny the application (**Exhibits I, VI, and VII**).

Appeal Issues

Land Development Code Section 2.19.30.02(d) - Hearings Authority states that appeals of LDHB decisions shall be reviewed by the City Council. Land Development Code Section 2.19.30.01(c) states that all hearings on Appeals shall be held de novo (as a new public hearing).

The appellant cites a number of reasons that the City Council should reverse the LDHB's decision to deny the proposed Major LDO. Following is the appellant's arguments and concerns, shown in *italics*, followed by Staff's analysis, in plain text.

Issue #1

The appellant states that contrary to the LDHB's findings the proposal does comply with LDO purpose statements 2.12.20(a) and (f). In regards to LDC Section 2.12.20(f) the appellant states that the proposal meets the intent of the LDO as described in an ordinance Amending the LDC (Ordinance 2000-43) (Exhibit VIII).

With the exception of LDC Section 2.12.20(a), the following LDC Sections were identified as not in compliance with respect to the applicant's proposal in the February 5, 2010 Staff Report:

Section 2.12.30.06.b

2. The proposal is consistent with "a.2" through "a.11," above; and

Section 2.12.30.06.a

11. The proposed development shall provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

Section 2.12.30.06.a

5. The proposed development is not contrary to the background and purposes in Section 2.12.10 and 2.12.20 and any other applicable policies and standards adopted by the City;

Section 2.12.20 - PURPOSES

Procedures and standards for the review of Lot Development Options are established in this Chapter for the following purposes:

- a. Permit efficient use of land;
- f. Provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

In the February 5, 2010, Staff Report to the LDHB, staff and the LDHB concurred with the applicant that the proposed fence would permit an efficient use of land

(LDC Section 2.12.20.a), but did not concur with the applicant that the fence would provide benefits that compensate for the variation from the development standard such that the intent of the development standard is still met (LDC Section 2.12.20.f) **(See page 7 of Exhibit VI)**. Staff and the LDHB found that the proposed fence permits an efficient use of land because it would create a larger backyard and increase the privacy for the residents.

The appellant states that the proposal is consistent with LDC Section 2.12.20(f), and cites an excerpt from a City Ordinance that describes the intent of the LDO as supplemental evidence **(Exhibit VIII)**. The appellant asserts that the proposal is consistent with the intent of the LDO as described in the ordinance, and because it is consistent with the intent of the LDO the proposal is also consistent with LDC Section 2.12.20(f). However, the purpose statement in LDC Section 2.12.20(f) clearly states that the development proposal needs to provide benefits such that the intent of the development standard being varied is still met. Compliance with the purpose statements of Chapter 2.12 - Lot Development Option is required through the review criteria in LDC Section 2.12.30.06. Specifically, LDC Sections 2.12.30.06.b.2 and 2.12.30.06.a.5 require LDO applications to be consistent with the background and purposes of Chapter 2.12 - Lot Development Option. The review criterion in LDC Section 2.12.30.06.a.11 iterates the final purpose statement in LDC Section 2.12.20(f) by requiring LDO applications to provide benefits that compensate for variations from development standards such that the intent of the development standard is still met. Therefore, staff find that the appellant's assertion that the intent of the LDO as described in the City's Ordinance satisfies the review criteria in LDC Sections 2.12.30.06.b.2, 2.12.30.06.a.5 and 2.12.30.06.a.11 is not correct. As outlined in the February 5, 2010, Staff Report to the LDHB, and as further discussed below, the proposal does not provide benefits that compensate for the variation such that the intent of the development standard is still met **(See pages 8-11 of Exhibit VI)**.

The appellant asserts that there are three benefits within the proposal that compensate for the requested variation. These benefits are:

- the fence fosters neighborhood interaction and better neighbor relations;
- safety for residents will be increased; and
- the fence will enhance visual aesthetics.

The intent of the fence height standard is to provide an open space between tall fences and sidewalks. This open space provides better pedestrian safety, neighborliness, and enhances the pedestrian environment. To better understand the context and intent of the development standard, the following Comprehensive Plan policies will be discussed:

- 5.2.3 The City shall develop standards which ensure adequate open space and landscaping on residential, commercial, and industrial developments, and shall maintain these standards in the Land Development Code.**
- 9.2.1 City land use decisions shall protect and maintain neighborhood characteristics (as defined in 9.2.5) in existing residential areas.**
- 9.2.4 Neighborhoods shall be pedestrian-oriented. Neighborhood development patterns shall give priority considerations to pedestrian-based uses, scales, and experiences in determining the orientation, layout, and interaction of private and public areas.**
- 9.2.5.1 Neighborhoods have public areas that are designed to encourage the attention and presence of people at all hours of the day and night. Security is enhanced with a mix of uses and building openings and windows that overlook public areas.**
- 11.6.1 The City shall require safe, convenient, and direct pedestrian routes within all areas of the community.**

Policy 9.2.1 states that land use decisions have an important role in maintaining and protecting neighborhood characteristics in existing residential areas. In the general vicinity of the site, corner lots tend to preserve the 20 ft. side yard in open space, consistent with policy 5.2.3. Fences constructed in the side yards are generally aligned with or near the house and extend to the rear property line, or are within the acceptable height limits as described in the LDC Section 4.2.50.01(a). The proposed fence is not consistent with other side yard fences in the general vicinity of the site, because it would extend away from the existing residence to within three ft. to six ft. of the sidewalk and would be eight ft. tall.

Policy 11.6.1 states that the City shall require safe and convenient pedestrian routes within all areas of the community. To increase the security of public spaces and the neighborhood in general, policy 9.2.5(l) indicates that public areas, such as sidewalks, be designed to encourage the attention and presence of people at all hours of the day and night. The proposed fence would obscure views of the public sidewalk from the existing residences which decreases the safety and security of the sidewalk along the fence. Therefore, the proposed fence is inconsistent with policies 9.2.5(l) and 11.6.1. Additionally, policy 9.2.4 states that neighborhoods shall be pedestrian-oriented and that development patterns should give priority to pedestrian-based uses in determining the orientation, layout, and interaction of private and public spaces. The proposed fence is the element that provides the interaction between the private and public space. Staff and the LDHB find that a 166 percent variation in fence height within three ft. of a public sidewalk is not consistent with policy 9.2.4, because it does not provide an interaction, but rather a barrier or imbalance between the private and public spaces.

Given the above, staff and the LDHB find the appellant does not provide benefits with the development that compensate for the variation from the development

standard such that the intent of the development standard is still met. Therefore, review criteria in LDC Sections 2.12.30.06.a.5 and 2.12.30.06.a.11 are not met.

Issue #2

The appellant states that Comprehensive Plan Policy 1.1.8 was not followed in making a decision on the proposal. Additionally, the appellant contends that Comprehensive Plan Policy 9.3.7 was not considered in the decision.

Comprehensive Plan Policy 1.1.8 states,

City adopted indicators of livability shall be considered in making land use decisions.

This policy has been incorporated into the LDC in two ways. First, Chapter 2.6 - Annexation includes a list of adopted livability indicators. These livability indicators are not applicable decision-making criteria for Major LDO applications. Second, the adoption of the 2006 LDC fully implements the Comprehensive Plan, as acknowledged by the Department of Land Conservation and Development (DLCD). Therefore, the development standards of the LDC address many of the livability indicators discussed throughout the Comprehensive Plan.

Because the appellant's request is to vary from one of the adopted development standards of the 2006 LDC, staff use Comprehensive Plan policies to inform and support their recommendation to the hearing authority. Staff and the LDHB found that the applicable policies of the Comprehensive Plan were considered in the February 5, 2010, Staff Report to the LDHB. Staff also find that Comprehensive Plan Policy 1.1.8 was addressed, because the applicable development standards that relate to the proposal were addressed in the February 5, 2010, Staff Report to the LDHB (**Exhibit VI**).

Comprehensive Plan Policy 9.3.7 states,

To the maximum extent possible in residential areas, glare from outdoor lighting shall be shielded and noise shall be limited.

Land Development Code Section 4.2.80 includes the site and street lighting standards which implement Comprehensive Plan Policy 9.3.7. The development standards in LDC Section 4.2.80 are not applicable to the subject application, because the application does not propose to install any outdoor lighting. Additionally, if the standards in LDC Section 4.2.80 were applicable they would address site lighting and appropriate street lighting as opposed to the light glare from cars driving on the abutting streets. Noise is regulated by the Corvallis Municipal Code. The LDC ensures that noises generated by development will be maintained at acceptable levels through review criteria for land use applications such as the criteria in Section 2.12.30.06(b)3(c). In the February 5, 2010, Staff Report, staff reviewed the proposal to ensure the noises generated by this

development would be compatible with neighboring uses (**See page 12, Exhibit VI**). Staff and the LDHB found the proposal would create no noise impacts.

Given the above, staff find Comprehensive Plan Policy 9.3.7 was addressed, where applicable.

Issue #3

The appellant states that he was not allowed a regular rebuttal at the February 17, 2010, LDHB public hearing.

Land Development Code Section 2.0.50.06(l) states,

Rebuttal testimony may be presented by persons who have testified. The scope of material presented during rebuttal shall be limited to matters raised during the course of the hearing. The applicant or the applicant's representative shall present the first rebuttal, followed by surrebuttal by those who testified in opposition to the proposed change. Those persons who testified neutrally may not participate in surrebuttal. The presiding officer shall limit rebuttal and surrebuttal to avoid repetition. Prior to the close of the public hearing, the presiding officer shall ask the applicant to state a preference to either provide a final written argument within seven days or to waive that opportunity.

In general, rebuttal and surrebuttal testimony are limited to the scope of public testimony, and the staff report is not considered public testimony. However, since the applicant has the burden of proof, the presiding officer may allow the applicant or the applicant's representative to provide a rebuttal to the staff report. As reflected in the minutes of the February 17, 2010, LDHB public hearing, the applicant was given an opportunity to provide a rebuttal to the staff report (**See page 5, Exhibit VII**). Therefore, staff find the appellant was given an opportunity for rebuttal as permitted in LDC Section 2.0.50.06(l).

Issue #4

*The appellant states that LDHB Board Member Reese was not able to make an impartial decision. This allegation is based on evidence that Board Member Reese owns property in the vicinity of a photograph that was shown by City Staff at the February 17, 2010, LDHB public hearing and did not disclose this during deliberations. The photograph was of a fence located within the side and front yard setback of a single family residence (**Exhibit XI**).*

The allegation of Board Member Reese's ability to remain impartial was not raised at the February 17, 2010, LDHB public hearing. The fact that Board Member Reese owns property that is located in the vicinity of one of the photographs presented at the February 17, 2010, hearing does not constitute bias. Additionally, if Board Member Reese, or any other Board Member were biased, and this bias could be substantiated, the remedy for the applicant is a new public hearing. The appeal of the LDHB's decision to the City Council gives the appellant a de novo (new) public

hearing. Therefore, any allegations of bias, substantiated or not, are moot because of the de novo public hearing being held by the City Council.

Issue #5

The appellant states that the LDHB Members may have been implicitly biased, because of the lack of diversity in where they live. The appellant notes that all three board members live in Corvallis Ward 8, and in Timberhill Plats with Homeowner's Associations.

The LDHB is a subset of the Planning Commission. Planning Commissioners are appointed by the Mayor and City Council. The LDHB is not required to be made up of board members from different Wards or neighborhoods. The fact that the three Planning Commissioners who serve on the Land Development Hearings Board each live in the same Ward boundary does not constitute bias. As noted under Issue #4, the remedy to bias at a public hearing is a new public hearing. Since the decision of the LDHB has been appealed to the City Council, and the City Council hearing is a de novo (new) public hearing, any allegations of bias are remedied.

Issue #6

The appellant states that City Staff did not follow their own guidelines with respect to providing the applicant with a projector at the February 17, 2010, public hearing.

The appellant cites a Committee for Citizen's Involvement brochure, which gives tips on providing oral testimony at public hearings. In the brochure, it says to contact the Planning Division ahead of the hearing if you need a projector (**Exhibit IX**). The appellant was informed that a digital projector and computer would be available, and then later informed that the policy had recently changed and that the same equipment would be limited to staff use only. The reason for the recent change in policy regarding the use of City electronic equipment by the public arose because of inadvertent transmission of software viruses onto the City computer from the public. Staff also informed the appellant that if he could not locate a digital projector to bring to the hearing, that he could use the digital projector provided by staff. Applicants giving presentations at public hearings are now encouraged to bring their own electronic equipment. An overhead projector can still be provided to applicants by staff at the public hearing.

In spite of the above discussion, the LDC does not address the use of electronic equipment at public hearings. Therefore, staff find that the use of the City's projector is not a review criterion for the subject land use application.

Issue #7

The appellant contends that staff made the wrong recommendation to the LDHB with biasing language when staff is supposed to remain neutral. The appellant also states that staff should have considered Comprehensive Plan Findings and Policies

9.2.y, 9.2.5(k)(l), and 9.2.7(a) which the appellant states, "speak to why open space isn't all good" (See pages 4-5, Exhibit II).

Nowhere in the LDC does it state that staff is to remain neutral in making recommendations to Hearing Authorities. In fact, LDC Section 2.12.30.05(b) directs staff to review a Major LDO application and prepare a staff report with a recommendation for approval or denial. The entire LDC Section is provided below:

Major Lot Development Option - The Director shall prepare a report that evaluates whether the proposal complies with the review criteria in Section 2.12.30.06.b, below. The report shall include a recommendation for approval or denial and, if needed, a list of conditions for the Land Development Hearings Board to consider if an approval is granted.

The February 5, 2010, Staff Report to the LDHB included analysis of each of the applicable review criteria and noted whether or not the subject proposal was consistent with each criterion (See pages 2-13, Exhibit VI). The Staff Report also included a recommendation to the LDHB based on whether or not the proposal was consistent with the applicable review criteria. Staff found the proposal was not consistent with a number of the applicable review criteria and, therefore, recommended the LDHB deny that application.

The Comprehensive Plan Findings and Policies discussed in the appellant's appeal, and noted above, are listed below:

Finding 9.2.y - Research suggests that many benefits may be derived from the implementation of standards that promote or require more narrow streets in new development.

- vii - Narrow streets encourage more cautious driving and slower speeds by eliminating the "speedway" feel of wide streets in residential areas. The more intimate feeling created by narrower residential streets serves as an additional indicator to drivers that they are in a neighborhood.

Policy 9.2.5 - Development shall reflect neighborhood characteristics appropriate to the site and area. New and existing residential, commercial, and employment areas may not have all of these neighborhood characteristics, but these characteristics shall be used to plan the development, redevelopment, or infill that may occur in these areas. These neighborhood characteristics are as follows:

- (k) - Neighborhoods incorporate a narrow street standard for internal streets which slows and diffuses traffic.
- (l) - Neighborhood building and street proportions relate to one another in a way that provides a sense of enclosure.

Policy 9.2.7 - To facilitate neighborhood-oriented development, the Land Development Code shall include provisions for:

(A) - Reduced setbacks and minimum lot size requirements in residential districts;

Staff did not consider Comprehensive Plan finding 9.2.y, and policies 9.2.5(k) and (l) in regards to the variation of the fence height standard, because these three statements of the Comprehensive Plan discuss the functionality of narrow streets and pertain to concepts such as speed reducing and traffic calming devices. Staff find that these three statements are not applicable to the subject proposal.

Comprehensive Plan policy 9.2.7(A) states that the Land Development Code shall include provisions for reduced setbacks to facilitate neighborhood-oriented development. In general, such reduced setbacks were applied in a wholesale manner during Phase I of the LDC update. However, public testimony during that code update project encouraged decision-makers to maintain the majority of the RS-3.5 Zone standards for existing areas developed under the RS-3.5 standards. Policy 9.2.7(A) is primarily aimed at setbacks for buildings to bring them closer to the street to allow more pedestrian interaction and street enclosure. The LDC Chapter that provides some relief from required setbacks is Chapter 2.12 - Lot Development Option. The LDO provisions in the LDC allow for some flexibility in LDC standards. However, the process does not guarantee an application will be approved. The appellant applied for a Major LDO and the application was denied by the LDHB because it did not satisfy a number of the applicable review criteria. Staff find that Comprehensive Plan policy 9.2.7(A) was considered in review of the subject application, and that the proposed fence located within the required exterior side yard setback is not consistent with the Comprehensive Plan policy.

Conclusion

In conclusion, staff find that the intent of the LDO as outlined in City Ordinance 2000-43 does not satisfy the LDC standards and review criteria in LDC Sections 2.12.30.06.a.5 and 2.12.30.06.a.11, because these criteria state that benefits need to be provided such that the intent of the development standard is met, and not the intent of the LDO. Comprehensive Plan policies 1.1.8 and 9.3.7 were addressed in the review of the subject application, as noted above. Additionally, as indicated in the minutes of the February 17, 2010, LDHB meeting, the appellant was granted an opportunity of rebuttal.

The fourth and fifth assertions by the appellant dealt with a perceived bias of an individual board member and a perceived bias of the board members collectively. Staff find that neither the individual board member, nor the board members collectively were biased. However, if either were biased, staff find the remedy to bias is a new public hearing. The appellant, who is also the applicant, is given a de novo (new) public hearing before City Council by virtue of this appeal. The appellant's sixth assertion, regarding the use of the City's digital projector, is not a decision-making criteria. The appellant's seventh and final assertion, is that staff did not maintain neutrality when reviewing the subject application, and did not consider Comprehensive Plan policies that speak to less open space. Staff find that the LDC

directs staff to evaluate applications and write a staff report with a recommendation to either approve or deny the request. Staff also find that the Comprehensive Plan policies raised by the appellant are not applicable to the subject application, because they discuss how narrow streets can be used as speed and traffic calming devices.

Given the above, staff recommend the City Council uphold the Land Development Hearings Board's decision to deny the land use application, thereby denying the appeal.

III. REQUESTED ACTION

With respect to the appeal of the LDHB's decision to deny the 2215 NW 16th Street Major LDO (LDO09-00016), the City Council has the following options:

OPTION #1: **Approve** the proposed Major Lot Development Option, subject to conditions of approval made during City Council deliberations on the request, thereby reversing the Land Development Hearings Board's decision and upholding the appeal; or

OPTION #2: **Deny** the proposed Major Lot Development Option, thereby upholding the Land Development Hearings Board's decision and denying the appeal.

From the facts presented in the February 5, 2010, Staff Report to the LDHB (**Attachment VI**), as well as the facts presented in the minutes of the February 17, 2010, LDHB public hearing, and the March 31, 2010, Memorandum from Community Development Director to the Mayor and City Council, staff and the LDHB recommend that the City Council pursue Option #2 to deny the Major LDO request, and direct staff to prepare Formal Findings in support of the City Council's decision.

Consistent with Option #2, the motion below is based upon the facts in the February 5, 2010, Staff Report to the LDHB, and the minutes of the February 17, 2010, LDHB public hearing that support the LDHB's decision to deny the Major LDO. This motion is also based on the criteria, discussions, and conclusions contained within the March 31, 2010, Memorandum to the Mayor and City Council from the Community Development Director; and the reasons given by the City Council, as reflected in the meeting minutes, during its deliberations on this matter.

MOTION: I move to deny the proposed Major Lot Development Option (LDO09-00016), subject to the adoption of Formal Findings and Conclusions.

IV. Exhibits

- I. Notice of Disposition for Major LDO (LDO09-00016)**
- II. Appeal submitted March 2, 2010 by Sean Smith, Appellant**
- III. Comprehensive Plan Map**
- IV. Zoning Map**
- V. Staff Report for CDH82-00015**
- VI. February 5, 2010, Staff Report to LDHB for LDO09-00016**
- VII. February 17, 2010, Minutes from the LDHB Meeting for LDO09-00016**
- VIII. Excerpt from City Ordinance 2000-43**
- IX. Corvallis Land Use Decisions Brochure: Tips for Providing Effective Testimony**
- X. Photograph of Subject Site**
- XI. Photograph of Fence Located at 2015 NW 23rd Street**

Review and Concur:



Jon Nelson
City Manager



**Community Development
Planning Division**
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6908
FAX: (541) 754-1792
Planning@ci.corvallis.or.us

**CORVALLIS LAND DEVELOPMENT HEARINGS BOARD
NOTICE OF DISPOSITION**

ORDER NO. 2010-010

CASE: 2215 NW 16th Street (LDO09-00016)

REQUEST: The applicant requests approval of a Major LDO to vary from the height standard for fences located in yards adjacent to a street. The Land Development Code (LDC) standard limits fences in yards adjacent to a street to three ft. in height. The applicant requests a 166 percent variation to construct an eight ft. tall fence, the first seven ft. of which are solid and the top one ft. of which is a trellis.

**APPLICANT/
OWNER:** Sean and Belen Smith
2215 NW 16th Street
Corvallis, OR 97330

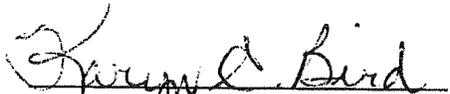
LOCATION: The subject site is located at 2215 NW 16th Street and is identified on Benton County Assessor's Map 11-5-26 BB as Tax Lot 1900.

DECISION: The Corvallis Land Development Hearings Board conducted a public hearing and deliberated on February 17, 2010. The Land Development Hearings Board decided to deny the requested Major Lot Development Option. The Land Development Hearings Board adopts the findings contained in the February 5, 2010, Staff Report, and the portions of the February 17, 2010, Land Development Hearings Board minutes that demonstrate support for the Land Development Hearings Board's actions.

If you are an affected party and wish to appeal the Land Development Hearings Board's decision, appeals must be filed, in writing, with the City Recorder within 12 days from the date that the order is signed. The following information must be included:

1. Name and address of the appellant(s).
2. Reference the subject development and case number, if any.
3. A statement of the specific grounds for appeal.
4. A statement as to how you are an affected party.
5. Filing fee of \$250.00.

Appeals must be filed by 5:00 p.m. on the final day of the appeal period. When the final day of an appeal period falls on a weekend or holiday, the appeal period shall be extended to 5:00 p.m. on the subsequent work day. The City Recorder is located in the City Manager's Office, City Hall, 501 SW Madison Avenue, Corvallis, Oregon.


Karyn Bird, Chair
Corvallis Planning Commission

Signed this 18th day of February, 2010

Appeal Deadline: Tuesday, March 2, 2010, at 5 p.m.

Appeal of LDC09-00016
EXHIBIT 1.2

SEAN K SMITH

2215 NW 16TH ST
Corvallis, OR 97330
541-602-1008
smith.cvo@gmail.com

March 2, 2010

Corvallis City Recorder
City Manger's Office, City Hall
501 SW Madison Ave
Corvallis, OR 97333

RECEIVED

MAR - 2 2010

Community Development
Planning Division

11:47pm

RECEIVED

MAR 02 2010

CITY MANAGERS
OFFICE

Rec'd 7:46pm
C. Muller

Re: Appeal of Case 2215 NW 16TH Street (LDO09-00016)

This is an appeal for the Corvallis Land Development Hearings Board decision specified in Order No. 2010-010.

Name and Address of the Appellant

Sean Smith
2215 NW 16TH ST
Corvallis, OR 97330

Reference the Subject Development and Case Number, if Any

Order No. 2010-010
Case: 2215 NW 16th Street (LDO09-00016)

A Statement of the Specific Grounds for Appeal

There are many reasons why I am appealing the decision. The grounds along with the arguments are below.

Grounds # 1

The case meets the Major Lot Development Option (LDO) requirements, and it should have been approved.

Argument for grounds # 1: The LDO whose purpose is to described in **LDC 2.12.20 (a)** "Permit efficient use of land;" The land in the side yard is inefficient and used for little practical purpose when it could be enclosed within a fence making it part of a larger backyard where children could safely play. It also meets **LDC 2.12.20 (f)** "Provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met." To understand the intent of the LDO you must understand why it was put in the Land Development Code (LDC) in the first place, the history of it and the precedents the LDO has established during

Appeal of LDO09-00016
EXHIBIT II.1

its existence. I refer you to **City of Corvallis Ordinance 2000 – 43 Section 1 Exhibit A Findings 22:**

“Chapter 2.12 Lot Development Option: With the adoption of the proposed new Code, many existing developed residences will become nonconforming with respect to structures, resulting in many existing developed residences unable to construct additions or redevelop as they have in the past. The creation of two types of LDO’s will enable existing developed residences to construct additions or redevelop much in the same manner as the past, thereby greatly reducing impacts of the new development standards on existing residential neighborhoods. These proposed changes are needed to avoid undue hardships on residential homeowners. Therefore, the proposed changes are consistent with Comprehensive Plan Section 1.2 and Land Development Code Section 1.2.80.01 - Background, which allows amendments to the Code in cases of public necessity, convenience and general welfare.”

The proposed fence is consistent with the intent of the development standards. I’m in an existing residential neighborhood whose house was constructed in 1965. Three out of four single family residences on my block with bedrooms along the street have screening of the bedrooms with hedges, fences or hedge / fence combinations ranging from approximately 6 to 10 feet in the setback. The fourth single family residence is my own and in the hearing I explained my rationale for 7-foot boards with an average setback of 4.5 feet. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. Please read the LDHB minutes. This LDO meets the intent.

Grounds # 2

Comprehensive Plan Policy **1.1.8** “City adopted indicators of livability shall be considered in making land use decisions.” was not followed when making the decision concerning this LDO.

Argument for grounds # 2: The main reason for requesting the fence is maintaining and enhancing the “livability of the property”. Comprehensive Plan Policy **1.1.8** “City adopted indicators of livability shall be considered in making land use decisions.” Livability boils down to -- do you want to live there. We have livability issues we feel can be solved with a fence LDO, but it appears the Comprehensive Plan Policy 1.1.8 was ignored. I will now describe the livability issues that could be solved by the fence LDO. We want a larger backyard to create a safe place for the kids to play since the nearest City park is across Circle Blvd which is 4 lanes wide and has a speed limit of 35 mph. We also want it to help buffer the noise from Circle Blvd with a fence. We have two rentals across the street from our bedroom windows whose residents come and go when we’re sleeping. Their car lights shine in our bedroom windows and they slam their car doors outside our bedroom windows while we’re sleeping. We want Comprehensive Policy **9.3.7** “To the maximum extent possible in residential areas, glare from outdoor lighting shall be shielded and noise shall be limited.” considered too. We have had many instances of large scary dogs loose in the neighborhood. I want a tall fence to keep them out of my yard. We’ve had stuff thrown at our windows in the middle of the night and a tall fence shielding the windows will make a smaller target. Crime is becoming a concern. A block away a few renters participated in a home invasion of another house nearby. The point to this discussion is that we are having “livability” issues and are discussing moving. The Comprehensive Plan Policy should be followed when making land use decisions such as whether a property owner is allowed a fence in the setback if it will improve the livability.

Grounds # 3

Applicant was not allowed a regular rebuttal.

Argument for grounds # 3: I was denied my right to a regular rebuttal as specified **2.0.50.06 (I)** "Rebuttal testimony may be presented by persons who have testified.", but I was only allowed a comment and a question. This is a snippet of my transcription of the LDHB tape. This exchange takes place at the beginning of side B of my tape which would put it just past the 45 minute mark.

Chair Bird to Applicant Smith: ...So if you would like to make a comment or um something in regard to that...

Board Member Reese to Chair Bird: [Hard to make out on my copy of the tape] He asks something about rebuttal. [The City needs to transcribe the statements from Board Member Reese]

Chair Bird to Board Member Reese: It's not really a rebuttal per se, but this is something we've done...

I was allowed to correct one of Assistant Planner Latta's statements about fences to code in the area and indirectly pose a question about the RS-3.5 setbacks. According to Chair Bird I wasn't really given a rebuttal per se, but I was entitled to one.

Grounds # 4

There is a question of impartiality.

Argument for grounds # 4: There appears to be an issue that raises the question of a board member's impartiality from my point of view. Usually biases of this nature are involuntary meaning the person is unaware of the bias, and I think this is the case here. Assistant Planner Latta decided to make the case that fences of the type I'm proposing are unusual in my neighborhood, and he showed fences in the "Comprehensive Neighborhood". If my fence was allowed, it could set a precedent for the "Comprehensive Neighborhood". One of the examples of fences shown to code even though it doesn't meet the code today was on Elmwood. A public record search reveals that LDHB Member Reese owns a property right across the street and over one to the east from this lot. I would normally not consider this my neighborhood or even that the board member's property was like mine, but staff brought it up. The board member later said in deliberations the description of my property was like 80% of properties in Corvallis and seemed concerned about setting a precedent. These quasi-judicial hearings need to be free of any biases that could cast doubt on the vote. This decision was decided by one vote. While I personally think the fence or one like it would improve property values in the neighborhood, I would have less doubt about impartiality if in the interest of full disclosure the board member would have mentioned he owned a property across the street from one staff presented as similar to mine.

Grounds #5

The board due to their lack of diversity may have an implicit bias.

Argument for grounds # 5: I'm concerned about the diversity of the LDHB and wonder if there aren't some implicit biases against those who live in other parts of Corvallis. A public records search reveals all board members live in Corvallis Ward 8. The public record lists their properties in various Timberhill plats making them all members of homeowner associations. Two live on the same street. It really begs the question of who appointed whom? Why are those who make decisions about what property owners can and cannot do all from the same neighborhood? Can a property owner get an unbiased hearing with such a makeup? See attachment A.

Grounds # 6

The City failed to follow its own guidelines.

Argument for grounds # 6: In the CCI brochure "CORVALLIS LAND USE DECISIONS Tips for Providing Effective Testimony" it says "Contact the Planning Division ahead of time if you need a projector." I talked to Assistant Planner Latta about using the City's projector for my presentation. I asked about what resolution I should set my laptop to as we talked on the phone, and I thought it was all taken care of. The day before the hearing Assistant Planner Latta called and said essentially he didn't want to share the projector. He first said something about viruses, and I explained I would only be sending a 1024 x 768 video signal to it. I told him I would go home at lunch to get my laptop and bring it over to assuage any fears he might have about it. He then pointed to the manual which said something about switching off the peripherals before connecting them to the projector. I decided I'd better scramble and try to locate one. Luckily I found one. The interesting thing is when it came time for his presentation he didn't power down his laptop before he connected it the projector. My point here is the City didn't follow their own policy when it came to helping the public with their presentation. This scrambling for a projector the day before the hearing cost me valuable preparation time, and was one more thing to worry about.

Grounds # 7

The City isn't neutral about this Fence LDO.

Argument for grounds # 7: Staff made the wrong recommendation to the board with biasing language when they are supposed to remain neutral. They don't offer suggestions to what the property owner could do to compensate for the variation or provide ideas how to help with the livability issues through development options. They only speak negatives about fences and not about the positive aspects of fences. This made the deliberations difficult for the board when they should have been easy. They call the fence a "barrier" and an "imposing structure" in a biasing fashion. They say aesthetic appeal is highly subjective and is not a compensating factor. Just because you can't quantify the aesthetic value of something like a fence or a tree doesn't mean it can't be a compensating factor. The Comprehensive Plan findings discuss open space and aesthetics. The whole point of open space is that it has an aesthetic value as stated in Comprehensive Plan Finding: *5.5.e* "*Studies in the United States have demonstrated that open space has both aesthetic and economic value (Lincoln Institute of Land Policy, Municipal Open Space Acquisition, Resources Manual (1997); Economic Benefits of Land Protection, Land Trust Washington, DC (1994); The Effect of Greenways on Property Values and Public Safety, The Conservation Fund, Colorado State Parks (March 1995)).*" I'm just trading one thing of aesthetic value with another. The thing about open space is that it is a double-edge sword. My yard has so much open space it could be said it needs to be

reduced to better fit in with the character of the neighborhood. The SW corner of the house is setback over 45 feet from the sidewalk. This means it has a huge front yard that is out of character with the neighborhood and perhaps the open space should be reduced. The Comprehensive Plan in Chapter 9 makes the point open space isn't always good and narrow streets with less open space have some advantages.

Comprehensive Findings and Policies from Chapter 9 of the comprehensive code that speak to why open space isn't all good:

9.2.y Research suggests that many benefits may be derived from the implementation of standards that promote or require more narrow streets in new development.

vii. Narrow streets encourage more cautious driving and slower speeds by eliminating the "speedway" feel of wide streets in residential areas. The more intimate feeling created by narrower residential streets serves as an additional indicator to drivers that they are in a neighborhood.

Policy 9.2.5 Development shall reflect neighborhood characteristics appropriate to the site and area. New and existing residential, commercial, and employment areas may not have all of these neighborhood characteristics, but these characteristics shall be used to plan the development, redevelopment, or infill that may occur in these areas. These neighborhood characteristics are as follows:

K. Neighborhoods incorporate a narrow street standard for internal streets which slows and diffuses traffic.

L. Neighborhood building and street proportions relate to one another in a way that provides a sense of enclosure.

It appears a fence can create a more intimate feeling and provide an indicator that drivers are in a neighborhood, by creating less open space. The fence will help the structure on the property relate to the street proportion to provide a sense of enclosure which the policy desires.

A Comprehensive Plan policy in chapter 9 recommends reduced setbacks in residential neighborhoods suggesting more open space isn't always desired.

Policy 9.2.7 To facilitate neighborhood-oriented development, the Land Development Code shall include provisions for:

A. Reduced setbacks and minimum lot size requirements in residential districts;

The point of this argument is staff appears to have a bias against the fence and didn't bother to mention the positive aspects the fence can contribute towards helping follow policies even though there is much to choose from in the Comprehensive Plan. I don't understand why staff can't seem to recognize there are positives with a fence. Anything that helps slow down traffic on my street is a positive. One board member even admitted to using Maple as a cut through to Garryanna since there is a turn lane off Circle for 17th. You would have to read a transcript of the hearing rather than the minutes for this detail. The fence allows a more efficient use of the lot and there are many ways that fences compensate for the deviation by helping with other policies in the Comprehensive Plan. I just wish the staff would take a neutral position and list both the positive and negative aspects of fences.

A Statement of as to How You are the Affected Party

LDC 2.19.30.03 (a) states who can appeal as "The applicant or the applicant's authorized agent." I am the applicant.

Summary

I thought I would get a fair and unbiased hearing. I could go on and on, but I think you get the point. I spent \$856 for a simple fence LDO. I've could have built this fence in Portland with only a structural permit. In Salem, it would have needed to be set 10 feet back with only a structural permit. In Corvallis, it now requires a \$2000 fee and a public hearing. Why can't this be streamlined? Why can't I build this fence? When the decision was reached and the board had spoken, I felt bamboozled. The deck was stacked. I never had a chance. I want my \$856 back and the appeal fee waived. The City can't see the forest for the trees and was so caught up with the details why the fence shouldn't be built they forgot about the prime directive of the Comprehensive Plan -- "to maintain and improve the existing quality of life" which is what I'm trying to do with this fence.

Filing Fee of \$250.00

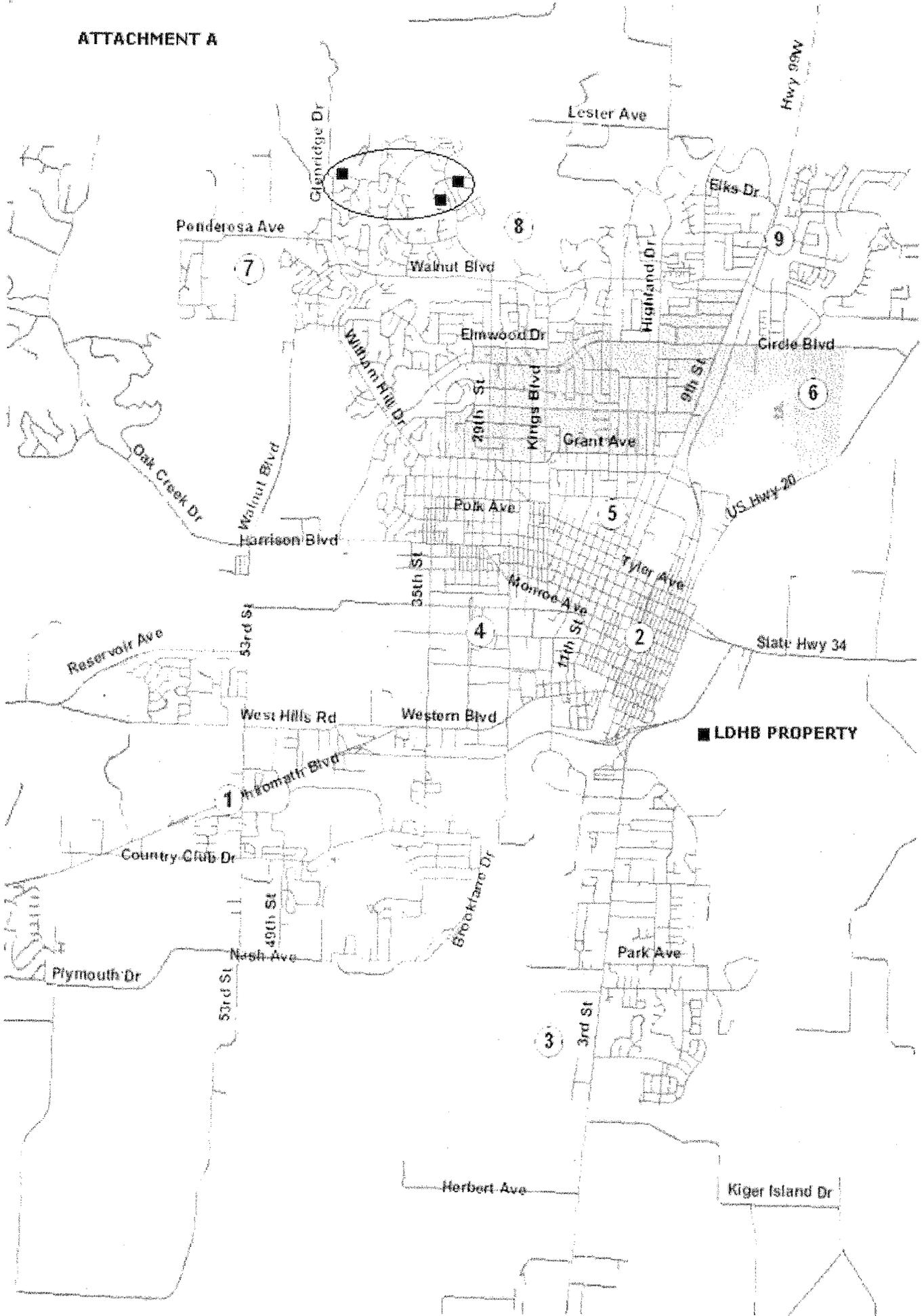
Please find a check to the City of Corvallis for the amount of \$250.00 attached.

Sincerely,

Sean K Smith

"...no code is perfect. A man must conform with judgment and common sense, not with blind obedience." -Robert A. Heinlein, *Starman Jones* (New York, Pocket Books, 1953)

ATTACHMENT A



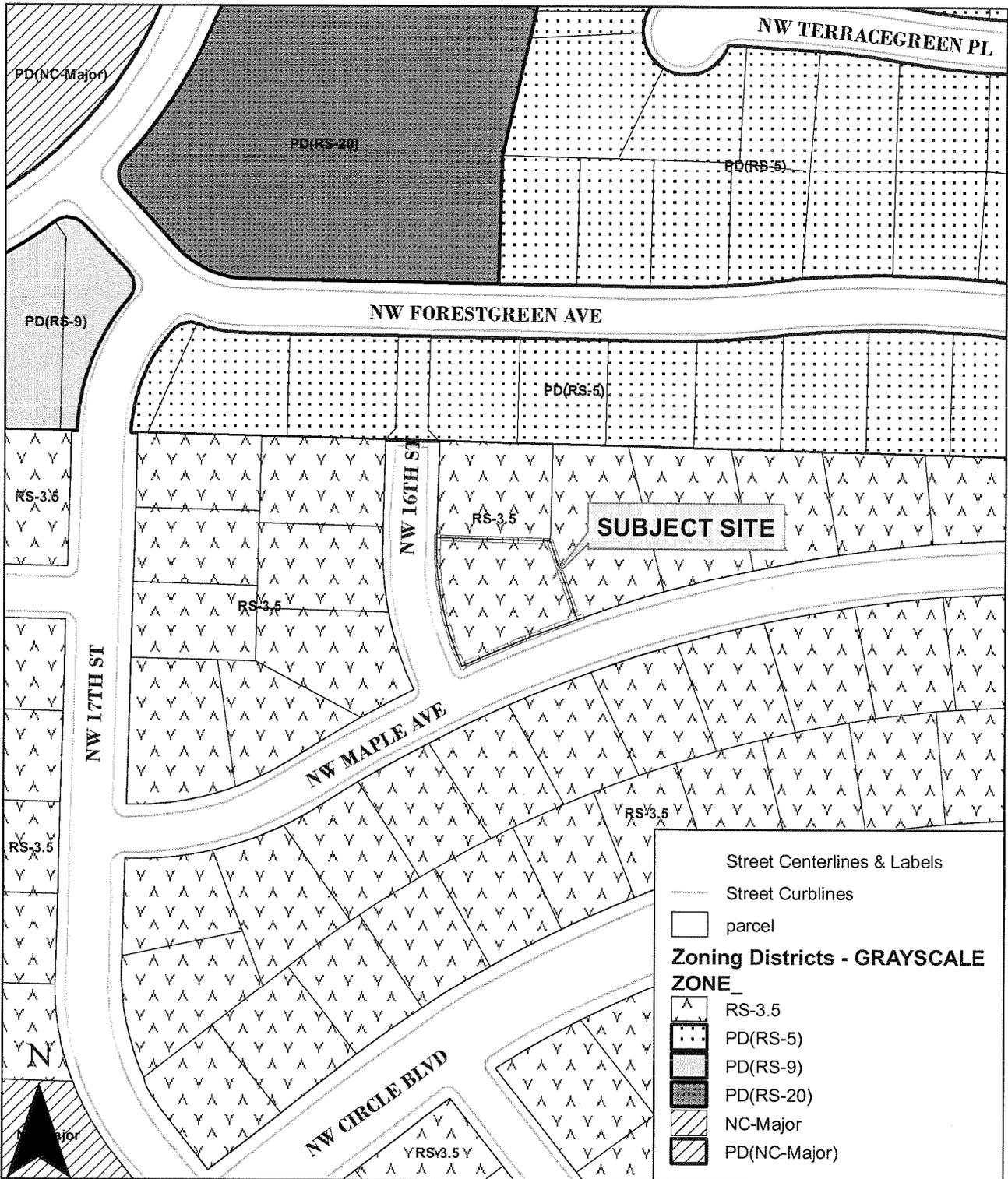
Comprehensive Plan Map



Appeal of LDO09-00016
EXHIBIT III.1

2215 NW 16th Street
LDO09-00016
ATTACHMENT A.1

Zoning Map



Appeal of LDO09-00016
EXHIBIT IV.1

2215 NW 16th Street
LDO09-00016
ATTACHMENT B.1

City of Corvallis
Community Development Department
STAFF REPORT
January 14, 1983

CASE CDH-82-15

REQUEST Approval of a Home Occupation at 2215 NW 16th Street to allow the applicant to start a computer "programming, operations and consulting" business.

APPLICANT Thomas R. Amoth
2215 NW 16th Street
Corvallis, OR 97330

LOCATION 2215 NW 16th Street
Assessor's Map No. 11-5-26BB, Tax Lot 1900

DEVELOPMENT RS-3.5 (Low Density Residential)
DISTRICT

CRITERIA, DISCUSSION AND CONCLUSIONS

Approval of a Conditional Development for a Home Occupation may only be made when the Community Development Director finds all of the below criteria have been met.

- a. "The occupation or profession shall only be conducted by a member or members of the family residing on the premises;"
- b. "No sign is used other than a name plate not over two square feet in area, in accordance with the City of Corvallis' Sign Ordinance;"
- c. "There is no display that will indicate from the exterior that the building is being used in whole or in part for any purpose other than a dwelling;"
- d. "There is no outside storage of materials;"

The applicant has stated that he will be the only person conducting the business. The proposed use will not require any alteration of the existing structure. No sign will be needed and there will not be any outside storage of materials.

- e. "No more than six children in addition to resident family members may be cared for as a Home Occupation;"

This criteria is not applicable since no day care is proposed.

- f. "The amount of commercial activity is not equivalent in intensity to that which is permitted in a commercial district;"
- g. "The building retains the characteristics of a residence;"
- h. "The use will not cause excessive or extraordinary traffic in the vicinity caused by deliveries, pick-ups, parking, or other activities;"
- i. "Noise, smoke, or odors are not in excess of those created by normal residential use."

With expectations of less than one customer per day, this business activity will not be equivalent in intensity to normal commercial activity. The applicant's microcomputer will be located inside the dwelling and will not require any change to the exterior of this residence, nor will it cause any excessive noise, smoke or odors.

Since most business activity will occur by phone or mail, this Home Occupation will not cause excessive traffic in this vicinity.

DECISION

Based upon the facts established through contact with the applicant and discussion above, it is the decision of the Community Development Director that the request for a Home Occupation be granted. Approval of the Home Occupation is limited to this application and use. If conditions change or if any person, other than the applicant, desires to continue this use, a new Home Occupation application is required in accordance with the Land Development Code.

The applicant should be aware that three complaints filed in writing concerning conditions (f) through (i) will initiate a review of this decision. Such a review will be held by the Land Development Hearings Board and may result in revocation of this approval.



Corvallis Land Development Hearings Board
Staff Report to the LDHB
LDHB Hearing: February 17, 2010
Report to Copiers: February 5, 2010
Staff: Brian Latta, Assistant Planner

TOPIC: Major Lot Development Option (LDO)

CASE: 2215 NW 16th Street (LDO09-00016)

REQUEST: The applicant requests approval of a Major LDO to vary from the height standard for fences located in yards adjacent to a street. The Land Development Code (LDC) standard limits fences in yards adjacent to a street to three ft. in height. The applicant requests a 166 percent variation to construct an eight ft. tall fence, the first seven ft. of which are solid and the top one ft. of which is a trellis.

APPLICANT: Sean Smith
2215 NW 16th Street
Corvallis, OR 97330

OWNER: Belen Smith
2215 NW 16th Street
Corvallis, OR 97330

LOCATION: The subject site is located at 2215 NW 16th Street and is identified on Benton County Assessor's Map 11-5-26 BB as Tax Lot 1900.

COMP PLAN DESIGNATION: Residential - Low Density

ZONING DESIGNATION: RS-3.5 Low Density Residential

PUBLIC COMMENT: On January 27, 2010, 141 notices were mailed. As of February 5, 2010, no comments were received.

ATTACHMENTS: A. Comprehensive Plan Map
B. Zoning Map

Appeal of LDO09-00016
EXHIBIT VI.1

- C. Existing Conditions Map
- D. Staff Report for CDH82-00015
- E. Applicant's Application Narrative and Graphics
- F. Applicable Review Criteria

SITE AND VICINITY

The subject site is located at 2215 NW 16th Street, which is at the northeast corner of the intersection of NW 16th Street and NW Maple Avenue (**Attachment C**). The site is roughly .25 acres in size, and is currently developed with a single family residence. The subject application is for an LDO to vary from one LDC standard to accommodate the construction of an eight ft. tall fence, of which the top one ft. is a trellis.

The subject site has a Comprehensive Plan designation of Low Density Residential (**Attachment A**). Consistent with the Comprehensive Plan, the subject site is zoned RS-3.5 Low Density Residential (**Attachment B**). All of the abutting and adjacent properties have the same Comprehensive Plan designation and are within the same zoning district. The neighboring land uses are primarily single family detached residential dwellings.

The site does not contain any mapped Natural Features or Natural Hazards.

CRITERIA, STAFF REPORT FORMAT, AND ACTION REQUIRED

This report responds to Major LDO criteria and applicable LDC Standards. The adoption of the 2006 LDC fully implements the Comprehensive Plan, as acknowledged by the Department of Land Conservation and Development (DLCD). Therefore, Comprehensive Plan Policies will be addressed in this report only to the extent that they clarify any ambiguities regarding LDC standards or address any variations from those standards.

This report will address the applicable review criteria and development standards of the LDC. Based on the analysis and conclusions reached in the staff report, the Land Development Hearings Board is asked to either approve the request, approve the request with conditions, or deny the request.

FINDINGS

1. Previous Reviews and Approvals
1983 - On January 14, the Community Development Director approved a Conditional Development Permit for a Home Occupation (**Attachment D**). The business is no longer operated from the home and no conditions of approval are associated with the subject approval. Therefore, staff find the current LDO application is not subject to Conditional Development review and approval.
2. PROPOSAL
The applicant requests approval of a Major LDO to vary from one LDC standard involving fence height. Section 4.2.50.a limits the height of hedges, fences, and

walls within a required yard adjacent to a street to three ft. in height (**Attachment F.5**). The applicant proposes to construct an eight ft. tall wood fence, the top one ft. of which is an attached trellis. The fence will be located on the on the south side of the lot parallel with NW Maple Avenue. It is proposed to be set back three ft. from the edge of the sidewalk, with alternating three ft. off-sets every six lineal feet. At a point roughly 54 ft. west from the southeast corner of the lot, the fence will transition from the sidewalk diagonally to the front southwest corner of the house. The proposed location of the fence is outside of the vision clearance area (**Attachment E.11**).

3. Determination of a Major Lot Development Option

2.12.30.03 - Determination of Lot Development Option Type - The Director shall determine whether an application qualifies as a Minor or Major Lot Development Option, as described in "a," and "b," below.

b. **Major Lot Development Option - A Major Lot Development Option is classified as Special Development and shall be processed consistent with this chapter. A Lot Development Option shall be considered Major if it:**

1. **Meets "c" - "e," below;**
2. **Exceeds the thresholds of a Minor Lot Development Option in "h," below; and**
3. **Falls within the thresholds in "i," below.**

c. **Unless otherwise stated in the following chapters, the Minor and Major Lot Development Option processes shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions.**

d. **Minor and Major Lot Development Option requests shall apply only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of Minor and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.**

e. **Whether a Lot Development Option request is Minor or Major, no more than a total of three variations may occur within a two-year period on the subject property(ies) and its parent recorded Partition, Replat, or Subdivision plat (the development-wide provision applies only to plats recorded after January 1, 2000). If a single lot is involved, variations of up to three different development standards may occur. If a development site includes plans for multiple lots through a Minor Land Partition or Tentative Subdivision Plat, and multiple variations are needed, up to three lots may be involved in variations from the same development standard or different development standards.**

h. **Minor Lot Development Option Thresholds -Minor Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that shall not exceed the thresholds listed below:**

12. **Increasing the fence height outside of Vision Clearance Areas by up to 33 percent;**

i. **Major Lot Development Option Thresholds -**

1. **Major Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that exceed the Minor Lot Development Option thresholds in Section 2.12.30.03.g, above; and**

2. **Major Lot Development Option requests may be filed only for residential uses on existing individual residentially zoned lots or parcels, or for individual residential lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process.**

The applicant's request is for one variation to the LDC on an existing residential property. The variation is not to the standards in LDC Chapters 4.5, 4.11, 4.12, and 4.13 noted above. The proposed variation to increase the allowed fence height by 166 percent, exceeds the 33 percent threshold in Section 2.12.30.03.h.12 (**Attachment F.2**). Because the proposed variation exceeds the 33 percent threshold in Section 2.12.30.03.h, staff find the proposal qualifies as a Major LDO.

4. Major Lot Development Option Review Criteria
2.12.30.06 - Review Criteria

b. **Major Lot Development Option - A Major Lot Development Option shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, other applicable policies and standards adopted by the City Council, and the following criteria:**

1. **The proposal is consistent with Section 2.12.30.03.b, c, d, e, g, and i;**

As noted Above under Finding 3, the proposal is consistent with Section 2.12.30.03.b,c,d,e,g, and i (**Attachment F.2**).

2. **The proposal is consistent with "a.2" through "a.11," above; and**

The criteria in "a.2" through "a.11" are analyzed separately below.

a. **Minor Lot Development Option - With respect to the requested variation, a Minor Lot Development Option shall be reviewed to determine if the following criteria have been met:**

2. **The land use for the proposed development is allowed in the underlying zone;**

The subject site is located in the RS-3.5 Low Density Residential Zone (**Attachment B**). Per Section 3.1.20.01.b, other development customarily incidental to the primary use on the site is permitted outright in the zone, in accordance with Chapter 4.3 - Accessory Development Regulations (**Attachment F.5**). According to Chapter 4.3, fences are considered accessory development, and are subject to the standards in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting (**Attachment F.7**). The applicant's proposal is to accommodate the construction of a fence, and therefore, is permitted outright in the zone and subject to the standards in Chapter 4.2 of the LDC. Staff find the criterion is met.

3. **The proposed development falls within the minimum and maximum density requirements for the underlying zone;**

The site is roughly 0.25 acre and has a density range of one to two dwelling units. The site contains a single family residence, and the applicant's proposal does not alter the existing density on the site. The proposal is consistent with the density requirements of the RS-3.5 Zone.

4. **All structures comply with Building and Fire Codes and Vision Clearance requirements established by the City Engineer;**

The construction of the fence would require building permit approval. The site plan has been preliminary reviewed by City staff and no major building permit issues have been identified. If the Land Development Hearings Board decides to approve the subject application, then a Condition of Approval is recommended to ensure all building plans be submitted to the Development Services Division for review and approval prior to constructing the fence.

The applicant provided a site plan with sight lines from the intersection. The fence is proposed to be located outside of the vision clearance area. Staff find the criterion could be met with a condition of approval for the construction of the fence.

5. **The proposed development is not contrary to the background and purposes in Sections 2.12.10 and 2.12.20 and any other applicable policies and standards adopted by the City;**

The background and purposes of an LDO, as described in Chapter 2.12 of the LDC, are as follows:

Section 2.12.10 - BACKGROUND

A Lot Development Option provides a means to obtain, within specified thresholds, variations from some clearly measurable, numerically quantifiable development standards. The Lot Development Option exists for those circumstances where uniform, unvarying rules would prevent a more efficient use of a lot or parcel, prevent better preservation of Significant Natural Features, and/or prevent innovation in site planning and architectural design.

A typical example is permitting a structure to be located closer to a property boundary than normally allowed by the zone regulations.

A Lot Development Option applies only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of a Minor and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.

Unless otherwise stated in the following chapters, the Lot Development Option process shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Requests for variations to the requirements in Chapter 4.0 - Improvements Required with Development shall be processed as a Major Lot Development Option.

Section 2.12.20 - PURPOSES

Procedures and standards for the review of Lot Development Options are established in this Chapter for the following purposes:

- a. Permit efficient use of land;
- b. Provide flexibility and innovation in site planning and architectural design on individual lots;
- c. Encourage construction techniques and allow building locations that conserve energy;
- d. Minimize procedural delays and ensure due process in the review of unique development situations;
- e. Provide an avenue for better preservation of Significant Natural Features; and
- f. Provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

The Lot Development Option exists for those circumstances where uniform, unvarying rules would prevent a more efficient use of a lot or parcel, prevent better preservation of Significant Natural Features, and/or prevent innovation in site planning and architectural design. The proposal does not involve the preservation of Significant Natural Features and/or innovation in site planning and architectural design. The applicant states that allowing the higher fence would provide the residents with additional privacy, and a safe playing area for children, thereby

allowing more efficient use of the subject lot. Given the above, the proposal could be considered to be consistent with the Background statement in Section 2.12.10.

The purposes for a Lot Development Option, contained in Section 2.12.20, include permitting efficient use of land, providing flexibility and innovation in site planning and architectural design on individual lots, encouraging construction techniques and allow building locations that conserve energy, minimizing procedural delays and ensuring due process in the review of unique development situations, providing an avenue for better preservation of Significant Natural Features, and providing benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met (**Attachment F.4**). As mentioned, the applicant states that allowing the higher fence will allow the residents to have a safe fenced in yard for their family use and will provide additional privacy, thereby allowing more efficient use of the subject lot. The proposal does not involve energy conservation construction techniques, minimizing procedural delays, preservation of Significant Natural Features, and/or innovation in site planning and architectural design. Therefore, those particular purpose statements are not applicable to this project. Given the above, the proposal could be considered to be consistent with the purposes in Sections 2.12.20.a-e.

Purpose statement 2.12.20.f, requires benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met (**Attachment F.2**). Review criterion 2.12.30.06.a.11 addresses this same topic of compensating benefits (**Attachment F.4**). A full evaluation of this subject is contained below under the discussion for Section 2.12.30.06.a.11. In summary, staff found the proposal does not provide compensating benefits such that the intent of the development standard is still met. The analysis and conclusions under Section 2.12.30.06.a.11 are incorporated as findings here by reference. Staff find the applicant's proposal is inconsistent with Section 2.12.20.f.

6. **The proposed development does not substantially reduce the amount of privacy enjoyed by users of neighboring structures when compared to development located as specified by this Code;**

The eight ft. tall fence will not substantially reduce the amount of privacy enjoyed by users of neighboring structures. The criterion is met.

7. **The proposed development does not adversely affect existing physical and natural systems, such as traffic, drainage, dramatic land forms, or parks, nor adversely affect the solar access potential for abutting properties when compared to development located as specified in this Code;**

The proposed fence does not adversely affect existing physical or natural systems, drainage, dramatic land forms, or parks, nor adversely affect the solar access

potential for abutting properties. The fence is proposed to be located outside of the vision clearance areas on the site, and thus will not adversely affect the existing traffic system. The criterion is met.

8. **Where architectural features are involved, the proposed development is compatible with the design character of existing structures on adjoining properties;**

Fences are not considered architectural features. No changes are proposed to the architectural features of the existing residence. The criterion is satisfied.

9. **Where variations are proposed to Chapter 4.10 - Pedestrian Oriented Design Standards, the proposed development implements the purpose(s) of that chapter through inclusion of additional benefits to the pedestrian environment that compensate for the requested variations from development standards;**

The applicant does not propose to vary from any of the Pedestrian Oriented Design Standards in Chapter 4.10. Because no variations are proposed to Chapter 4.10, the applicant is not required to provide additional benefits to the pedestrian environment for such variations.

10. **Preservation and/or protection of Significant Natural Features is achieved, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets are also designed along contours, and structures are designed to fit the topography of the site to ensure compliance with these Code standards; and**

There are no mapped Significant Natural Features or Natural Hazards on the development site. Therefore, the application does not impact any Significant Natural Features or Natural Hazards regulated by the above listed LDC Chapters. The criterion is met.

11. **The proposed development shall provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.**

The applicant requests one variation. The following discussion identifies the standard being varied, the intent of the standard, the proposed variation, the applicant-proposed compensating benefits, and staff's analysis of the request.

Code Variation Requested

Section 4.2.50.01.a limits the height of hedges, fences, and walls to three ft. when those screening features are within any required yard adjacent to a street (**Attachment F.5**). The applicant proposes a 166 percent variation to this height standard to construct an eight ft. tall fence. The fence height includes a one ft. tall trellis that will be placed on top of the seven ft. tall solid portion of the wood fence.

The intent of limiting fence heights in yards adjacent to streets is to provide open spaces between tall fences and streets. The open spaces increase pedestrian safety, neighborliness, and enhance the overall pedestrian environment.

Compensating Benefits

In the narrative, the applicant provided a discussion on how the fence will provide benefits to the neighborhood. The applicant's discussion of the compensating benefits is broken down individually by benefit. They are:

- I. The fence fosters neighborhood interaction and better neighbor relations.

The applicant says, "anything new in our neighborhood fosters interaction with neighbors, so this fence will do that if only for a short time. The proposed trellis with vines will renew the interaction as it flowers each year. Keeping the kids out [of] the street promotes better neighbor relations as does keeping the neighbors dogs out of my yard." (**Attachment E.5**)

- II. Safety for residents will be increased.

The applicant says, "safety will be increased by keeping the kids out of the street and the pit bulls out of my yard." (**Attachment E.5**)

- III. The fence will enhance visual aesthetics

The applicant says, "a tall fence helps obscure an untidy yard full of various toys of the children and certainly a nice fence with a flowering vine is more pleasant to look at albeit not as interesting," and "although open space will be reduced, the proposed fence with a trellis will be less monotonous than a patch of bark dust and be more pleasant to drive or walk by." (**Attachment E.5**)

Analysis

As noted above, the intent of the fence height standard is to provide an open space between tall fences and sidewalks. This open space provides better pedestrian safety, neighborliness, and enhances the pedestrian environment. To better

understand the context and intent of the development standard, the following Comprehensive Plan policies will be discussed:

- 5.2.3 The City shall develop standards which ensure adequate open space and landscaping on residential, commercial, and industrial developments, and shall maintain these standards in the Land Development Code.
- 9.2.1 City land use decisions shall protect and maintain neighborhood characteristics (as defined in 9.2.5) in existing residential areas.
- 9.2.4 Neighborhoods shall be pedestrian-oriented. Neighborhood development patterns shall give priority considerations to pedestrian-based uses, scales, and experiences in determining the orientation, layout, and interaction of private and public areas.
- 9.2.5.1 Neighborhoods have public areas that are designed to encourage the attention and presence of people at all hours of the day and night. Security is enhanced with a mix of uses and building openings and windows that overlook public areas.
- 11.6.1 The City shall require safe, convenient, and direct pedestrian routes within all areas of the community.

Policy 9.2.1 states that land use decisions have an important role in maintaining and protecting neighborhood characteristics in existing residential areas. In the general vicinity of the site, corner lots tend to preserve the 20 ft. side yard in open space, consistent with policy 5.2.3. Fences constructed in the side yards are generally aligned with or near the house and extend to the rear property line, or are within the acceptable height limits as described in the LDC (**Attachment F.5**). The proposed fence is not consistent with other side yard fences in the general vicinity of the site, because it would extend away from the existing residence to within three ft. to six ft. of the sidewalk and would be eight ft. tall.

Policy 11.6.1 states that the City shall require safe and convenient pedestrian routes within all areas of the community. To increase the security of public spaces and the neighborhood in general, policy 9.2.5.1 indicates that public areas, such as sidewalks, be designed to encourage the attention and presence of people at all hours of the day and night. The proposed fence would obscure views of the public sidewalk from the existing residences which decreases the safety and security of the sidewalk along the fence. Therefore, the proposed fence is inconsistent with policies 9.2.5.1 and 11.6.1. Additionally, policy 9.2.4 states that neighborhoods shall be pedestrian-oriented and that development patterns should give priority to pedestrian-based uses in determining the orientation, layout and interaction of private and public spaces. The proposed fence is the element that provides the interaction between the private and public space. Staff find that a 166 percent variation in fence height within three ft. of a public sidewalk is not consistent with policy 9.2.4, because it does not provide an interaction, but rather a barrier between the private and public spaces.

Summary

The applicant's benefits listed above do not compensate for the requested variation such that the intent of the standard being varied is still being met. The proposed fence would decrease the safety and security of the public and private spaces associated with the development. The interaction between neighbors is limited to the short-term as described by the applicant, while the long-term effect is a barrier to neighborly interaction. The visual aesthetics should not be considered as a compensating benefit, because aesthetics is highly subjective and cannot be fairly judged. Additionally, when considering whether or not aesthetics are improved, the comparison cannot be the proposed fence verses the existing conditions, but rather the proposed fence verses the fence allowed by the standards in Section 4.2.50.01.a (**Attachment F.5-6**). Staff find per the LDC that a fence meeting the standards of the code would be more visually compatible with the existing development than a fence that did not meet the standards.

Given the above, staff find the proposed benefits do not adequately compensate for the variation such that the intent of the development standard is still met.

- 3. **With respect to the requested variations, the application demonstrates compatibility in the following areas, as applicable:**
 - a) **Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);**
 - b) **Visual elements (scale, structural design and form, materials, etc.);**

The subject property is a corner lot in a developed single family residential area. Most of the homes in the general vicinity do not include tall fences close to the street. The applicant's proposed fence is an eight ft. tall fence, the bottom seven ft. of which is solid and the top one ft. of which is a trellis. The fence contains three ft. off-sets every six lineal feet of the fence as it run parallel with the sidewalk, which does introduce visual interest to the fence. The fence would be set back three to six ft. from the back edge of the existing sidewalk. The proposed fence would establish an eight ft. tall visual barrier within the required 20 ft. side yard setback area. The proposed fence is not compatible with the open landscaped yards of the surrounding developed properties. Because the property is located in an existing low density residential neighborhood and all of the surrounding uses are single family residences, there is not a need to screen or buffer unsightly or incompatible views. The site's topography has a slight downward slope from the house to the sidewalk. Therefore the fence is not necessary to mitigate issues relating to privacy caused by the topography of the site. Staff find that the criteria in Section 2.12.30.06.b.3(a & b) are not met.

- c-d) **Noise attenuation, and Odors and emissions**
- e-f) **Lighting and Sinage**

The proposal will have no impact on noise, odors, lighting, or signage. Therefore, these criteria are met.

- g) **Landscaping for buffering and screening;**

The applicant proposes that the top one ft. of the fence accommodate a trellis. The trellis is intended to support flowering vines that would either be planted into the ground or planted in planter boxes that would be located within the six ft. set back areas between the fence and the sidewalk. The proposed flowering vines would provide visual interest and may decrease the scale of the portions of the fence that would be setback six ft. However, the portions of the eight ft. tall fence located within three ft. of the property line will continue to be an imposing structure near the public sidewalk, and not compatible with the neighboring properties. The criterion is not met.

- h) **Transportation facilities;**
- i) **Traffic and off-site parking impacts;**
- j) **Utility infrastructure;**

The installation of the fence would cause no off-site parking impacts. The fence is proposed to be located outside of the vision clearance area on the site. It appears the city's public waterline located in the Maple Avenue right-of-way may extend just north of the right-of-way line and onto the subject property. It appears the proposed fence location does not conflict with the existing waterline, however, if approved the applicant would be required by a condition of approval to identify the exact location of the public waterline, and construct the fence in such a way as to not cross over the existing waterline.

- k) **Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);**
- l) **Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and**
- m) **Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.**

The proposal introduces no impacts to utility infrastructure or effects on air and water quality. The Code provisions in Chapter 4.10 - Pedestrian Oriented Design

Standards do not address fencing because fences are considered accessory structures and are required to comply with the requirements of Chapter 4.2 - Landscaping, Buffering, Screening and Lighting. As noted above, the site does not impact Significant Natural Features or Hazards consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. The above criteria are met by the subject proposal.

Conclusion for Major Lot Development Option Review Criteria

Given the above discussion, staff determined the proposal was inconsistent with many of the review criteria in Section 2.12.30.06(a)(b) and policies of the Comprehensive Plan.

5. **Summary and Conclusion for Major LDO**

The subject proposal for the Major LDO is not consistent with the applicable Comprehensive Plan Policies, the background and purposes of Chapter 2.12, and the review criteria in Section 2.12.30.06.(a) and (b).

Based on the criteria, findings, and conclusions presented above, it is recommended that the Land Development Hearings Board deny the requested Major LDO application. A motion to deny would be based upon the criteria, discussions, and conclusions contained within the February 5, 2010, staff report to the Land Development Hearings Board, and upon the reasons given by the Land Development Hearings Board members during their deliberations on this application. A recommended motion is provided below.

Recommended Action for LDO09-00016

The Land Development Hearings Board has three options with respect to the subject applications:

- Option 1: Approve the applications as proposed;
- Option 2: Approve the applications with conditions; or
- Option 3: Deny the application.

Based on the analysis in this report, staff recommend the Land Development Hearings Board deny the application. If the Land Development Hearings Board accepts this recommendation, the following motion to deny is suggested:

Recommended Motion for LDO09-00016

MOTION: *I move to deny the 2215 NW 16th Street Major Lot Development Option permit number LDO09-00016. This motion is based on findings presented in the February 5, 2010, staff report to the Land Development Hearings Board, and findings made by the board during deliberations on the request.*

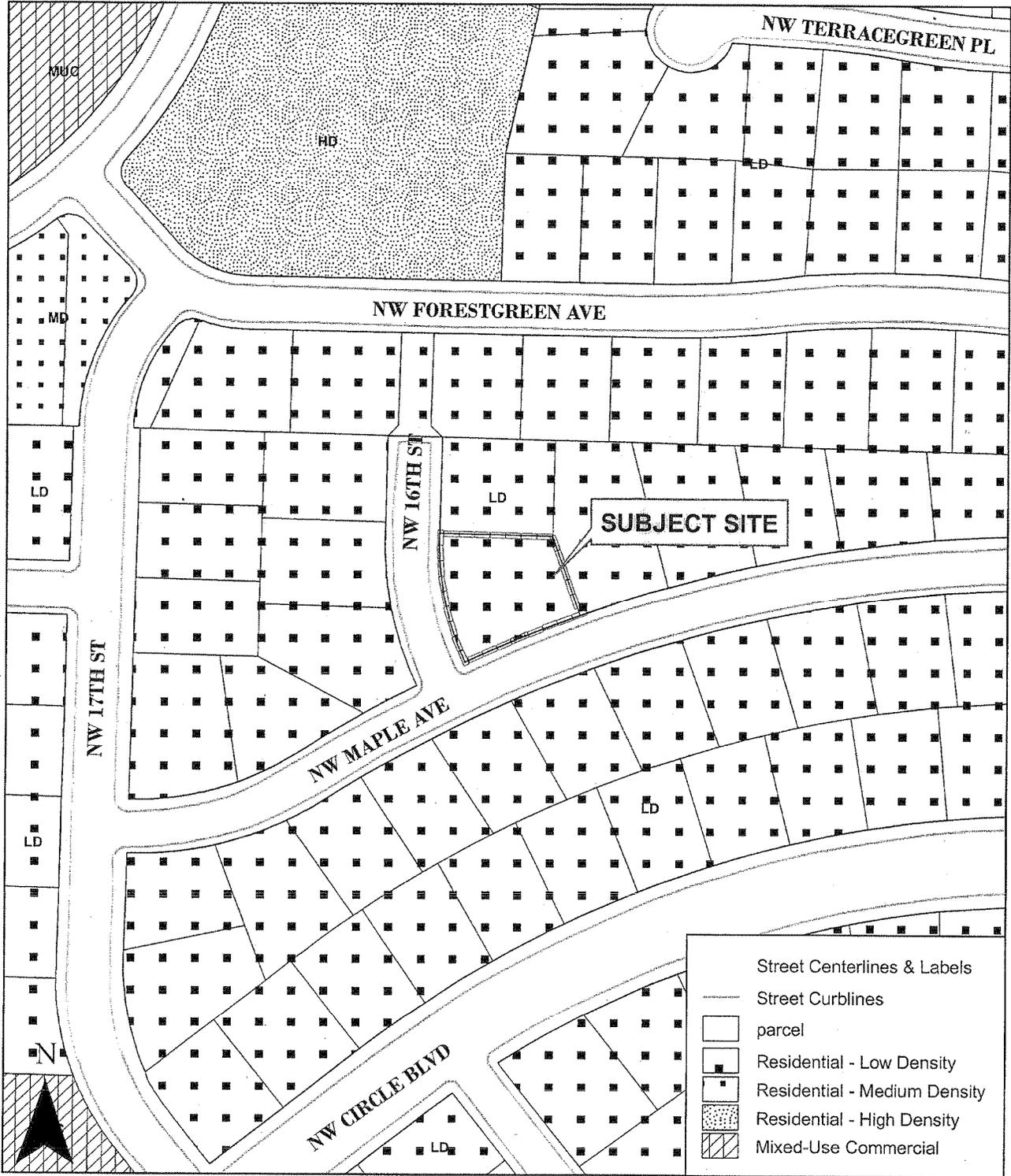
If the Land Development Hearings Board does not accept the staff recommendation for denial, it is recommended that the LDHB consider the following conditions of approval and alternative motion:

1. Building Permit - The applicant shall obtain a building permit prior to the construction of the fence.
2. Public Waterline - The proposed fence shall not be constructed over any public utilities, including the waterline located to the north of the NW Maple Avenue right-of-way. The applicant shall coordinate with the City of Corvallis Public Works department to determine the exact location of the existing waterline, prior to building permit approval.

Alternative Motion if the Land Development Hearings Board decides to Approve LDO09-00016.

MOTION: *I move to approve Major Lot Development Option number LDO09-00016, subject to the Conditions of Approval as stated in the February 5, 2010, staff report. This motion is based on findings presented in the February 5, 2010, staff report to the Land Development Hearings Board which support this decision, and findings made by the board during deliberations on the request.*

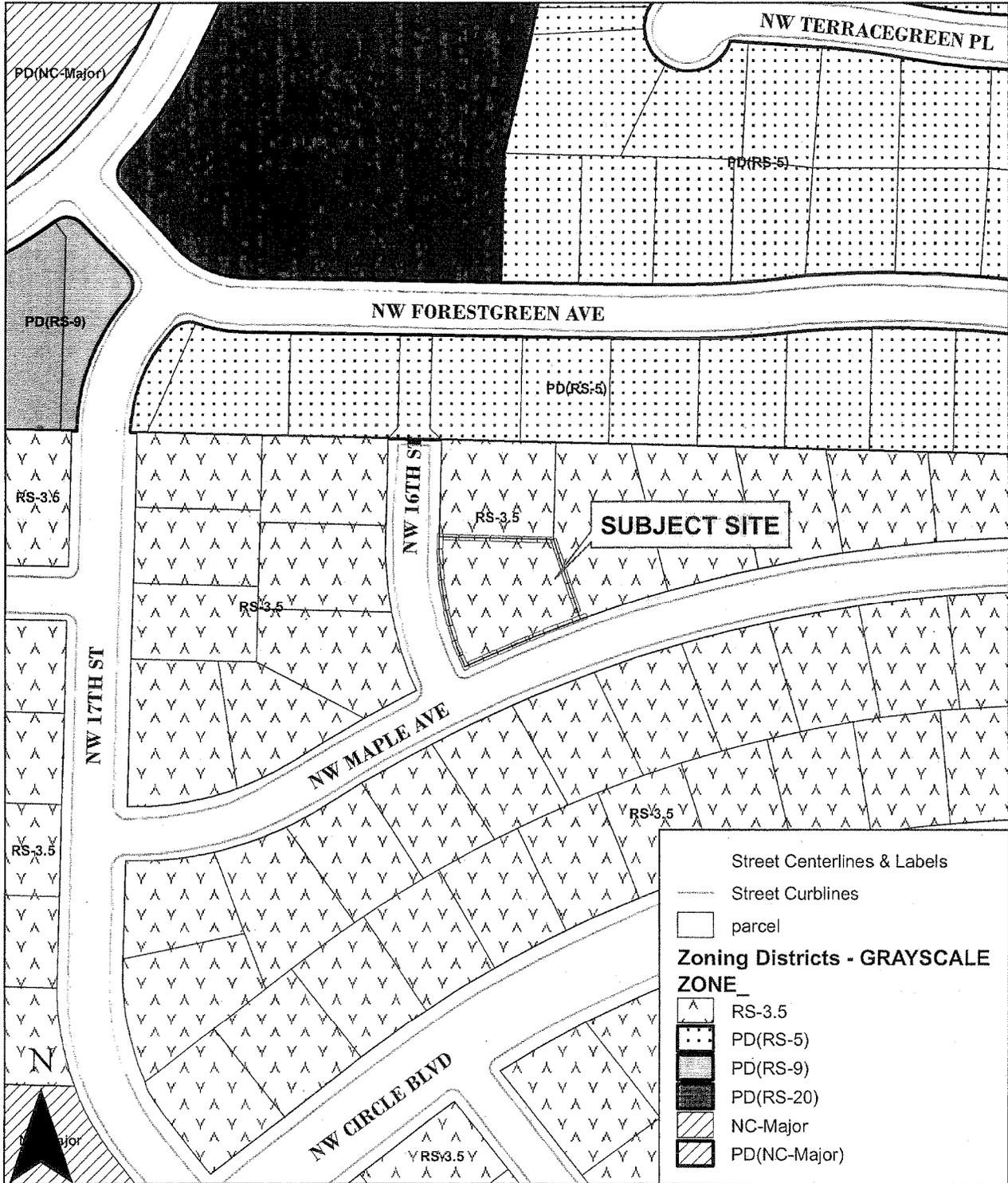
Comprehensive Plan Map



Appeal of LDC09-00016
EXHIBIT VI.15

2215 NW 16th Street
LDC09-00016
ATTACHMENT A.1

Zoning Map



Appeal of LDO09-00016
EXHIBIT VI.16

2215 NW 16th Street
LDO09-00016
ATTACHMENT B.1

Existing Conditions Map



Appeal of LDO09-00016
Exhibit VI.17

2215 NW 16th Street
LDO09-00016
ATTACHMENT C.1

City of Corvallis
Community Development Department
STAFF REPORT
January 14, 1983

CASE CDH-82-15

REQUEST Approval of a Home Occupation at 2215 NW 16th Street to allow the applicant to start a computer "programming, operations and consulting" business.

APPLICANT Thomas R. Amoth
2215 NW 16th Street
Corvallis, OR 97330

LOCATION 2215 NW 16th Street
Assessor's Map No. 11-5-26BB, Tax Lot 1900

DEVELOPMENT DISTRICT RS-3.5 (Low Density Residential)

CRITERIA, DISCUSSION AND CONCLUSIONS

Approval of a Conditional Development for a Home Occupation may only be made when the Community Development Director finds all of the below criteria have been met.

- a. "The occupation or profession shall only be conducted by a member or members of the family residing on the premises;"
- b. "No sign is used other than a name plate not over two square feet in area, in accordance with the City of Corvallis' Sign Ordinance;"
- c. "There is no display that will indicate from the exterior that the building is being used in whole or in part for any purpose other than a dwelling;"
- d. "There is no outside storage of materials;"

The applicant has stated that he will be the only person conducting the business. The proposed use will not require any alteration of the existing structure. No sign will be needed and there will not be any outside storage of materials.

- e. "No more than six children in addition to resident family members may be cared for as a Home Occupation;"

This criteria is not applicable since no day care is proposed.

2215 NW 16th Street
LDO09-00016
ATTACHMENT D.1

Appeal of LDO09-00016
EXHIBIT VI.18

CDH-82-15
STAFF REPORT
January 14, 1983

- f. "The amount of commercial activity is not equivalent in intensity to that which is permitted in a commercial district;"
- g. "The building retains the characteristics of a residence;"
- h. "The use will not cause excessive or extraordinary traffic in the vicinity caused by deliveries, pick-ups, parking, or other activities;"
- i. "Noise, smoke, or odors are not in excess of those created by normal residential use."

With expectations of less than one customer per day, this business activity will not be equivalent in intensity to normal commercial activity. The applicant's microcomputer will be located inside the dwelling and will not require any change to the exterior of this residence, nor will it cause any excessive noise, smoke or odors.

Since most business activity will occur by phone or mail, this Home Occupation will not cause excessive traffic in this vicinity.

DECISION

Based upon the facts established through contact with the applicant and discussion above, it is the decision of the Community Development Director that the request for a Home Occupation be granted. Approval of the Home Occupation is limited to this application and use. If conditions change or if any person, other than the applicant, desires to continue this use, a new Home Occupation application is required in accordance with the Land Development Code.

The applicant should be aware that three complaints filed in writing concerning conditions (f) through (i) will initiate a review of this decision. Such a review will be held by the Land Development Hearings Board and may result in revocation of this approval.



RECEIVED

DEC 31 2009

City of Corvallis - Planning Division
501 SW Madison Ave.
Corvallis, OR 97333
Telephone: (541) 766-6908
FAX: (541) 754-1792
Planning@ci.corvallis.or.us
www.corvallispermits.com

Lot Development Option Application

Community Development
Planning Division

Location / Description of Subject Property(ies)		
Street Address	2215 NW 16TH ST	
Benton County Tax Assessor Map	11526BB	Tax Lot(s) # 01900000
Subdivision Name or Partition #	HARMAN 4TH ADDITION	
Zone RS-3.5	Size (acres) 0.25	Density Range 2 du/ac - 6 du/ac
<input type="checkbox"/> Historic Overlay	<input type="checkbox"/> Natural Features	<input type="checkbox"/> Related Land Use Cases

Applicant Information		
Applicant(s) Name(s)	SMITH	SEAN K
	Last	First M.I.
<input checked="" type="checkbox"/> Same as Property Owner	2215 NW 16TH ST	
	Street Address	
	CORVALLIS	OR 97330
	City	State Zip Code
Phone #	766-6610	Email Address Smith.cvo@gmail.com
Contact preference ?	<input type="checkbox"/> mail	<input type="checkbox"/> phone <input checked="" type="checkbox"/> email

Property Owner Information (where different than Applicant)		
Property Owner(s) Name(s):	SMITH	BELEN C
	Last	First M.I.
	Street Address	
	City	State Zip Code
Phone #		Email Address
Contact preference ?	<input type="checkbox"/> mail	<input type="checkbox"/> phone <input checked="" type="checkbox"/> email
Property Owner(s) Signature(s)	Sean K. Smith, Belen C. Smith	Date 2009-12-31
(If Legal Representative: provide supporting documentation)		

Attachments (refer to the following pages)

corvallispermits.com

Track the status of your application
Visit corvallispermits.com and select "Check Case Status"

Appeal of LDO09-00016
EXHIBIT VI.20

2215 NW 16th Street
LDO09-00016
ATTACHMENT E.1

SEAN K SMITH

2215 NW 16TH ST
Corvallis, OR 97330
541-766-6610 Days
541-752-3185 Evenings
smith.cvo@gmail.com

December 30, 2009

City of Corvallis
Community Development Planning Division
501 SW Madison Ave
Corvallis, OR 97333

Subject: Narrative for Major Lot Development Option

Please accept this Major Lot Development Option (LDO) request for a fence located at 2215 NW 16TH ST, Corvallis, OR 97330. Below I will attempt to address all the aspects of the requested variation, the rationale behind the assumptions and choices made, and describe how the application meets the review criteria in the Section 2.12.30.06 of the Land Development Code (LDC).

Background

The property is on the northeast corner lot of NW 16TH St and NW Maple Ave at 2215 NW 16TH St. It is on the Benton County tax assessor map number 11526BB with tax lot number 1900. The parcel number in the Benton County assessor's system is 061527. The lot is in a RS-3.5 zoned neighborhood and is approximately 10,890 sq ft. We are requesting a variance of the LDC to construct a fence within the setback of the exterior side yard along Maple Ave outside the vision clearance area in order to make more efficient use of the lot along with other reasons.

We purchased the property in 2002 with the intent to construct a fence in the exterior side yard when we could afford it. The LDC which went into effect in 2006 changed the rules. We now have two children and would like a larger backyard for them to play in as the closest City of Corvallis park is Garfield on the other side of Circle Blvd. With the added annoyances of pit bulls that occasionally roam the neighborhood, rental houses across the street whose occupants keep irregular hours, and noise from Circle Blvd a block away, we want a fence that protects our children and pets, provides separation from a busy street, attenuates traffic noise, and creates privacy. We believe we can achieve this with our design while maintaining the livability of the neighborhood with a structure that enhances the appearance of the property by using attractive wood materials and flowering vines instead the bark dust that was originally there.

Proposed Construction

The fence will be entirely outside the vision clearance area of the lot. We are proposing a solid fence with 7 foot boards, 8 foot posts, and a trellis for support of a flower bearing vine. The fence will be setback 3 feet from the sidewalk to approximately match the width of the existing planting strip. It will be constructed with alternating 6 foot sections offset a further 3 feet to reduce "visual monotony" parallel to the sidewalk until the 54 foot mark from the southeast corner of the lot from which it will then run diagonal along the outside of vision clearance area to the southwest corner of the house.

LDO Request

Since I'm proposing increasing the allowed fence height by more that 33% outside of Vision Clearance Area this clearly requires a Major LDO.

2.12.30.06b. Major Lot Development Option - A Major Lot Development Option shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, other applicable policies and standards adopted by the City Council, and the following criteria:

1. The proposal is consistent with Section 2.12.30.03.b, c, d, e, g, and i;
→ The proposal does not involve a variation to development standards in Chapter 4.0 – Improvements Required with Development, so section 2.1230.03.g does not apply. The proposed fence height variation does not involve standards in LDC Chapters 4.5, 4.11, 4.12, or 4.13, so it is consistent with b and c. The proposal involves an existing residential property, so section d is met. The proposal involves a single residential lot and no previous LDO requests have be approved, so consistency with e and i are met.

2. The proposal is consistent with "a.2" through "a.11," above (2.12.30.6a); and

2.12.30.06a

2. The land use for the proposed development is allowed in the underlying zone;
→ The lot is in a RS-3.5 zone and this proposal is for a fence which is allowed.

3. The proposed development falls within the minimum and maximum density requirements for the underlying zone;
→ A fence won't change the density.

4. All structures comply with Building and Fire Codes and Vision Clearance requirements established by the City Engineer;
→ Before construction, the fence will require a building permit since it exceeds 6 feet in height. It is outside the Vision Clearance Area determined by the City Engineer.

5. The proposed development is not contrary to the background and purposes in Sections 2.12.10 and 2.12.20 and any other applicable policies and standards adopted by the City;

→ The lot has no Significant Natural Features on it. The fence will allow for a more efficient use of the property which has been either bark dust or a difficult to maintain weedy area. The increased height will provide a safer area for the kids to play in and hopefully keep them from playing in the street. A higher fence will make it more difficult for the pit bulls that live in the neighborhood to enter the yard where the kids play. The fence will help shield the house from the headlights of the occupants living in the rental units that keep irregular hours e.g. they come and go when we sleep with their headlights shining in our windows. The fence will help mitigate the noise from Circle Blvd which is a block away.

Even with the proposed fence, the lot will still provide more open space than any other lot in the neighborhood due to the generous front setback of the dwelling. This open space provided to the neighborhood compensates for any minor reduction of a currently poorly landscape section. The RS-3.5 standard of a 15-foot front yard setback while requiring a 20-foot exterior side yard setback where we propose the fence makes no rational sense. Personal observation of other fences and hedges in the City of Corvallis suggests the de facto standard is a 6-foot fence or hedge with no setback in exterior side yards, so this fence will not stand out as anything unusual. We feel the need to have a height of 7 feet for privacy and security due the slight slope of the lot from the dwelling toward the sidewalk. We feel the minimum proposed setback of 3 feet and along with the offsets which increase the setback to 6 feet in sections will provide a pedestrian friendly stretch of sidewalk adjacent to the largest amount of open space in the neighborhood.

Since this fence will be on the north side of the sidewalk where shadows will seldom be cast and outside the vision clearance area, any safety issues are imagined. With a generous front yard the part fence nearest to the sidewalk is 66 feet from the corner, so visibility to street traffic is a non-issue.

6. The proposed development does not substantially reduce the amount of privacy enjoyed by users of neighboring structures when compared to development located as specified by this Code;

→ The increased height of the fence if anything provides the neighbors with more privacy.

7. The proposed development does not adversely affect existing physical and natural systems, such as traffic, drainage, dramatic land forms, or parks, nor adversely affect the solar access potential for abutting properties when compared to development located as specified in this Code;

→ The proposed fence does not adversely affect physical and natural systems as specified in the code.

8. Where architectural features are involved, the proposed development is compatible with

the design character of existing structures on adjoining properties;
→ Fences do not qualify as architectural features.

9. Where variations are proposed to Chapter 4.10 - Pedestrian Oriented Design Standards, the proposed development implements the purpose(s) of that chapter through inclusion of additional benefits to the pedestrian environment that compensate for the requested variations from development standards;

→ I don't propose to vary from any Pedestrian Oriented Design Standards.

10. Preservation and/or protection of Significant Natural Features is achieved, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets are also designed along contours, and structures are designed to fit the topography of the site to ensure compliance with these Code standards; and

→ There are no mapped Significant Natural Resources on this lot. There are no Significant Natural Hazards on this lot. This proposal meets the criteria of section 10.

11. The proposed development shall provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

→ This where I have some issues with the standard, but I do believe the fence is a benefit for the area. The standard seems to try to legislate aesthetics which isn't a wise thing to do and base the standard on non-scientific "facts". Anything new in our neighborhood fosters interaction with neighbors, so this fence will do that if only for a short time. The proposed trellis with vines will renew the interaction as it flowers each year. Keeping the kids out the street promotes better neighbor relations as does keeping the neighbors dogs out of my yard. Although the last time I spoke with my neighbor whose property is adjacent to the fence was some 5 years ago when she mentioned the weeds in the area I propose to enclose, I do believe this will lead to better relations when I remove the laurel hedges encroaching on her property as part of the project not under the variance request. Although not the best reason, a tall fence helps obscure an untidy yard full of various toys of the children and certainly a nice fence with a flowering vine is more pleasant to look at albeit not as interesting. Safety will be increased by keeping the kids out of the street and the pit bulls out of my yard. Although open space will be reduced, the proposed fence with a trellis will be less monotonous than a patch of bark dust and be more pleasant to drive or walk by.

3. With respect to the requested variations, the application demonstrates compatibility in the following areas, as applicable:

a) Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);

→ There are properties in the surrounding RS-3.5 zoned neighborhoods with similar fences especially a block south of Circle Blvd where there are 6 foot hedges or fences adjacent to the sidewalk. The proposed fence is outside the vision clearance area, incorporates offsets, and is setback from the sidewalk.

b) Visual elements (scale, structural design and form, materials, etc.);

→ The proposed materials are solid wood similar to other fences in the area. The scale matches the large amount of the open space in the remaining side and front yard. Although it could be argued that open fences are desired, this is not necessary along this side of the street since both the sun and the streetlight shine on the sidewalk from the south and west. This fence is not along a pedestrian path that connects to other paths, but rather along an open street on a lot with an extreme amount of open space where the fence won't cast shadows. It will enhance the streetscape with flowers and character.

c) Noise attenuation;

→ One of the intentions of this is noise attenuation of the traffic on both Circle Blvd and Maple Ave. It will primarily help our lot, but probably the ones north of us as well.

d) Odors and emissions;

→ It will have no odor other than the scent from the flowering vines.

e) Lighting;

→ We have discussed installing solar powered post cap lights, but it is not in this proposal.

f) Signage;

→ N/A

g) Landscaping for buffering and screening;

→ Having lived here 7 years we know the quality of the clay soil in this area is limited to what it will support. We will need to amend the soil or grow the proposed vines from containers in the offsets.

h) Transportation facilities;

→ N/A

i) Traffic and off-site parking impacts;

→ N/A

j) Utility infrastructure;

→ N/A

k) Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);

→ N/A

l) Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
→ Fences are Accessory Structures are regulated by Chapter 4.2 rather than 4.10 – Pedestrian Oriented Design Standards.

m) Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 – Natural Hazard and Hillside Development Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

→ The proposal does not impact these items.

Figures

Figure 1 - Assessors Map

Figure 2 - Site Plan

Figure 3 - Vision Clearance Area from City Engineer

Figure 4 - Initial Vision Clearance Area from City Planner

Figure 5 - Fence Line Drawing to Scale

Figure 6 – Artist's Depiction of Fence without Trellis

Email me and I can send you what I have of the documents before I wrote on them.

Sincerely,



Sean K Smith

Appeal of LDO09-00016
EXHIBIT VI.26

ASSESSOR MAP 11526BB

Figure 1

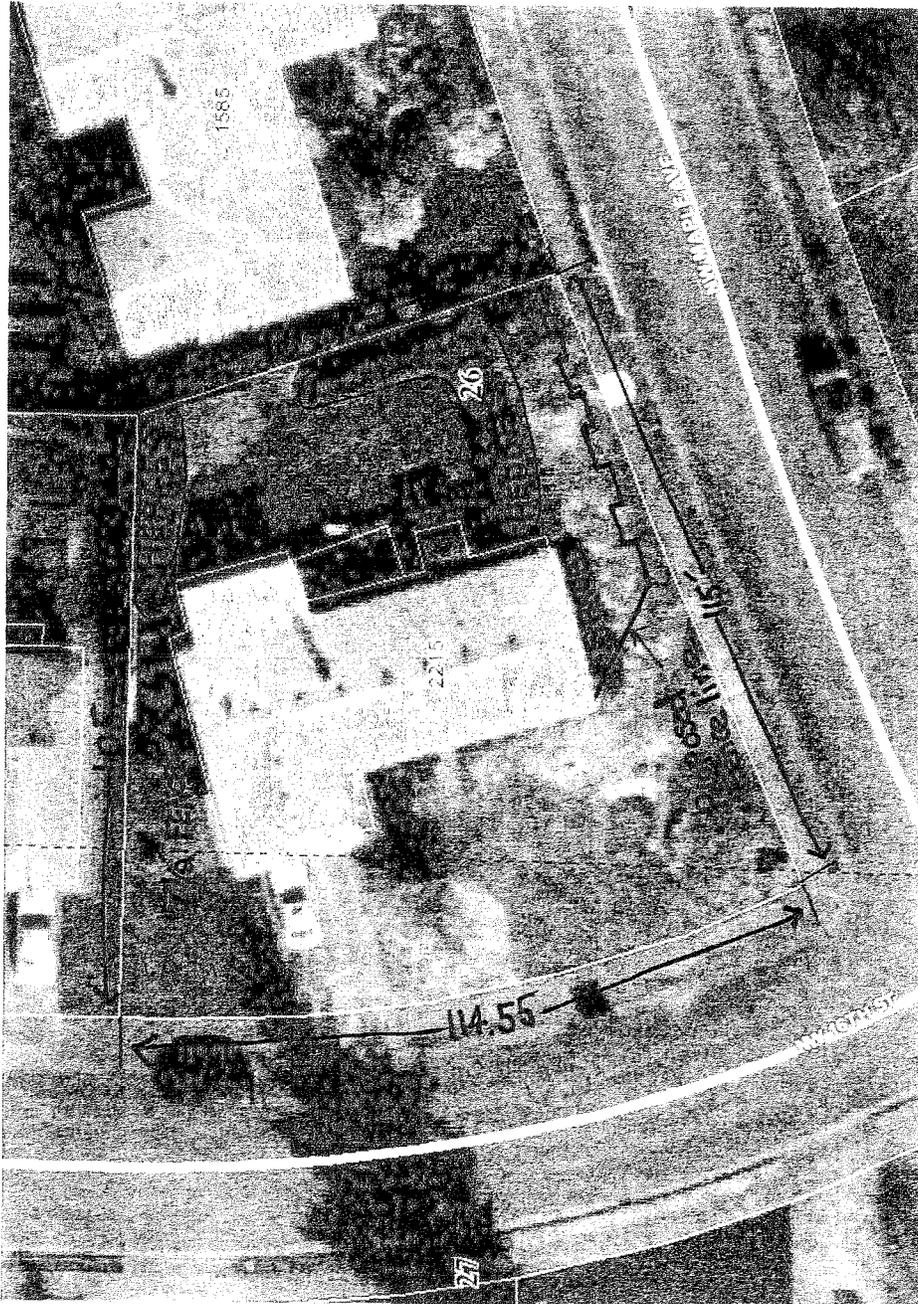
11 5 2688
CORVALLIS
BENTON COUNTY
2010
SCALE 1"=100'

NW1/4 NW1/4 Sec. 26 T11S. R5W. W. M.
BENTON COUNTY
1"=100'



SITE PLAN

Figure 2



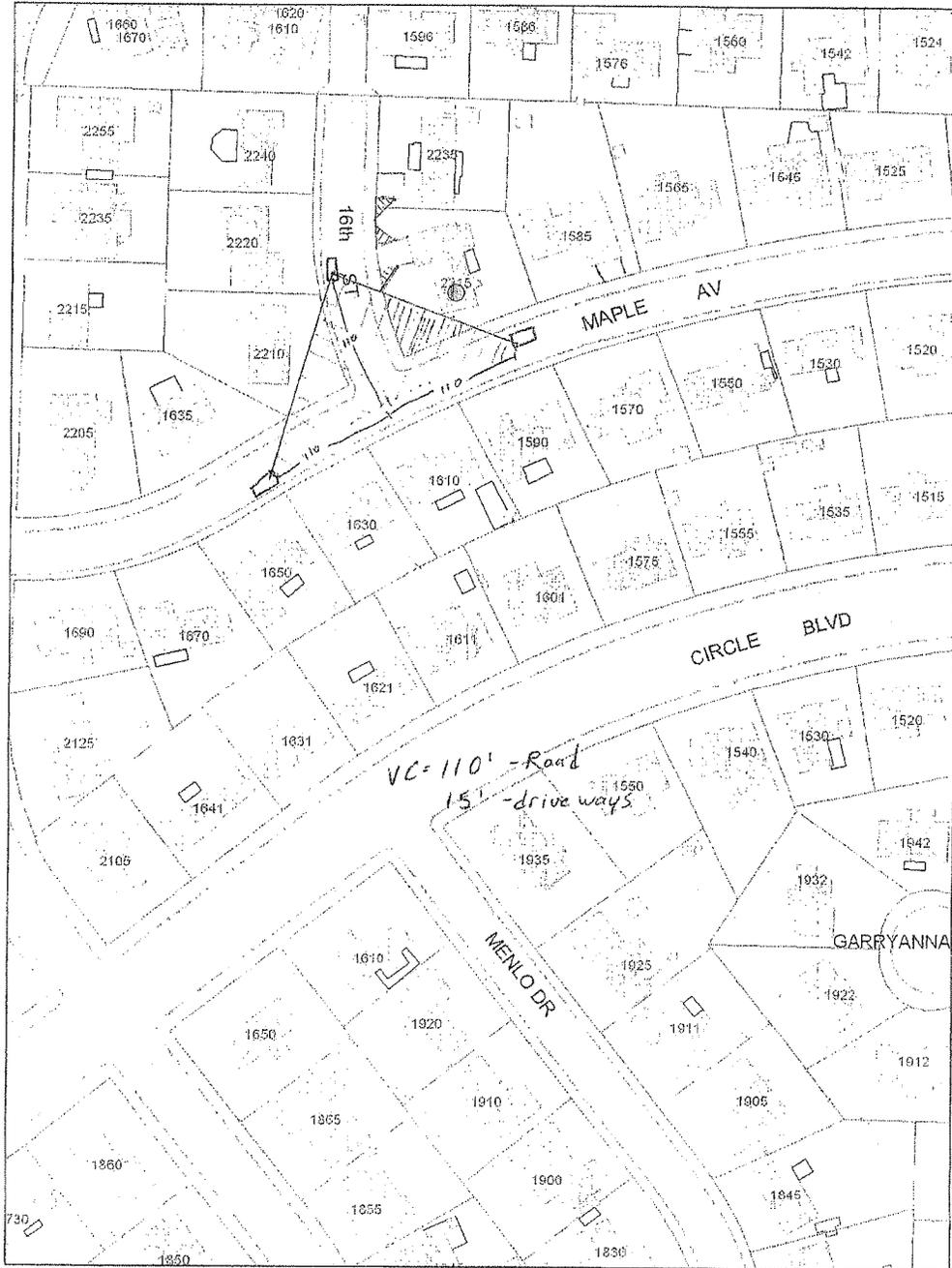
Appeal of LDO09-00016
EXHIBIT VI.28

2215 NW 16th Street
LDO09-00016
ATTACHMENT E.9

VISION CLEARANCE AREA FROM CITY

Figure 3

1" = 100'



Appeal of LDO09-00016
EXHIBIT VI.29

2215 NW 16th Street
LDO09-00016
ATTACHMENT E.10



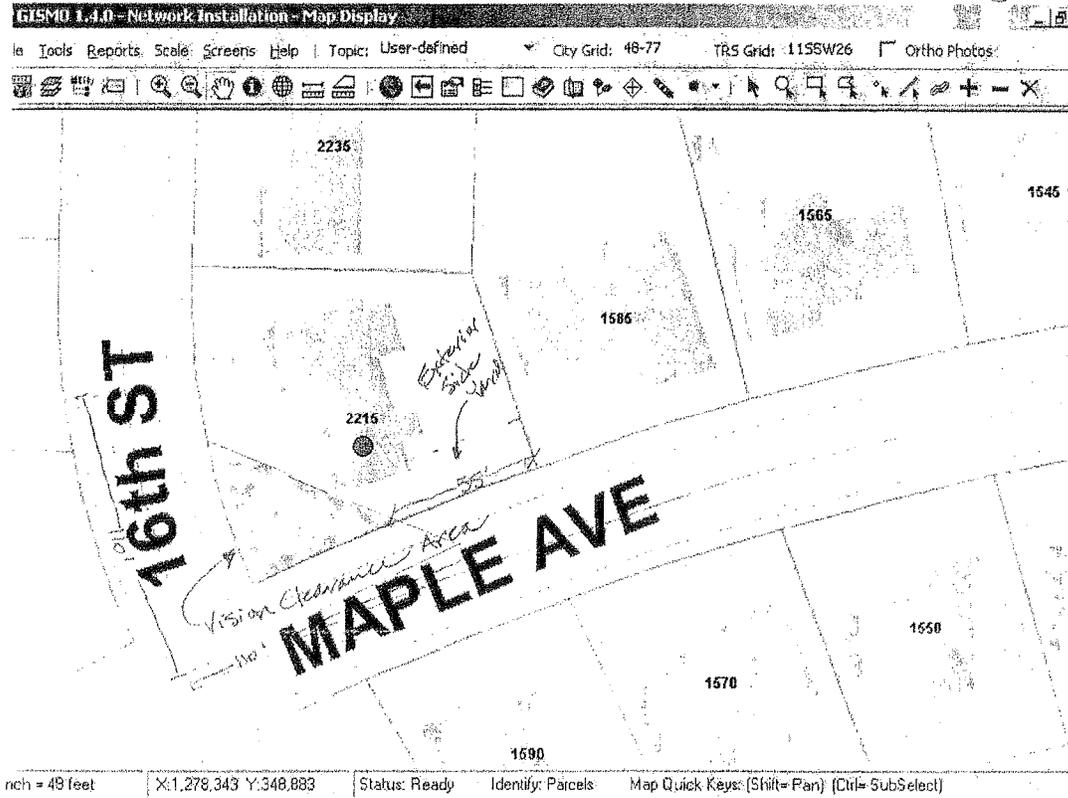
DEVELOPMENT SERVICES
 CITY OF CORVALLIS
 501 SW MADISON
 P. O. BOX 1083
 CORVALLIS, OREGON 97331-1083
 OFF: (541) 766-6929 Fax: (541) 766-6936

Figure 4

JOE KASPER
 Associate Planner

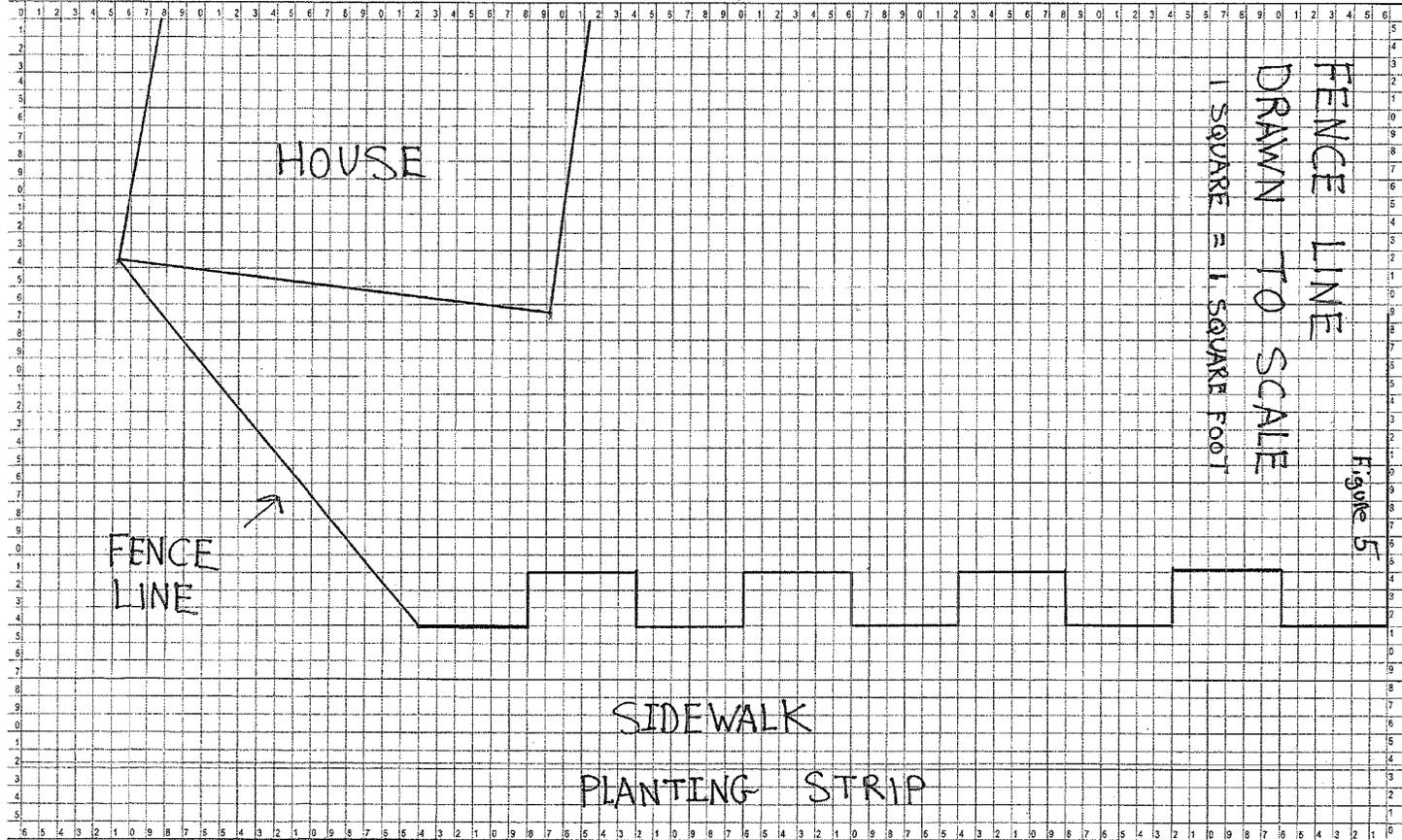
joe.kasper@ci.corvallis.or.us

Call me if you have questions about what you do in the exterior side yard.

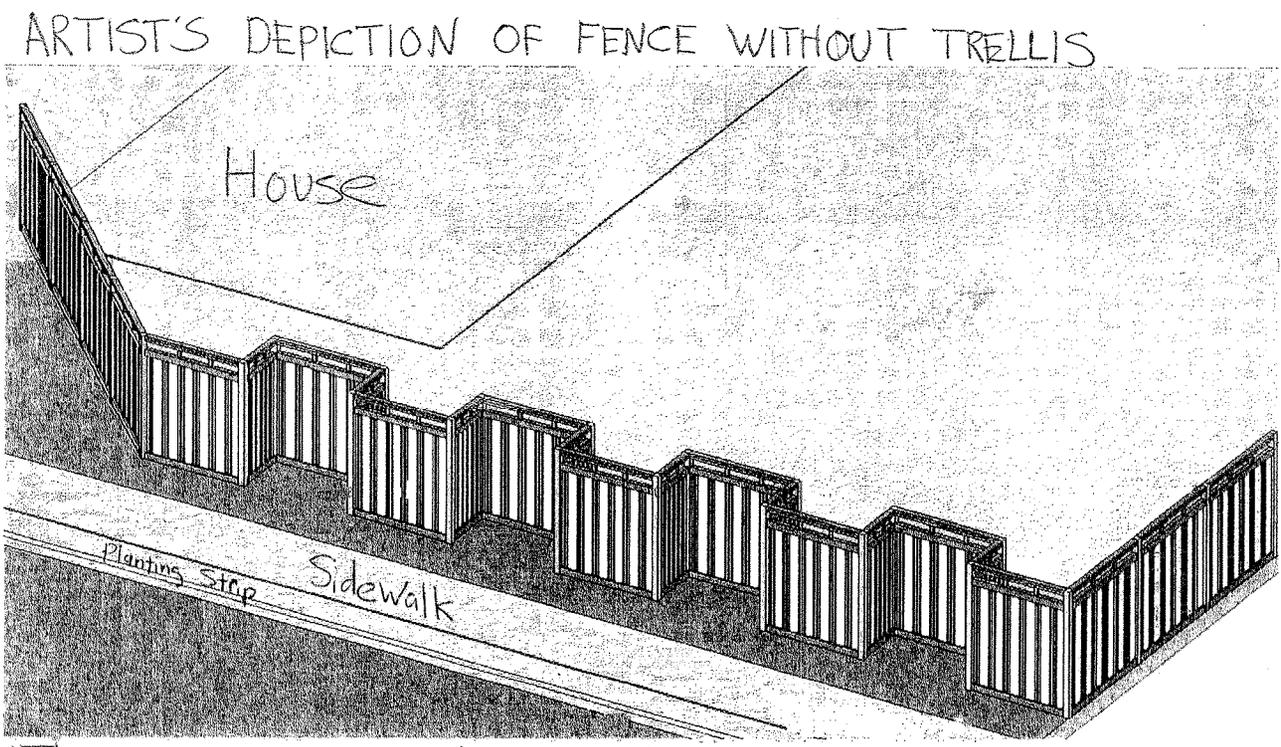


Appeal of LDO09-00016
 EXHIBIT VI.30

2215 NW 16th Street
 LDO09-00016
 ATTACHMENT E.11



2215 NW 16th Street
 LDO09-00016
 ATTACHMENT E.12



This is a conceptual drawing only.

2215 NW 16th Street
LDO09-00016
ATTACHMENT E.13

Staff Identified Review Criteria

2215 NW 16th Street

Lot Development Option (LDO09-00016)

The following are complete excerpts of Land Development Code provisions referenced in the February 5, 2010, Staff Report to the Land Development Hearings Board. These standards, review criteria, and policies were used by City Staff to evaluate the subject Lot Development Option application. Other local, state, and federal regulations may apply even if not referenced below or in the body of the Staff Report.

LDC 2.12 Lot Development Option

Section 2.12.10 - BACKGROUND

A Lot Development Option provides a means to obtain, within specified thresholds, variations from some clearly measurable, numerically quantifiable development standards. The Lot Development Option exists for those circumstances where uniform, unvarying rules would prevent a more efficient use of a lot or parcel, prevent better preservation of Significant Natural Features, and/or prevent innovation in site planning and architectural design. A typical example is permitting a structure to be located closer to a property boundary than normally allowed by the zone regulations.

A Lot Development Option applies only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of Minor and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.

Unless otherwise stated in the following chapters, the Lot Development Option process shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Requests for variations to the requirements in Chapter 4.0 - Improvements Required with Development shall be processed as a Major Lot Development Option.

Section 2.12.20 - PURPOSES

Procedures and standards for the review of Lot Development Options are established in this Chapter for the following purposes:

- a. Permit efficient use of land;
- b. Provide flexibility and innovation in site planning and architectural design on individual lots;
- c. Encourage construction techniques and allow building locations that conserve energy;
- d. Minimize procedural delays and ensure due process in the review of unique development situations;

- e. Provide an avenue for better preservation of Significant Natural Features; and
- f. Provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.

2.12.30.03 - Determination of Lot Development Option Type - The Director shall determine whether an application qualifies as a Minor or Major Lot Development Option, as described in "a," and "b," below.

- b. Major Lot Development Option - A Major Lot Development Option is classified as Special Development and shall be processed consistent with this chapter. A Lot Development Option shall be considered Major if it:
 - 1. Meets "c" - "e," below;
 - 2. Exceeds the thresholds of a Minor Lot Development Option in "h," below; and
 - 3. Falls within the thresholds in "i," below.
- c. Unless otherwise stated in the following chapters, the Minor and Major Lot Development Option processes shall not be used to vary from the standards in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions.
- d. Minor and Major Lot Development Option requests shall apply only to existing individual lots or parcels or to individual lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process. Proposed modifications that exceed the allowed scopes of Minor and Major Lot Development Options as outlined in this Chapter need to be sought through the Planned Development process described in Chapter 2.5 - Planned Development.
- e. Whether a Lot Development Option request is Minor or Major, no more than a total of three variations may occur within a two-year period on the subject property(ies) and its parent recorded Partition, Replat, or Subdivision plat (the development-wide provision applies only to plats recorded after January 1, 2000). If a single lot is involved, variations of up to three different development standards may occur. If a development site includes plans for multiple lots through a Minor Land Partition or Tentative Subdivision Plat, and multiple variations are needed, up to three lots may be involved in variations from the same development standard or different development standards.
- h. Minor Lot Development Option Thresholds -Minor Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that shall not exceed the thresholds listed below:
 - 12. Increasing the fence height outside of Vision Clearance Areas by up to 33 percent;
- i. Major Lot Development Option Thresholds -
 - 1. Major Lot Development Option requests shall involve clearly measurable, numerically quantifiable development standards that exceed the Minor Lot Development Option thresholds in Section 2.12.30.03.g, above; and

2. Major Lot Development Option requests may be filed only for residential uses on existing individual residentially zoned lots or parcels, or for individual residential lots or parcels that are approved, or requested for approval, as part of a Tentative Subdivision Plat or Minor Land Partition process.
3. A request to vary from the requirements of Chapter 4.0 - Improvements Required with Development shall be processed as a Major Lot Development Option.

2.12.30.06 - Review Criteria

- a. Minor Lot Development Option - With respect to the requested variation, a Minor Lot Development Option shall be reviewed to determine if the following criteria have been met:
 2. The land use for the proposed development is allowed in the underlying zone;
 3. The proposed development falls within the minimum and maximum density requirements for the underlying zone;
 4. All structures comply with Building and Fire Codes and Vision Clearance requirements established by the City Engineer;
 5. The proposed development is not contrary to the background and purposes in Sections 2.12.10 and 2.12.20 and any other applicable policies and standards adopted by the City;
 6. The proposed development does not substantially reduce the amount of privacy enjoyed by users of neighboring structures when compared to development located as specified by this Code;
 7. The proposed development does not adversely affect existing physical and natural systems, such as traffic, drainage, dramatic land forms, or parks, nor adversely affect the solar access potential for abutting properties when compared to development located as specified in this Code;
 8. Where architectural features are involved, the proposed development is compatible with the design character of existing structures on adjoining properties;
 9. Where variations are proposed to Chapter 4.10 - Pedestrian Oriented Design Standards, the proposed development implements the purpose(s) of that chapter through inclusion of additional benefits to the pedestrian environment that compensate for the requested variations from development standards;
 10. Preservation and/or protection of Significant Natural Features is achieved, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets are also designed along contours, and structures are designed to fit the topography of the site to ensure compliance with these Code standards; and

11. The proposed development shall provide benefits within the development that compensate for the variations from development standards such that the intent of the development standards is still met.
- b. Major Lot Development Option - A Major Lot Development Option shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, other applicable policies and standards adopted by the City Council, and the following criteria:
1. The proposal is consistent with Section 2.12.30.03.b, c, d, e, g, and i;
 2. The proposal is consistent with "a.2" through "a.11," above; and
 3. With respect to the requested variations, the application demonstrates compatibility in the following areas, as applicable:
 - a) Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);
 - b) Visual elements (scale, structural design and form, materials, etc.);
 - c) Noise attenuation;
 - d) Odors and emissions;
 - e) Lighting;
 - f) Signage;
 - g) Landscaping for buffering and screening;
 - h) Transportation facilities;
 - i) Traffic and off-site parking impacts;
 - j) Utility infrastructure;
 - k) Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
 - l) Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
 - m) Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

LDC 3.1 - Low Density Residential (RS-3.5) Zone

Section 3.1.20 - PERMITTED USES

3.1.20.01 - Ministerial Development

b. Accessory Uses Permitted Outright

- 8. Other development customarily incidental to the Primary Use in accordance with Chapter 4.3 - Accessory Development Regulations

Section 3.1.30 - RS-3.5 DEVELOPMENT STANDARDS

Table 3.1-1

		Standard
a.	Minimum Density	2 units per acre
b.	Maximum Density	6 units per acre
e.	Minimum Setbacks	
	1. Front yard	15 ft. Also, unenclosed porches may encroach into front yards up to a maximum of 6 ft.
	2. Rear yard	25 ft.
	3. Side yard (interior)	8 ft.
	4. Corner lot	20 ft. on side abutting street and vision clearance in accordance with Section 4.1.40.c of Chapter 4.1 - Parking, Loading and Access Requirements.
	See also "k," and "l," below.	

LDC 4.2 Additional Provisions

Section 4.2.50 - SCREENING (HEDGES, FENCES, WALLS, AND BERMS)

Screening is required where unsightly views or visual conflicts must be obscured or blocked and/or where privacy and security are desired. Fences and walls used for screening may be constructed of wood, concrete, stone, brick, wrought iron, or other commonly used fencing/wall materials. Acoustically designed fences and walls shall also be used where noise pollution requires mitigation.

Where landscaping is used for required screening, it shall be at least six ft. in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within 18 months following establishment of the primary use of the site.

A chainlink fence with slats shall qualify for screening only if a landscape buffer is provided in compliance with Section 4.2.40, above.

4.2.50.01 - Height Limit

The height of hedges, fences, walls, and berms shall be measured from the lowest adjoining finished grade, except where screening is required for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is not permitted within Vision Clearance Areas, as determined by the City Engineer.

- a. Hedges, fences, and walls shall not exceed three ft. in height within any required yard adjacent to a street or within the Through Lot easement area of a lot. See Through Lot in Chapter 1.6 - Definitions. See also Chapter 4.4 - Land Division Standards for additional Through Lot requirements. The Director may grant an exception to this provision under the following circumstances:
1. Where required by the Planning Commission to meet screening requirements;
 2. Where an applicant wishes to allow portions of a screen to encroach up to two ft. into an exterior side yard, excluding the front yard area. This type of encroachment pertains to a screen that is designed and constructed with off-sets to prevent visual monotony. In this situation, the hedge, fence, or wall shall not exceed five ft. in height and shall maintain Vision Clearance Area standards; or
 3. Where an applicant wishes to allow portions of a screen to encroach up to five ft. into a Through Lot easement area. This type of encroachment pertains to a screen that is designed and constructed with off-sets to prevent visual monotony. In this situation, the hedge, fence, or wall shall maintain an average setback of 20 ft. from the rear property line, shall not exceed five ft. in height, and shall maintain Vision Clearance Area standards. Gates are required in rear yard fences on Through Lots, since it remains the property owner's responsibility to maintain the area outside the fence. In Multi-dwelling developments or Planned Developments and Subdivisions, a 20 ft.-wide planting area shall be established between the sidewalk and the fence. The planting area shall be designed to minimize maintenance and to ensure that coniferous trees are planted at least 15 ft. from the sidewalk.
- b. Notwithstanding the height restrictions outlined in "a," above, the height of solid fences and walls shall be limited to a maximum of four ft. along the boundaries of sidewalks and multi-use paths that are not adjacent or parallel to streets. Examples of such situations include sidewalks and multi-use paths adjacent to pedestrian and bicycle connections between Cul-de-sacs or between residential areas and neighborhood centers, etc. The limitation on these solid forms of screening is intended to increase visibility and public safety. Portions of fences above four ft. in height are allowed, when they are designed and constructed of materials that are open a minimum of 50 percent. Fence and wall heights shall be measured from the grade of the sidewalk or multi-use path. Fences and walls along sidewalks and multi-use paths shall be located outside of any associated rights-of-way and/or easement areas.
- c. Hedges, fences, and walls may exceed three ft. in rear and interior side yards, except when these yards abut a sidewalk or multi-use path, in which case provisions in "b," above, apply. Fences and walls over six ft. high require Building Permit approval prior to construction.

LDC 4.3 Accessory Development Standards

Section 4.3.30 - ACCESSORY DEVELOPMENTS SUBJECT TO CONTROLS

Accessory developments shall be subject to the same requirements as the Primary Uses within each zone, except as otherwise provided below:

- d. Fences shall be considered Accessory Structures and are subject to the requirements of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting;

Applicable Comprehensive Plan Policies

- 5.2.3 The City shall develop standards which ensure adequate open space and landscaping on residential, commercial, and industrial developments, and shall maintain these standards in the Land Development Code.
- 9.2.1 City land use decisions shall protect and maintain neighborhood characteristics (as defined in 9.2.5) in existing residential areas.
- 9.2.4 Neighborhoods shall be pedestrian-oriented. Neighborhood development patterns shall give priority considerations to pedestrian-based uses, scales, and experiences in determining the orientation, layout, and interaction of private and public areas.
- 9.2.5.1 Neighborhoods have public areas that are designed to encourage the attention and presence of people at all hours of the day and night. Security is enhanced with a mix of uses and building openings and windows that overlook public areas.
- 11.6.1 The City shall require safe, convenient, and direct pedestrian routes within all areas of the community.

Appeal of LDO09-00016
EXHIBIT VI.39



Community Development
 Planning Division
 501 SW Madison Avenue
 Corvallis, OR 97333

DRAFT
CITY OF CORVALLIS
LAND DEVELOPMENT HEARINGS BOARD MINUTES
February 17, 2010

Present
 Karyn Bird, *Chair*
 Frank Hann
 Steve Reese

Staff
 David Coulombe, Deputy City Attorney
 Kevin Young, Acting Planning Division Manager
 Brian Latta, Assistant Planner
 Claire Pate, Recorder

SUMMARY OF DISCUSSION

	Agenda Item	Information Only	Held for Further Review	Recommendations
I.	Opening			
II.	Public Hearing Major Lot Development Option for 2215 NW 16 th Street (LDO09-00016)			Recommendation that the application be denied.
III.	Adjournment			6:45pm

Appeal of LDO09-00016
EXHIBIT VII.1

CONTENT OF DISCUSSION

The Corvallis Land Development Hearings Board (LDHB) was called to order by Chair Karyn Bird at 5:30 p.m. in the Downtown Fire Station Meeting Room, 400 NW Harrison Boulevard.

I. OPENING:

The Chair welcomed citizens and reviewed the public hearing procedures. Staff will present an overview followed by the applicant's presentation. There will be a staff report and public testimony, followed by rebuttal by the applicant, limited in scope to issues raised in opposition and sur-rebuttal by opponents, limited in scope to issues raised on rebuttal. The Board may ask questions of staff, engage in deliberations, and make a final decision. Any person interested in the agenda may offer relevant oral or written testimony. Please try not to repeat testimony offered by earlier speakers. It is sufficient to say you concur with earlier speakers without repeating their testimony. For those testifying this evening, please keep your comments brief and directed to the criteria upon which the decision is based.

Land use decisions are evaluated against applicable criteria from the Land Development Code and Comprehensive Plan. A list of the applicable criteria for this case is available as a handout at the back of the room.

Persons testifying either orally or in writing may request a continuance to address additional documents or evidence submitted in favor of the application. If this request is made, please identify the new document or evidence during your testimony. Persons testifying may also request that the record remain open seven additional days to submit additional written evidence. Requests for allowing the record to remain open should be included within a person's testimony.

The Chair opened the public hearing.

II. PUBLIC HEARING – Major Lot Development Option for 2215 NW 16th Street (LDO09-00016):

A. Declarations by the Board: Conflicts of Interest, Ex Parte Contacts, Site visits, or Objections on Jurisdictional Grounds

1. Conflicts of Interest – none declared
2. Ex Parte Contacts – none declared
3. Site Visits – by Board member Reese and Chair Bird
4. Objections on Jurisdictional Grounds - none

B. Staff Overview:

Assistant Planner Brian Latta said the application is for a Major Lot Development Option (LDO) for 2215 NW 16th Street. The request is to vary from the height standard for fences located in yards adjacent to a street. The applicant requests a 166 percent variation to construct an eight-foot tall fence, the first seven feet of which are solid and the top one foot of which is a trellis. Using visual aids, Mr. Latta described the site and neighboring properties. The property has a Comprehensive Plan designation of Residential – Low Density, with similar densities in surrounding properties. It is zoned RS-3.5.

The applicant is proposing to bring the fence from the SW corner of the house, extending it diagonally to the SE outside of the vision-clearance area and running it east approximately 54 feet to the SE corner of his property, and finally running it north along the back of his house. The fence is proposed with off-sets every six feet for the 54-foot stretch of fencing. At its closest point, the fence will be three feet from the property line, and at its furthest it will be six feet.

In response to a question from Board member Hann, Mr. Latta said that within the confines of the current Land Development Code, the maximum height of a fence within the setback would be three feet, with a variation of four feet if certain criteria are met.

C. Legal Declaration:

Deputy City Attorney Coulombe said the Board will consider the applicable criteria as outlined in the staff report, and he asked that citizens direct their testimony to the

criteria in the staff report or other criteria that they believe are applicable. It is necessary at this time to raise all issues that are germane to this request. Failure to raise an issue, or failure to provide sufficient specificity to afford the decision-makers an opportunity to respond, precludes an appeal to the State Land Use Board of Appeals on that issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

D. Applicant's Presentation:

Sean Smith spoke as the applicant. He made a disclaimer that though he would be showing photographs of what might appear to be Land Development Code violations on other properties, he is merely making observations and is not filing any complaints. Using slides showing his property, Mr. Smith explained the history of his request. He said he purchased his house in 2002. The house required some renovation and changes before moving in, and he installed windows for emergency exits and for more natural light along the south wall, which faces NW Maple Avenue. He had planned to put a fence in at that time. He called the City and talked with a planner named Joe Kasper, who explained that he would only be allowed to build a five-foot high fence next to the sidewalk, with off-sets. They put the project on hold at that time.

Mr. Smith said that as he and his young daughter were walking back from Albertson's this summer, they noticed two pitbulls running free. His daughter was terrified. He knew then that he needed to get a fence built, and wanted one tall enough to provide safety for his children. He said there is a lot of pedestrian traffic by his house and a lot of trash gets thrown into his yard. Noise and light pollution are also an issue. He said rental houses now make up about 40 percent of the properties along Maple and 16th, and the two rentals across the street on Maple have cars coming and going all hours of the night. Their lights shine into his windows, and car doors slamming wake them up. Circle Boulevard also creates a lot of noise. He knows it is not the best neighborhood, but it is a convenient location and they do not want to move. They just want to make their property livable by making it safe, private, and secure, with a fence that meets their needs.

Mr. Smith explained that, when he again looked into building a fence, he learned that the rules had changed since he bought the house, and he could no longer build a five-foot high fence. He found out about the Lot Development Option, but learned that the fee was about to be raised to \$2000. He pointed out during testimony about the fee that only his zone of RS-3.5 has a greater side yard setback of 20 feet than the front yard setback, which is 15 feet. This allows his neighbor to have a six-foot fence 15 feet from the sidewalk, along the front of his house, while if he wants to continue the fence past his side yard, he would have to pay a \$2,000 fee to submit a Lot Development Option and have a public hearing. He said even a 4-1/2 foot tall hedge beneath his windows would require a \$2,000 fee and a public hearing. He said it is obvious to him that the Corvallis Land Development Code has some flaws, in that it does not respect corner lots and treats them as second-class properties.

Mr. Smith said that in Salem, one can install a six-foot fence with a ten-foot setback in a side yard, as long as it is outside the vision clearance area. In Portland, it is eight feet. These single-level homes on corner lots almost always have the garages with the driveways opposite the corner for safety reasons, especially houses oriented like his. When someone turns around the corner, you need as much of a safety buffer as you can get. This means that the bedrooms tend to be along the street side. He said fences and hedges are necessary to buffer the noise from the street along this side, in order to maintain livability of a home. He believes the City is effectively making him have two front yards with this side yard setback.

Mr. Smith then showed slides of properties around the neighborhood, showing many fences and hedges that are in violation of the standard. In terms of vision clearance, he believes that a three-foot fence would obstruct vision as much as a six-foot fence. He showed a picture of what had been a large mound on his property at the south west corner, which he had removed because he did not like the visual obstruction. His contention is that since they installed windows, as well as remove the mound, there is much less visual obstruction. As far as open space is concerned, he said his front yard provides more than just about any other yard in the neighborhood. All he is asking for is to be able to have a fence that meets their needs for safety, privacy and security purposes.

Mr. Smith showed a fence on 10th Street that would be similar in height and setback. He believes he needs the eight feet in height to ensure people cannot look into his home's bedroom windows. He would like to avoid an appeal and believes that his proposal is rational. He asked the Board members to consider what they would do if they had two small children and wanted to keep them safe.

Board member Hann said that the LDHB had recently considered a fence case in which the applicant made the case of extraordinary need, because of a church that had a lot of traffic and concern for safety of small children in the vicinity of that traffic. The application had been well-supported by the church as well as other neighbors. He asked Mr. Smith if there was anything extraordinary in terms of use of his neighborhood beyond that of being residential. Mr. Smith said that there is a lot of foot traffic from both Albertson's and Winco, and items keep getting thrown into his yard. He said there are two rentals right across from his yard, one of which is rented to college students; tenants change every year. Additionally, there is traffic noise from Circle Boulevard, and there is a need to buffer the noise and light. Board member Hann asked Mr. Smith if he had considered putting in a pergola structure with roll-down blinds which could help give some protection for the bedrooms, examples of which he has seen in the area. Mr. Smith said he had not, but might look at that as a possibility.

Chair Bird asked if this request was primarily to buffer the sound and light, versus just putting the fence from the southeast corner of the house back, which would not have required this variance process. Mr. Smith said he wants to have a larger area for his back yard, as well as the protection.

E. Staff Report:

Planner Latta said the application is presented in detail in the staff report, and he will briefly highlight some of the issues. He said the standard from which the applicant is requesting a variance is in Land Development Code Chapter 4.2.50.01.a. The Code would allow for a four-foot tall fence, with off-sets, extending two feet into the setback. Otherwise, the height limit is three feet within the street side yard setback. He said the applicant is proposing to construct an eight-foot tall fence parallel to NW Maple Avenue inside of the street side yard setback. As compensating benefits, the applicant states that the fence will foster neighborhood interaction and better neighbor relations; provide residents' safety; and enhance visual aesthetics of the site.

Planner Latta said Comprehensive Plan policies in Article 9 and 11 discuss the concept of comprehensive neighborhoods, public safety, and pedestrian-oriented neighborhoods. Tall fences located inside street side yard setbacks contradict the policies in these articles, as outlined in the staff report. Planner Latta then explained that a comprehensive neighborhood is described as the area encompassed by walking fifteen minutes in any direction, and he showed a graphic of what that one-half mile buffer would be around the applicant's home. He said most of the corner lots in this neighborhood do not have a fence of any height, though he has seen some of the examples that the applicant shared with the Board. Planner Latta then showed some of the photos he had taken in the neighborhood of both conforming and non-conforming examples.

Planner Latta explained that staff's conclusion is that the proposed fence is not consistent with the goals, findings and policies of the Comprehensive Plan. Because of that, the variation request does not meet a number of the review criteria for a Major Lot Development Option, and staff recommends that the application be denied.

In response to a question from Board member Reese, Planner Latta affirmed that the bedroom wall running parallel with Maple Avenue is at the twenty-foot setback line, and therefore any fence installed would be within the required setback and would be limited to three feet in height. In response to a question from Board member Hann, Planner Latta said that even trellises or screening panels placed in front of the bedroom windows would still have to come through a process for approval.

F. Public Testimony

No one came forward to give public testimony.

G. Additional Comment by Applicant

Chair Bird said she would allow the applicant to give additional comment in response to questions or comments made by the Board members and staff. Mr. Smith said that he wished to correct one comment by Planner Latta relating to a white picket fence in the vision clearance area, in that the requirement in that area is for a fence no higher than 2-1/2 feet rather than 3 feet. He further questioned why he has a 15-foot setback in front, and a 20-foot setback along the side. He said no one has been able to explain the rationale to him.

H. Additional time for applicant to submit final argument:

Deputy City Attorney Coulombe said that if the applicant wished to have a final argument he could do so in writing. The applicant waived the additional time to submit written argument.

I. Close the public hearing:

MOTION: Board member Reese **moved** to close the public hearing. Board member Hann **seconded** the motion and it **passed** unanimously.

J. Discussion and Action by the Board:

Questions from the Board:

Board member Reese asked staff to explain the setbacks for this zone. Acting Planning Division Manager Kevin Young said that the RS 3.5 standards have been relatively intact in the Land Development Code since 1993. He said Comprehensive Plan direction might provide some rationale. RS-3.5 is the lowest density residential district, so the lots tend to be large, with a minimum square footage of 8,000 square feet. The presumption might be that because of the larger lots, more open space is an appropriate feature. Board member Hann asked if there are any Code tweaks being looked at that would help the applicant with this issue. Manager Young said that there is one item relating to allowing for some limited encroachments for trellises and pergolas within setback areas. It is an unresolved planning issue that could be tackled as part of a future work program. Board member Hann said that in some commercial situations the front yard has been reoriented to another side of a structure, and he wondered if that might be an approach for the applicant. Staff said that the issue would still exist for the side yard setback along 16th Street.

MOTION: Board member Hann **moved** to approve the applicant's request with the following modifications: eliminate the diagonal portion of the fence so that the fence would come off the east corner of the house; limit the height to 6 feet with no trellis; maintain the off-sets; and be set back 8 feet, as opposed to the 3-foot setback proposed. Board member Reese said he would **second** the motion for the sake of allowing discussion.

Board member Hann explained that with these changes the fence would still allow for an open yard feeling. He does not like the diagonal fencing across the southern face of the house, but this would allow for a back yard that would be more secure for the children. He said he is sympathetic to Mr. Smith's concern for security for his small kids, and his lack of privacy. The nature of this neighborhood is impacted by the high use of the commercial center containing Albertson's, and the traffic that often cuts through to access it. There is also a high number of rentals to students, which creates more foot traffic. Board member Reese said that this set of circumstances could apply to 80 percent of Corvallis. Board member Hann believes that the nature of how this home is set out makes it impacted by the sight line of approaching traffic. He said he is not trying to set a precedent, but in this case he believes there is an extraordinary set of circumstances that warrant allowing for the variance as stipulated in his motion.

Board member Reese believes that it would set a precedent for anyone in Corvallis with a home in this type of zone to come forward with a request because they want a bigger yard, or are impacted by foot traffic going to nearby stores. He said he is not sure he sees it as that unique.

Chair Bird said that this proposal does not give the homeowner much more than permission to build a fence according to Code. She said would likely vote against it, if she were put in the position of voting.

Vote on the motion: The motion **failed**, with Board member Hann voting yes, and Board member Reese and Chair Bird voting no.

MOTION: Board member Reese **moved** to deny the 2215 NW 16th Street Major Lot Development Option permit number LDO09-00016. This motion is based on findings presented in the February 5, 2010, staff report to the Land Development Hearings Board, and findings made by the board during deliberations on the request. Board member Hann **seconded** the motion, which **passed** with Board member Reese and Chair Bird voting yes, and Board member Hann voting no. The application is denied.

K. Appeal Period:

The Chair explained that the decision will be effective 12 days from when the Notice of Disposition is signed, unless an appeal is filed with the City Recorder.

III. ADJOURNMENT: The meeting was adjourned at 6:45pm.

ORDINANCE 2000 - 43

AN ORDINANCE RELATING TO LAND USE, AMENDING A LAND DEVELOPMENT CODE AND ZONING MAP FOR THE CITY OF CORVALLIS, ESTABLISHING PROCEDURES, DEVELOPMENT STANDARDS, AND FINDINGS, AMENDING ORDINANCE 93-20, AS AMENDED, AND STATING AN EFFECTIVE DATE (LDT00-00002, ZDC00-00009)

WHEREAS, a two-year community planning process was initiated in January, 1996, and continued until December, 1998 that focused on revising the Corvallis Comprehensive Plan as mandated by the State of Oregon Department of Land Conservation and Development in a process known as Periodic Review; and

WHEREAS, the Department of Land Conservation and Development approved the City of Corvallis' periodic review work program that included an update of the Land Development Code to implement the Comprehensive Plan; and

WHEREAS, the Zoning Map is a part of the Land Development Code; and

WHEREAS, the State of Oregon Land Conservation and Development Commission acknowledged the revised Comprehensive Plan and Comprehensive Plan Map on June 26, 2000; and

WHEREAS, in the process of updating the Land Development Code and Zoning Map to implement the Comprehensive Plan several additional revisions to the Land Development Code and Zoning Map were determined; and

WHEREAS, the revised Land Development Code and Zoning Map were developed during a 1.5-year community planning process; and

WHEREAS, a number of citizens, Planning Commissioners, and City Councilors working in technical review groups related to various subject areas were appointed by the Mayor. These technical review groups reviewed policy issues, documents, maps, and other information sources; conducted research; reviewed consultant and staff-recommended drafts of the Land Development Code and Zoning Map; solicited community input; solicited input from all property owners affected by the proposed Zoning Map revisions; and recommended text and map changes to the Planning Commission; and

WHEREAS, the Planning Commission conducted, after proper legal notice, a public hearing on September 6, 2000, and deliberations on September 13, 2000 and September 20, 2000, concerning proposed changes to the Land Development Code and Zoning Map, and interested persons and the general public were given an opportunity to be heard. The

Requirements was developed to ensure that sites zoned as Major Neighborhood Centers will develop consistent with requirements of the zone and the Comprehensive Plan (8.10.2; 8.10.7; 8.10.8; 8.10.9; 8.10.10). Many of the locations sited as Major Neighborhood Centers are composed of several ownerships or their development as an effective center are dependent upon coordination among a number of ownerships. Because of the potential complexity of such new developments or redevelopment, it was believed that a process managed by the Planning Commission was necessary. Such a process gives nearby property owners and residents an opportunity to have input on the ultimate layout of the center. At the same time, because of the specificity of the requirements in the Neighborhood Center (NC) Zone, only the broader questions associated with such a site plan require review, such as ensuring site layout and infrastructure allow development of the site and surrounding properties consistent with the concept of Comprehensive Neighborhoods (9.2.5). Therefore, the review processes of the Chapter 2.3 Conditional Development are appropriate.

The Comprehensive Plan gives relatively specific guidance regarding the need for a Major Neighborhood Center Zone and for the design concepts to be used for development in this zone. From the information presented in Land Development Code Chapter 3.14- Neighborhood Center (NC) Zone, proposed Land Development Code Chapter 2.10 - Major Neighborhood Center Site Plan Requirements, and the discussion in the above section, the proposed Chapter 2.10 - Major Neighborhood Center Site Plan Requirements is in conformance with the Comprehensive Plan, including Comprehensive Plan Section 1.2 and Land Development Code Section 1.2.80.01 - Background.

22. **Chapter 2.12 - Lot Development Option:** With the adoption of the proposed new Code, many existing developed residences will become nonconforming with respect to structures, resulting in many existing developed residences unable to construct additions or redevelop as they have in the past. The creation of two types of LDO's will enable existing developed residences to construct additions or redevelop much in the same manner as the past, thereby greatly reducing impacts of the new development standards on existing residential neighborhoods. These proposed changes are needed to avoid undue hardships on residential homeowners. Therefore, the proposed changes are consistent with Comprehensive Plan Section 1.2 and Land Development Code Section 1.2.80.01 - Background, which allows amendments to the Code in cases of public necessity, convenience and general welfare.
23. **Changes to Existing Residential Zones:** The proposed Code will maintain the RS-3.5 Zone (Chapter 3.1) for existing developed RS-3.5 areas and vacant RS-3.5 lots less than one acre. It will also reduce front yard setbacks within the RS-3.5 Zone. The proposed Code will maintain the RS-5 Zone (Chapter 3.2) for existing developed RS-5 areas less than one acre and apply the RS-5 Zone to undeveloped

For Further Information

Community Development Department:

P.O. Box 1083
501 SW Madison Avenue
Corvallis, OR 97339
Planning: (541) 766-6908
Fax: (541) 754-1792

www.ci.corvallis.or.us/cd/planning

Land Development Code and Map:

The City's Zoning Ordinance

- Planning Division
- Downtown Public Library
- www.ci.corvallis.or.us/cd/zoning

Comprehensive Plan and Map:

Land use policies for the Corvallis City Limits/Urban Growth Boundary.

- Planning Division
- Downtown Public Library
- www.ci.corvallis.or.us/cd/compplan

Planning Commission Information:

- Planning Division
- www.ci.corvallis.or.us/cd/planningcommission

Public Hearing Staff Report:

Available from the Planning Division one week prior to the public hearing date.

- Planning Division
- www.ci.corvallis.or.us/cd/staffreports

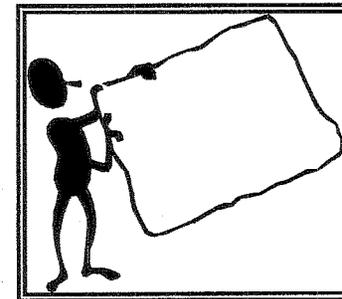
Committee for Citizen Involvement:

Facilitates citizen involvement in the City's land use planning and decision making.

- Regular meetings: first Thursday of each month, 7:15 PM at the Madison Avenue Conference Room. Citizens are welcome to attend.
- Contact the Planning Division at (541) 766-6908 for more information, or to request additional brochures.
- www.ci.corvallis.or.us/cd/ci

CORVALLIS LAND USE DECISIONS

Tips for Providing Effective Testimony



**You can influence land use decisions
in the City of Corvallis.**



City of Corvallis
Committee for Citizen Involvement

Participating in Land Use Decisions

The City of Corvallis encourages, promotes and uses citizen input in its decision making. You can influence land use matters in the City of Corvallis by providing comments on a proposed land use action. When considering your comments, you should understand that the Planning Commission or City Council decisions are based on how well the proposal meets the requirements in the Land Development Code. The hearing body can therefore only consider testimony that speaks to the relevant criteria. You can find the criteria that apply to a particular proposal by visiting the City of Corvallis Planning Division.

Your participation in the land use decision-making process does not guarantee that the final decision will be the one that you favor. However, by providing comments, also called "testimony", you ensure that your opinion is heard and considered by decision makers.

Different land use decisions allow for different types of input. Some decisions permit only written testimony, while public hearings allow both written and oral testimony. You can ask the Planning Division office what type of testimony is appropriate for the land use case.

Preparing Testimony

- **Know what you want to say.** Be sure of your facts when presenting or preparing testimony. Research the applicable sections of the Land Development Code and base your comments on the requirements. Stick to the issues and criteria of the application.
- **Use your own words.** You will be more comfortable and effective when using clear, direct language. Do not feel you need to use legal jargon when preparing your comments.
- **Be complete, but concise.** Decision makers are generally overloaded with information. They appreciate short, concise comments.
- **Be courteous and polite.** Personal attacks toward any participants, including those running the meeting, city staff, the applicants, or any audience members, tend to draw attention away from the important points you wish to make.
- **Know what is expected.** Contact the Planning Division to determine what type of testimony will be accepted. Written testimony may be submitted to the Planning Division office until 5 pm the day of the public hearing.

Additional Tips for Oral Testimony

- **Know what to expect at the hearing.** Many people find a public hearing intimidating. You may want to consider attending another Planning Commission or City Council hearing ahead of time so you know what to expect.
- **Consider visual aids.** Visual aids may be useful. Contact the Planning Division ahead of time if you need a projector. Make sure your visual aids are appropriate and readable.
- **Distribute copies of your testimony.** If you are providing oral testimony, it is helpful to the hearing participants to review a copy or outline of your comments. This is a good strategy for expanding on limited time at the podium. Some testifiers deliver a shorter version of a longer piece that they hand out.

Other Presentation Suggestions

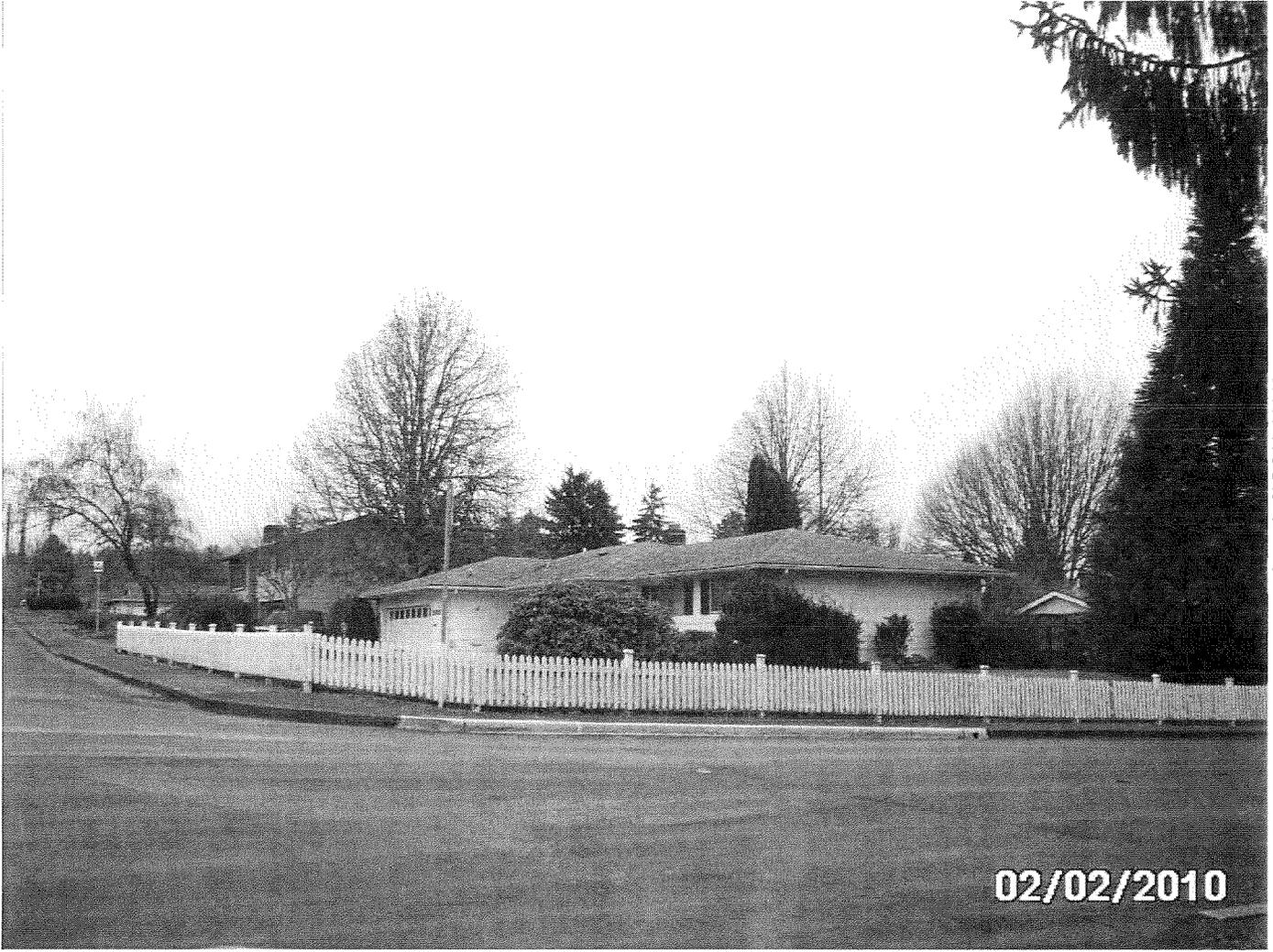
Here are some other suggestions for effective delivery of your testimony:

- Maintain eye contact with the hearing body, not the staff, applicant, or audience.
 - Speak clearly and into the microphone so your testimony can be heard.
 - Instead of repeating information that has been adequately addressed, state your agreement with another's comments.
-



Appeal of LDC09-00016
EXHIBIT X.1

01/26/2010



Appeal of LDO09-00016
EXHIBIT XI.1

02/02/2010

MEMORANDUM

From: Brian Latta, Assistant Planner

To: Mayor and City Council

Date: March 31, 2010

Subject: Email Correspondence regarding the Appeal of 2215 NW 16th Street Major Lot Development Option (LDO09-00016)

Enclosed with this memorandum is an email correspondence between the appellant and the Mayor of Corvallis. The correspondence occurred after the Staff Report had been prepared and prior to the April 5, 2010, City Council public hearing.

RECEIVED

MAR 24 2010

----- Original Message -----

Subject: Re: Quasi-Judicial Hearings, Due Process & Rebuttal

From: "Charles C. Tomlinson" <mayor@xxxxxxxxxxxxxxxxxxxxxxxxxxxx>

Community Development
Planning Division

Date: Wed, March 24, 2010 9:56 am

To: "smith family" <smith.cvo@xxxxxxxx>

Hi Sean,

Thank you for your email. I have asked staff to give you a call prior to the public hearing to review the procedural matters. The applicant always has the opportunity to not waive the seven day right to submit additional material.

As this is a quasi-judicial hearing, and I might be called on to vote, I'll put this email exchange in the record for the other Councilors. Further correspondence should be with staff.

Thank you for your understanding.

Charlie

Dear Mayor Tomlinson,

I have an upcoming public hearing, and I was watching the Phones Plus, Inc. public hearing held on March 15, 2010. The appellant's representative was denied a rebuttal because there was no one who spoke in opposition to the application. I was dismayed when I watched this because this happened to me at my LDHB hearing (LDO09-00016) and was one of the reasons for my appeal. I want to get some clarification on the procedures from you since you will probably be the presiding officer at my hearing on April 5th.

Excerpt from Corvallis Municipal Code:

Section 1.19.040.020 Rules of procedure.

The rules of procedure set forth herein shall apply to all public hearings conducted by Council its committees and its boards and commissions except for hearings authorized pursuant to the Land Development Code.

(Ord 83-82 § 32, 1983)

I take it to mean the procedures used should be from the LDC that was adopted in 2006. LDC 2.0.50.06 - Order of Proceedings paragraph "I" states "Rebuttal testimony may be presented by persons who have testified."

I would typically agree with Councilor Brauner and the City Attorney that there is no need to rebut when there is no testimony in opposition. In my case, staff introduced new evidence that was not in the Staff Report. I was not allowed to rebut the new evidence

since I had already spoken and there was no testimony in opposition. It should have been obvious to the board in my case that new evidence was being presented since they were seeing photos and hearing descriptions of fences that were not in the staff report. For the sake of due process, I should have been allowed a rebuttal. The board did allow me to make a statement and indirectly ask a question. It put me in the somewhat awkward position of having to correct staff that showed a 3-foot fence supposedly to code in a vision clearance area. I thought only a 2.5-foot fence was allowed, but I now believe it is in fact a 2-foot fence.

All this can be avoided if staff limits their presentation to excerpts from the staff report. Another option would be for staff to make their PowerPoint presentation available at the same time as the staff report along with a script of their oral presentation. A remaining problem is that new evidence can be introduced that hurts the applicant's case when staff is questioned.

I just want a reasonable opportunity to rebut new material at the hearing. Finally my question – if staff introduces new material in their presentation, will I be allowed a rebuttal at the hearing?

Thank-you,
Sean Smith

MEMORANDUM

From: Brian Latta, Assistant Planner *BL*
To: Mayor and City Council
Date: March 31, 2010
Subject: Public records request from appellant and staff's response via email.

Enclosed with this memorandum is a public records request for a copy of the published assessment of livability indicators in Corvallis, and staff's response via email. The public records request was made by the appellant on March 29, 2010. Staff responded to the appellant's request on March 29, 2010, by providing him with web links to the most recent published assessment of livability indicators in Corvallis. This correspondence occurred after the Staff Report had been prepared.



CITY OF CORVALLIS

P. O. Box 1083
Corvallis, OR 97339-1083
541-766-6900
541-766-6780

Public Records Request Form

PLEASE PRINT

Date Requested: March 29, 2010

To: (Department in charge of record) Community Development

Your name: Sean Smith Agency/Business: N/A

Address: 2215 NW 16TH ST, CORVALLIS, OR 97330

Telephone: 541-766-6610 E-mail address: Smith.cvo@gmail.com

View records at City offices: _____ Receive copies by mail or (pick up) X

Records requested: (be specific - date, title, group, author, subject, etc.)
The most recent published assessment of livability indicators. Please see the attached page with policy 1.1.7 of the Corvallis Comprehensive Plan.

Every person has the right to inspect any public record of a public body in Oregon, except as otherwise expressly provided by Oregon Revised Statutes (ORS) 192.501-192.502. The City shall respond to public record requests within seven working days of receipt. If your request is denied, specific reasons will be given by fax, e-mail, or letter. ORS 192.440(4) authorizes a public body to establish fees to reimburse for costs in making public records available.

RECEIVED

MAR 29 2010

FEES SCHEDULE ON REVERSE SIDE

Community Development
Planning Division

STAFF USE

Processed by: _____	Completed Date: _____
Reproduction Charges: _____	Research Charges: _____
Total Charges Due: _____	Date Charges Paid: _____

of Commissioners approved a Corvallis population forecast of 61,029 City residents in 2020.

- 1.1.d According to the 1997 Land Development Information Report, the City of Corvallis represented a total land area of 8,522 acres (13.31 square miles) in 1997. Of this, 1,925 acres remained undeveloped - two thirds of which are dedicated to residential development. The entire Urban Growth Boundary contains 28.21 square miles.*
- 1.1.e Oregon Revised Statutes require cities, as part of their Periodic Review, to: (a) inventory the supply of buildable lands within the Urban Growth Boundary; (b) determine the actual density and the actual average mix of housing types of residential development that have occurred within the Urban Growth Boundary since the last periodic review or five years, whichever is greater; and (c) conduct an analysis of housing need by type and density range to determine the amount of land needed for each needed housing type for the next 20 years.*

Policies

- 1.1.1** The Corvallis 2020 Vision Statement shall be regarded as the framework for Comprehensive Planning.
- 1.1.2** The City shall publish an updated 20-year population forecast as needed based on changing conditions, reflecting the trend observed in all of at least 20 years' prior historical data and considering other significant factors.
- 1.1.3** The City's population trend forecast shall be based upon an accepted standard methodology incorporating the population numbers from each of the past twenty years. The methodology shall be clearly described and publicized and will include assumptions and the confidence interval.
- 1.1.4** The Council-approved population forecast shall be used as one of the factors for estimating land requirements to accommodate expected City population and employment growth over the 20-year planning period.
- 1.1.5** The City shall conduct, as part of Periodic Review, a thorough inventory of buildable lands and analysis of all types of land requirements in accordance with, but not limited to, Oregon Revised Statutes.
- 1.1.6** The Comprehensive Plan Map shall be modified, as necessary, to accommodate shortfalls in any identifiable land use designation.
- 1.1.7** The City shall develop and monitor livability indicators, publishing an assessment at least every three years.

Latta, Brian

From: Latta, Brian
Sent: Monday, March 29, 2010 4:26 PM
To: 'smith family'
Subject: Public Records Request regarding livability indicators

Sean,

Thanks for your public records request. Please see the email below that provides the information for which you asked. I will include your public records request and this email response in the record for the City Council to review.

Brian Latta, Assistant Planner
City of Corvallis Planning Division
501 SW Madison Avenue
PO Box 1083
Corvallis, OR 97339-1083
541-766-6908 Ext. 5020

From: Potter, Kelly
Sent: Monday, March 29, 2010 4:15 PM
To: Latta, Brian
Subject: Public Records Request regarding livability indicators

Hi Brian - I spoke with the Assistant City Manager, Ellen Volmert. She has the most background on the livability indicators. She stated that the livability indicators stem from the City's Vision Statement and have been addressed/tracked by the combination of the City of Corvallis Report Card and the Annual Budget Document. She said that the City's Quarterly Operating Reports provide more frequent views of some of the information in the Annual Budget Document. A description of each of these types of documents and where they can be accessed on the web follows:

- The City of Corvallis Report Card - This report card addresses all manners of performance and indicators which affect livability. The most recent report card was published this month (March, 2010). It can be accessed on the web at http://www.ci.corvallis.or.us/index.php?option=com_content&task=view&id=3881&Itemid=4434 and then click on "March 2010 - All Pages."
- Departmental Text Sections of the Annual Budget Document - As part of the Annual Budget Document, each department provides a report on its performance indicators and other information. These performance indicators also address topics that are livability indicators. The most recent ones can be viewed on the web at <http://www.ci.corvallis.or.us/index.php?option=content&task=view&id=87&Itemid=51> and then click on "Budget Document" which is listed alphabetically. Proceed to Section IV which contains the departmental reports. At the beginning of each departmental report, there is information on performance indicators and this information contains subject matter affecting livability. The first department included in Section IV is the City Manager's Office. Its performance indicators are located on page IV-2. The performance indicators for other departments are contained in Section IV also and they each have their own different set performance indicators.
- Quarterly Operating Reports - Each quarter, a Quarterly Operating Report is issued. In each of these reports, each department provides information on its performance indicators. These performance indicators address livability indicator topics. While not as comprehensive as the combination of the City of Corvallis Report Card and the Annual Budget Document, these Quarterly Operating Reports are provided more frequently than the annual basis of the other two. The most current quarterly reports can be accessed at http://www.ci.corvallis.or.us/index.php?option=com_content&task=view&id=3940&Itemid=4477 and click on "Department Information and Performance Indicators." Each department's performance indicators are listed by section.

Kelly

Kelly Potter, Senior Planner
City of Corvallis Planning Division
501 SW Madison Avenue

P.O. Box 1083
Corvallis, OR 97339
(541) 766-6908
kelly.potter@ci.corvallis.or.us

**ADMINISTRATIVE SERVICES COMMITTEE
MINUTES
MARCH 17, 2010**

Present

Councilor Hal Brauner, Chair
Councilor Mark O'Brien
Councilor Joel Hirsch

Staff

Jon Nelson, City Manager
Roy Emery, Fire Chief
Will Bauscher, EMS Division Chief
Jim Brewer, Deputy City Attorney
Dan Carlson, Development Services Manager
Carrie Mullens, City Manager's Office

SUMMARY OF DISCUSSION

<u>Agenda Item</u>	<u>Information Only</u>	<u>Held for Further Review</u>	<u>Recommendations</u>
I. Ambulance Rate Review			Approve the ambulance service rate adjustment for Fiscal Year 2010-2011
II. Enforcement on Undeveloped Lots at SW Fairhaven Drive	***		
III. Other Business	***		

Chair Brauner called the meeting to order at 3:30 pm.

CONTENT OF DISCUSSION

I. Ambulance Rate Review (Attachment)

Chief Emery reported that the Fire Department conducts an annual review of ambulance service rates by surveying similar-sized agencies providing ambulance services within the Mid-Willamette Valley. The review helps the Department determine the balance between cost of delivery and revenue, while maintaining Council's desire to align with median rates.

Based on the results of the review, staff recommends adjusting the following service rates for Fiscal Year 2010-2011:

- Specialty Care Transport – 12.5% increase (from \$880 to \$990)
- ALS 2 Emergency – 3.7% increase (from \$880 to \$912.50)
- Evaluation & treatment; no transport – 4.9% increase (from \$385.25 to \$404)

Chief Emery noted that Corvallis did not initiate a rate increase at the last review. He added that some agencies are charging substantial fees to raise revenue and replace declining Medicare/Medicaid revenue. The Department believes this approach diverts expenses to other payer groups and increases the mandatory write-off. Realizing a substantial increase under this option is doubtful with current economic conditions and increasing numbers of under-insured and uninsured.

Mr. Bauscher clarified some ambulance services:

- BLS – Basic life support; monitoring, wound care, comfort
- ALS 1 – Advanced life support; intravenous administration, cardiac monitor
- ALS 2 – Advanced life support; intubation, advanced medical skills
- Scheduled Call – non-emergency; care facility transfer
- Unscheduled Call – request for emergency services (85-90% of all calls)
- Specialty Care Transport – additional resources; pediatrics, respiratory therapy, obstetrics

Mr. Bauscher said some agencies do not charge for Specialty Care Transport due to minimal calls and/or lack of a regional medical center providing additional resources.

In response to Councilor O'Brien's inquiries, Chief Emery said the Department has five ambulances; three permanently staffed, one in reserve, and one used for all Oregon State University events and as a second reserve. As Corvallis demographics change, a higher level of ambulance service is needed and, as service levels increase, other activities such as inspections and training are delayed and postponed. The strategic plan speaks to equipment deployment and staff is drafting response alternatives. All fire engines are ALS capable and can provide treatment until an ambulance can respond. Corvallis and Albany have a mutual-aid agreement to provide backup when all units are in service.

Chief Emery clarified for Councilor O'Brien that FireMed is relatively low cost and low impact on operations. Increasing membership fees decreases memberships. Mr. Bauscher added that FireMed coverage protects the user from costs not covered by the user's insurance program. The majority of FireMed members do not use the service.

Chief Emery noted that the Eugene/Springfield FireMed program is an enterprise fund. While this marketing model worked well in that region, it did not work well in Corvallis when attempted in the mid 1980s.

Chief Emery said Medicare/Medicaid calls are reimbursed at a capped rate set by the federal government. A typical Medicare ALS transport reimbursement is \$325. Mr. Bauscher said Medicare rates are driving the financial side of the ambulance industry. The Department is attempting to maintain pace and recuperate costs in the

areas allowable. It is a balance between increasing revenues without shifting the excess costs to insured customers.

In response to Councilor O'Brien's inquiry, Chief Emery said normal practice has been to establish median rates when compared to other similar-sized communities.

Mr. Nelson added that the rates are established similar to utility rates. Council has historically requested comparator information which has resulted in generating an average or mean rate.

Chair Brauner said comparing Corvallis with other Willamette Valley agencies is reasonable. Adding or removing comparators changes the average rate.

Chief Emery said the comparator agencies changed since the last review because of agency size changes and lack of response by some agencies.

The Committee unanimously recommends that Council approve the ambulance service rate adjustment for Fiscal Year 2010-2011.

II. Enforcement on Undeveloped Lots at SW Fairhaven Drive (Attachment)

Mr. Carlson reviewed the development history of three SW Fairhaven Drive lots as noted in the staff report. The development was abandoned in early 2007. The grading permits expired in February 2008. Although many attempts have been made, staff has not had any contact with the property owner since June 2007. Under similar circumstances, staff determine if the site is dangerous to the public:

- ▶ Yes – Abatement is ordered through the Dangerous Building Code via the City Attorney's Office. The order includes securing the property from entry (if not already completed) at the owner's expense.
- ▶ No – Staff reviews other potential issues related to Building Code, Corvallis Municipal Code (CMC), and Land Development Code (LDC). Issues and/or outstanding violations are flagged as "parcel tags" in the permit tracking system. Parcel tags restrict the issuance of permits until the item(s) is corrected, or a correction proposal is accepted as part of a new permit application.

Mr. Carlson said the above approach does not address an unsightly property in blight condition. Addressing abandoned projects that are not dangerous require changes to the CMC, and potentially the adoption of a property maintenance code. Some jurisdictions find property maintenance codes to be an effective tool; however, they can be viewed as intrusive and need both political and financial support.

The City does not have code language to force a land owner to restore property to a pre-development condition. The following would need to be considered in drafting such language:

- Property owners who have abandoned their sites are difficult to locate, deceased, have left the City, and/or are incapable of proceeding further.
- There are no restoration standards.
- Restoring the property to pre-development condition could force the property into non-compliant code status.
- Additional land use processes may be triggered if the intention is to leave the site in a state not approved as part of the proposal.
- Actions resulting in the owner spending more funds will be minimally successful if finances caused the abandonment.

In addition, the following should be considered if the City performs or contracts restoration work:

- Once the City engages in restoration, the City assumes the liability.
- If restoration causes the site to be out of compliance, who is responsible to bring the development into compliance?
- Without engaging the owner, the City may not be able to secure permits from other agencies.
- The cost may be prohibitive, may exceed the value of the property, and may never be recovered (or may take a significant amount of recovery time via property lien).
- The City does not have an established fund or reserve to engage in restoration activities.
- Clear guidelines would need to be developed to establish requirements, time lines, etc.
- There are potential ongoing expenses in securing the property from entry.

Committee members made several inquiries:

What steps does the City take, if the property is declared dangerous and has been abandoned?

Mr. Brewer: The City takes steps on dangerous developments even if the development has not been abandoned. The State's Dangerous Building Code (DBC) is utilized in these cases.

Mr. Carlson: Staff drafts a notice declaring the development dangerous, the property is posted, and the property owner is given time to rectify the situation, depending on the degree of danger. If the development is severely dangerous, staff will work with the City Attorney to cause legal action to engage a contractor to secure the development.

Does the DBC include property in addition to buildings?

Mr. Carlson: Yes, the DBC also applies to land.

Can the City confiscate the property?

Mr. Brewer: If the City is forced to spend funds to secure the property or perform restoration, a lien can be placed on the property via the DBC. Eventually, the City could confiscate the property; however, there may be reasons the public does not want to own a specific property, such as environmental contamination. A potential purchaser would be automatically notified of any parcel tag. There is a fine process; however, if the property owner cannot be located, there is no way to serve notice. In most cases, it is in the public's best interest to not foreclose on an abandoned property, and wait until it sells. During the last 30 years, Corvallis property sold fairly quickly and owners worked diligently to have parcel tags removed to ensure the sale. During current economic conditions, it may take longer for a property to sell. Any lien placed on the property would be addressed during the sale process.

Mr. Carlson recalled two incidents in which the City initiated the DBC, had the residents removed, and demolished the buildings.

Mr. Brewer said there have been health hazard and solid waste violations that were processed through Municipal Court. The judge ordered cleanup and fines.

Mr. Carlson clarified that if a property is abandoned and becomes unsightly, but not dangerous under health or other standards, there is nothing the City can do under current codes.

Councilor O'Brien said the Fairhaven development has open tree protection and grading violations. He inquired about initiating civil penalties via LDC provisions.

Mr. Brewer said grading permits are regulated by the CMC, not the LDC. The development on the Fairhaven lots removed trees from a preservation area prior to the adoption of the revised LDC (2006). The standard at that time was to preserve the trees to the greatest extent practicable. The City's Urban Forester and a City Planner initially determined there was a violation and that the development could not continue as approved without removing the trees. Staff eventually concluded there was no tree protection violation and the violation should have been closed in the system.

Mr. Carlson added that the tree preservation fencing was documented in one of the violations. The staff comment indicates it was inspected and approved, and a previous issue related to piled dirt around trunks and on drip lines had been corrected. He confirmed that trees were removed that had not been approved for removal.

Councilor O'Brien opined that there is no point in having standards with penalties for violations if the penalties are not enforced.

Mr. Carlson responded that the development was approved under the previous LDC. Staff made the best decision at the time, given the tools they had. The new code includes monetary fines for violations.

Chair Brauner further explained that if the property had been developed under the new LDC, fines could be assessed for the violation(s). The City cannot assess fines under the current LDC for a development approved under the prior LDC.

Councilor O'Brien noted that there is an agent attempting to sell the property. He opined that if the City has no interest in recouping costs, there should be an interest in sending a message that developers cannot violate building permits and walk away. A standard must be set for what level of violation is acceptable. The developer on this site has scarred the ground, caused erosion issues, trees have fallen, and the property is used as an example in land use discussions and decisions.

Mr. Carlson explained that some cost recovery is related to permits. The original developer paid for the permits at the old rate. A new developer will be required to resolve open violations and apply for new permits at the current rate.

Councilor O'Brien noted that leaving the property in the current condition sends a poor message to residents interested in land use.

Mr. Nelson said communities across the country that have blighted areas and/or properties not maintained have been given authority by the legislature to have taxing differentials placed on the property as an incentive for the owner to cleanup the property or release the property to someone who can move forward with development. The concept is not currently allowed in Oregon, but it has been referred to the League of Oregon Cities.

Mr. Carlson explained that the inspection staff works with the developer in anticipation of a successful conclusion. The Fairview activity was consistent and contact was regular. When a point of violation occurred, staff asked the developer to revise the scope of work identified in the permit. The City never heard from the developer again. There had been reasonable cooperation until this time. The State Building Code allows for 180 days between inspections. The permit remains active as long as there is progress and an inspection is requested every 180 days. In this case, 180 days was too long.

In response to Chair Brauner's inquiry, Mr. Brewer said a successful investment is what keeps people from not acquiring violations. If the City stops work due to violations, the property cannot be used as planned until brought back into compliance. There are City cases that involve violations so severe that staff recommend assessing fines as allowed by the Codes. In the Fairview case, the LDC violations were initially incorrect

or were resolved. Notice of violation and/or citations are served in person. A warning notice is sent to developers via first class and certified mail.

Councilor O'Brien noted that the LDC allows for the notice of civil penalty to be sent via personal service or certified return-receipt mail to the last known address. If the mail is returned, the property is posted.

Chair Brauner said the penalty section ensures the property is developed and occupied. The violation and penalties force the developer to correct any issues prior to receiving a certificate of occupancy or the next level of permits.

Councilor O'Brien opined that a violation should be pursued in this case. The property is potentially unsafe with a half-constructed retaining wall, exposed four-foot capped rebar rods, deteriorating erosion fencing, and trees in danger of falling.

Mr. Nelson said the only tool Council has is to authorize the use of contingency funds to hire a contractor to improve the aesthetics of the lots to meet constituents concerns, make an argument that there was no trespass on private property, and accept liability.

Chair Brauner added that ordinances would need to be adopted related to unsightliness.

In response to Councilor Hirsch's inquiry, Chair Brauner explained that the property cannot be declared abandoned since the property taxes continue to be paid.

Councilor O'Brien said there is potential to fine for building violations and there is a means to notice the property and notify the owner via certified mail. He inquired why these measures are not being done.

Mr. Carlson said Council must decide how far to extend staff time to pursue this issue for building code violations related to grading that staff determined do not meet the dangerous building code standards. Staff have visited the site on many occasions, over time, to ensure that it continues to be safe. Staff have not been able to locate the property owner.

Councilor O'Brien said he understands that the property is not abandoned and cannot be declared unsafe; however, at some point the City must choose to assess civil penalties.

Mr. Carlson said Council approved revisions to building code civil penalties due to Senate Bill 915. The bill related to a Corvallis case in which someone occupied a building before it was approved. The City warnings were ignored and civil penalties were assessed.

Mr. Brewer said the approved Senate Bill removes the City's ability to take building code issues to Municipal or Circuit Courts. These types of cases must now go through an administrative process.

Mr. Nelson noted that the provisions of the Senate Bill are not retroactive. The above mentioned case is an example of spending more than \$40,000 in local attorney fees plus additional insurance costs to respond to more than \$10 million in lawsuits over the last 10 years.

Mr. Brewer said when Council approved the changes to the Building Code, language was added that allows the City to lien properties when civil penalties are not paid.

Councilor O'Brien said this discussion will help him answer questions posed by the community. Most likely, staff will be forced to continue to deal with violations on this property and the City will continue to incur indirect costs by monitoring the property in the future.

Mr. Nelson said staff believe they have taken this issue as far as they can at this point. He will contact the real estate agent to discuss property maintenance and the idea that it is in everyone's best interest to resolve some of the concerns.

In response to Councilor O'Brien's inquiry, Mr. Brewer said if the property is sellable, the development plan must be amended due to new LDC requirements. Mr. Carlson confirmed that a new developer would inherit any issues on the property which may or may not result in a benefit. Chair Brauner said if the property cannot be sold because it is not developable under City's regulations, State law considers it a taking.

This item presented for information only.

III. Other Business

The next Administrative Services Committee meeting is scheduled for 3:30 pm on Wednesday, April 7, 2010 in the Madison Avenue Meeting Room.

Respectfully submitted,

Hal Brauner, Chair



541 766-6961
541 766-6938 (fax)

CORVALLIS FIRE DEPARTMENT
MEMORANDUM
400 NW Harrison Blvd.
Corvallis, OR 97330

To: Administration Service Committee
From: Roy Emery, Fire Chief 
Subject: Ambulance Rate Review
Date: February 24, 2009

Background:

In an effort to provide responsive, efficient and self-supporting Emergency Medical Services, Corvallis Fire Department works diligently to maintain balance between cost of delivery and revenue. Over the last several years, economic and inflationary factors have impacted costs of goods and services essential to the operation of Ambulance Services. User fees, offsetting reliance on general fund dollars, are the primary funding source for the Corvallis Fire Department Ambulance. In keeping with Council's efforts on economic sustainability and desire to maintain affordable Ambulance Services, I would like to report the findings of Corvallis Fire Department's annual review of Ambulance Service rates.

Findings:

Staff has compiled a listing of ambulance rate information for agencies within Benton, Linn, Lane, Yamhill, Polk, and Marion Counties. The areas and agencies were selected in an effort to obtain a representative sample of agencies of similar size, and/or areas served within the Mid-Willamette Valley. A summary of the rates can be found in attachment A.

In recent years, adjustments to ambulance rates have attempted to maintain alignment with the "median" to achieve the balanced approach desired by the Corvallis City Council. Many neighboring jurisdictions have made significant rate increases in an attempt to make up for decreasing Medicare/Medicaid revenues. Unfortunately, this approach only serves to divert expenses to other payer groups and increase the amount of mandatory write-off required. Therefore, with the ongoing economic environment and an increasing number of under insured or uninsured making up these other payer groups, realizing a substantial increase in revenues is uncertain.

Proposal:

To maintain alignment with median rates, staff recommends adjusting the following Ambulance Service Rates effective FY 10/11:

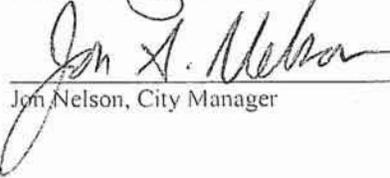
▪ Specialty Care Transport	from \$880.00	to \$990.00	12.5% increase
▪ ALS 2 Emergency	from \$880.00	to \$912.50	3.7% increase
▪ Evaluation & treatment no transport	from \$385.25	to \$404.00	4.9% increase

Recommendation:

Staff recommends approval by the Administrative Services Committee and adoption by motion for the City Council.

REVIEWED and CONCUR:


Nancy Brewer, Finance Director


Jon Nelson, City Manager

	County	Fire-Med	Specialty Care Transport	BLS-Emergency	ALS 1 Emergency	ALS 2 Emergency	ALS 1 Non-Emergency	BLS Non-Emergency	Evaluateion & Treatment No Transport	Transport Mileage (per mile)
Corvallis Fire (Current)	Benton	\$50.00	\$880.00	\$775.00	\$855.00	\$880.00	\$855.00	\$775.00	\$385.25	\$15.00
Eugene Fire & EMS	Lane	\$52.00		\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$800.00	\$20.00
Lane Rural Fire district	Lane	\$52.00		\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$800.00	\$20.00
Springfield Fire & Life	Lane	\$52.00		\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$800.00	\$20.00
Albany Fire	Linn	\$50.00	\$1,020.00	\$1,020.00	\$1,020.00	\$1,020.00	\$1,020.00	\$1,020.00	\$420.00	\$19.50
Jefferson Fire District	Linn	\$50.00		\$700.00	\$800.00	\$900.00	\$800.00	\$700.00	\$400.00	\$15.00
Lebanon Fire District	Linn	\$50.00		\$743.80	\$854.63	\$854.63	\$854.63	\$743.80	\$274.28	\$13.74
Sweet Home Fire	Linn	\$50.00		\$800.00	\$800.00	\$800.00	\$800.00	\$800.00	\$177.50	\$13.50
Salem Fire Department	Marion	\$50.00		\$586.00	\$810.50	\$838.50	\$810.50	\$270.00	\$408.25	\$12.50
Marion County Fire District #1	Marion	\$50.00		\$700.00	\$850.00	\$925.00	\$850.00	\$650.00	\$450.00	\$15.00
Keizer Fire District	Marion	\$50.00		\$586.00	\$810.50	\$838.50	\$810.50	\$270.00	\$408.25	\$12.50
Turner Fire District	Marion			\$700.00	\$850.00	\$925.00	\$850.00	\$700.00	\$0.00	\$15.00
Dallas Fire Department	Polk	\$50.00		\$712.00	\$894.00	\$894.00	\$894.00	\$712.00	\$450.00	\$15.00
Polk County Fire District #1	Polk		\$960.00	\$525.00	\$760.00	\$860.00	\$760.00	\$525.00	\$250.00	\$12.00
McMinnville Fire	Yamhill	\$50.00	\$1,316.00	\$837.00	\$977.00	\$977.00	\$977.00	\$837.00	\$150.00	\$16.50
Newberg Fire Department	Yamhill	\$45.00		\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$300.00	\$13.75
Median		\$50.00	\$990.00	\$759.40	\$854.82	\$912.50	\$854.82	\$759.40	\$404.13	\$15.00
Percent Increase to Median		0.0%	12.5%	0.0%	0.0%	3.7%	0.0%	0.0%	4.9%	0.0%

MEMORANDUM

DATE: March 9, 2010
TO: Administrative Services Committee
FROM: Ken Gibb, Community Development Director 
SUBJECT: Abandoned Development of Lots on SW Fairhaven

I. Issue

Citizen concerns regarding abandoned development of lots on SW Fairhaven.

II. Background

In July 2006, the Development Services Division issued construction permits for excavation and grading for new homes for three lots at 3628, 3650, and 3702 SW Fairhaven Drive. This was after the applicant completed a successful land partitioning process in 2004-2005.

In summary, work on the sites was commenced, but then abandoned sometime in early 2007. During the brief construction period the scope of work for which the permit was issued was determined to be exceeded. The applicant was given a correction to revise the permit scope. This action never occurred and in fact the last successful contact with the applicant was in June 2007. After repeated attempts to contact the applicant were unsuccessful, staff expired the grading permits in February 2008. More specific details of the events are captured in the attached Council Request Follow-up from December 3, 2009.

In similar circumstances where a project is initiated and then abandoned, there are currently a couple of approaches taken by staff.

Staff first makes an attempt to determine if the structure or site is dangerous to the public. If so, staff works with the City Attorney to order abatement through the Dangerous Building Code. If the site is not secured from public entry, or is at risk of becoming an attractive nuisance, as part of the abatement order, staff will order the site secured from entry. This can involve boarding the structure or fencing at the owners expense, while the owner works through a permitting process to abate the hazard.

If the site is not determined to be dangerous or a threat to the public's safety or welfare, staff will review all other potential code issues from Building Code, Municipal Code and Land Development Code perspectives. Any issues or outstanding violations that are not deemed a public hazard are captured and flagged as a "Parcel Tag" in the City's permit tracking system. Parcel tags will not allow a future permit to be issued until the

item is corrected, or a proposal is submitted and accepted as part of the application for a permit. This hold feature ensures that outstanding issues do not fall through the cracks but can be reasonably addressed through future development.

Unfortunately this approach does not address a site that is left unsightly and in a blight condition. To address conditions of blight or abandoned construction projects that are not dangerous in some way, would require changes to the Municipal Code, and potentially adoption of a property maintenance code such as the International Property Maintenance Code. Property maintenance codes can be an effective tool. However, they can be viewed by some as intrusive and would need solid backing both politically and financially from decision makers to support an ongoing program.

III. Discussion

Fairway View

The concerns initially raised were regarding unsafe or unstable slopes of the subject properties. In addition, there were other concerns with how the abandoned site looks, and the welfare of a large tree which is adjacent to the cut slope along the rear property line.

Staff has periodically monitored the site for any condition or new activity that would constitute a dangerous condition as defined in the Dangerous Building Code, or public nuisance as defined in the Corvallis Municipal Code. Attention has also been given to the large Fir tree that was of concern. Recent site inspections by staff continue to conclude that natural sloughing of the cut slope is occurring, which is to be expected, and the tree remains in a stable condition. Should the slope continue to slough as it likely will to some minor extent, or should the tree fall in a windstorm or other event, it is highly improbable that the public would experience a dangerous or hazardous condition.

Abandoned Development

The question has been raised as to why the City does not have a code in place to restore a property to its pre-development condition either by forcing the owner to restore the property, or by the City restoring the property and then placing a lien to eventually recover costs. There are essentially two scenarios where this might occur:

1) The Property Owner Performs the Work

The City does not currently have code language to successfully prosecute a land owner forcing them to restore to the pre-development condition. If such language were crafted there are several potential considerations:

- Generally property owners that have abandoned their sites are very difficult to locate in order to serve notice and give order to act or appear (as is the case on Fairhaven). In many cases the property owner is from out of town, has left the city, has passed on, or is simply incapable of proceeding further.

- There are no standards for restoration. What would restoration look like and to what defined extent? This may be difficult to determine when projects span multiple years and are suddenly abandoned.
- There may be instances where a non-conforming pre-development condition existed and the continued development of the property would rectify the condition placing it in a state of code compliance. If we require someone to restore the property to pre-development condition, we would be requiring them to be out of code compliance, and potentially forcing the property to a non-compliant status.
- Additional land use processes may be triggered if the intention is to leave the site in a state that was not approved as part of the development proposal. It is unlikely that a property owner will proceed through the necessary land use processes.
- Finances are often the primary motivator for abandonment. Processes or actions that result in the owner spending more on rectifying the circumstances are likely to be very lengthy with questionable success.

2) The City Performs or Contracts Work to be Performed

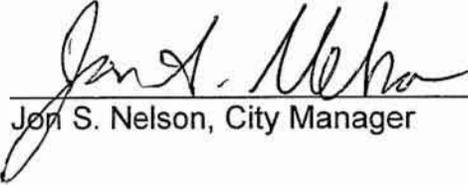
In cases where the City would order the work be performed the following considerations are offered in addition to those discussed above:

- Once the City engages in restoring the conditions to pre-development state, the City assumes potential liability for the site and any adverse impacts caused by such work.
- If restoration to a pre-development state is completed but the restoration causes the site to be out of compliance with the land use laws or approvals, who then is responsible to bring the land use into compliance? This responsibility may very well fall to the City once engaged.
- Other permits – Without the owner engaged, the City may not be able to secure permits from other agencies such as DEQ for asbestos abatement, or DSL for wetland approval.
- The costs to perform work may be extensive and if the intent is to recover costs through a lien, it could be a significant amount of time before costs are recovered. In some cases the cost to perform the work could exceed the value of the property, and in some cases costs may never be recovered.
- The City does not have a reserve or abatement fund established to engage in restoration activities and a fund would need to be established for this.
- Clear guidelines would be needed to establish who would decide what properties are required to be restored, and what sort of abandonment timelines would trigger a restoration process (1-year, 2-years, etc).
- Consideration would need to be given for the ongoing expense of securing the property from entry and maintaining the measures employed. This might involve the ongoing rental of fencing or construction barricades.

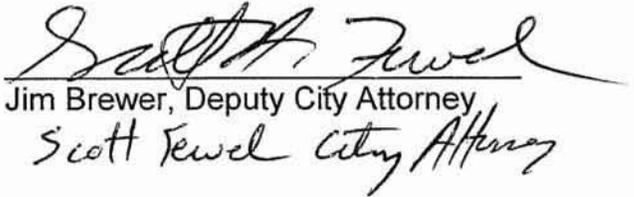
IV. **Action Requested**

Staff recommends ASC review this information and provide direction as to the appropriate course of action.

Review and Concur:



Jon S. Nelson, City Manager



Jim Brewer, Deputy City Attorney
Scott Fewel City Attorney

Attachment 1
Attachment 2

Council Request Follow-up from December 3, 2009.
Council Minutes, December 7, 2009

this audience will access much, if not all, of the funding available, staff anticipates no difficulties meeting DOE funds commitment and expenditure deadlines.

2. Oregon Department of Energy – Stimulus Funding Follow-up (Daniels)

On October 21, 2009, Mayor Tomlinson, Councilor Daniels, Cassandra Roberts with the Corvallis Environmental Center, and Public Works Director Rogers met with Oregon Department of Energy (ODOE) and the Energy Trust of Oregon (ETO) staff. The primary purpose was to assess funding opportunities resulting from House Bill 2626.

Based on ODOE recommendations, staff will schedule a meeting with the ETO to further investigate the possibility of jointly developing a business plan to participate in one of the pilot energy projects directed by the Bill. A critical discussion point will be the amount of City/ETO staff resources necessary to implement another energy project. Funds may be available as of June 2010, and it is anticipated that this meeting will be scheduled for December or January.

3. 2010-2013 Transit Operations Contract Procurement (Nelson)

Attached are a memorandum from Public Works Director Rogers and the text of House Bill 2867 regarding governmental entities providing services, rather than contracting for those services.

④ → 4. Status of Undeveloped Property on SW Fairhaven Drive (O'Brien)

Councilor O'Brien requested a review of the status of undeveloped property located at 3628, 3650, and 3702 SW Fairhaven Drive. Concerns about the status of the property were raised during public testimony at the recent appeal hearing related to a nearby property.

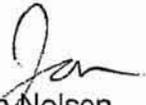
Below is a partial summary of information about the site that was provided in January 2009. Additional information regarding the case activities is available online through www.CorvallisPermits.com, click on "Check Case Status," and type in an address of 3628, 3650, or 3702 SW Fairhaven Drive.

Summary:

- a. The subject property was purchased and partitioned into three lots by Amir Shakibnia in 2004-2005. Amir is not associated with the Brooklane Heights developer.
- b. The original development plan was to install three single-wide manufactured homes on the three resultant lots.

- c. Despite having the partition approved, a complaint was lodged with our office for work commencing without a permit in June 2005. Staff investigated and found the complaint to be valid. Work related to grading and clearing. The Building Official ordered the work be stopped until permits were obtained.
- d. An approved excavation, grading, and erosion control permit was issued to Amir in July 2006.
- e. Work again proceeded to commence until for some unknown reason the project halted, then started again, then was abandoned.
- f. Per Corvallis Municipal Code, after 180 days of inactivity or abandonment, building permits expire. Several written notices and telephone calls were placed to Amir with no success of return contact.
- g. Before the permits expired, City inspection staff, including the City Forester, evaluated the site to determine if any life-safety hazards were present that would constitute a dangerous condition to the public. While the site was left unsightly, no such dangerous conditions were determined to be present.
- h. Staff expired the permits in February 2008 and sent notice of expiration to Amir. No contact with Amir has been received since June 2007.
- i. Regarding the question of violations, there was an outstanding development-related violation noted for grading, which has been tagged on the parcel in our permit tracking system. Since the permits are expired and it is not a violation involving a life-safety matter, the City is not in a position to effectively direct corrective action be taken or to correct the violation itself. Rather, any future development activity that occurs on the site, whether by the current or future owners, will be required to resolve the violation.
- j. Regarding the question of the City's ability to address the 'negative appearance' of the site, there is no current Municipal Code language that would enable the City to pursue this condition on private property.

Staff visited the site recently and again concluded that there is not a site condition that creates a life-safety matter; therefore, the City is not in the position to direct corrective action at this time.


Jon Nelson
City Manager

The report will be shared with the Community Policing Forum and Willamette Criminal Justice Council.

Mr. Nelson announced that the new 2009 population estimate for Corvallis is 55,125.

Mr. Nelson noted that the Land Use Board of Appeals endorsed Council's decision related to the 7th Street Station appeal. The full report is in the meeting materials.

2. Council Request Follow-up Report – December 3, 2009

Mr. Nelson said the Report includes:

- An update of the City's energy projects via the stimulus program allocations and establishment of a revolving loan fund. A meeting with the Energy Trust of Oregon will be scheduled to further investigate development of a business plan for energy project participation related to House Bill 2626.
- Information regarding House Bill 2867 related to governmental entities providing transit services versus contracting for services.
- A detailed review of undeveloped properties located on SW Fairhaven Drive. No other action is appropriate at this time.

In response to Councilor Daniels' inquiry about energy projects, Mr. Nelson indicated that Public Works Director Rogers will represent the City in further discussions with the Department of Energy and Energy Trust of Oregon.



Councilor O'Brien referred to the SW Fairhaven properties information and inquired about the mechanism to enforce violations. Mr. Fewel said enforcement is pursued by his office when requested by staff or Council. Action taken can include Municipal Court citation(s), relief through Circuit Court, or by other means.

Councilor O'Brien said, despite the lack of health and safety issues on this property, he requests all legal remedies be taken to pursue the property owner for resolution through fines or property forfeiture. He opined that leaving the property in its current condition is an egregious violation.

Mr. Nelson suggested referring the issue to the Administrative Services Committee (ASC) for review and potential recommendation to Council. The City's code related to building and weed abatement has what can result in lien situations for cleanup or abatement of property to recover costs. The City does not have a similar fund for non life-safety situations. Responding to the Fairhaven properties may raise expectations that the City has funds to respond to similar properties. Court and resource costs can result in significant expenditures.

Councilor O'Brien said he is more interested in pursuing the financial penalties associated with this specific violation rather than asking the City to repair the damaged ground.

Mr. Nelson said once the penalties are assessed the expectation is that the properties will be repaired. The ASC can review this issue in 2010.

Councilor Daniels concurred that she would be more interested in pursuing the financial penalties. She said she understands the City's limitations in cleaning up the property.

VIII. & IX. STANDING COMMITTEE REPORTS AND ORDINANCES, RESOLUTIONS, AND MOTIONS

B. Administrative Services Committee – November 18, 2009

1. Comprehensive Annual Financial Report (CAFR)

Councilor O'Brien said the first 20 pages of the CAFR provides a good review of the entire financial report. He noted that this is the 21st consecutive excellent rating received by the City.

Councilors O'Brien and Brauner, respectively, moved and seconded to accept the Comprehensive Annual Financial Report for Fiscal Year 2008-2009. The motion passed unanimously.

2. Economic Development Allocations First Quarter Reports

Councilor O'Brien reported that the Committee received written reports from all seven partners and heard oral reports from six.

Councilors O'Brien and Brauner, respectively, moved and seconded to accept the Economic Development Allocations first quarter reports for Fiscal Year 2009-2010. The motion passed unanimously.

3. Council Policy Review: 96-6.03, "Economic Development Policies"

Councilor O'Brien said this item was discussed by the Committee and held for further review. Staff will prepare a draft policy for the December 9 ASC meeting.

A. Human Services Committee – November 17, 2009

1. Council Policy Review: 92-4.05, "Library Meeting Rooms Policy"

Councilors Raymond and Brown, respectively, moved and seconded to amend Council Policy 92-4.05, "Library Meeting Rooms Policy" as recommended by staff. The motion passed unanimously.

**URBAN SERVICES COMMITTEE
MINUTES
March 18, 2010**

Present

Patricia Daniels, Chair
David Hamby
Richard Hervey

Visitors

John Foster
Stewart Wershow
Robert Wilson

Staff

Jon Nelson, City Manager
Karen Emery, Parks and Recreation
Director
Steve Rogers, Public Works Director
Greg Gescher, Engineering Supervisor
Emely Day, City Manager's Office

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Systems Development Charge Annual Review			Approve the proposed Systems Development Charge rates, by means of a resolution to be read by the City Attorney
II. Other Business			

CONTENT OF DISCUSSION

Councilor Daniels called the meeting to order at 4:00 pm.

I. Systems Development Charge Annual Review (Attachment)

Public Works Director Rogers explained that this is the annual review of Systems Development Charge (SDC) rates, per the Corvallis Municipal Code. The annual review is limited to inflationary rate adjustments, modifications to facilities plans, and modifications to lists of projects eligible for SDC funding. Today's meeting constitutes the Committee's public hearing on the annual SDC rate review; although, staff did not receive a request for a public hearing. The Committee's recommendations will be forwarded to the Council without an additional public hearing.

Mr. Rogers further explained that the Municipal Code specifies that SDC rate adjustments are based upon the Engineering News Record "Construction Cost Index" for Seattle, which indicated a .9-percent inflationary decrease. The decrease was applied to SDC rates. Of the Parks SDC rate, 33 percent is based upon land values (which decreased seven percent, per the Benton County Assessor's Office), and 66 percent is based upon infrastructure costs (which are subject to the .9-percent inflationary decrease).

Mr. Rogers explained that the SDC rates are comprised of Improvement Fee and Reimbursement Fee components. When projects eligible for SDC funding are completed, they are transferred from the Improvement Fee project list to the Reimbursement Fee project list; four projects were transferred this year: Improvements at NW Ninth Street with NW Circle Boulevard, turn-lane improvements at the intersections of SW Jefferson Avenue with SW 15th Street and SW Monroe Avenue with SW 14th Street, Dunawi Wetlands and Wetland Quality project, and 2008-2009 Storm Water Master Plan Pipe Replacement project on NW Beca Avenue.

Staff recommended adding to the Improvement Fee project list the Rock Creek Backwash Tank Replacement project, which was scheduled for some time due to the age of the tank. Staff determined that it would be best to simultaneously upgrade and increase the capacity of the tank. This new project will cause First Level Water SDC rates to increase slightly, even though the basis for the SDC rate adjustment decreased .9 percent. All other SDC rates would be decreased.

The staff report includes a multi-city SDC rate comparison, which indicates that the City's total SDC rate would remain in the same ranking position after the adjustment. The chart shows total SDC rates for a single-family development, with Corvallis' rate decreasing 1.7 percent. Mr. Rogers noted that the City's proposed total SDC rate would be considerably higher than Albany's total SDC rate. However, the SDC rate difference over the standard 30-year life of a structure, without interest, is approximately \$11 per month. Overall, infrastructure costs in Corvallis are less than in Albany.

Councilor Hamby suggested that the staff report be amended to explain the increase in the first-level water SDC rate.

Engineering Supervisor Gescher explained that the increase in the first-level water SDC rate is due to the project cost for the Rock Creek Backwash Tank Replacement project being extended to all SDC rate components. The first-level water SDC rate is very small, resulting in a slight increase for the additional project, after factoring in the .9-percent rate decrease. *[These minutes will supplement the staff report so there is an explanation on record, per Councilor Hamby's suggestion.]*

In response to Councilor Hervey's inquiry, Mr. Rogers explained that maintenance of projects constructed and eligible for SDC funding is paid from the Water, Sewer, Drainage, or Street Fund, except for parks facilities constructed with SDC funds; maintenance of those projects is paid through the Parks Fund, which is partially supported by property taxes. Engineers design structures for specific life expectancies – streets are now designed to last 50 years, and water and sewer lines are designed for 80 or more years.

City Manager Nelson added that the Capital Improvement Program (CIP) process indicates the operating impacts of capital projects.

In response to Councilor Hervey's further inquiry, Mr. Gescher explained that the Rock Creek Backwash Tank Replacement project was identified as a new project eligible for SDC funding during a CIP review two years ago. Lists of projects eligible for SDC funding are based, primarily, upon City master plans. The Rock Creek project was not identified in a master plan; during the CIP planning process, the project was recognized as being necessary to serve the Rock Creek plant at a greater capacity. Therefore, the project was added to the CIP with an SDC funding component.

Councilor Hervey inquired about the different Parks SDC rates for single-family and multi-family dwelling units.

Mr. Nelson responded that the Parks SDC rate-setting methodology was amended several years ago as part of an extensive review by the Committee and stakeholder representatives. *[Following the meeting, background information was obtained regarding the methodology: The difference between single-family dwelling units and multi-family dwelling units is due to the Parks SDC rate-setting methodology being based upon "per person" calculations for future parks, compliance costs, and a credit for debt service (general obligation bond). In 2000 the average number of people in a single-family dwelling unit was 2.8, and in a multi-family dwelling unit it was 2.1.]*

Councilor Hervey noted that the City's proposed water, storm water, and transportation SDC rate components would be in the lowest quarter of the ranking of comparator cities. He asked how SDC rates were set among communities.

Mr. Rogers confirmed that each city establishes its SDC rate-setting methodology, and staff does not know the methodologies of other cities. Mr. Gescher added that the methodologies may also be based upon the conditions of the different cities' systems and their preparedness to serve growth. Mr. Rogers added that water sources can affect SDC rates. He noted that Wilsonville has a high water SDC rate component after constructing a new water plant; those construction costs may contribute to Wilsonville's water SDC rate component.

Councilor Hervey noted that Corvallis' water SDC rate is the lowest among the comparator cities, and Philomath's water SDC rate is the third-highest, yet Corvallis sells water to Philomath.

Mr. Rogers explained that there is no connection between SDC and water rates. SDCs pay for infrastructure construction, and water rates pay for system operations. Water sales rates would not affect SDC rates for the purchasing city.

Mr. Nelson added that Corvallis sells water to Philomath on an emergency-supply basis. Some cities, through elected officials and citizen participation, place lower values on SDCs but have higher utility rates. Corvallis was the first Oregon city to establish SDCs and assesses SDCs on a "fair share" basis; other cities may pass more of the infrastructure construction cost to rate payers, rather than to new developments.

Based upon a motion moved and seconded by Councilors Hamby and Hervey, respectively, the Committee unanimously recommends that Council approve the proposed Systems Development Charge rates, **by means of a resolution to be read by the City Attorney.**

II. Other Business

- A. Robert Wilson reported that a street light at SW Ninth Street and SW Madison Avenue has been flickering for the past six or seven months. The same situation occurred, and was resolved, two or three years ago. He considers the situation a safety problem.

Staff will investigate the situation.

- B. The next regular Urban Services Committee meeting is scheduled for April 8, 2010, at 4:00 pm, in the Madison Avenue Meeting Room.

Councilor Daniels adjourned the meeting at 4:19 pm.

Respectfully submitted,

Patricia Daniels, Chair

MEMORANDUM

TO: Urban Services Committee (USC)

FROM: Steve Rogers, Public Works Director 
Karen Emery, Parks and Recreation Director 

DATE: February 23, 2010

SUBJECT: Annual System Development Charge (SDC) Adjustment

Issue

Municipal Code Section 2.08, directs the City to review and revise SDC's annually, adjusting for: inflation, modifications to facility master plans, and modifications to eligible project lists. Current Oregon Revised Statutes (ORS) do not require a public hearing unless requested by an interested party. Although no such request has been made, staff has scheduled the USC review as a public hearing to avoid delays that a last minute request might cause. USC recommendations to the City Council will be in the form of a regular committee report.

Background

SDC fees are collected from new development to pay for capital projects that have been, or will be built, to serve growth. All SDC fees, with the exception of Park SDCs, are comprised of two components: a reimbursement fee and an improvement fee. Based on the City Council adopted methodology, Park SDCs are collected only on an improvement fee basis.

Water, Sewer, Street, Drainage SDCs

The improvement fee is based on projects to be constructed that provide extra capacity to serve growth. Municipal Code Section 2.08.030.5 requires this fee to be adjusted annually for inflation using the *Engineering News-Record* (ENR) Construction Cost Index (CCI) for Seattle. Improvement fee monies collected can be used to construct capital projects that provide extra capacity. The reimbursement fee is based on projects already constructed that provide extra capacity to serve growth. It is not adjusted for inflation and can be used to construct any capital improvement. Both improvement and reimbursement fees must be spent on projects consistent with the funding source (i.e. Sewer, Water, Drainage, or Street SDCs).

Once an identified project on the improvement fee list is constructed, the estimated costs are removed from that list and actual project costs are added to the reimbursement fee list. This occurs in conjunction with the annual inflationary adjustment to SDCs.

Park SDC

The Park SDC methodology was updated in 2006. The process used to update the City's Parks and Recreation SDCs establishes the required connection between the demands of growth and the proportionate need of each type of park facility for use by current and future residents. The Parks and Recreation SDCs are based on the park, trail, and natural area acquisition and development needs such as sports complexes, as identified in the adopted 2000 Park & Recreation Facilities Plan.

Based on state statute, SDC rates are calculated using a series of sequential formulas which, when completed, yield the total SDC rates for each new dwelling unit in the City. The formulas identify:

- a) the park improvements cost per capita population
- b) the improvements cost per dwelling unit

- c) the SDC debt service credit per dwelling unit - This is applied to credit new development for its share of debt service that will be funded by current residents for the costs of future park improvements.
- d) the total Park SDC per dwelling unit
- e) the discounted SDC per dwelling unit – Based on statute, the City may discount the SDC rate to collect less than 100% of growth costs. The adopted Park SDC was discounted at a 60% charge rate. Said another way, the Park SDC rates that are collected fund a percentage of the new growth costs needed to provide for the park improvement needs.

In addition, based on City Council direction, the annual adjustment index is applied in two parts. It includes the ENR CCI for Seattle at 67% and the change in Benton County Real Market Value at 33%. This two-part process will recognize the project components of park related projects with both acquisition and development elements.

Discussion

Water, Sewer, Drainage, Street SDCs

Current SDC fees are based on a January 2009 Seattle ENR CCI of 8725.88. The January 2010 Seattle ENR CCI is 8645.35, representing an index adjustment of approximately -.9%. This adjustment is applied only to the improvement fee list of each SDC.

The following projects have been constructed and moved from the improvement fee list to the reimbursement fee list:

- ▶ 9th St./Circle Intersection Improvements, PN 657323
- ▶ Jefferson/Monroe Intersection Improvements, PN 657325
- ▶ Dunawi Wetlands and Water Quality, PN 655293
- ▶ 08-09 SWMP Pipe Replacement, PN 658354

The following project is a proposed new addition to the SDC project list:

- ▶ Rock Creek Backwash Tank Replacement, PN 658349

During design of the Rock Creek Backwash Tank project, it was determined that the tank capacity should be increased from 150,000 to 350,000 gallons which would be sufficient to serve future plant production rates. As a result, the funding strategy was modified in the 2009 update to the Capital Improvement Program (CIP) to include a Water SDC component. The tank has been constructed and is currently in service.

Park SDCs

The Parks SDC two-part index is calculated based on the Seattle ENR CCI and the Benton County Real Market Value. The Seattle ENR CCI is applied to 67% of the Park SDC unit costs and Benton County Real Market Value increase or decrease is applied to 33% of the Park SDC unit costs. This is based on the parks and recreation project list where 67% of the total costs are construction related and 33% of the total costs are acquisition related. The Benton County Real Market Value experienced a decrease of 7% over the past year.

Table 1 details the proposed SDC fee adjustment based on the criteria described herein. The impact of the fee changes on a typical single family residence and comparison with other cities is shown in Table 2.

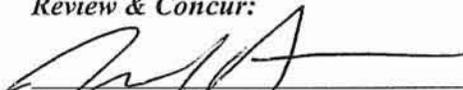
Proposed SDC rates will become effective April 12, 2010, with City Council approval of the attached resolution.

Notification of the March 18, 2010, USC public hearing and a copy of the staff report was sent to identified interested parties.

Recommendation

Staff recommends the USC forward the attached resolution to the City Council for approval.

Review & Concur:



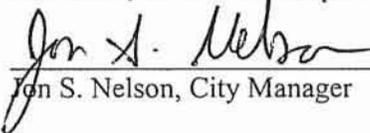
Jim Brewer, City Attorney



Nancy Brewer, Finance Director



Ken Gibb, Comm. Development Director



Jon S. Nelson, City Manager

Attachments

System Development Charge Rates		
Unit Description	Current SDC (\$/Unit)	Proposed SDC (\$/Unit)
WATER		
Equivalent Fixture Units		
1st Level	\$ 66.23	\$ 66.40
2nd Level	\$ 141.38	\$ 140.90
3rd Level	\$ 254.95	\$ 253.61
SEWER		
Equivalent Fixture Units		
	\$ 200.28	\$ 198.58
STREET		
Daily Trip Ends		
	\$ 238.15	\$ 236.35
DRAINAGE		
Impervious Sq Ft		
	\$ 0.079	\$ 0.076
PARKS		
Single Family Dwelling Unit		
	\$ 5,312.01	\$ 5,157.27
Multi Family Dwelling Unit		
	\$ 3,937.60	\$ 3,822.90

Table 1 – Current / Proposed SDC Comparison

MULTI-CITY SDC COMPARISON						
SINGLE FAMILY RESIDENCE						
City	Parks	Sewer	Water	Transportation	Stormwater	Total
Monmouth	\$1,484	\$2,753	\$1,413	\$394	\$210	\$6,254
Lebanon	\$1,056	\$3,247	\$1,928	\$589	\$176	\$6,996
Albany	\$1,745	\$2,402	\$2,041	\$1,734	No SDC	\$7,922
Eugene	\$3,213	\$1,979	\$3,251	\$1,621	\$505	\$10,569
Woodburn	\$1,752	\$2,977	\$2,085	\$3,532	\$303	\$10,649
Grants Pass	\$2,617	\$2,605	\$2,462	\$2,584	\$422	\$10,690
Veneta	\$3,415	\$3,618	\$2,156	\$1,935	\$162	\$11,287
Corvallis (Proposed)	\$5,157	\$3,177	\$1,062	\$2,262	\$210	\$11,868
Corvallis (Current)	\$5,312	\$3,204	\$1,060	\$2,279	\$218	\$12,073
Garibaldi	\$1,085	\$2,168	\$2,452	\$3,410	\$2,959	\$12,074
St. Helens	\$1,362	\$3,738	\$2,530	\$3,847	\$717	\$12,194
Columbia City	\$1,496	\$1,623	\$4,292	\$4,575	\$250	\$12,236
Salem	\$3,548	\$2,934	\$4,291	\$1,954	\$468	\$13,195
Gresham	\$3,837	\$5,056	\$4,153	\$2,795	\$909	\$16,750
Portland	\$7,972	\$3,835	\$2,690	\$2,398	\$690	\$17,585
Silverton	\$4,156	\$4,505	\$4,130	\$4,145	\$1,462	\$18,398
Hillsboro	\$4,083	\$3,600	\$5,646	\$4,599	\$500	\$18,428
Philomath	\$747	\$6,246	\$6,803	\$3,810	\$1,180	\$18,786
Lake Oswego	\$10,683	\$2,258	\$2,478	\$3,319	\$124	\$18,862
Beaverton	\$6,175	\$3,600	\$4,770	\$3,697	\$1,439	\$19,681
Newberg	\$2,017	\$9,892	\$5,394	\$2,689	\$287	\$20,279
Wilsonville	\$4,602	\$4,153	\$7,002	\$5,284	\$492	\$21,533
West Linn	\$8,376	\$2,745	\$8,605	\$5,745	\$956	\$26,427
19-Feb-10 02:29 PM						

Table 2 – Multi-City SDC Comparison

Notes

1. With the exception of Albany, only communities with parks, sewer, water, transportation, and stormwater SDCs are listed for comparison. The City of Albany is provided as an often-requested comparator.

RESOLUTION 2010- _____

Minutes of the April 5, 2010, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, the methodology for establishing systems development charges is established in Municipal Code Chapter 2.08, as amended;

WHEREAS, Municipal Code Chapter 2.08, as amended, requires the system development charge rates be established by resolution of the City Council;

WHEREAS, Municipal Code Chapter 2.08, as amended, directs City Council to review system development charge rates annually and revise capital project costs used to set rates to reflect changes in the *Engineering News - Record* (ENR) Seattle Construction Cost Index (CCI), Benton County Real Market Value of unimproved property, modifications to master facility plans, and modifications to the list of eligible projects as approved by City Council;

WHEREAS, the Seattle ENR CCI has decreased from 8725.88 (Jan 2009), to 8645.35 (Jan 2010) since the previous review of improvement fee rates;

WHEREAS, the Benton County Real Market Value of unimproved residential land has decreased by 7% over the past year;

WHEREAS, the City Council approves the addition of one project to the reimbursement fee list:

Rock Creek Backwash Tank Replacement, PN 658349 \$198,987 Water SDC

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that the system development charge rates are determined as follows:

(1) System Development Charge Determination

System Development Charge Rates			
Unit Description	Improvement Fee (\$/Unit)	Reimbursement Fee (\$/Unit)	Total SDC (\$/Unit)
WATER: Fixture Units			
1st Level	\$43.02	\$23.38	\$66.40
2nd Level	\$112.94	\$27.96	\$140.90
3rd Level	\$205.79	\$47.82	\$253.61
SEWER: Fixture Units	\$183.03	\$15.55	\$198.58
STREET: Trip Ends	\$203.14	\$33.21	\$236.35
DRAINAGE: Sq. Ft. - Impervious Surface	\$0.062	\$0.014	\$0.076
PARKS: Single Family Dwelling	\$5,157.27	NA	\$5,157.27
Multi-Family Dwelling	\$3,822.90	NA	\$3,822.90

BE IT FURTHER RESOLVED that the portion of Resolution 2009-10, previously establishing system development charge rates for extra-capacity facilities is, by this resolution, rescinded;

BE IT FURTHER RESOLVED that the City Manager is hereby directed to apply these rates as required by Municipal Code Chapter 2.08, as amended, for system development charges, effective April 12, 2010.

Councilor

Upon motion made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

ORDINANCE 2010-_____

AN ORDINANCE RELATING TO BUSKING, AMENDING CORVALLIS MUNICIPAL CODE CHAPTER 5.03, "OFFENSES," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 5.03.080.150 is hereby amended as follows:

Section 5.03.080.150 Begging.

- 1) No person shall beg, solicit, or accept alms or charity in or upon a public place. For the purposes of this Section, alms shall mean money, food, or clothes.
- 2) No person shall attract attention to the person's disability condition by sign, act, look, word, or gesture in or upon a public place for the purpose of inducing another to give alms or charity.
- 3) No person shall sell, solicit, offer, or expose for sale or exchange, or as a gift, any article, entertainment, or service, or anything whatsoever as an inducement to the giving of alms or charity. **For purposes of this Subsection 3, "accepting alms or charity in or upon a public place" does not mean collecting alms or charity in a suitable container which a performer does not physically pass to the audience.**
- 4) Notwithstanding Subsection 3, above, within the Riverfront Commemorative Park, people may offer entertainment, such as singing, dancing, playing musical instruments, and sleight of hand as an inducement to the giving of alms (busking) with the following conditions:
 - a) Voluntary payment. Persons busking under this Section may not make the provision of entertainment or performance of any act contingent upon the payment of monies by any spectator or spectators.
 - b) Signage. Signage must not violate any other provisions of the Corvallis Municipal Code.
 - c) **Distance between Entertainments.** ~~Number. The number of participants in any busking may not exceed five.~~ No two entertainments may be within 50 feet of each other.
 - d) Sound limits. Busking may not be plainly audible more than 50 feet away from the source of any music, sound or noise related to the entertainment. The entertainment may not be plainly audible within any dwelling unit which is not the source of the entertainment between the hours of 10:00 p.m. and 7:00 a.m. For purposes of this Section, "plainly audible" has the meaning given in Corvallis Municipal Code Section 5.03.030.020.10(2). Nothing in this Section prohibits the reasonable use of mechanical loud speakers or sound amplifiers or musical instruments in the course of the public events for which a permit has been issued under Corvallis Municipal Code Section 5.03.030.030.
 - e) Limit on time. Busking may not begin before 8:00 a.m. and must end by 10:00 p.m.
 - f) Health, safety and welfare. No busking is permitted which:
 - 1] endangers the health, safety or welfare of the entertainers or the public; or
 - 2] endangers or damages public or private property; or
 - 3] violates any state or federal rule, regulation, or statute; or
 - 4] violates any other provision of the Corvallis Municipal Code except as specifically allowed in this Section.

g) Bicycles. Busking involving the use of bicycles, skateboards, skates, or scooters is not permitted under this ordinance.

h) Fire and Fireworks. Busking involving the use of fire, fireworks or explosives is not permitted under this ordinance unless the entertainer first obtains any and all necessary permits from the Parks and Recreation Department and Fire Department.

i) Access. Busking may not take place on the multipurpose path or on the fountain area at Jackson Plaza in the Riverfront Commemorative Park. Busking may not take place at times when conditions warrant the closure of turf due to excessive wet and/or excessive wear conditions as determined by Parks staff. The entertainment and any spectators must leave at least 36 inches of clearance for users of any public or private property. The entertainment and any spectators may not block or hinder access to the curb cuts and/or related disabled facilities, public or private property. The entertainment and any spectators may not hinder or block any public or private parking facility, or any public street, alley or highway. The entertainment must be a minimum of 50 feet from ~~the restroom facilities located at "B" Street and Tyler Avenue~~ **any restroom facilities located within Riverfront Commemorative Park.**

j) Notwithstanding Subsection 3 above, it is permitted for City approved performers to offer entertainment, such as singing, dancing, playing musical instruments, and sleight of hand as an inducement to the giving of alms (busking) in front of all participating downtown businesses, regardless of the distance between these businesses, during "Art Walk," which is scheduled annually on the day of the Procession of the Species, as part of an Earth Day Celebration event.

5) A violation of this Section is a Class C Misdemeanor.

(Ord. 2010-*** §1, 04/05/2010; Ord. 2007-04 §1, 02/20/2007; Ord. 2003-16 §1, 05/19/2003; Ord. 89-42 §2, 1989; Ord. 88-50 §6, 1988; Ord. 82-77 §107.15, 1982)

PASSED by the City Council this _____ day of _____, 2010.

APPROVED by the Mayor this _____ day of _____, 2010.

EFFECTIVE this _____ day of _____, 2010.

Mayor

ATTEST:

City Recorder

ORDINANCE 2010-____

AN ORDINANCE RELATING TO BUSKING, AMENDING CORVALLIS MUNICIPAL CODE CHAPTER 5.03, "OFFENSES," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 5.03.080.150.4).c) is hereby amended as follows:

c) **Distance between Entertainments. Number.** ~~The number of participants in any busking may not exceed five.~~ No two entertainments may be within 50 feet of each other.

Section 2. Municipal Code Section 5.03.080.150.4).i) is hereby amended as follows:

i) Access. Busking may not take place on the multipurpose path or on the fountain area at Jackson Plaza in the Riverfront Commemorative Park. Busking may not take place at times when conditions warrant the closure of turf due to excessive wet and/or excessive wear conditions as determined by Parks staff. The entertainment and any spectators must leave at least 36 inches of clearance for users of any public or private property. The entertainment and any spectators may not block or hinder access to the curb cuts and/or related disabled facilities, public or private property. The entertainment and any spectators may not hinder or block any public or private parking facility, or any public street, alley or highway. The entertainment must be a minimum of 50 feet from ~~the restroom facilities located at "B" Street and Tyler Avenue~~ **any restroom facilities located within Riverfront Commemorative Park.**

PASSED by the City Council this _____ day of _____, 2010.

APPROVED by the Mayor this _____ day of _____, 2010.

EFFECTIVE this _____ day of _____, 2010.

Mayor

ATTEST:

City Recorder

***** MEMORANDUM *****

MARCH 15, 2010

TO: MAYOR AND CITY COUNCIL
FROM: JON S. NELSON, CITY MANAGER
SUBJECT: HAL HARDING REQUEST



ISSUE

Our office received a request from Hal Harding, Attorney-at-Law, to appoint him as Municipal Judge Pro Tempore so that he can perform a wedding ceremony on Sunday, July 4, 2010.

Council has approved similar requests for Municipal Judge Pro Tempore appointments in the past by means of a resolution. Municipal Judge Donahue has been informed of this request and he does not oppose the appointment.

REQUESTED ACTION

Council adoption of the attached resolution appointing Mr. Harding as Municipal Judge Pro Tempore on July 4, 2010 is recommended.

Attachment

c: Municipal Judge Donahue

2016

RESOLUTION 2010-_____

Minutes of the April 5, 2010, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, Section 24 of the City of Corvallis Charter empowers the City Council of the City of Corvallis to appoint and remove Municipal Judges for the City of Corvallis Municipal Court; and

WHEREAS, from time to time the City of Corvallis appoints persons as Municipal Judges Pro Tempore for the purposes of performing weddings under the laws of the State of Oregon; and

WHEREAS, Hal Harding, a Corvallis attorney, has requested that the City of Corvallis appoint him as Municipal Judge Pro Tempore on Sunday, July 4, 2010, for the purpose of performing a wedding ceremony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that Hal Harding is appointed Municipal Judge Pro Tempore for the City of Corvallis Municipal Court on Sunday, July 4, 2010, with all the powers and duties attendant thereon.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

Hal Harding
Attorney at Law

200 SW 4th Street, Suite 201
P.O. Box 1201
Corvallis, Oregon 97339

RECEIVED

MAR 10 2010

CITY MANAGERS
OFFICE

Phone: 541-757-7594
Fax: 541-757-1310
Email: hal@hardingmediation.com
Legal Assistant: Cheri Fisk and
Marriah de la Vega

March 8, 2010

Kathy Louie
Assistant City Manager
City of Corvallis
P.O. Box 1083
Corvallis, OR 97339-1083

re: wedding credentials

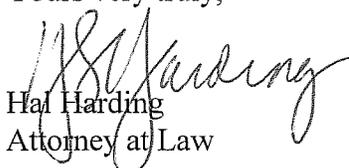
Dear Kathy:

I have been asked by my friends Chris Burke and Jen Mosier, who are Corvallis residents, to officiate at their wedding on July 4th in Cornelius, Oregon. If my authorization by the City does not extend beyond the City of Corvallis, we would do a private ceremony in Corvallis on July 3, 2010.

I am a member in good standing of the Oregon State Bar and have practiced law in Corvallis continuously since 1973.

Thanks very much for your assistance.

Yours very truly,


Hal Harding
Attorney at Law

cc: Chris and Jen

3/11/10
Mark D.
Approved
K

MEMORANDUM

TO: Mayor and City Council
FROM: Steve Rogers, Public Works Director 
DATE: March 23, 2010
SUBJECT: Intergovernmental Agreement with Benton County for 2009 Safe Routes to School Projects

ISSUE

City Council's approval is required to authorize the City Manager to accept an Intergovernmental Agreement (IGA) between Benton County and the City to complete Safe Routes to School (SRTS) projects.

BACKGROUND

The SRTS program is a federal-aid grant program of the Federal Highway Administration, administered by the Oregon Department of Transportation (ODOT) Safety Division. On January 12, 2009, ODOT awarded the SRTS grant to Benton County for improvements at Philomath Middle School and Philomath Elementary School. ODOT requested the City and Benton County partner in delivery of the projects. Currently, the City of Corvallis is the only approved certified agency by ODOT (pending the FHWA concurrence) for design and construction management for federally funded projects. Certification for advertising, bid and award process of this federal project is pending final review and audit by ODOT and concurrence by FHWA. Non-certified agencies must contract with a conditionally-certified or certified agency or consultant and ODOT to manage federally funded projects.

DISCUSSION

Benton County received a federal grant in the amount of \$200,000 for the installation of vehicle activated School speed signs and covered bike parking structures at Philomath Elementary School and Philomath Middle School. Benton County has agreed to pay for all expenses not reimbursed by the grant.

Benton County staff has requested that the Engineering Division manage design, bidding, and construction of the SRTS projects, rather than working with ODOT and a consultant, which will increase costs to the projects.

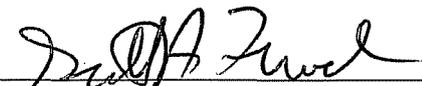
An IGA with Benton County and the City is required in order for the City to manage the projects on behalf of Benton County (IGA attached). A second IGA will also be required between the ODOT and the City to perform the work and provide for grant reimbursement.

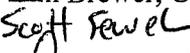
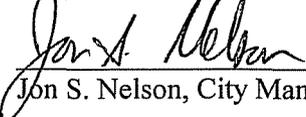
The Benton County SRTS projects is not identified in the current CIP or Street operating budget. Therefore, appropriations will be needed this fiscal year for advertising and bid processing, and next fiscal year for construction.

ACTION REQUESTED

Staff recommends City Council adopt the attached resolution authorizing the City Manager to execute all IGAs and amendments in support of the Benton County SRTS projects, as well as establish appropriations in the amount of \$200,000 in FY 09-10, to be carried over as necessary, to complete construction in FY 10-11.

Review and concur:

 3/24/10

Jim Brewer, City Attorney Date
 Scott Fewel
 3/25/10

Jon S. Nelson, City Manager Date

 3/25/10

Nancy Brewer, Finance Director Date

RESOLUTION 2010-_____

Minutes of the April 5, 2010, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, by Authority granted in ORS 190.110, 366.572, 366.574, and 366.576, the City of Corvallis may enter into cooperative agreement with State, Counties, Cities and units of local governments for performance of work on certain types of maintenance or improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties; and

WHEREAS, ORS 294.326 (2) allows the City Council to accept grants after the budget has been approved; and

WHEREAS, the City of Corvallis has been offered a Safe Routes to School grant from the Oregon Department of Transportation in the amount of \$200,000 for the purpose of constructing improvements associated with the Benton County Safe Routes to School Project; and

WHEREAS, the interagency agreement and grant acceptance requires approval by the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES to accept the grant offered by the Oregon Department of Transportation and all Intergovernmental Agreements with the Corvallis School District and the Oregon Department of Transportation in support of the School District Safe Routes to School projects, and authorizes the City Manager to execute the agreements, related amendments, and appropriate \$200,000 for expenditures.

BE IT FURTHER RESOLVED that the Finance Director is authorized to make the proper adjustments in the budget appropriations.

STREET FUND	<u>INCREASE</u>
Public Works Department	\$200,000

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

**INTER-GOVERNMENTAL AGREEMENT
BETWEEN
BENTON COUNTY PUBLIC WORKS AND CITY OF CORVALLIS**

THIS AGREEMENT is made and entered into by and between BENTON COUNTY, acting by and through its Public Works Department, hereinafter referred to as "COUNTY", and the CITY OF CORVALLIS, acting by and through its Public Works Department, herein after referred to as "CITY".

WHEREAS, by the authority granted in ORS 190.110, 366.572, 366.574 and 366.576, agencies may enter into cooperative agreements with the state, counties, cities and units of local governments for the performance of work on certain types of maintenance or improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties; and

WHEREAS, COUNTY and CITY have determined that it is both to their mutual benefit and to the general public's benefit if they jointly utilize CITY and COUNTY resources, including equipment and personnel; and

WHEREAS, the COUNTY has been awarded the Safe Routes to School (SRTS) Grant from the Federal Highway Administration (FHWA) administered through the Oregon Department of Transportation (ODOT) in the amount of \$200,000 for the improvements at Philomath Middle School and Philomath Elementary School; and

WHEREAS, under such authority, COUNTY and CITY desire to enter into this AGREEMENT to have the CITY manage the SRTS Grant Projects at Philomath Middle School and Philomath Elementary School; and

WHEREAS, the parties desire to share responsibilities related to the SRTS Grant Projects as detailed below;

NOW, THEREFORE, the parties agree as follows:

1. This AGREEMENT is effective as of the date of the last signature below and shall remain in effect for 12 calendar months following the date of the last signature below (the "Term"). Upon mutual agreement of the parties, the Term may be extended, modified or renewed by formal agreement of the parties.
2. COUNTY authorizes CITY to perform the advertising, bidding process necessary to secure contractors to perform the Projects, construction inspection, construction management, contract payment and Project administration. Request to ODOT for SRTS reimbursement will be made by the CITY.
3. COUNTY agrees to authorize ODOT to disburse all SRTS funds for this project to the CITY for all costs associated with the Projects, including all CITY actual costs for performance under this AGREEMENT.

4. CITY shall follow all specified guidelines related to the SRTS Grant package provisions such as, but not limited to, project management, project administration, engineering, bidding, selection of contractor, inspections, and payments to the contractor.
5. CITY shall prepare the design and engineering estimates for the Projects. Any change orders for construction affecting this estimate will be submitted to the COUNTY for approval prior to any work being performed by the CITY or its contractors.
6. COUNTY agrees to reimburse the CITY for all FHWA non-participation costs of the Projects and for all costs that exceed the FHWA participation. COUNTY further agrees to allocate the future allocation of federal funds or allocation of State Highway Funds to repay any FHWA non-participating cost.
7. If COUNTY makes a written request for cancellation of Projects, COUNTY shall bear 100 percent of all costs incurred to date. If it is determined that the cancellation was caused by a third party or circumstances beyond the control of State, CITY or COUNTY, COUNTY and CITY shall bear all development costs, and State shall bear any state administrative costs incurred.
8. The Project is indicated in Exhibit "A".
9. CITY shall be responsible for notification to residents concerning type of work activity to be performed and tentative scheduled start date. CITY shall notify COUNTY 1-week prior to start date (weather dependent).
10. CITY shall track all costs incurred while performing the work as identified under this AGREEMENT and submit the detail costs summary to the COUNTY. COUNTY agrees to make payment to CITY within 30 days for all cost exceeding the SRTS Grant amount.
11. CITY and COUNTY certify, at the time this AGREEMENT is executed, that sufficient funds are available and authorized for expenditure to finance costs of this AGREEMENT.
12. Neither COUNTY nor CITY shall be liable for any expenditure under this AGREEMENT without proper appropriation pursuant to ORS Chapter 291 and ORS Chapter 294, respectively.
13. Both parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this AGREEMENT, including, without limitation, the applicable provisions of ORS Chapters 279A, B and C, particularly 279C.500, 279C.510, 279C.515, 279C.520 and 279C.530, as amended by this reference made a part hereof. Without limiting the generality of the foregoing, both parties expressly agree to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
14. CITY represents that this AGREEMENT is signed by personnel who have been authorized to do so for the CITY.
15. COUNTY represents that this AGREEMENT is signed by personnel who have been authorized to do so for the COUNTY.

16. The parties to this AGREEMENT are of equal authority. Each party acts independently in the performance of its obligations and functions under this AGREEMENT, and neither party is to be considered the agent of the other.
17. This AGREEMENT may be terminated by mutual consent of both parties.
18. Both parties shall indemnify, within the limits of the Tort Claims Act, the other party against liability for damage to life or property arising from the indemnifying party's own activities under this AGREEMENT, provided that a party will not be required to indemnify the other party for any such liability arising out of the wrongful acts of employees or agents of that agency.
19. Neither party shall enter into any subcontracts for any of the work scheduled under this AGREEMENT without obtaining prior written approval from the other party.
20. This AGREEMENT constitutes the entire AGREEMENT between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this AGREEMENT. No waiver, consent, modification or change of terms of this AGREEMENT shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of COUNTY to enforce any provision of this AGREEMENT shall not constitute a waiver by COUNTY of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

BENTON COUNTY:

CITY OF CORVALLIS:

 Roger M. Irvin, P.E. Date
 Public Works Director & Contracting
 Officer

 Jon Nelson Date
 City Manager

APPROVED:

APPROVED AS TO FORM:

 Vance Cronney Date
 Benton County Legal Counsel

 Jim Brewer Date
 City Attorney

MEMORANDUM

March 18, 2010

TO: Mayor and City Council

FROM: Nancy Brewer, Finance Director *NB*

SUBJECT: Changing the Allocation of Property Taxes to the Transit Fund

I. Issue

To change the allocation of property taxes to the Transit Fund during FY 09-10.

II. Background

The City has had a public transit system since the early 1980s. In its early years the system was funded with a series of three to five year voter approved serial property tax levies, dedicated to transit services. When the 1996/1997 statewide voter approved constitutional amendments known as Measures 47/50 were approved, the separate property tax levies the City had were nullified, and the State set a permanent property tax rate of \$5.1067 per \$1,000 of assessed value. Since that time, the annual budget process has included a step where property taxes are allocated to the funds with property tax support in a proportion necessary to have all funds achieve similar ending budgetary fund balances. Beginning in 1998, the allocation went to the General, Street, Parks & Recreation, Fire and Rescue, Transit, and Library Funds.

Over time, the allocations moved more and more to supporting Police, Fire, Library, Parks & Recreation, and Transit services. In FY 2003, as part of a two year series of budget cuts for services that received property taxes, the City stopped allocating property taxes to the Street Fund. Shortly after that, based on recommendations from the Transportation Funding Alternatives Task Force, the Transit Fund allocation was reduced to \$400,000, which resulted in a 2.36% allocation. The balance of revenues from this reduction in property taxes was made up from higher levels of federal grants and the Business Energy Tax Credit (BETC). Based on Council Policy, the allocation to Transit has remained at 2.36% of the total revenue. This has meant that increases in assessed value/revenue have led to Transit receiving a little more than \$400,000 annually. Over the last several years, the Transit Fund fund balance has been growing.

III. Discussion

As the Budget Commission has been addressing the projected shortfall for FY 10-11, staff has reviewed the allocation of property taxes to each fund. The dedicated allocation for Transit, and its positive fund balance, has meant that as the five funds are balanced, the other four funds will have to cut more in order for the combined five fund balances to equal \$0. To address this, staff proposes reducing the FY 09-10 proportion of the property tax levy going to Transit from 2.36% to 1.14% of the total revenue. This action will decrease the property tax revenue going to Transit by \$215,640.

IV. Requested Action

Staff requests the City Council approve this reduction in property taxes allocate to the Transit Fund by way of a motion.

Review and Concur:


Public Works Director


City Manager

To: Corvallis City Council
From: Mayor Charles Tomlinson ^{UCT}
Subject: Economic Development Allocation Appointments
Date: April 2, 2010

I am appointing the following individuals to serve on the Economic Development Allocation Sub-committee:

- | | |
|---------------|--|
| Rick Schroff | Rick is a local business person who served on the Allocation Sub-Committee last year. |
| Brian Weldon | Brian is the former President of the Software Association of Oregon, local Corvallis Chapter, a local business person and served on the Sub-Committee last year. |
| Tammy Jaquith | Tammy is a local businesswoman and a member of the Rotary Club of Greater Corvallis. |

These individuals either live or work in Corvallis.

0029

4/15 - requested by Councilor Daulton. K

Councilor Empol thanked the residents of the Pickford/Leonard Property complex who came to tonight's Council meeting, acknowledging that courage is needed to speak out about situations of their living environment when there are possibilities for repercussions.

Colleen Alex, 42927 Island Inn Drive, Lebanon, said she has worked for the Parks and Recreation Department for five seasons, commuting 68 miles each day, to and from her home. Her work involves trees and landscaping. Other seasonal employees' duties include the Youth Parks Corps Program and dismantling homeless camps. Each year she hopes to gain a permanent job with an increased wage and benefits. She opined that seasonal Parks and Recreation Department employees deserve to be treated equally and fairly, and she asked that the Council acknowledge the seasonal employees. She suggested that the Council envision the condition of local parks without the efforts of seasonal employees.

Mayor Berg concurred that seasonal Parks and Recreation Department employees perform important work. She inquired what specific action Ms. Alex would like in terms of acknowledgment by the Council. Ms. Alex responded that the seasonal employees would like the Council to voluntarily recognize the employees so they can become part of the AFSCME union.

VII. PUBLIC HEARINGS

- A. A public hearing to consider a Land Development Code text amendment (LDT03-00003 – allowance of changeable sign copy by other than manual means)

Mayor Berg reviewed the order of proceedings and opened the public hearing.

Declaration of Conflicts of Interest – None.

Staff Report

Associate Planner Yaich stated that the proposed Land Development Code (LDC) text amendment, initiated by community members, is based upon a request to change provisions regarding signs. The Council received information via an Urban Services Committee meeting report and initiated a text amendment procedure last April, directing staff to prepare a text amendment proposal that would allow signs with electronically changeable text. The Planning Commission considered the proposed text amendment during September, made minor modifications, and forwarded to the Council a recommendation for approval.

Mr. Yaich referenced the staff report and explained that the current sign legislation does not allow the text message of a sign to be changed by other than manual means. He presented a diagram of the text area of a sign that could be changed. He said the City allows some signs with electronically controlled copy, such as those indicating time and temperature. The proposed text amendment's impacts on the community must be considered, along with the Comprehensive Plan and LDC criteria by which to evaluate the impacts in terms of established criteria and values in the community.

Mr. Yaich cited two key components of electronically changeable signage that must be considered:

1. The rate at which sign text may be changed. *Does a rapidly changing message create a visual distraction or safety issues, and is such a message the aesthetic image the community wants to promote?*
2. The intensity of light sources in the signs. *Generally, the newer sign technologies use light-emitting diodes, incandescent lights, or video display boards. The nighttime impacts of these types of lighting should be considered.*

Mr. Yaich reviewed the three LDC sections proposed for amendment:

1. Chapter 1.6, Definitions; Section 1.6.30, Meaning of Specific Words and Terms – The current LDC does not clearly define text-changeable signs. The proposed definition would address the new technologies emerging in the sign industry and the existing signage with changeable text.
2. Chapter 4.7, Corvallis Sign Regulations; Section 4.7.50, Prohibited Signs – Delete the prohibition of signs with electronically changeable text.
3. Chapter 4.7, Corvallis Sign Regulations; Section 4.7.80, Allocation Provisions and Design Standards by Type of Sign – If the City's current review criteria support signs with electronically changeable messages, add a new subsection (4.7.80.07, General Requirements for Variable Message Signs) to specify the standards to ensure that such signage is compatible with the goals and objectives stated in the Comprehensive Plan and LDC.

Mr. Yaich said the Planning Commission discussed the rate at which text changes should be allowed. The original proposal specified three changes in a one-hour period; the Planning Commission clarified the proposal to one change every 20 minutes to avoid the possibility of three rapid changes in a one-hour period.

Staff reviewed the proposal in comparison with similar legislation in other communities, which support the proposed limitation of one text change every 20 minutes. Rapid text changes in a short time period creates concerns of visual distractions and safety. If text changes are limited to intervals of more than 20 minutes, sign owners will be discouraged from using the newer technology because of the difficulty in conveying messages to readers. He observed that a 20-minute interval between text changes seems a good balance between eliminating visual distractions and recognizing the community's aesthetic concerns.

Mr. Yaich stated that the City currently allows internally illuminated signs in most districts, with standards outlined in the LDC. Illuminated signs should not cause direct glare on adjacent properties or streets. He acknowledged that the standards are somewhat vague, but they have existed for some time; there is no record of complaints regarding illuminated signs.

Mr. Yaich said staff researched other communities' legislation regarding implementing sign illumination limitations. Some communities regulate the amount of footcandles emitting from the sign. Most illuminated signs are located along streets and are surrounded by other light sources, making it difficult to measure the light emitting from the sign. Staff supports the existing sign lighting standard.

Mr. Yaich explained that the proposed LDC text amendment was intended to make the new sign technology feasible within the city, based upon the community's established standards for impacts on adjacent properties and compatibility criteria. The existing sign legislation has been content neutral, and the City does not want to regulate sign message content because of United States Constitution First Amendment rights. In evaluating the text amendment request, the Council must consider the effectiveness of existing standards. Other City sign standards address issues of location, size, height, number of signs, and lighting. The proposed text amendment should be enforceable.

Mr. Yaich summarized that the Planning Commission forwarded to the Council a recommendation for approval of the proposed text amendment, subject to a minor change. The Planning Commission's questions regarding lighting impacts were addressed in Mr. Yaich's presentation to the Council.

In response to Mayor Berg's inquiry, Community Development Director Gibb explained that the City has requirements regarding reducing lighting glare and impacts from illuminated signs; there are no regulations specifically involving footcandle measurements. Mr. Gibb confirmed that the requirements are effective.

Questions of Staff – None.

Public Testimony – None.

Mayor Berg closed the public hearing.

Questions of Staff – None.

Deliberations

Mr. Fewel read an ordinance relating to a Land Development Code text amendment, amending Ordinance 93-20, as amended.

Councilor Brauner said he is pleased that the Planning Commission and citizens found a solution to the requested LDC text amendment without opening the entire sign legislation to revision, which was a concern to many. He is happy the City, through the text amendment, can amend its sign legislation to remain current with sign technology in a way that addresses citizens' concerns and maintains the community's principles. He will support the ordinance.

Councilor Grosch referenced Councilor Griffiths' memorandum, included with the staff report, outlining her concerns regarding legislation enforcement, intensity of light source, use of colored illumination, establishing a footcandle standard, and text change frequency. He expressed understanding of Councilor Griffiths' concerns, which were discussed when the request was submitted through Councilor Brauner. He opined that the ordinance represents an enforceable, reasonable solution to the request. He does not expect that colored lights will be problematic and does not believe the issue needs to be addressed through the legislation. He opined that Councilor Griffiths' concerns were adequately addressed, and he will support the ordinance.

Councilor Wershow stated that he voted against the Council reconsidering the sign legislation amendment. He said he spoke tonight with Terry Barker, who was Chair of the Planning Commission when the sign legislation was developed. Mr. Barker told Councilor Wershow that the Commission had a difficult time with the legislation and reached a compromise. The Commission wanted signs that "invited attention but did not demand attention" and eliminated distraction. Councilor Wershow opined that the proposed ordinance follows the Planning Commission's goal of 15 years ago.

Mayor Berg noted that the Council received tonight a handout entitled, "Key Discussion Points: Lighting Impacts of Variable Message Signs."

Final Decision

ORDINANCE 2003-30 passed unanimously.

Appeal Process

Mr. Fewel announced that no one has grounds to appeal the Council's decision, since no one testified in the public hearing.

- B. A public hearing to consider a Comprehensive Plan amendment and an appeal of a Planning Commission decision on Land Development Code District Map Change (CPA03-00002, ZDC03-00011 – Reith)

Mayor Berg reviewed the order of proceedings and opened the public hearing.

Declaration of Conflicts of Interest – None.

Declaration of Ex Parte Contacts

Councilor McRoberts reported that she spoke with Connie Ehninger; however, their conversation was limited to the public hearing process and will not affect her ability to make a fair and impartial decision.

Councilor Empol reported that she received a letter from Michael and Erika Louie, and she noted that an almost-identical letter was sent to Councilor McRoberts. She expects that other Councilors received similar letters. She stated that the Louies' letter will not affect her ability to make a fair and impartial decision.

Councilors Grosch and Zimbrick indicated that they received similar letters from the Louies.

Mayor Berg explained that Councilors declare *ex parte* contacts to ensure that no member of the Council has information that the other members do not have.

Declaration of Site Visits

Councilors Wershow and Empol reported that they visited the subject site.

KL - Com 11:50 10:50
2003 CC minutes - for

i.e. what factors would be brought in as part of the public hearing process. Planning Division Manager Schlesener stated that there would not be many compatibility issues brought in as part of a straight subdivision, only if it were a planned development.

Commissioner Graetz felt that it might be more appropriate to develop on the east side of 53rd in RS-9 zoning area, which appears to already have single family dwellings as part of it. This neighborhood already seems to have a good mix with its existing zoning to act as a comprehensive neighborhood.

Commissioner Bailey stated that he will be voting against this motion because of the argument from the Chair about frontage of single family residences on 53rd being an issue. It seems that it is appropriate to have Medium Density on 53rd in order to avoid the development of through lots.

Commissioner Graetz thought that a proposal for RS-6 might be more appropriate, and Commissioner Bailey concurred.

The motion passed 3-2, with Commissioners Osen and Bailey voting against the motion.

In response to a question from Commissioner York, Deputy Attorney Coulombe stated that the Commissioners could not consider changing the district designation to RS-6 since that had not been proposed by the applicant.

MOTION: Commissioner Graetz moved that the Planning Commission deny the proposed change to the District Designation Map from RS-3.5 (Low Density Residential) to RS-9 (Medium Density Residential) (ZDC03-00011). Commissioner York seconded the motion. The motion passed 3-2, with Commissioners Osen and Bailey voting against the motion.

- O. Appeal Period: 12 days from date decision is signed.

III. PUBLIC HEARING: Sign Code Text Amendment - Allowance of Changeable Sign Copy By Other Than Manual Means (LDT03-00003)

X

- A. Opening and Procedures:

Noting that there were no new members in the audience, the Chair opened the Public Hearing but dispensed with reviewing the public hearing procedures for a legislative amendment hearing.

- B. Declarations by the Commission: Site visits, conflicts of interest or ex parte contacts

None were declared.

- C. Staff Report:

Associate Planner Yaich explained that the Legislative Amendment to the Sign Regulations of the Land Development Code deals specifically with a certain type of signage that is currently prohibited by the Code. The request came from members of

ACM/JS

the community who wished to use this new technology. This proposal was sent to the Urban Services Committee (USC) in March of 2003. The USC recommended that the City Council initiate a text amendment to address it. City Council initiated the text amendment on April 7, 2003.

The specific type of signage includes signs which have changing messages that can be controlled by internal computers, wireless/radio frequencies, and other non-manual means. The current Code allows for signs that have changing messages, but only those that have messages changed by hand.

The proposed amendments would:

1. Establish a definition for signs that have changeable copy through manual or non-manual means;
2. Eliminate the prohibition on signs that have copy changeable by other than manual means; and
3. Establish operational standards for this type of signage.

In looking at the operational standards, the proposed amendment focuses on the frequency or rate at which the actual message, copy or text is altered. Intensity of a light source for illuminated signs is already dealt with in Chapter 4.7.

Staff looked at several Code examples across the country and Code requirements are all over the board. Some Codes are very specific while others ignore the technology. It was determined that the most appropriate and enforceable standard would be to establish a maximum rate of change for sign text that would ensure the signs do not provide a distraction for motorists. The proposal is to allow changes three times in any one-hour period.

D. Discussion and Action by the Commission:

Commissioner York expressed concern for the change frequency, since it could result in changes that were no more than thirty seconds apart, with an interval of 59 minutes thereafter. He suggested that the requirement be something a bit more lenient like limiting changes to no greater than every three or four minutes.

Mr. Yaich stated that Staff based the recommended interval on other municipal Codes that have been in place for several years, and have had success using this criteria. The standard of every 20 minutes seems to be a logical time frame for pedestrian traffic. The real concern is safety of motorists and distractions that a sign might provoke.

Commissioner Bailey stated that he had made a field visit to the Nazarene Church on Highway 99W and had watched drivers' eyes as they drove past the church sign board. It seemed that folks were watching it quite awhile. He supports 20 minutes, but understands Commissioner York's concern about cycling a message rapidly three times between intervals of 59 minutes, and would support a change in the language to keep this from happening.

Commissioner Daugherty asked Staff why City Councilors Griffiths, Wershow, and Grosch had made comments in their deliberations that amending the Sign Code could be controversial. Staff stated that, in general, various users of signs are very

interested and vested in how signs are regulated and the issue can be controversial when amendments to the Sign Code are made.

MOTION: Commissioner Bailey moved that the Planning Commission recommend to City Council approval of LDT03-00003, a Text Amendment to the Land Development Code's sign regulations - Sections 1.6.30, 4.7.50, and 4.7.80, to allow both manual and automatically controlled variable message signs, as specifically written in Attachment B of the staff report. Commissioner Daugherty seconded the motion.

MOTION TO AMEND: Commission York moved to amend the original motion by changing the language in Section 4.7.80.07(A) to read:

- A. The interval of change in the message or copy of a variable message sign, whether manual or automated, **may not be any less than 20 minutes**. In no case shall the sign exhibit characteristics of those signs prohibited in Section 4.7.50(g).

Commissioner Bailey seconded the Motion to Amend.

Commissioner Bailey asked Staff if existing signs should have their rate grandfathered. Manager Schlesener stated that permits that have already been issued get to operate under the requirements in place at time the permit was granted.

Commissioner Barlow Pieterick expressed concern about signs that make sounds during the changing process that might impact neighboring properties. Deputy Attorney Coulombe stated that the noise ordinance already covers excessive noise, and that if the sign was plainly audible from 50 feet away, that Code would apply.

Commissioner Graetz asked if the OSU exemption meant that OSU could have electronic signs already, and Staff affirmed that was the case.

Motion to amend passed unanimously.

Commissioner York went on record of being supportive of a much smaller interval, in a four- to five-minute range.

Original Motion passed unanimously.

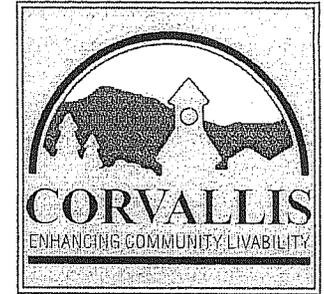
IV. MINUTES:

- A. August 6, 2003 LDHB Minutes were deferred for consideration.
- B. August 6, 2003 Planning Commission:

Commissioner Bailey requested that on page 10, item E. 1st paragraph, add "consideration" after Planning Commission in next to last line. Same page and item, 2nd paragraph, change "practice areas is nil" to "practice times is nil." Commissioner York requested a change on page 3, last paragraph, line 3, add the word "handbook" after Airport. On page 8, strike the paragraph starting with Main Motion in bold, as it is redundant. Commissioner Graetz requested that instead of listing departure times for the Commissioners as part of the heading, the Recorder make a notation of the items

Appeal of LDO09-00016

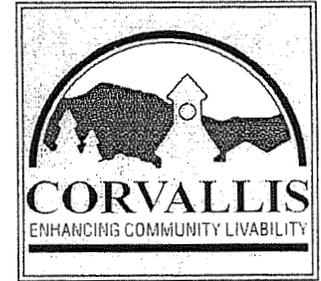
2215 NW 16th Street



Staff Overview of Appeal

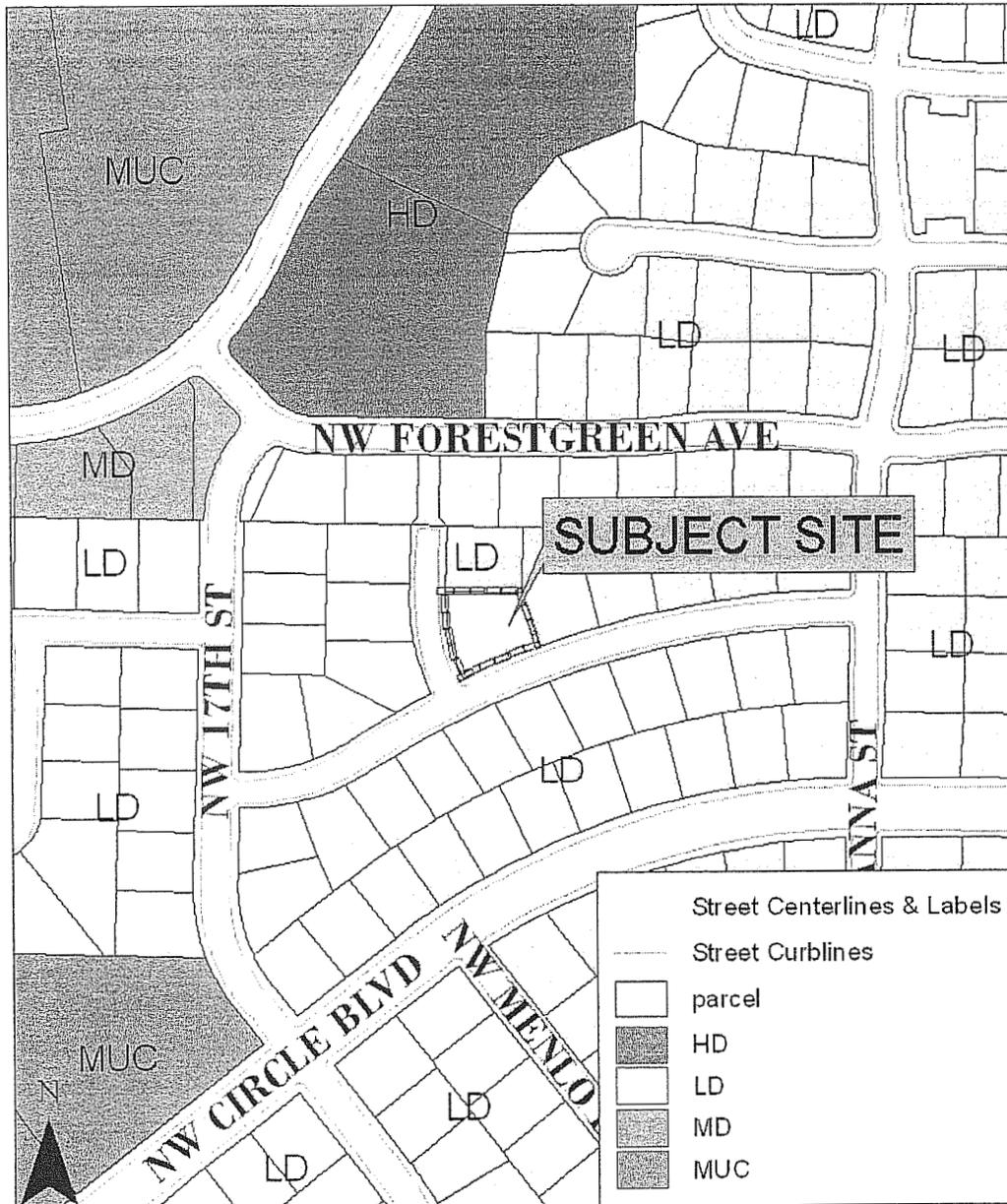
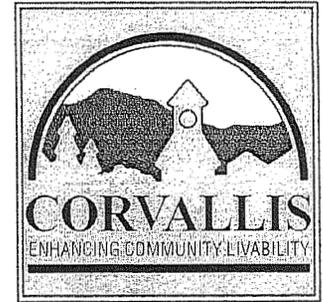
Appellant:	Sean Smith
City Staff:	Brian Latta, Assistant Planner
Hearing Body:	Corvallis City Council
Date:	April 5, 2010

Applicant's Request

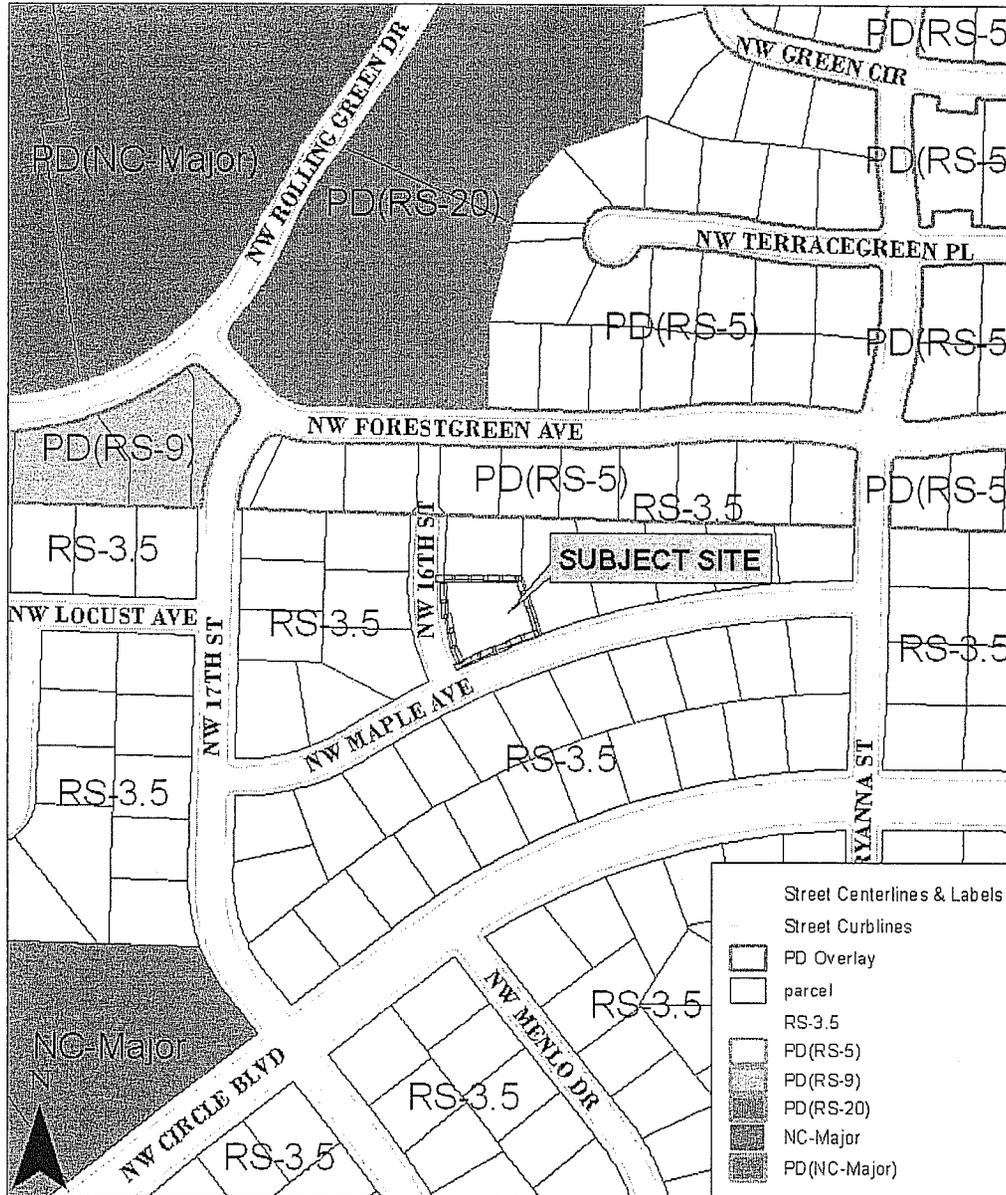
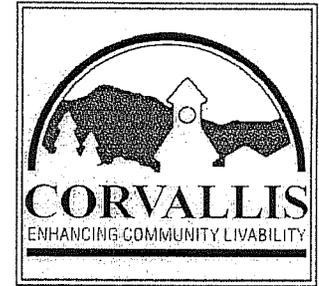


Approval of a Lot Development Option request to vary from one Land Development Code standard. The request is to vary the height limit of a fence by 166% in the street side yard setback from three ft. to eight ft.

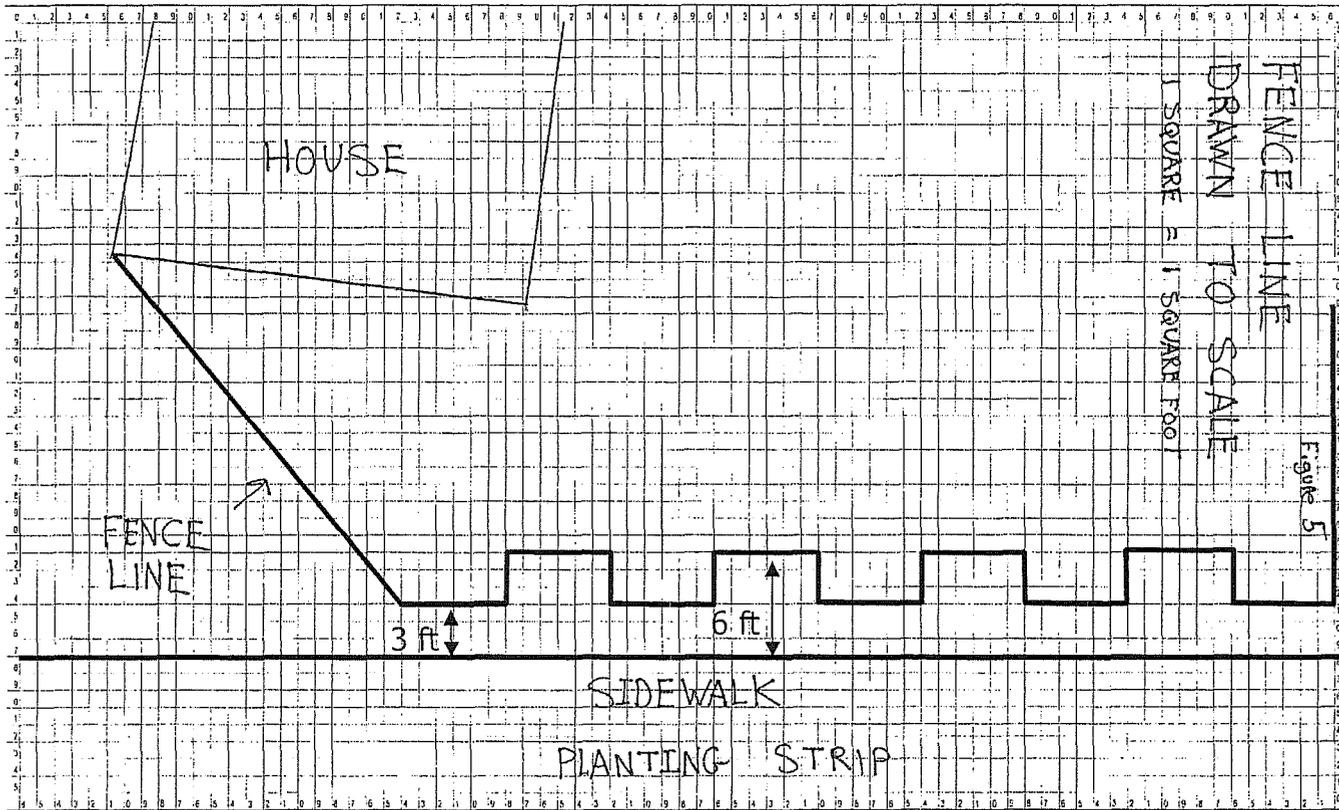
Comprehensive Plan Map



Zoning Map

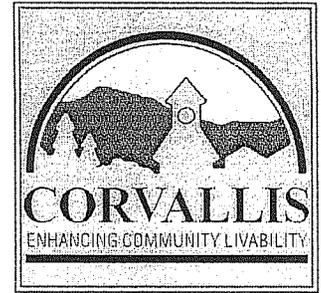


APPLICANT'S SITE DRAWING



Appeal of LDO09-00016

2215 NW 16th Street



Lot Development Option: Full Staff Report

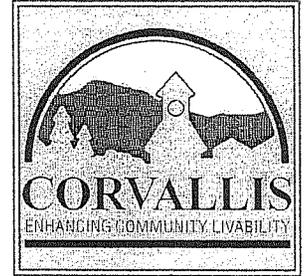
Appellants:	Sean Smith
City Staff:	Brian Latta, Assistant Planner
Hearing Body:	Corvallis City Council
Date:	April 5, 2010

Appeal Issues



1. *Contrary to the LDHB's findings the proposal does comply with LDO purpose statements 2.12.20(a) and (f). In regards to LDC Section 2.12.20(f) the appellant states that the proposal meets the intent of the LDO as described in an ordinance amending the LDC (Ordinance 2000-43).*
 - Staff concur with the appellant that purpose statement 2.12.20(a) is satisfied.
 - Staff do not concur with the appellant that the purpose statement in LDC Section 2.12.20(f) is satisfied. Additionally, staff do not agree with the appellant's assertion that because the intent of the LDO, as described in ordinance 2000-43, is met that LDC Section 2.12.20(f) is also met.
 - Compliance with LDC Section 2.12.20(f) is required by the review criteria in LDC Sections 2.12.30.06.b.2, 2.12.30.06.a.5, and 2.12.30.06.a.11.

Development Standard



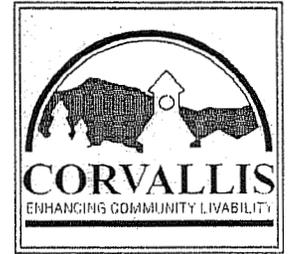
LDC Section 4.2.50.01(a):

Hedges, fences, and walls shall not exceed three ft. in height within any required yard adjacent to a street or within a Through Lot easement area of a lot.

Intent of Development Standard

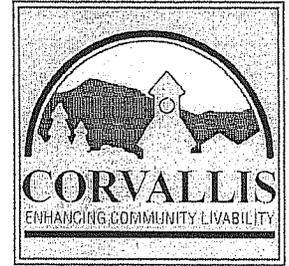
The intent of the fence height standard is to provide an open space between tall fences and sidewalks. Consistent with Comprehensive Plan policies 5.2.3, 9.2.1, 9.2.4, 9.2.5.I, and 11.6.1, the open space provided by the development standard increases pedestrian safety, neighborliness, and enhances the pedestrian environment.

Proposed Compensating Benefits



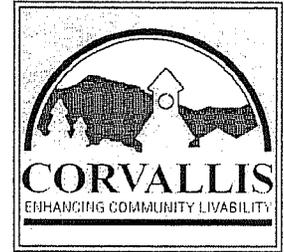
1. The fence fosters neighborhood interaction and better neighbor relations;
2. Safety for residents will be increased; and
3. The fence will enhance visual aesthetics.

Appeal Issues Continued



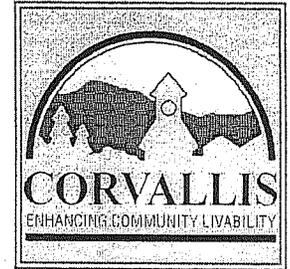
2. *Comprehensive Plan policy 1.1.8 was not followed in making a decision on the proposal. Additionally, Comprehensive Plan policy 9.3.7 was not considered in the decision.*
- Comprehensive Plan policies 1.1.8 and 9.3.7 were considered in review of the proposal, and found to not be decision-making review criteria, per LDC Section 2.12.30.06.b.

Appeal Issues Continued



3. *The appellant states that he was not allowed a regular rebuttal at the February 17, 2010, LDHB public hearing.*
- As reflected in the draft minutes of the February 17, 2010, LDHB public hearing, the applicant was given an opportunity to provide a rebuttal to the presentation of the staff report.

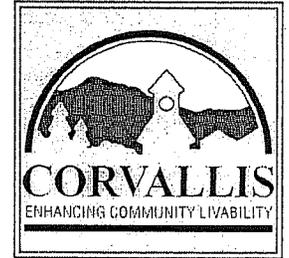
Appeal Issues Continued



4. *The appellant states that LDHB Board Member Reese was not able to make an impartial decision. This allegation is based on evidence that Board Member Reese owns property in the vicinity of a photograph that was shown by City Staff at the February 17, 2010, LDHB public hearing and did not disclose this during deliberations. The photograph was of a fence located within the side and front yard setback of a single family residence.*

5. *The appellant states that the LDHB Members may have been implicitly biased, because of the lack of diversity in where they live. The appellant notes that all three board members live in Corvallis Ward 8, and in Timberhill Plats with Homeowner's Associations.*

Appeal Issues Continued



6. *The appellant states that City Staff did not follow their own guidelines with respect to providing the applicant with a projector at the February 17, 2010, public hearing.*
 - A discussion of the City's internal policy regarding the use of the City's electronic equipment by the public is included in the March 31, 2010, Memorandum to the Mayor and City Council. In spite of that discussion, the LDC does not address the use of electronic equipment at public hearings. Therefore, the use of the City's projector is not a review criterion for the subject land use application.

Appeal Issues Continued



7. *The appellant states that Staff made the wrong recommendation to the LDHB with biasing language when Staff is supposed to remain neutral. The appellant also states that Staff should have considered Comprehensive Plan findings and policies 9.2.y, 9.2.5(k)(l), and 9.2.7.*
- LDC Section 2.12.30.05(b) directs staff to review a Major LDO application and prepare a staff report with a recommendation for approval or denial. Nowhere in the LDC is staff directed to remain neutral in their recommendations.

Appeal Issues Continued



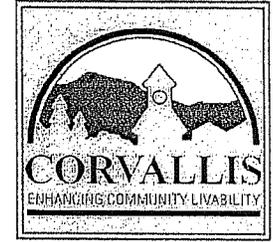
7. *The appellant states that Staff made the wrong recommendation to the LDHB with biasing language when Staff is supposed to remain neutral. The appellant also states that Staff should have considered Comprehensive Plan findings and policies 9.2.y, 9.2.5(k)(l), and 9.2.7.*
 - Comprehensive Plan finding 9.2.y and policies 9.2.5(k) and (l) were not considered in regards to the fence variation, because these items discuss the functionality of narrow streets and the proposal would not narrow the street.

Appeal Issues Continued



7. *The appellant states that Staff made the wrong recommendation to the LDHB with biasing language when Staff is supposed to remain neutral. The appellant also states that Staff should have considered Comprehensive Plan findings and policies 9.2.y, 9.2.5(k)(l), and 9.2.7.*
 - Comprehensive Plan policy 9.2.7(A) was considered by staff in reviewing the proposal. Staff and the LDHB found that the proposal was inconsistent with the policy.

Major LDO Review Criteria

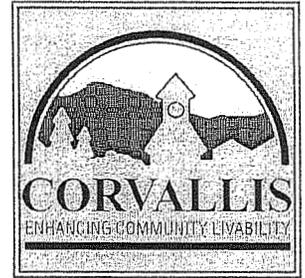


Staff and the LDHB find that the proposal does not comply with the following review criteria:

- Section 2.12.30.06.a(5) – Consistency with Background and Purposes of Chapter 2.12 - Lot Development Option
- Section 2.12.30.06.a(11) – Provides Compensating Benefits
- Section 2.12.30.06.b(2) – Consistency with Sections 2.12.30.06.a(2)-(11)
- Section 2.12.30.06.b.3(a) and (b) – Basic Site Design and Visual Elements
- Section 2.12.30.06.b.3(g) – Landscaping for buffering and screening

The remaining criteria are either satisfied by or do not apply to the subject proposal.

Conclusion and Recommendation



- The proposed fence is not consistent with the goals, findings and policies of the Comprehensive Plan.
- The variation request does not meet a number of the review criteria for a Major Lot Development Option.
- The appeal issues raised by the appellant have all been addressed.
- Staff and the LDHB recommend the City Council UPHOLD the decision of the LDHB and DENY the appeal.

TURN-OFF CELL PHONE

(SHOW COURT HOUSE) I was born in Corvallis many years ago. I was here when Richey's, Payless, and JC Penny's were downtown on the Plaza Hotel block. This was the early 60's when they were still going strong. I was here when Avery Park still had a Zoo. I was here when West Coast Airlines had regular passenger service at the Corvallis Airport. They later merged and became Hughes AirWest.

We moved back to Corvallis in 2002 to raise a family and are here now. The house required some renovation and changes before moving in. **(SHOW HOUSE WITH SOUTH WINDOWS)** We put windows on the south wall of the house facing Maple where there were none. This was let more natural light in and provide additional emergency exits. It also provided sightlines out the windows which we will talk about later.

When we bought the place, we planned to put a fence in and did a locate to find where the underground utilities were. **(SHOW LOCATE)**. I called the City and talked to a planner named Joe Kasper **(SHOW KASPER DOC)**. He explained we were only allowed to put a 5 foot fence in next to the sidewalk and had to incorporate offsets. The fence also had to be outside something called a visual clearance area. I talked to him about where I wanted the fence, but I was told I would need a stop sign at the corner which wasn't likely to happen. We felt 5 feet didn't meet our needs for privacy and security, so we put the project on hold since we were busy with a new born and planning another and frankly didn't have to funds to proceed. Life sometimes gets in the way of your plans

(SHOW RENTAL) It's not the greatest neighborhood, but it is in a convenient location. I have a lot of pedestrian traffic by my house and I can tell by the amount of trash that gets thrown there. Thankfully I've only stepped in dog pooh once. Noise and light pollution are also becoming an issue for us. Rental houses now make up about 40% of the properties along Maple and 16th. The two rentals across from my house on Maple have vehicles that come and go as we sleep. One of them has been primarily rented to college students since it became a rental. I was a renter until we bought this place. The problem is they come and go at odd hours of the night. They park their cars outside my bedroom windows slamming their car doors as they come and go when we're sleeping. Circle Blvd is a block away and that generates noise and if the City ever punches Circle through to Harrison it will just increase. With OSU's goal of increasing the student population 10 to 15K over the next 15 years, I expect more rentals in the neighborhood. We've had rocks and soft drinks thrown at our windows in the middle of the night while we've slept. (I'm hoping it's not a bias intimidation thing since wife is non-white) All the doorbells on our street have been rung in the middle of the night. The neighbors called that incident in. I disconnected the doorbell after the second time. Dogs are often running loose. **(SHOW GT ARTICLE)** The wakeup-call for me was when a block

away over on Forest Green two renters participated in a home invasion of another house nearby. They were too stupid to realize someone was home and were arrested and now live in the big house with a really tall fence.

If the home invasion was the wake-up call, the call to action was when this last summer I was walking back from Albertson's with my 4 year old daughter and we noticed two loose large pit bulls. My daughter was terrified and I told her not to stare at them and we would walk slowly home. For the first time I felt totally unsafe in my neighborhood 100 feet from my house in broad daylight. I knew then the front-yard was no longer a safe place for the kids to play. I knew then I had to get that fence built for the backyard and needed a "bigger" area for them to play in. I also knew I needed a fence tall enough to ensure the safety of my children.

(Show Mailbox) If you did a site visit you may have noticed one house with a mailbox at the street. Why, because the mailman won't deliver to the house because of the dogs. In hindsight after talking to the neighbors I should have called it in, but I know from experience dogs of even the most responsible owners get out occasionally. Parents shouldn't have to worry about the safety of their children in their own front yards.

There are other issue too. You know the renters are going to be issue when they start talking about how great the garage will be for parties since it has a concrete floor and they will be able to easily hose off the vomit. Believe me we were glad when they moved.

Why don't we move? That's a good question. We don't want to move. We're settled here. We just want to make our property livable by making it safe, private and secure with a fence that meets our needs. I guess we could rent it to one of those 10 to 15,000 students OSU is expecting in the next 10 to 15 years and move elsewhere.

When I decided to see what the current fence rules were, I found out I could no longer erect the five foot fence that I could have when I bought the property, but could only build a 3 foot fence in my exterior side yard. I talked to someone who had a planning booth at Da Vinci days and found out about the lot development option. With further research I found if I wanted to put in the 5 foot fence that I was allowed to build when I bought the house, I would need to pay an \$856 fee and have a public hearing and still not be guaranteed the right to build it.

(EARTH) I then noticed the City was requesting the fee be raised to \$2000 and submitted written testimony against that. I pointed out that for some reason only my zone of RS-3.5 has a greater exterior side yard setback which is 20 feet than a front yard setback which is 15 feet. This allows my neighbor to construct a 6 foot fence 15 feet from the sidewalk, but if I want to continue that fence into my yard today a \$2000 fee would be required along with a public hearing. **(SHOW HEDGES)** Even the 4 and a half foot hedge beneath my windows requires a \$2000 fee and a public hearing today. A fence or hedge above 3 feet requires a fee of \$1166. Any fence, deer fence, wall, or hedge 4 feet and above requires a \$2000

fee if you want to build it in a setback. I say 4 and above rather than above 4 because the code says 33% not 33 and 1/3%.

I think it's obvious the Corvallis LDC has some flaws and it doesn't respect corner lots, but treats them as second class properties. (**SHOW SALEM**) In Salem you can put a 6 foot fence in your exterior side yard outside the vision clearance area – no questions asked. In Portland it's 8 feet. (**SHOW EARTH**) These single level houses on corner lots almost always have their garages with their driveways opposite the corner for safety reasons especially with houses oriented as mine. When someone is coming around a corner as you're backing out of your driveway, you want to give them any extra space possible. This means the bedrooms tend to be along the street. Fences and hedges are necessary to buffer the noise from the street along the bedroom sides of the house and to ensure the privacy of the occupants. This is necessary to maintain the "livability of the home". I don't want two front yards and that is what the City is effectively doing with the restrictive exterior side yard setback. Other neighborhoods require deer fences in their front yards to protect their plants.

The City would have you believe the fences and hedges of the height I'm suggesting are unusual in my neighborhood. This is nothing unusual in my neighborhood or in many other neighborhoods. These are legal fences since they all had successful LDO's. (**SHOW LDO'S**) The neighborhood characteristics from these properties are no different than my own. Only thing odd about my lot is the abundant amount of open area. My house is setback 45 feet from the sidewalk when only 15 is currently required. It could be argued I have too much open area and I'm not being facetious. If I said I need to reduce open area to make the agoraphobic more comfortable, I could be accused of being facetious.

Now let's address the City's contention about safety and visibility. (**SHOW SIGHT LINES**) I don't really don't know the safety risk of blocking a view that is already obscured. I feel parked cars and trucks are much more of a safety issue obstructing the view of pedestrian from cars. I'm not blocking the view of pedestrians from traffic. If someone falls down on the sidewalk a 3 foot fence will block the view as much as a 10 foot fence. This fence would definitely obscure the view from the windows I had installed that didn't exist when I bought the house and whose blinds are almost always down, but I the top half will be unobstructed for a view across the street. We have talked about installing a security camera looking at Maple and probably will. I don't know where the best balance between safety and privacy is.

I don't like visual obstructions and it was a concern of mine when I moved in. (**SHOW MOUND**). I removed the major one on my property the first year. I didn't feel cars could see well enough coming around the corner. (**SHOW AERIAL WITH MOUND REMOVED**). With removing the mound and adding windows even after they have been partially obscured by the fence, there will have been a net increase in visibility since we bought the property.

(SHOW FRONT YARD SHOT) As far as open space is concerned my front yard has more open space than any other yard in the neighborhood, and I think I contributed more than my fair share. I leave it to the City to prove otherwise.

We just want to make more efficient use of our lot and by building a fence that meets our needs for safety, security, and privacy. Pedestrian oriented design features are important. I bike to work about the half the time and usually walk to the store if it's WinCo or Albertson's.

The height I'm proposing seems to be somewhat controversial. I don't necessary want or feel I need the trellis feature. It was added to enhance the beauty of the fence for the neighbors and pedestrians. It had the added feature of hopefully slowing down the pit bulls if they tried to get in the yard, but I can live without it. The 7 foot height I believe is necessary. Why? Many people are over 6 feet tall, but few are over 7 feet tall which would give us the privacy we need. I don't need strangers walking by and looking in my bedroom windows. We want the top third of our window open, but the bottom two thirds obscured, and a 7 foot fence should do this. **(SHOW CUL-DE-SAC WINDOW)** I will lower the fence if too much is obscured and if we can't look out to see across the street. **(SHOW WATER LINE LEVEL SHOTS 1, 2 & 3)** We measured the elevation between the sidewalk and the patio using a water level and found an 11 inch difference. We then measured the elevation difference between the grade 3 feet back from the sidewalk and the grade under the window and found a 9-half inch difference. The floor inside is another 18 inches above grade making the sight blockage from inside the house equivalent to about a 4 foot 8.5 inch fence from my sightlines inside the house. The large scary dogs are in a yard with a 6 foot fence and it's not keeping them in now. I'm not really sure what will keep them out, but I know higher is better than lower. **(SHOW FIRST SHOT OF FRONT AGAIN)**

A number of issues make this property and location unique. We have two major shopping center that draw a lot of vehicle and pedestrian traffic by my house. I have an extremely large front yard which more meets the need for open space. The closest City Park is across Circle BLVD. I hate cross it. There has been more than one occasion when I've started across only to retreat when the vehicle I thought was going 35 to 40 was probably going 50 plus. I rather have a larger backyard for the kids to play in than risk crossing the street with them.

Address City Issues in Appeal.

Define Livability

Comprehensive Plan Intent

Comp Plan Livability

Report Card on Livability

Pedestrian Standards

Setback changes

Open Space Definitions

My Open Area

Projector getting viruses through an analog video signal is hogwash and if your IT staff told you that they owe you an apology.

The question is whether this project does this project maintain and improve the existing quality of life which is the intent of the Comprehensive Plan.

**SUBSET OF ADDRESS SCAN
2215 NW 16TH STREET
CY 2007, 2008, 2008**

INCIDENT DESCRIPTION	COUNT
BURGLARY	26
DOG BARKING	14
DOG CUSTODY	5
DOG VICIOUS	4
DOG AT LARGE	29
FIGHT	4
LOUD MUSIC or LOUD PARTY	49
PERSON SEEN WITH A GUN	1
PROWLER	7
RAPE	1
SCREAM or CALL FOR HELP	2
SHOTS FIRED/HEARD	4
SUSPICIOUS ACTIVITY, PERSON OR VEHICLE	139
THEFT FROM VEHICLE	15
THEFT I, II, III 12-46	30
THREATS MADE	6
TRAFFIC COMPLAINT	46
TRESSPASS	15